



UPLAND CITY COUNCIL

AGENDA

**April 27, 2015
City Council Chambers**

**RAY MUSSER, MAYOR
GLENN BOZAR, MAYOR PRO TEM
GINO L. FILIPPI, COUNCILMEMBER
DEBBIE STONE, COUNCILMEMBER
CAROL TIMM, COUNCILMEMBER**

**ROD BUTLER, CITY MANAGER
RICHARD L. ADAMS II, CITY ATTORNEY**

*** * * * ***

6:00 PM - Closed Session

- 1. CALL TO ORDER AND ROLL CALL**
- 2. ADDITIONS-DELETIONS TO AGENDA**
- 3. ORAL COMMUNICATIONS**

This is a time for any citizen to comment on item listed on the closed session agenda only. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than four (4) minutes. The use of visual aids will be included in the time limit.

4. CLOSED SESSION

- A. GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Consultant Patrick Clark, Administrative Services Director Stephanie Mendenhall, Human Resources Manager Tanya Bragg, and Interim Finance Manager Scott Williams

Employee organization:

Upland Mid-Management Association, Upland General Employees Association, Upland Police Officers Association, Upland Police Management Association, Upland Captains Association, Upland Fire Fighters Association, and Upland Fire Management Association

B. GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Section 54956.9)

Case Name: California Cannabis Coalition, et al v. City of Upland, et al (Case No. CIVDS1503985)

* * * * *

7:00 PM

5. INVOCATION

Jim Thomas, Church of Jesus Christ Latter-day Saints

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Proclamation declaring April 2015 as Child Abuse Prevention Month, accepted by Staff Analyst Janki Naik for the County of San Bernardino Children's Network

Proclamation declaring May 2015 as Historic Preservation Month, accepted by Dave Stevens and/or Councilmember Carol Timm

Proclamation declaring May 7, 2015 as National Day of Prayer, accepted by Upland Interfaith Council President Jim Thomas and Vice President Mike Ingram

Proclamation declaring May 9, 2015 as Letter Carriers Food Drive Day, accepted by President Dennis Binder of NALC Branch 2168

Proclamation declaring May 15 & 16, 2015 as World Hunger Relief Days, accepted by Cathy Musser and Bernice Hollowell

8. CITY ATTORNEY

9. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item listed or not listed on the agenda. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than four (4) minutes. Speakers will be given five (5) minutes during public hearings. The use of visual aids will be included in the time limit. Public comments and questions for the purpose of hearing current matters of concern in our community and to provide citizens a method for the public to hear those concerns in an open venue is encouraged. However, under the provisions of the Brown Act, the City Council is prohibited from discussion of items not listed on the agenda, and therefore, the City Council, City Manager, or City Attorney will take communications under advisement for consideration and appropriate response or discussion at a later time.

10. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the legislative body request specific items be removed from the Consent Calendar for separate action.

A. WAIVE READING OF ORDINANCES AND RESOLUTIONS

Approve the reading of titles of all ordinances and resolutions and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived. Staff will prepare summaries of all ordinances considered by the City Council and publish the summaries at least five days prior to adoptions.

B. APPROVAL OF WARRANTS AND PAYROLL REGISTERS

Approve Warrant Registers dated April 8, 2015 in the amount of \$832,667.88; and Payroll Registers dated April 16, 2015 in the amounts of \$589,296.11 and \$3,176.23. (Staff Person: Stephanie Mendenhall)

C. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of April 13, 2015. (Staff Person: Stephanie Mendenhall)

D. EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

Receive and file status update. (Staff Person: Rosemary Hoerning)

E. DONATION OF FLAMMABLE LIQUID AND GAS TRAILER

Declare the Upland Fire Department Flammable Liquid & Gas Trailer as surplus equipment, as per UMC 2.48.150(D), and approve the donation of the Trailer to Mt. San Antonio College Fire Academy. (Staff Person: Dave Corbin)

11. PUBLIC HEARINGS None

12. COUNCIL COMMITTEE REPORTS None

13. BUSINESS ITEMS

A. MUNICIPAL CODE AMENDMENT TO CHAPTERS 1 AND 5 RELATED TO THE ABATEMENT OF NUISANCES AND RECOVERY OF FEES AND COSTS ASSOCIATED THEREWITH, DECLARATION AGAINST OPERATION OF ILLEGAL BUSINESSES AND THE ISSUANCE OF ADMINISTRATIVE CITATIONS

Introduce for 1st reading by title only and waive further reading of an Ordinance amending and revising Chapters 1 and 5 of the Upland Municipal Code related to the abatement of nuisances and recovery of fees and costs associated therewith, declaration against operation of illegal businesses, and the issuance of administrative citations. (Staff Person: Richard Adams)

14. CITY MANAGER

A. FINANCIAL REPORT FOR THE MONTH ENDING MARCH 2015

Receive and file the Financial Report for the Month of March 2015 and approve fund transfers. (Staff Person: Scott Williams)

B. DISCUSSION OF CITY COMMITTEES

- C. PROVIDE DIRECTION REGARDING DATE AND FORMAT FOR THE NEXT CITY COUNCIL GOALS WORKSHOP

15. COUNCIL COMMUNICATIONS

16. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, May 11, 2015.

NOTE: If you challenge the public hearing(s) or the related environmental determinations in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Upland, at, or prior to, the public hearing.

All Agenda items and back-up materials are available for public review at the Upland Public Library, downstairs reference desk at 450 North Euclid Avenue, the City Clerk's Office at 460 North Euclid Avenue and the City website at www.ci.upland.ca.us, subject to staff's ability to post the documents before the meeting.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office, 931-4120. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

POSTING STATEMENT: On April 23, 2015 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall).

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
APRIL 13, 2015**

OPENING

The regular meeting of the Upland City Council was called to order by Mayor Ray Musser at 5:31 p.m. in the Council Chambers of the Upland City Hall.

1. ROLL CALL

Present: Mayor Ray Musser, Councilmembers Glenn Bozar, Gino Filippi, Debbie Stone, Carol Timm

Staff: City Manager Rod Butler, Interim City Attorney Richard L. Adams II, and City Clerk Stephanie A. Mendenhall

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS None

4. CLOSED SESSION

At 5:32 p.m. Mayor Musser announced the City Council would recess to Closed Session pursuant to Government Code Section

A. 54957.6 - CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: City Manager Butler and Human Resources Manager Bragg

Employee organizations: Upland Mid-Management Association, Upland General Employees Association, Upland Police Officers Association, Upland Police Management Association, Upland Police Captains Association, Upland Fire Fighters Association, and Upland Fire Management Association

B. 54956.9 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Section 54956.9)

Case Name: California Cannabis Coalition, et al v. City of Upland, et al (Case No. CIVDS1503985)

C. 54956.9 - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Section 54956.9)

Case Name: Verizon California Inc. v. State Board of Equalization, et al. (Case No. 34-2015-00175609)

The City Council reconvened in open session at 7:04 p.m.

5. INVOCATION Pastor Julius West, Sunergeo Christian Fellowship

6. PLEDGE OF ALLEGIANCE Boy Scout Troop 616

7. PRESENTATIONS

A Certificate of Recognition was presented to Eagle Scout Timoteo HoChing of Troop 616

A presentation was made by Pastor James Pike of Grace Lutheran Church on OPARC, a non-profit that serves adults with disabilities.

A Proclamation was accepted by Marie Flannery of the Inland Fair Housing Mediation Board declaring April 2015 as Fair Housing Month.

A Proclamation was accepted by One Legacy City Ambassador Daniel Luevanos declaring April 2015 as DMV/Donate Life California Month.

A Proclamation was accepted by Library Director Yuri Hurtado declaring April 12 - 18, 2015 as National Library Week.

A Proclamation was accepted by Water Conservation Specialist Barbara Taylor declaring April 24, 2015 as National Arbor Day.

A Proclamation was accepted by Water Conservation Specialist Barbara Taylor declaring May 2015 as Water Awareness Month.

8. CITY ATTORNEY

Interim City Attorney Adams announced the City Council received reports, provided direction, and there was no reportable action during Closed Session.

9. ORAL COMMUNICATIONS

Mark Bertone, Upland, presented the Fire Department with a signed banner thanking them for supporting the Upland Foothill Little League at their opening ceremonies.

Todd D'Braustein, Upland, provided a verbal report of the April 1, 2015 Traffic Safety Committee meeting, and stated they would not meet from June through September. He further felt the Committee would be coming forward with recommendations that will need to be agendized and Mayor Musser and Councilmember Filippi were in concurrence.

Randy Welty, Upland, felt the ban is not effective as there is still a black market for medical marijuana in Upland and surrounding cities. Further the City Council is committing a heinous crime against the citizens and their right to vote.

Tim Aspinall, Upland, stated the wooden fence around the Ray Baker Baseball Field in Memorial Park is worn out, asked for the city's assistance, and invited them to their game on Friday to view the condition.

Keith Calvert, Upland, expressed his concerns about the 35% reduction in water use and the penalties if City fails to cut. Further he wanted to know the City's drinking plan and how to keep lawns green with this reduction.

Craig Beresh, Upland, felt the city is not working with him for medical marijuana dispensaries and would act on every promise he has made including recalling two councilmembers if the city did not comply.

Donna Lambert, Upland, expressed her concerns about having to have her daughter find a medical marijuana dispensary after a recommendation by her doctor, and suggested safe regulations should be set up for those that are legitimately sick.

Ari Borland, Upland, provided suggestions to assist the police department to better handle the homeless community with empathy and gave an update on the \$8 campaign donation.

10. CONSENT CALENDAR

Councilmember Bozar removed Consent Calendar 10D and Councilmember Stone removed Consent Calendar 10H and 10I for separate action. Motion by Councilmember Filippi to approve the remainder of the Consent Calendar, seconded by Councilmember Stone, and carried unanimously.

A. WAIVE READING OF ORDINANCES AND RESOLUTIONS

Approved the reading by title of all ordinances and resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived. Staff will prepare summaries of all ordinances considered by the City Council and publish the summaries at least five days prior to adoption.

B. APPROVAL OF WARRANTS AND PAYROLL REGISTERS

Approved Warrant Registers dated March 25, 2015 in the amount of \$792,173.74; March 31, 2015 in the amount of \$7,137.42 and Payroll Registers dated April 2, 2015 in the amounts of \$586,819.40 and \$24,316.02.

C. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of March 23, 2015.

E. EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

Received and filed status update.

F. SEWER SERVICE AGREEMENT FOR 2412 SAN ANTONIO CRESCENT EAST (SSA-2015-03-01)

Authorized the City Manager to execute the Sewer Service Agreement.

G. STREET VACATION OF A 17 FOOT STRIP ALONG 8TH STREET (FROM NORTHEAST CORNER OF SULTANA AVENUE AND 8TH STREET TO APPROXIMATELY 643 FEET EASTERLY)

Declared its intention to vacate a 17 foot strip along 8th Street (from the northeast corner of Sultana Avenue and 8th Street to approximately 643 feet easterly). It is further recommended the City Council set a Public Hearing for May 11, 2015, concerning the vacation.

ITEMS REMOVED FOR SEPARATE ACTION

D. 2ND READING OF ORDINANCE NO. 1891 MUNICIPAL CODE AMENDMENT
RELATIVE TO DELINQUENT TRASH COLLECTION FEES

There was discussion regarding the current commercial lien process by Burrtec and the wording in the ordinance. City Manager Butler acknowledged that Burrtec currently receipts commercial accounts; however, this may not always be the case and staff recommended including the language for commercial properties.

Motion by Councilmember Stone to hold 2nd reading by number and title only, and adopted Ordinance No. 1891 electing to have delinquent trash collection fees collected on the tax roll and amending Chapter 13.34 and Section 13.28.170 of Chapter 13.28 of Title 13 of the Upland Municipal Code relating to liens imposed for unpaid trash collection services, seconded by Councilmember Filippi, and carried unanimously.

H. AFFILIATION AGREEMENT BETWEEN MT. SAN ANTONIO COLLEGE AND
UPLAND FIRE DEPARTMENT FOR PARAMEDIC TRAINEES

Fire Chief Mayhew provided the staff report and explained the benefits of the paramedic trainee program.

Motion by Councilmember Stone to approve the Affiliation Agreement between Upland Fire Department and Mt. San Antonio College's paramedic trainee program, seconded by Councilmember Filippi, and carried unanimously.

I. AMENDMENT TO RETAINER AGREEMENT WITH THE LAW FIRM OF JONES AND
MAYER TO DESIGNATE RICHARD L. ADAMS II AS CITY ATTORNEY AND
YOLANDA SUMMERHILL AS ASSISTANT CITY ATTORNEY

This item was pulled to welcome these two individuals in their new positions.

Motion by Councilmember Stone to approve the attached amendment to the retainer agreement with Jones & Mayer, seconded by Councilmember Filippi, and carried unanimously.

11. PUBLIC HEARINGS None

12. COUNCIL COMMITTEE REPORTS

A. POLICE AND FIRE COMMITTEE MEETING, MARCH 23, 2015

Councilmember Filippi provided a recap of the meeting, which is on file in the City Clerk's Office. This was for information only and no action was required.

Police Captain Yoakum provided a brief report on an incident with two groups congregating at the skate park on Sunday.

13. BUSINESS ITEMS

A. GOVERNOR'S EXECUTIVE ORDER B-29-15 - MANDATORY WATER CONSERVATION

Public Works Director Hoerning presented the staff report, which is on file in the City Clerk's Office.

There was discussion on the 35% reduction based on 2013 usage, the need to provide citizens with website tools to gauge usage, loss of revenue to the city due to less water consumption, the availability of landscape rebates and removal of high water use landscape, current and future code enforcement issues, and future modification to current ordinance.

The City Council received and filed the report.

14. CITY MANAGER

City Manager Butler announced that the City Council meetings are now available on the City's website usually within 48 hours after broadcasting.

15. COUNCIL COMMUNICATIONS

Councilmembers announced various activities throughout the community.

16. ADJOURNMENT

A Special City Council meeting will be held on April 27, 2015 at 5:30 p.m. for the ceremonial oath of office for Police Chief Brian Johnson. The next regularly scheduled City Council meeting is Monday, April 27, 2015. Mayor Musser adjourned the meeting at 9:15 p.m.

SUBMITTED BY



Stephanie A. Mendenhall, City Clerk

APPROVED

April 27, 2015



STAFF REPORT

ITEM NO. 10.D

DATE: APRIL 27, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
SUBJECT: EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

RECOMMENDED ACTION

It is recommended the City Council receive and file the status update.

GOAL STATEMENT

The proposed action supports the City's goal to maintain water facilities in good operable condition to provide safe and reliable service to the community.

BACKGROUND

On February 9, 2015, the City Council adopted a Resolution declaring an emergency condition and approved the execution of a construction contract with KSM Electric, Inc. to replace the "switchgear" at City of Upland Plant No. 4.

Plant No. 4 is located east of Euclid Avenue and north of 19th Street. The switchgear is used to control four booster pumps which generally boost water from a lower water pressure zone into the upper zone reservoirs. These boosters convey water to City reservoirs located between Mountain Avenue and San Antonio Avenue north of 21st Street. The switchgear is the electrical control system that manages the power supply (440 Volts) to the boosters and well facility. It is extremely important to maintain boosted water supply operations to the upper reservoir system. These upper reservoirs serve to manage pressure and meet water supply demands to many customers.

It is essential that the replacement of the critical Plant No. 4 switchgear be addressed in advance of the peak summer water demand season.

ISSUES/ANALYSIS

An inspection of the unit identified probable reliability concerns and also potential safety issues. Electrical equipment can be a long lead item. The switchgear at Plant No. 4 is in need of replacement prior to the summer season.

The contractor is finalizing the electrical panel assembly and is scheduled to begin installation of the assembly on April 29, 2015. Staff estimates approximately one week for field assembly followed by system testing and troubleshooting.

FISCAL IMPACTS

The City Council authorized up to \$75,000 for this replacement project. The budget for this particular project is located in 640-400-9118-4258.

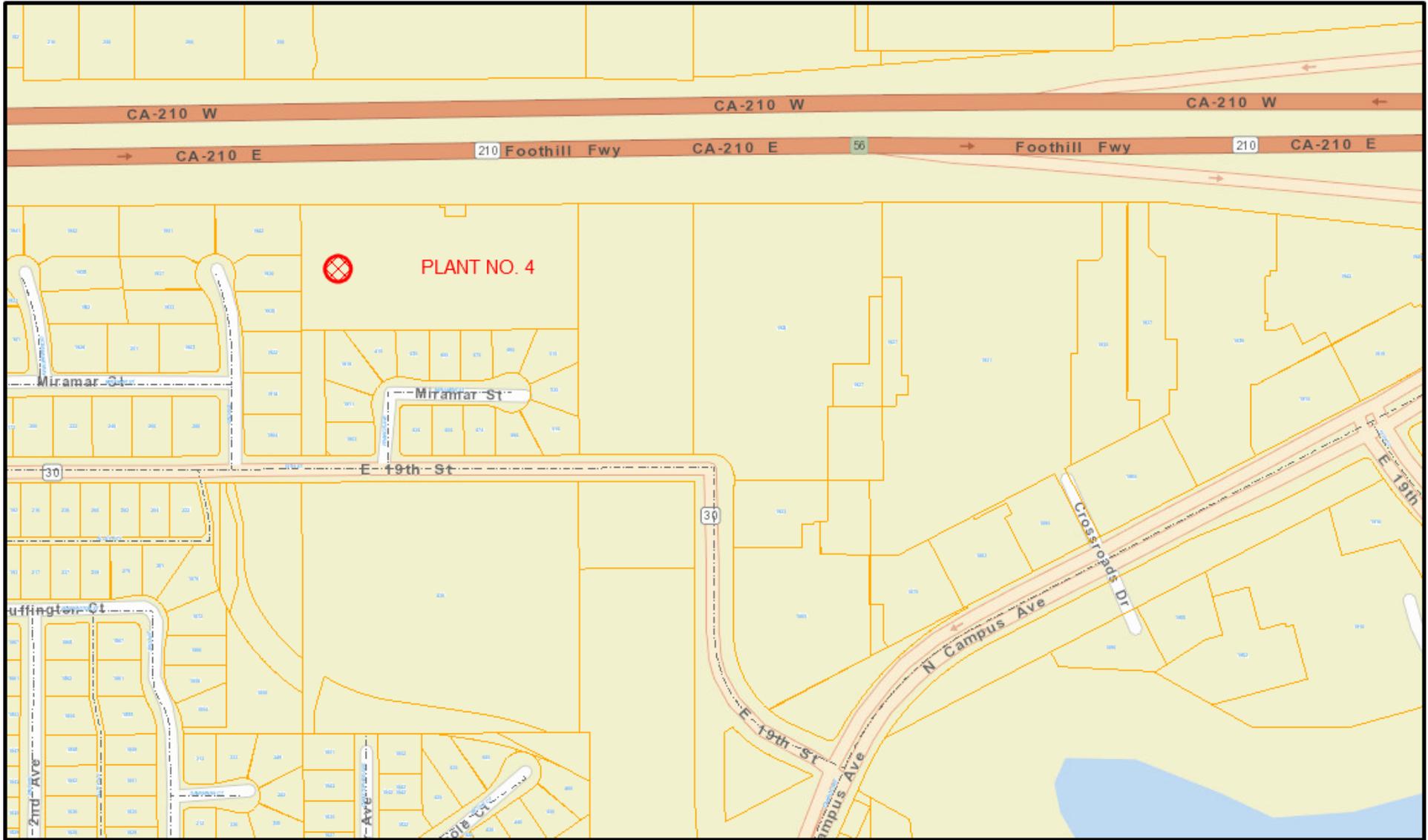
ALTERNATIVES

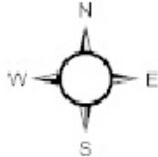
Provide alternative direction to staff.

ATTACHMENTS:

[Location Map for Plant No. 4](#)

EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR



1" = 376 ft	Location Map	02/04/2015		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Upland for the most up-to-date information.



STAFF REPORT

ITEM NO. 10.E

DATE: APRIL 27, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: RICK MAYHEW, FIRE CHIEF
DAVE CORBIN, DEPUTY FIRE CHIEF
SUBJECT: DONATION OF FLAMMABLE LIQUID AND GAS TRAILER

RECOMMENDED ACTION

It is recommended that the City Council declare the Upland Fire Department Flammable Liquid & Gas (FLAG) Trailer as surplus equipment, as per UMC 2.48.150(D). It is further recommended that the City Council approve the donation of the FLAG Trailer to Mt. San Antonio College (MSAC) Fire Academy.

GOAL STATEMENT

The proposed action supports the City's goal to remove equipment that is no longer utilized for department operations.

BACKGROUND

In June of 2004, the Upland Fire Department took delivery of a Flammable Liquid and Gas (FLAG) trailer, with the intent of providing enhanced training for firefighters in tactics involving flammable liquid and gas fires. This trailer was purchased through an agreement between the California State Fire Marshal's Office (CSFM), Pipeline Safety Division, and four pipeline companies. The agreement allowed the pipeline companies to donate funds to the UFD for this project in lieu of paying a civil penalty to the State. Total cost for the project was \$20,000; each of the four companies donated \$5,000.

ISSUES/ANALYSIS

Over time, it became apparent that this training prop was not an effective training tool for the type of fire problem typically found in the City of Upland. Over the past several years, the prop has been used exclusively and frequently by the MSAC Fire Academy to train new recruits. It is currently an integral part of their training program.

Fire Staff has contacted the CSFM Pipeline Safety Division regarding the desire to donate the trailer to the MSAC Fire Academy. Cal-Fire Division Chief Bob Gorham confirmed that the Upland Fire Department is the owner of the trailer and is free to donate as proposed. Documentation is attached.

The Upland Municipal Code provides for the donation of surplus property to an agency with the approval of the City Council.

FISCAL IMPACTS

The donation of the trailer will reduce vehicle maintenance costs to the fire department fleet, eliminate the liability risks associated with storing large quantities of propane on city property, and free up extra space.

ALTERNATIVES

Retain the trailer, assume the liability risk and associated maintenance costs.

ATTACHMENTS:

[COPIES OF F.L.A.G. TRAILER PAYMENTS](#)

[SPECIFICATIONS AND IMAGES OF FLAG TRAILER](#)

PACIFIC PIPELINE SYSTEM LLC



December 17, 2003

Upland Fire Department
475 North Second Avenue
Upland, CA 91785
Attn: Chief John Scanlon

Re: Funds for the Flag Trailer

Dear Mr. Scanlon:

Pacific Pipeline System LLC (Pacific) is proud to support the Upland Fire Department in the acquisition of a flammable liquids and gas (FLAG) trailer. Included herewith is a check in the amount of \$5,000 in support of your efforts. This donation is being contributed to your department through an agreement between Pacific and the California State Fire Marshal, Pipeline Safety Division.

Good luck in your efforts. Should you have any questions, please call me at (562) 728-2358.

Respectfully,

A handwritten signature in black ink, appearing to read "Mark Reese". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark Reese
Director
Environmental & Safety

Enclosure (check no. 00017097)

Cc: G. Tong – CSFM
R. Gorham – CSFM
A. Diefenbach - Pacific Pipeline System LLC



Pacific Pipeline System LLC

5900 Cherry Avenue
Long Beach, CA 90805

Bank of America
Commercial Disbursement Account
Northbrook IL
70-2328/0719

VENDOR NO.	DATE	CHECK NO.
47664	12/12/03	00017097

AMOUNT
\$*****5,000.00

FIVE THOUSAND AND 00/100*****
VOID AFTER 90 DAYS

PAY TO THE ORDER OF

UPLAND FIRE DEPT
475 N SECOND AVE
UPLAND CA 91785

MUST BE COUNTERSIGNED IF OVER \$50,000

⑈00017097⑈ ⑆071923284⑆ 77658⑈01007⑈

VENDOR NO.: 47664 DATE: 12/12/03 CHECK NO.: 17097 AMOUNT: \$*****5,000.00

DATE	INVOICE NO.	REMARKS	GROSS AMOUNT	DISCOUNT	NET AMOUNT
12/12/03	121203A	VIOLATION LINE 17	5,000.00		5,000.00

Chevron Pipe Line Company
Western Profit Center
16301 Trojan Way
La Mirada, CA 90638
Tel 714-228-1501
Cel 714-984-5181
Fax 714-228-1524
Patrick.T.Green@ChevronTexaco.com

Patrick T. Green
Los Angeles Field Team Leader

ChevronTexaco

February 12, 2004

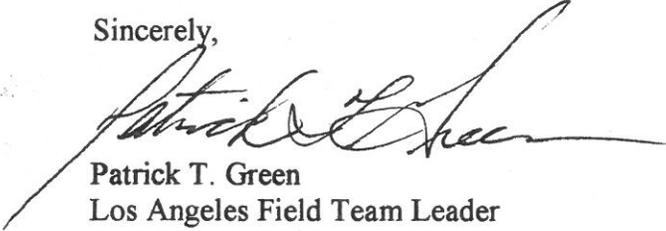
Chief John Scanlon
Upland Fire Department
475 North Second Ave
Upland, CA 91785

RE: FLAG Trailer

Dear Chief Scanlon,

Please find enclosed a check for \$5,000. to cover our cost for the FLAG Trailer. If you have any questions, feel free to contact me.

Sincerely,


Patrick T. Green
Los Angeles Field Team Leader

cc: Gary Saenz



ChevronTexaco

Chevron Pipe Line Company
P.O. Box 9034
Concord CA 94524

93-527
929

NO. 0021161460

12/29/2003

PAY TO
ORDER OF

UPLAND FIRE DEPT
475 N 2ND AVE
UPLAND, CA 91786

*****\$5,000.00
NOT VALID AFTER 1 YEAR

Five thousand and 00/100 Dollars

Mark A. Humphrey
AUTHORIZED SIGNATURE

WELLS FARGO BANK MONTANA, N.A.

⑈0021161460⑈ ⑆092905168⑆ 4990004722⑈

BP West Coast Products, LLC

Granite Park Ten
 Suite 200
 15115 Park Row
 Houston, Texas 77084
 1-800-282-0191

2000130 01 SD

7759

Z7

CHECK NO.: 0001550366
 CHECK DATE: 12/31/2003
 CHECK AMOUNT: \$\$\$\$\$\$\$\$\$\$5,000.00
 PAY ENTITY:
 VENDOR #: 956000805

UPLAND FIRE DEPARTMENT
 ATTN CHIEF JOHN SCANLON
 475 NORTH SECOND AVE
 UPLAND CA 91785

PG 1 OF 1

DATE	INVOICE NUMBER	VOUCHER	SOURCE ID	GROSS	DISC./ADJUSTMENTS	NET
12/11/2003	121103	RTN CHK TO	BOB PFANNSTIEL	\$0.00	\$0.00	\$5,000.00
TOTALS:				\$0.00	\$0.00	\$5,000.00

QUESTIONS REGARDING THIS REMITTANCE CAN BE MADE BY CALLING OR WRITING:

1-800-282-0191
 15115 Park Row, Suite 200
 Attn: Accounts Payable
 Houston, TX 77084

DETACH AND RETAIN THIS STUB FOR YOUR RECORDS

CHECK # 0001550366 ATTACHED

BP West Coast Products, LLC

Granite Park Ten
 Suite 200
 15115 Park Row
 Houston, Texas 77084
 1-800-282-0191

52-20 No. 0001550366
 311

12/31/2003

PAY TO THE ORDER OF

UPLAND FIRE DEPARTMENT
 ATTN CHIEF JOHN SCANLON
 475 NORTH SECOND AVE
 UPLAND CA 91785

\$\$\$\$\$\$\$\$\$\$\$\$\$5,000.00

Five Thousand and 00/100 Dollars

BP
 BP West Coast Products, LLC
 Payable through Citibank Delaware
 1 Penn's Way, New Castle, DE 19720


 AUTHORIZED SIGNATURE

UPL09

UPLAND FIRE DEPARTMENT

December 31, 2003

Invoice No.	Invoice Date	Amount	Discount	Voucher #	Net Amount
FLAG TRAILER	12/29/03	5,000.00	0.00	PPI182498	5,000.00

For Flag Trailer

Total 5,000.00



Paramount Petroleum Corporation
14700 Downey Avenue
P.O. Box 1418
Paramount, CA 90723
(562) 531-2060



Fleet FLEET MAINE, NA
SOUTH PORTLAND, ME
52-153/112

71392

**** FIVE THOUSAND AND 0/100

December 31, 2003 \$*****5,000.00

PAY
TO THE
ORDER
OF

UPLAND FIRE DEPARTMENT
ATTN: CHIEF JOHN SCANLON
475 NORTH SECOND AVE.
UPLAND, CA-91785

DATE

AMOUNT

Colleen P. Harris

Paramount Petroleum Corporation

⑈071392⑈ ⑆011201539⑆ 80 025 450⑈

SPECIFICATIONS FLAG TRAINER

Fireblast 451, Inc.
(January 2003)

TRANSPORTER:

- 1 – 17' long, 6' wide, 4'4" tall tandem axle trailer. Constructed of box tubing and steel plate sides. Floor consists of wood construction with expanded metal in forward area under LPG tanks. Trailer is equipped with electric brakes. Approximate weight 6,500 lbs.

EQUIPMENT:

- 2 – 420lbs. LPG cylinders

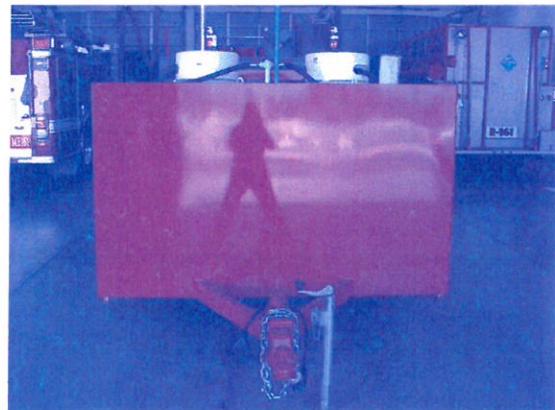
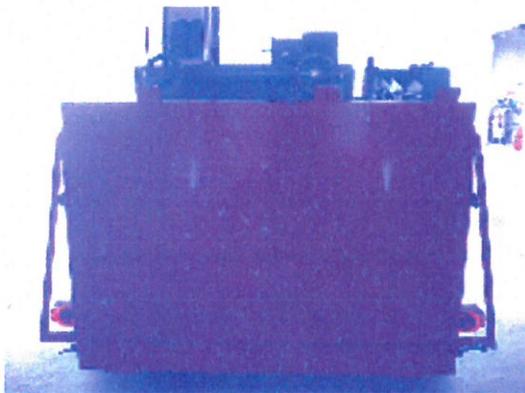
PROPS:

- 4 – Gas-fired props
 - Back stop or gas meter valve options
 - Valve cart with simulated OS&Y shut offs
 - Liquid pan prop
 - Liquid tank overflow/LPG relief valve tank
- 1 – Control module cart
 - Equipped with two 8' gorilla high pressure hoses and one 30' gorilla high pressure master hose attached to two manual control valves. A water control valve is also attached to control cart for tank prop control.

Nine $\frac{3}{4}$ " galvanized steel pipe with quick disconnect pressure fittings are included to attach props to control cart.

Props consist $\frac{1}{4}$ " steel plate construction with galvanized $\frac{3}{4}$ " pipe in purge area. All props will include manual working shut off valves.

Fireblast 451, Inc.
A California Corporation
4131 Tigris Way • Riverside, CA 92503 • Phone (909) 277-8319 • Fax 909-279-1705
www.fireblast451.com





STAFF REPORT

ITEM NO. 13.A

DATE: APRIL 27, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: RICHARD L. ADAMS, II, CITY ATTORNEY
G. ROSS TRINDLE, III, DEPUTY CITY ATTORNEY
SUBJECT: MUNICIPAL CODE AMENDMENT TO CHAPTERS 1 AND 5 RELATED TO THE ABATEMENT OF NUISANCES AND RECOVERY OF FEES AND COSTS ASSOCIATED THEREWITH, DECLARATION AGAINST OPERATION OF ILLEGAL BUSINESSES AND THE ISSUANCE OF ADMINISTRATIVE CITATIONS

RECOMMENDED ACTION

It is recommended that the City Council introduce for 1st reading by title only and waive further reading of an Ordinance amending and revising Chapters 1 and 5 of the Upland Municipal Code related to the abatement of nuisances and recovery of fees and costs associated therewith, declaration against operation of illegal businesses, and the issuance of administrative citations.

GOAL STATEMENT

The proposed action supports the City's goal to establish sound fiscal policy to recover costs related to code enforcement.

BACKGROUND

State law authorizes the City to identify public nuisances that are subject to abatement via administrative, criminal, and civil processes. The identification and abatement of public nuisances, including illegal businesses like marijuana dispensaries, can come with significant costs relating to staff time, enforcement costs, and legal fees. Depending upon the complexity of the condition subject to enforcement and abatement, the City may be forced to spend significant City resources in order to abate any specific nuisance, all in an effort to protect the health, safety, welfare, and quality of life of the community.

State law also authorizes the City to recover fees and costs--including reasonable attorneys' fees--associated with code enforcement efforts and abatement.

In response to the City Council's concern regarding the enforcement of the Upland Municipal Code, the City Attorney's office has drafted an ordinance that is being successfully used in other cities in the Inland Empire.

ISSUES/ANALYSIS

Have the ability to recover the City's actual enforcement costs incurred in abating nuisances--including reasonable attorneys' fees--promotes sound fiscal policy by having those who break the laws pay for the City's enforcement costs, in addition to other remedies provided for under the municipal code, state law, or both, rather than having the City and its residents bear the burden.

By providing for specific cost recovery of the City's actual costs incurred in abating public nuisance in the Upland Municipal Code, potential violators may be deterred from engaging in/allowing the operation of a public nuisance in the first place, thus protecting and improving the health, safety, welfare, and quality of life of the community.

The addition of cost recovery mechanisms via revision of the Upland Municipal Code allows the City's legal counsel flexibility, in conjunction with City staff, in bringing out compliance and nuisance abatement, by allowing for an election of enforcement mechanisms and remedies, including administrative, criminal, and civil, as well as recovery of actual fees and costs--including reasonable attorneys' fees--any possible statutory penalties, and treble damages in certain situations. This flexibility, in turn, allows for a balanced approach to enforcement and recovery to suit the needs of each individual enforcement action.

The proposed revisions have been implemented successfully in other cities in the region, with cost recovery helping to offset significant enforcement costs, and even helping to make enforcement cost neutral with aggressive application of available remedies at the direction of city staff and officials.

FISCAL IMPACTS

The City can expect a decrease in the overall net cost of code enforcement and compliance through administrative citations and cost recovery for abatement actions. The exact amount will vary depending upon the complexity of each enforcement situation, the violations at issue, and the involved parties. Other cities in the region have seen cost recovery as high as cost neutrality on a case-by-case basis with aggressive enforcement, and a net recovery over time above 90%. With the proposed revisions, the City will be able to audit the recovery obtained and provide an aggregate cost savings analysis at various levels of granularity and across different timeframes as the City may require. Between 2009 to 2014, the City has expended \$668,000 in enforcing the medical marijuana code restrictions

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Ordinance](#)

[Legal Billing - 2009 to 2014](#)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND AMENDING AND REVISING CHAPTERS 1 AND 5 OF THE UPLAND MUNICIPAL CODE RELATED TO THE ABATEMENT OF NUISANCES AND RECOVERY OF FEES AND COSTS ASSOCIATED THEREWITH, DECLARATION AGAINST OPERATION OF ILLEGAL BUSINESSES, AND THE ISSUANCE OF ADMINISTRATIVE CITATIONS

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

Section 1. Findings.

A. The Upland Municipal Code, in accordance with and as authorized by Government Code section 38871 and the California Constitution, provides for the identification and abatement of public nuisances; and

B. Depending upon the complexity of the condition subject to abatement, and the application of various state laws authorizing the recovery of fees and costs (including reasonable attorneys' fees) associated with any given abatement, the City may be required to spend significant City resources in order to abate any specific nuisance in an effort to protect the health, safety, welfare, and quality of life of the community; and

C. Having the ability to recover the City's actual costs incurred in abating a nuisance (including reasonable attorneys' fees) promotes sound fiscal policy by having those who break the laws pay for the City's enforcement costs, in addition to other remedies provided for under the municipal code, state law, or both, rather than having the City bear the cost; and

D. By providing for the specific recovery of the City's actual costs incurred in abating a nuisance (including reasonable attorneys' fees), those who may seek to violate the City's laws may instead be deterred from doing so given the exposure to possible cost recovery, on top of other compliance mechanisms and remedies provided for under the municipal code, state law, or both; and

E. Assuring compliance with the City's municipal code and zoning laws promotes the health, safety, welfare, and quality of life of the community; and

F. Government Code section 38773.5(b) specifically authorizes a municipality to adopt an ordinance for the recovery of costs incurred in abating a nuisance, including reasonable attorneys' fees, in any action, including any administrative action; and

G. Government Code section 38773.7 authorizes the award of treble damages upon entry of a second or subsequent civil or criminal judgment within a two-year period following entry of judgment in abating a nuisance where the property owner is found to have been responsible for the nuisance; and

H. All legal prerequisites prior to the adoption of this ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 2. The City Council further finds as follows:

A. Pursuant to Government Code section 38773.5(b), the City Council elects to provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance.

B. Pursuant to Government Code section 38773.7, the City Council elects to provide for an award of treble damages upon entry of a second or subsequent civil or criminal judgment within a two-year period following entry of judgment in abating a nuisance where the property owner is found to have been responsible for the nuisance.

Section 3. Ordinance amending Municipal Code

Section 1.10.020 of Chapter 1.10 of Title 1 of the Upland Municipal Code is hereby revised to include the following two additional definitions:

. . .

"Costs" shall have the meaning set forth in California Code of Civil Procedure Section 1033.5, including, without limitation, attorneys' fees. In addition to such items, all of the following shall be included within the definition of "costs":

1. Personnel costs of the city, as actually incurred by the city (for contractors and consultants) or based on established rates of employee costs as adopted by resolution of the city council from time to time. Such personnel costs shall include, but not be limited to, the costs incurred by the city to pay any contractor to abate a public nuisance.

2. Costs of administrative hearings, including, hearing officer costs and reporter costs.

3. Accrued interest at the maximum rate established by law.

"Day" means a calendar day.

Section 4. Section 1.10.030(B) to Chapter 1.10 of Title 1 of the Upland Municipal Code is hereby revised as follows:

B. Any peace officer, code enforcement officer, or any other person designated by the city manager may issue an administrative citation to a person to remedy any violation.

Section 5. Section 1.16.005 is added to Chapter 1.16 of Title 1 of the Upland Municipal Code as follows:

1.16.005 – General Penalty; Continuing Violations; Civil Penalty

Unless a different penalty is prescribed for violation of a specific provision of this code, every act prohibited or declared unlawful, and every failure to perform an act made mandatory, shall be a misdemeanor or an infraction, at the discretion of the city attorney or the district attorney.

As used in this chapter, the term "year" means any consecutive 12-month period.

As used in this chapter, the term "offense" includes any violation of the code which is cited or charged and which does not result an acquittal, a finding of "not guilty," or a dismissal of charges by the city or the court.

- A. *Civil penalty.* Every violation of a provision of this code which is specifically designated to carry a civil penalty, in addition to a criminal penalty, shall be punishable by a civil fine not exceeding \$1,000.00, unless otherwise specifically provided and authorized by state law. Nothing set forth herein shall limit the ability of the city to seek and obtain other remedies permitted by law.

Section 6. Section 1.16.190 is added to Chapter 1.16 of Title 1 of the Upland Municipal Code as follows:

1.16.190 – Recovery of Attorneys' Fees

Any violation of this Municipal Code is hereby determined to constitute a public nuisance. The prevailing party in any judicial action and/or administrative proceeding to abate a nuisance and/or to enforce any provision of this Municipal Code may elect to recover the incurred attorneys' fees. In no judicial action or administrative proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the judicial action or administrative proceeding.

Section 7. Chapter 5.02 is added to Title 5 of the Upland Municipal Code as follows:

5.02 – Illegal Businesses Prohibited

Notwithstanding any provision of this title, no person shall transact, perform, engage in and carry on in the City of Upland any business, trade, profession, calling or occupation any business, operation or use that cannot be, or is not, conducted or carried out without being in violation of any federal, state, county or city law, ordinance or code.

Section 8. Section 5.04.095 is added to Chapter 5.04 of Title 5 of the Upland Municipal Code as follows:

5.04.095 – Penalty

Any person violating any of the provisions of the herein Title or knowingly or intentionally misrepresenting to any officer or employee of this city any material fact in procuring the license or permit provided for in this article shall be deemed guilty of an infraction, and, upon conviction thereof, shall be punished as provided in Section 1.16.005. All remedies prescribed herein shall be cumulative, and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this code.

Section 9. Section 1.16.190 is added to Chapter 1.16 of Title 1 of the Upland Municipal Code as follows:

1.16.190 – Treble damages for second or subsequent judgment.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with, the City shall be entitled to recover treble the costs of abatement, including reasonable attorneys' fees, for the second or subsequent judgments.

Section 10. Any provision of the Upland Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 11. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Upland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 12. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2015.

Ray M. Musser, Mayor

I, Stephanie A. Mendenhall, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City

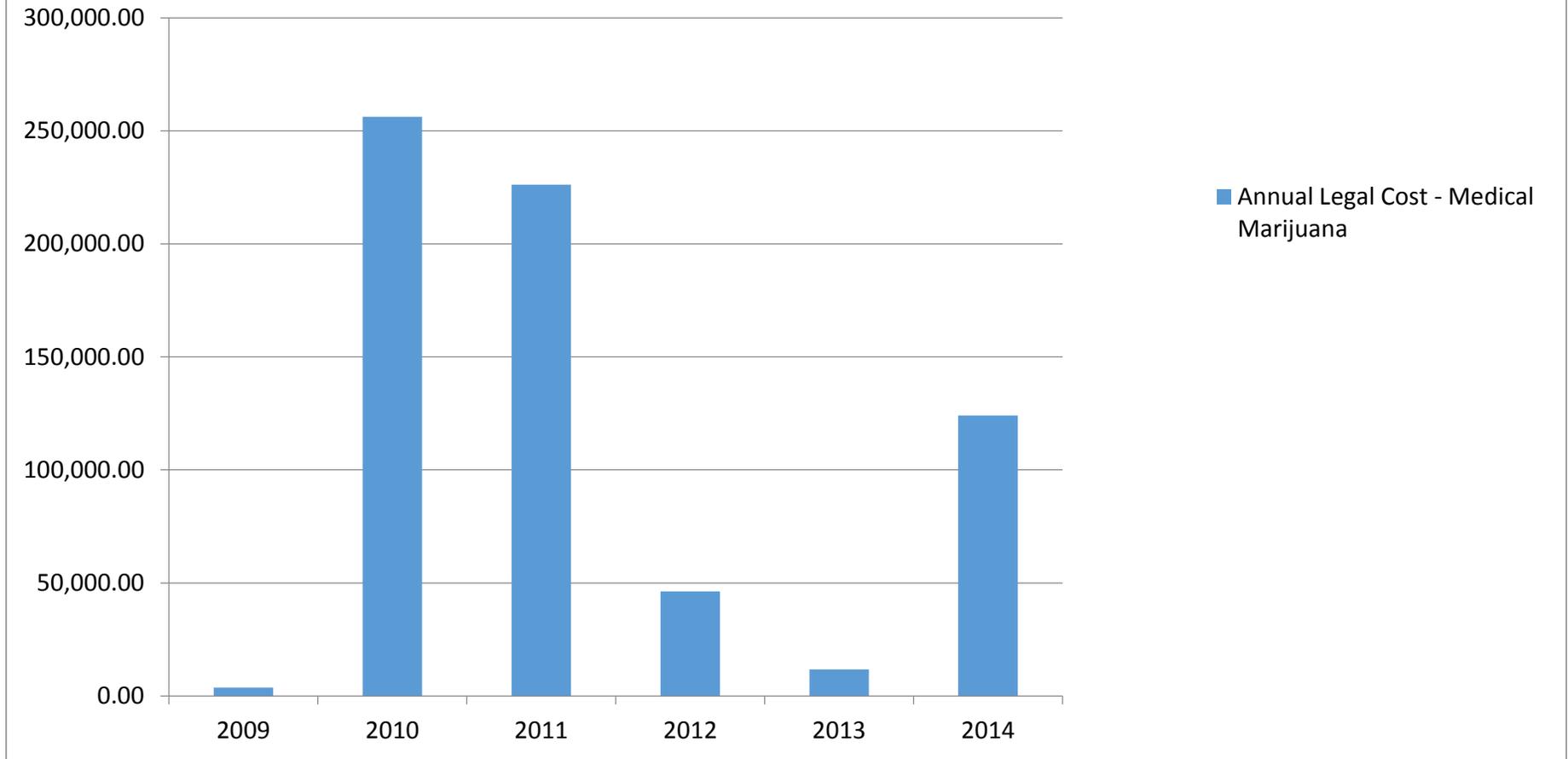
Ordinance No.
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Council of the City of Upland held on the ____ day of ____, 2015, and was adopted at a regular meeting of said City Council of the City of Upland on the ____ day of ____, 2015, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Stephanie A. Mendenhall, City Clerk

Annual Legal Cost - Medical Marijuana





STAFF REPORT

ITEM NO. 14.A

DATE: APRIL 27, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: SCOTT WILLIAMS, INTERIM FINANCE MANAGER
SUBJECT: FINANCIAL REPORT FOR THE MONTH ENDING MARCH 2015

RECOMMENDED ACTION

It is recommended that the City Council receive and file the Financial Report for the Month of March 2015 and approve budget transfers.

GOAL STATEMENT

The proposed action supports the City's goal to manage the City's resources in a fiscally responsible manner.

BACKGROUND

On June 30, 2014, the Finance Committee agreed to have the Financial Reports brought to the City Council on a monthly basis.

ISSUES/ANALYSIS

The current General Fund summary reflects the mid-year adjustments made and shows the effects of estimated and potential costs that may need to be covered by the 4th payment of the ICRMA settlement. Our largest General Fund source of revenue, property tax revenue, was distributed by the County in December. The City received \$4.3 million in the month of December and \$3.8 million in January. The next distributions will be made by the County in April and May 2015. Year to date General Fund expenditures are at or below expectations with three months of reporting remaining in the fiscal year.

Two settlements require transfers to cover legal services and claims expense:

1. Transfer of \$122,245 from the Sewer Fund to the Self-Funded Insurance Fund for legal services and claims expense related to a damage settlement, and
2. Transfer of \$275,000 from the General Fund to the Self-Funded Insurance Fund for legal services and claims expense related to a settlement involving the Police Department.

Details for both cases are confidential and were discussed in Closed Session.

FISCAL IMPACTS

Total funding in the amount of \$397,245 to be transferred to the Self-Funded Insurance Fund. A transfer of \$122,245 from the Sewer Fund (account number 645-400-0000-4600) with no increase

to the total FY 2014-15 appropriation. A transfer of \$275,000 from the General Fund (account number 101-400-0000-4600) with no increase to the total FY 2014-15 appropriation.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[March 2015 Financial Report](#)

City of Upland



Financial Report
March 31, 2015
Fiscal Year 2014-2015

2014-2015 SUMMARY OF CHANGES IN GENERAL FUND BALANCE

Estimated Beginning Fund Balance at 7/1/14		\$ 4,000,000
Revenues	\$ 26,064,026	
Expenditures	<u>(27,721,022)</u>	
Revenues over (under) expenditures	(1,656,996)	
AIG/ICRMA Settlement	4,113,756	
Settlement Transfer to Self-Insurance Fund	<u>(1,576,252)</u>	
Net Change in Fund Balances		880,508
Estimated Transfers Out		(2,310,367)
Estimated Restatements		<u>(122,200)</u>
Fund Balance at 3/31/15		<u><u>\$ 2,447,941</u></u>

Estimated Restatement Explanations:

To write off NSF checks from prior fiscal years	\$ (122,200)
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Estimated Transfer Out Explanations:

Transfer from General Fund to Animal Services Fund to close out the Animal Services Fund to the General Fund	\$ (972,429)
Transfer from General Fund to Successor Agency Fund to cover deficit cash for continuing obligations	\$ (1,337,938)

City of Upland
General Fund Expenditures by Department
For the Month Ended March 31, 2015

<u>Department Name</u>	<u>Annual Budget</u>	<u>YTD Expend.</u>	<u>YTD Encumb</u>	<u>Available Budget</u>	<u>Percent Utilized</u>
General Government	\$ 413,644	\$ 289,746	\$ 36,242	\$ 87,656	70.05%
Administrative Services	3,006,397	1,827,613	355,247	823,537	60.79%
Development Services	1,639,300	893,465	268,768	477,067	54.50%
Police	15,752,646	10,843,424	196,341	4,712,881	68.84%
Fire	10,530,295	7,265,511	143,490	3,121,294	69.00%
Community Services	3,543,597	2,450,954	480,366	612,277	69.17%
Public Works	5,342,553	3,293,901	401,494	1,647,158	61.65%
Transfers Out	1,043,212	856,408	-	186,804	82.09%
General Fund	\$ 41,271,644	\$ 27,721,022	\$ 1,881,948	\$ 11,668,674	67.17%
Settlement Transfer Out	\$ 1,576,252	\$ 1,576,252	\$ -	\$ -	100.00%
				% of Year	75%

City of Upland
General Fund Major Revenue Trends
For the Month Ended March 31, 2015

<u>Major Revenue Accounts</u>	<u>Year-To-Date Actuals</u>		<u>Adjusted Budget</u>	<u>Year-to-Date</u>	<u>Realized</u>
	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2014-15</u>	
Property Tax	\$ 17,035,892	\$ 17,171,646	\$ 17,818,570	\$ 10,156,828	57.0% *
Sales & Use Tax	10,167,479	10,494,630	12,000,150	7,307,016	60.9%
Business License Tax	814,383	850,011	808,630	629,362	77.8%
Other Taxes	538,146	569,813	562,310	384,454	68.4%
Franchise Tax	1,236,293	1,104,931	1,261,020	408,140	32.4%
Licenses & Permits	586,813	770,058	714,708	603,834	84.5%
Revenue from Other Governments	1,072,115	1,453,364	1,347,091	1,388,416	103.1%
Charges for Services	3,637,898	4,251,288	4,146,609	2,962,343	71.4%
Fines & Forfeitures	500,389	530,954	497,552	395,824	79.6%
Use of Money & Property	487,818	553,367	508,991	379,698	74.6%
Other Revenue	1,919,493	1,584,074	3,176,719	1,448,112	45.6%
Transfers In	1,875,405	1,807,850	-	-	100.0%
Total General Fund Revenues	\$ 39,872,124	\$ 41,141,986	\$ 42,842,350	\$ 26,064,026	60.8%
AIG/ICRMA Settlement			\$ 1,576,256	\$ 4,113,756	

* The next large payments expected in April and May.