



AGENDA

Victor P. Lopez, Mayor

Diana Guerra Silva, Mayor Pro Tem

Minerva Pineda, Council Member

Gilbert Garcia, Council Member

Josie Cervantes, Council Member

WEDNESDAY, OCTOBER 25, 2017 - 6:30 P.M.

Orange Cove Council Chambers

633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

Roll Call
Invocation
Flag Salute

B. Confirmation of Agenda

C. Consent Calendar

1. City Warrants of September 2017
2. Council Minutes of September 27, 2017
3. Council Minutes of October 11, 2017

E. Administration

Chief of Police:

4. **SUBJECT:** Monthly Activity Report.

Recommendation: Informational Item Only

City Manager:

5. **SUBJECT:** Consideration and Discussion regarding contract on Street Sweeping

Recommendation: Council to consider approving Resolution No. 2017-38 Accepting the Proposal from Central Valley Sweeping, LLC and authorize the City Manager to sign an agreement

6. **SUBJECT:** Consideration and Discussion regarding on the Collection of Utility Tax on Prepaid Mobile Phone Services

Recommendation: Council give staff direction

F. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

G. City Manager's Report

H. City Attorney's Report

7. **SUBJECT:** Consideration and Discussion regarding Medical and Recreational Cannabis Local Regulation

Recommendation: Council to consider the introduction and first reading by title only waiving full reading of Ordinance No. 383 Amending of Title 8, Chapter 8.70 of the Orange Cove Municipal Code relating to Medicinal and Recreational Marijuana by revoking and amending chapter 8.70 and providing for the effective date and publication thereof

I. City Council Communications

J. Closed Session

8. Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (One Case)

K. Reconvene City Council Meeting:

L. Adjournment

ADA Notice: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (559) 626-4488 ext. 214. Notification 48 hours prior to the meeting will enable the City to make arrangements to ensure accessibility to this meeting.

Documents: Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at front counter at City Hall and at the Orange Cove Library located at 815 Park Blvd., Orange Cove, CA during normal business hours. In addition, most documents are posted on City's website at cityoforangecove.com.

STATEMENT ON RULES OF DECORUM AND ENFORCEMENT

The Brown Act provides that members of the public have a right to attend public meetings, to provide public comment on action items and under the public forum section of the agenda, and to criticize the policies, procedures, or services of the city or of the acts or omissions of the city council. The Brown Act also provides that the City Council has the right to exclude all persons who willfully cause a disruption of a meeting so that it cannot be conducted in an orderly fashion.

During a meeting of the Orange Cove City Council, there is a need for civility and expedition in the carrying out of public business in order to ensure that the public has a full opportunity to be heard and that the Council has an opportunity to conduct business in an orderly manner. The following is provided to place everyone on notice of the rules of decorum and enforcement.

GENERAL RULES OF DECORUM

While any meeting of the City Council is in session, the following rules of decorum shall be observed:

1. All remarks shall be addressed to the City Council as a whole and not to any single member, unless in response to a question from a member of the City Council.
2. A person who addresses the City Council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct (i) which is likely to provoke others to violent or riotous behavior, (ii) which disturbs the peace of the meeting by loud and

unreasonable noise, (iii) which is irrelevant or repetitive, or (iv) which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

3. A person, other than members of the Council and the person, who has the floor, shall not be permitted to enter into the discussion unless requested by the Mayor to speak.
4. Members of the City Council may not interrupt a person who has the floor and is making public comments. Members of the City Council shall wait until a person completes his or her public comments before asking questions or commenting. The Mayor shall then ask Councilmembers if they have comments or questions.
5. No person in the audience at a Council meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Council meeting.

ENFORCEMENT OF DECORUM RULES (Resolution No. 2012-16)

While the City Council is in session, all persons must preserve order and decorum. A person who addresses the City council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct which is likely to provoke others to violent or riotous behavior, which disturbs the peace of the meeting by loud and unreasonable noise, which is irrelevant or repetitive, or which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

The Mayor or other presiding officer shall request that a person who is breaching the rules of decorum cease such conduct. If after receiving such a warning, the person persists in breaching the rules of decorum, the Mayor or other presiding officer may order the person to leave the City Council meeting. If such person does not leave, the Mayor or presiding officer may request any law enforcement officer who is on duty at the meeting as sergeant-at-arms to remove the person from the Council Chambers. In the event there is no one from law enforcement present, the Mayor or presiding officer may direct the City Manager to contact law enforcement.

In accordance with the Point of Order Rule 4.6, the majority of the Council may overrule the Mayor if the majority of the Council believes the Mayor or other presiding officer is not applying the rules of decorum appropriately.



MINUTES

Victor P. Lopez, Mayor
Diana Guerra Silva, Mayor Pro Tem
Minerva Pineda, Council Member
Gilbert Garcia, Council Member
Josie Cervantes, Council Member

WEDNESDAY, SEPTEMBER 27, 2017 - 6:30 P.M.
Orange Cove Council Chambers
633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

COUNCIL PRESENT:
Mayor Victor P. Lopez
Mayor Pro Tem Diana Guerra Silva
Councilmember Gilbert Garcia (Absent)
Councilmember Minerva Pineda
Councilmember Josie Cervantes

STAFF PRESENT:
City Manager DB Heusser
City Attorney, Dan McCloskey
Police Chief, Marty Rivera
Finance Director, Randy Uyeda
City Clerk June V. Bracamontes

INVOCATION: Mayor Pro Tem Diana Guerra Silva

FLAG SALUTE: Mayor Victor P. Lopez

B. Confirmation of Agenda

City Manager requested to add the Local Transportation Funds Claim Forms from COG to the Consent Calendar due to the deadline.

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved to add the Local Transportation Funds Claim Forms from COG to the Consent Calendar as presented. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

C. Presentation

1. Mr. Jorge Espinoza presented to Council his boxing proposal currently located at his ranch 7519 Monson Avenue. He has the experience to undertake the program. Cost per person would be \$40 a month and would like to have program at the Community Center.

Mayor Lopez had a concern about the cost and would like Mr. Espinoza to work with the City Manager to develop a contract with insurance.

2. Mr. Frank Banuelos, CEO NUE P.A.T.H., presented to Council the program NUE P.A.T.H.'s. The primary goal is to lessen the gang influence in communities and would like connect this program with the City. Mayor Lopez would like these types of programs in our community and would like to help. Currently Mr. Banuelos is currently working on his nonprofit.

D. Consent Calendar

1. City Warrants for August 2017
2. City Council Minutes of August 16, 2017
3. City Council Minutes of August 23, 2017
4. Approving Resolution No. 2017-27 Fiscal Year 2017-2018 Measure C Extension Local Transportation Pass Through funds
5. Approving Resolution No. 2017-31 Authorized Signers Relating to the Local Agency Investment Fund
6. Approve Resolution 2017-33 Accepting the work for the Water Treatment Plant Storage Basin Resurfacing Project and authorize the City Engineer to record the Notice of Completion
7. Approving Resolution No. 2017-34 Accepting the construction improvements for the Water Treatment Plan Backwash reclaim improvement project
8. Added Local Transportation Funds Claim Forms from COG

Councilwoman Pineda would like to make a correction to the Minutes of August 16, 2017 motions should be corrected showing the Pro Tem Silva was present.

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Cervantes, Council approved the Consent Calendar with the corrections to the minutes of August 16, 2017. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

E. Administration

Police Chief:

9. **SUBJECT:** Monthly Activity Report.

Recommendation: Informational Item

Police Chief presented the following:

Staff level

Explore program added 3 new students

Grants Applied for the COPS grant

Events Meeting

MOU waiting for KCUSD

SRO not satisfied with the verbiage waiting for KCUSD signature

Vehicles looking at budget

FOCAS group still having issues not taking in dogs

Put up stop signs need to address traffic

Presented the Monthly Statistics August 2017 report

City Manager D-B wrote a letter to animal shelter requesting to have a meeting to discuss that they do a monthly report so that we have a record month to month.

City Manager:

10. **SUBJECT:** Consideration and Discussion regarding the CalPERS 457 Plan

Recommendation: Council to consider approving Resolution No. 2017-30 adopting the CalPERS Supplemental Income 457 Plan

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved Resolution No. 2017-30 adopting the CalPERS Supplemental Income 457 Plan. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

11. **SUBJECT:** Consideration and Discussion regarding the Code Enforcement Grant

Recommendation: Council to consider Resolution 2017-28 approving the Contract with Willdan Engineering to provide Code Enforcement Services

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved Resolution 2017-28 approving the Contract with Willdan Engineering to provide Code Enforcement Services. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

12. **SUBJECT:** Consideration and Discussion regarding the Removal of Dry Process Activated Sludge

Recommendation: Council to consider Resolution No. 2017-29 approving the Expenditure of \$50,000 for the Removal of Dried Solid Sludge

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved Resolution No. 2017-29 approving the Expenditure of \$50,000 for the removal of dried solid sludge. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

13. **SUBJECT:** Consideration and Discussion regarding the Joe Serna Estates and Grant

Recommendation: Council to consider Resolution No. 2017-32 approving a revised agreement with HCDC addressing the finalization of the Joe Serna Jr. Farmworker Housing Grant

Upon the motion by Mayor Pro Tem Silva and seconded by Councilwoman Pineda, Council approved Resolution No. 2017-32 approving a revised agreement with HCDC addressing the finalization of the Joe Serna Jr. Farmworker Housing Grant. (Yes Vote: Lopez, Silva, Pineda, Cervantes)(Absent: Garcia)

F. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

1. Mr. Ralph Pardo and Charlotte Pavelco presented to Council the 2017 Tour de Fresno Charity Bike Ride that took place on September 16, 2017. Rest Stop at Eaton Park. Bike routes started in Kingsburg to Orange Cove. Booth ranch provided the oranges.

Cleaned up by noon. Charlotte Pavelco announced that on October 7 a car class will take place at the library at 10a.m.

2. Mr. Manuel Ferreria thanked the City Workers for getting the Cross walks done for the schools. Also encourage everyone to go the Fresno Fair and see the Lions Booth including the open ceremony by Mr. Rendon

G. City Manager's Report

City Manager presented the following:

1. Will not be at the Council Meeting of October 11, 2017.
2. Received tickets to the Fresno Fair Council interested please see him.
3. Regarding the Home Program the city's check procedure is people will come in and city will write a check out from the city's bank account. Recommending to Council that we pull down the money first so that it is not reaching into our General Fund. (Mayor did not know this was the procedure and would like to do it right)
4. Requesting to take a day to clean up City Hall. (Council agreed)

H. City Attorney's Report

No report.

I. City Council Communications

Councilwoman Josie Cervantes:

No report

Councilwoman Minerva Pineda:

No report

Mayor Victor P. Lopez:

Mayor attended meeting regarding funding on road and economic development and watch the movie about Delores Huerta. Presently working on the water issue submitted application for 3 billion dollars and focusing that Orange Cove will have water.

J. Adjournment

Mayor Lopez adjourned the City Council Meeting at 7:59p.m.

Respectfully submitted:

June V. Bracamontes, City Clerk

Presented to Council Date: _____ Action: _____



MINUTES

Victor P. Lopez, Mayor

**Diana Guerra Silva, Mayor Pro Tem
Member**

Gilbert Garcia, Council

**Minerva Pineda, Council Member
Council Member**

Josie Cervantes,

WEDNESDAY, OCTOBER 11, 2017 - 6:30 P.M.

Orange Cove Council Chambers

633 6th Street, Orange Cove, California 93646

A. Call to Order/Welcome

COUNCIL PRESENT: Mayor Victor P. Lopez
Mayor Pro Tem Diana Guerra Silva (Absent)
Councilmember Gilbert Garcia
Councilmember Minerva Pineda
Councilmember Josie Cervantes

STAFF PRESENT: City Manager DB Heusser (Absent)
City Attorney, Dan McCloskey
Police Chief, Marty Rivera (Absent)
Sgt. Javier Pena
Finance Director, Randy Uyeda
City Clerk June V. Bracamontes

INVOCATION: Councilman Gilbert Garcia

FLAG SALUTE: Mayor Victor P. Lopez

B. Confirmation of Agenda

No changes.

C. Administration

City Engineer:

1. **SUBJECT:** Consideration and Discussion regarding the Streets Capital Improvement Program and SB 1 Project Designation

Recommendation: Council to give direction to Staff and consider Resolution No. 2017-36 adopting SB 1 Project Designation Resolution

Upon the motion by Councilman Garcia and seconded by Councilwoman Pineda, Council approved Resolution No. 2017-36 adopting SB 1 Project Designation Resolution (Yes Vote: Lopez, Garcia, Pineda, Cervantes) (Absent: Silva)

2. **SUBJECT:** Consideration and Discussion regarding applications to COG for Federal Transportation Funds and Resolution for Timely Use of Funds

Recommendation: Council to approve the submission of applications to the Fresno County Council of Governments (COG) for the listed projects and adopt the attached Resolution No. 2017-37 Supporting AB1012 "Timely Use of Funds"

Upon the motion Councilwoman Cervantes and seconded by Councilman Garcia, Council approved the submission of applications to the Fresno County Council of Governments (COG) for the listed projects and adopt the attached Resolution No. 2017-37 Supporting AB1012 "Timely Use of Funds" (Yes Vote: Lopez, Garcia, Pineda, Cervantes)(Absent: Silva)

Mayor and City Councilmembers:

3. **SUBJECT:** Consideration and Discussion regarding a letter to the Armando Quintero, Chair of the California Water Commission

Recommendation: Council to consider approving the Letter to Armando Quintero, Chair of the California Water Commission to voice opposition to the Proposition 1 Water Storage and Investment Program funding application for the Semitropic's Water Storage District's proposed Tulare Lake Storage and Floodwater Protection Project

Mayor requested to table item

Upon the motion by Councilman Garcia and seconded by Councilwoman Cervantes, Council approved to table this item. (Yes Vote: Lopez, Garcia, Pineda, Cervantes)(Absent: Silva)

D. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

Ms. Natalie Navarro teacher Orange Cove High School along with 3 students from the AVID Program thanked Council for all their support to the program and presented the Titan Cleanup day on Saturday October 14, 2017. The Cleanup will start on 2nd and Park Avenue and end at Anchor Avenue. Mayor and Council requested that staff provide refreshments.

The Orange Cove High School Mecha Club presented to Council the Heritage of the Latino Family event will be held on November 1, 2017 at 5:30 p.m. located at Orange Cove High School and invited Council.

Mayor Lopez announced that Sue Jones was a pillar in our community and her service was well attended. Manuel Ferreira and Family thanked the Council and staff.

E. City Manager's Report

No report

F. City Attorney's Report

No report

G. City Council Communications

Councilmembers: Garcia, Cervantes and Pineda

No report

Mayor Victor P. Lopez:

Attended the town hall meeting with Brenda Quintana regarding the DACA Immigration on Health Care. Senator Feinstein will run again for Senate which will be very important for immigration. Mayor Lopez stated that he will continue being a leader for immigrants and his voice will be heard.

Mayor Lopez received a call for the Titan Bank regarding the Band Review in November and Mayor would like to add to the next agenda a donation from Orange Cove to be one of the sponsors if the Council cannot donate then will go

through the Latino Coalition.

H. Adjournment

Mayor Lopez adjourned the City Council Meeting at 7:06 p.m.

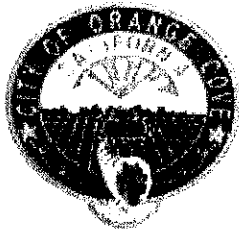
Respectfully submitted:

*June V. Bracamontes, City Clerk
City of Orange Cove*

Presented to Council:

Date: _____

Action: _____



CITY OF ORANGE COVE REPORT TO THE CITY COUNCIL

To: Mayor and City Council Members
From: D-B Heusser, Interim City Manager
Subject: Street Sweeping
Attachments: Proposal from Central Valley Sweeping, LLC

BACKGROUND:

Street sweeping is an important function provided by the city. Though many think it is just for beautification, but keeping the streets and gutters clean has health and safety benefits. as well as, it does allow water to flow to storm drains and helping with flood prevention. The City of Orange Cove has provided this service with the use of a street sweeper.

EXECUTIVE SUMMARY:

We are quickly approaching the rainy season and our streets/gutters have not been cleaned for some time and we are in need to cleaning our gutters and streets as soon as possible.

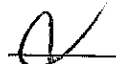
The Problems is: The City owned Street Sweep is not running and according to Public Works the cost of repair would run over \$40,000. Add to this the cost of new brooms about every other month (\$400), the cost of fuel and the up keep of the two diesel engines and the reports due the Air Pollution Control District due annually, and taking a person off our limited PW crew because costly.

The City Manager contacted cities around us regarding street sweeping and found that Reedley, Kingsburg, Parlier use Central Valley Sweeping out of Visalia. In addition the City of Visalia uses Central Valley Sweeping. I did a quick contact and found they all were happy with the services provided.

Prepared by: Heusser

Approved by: 

REVIEW: City Manager: 

Finance: 

City Attorney: _____

TYPE OF ITEM:

COUNCIL ACTION: APPROVED DENIED NO ACTION

☐ Consent
☐ Info Item
☒ Action Item
☐ Department Report
☐ Redevelopment Agency

☐ Public Hearing
☐ Matter Initiated by a Council Member
☐ Other
☐ Continued to: _____

Normal we would proposed the bidding of the service but feel that time is of the essence and would propose that we offer an "emergency" contract with Central Valley Sweeping for one year. During the latter part of the contract period I would propose that the City Bid out this item.

The proposal from CVS is to do our City Residential streets at least one (1) time per month and the down town District (which I would include as Park and Anchor St., two (2) times a month.

The cost: November – January (leaf months) would be \$4,500 per month; February – October \$4,000 per month.

The City Manager believes that the contracting out of these services helps our budget in the long run by spreading out the cost over a full year. In addition it allows our limited PW staff to have its full team to do PW duties.

RECOMMENDATION:

Staff recommends Council approve the resolution accepting the Proposal from CVS, LLC and authorize the City Manager to sign an agreement.

FISCAL IMPACT:

The appropriate amount will be added to the Orange Cove 2017-2017 Fiscal Year Budget.

ALTERNATIVES:

Council can act not to approve and reject the proposal and direct City Staff to repair the City's broken sweeper, or choose to do nothing.

ACTIONS FOLLOWING APPROVAL:

If approved authorize the City Manager to notify CVS LLC and sign the agreement.

RESOLUTION NO. 2017-38

**A RESOLUTION OF THE ORANGE COVE CITY COUNCIL APROVING
AN AGREEMENT WITH CENTRAL VALLEY SWEEPING, LLC (CVS) TO PROVIDE
STREET SWEEPING SERVICES.**

WHEREAS, the City of Orange Cove has a street, sidewalk and street gutter systems, and

WHEREAS, materials accumulate within the City of Orange Cove's streets and gutter, and

WHEREAS, this accumulated debris is both unsightly and can hamper runoff water to properly flow to storm drainage outlets and

WHEREAS, the City of Orange Cove's owned street sweeper is in need of extensive repair, and

WHEREAS, the City Council is concerned about the beautification and safety of its citizens,

The City of Orange Cove does take action approving the proposal of CVS, LLC and authorizes the City Manager to sign the proposed agreement.

I June V. Bracamontes, City Clerk of the City of Orange Cove, certify that the foregoing resolution was adopted by the Council of the City of Orange Cove, at a City Council meeting held on 25 October 2017.

AYES:

NOES:

ABSENT:

ABSTAIN:

June V. Bracamontes, City Clerk
City of Orange Cove

Prepared by: Heusser

Approved by: _____

REVIEW: City Manager: _____

Finance: _____

City Attorney: _____

TYPE OF ITEM:

COUNCIL ACTION: APPROVED DENIED NO ACTION

____ Consent
____ Info Item
____ Action Item
____ Department Report
____ Redevelopment Agency

____ Public Hearing
____ Matter Initiated by a Council
Member
____ Other
____ Continued to: _____

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787
Visalia, CA 93290-6787
Phone (559) 739-7532
Fax (559) 625-2980

September 25, 2017

City of Orange Cove
Attn: D-B Heusser
633 Sixth Street
Orange Cove, CA 93646

This proposal has been submitted to the City of Orange Cove and its residents by Central Valley Sweeping in response to your Request for the cost to provide Street Sweeping services. This document is intended to provide the City of Orange Cove with the cost for **not less than once-a-month** sweeping service of the City of Orange Cove for a Six (6) month service period.

Central Valley Sweeping has been serving the entire Central Valley since 1977. With over 450 scheduled clients, we have the experience and equipment needed to get the job done right...the first time! Our job experience includes, but is not limited to: Municipalities, Industrial Properties, Dairies, Highway Construction and Home-ownerships.

Central Valley Sweeping has handled the "special sweeping" needs for: The Cities of Visalia, Tulare, Kingsburg, Reedley, Lindsay, Mendota, Parlier, Farmersville, Wasco and Corcoran. Our sweeping company is the primary sweeping provider for such companies as: Fresno & Visalia Unified School District, J.G. Boswell, Kraft Foods, Lemoore NAS and Granite Construction. We currently provide sweeping service for the County of Fresno & Tulare & City of Lemoore reclimate projects. Central Valley Sweeping is a local company that puts money back into our Valley.

PURPOSE: The goal of the sweeping service is the removal of as much dirt/dust, rocks, leaves, paper, glass, trash, and other debris from the accessible curb lines of the City as possible. **By having Central Valley Sweeping clean your streets, you will improve the overall appearance of your community, eliminate the cost of your man power clean the streets and repair your sweeper, and comply with San Joaquin Valley Air Board Regulations.**

SCOPE OF SERVICE: It is our understanding that the City of Orange Cove is requesting that Central Valley Sweeping provide service on a "not less than" once-a-month basis of the Residential Routes as well as service of the Downtown District with Medians on a "not less than" twice-a-month basis during the Non-Leaf Season & Leaf Season for a six (6) month term.

The scope of sweeping service for the City of Orange Cove has been outlined as follows. The City of Orange Cove will be divided into Four (4) Sweeping Routes. The residential areas of the City will be divided into four Residential service routes with a portion of the Downtown District and Medians being service with each of the four routes. This service schedule will allow us to sweep the Residential Area of the City on a once-a-month basis and the Downtown Area and Medians on a twice-a-month basis over the course of one month.

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787

Visalia, CA 93290-6787

Phone (559) 739-7532

Fax (559) 625-2980

Based on the current trash collection date, and previous sweeping service provided to the City, we have determined that Monday, Tuesday, Wednesday and/or Friday would be the best days for service.

EQUIPMENT: With a fleet consisting of eleven (11) Regenerative Air (All are PM-10 compliant) and fifteen (15) Power Mechanical Broom (14 are PM-10 compliant) sweeping units, Central Valley Sweeping is equipped to handle any job....and prepared with backup machines to cover any breakdown situation. Our large fleet of sweepers allows us to take a machine out of service for general maintenance or repair without disrupting our service schedule.

- I. ***REGENERATIVE AIR & MECHANICAL BROOMS:*** Central Valley Sweeping has both Regenerative Air & Mechanical Broom sweeping units available to service your City. The Mechanical Broom specializes in picking up the heavy dirt and debris that the Community wants removed from the City streets. The Regenerative Air Sweeper is designed to manage the heavy leaf fall that occurs from November to January every year.
- II. ***DUST CONTROL & FUEL-EFFICIENT EQUIPMENT:*** Our Regenerative Air & Mechanical Broom sweeping units come equipped with PM-10 compliant dust control systems and AQMD Rule 1186 low emissions packages.
 1. ***Dust Control System:*** 220-gallon capacity polyethylene water tank; 5gpm High Output Water electric diaphragm type pump; low water warning light; external water level indicator; spray nozzles around pick-up head, gutter broom(s) and inside hopper.
 2. ***Front Spray Bar Adaptation:*** To combat the dry conditions that occur as a result of living in our Valley, we have found it necessary to fabricate an additional spray bar onto the front of our sweeping units. This additional spray system provides an extra application of water to the ground, thereby eliminating any dust from being stirred into the air.
 3. ***Fuel Efficient Equipment:*** Low Emissions Package AQMD Rule 1186 compliant.

COMPANYS ABILITY TO RESOLVE CUSTOMER PROBLEMS: *Customer service is essential to the success of our company.* To that end, Central Valley Sweeping has developed a custom "Resident Response Sheet." This sheet was designed by Central Valley Sweeping to capture the necessary information to resolve resident complaints and concerns related to sweeping service. This one-sheet allows us to address these time sensitive matters quickly and efficiently, and enables us to track those concerns for future reference and/or the community's records. Once the issue has been addressed, we note the resolution, email a copy to the City and keep a copy for our records. Please review attachment: "A"

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787
Visalia, CA 93290-6787
Phone (559) 739-7532
Fax (559) 625-2980

1. **GPS Tracking System:** All of our sweeping units come equipped with GPS tracking systems. These systems are designed to track the street sweeper's route on a minute by minute basis. The information that is collected by the GPS tracking unit can be used to help resolve resident complaints by outlining the sweepers time and location.

ABILITY TO MEET ANY SCHEDULE FREQUENCY: Central Valley Sweeping has twenty-eight (28) full time operators to make sure that the job is done on schedule. Four (4) of these operators are set on an "on call" schedule to allow us to handle emergency situations (ie: sickness, injury or family emergency).

OPERATORS ABILITY TO COMMUNICATE WITH CITY STAFF: At Central Valley Sweeping we believe that open communication is imperative to the success of our working relationship. To that end, we provide all of our employees with cell phones. These phones can be used to communicate with the City staff directly. We will also provide your representative(s) with a list of our contact cell phone numbers, which can be called 24 hours a day.

REFERENCES: Please accept the following references for service currently provided by Central Valley Sweeping:

- | | | | |
|----|--|----|---|
| 1. | City of Visalia
P.O. Box 5078
Visalia, CA 93278
Contact: Earl Nielson
(559) 713-4428
12 Years of Service | 2. | City of Reedley
845 G Street
Reedley, CA 93654
Contact: Peter Rangel
(559) 637-2139
10 Years of Service |
| 3. | City of Parlier
1100 E. Parlier Ave.
Parlier, CA 93648
Contact: Sean Patun
(559) 646-3700
15 Years of Service | 4. | City of Kingsburg
1401 Draper St.
Kingsburg, CA 93631
Contact: Alex Henderson
(559) 897-5821
11 Years of Service |

COST DESCRIPTION: Total cost for service will be broken down by the cost for the Initial Two Month service period with continued sweeping service for an additional four (4) months. This will result in a six (6) month service agreement. We will also outline the cost for additional service frequency options during the Non-Leaf and Leaf Seasons. You will be provided with our hourly rates for "special sweeps" such as: parade route clean-up, parks, parking lots, bike paths. Finally, you will be provided with the hourly rate for EMERGENCY clean ups such as: oil and hydraulic spills, cement spills and dirt track out clean up and any additional services the City might need.

We propose sweeping the City of Orange Cove with our Power Mechanical Broom Sweeping Units during the non-leaf fall months (February to October). This sweeper is designed to scrub the roads and gutters to pick up and remove the heavy dirt deposits from your City Streets. Once the Leaf Fall has begun (November to January), we have the ability to switch over to our Regenerative Air Sweepers to help pick up & remove the heavy leaf deposits from the streets of your community. Minimum Scope of service would include:

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787

Visalia, CA 93290-6787

Phone (559) 739-7532

Fax (559) 625-2980

1. Initial two-month service plan to pick-up and remove the heavy dirt/leave deposits that have collected in the gutters while the City sweeper has been down.
2. Sweep the four (4) Residential Routes of the City at least once-a-month during the Non-Leaf Season (Approximately: February to October) and Leaf-Season (November to January). This service would be provided on either a Monday, Tuesday, Wednesday or Friday.
3. Sweep the Downtown District and Medians on a twice-a-month basis.
4. Disposal of the Debris at a site/location that you will provide.
5. Access to a City water source (ie: Fire Hydrants) for us to load our sweepers with water.
6. Option for increased or additional service frequency at the mutual agreement of the City and Central Valley Sweeping.

COST BREAKDOWN:

1). **INITIAL TWO (2) MONTH SERVICE COST:** As a result of your sweeper being broken down, there is a significant amount of heavy dirt and leaf debris that has collected in the gutters/medians of the City. We will require extra time and expense to remove this material. **Total cost for this initial two (2) month period will be \$7,000 per month.**

2). **CONTINUED FOUR (4) MONTH SERVICE AGREEMENT:** Total cost for continued *four-month term* service agreement would include the following: Sweeping service of **not less than once-a-month** of the Residential areas of the City of Orange Cove. The City would be divided into Four (4) Residential Routes with one half of the Downtown District and one-half of the Medians being swept each week so that these areas are swept on a twice-a-month basis. The downtown and medians would be swept by 6:30am and the Residential Route would be swept after 6:30am. Total cost for continued sweeping service of the Residential Routes, Downtown District and Medians after the two (2) month initial clean up **during the Non-Leaf & Leaf Season would be \$4,250 per month. Total cost for the additional four (4) months of service would be \$17,000.**

- **NOTE:** Additional months of service can be added during the Non-Leaf Season months at a Rate of \$4,000.00 per month.
- **NOTE:** Additional months of service can be added during the Leaf Season months at a Rate of \$4,500.00 per month.
- **NOTE:** Central Valley Sweeping will waive the initial two-month service cost increase if the service agreement is increase to a one-year term.

CENTRAL VALLEY SWEEPING, LLC

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3). **SPECIAL SWEEP RATE**: Cost for any "special sweeps" for the City of Orange Cove (which include: Parks, Parking Lots, Bike Paths, Parades, anything outside the normal scope of service) would be billed at a rate of \$150.00 per hour on a portal-to-portal basis.

4). **EMERGENCY SWEEP RATE**: Cost for any "Emergency sweeps" for the City of Orange Cove (which include: Hydraulic & Oil Spills, Concrete Spills, Dirt & Rock Track Out) would be billed at a rate of \$200.00 per hour on a portal-to-portal basis.

Central Valley Sweeping wants to extend our appreciation for the opportunity to serve the City of Orange Cove and its residence and for your interest in our company. We look forward to adding you to our family of loyal customers. If you have any questions or concerns, please contact me at (559) 804-0081.

Respectfully submitted,

Mb

Matthew Bawks

Vice President - Sales

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787

Visalia, CA 93290-6787

Phone (559) 739-7532

Fax (559) 625-2980

ATTACHMENT "A" – CITY OF ORANGE COVE **RESIDENT RESPONSE SHEET**

CENTRAL VALLEY SWEEPING, LLC

P.O. Box 6787

Visalia, CA 93290-6787

Phone (559) 739-7532

Fax (559) 625-2980

COMMUNITY OF ORANGE COVE RESIDENT RESPONSE SHEET

Date: _____

Time: _____

Residents Name: _____

Address: _____

Phone: _____

Resident Concern:

Date Received: _____

Date Closed: _____

Solution/Action: _____



CITY OF ORANGE COVE REPORT TO THE CITY COUNCIL

To: Mayor and City Council Members
From: D-B Heusser, Interim City Manager
Subject: Collection of Utility Tax on Prepaid Mobile Phone Services
Attachments: Information from Reda Bennani

BACKGROUND:

In August of 2015 the Orange Cove City Council approved a Resolution authorizing the City to enter into agreement with the State Board of Equalization regarding a Utility Tax (Surcharge) on Prepaid Mobile Phone Services. This surcharge was possible because of AB 1717 and was recommended as a source of additional revenue.

EXECUTIVE SUMMARY:

The surcharge that Orange Cove imposed on prepaid Mobile Phone Services (phones and cards) was the maximum of 6.5% which is added on to the mandatory California MYS of 9.26% meaning that those who purchase prepaid phones and cards in Orange Cove pay a total of 15.76%.

Recently the City Manager was approached by Mr. Bennani who represents the prepaid mobile phone industry who requested that we look at canceling the agreement with State Board of Equalization.

In checking with our Finance Director the City Manager finds that we have collected only a little over \$1,000 for this UTT.

In Tulare County the City of Dinuba and Tulare were the only cities that imposed the UTT and in February Dinuba City Council approved rescinding the UTT. In Fresno

Prepared by: Heusser

Approved by: D-B Heusser

REVIEW: City Manager: D-B Heusser

Finance: [Signature]

City Attorney:

TYPE OF ITEM:

COUNCIL ACTION: APPROVED DENIED NO ACTION

 Consent
 Info Item
 X Action Item
 Department Report
 Redevelopment Agency

 Public Hearing
 Matter Initiated by a Council
Member
 Other
 Continued to:

County only the cities of Orange Cove, Firebaugh and Sanger collect the Prepaid Phone UTT.

The UTT is intended to apply only to residents of Orange Cove. However, when the UTT is collected on prepaid mobile phone services there is no distinction. Thus, customers who reside outside of Orange Cove are assessed the UTT.

AB 1717 shifts California state and local taxes on prepaid mobile services from being business taxes imposed on mobile operators to a new point of sale tax on end users.

As it is now a person can go to Reedley and Dinuba and get a pre-paid phone or prepaid card for less than purchasing one in Orange Cove thus making a disadvantage to our existing businesses that offer prepaid phones and cards.

RECOMMENDATION:

Staff is looking to the City Council for direction but would recommend that Council directs staff to bring back an action to rescind the UTT on prepaid phones and cards.

Should the Council wish to terminate the contract with BOE and cease collection of the UTT, a written notice must be provided to the BOE. The BOE says that it could need up to 110 days' notice in the advance of the termination.

FISCAL IMPACT:

Staff feels that this would have a minimal impact on revenues and yet may be offset by the number of prepaid phones and prepaid cards sold by our local businesses.

ALTERNATIVES:

Council can act not to approve and reject the proposal of staff.

ACTIONS FOLLOWING APPROVAL:

If approved direct the City Manager to bring back to Council the necessary actions to terminate the contract with BOE.

Prepaid Mobile Telephony Services (MTS) Surcharge facts.

- Mandatory California MTS tax of 9.26 % will be added to the sales price of each retail transaction involving prepaid wireless cards and monthly service starting January 1st 2016.
- Orange Cove MTS Surcharge 6.5% for a total MTS of 15.76%
- Only cities in 23 counties out of 58 counties in California have chosen the option of the MTS surcharge.
- Only 1 city in Tulare County (Tulare) and 3 cities in Fresno County (Orange Cove, Sanger, Firebaugh) out of 6 central valley agricultural counties (Kings Co. Merced Co. Kern Co. Madera Co.) have chosen the MTS surcharge.
- Financial Impact on Orange Cove residents that will see their monthly prepaid service go up by 6.5 %.
- Orange Cove retail stores that sell and refill Prepaid Mobile phones will see a loss of business on the long term when consumers realize that buying a phone or paying their monthly service in any neighboring town will be lower by 6.5%.
- The surcharge is intended to apply only to residents of Orange Cove. However, when the Surcharge is collected on prepaid mobile phone services there is no distinction. Thus, customers who reside outside of Orange Cove are assessed the 6.5% surcharge.



California State Board of Equalization

BOARD MEMBERS

RAY GEORGE HUNTER (H) 1
First District
San Francisco

FRANCA MA. CPA
Second District
San Francisco

JEROME B. HIGGON
Third District
Los Angeles County

DIANE L. HARKER
Fourth District
Orange County

BETTY L. YEN
State Controller

Local Jurisdictions MUST Contract with BOE for Collection of Local Charges on Prepaid Mobile Telephony Services

Beginning January 1, 2016, a new law (AB 1717) requires local jurisdictions to contract with the California State Board of Equalization (BOE) in order to receive revenue from local utility user taxes (UUT), local 911 charges, and any other local charges imposed on consumers of prepaid mobile services.

To ensure the uninterrupted collection of these local revenues, local jurisdictions must contract with the BOE by **September 1, 2015**. If a local jurisdiction does not contract with the BOE, any local charges imposed upon prepaid mobile telephony services (MTS) will not be collected by the sellers and the local jurisdiction will not receive local charge revenue from prepaid MTS once the new law is effective on January 1, 2016.

If the local jurisdiction does not contract with BOE by September 1, 2015, the next deadline is December 1, 2015, for collection beginning April 1, 2016. In order to contract with the BOE, local jurisdictions must have an ordinance that applies its local charge to prepaid MTS.

Current law imposes a variety of surcharges on phone services, including prepaid mobile phone services. Currently, phone carriers are generally responsible for collecting and paying these surcharges (for example, the 911 emergency surcharge and California Public Utilities Commission surcharges) to the state. The new law replaces all current charges imposed upon prepaid mobile phone services with a new prepaid MTS surcharge. The prepaid MTS surcharge will be paid by purchasers of prepaid wireless services in California and be collected at the time of purchase.

Under the new law, the MTS surcharge will be the *only method* for local jurisdictions to collect taxes and surcharges imposed upon prepaid mobile telephone services sold in their jurisdiction.

For more information about contracting with BOE for the collection of UUT and/or local 911 charges, please contact the BOE's Local Revenue Allocation Unit at 1-916-324-3000 or by email at readlur@boe.ca.gov.

For general information about the new Prepaid MTS surcharge, please see our [Prepaid Mobile Telephony Services Surcharge](#) guide, or visit our website at www.boe.ca.gov.

NEW PREPAID MTS LOCAL CHARGES 15.76%

January 1st 2016.

<i>Regular</i>	<i>Orange cove</i>	<i>State</i>	<i>Difference</i>
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\$ 20 plan	= 23.15	- 21.85	= 1.30
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\$ 25 plan	= 28.94	- 27.31	= 1.63
------------	---------	---------	--------

\$ 30 plan	= 34.73	- 32.77	= 1.96
------------	---------	---------	--------

\$ 35 plan	= 40.52	- 38.24	= 2.28
------------	---------	---------	--------

\$ 40 plan	= 46.30	- 43.70	= 2.60
------------	---------	---------	--------

\$ 45 plan	= 52.09	- 49.16	= 2.93
------------	---------	---------	--------

\$ 50 plan	= 57.88	- 54.63	= 3.25
------------	---------	---------	--------

\$ 55 plan	= 63.67	- 60.09	= 3.58
------------	---------	---------	--------

\$ 60 plan	= 69.46	- 65.55	= 3.91
------------	---------	---------	--------

\$ 65 plan	= 75.25	- 71.01	= 4.24
------------	---------	---------	--------

\$ 70 plan	= 81.03	- 76.48	= 4.55
------------	---------	---------	--------

TUTTLE & McCLOSKEY

750 East Bullard Avenue, Suite 101
Fresno, California 93710
(559) 437-1770
FAX: (559) 437-0150

Memo

TO: Mayor and Council Members

FROM: Daniel T. McCloskey, City Attorney

DATE: October 10, 2017

RE: Medical and Recreational Cannabis Local Regulation

SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, merges medical and non-medical cannabis regulations into a single regulatory scheme and may impact local cannabis ordinances. Before SB 94, medical cannabis was regulated by the Medical Cannabis Regulation and Safety Act ("MCRSA") and non-medical cannabis was regulated by the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), also known as Proposition 64. SB 94 took effect immediately when Governor Brown signed it on June 27, 2017.

SB 94 blends together medical and non-medical cannabis regulations by repealing the MCRSA and inserting certain licensing provisions from the MCRSA into the AUMA. SB 94 is a mixed blessing for local control over cannabis businesses. Although local jurisdictions will continue to retain complete control over what type, if any, of commercial cannabis businesses can operate in their jurisdiction, SB 94 eliminates the dual licensing scheme previously established by the MCRSA, whereby an applicant was required to obtain a local license or permit to operate a cannabis business before being issued a State license. Instead, SB 94 now requires a local jurisdiction to provide the newly created Bureau of Cannabis Control a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the local jurisdiction to serve as the contact person regarding commercial cannabis activity within the jurisdiction.

Whenever a State licensing authority receives an application from a prospective cannabis business, the authority must notify the contact person of the corresponding local jurisdiction. The local jurisdiction must then notify the State licensing authority whether an applicant is compliant with local ordinances. The local jurisdiction's failure to respond within 60 business days results in a rebuttable presumption that the applicant is compliant with local ordinances, so it is important that each local jurisdiction designate a staff person to be responsible for these responses.

Local jurisdictions should not wait until an applicant applies for a State license to operate in their jurisdiction before adopting an ordinance either regulating or prohibiting cannabis businesses. Beginning January 1, 2018, cannabis businesses can lawfully sell cannabis and cannabis products, even if the cannabis and cannabis products are untested, if they have a State license. SB 94 also authorizes the State licensing authorities to issue temporary licenses for a period of 120 days (which can be extended for an additional 90 days) if the applicant provides a copy of a valid license, permit,

or other authorization issued by a local jurisdiction that enables the applicant to conduct commercial cannabis activity at the location requested for the temporary license. The issuance of a temporary State license does not create a vested right in the licensee to either an extension of the temporary license or to the granting of a non-temporary license.

It is important for Orange Cove to determine at this time whether or not to have an ordinance addressing both medical and recreational cannabis that reflects the city council's wishes regarding whether or not the city would allow either medical or recreational cannabis commercial activity within the city limits. Those activities include sale, distribution, delivery (think mobile services) cultivation and collectives. State law allows the local entity to regulate both medicinal and recreational cannabis.

Our current code addresses medical marijuana only and provides for an individual patient to cultivate his or her own personal cannabis provided it is an indoor grow. The current code is Chapter 8.70. Furthermore, there is a zoning component to the cannabis ordinances. A city can require a dispensary, collective or cultivation to be done in a certain zone, subject to a conditional use permit and under a regulatory scheme of conditions. The CUP can be review every year.

In order to prohibit both medicinal and recreational cannabis commercial activity in the City the Council would need to consider revoking the current Chapter 8.70 and replacing the medicinal cannabis ordinance with the proposed and, at the same time, passing the proposed ordinance prohibiting the commercial activity of recreational cannabis. There would be two ordinances to consider, and, the Council could take action by introducing the two ordinances at tonight's meeting by reading the title and waiving a full reading of the ordinance. Then, at the next regularly scheduled council meeting the Council could adopt the two ordinances, and, there would be a publication of a summary of the ordinance(s) within the next thirty days and, then, both ordinances would be effective prior to the licensing of the commercial recreational cannabis industries by the state.

RECOMMENDATION:

Provide direction to staff on whether the City should ban, allow, or regulate any or all of the various personal and commercial recreational marijuana activities, as well as medical marijuana activities. With Council direction, staff will return with recommendations on what would be required to implement the City Council decisions, such as ordinances, zoning changes, permit processes, or other actions that may be required.

FISCAL IMPACT:

There is no financial impact at this time. However, depending on City Council direction, additional staff and resources will likely be required.

BACKGROUND:

Personal Use

AUMA specifies where personal use of marijuana may be allowed or banned, and what a city may or may not do.

- A. A city may not restrict personal use in one's home
- B. Property owners (e.g. landlords and businesses) may ban smoking on/in their property
- C. No smoking is allowed in public places: streets, sidewalks, parks, beaches, trails, stores, City buildings
- D. No smoking is allowed where smoking tobacco is prohibited
- E. No smoking is allowed within 1,000 feet of school, day care center or youth center
- F. No smoking is allowed while driving or riding in a vehicle
- G. A city may prohibit smoking and possession in buildings owned, leased, or occupied by the City
- H. Employers may maintain drug-free workplaces; banning use, possession, being under the influence

Personal Cultivation

Up to six plants may be personally cultivated at one's residence.

- 1. City may reasonably regulate but cannot ban indoor cultivation for personal use (Indoor includes greenhouse or other structure on same property)
- 2. Up to 6 plants are allowed per residence regardless of the number of families or unrelated people in the residence.
- 3. Property owners (e.g. landlords) may ban the indoor and/or outdoor cultivation on their property.

Commercial Activities

There are six categories of commercial activities licensed by AUMA with 19 types of licenses in addition to medical marijuana licenses. AUMA also defines areas of responsibilities for State Government Departments. The State has not yet written regulations to implement AUMA. The State may have regulations adopted by September 2017 and may issue temporary licenses by then (but activities may not start until January 1, 2018). Some commercial licenses will not be effective until January 1, 2018; some large cultivation licenses will not be effective until January 1, 2023.

- A. State Licenses: (19 commercial types plus medical marijuana)
 - i. Cultivation — 13 licenses (based on size and indoor, outdoor, or mixed light)
 - ii. Manufacturing — 2 licenses
 - iii. Testing — 1 license
 - iv. Retail — 1 license
 - v. Distributor — 1 license
 - vi. Microbusiness — 1 license
 - vii. Medical Marijuana: Medical marijuana licenses are currently separate but the State has indicated that they may be combined.

B. License Provisions

- i. No licensee may also have a retail alcohol license
- ii. No license will be issued within a 600 foot radius of a school (K-12), day care center, or youth center — a city may increase the radius and make it larger.
- iii. State standards are minimum standards.

C. State Department Responsibilities

- i. Bureau of Medical Marijuana Regulation is renamed Bureau of Marijuana Control
- ii. Department of Consumer Affairs
 - a. Authority to create, issue, renew, discipline, suspend, or revoke licenses
- iii. Department of Food and Agriculture
 - a. Administers provisions associated with cultivation
- iv. Department of Public health
 - a. Administers provisions related to manufacturing and testing of marijuana

State Taxes

AUMA establishes taxes on the commercial and medical marijuana activities. The Act also specifies how the tax revenues will be used.

A. Taxes applied to both Medical and Non-Medical Marijuana

- i. Excise Tax — **15%** gross receipts of retail sales
- ii. Cultivation Taxes - \$9.25/oz. flowers; \$2.75/oz. leaves
- iii. Uses of State Excise Taxes
 - a. 60% of revenues go to youth programs, substance abuse education, prevention and treatment
 - b. 20% of revenues go to environmental cleanup, remediation
 - c. 20% of revenues go to reducing **DUI**, reduce negative health impacts of marijuana legalization
- iv. If a city bans commercial activities, they may be excluded from receiving some or all of the State Excise tax revenues.

B. License Fees

- i. Each licensing authority (State Department) shall establish fees to cover application, licensing, and enforcing AUMA.

C. Taxes Applied to Only Non-Medical Marijuana

- i. Sales and use tax in Orange Cove — ____ (City share is 1%)

Local Options for Commercial Activities

AUMA authorizes a city to allow, regulate, or prohibit commercial marijuana businesses within the city. Cities may also tax commercial activities and charge related fees.

- A. City may separately allow, regulate, or prohibit medical marijuana businesses within the city. Regulating activities established by AUMA may take different forms, depending on how the activity is to be regulated, e.g. permitting process or zoning regulations.
- B. Any ordinance(s) should specifically state any prohibitions, permitting, or allowing.
- C. The City may establish additional standards, regulations regarding: health and safety; environmental protection; testing; security; food safety; and worker protections. The State standards may be considered minimum standards.
- D. City Taxes and Fees
 - i. Taxes require voter approval:
 - a. Specific uses of revenues — needs to pass by 2/3rd + 1
 - b. Non-specified uses of revenues — needs to pass by 50% + 1
 - ii. Permit fees may be approved by City Council; may not exceed cost of service.

DISCUSSION:

Regardless of whether the City Council decides to allow, regulate, tax, or ban any or all of the AUMA established activities, the City Council is required to take some appropriate actions. There are several associated issues for cities and counties in California. Some of these issues will be handled by State regulatory agencies, such as California Regional Water Quality Control Board.

- Environmental issues
 - Water use and run-off -.
 - Herbicides, pesticides — their use, storage, and empty containers.
 - Solid waste
 - Odor of plants
- Marijuana facility issues:
 - Electrical capacity/wiring
 - Security — protecting product and cash
 - Security — protecting youth from access
 - Location and number of facilities
 - Appearance of facilities
 - Compliance with building and zoning codes
- Law enforcement and crimes
 - Security of facilities
 - Diversion of law enforcement from other crimes
 - Operations are all in cash since banks cannot process marijuana transactions
 - Enforcement of 1,000 foot smoking rule could be difficult
- What other cities have done
 - Levied taxes on cultivation and sales
 - Created business taxes
 - Adopted zoning changes
 - Created permit fees

- Created permitting regulations and processes
- Instituted temporary bans until new regulations are developed
- Totally banned all commercial activities
- Experiences of other cities
 - Increase in driving under the influence
 - Increase in marijuana related traffic deaths
 - Increase in illegal marijuana activities — cultivation and sales
 - Increase in marijuana related calls to poison center
 - Increase in marijuana related emergency room visits
 - Increase in overall crime rates in Colorado
 - Abundance of commercial operations
- Other issues
 - Current Federal administration has stated they will enforce federal marijuana laws.
 - Ability of agencies to monitor and enforce their regulations in Orange Cove
 - Department of Consumer Affairs
 - Department of Food and Agriculture
 - Department of Public Health
 - California Regional Water Quality Control Board
 - Fresno County
 - Actions by the County and nearby cities may affect commercial operations in Orange Cove, e.g. a ban by others may increase demand for Orange Cove retailers or vice versa.

City Options

As stated above, regardless of whether the City Council decides to allow, regulate, tax, or ban any or all of the AUMA established activities, the City Council is required to take some appropriate actions. The City may do any of the following:

Personal Use and Cultivation

- Increase the areas where smoking is prohibited, e.g. increase the radius around schools from 1,000 feet to 1,200 feet; or add churches to the 1,000 foot radius rule.
- Ban, allow, or regulate outdoor cultivation
- Allow or regulate indoor cultivation

Commercial Activities

The City may ban, allow, or regulate any or all of the following activities:

- Indoor cultivation
- Outdoor cultivation
- Manufacturing
- Retail facilities and sales
- Testing facilities
- Distribution
- Delivery
- Microbusinesses

- Medical marijuana (may be dealt with separately)

Taxes and Fees

- Levy taxes on commercial activities with voter approval
- Create permit or application fees

DIRECTION REQUESTED

Staff requests direction from the City Council on whether the City should ban, allow or regulate any or all of the various personal and commercial marijuana activities as well as medical marijuana activities. With Council direction, staff will return with recommendations on what would be required to implement the City Council decisions, such as ordinances, zoning changes, permit processes, staffing, additional resources, or other actions that may be required.

ORDINANCE NO. 383

AN ORDINANCE OF THE CITY OF ORANGE COVE AMENDING OF TITLE 8, CHAPTER 8.70 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO MEDICINAL AND RECREATIONAL MARIJUANA BY REVOKING AND AMENDING CHAPTER 8.70 AND PROVIDING FOR THE EFFECTIVE DATE AND PUBLICATION THEREOF.

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Current Chapter 8.70 of Title 8 of the Orange Cove Municipal Code is repealed.

SECTION 2. New Chapter 8.70 of Title 8 of the Orange Cove Municipal Code is added by amendment, and, as amended, shall read as follows:

Chapter 8.70
MARIJUANA DISPENSARIES, BUSINESSES AND DELIVERIES

Article I. Medical Marijuana

8.70.010 Purpose.

8.70.020 Definitions.

8.70.030 Medical marijuana dispensaries prohibited.

8.70.040 Medical marijuana deliveries prohibited.

8.70.050 Commercial medical marijuana businesses prohibited.

8.70.060 Penalty.

Article II. Nonmedical Marijuana

8.70.110 Purpose.

8.70.120 Definitions.

8.70.130 Nonmedical marijuana deliveries prohibited.

8.70.140 Commercial nonmedical marijuana businesses prohibited.

8.70.150 Penalty.

Article I. Medical Marijuana

8.70.010 Purpose.

A. In enacting this article, it is the intent of the city council of the city of Orange Cove to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of marijuana, and the city council finds that sanctioning the opening or establishment of medical marijuana collectives, cooperatives and dispensaries, or commercial medical marijuana businesses, or allowing the delivery of medical marijuana within the city, would be inconsistent with federal law.

B. Furthermore, the city council finds that medical marijuana dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of marijuana dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana, and out-of-area criminals in search of prey, are commonly encountered near outside marijuana collectives, cooperatives and dispensaries. The city council further finds that it is reasonable to conclude that medical marijuana deliveries and commercial medical marijuana businesses are likely to cause many of these same adverse impacts.

C. Therefore, in order to protect the integrity of the city and the goals upon which this city was founded, the city council finds that it is in the best interest of the residents of the city to prohibit medical marijuana collectives, cooperatives and dispensaries, as well as commercial medical marijuana businesses and medical marijuana deliveries.

D. The purpose of this article is to prohibit medical marijuana collectives, cooperatives and dispensaries and commercial medical marijuana businesses from being opened or established in the city of Orange Cove, as well as prohibiting deliveries from occurring in the city of Orange Cove. Nothing in this article shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law. [Ord. 16-1414 § 2, 2016; Ord. 13-1365 § 2, 2013.]

8.70.020 Definitions.

The following words and phrases, whenever used in this article, shall be construed as hereafter set out, unless it is apparent that they have a different meaning:

A. "City" means the city of Orange Cove.

B. "Commercial medical marijuana business" means any activity licensed pursuant to the Medical Cannabis Regulation and Safety Act, Business and Professions Code Section 19300 et seq., including but not limited to medical marijuana cultivation, distribution, manufacturing, transporting and testing.

C. "Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code Section 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 et seq.).

D. "Medical marijuana delivery" means the transfer of medical marijuana or medical marijuana products from a medical marijuana dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical marijuana or medical marijuana products.

E. "Medical marijuana dispensary" or "dispensary" means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuana to three or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with California Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away marijuana for medicinal purposes pursuant to California Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical marijuana cooperative or collective as set forth in the Attorney General's guidelines. The terms "primary caregiver," "qualified patient," and "person with an identification card" shall be as defined in California Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and complies strictly with applicable law, including but not limited to California Health and Safety Code Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code;
5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code.

F. "Medical marijuana products" means medical marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

G. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

8.70.030 Medical marijuana dispensaries prohibited.

Medical marijuana dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a medical marijuana dispensary.

8.70.040 Medical marijuana deliveries prohibited.

Medical marijuana deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, medical marijuana deliveries. This section shall not be interpreted to prohibit the transportation of medical marijuana through the city on public roads, as long as such transportation does not involve the delivery of medical marijuana within the city.

8.70.050 Commercial medical marijuana businesses prohibited.

Commercial medical marijuana businesses are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial medical marijuana business.

8.70.060 Penalty.

A. Violation of this article is a public nuisance.

B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such additional remedies include, but are not limited to, injunctive relief, administrative citations, or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code Section 11570).

Article II. Nonmedical Marijuana

8.70.110 Purpose.

In enacting this article, it is the intent of the city council to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of marijuana, and the city council finds that sanctioning the establishment of nonmedical marijuana businesses or allowing the delivery of nonmedical marijuana within the city would be inconsistent with federal law. The purpose of this article is to prohibit commercial nonmedical marijuana businesses from being opened or established in the city, and to prohibit nonmedical marijuana deliveries from occurring in the city.

8.70.120 Definitions.

A. "City" means the city of Orange Cove.

B. "Commercial nonmedical marijuana business" means any activity licensed by Business and Professions Code Section 26000 et seq., including but not limited to nonmedical marijuana cultivation, distribution, manufacturing, retail, testing, and operation of a microbusiness.

C. "Nonmedical marijuana" means marijuana that is intended to be used for nonmedical purposes pursuant to Health and Safety Code Section 11362.1 et seq.

D. "Nonmedical marijuana delivery" means the commercial transfer of nonmedical marijuana or nonmedical marijuana products to a person, including any technology that enables persons to arrange for or facilitate the commercial transfer of nonmedical marijuana or nonmedical marijuana products.

E. "Nonmedical marijuana products" means nonmedical marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

F. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

8.70.130 Nonmedical marijuana deliveries prohibited.

Nonmedical marijuana deliveries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, nonmedical marijuana deliveries. This section shall not be interpreted to prohibit the transportation of nonmedical marijuana through the city on public roads, as long as such transportation does not involve the delivery of nonmedical marijuana within the city.

8.70.140 Commercial nonmedical marijuana businesses prohibited.

Commercial nonmedical marijuana businesses are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, a commercial nonmedical marijuana business.

8.70.150 Penalty.

A. Violation of this article is a public nuisance.

B. Nothing in this article in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this article. Such additional remedies, include, but are not limited to, injunctive relief and administrative citations.

SECTION 3. The City Clerk is authorized to cause this ordinance or a summary of this ordinance to be published in the Reedley Exponent, a newspaper of City circulation published and circulated in the City of Orange Cove, within fifteen (15) days after its adoption. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five (5) days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted. The ordinance shall become effective thirty (30) days after its adoption.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on _____ and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Orange Cove