



City Of Riverbank
Planning Commission Meeting
City Hall North Council Chambers
6707 Third Street • Riverbank • CA 95367

Agenda
Tuesday, October 21, 2014 – 6:00 P.M.

CALL TO ORDER: Chair: Stewart

ROLL CALL:

Chair:	Stewart
Vice Chair:	Hughes
Commissioner:	Villapudua
Commissioner:	Degele
Commissioner:	McKinney

CONFLICT OF INTEREST

Any Planning Commission/Authority Member and Staff who has a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

1. PUBLIC COMMENTS (No action to be taken)

At this time members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission Board. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please address the entire Planning Commission Board.

2. CONSENT CALENDAR

All items listed on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner Member for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item 2.A: Posting of the Agenda. The Agenda for the October 21, 2014, Planning Commission Meeting was posted on the City Chamber bulletin board, City Hall North & South bulletin board, Post Office and sent to the Library on October 9, 2014.

Item 2.B: Approval of the Agenda. This provides an opportunity for the Planning Commission or Staff to recommend that an item be placed on the agenda for discussion or to adjust the proposed agenda to allow an item to be taken out of order.

Item 2.C: Approval of the Minutes. The Minutes of the September 16, 2014, Planning Commission Meeting having been read by the individual Commissioners and stands approved as submitted.

Recommendation: It is recommended that Planning Commission approve the Consent Calendar by roll call vote.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

3. PUBLIC HEARING

Item 3.1: (Continued Item from the 09/16/2014 Planning Commission Meeting) Rules and Procedures for the City of Riverbank's Planning Commission. Resolution No. 2014-010.

Item 3.2: A Proposed Moratorium on the establishment of and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. Resolution No. 2014-014 recommends that the City Council adopts an interim urgency ordinance to create a moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. The proposed moratorium under that ordinance addresses the use of all types of devices that provide nicotine through the act of smoking and other related activities. The moratorium extends to hookah lounges, vapor bars and drug paraphernalia retailers. The moratorium would temporarily prohibit new hookah lounges, e-cigarette retailers for an initial period of forty-five (45) days while the City further studies the matter. The matter affects uses City-Wide.

Item 3.3: A Proposed Moratorium on the establishment and operation of new internet access businesses using simulated gambling devices. Resolution No. 2014-015 recommends that the City Council adopt an interim urgency ordinance to create a moratorium on the establishment and operation of internet access business using simulated gambling devices. The City's Municipal Code currently regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than coin-operated video game machines and other related video game equipment. The proposed moratorium will have no effect on traditional internet café businesses that provide internet access to individuals even when the business charges for such services. The moratorium is tailored specifically to address businesses that provide a sweepstakes promotion that depends on Vegas style gambling interfaces on the computers that provide internet access as an incentive for individuals to visit the business. The moratorium would temporarily prohibit the establishment and operation of internet access businesses using simulated gambling devices for an initial period of forty-five (45) days while the City further studies the matter. The matter affects uses City-Wide.

Recommendation: Approval by roll call vote

4. NEW BUSINESS (Information Only – No Action)

None

5. COMMISSION ITEMS (Information Only – No Action)

None

6. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION (Information Only – No Action)

None

7. UP-COMING MEETING AGENDA ITEMS (Information Only – No Action)

Item 7.1: Draft Downtown Specific Plan (FEIR has been previously certified by the City Council in 2013).

ADJOURNMENT – The next regular Planning Commission meeting – November 18, 2014 @ 6:00 p.m.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.

AFFIDAVIT OF POSTING

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board 72 hours prior to the meeting.

*Dated this 9th day of October, 2014
Janet Smallen, Sr. CDS*

NOTICE REGARDING AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Development Services Department at (209) 863-7128. Notification 48-hours before 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].

NOTICE REGARDING NON-ENGLISH SPEAKERS: Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Riverbank City Planning Commission shall be in English and anyone wishing to address the Planning Commission is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

GENERAL INFORMATION: The Riverbank Planning Commission meets on the third Tuesday of each month at 6:00 p.m.

COMMISSION AGENDAS: The Planning Commission agenda is posted pursuant to the California Brown Act, which only requires these agenda title pages to be posted. Additional documents that are part of this agenda and provided to a majority of the Planning Commission by the City will be made available to the public. The agenda is posted for public review at the City's website www.riverbank.org, at the Development Services Department, and on the exterior of both City Hall North & South buildings bulletin boards, 6707 & 6617 Third Street, Riverbank, CA. Subscription to receive the agenda can be purchased for a nominal fee through the Development Services Department.

PUBLIC HEARINGS: In general, a public hearing is an open consideration within a regular meeting of the Planning Commission, for which special notice has been given and may be required. During a specified portion of the hearing, any resident or concerned individual is invited to present protests or offer support for the subject under consideration.

QUESTIONS: Contact the Developmental Services Department at (209) 863-7128.

Any documents, not privileged or of a closed session, produced by the City and distributed to the majority of the Planning Commission regarding any item on this agenda will be made available at Developmental Services Department, 6617 3rd Street, Riverbank, CA.



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, September 16, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Vice Chair Hughes and Commissioner McKinney

Absent: Commissioner Degele (Excused) and Commissioner Villapudua (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.B: The Agenda for the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.C: The Minutes of the August 19, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Continued Workshop from July 15, 2014 and August 19, 2014 Planning Commission Meetings - Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP Workshop #3.
- As John B. Anderson went through the PowerPoint presentation he asked and answered question by the Planning Commission.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Dennis Zinner thought that a pedestrian over pass would attractive kids to skating boarding on it since the skate park is nearby.
- Planning Commission commented to Mr. Zinner's question.
- Evelyn Halbert spoke against the DTSP.
- John B. Anderson addressed all questions and comments to those that had spoken.
- Being there were no further comments the workshop ended at 6:40 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until October 21, 2014 Planning Commission Meeting due to the majority of the Commissioners that were not present at the September 16, 2014 Planning Commission meeting.

ACTION: *By motion moved/second (Hughes / McKinney passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the October 21, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item 4.2: Proposed Moratorium on Tattoo establishments to afford staff time to evaluate and make recommendations as to the appropriate zoning regulations associated with such businesses. The matter affects uses City-Wide.

- John B. Anderson, City of Riverbank Consulting Planning Director presented the staff report to the Planning Commission.
- Planning Commission asked Mr. Anderson some questions on the item.
- Jamie Garrett, Attorney with Churchwell White LLP, also clarified the proposed Moratorium and guidelines to the Planning Commission.
- Public Hearing was opened at 6:50 pm
- Public Hearing closed at 6:51 pm

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in October or November, 2014, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

Item 8.2: Continued Public Hearing Item 4.1 Rules and Procedures for the City of Riverbank's Planning Commission. To be continued to the October 21, 2014, Planning Commission meeting.

Item 8.3: September 30, 2014 Public Workshop on the Housing Element.

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:00 p.m.

ATTEST:

APPROVED:

John B. Anderson
Recording Secretary

Joan Stewart, Chair
Planning Commissioner

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO.	3.1	October 21, 2014
APPLICATION:	Continued Consideration of Rules and Procedures for the City of Riverbank's Planning Commissioners from PC Meeting of September 16, 2014.	
LOCATION:	N/A	
ENVIRONMENTAL DETERMINATION:	The proposed action to adopt Rules, Regulations and Procedures is not a project as defined by Section 15378 of the CEQA Guidelines	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the planning commission (" <u>Commission</u> ") motion to adopt Resolution No. 2014-010, adopting rules, regulations and procedures for the City of Riverbank's (the " <u>City</u> ") planning commissioners (" <u>Commissioners</u> ").	
ACRONYMS:	CEQA – California Environmental Quality Act	
ATTACHMENTS:	1. Resolution No. 2014-010 2. Draft Redline Planning Commission Rules and Procedures 3. Resolution 94-05; Planning Commission Brown Act Rules and Regulations 4. Planning Commission Minutes of July 15, 2014 5. Planning Commission Minutes of August 19, 2014 6. Draft Planning Commission Minutes of September 16, 2014	

I. SUMMARY:

Resolution No. 2014-010 (the "Resolution") adopts comprehensive rules and procedural guidelines for the Commission ("Rules") to provide clarity to noticing and conducting Commission meetings. These Rules comply with state open government laws and offer guidance for conducting an orderly meeting. A violation of these Rules in itself does not invalidate a meeting or an action taken at a meeting. These Rules merely offer the Commission an official procedure to follow and avoid confusion or inconsistency.

II. ENVIRONMENTAL DETERMINATION

The proposed action to adopt Rules, Regulations and Procedures is not a project as defined by Section 15378 of the CEQA Guidelines and therefore will not require any environmental determination.

III. BACKGROUND

The city council ("City Council") has the authority to create rules, procedures and standards for the Commission as long as they do not conflict with state or federal law.¹ Under the R.M.C. the City Council has tasked the Commission with the responsibility of adopting rules for the transaction of business.²

Staff has discovered existing rules and procedures for the Commission that were adopted in 1994. These rules and procedures are outdated. The rules and procedures from 1994 state a meeting time that is different from the Commission's current meeting time and, as far as staff can determine, these rules and procedures are not being used actively. While there are some state laws concerning meetings of public commissions, these laws are not comprehensive and it is important to have local guidelines in place to ensure that meetings are carried out in a fair and consistent way. As such, there are many gaps regarding how the Commission should conduct itself, leading to the potential for inconsistency.

IV. ANALYSIS

The Resolution formally adopts the Rules as the standard operating guidelines for the Commission. The Rules discuss the method and criteria for appointing a Chair and Vice-Chair to the Commission. The Rules establish the powers and the responsibilities of community development director, acting as the Commission secretary. The Rules also provide a mechanism for requesting the City Council to declare a Commissioner's seat vacant after three (3) unexcused absences.

The Rules distinguish between different types of meetings including regular, special, emergency, and workshop meetings. Additionally, the Rules provide requirements for noticing different kinds of

¹ Cal. Govt. Code §65102.

² R.M.C. §32.39.

meetings and posting agendas for each meeting. The requirements for noticing, holding and acting at different meetings comply with state law requirements.

The Rules provide procedural guidelines for conducting meetings, including rules about voting and establishing a quorum. Under the Rules, if a quorum of Commissioners is not present, the meeting will be adjourned. The Rules provide guidelines for how a public hearing should be conducted. This allows the Commission to hold public hearings in a consistent manner, to ensure that each applicant or project is treated the same. The Rules also describe what motions are appropriate for different circumstances and how multiple motions should be dealt with.

State law provides a limited number of requirements for conducting public meetings and taking action as a public commission. As a supplement, many cities have adopted *Robert's Rules of Order* to provide structure for conducting meetings. *Robert's Rules of Order* provide parliamentary rules for conducting a public meeting. These rules provide formal procedures that echo traditional parliamentary procedures. While many of these procedures are useful, they can also be overly formal for conducting business in a fast-paced forum where the Commission reviews numerous projects and applications.

The proposed Rules are more closely tailored to California law and the purposes of a planning commission. By adopting these Rules, the Commission and City staff will have a reference guide when procedural questions arise regarding a Commission meeting.

V. PLANNING COMMISSION MEETINGS OF JULY 15, 2014, AUGUST 19, 2014 and SEPTEMBER 16, 2014.

At the regularly scheduled Planning Commission meeting of July 15, 2014, the Commission reviewed the Draft Rules and Procedures presented by Staff and continued the item to the August 19th meeting with a few revisions per Staff and Commission comments. Additionally, at the regularly scheduled Planning Commission meeting of August 19, 2014, the Commission again reviewed the Draft Rules and Procedures and decided to continue the item to the next regularly scheduled meeting of September 16, 2014 due to the suggestion that the majority of Commissioners should be present before adopting the Resolution. Due to the majority of the Commissioners that were not present at the September 16, 2014 this item was continued until the next regularly scheduled meeting for October 21, 2014.

Revisions by Planning Commission and Legal to the PC Rules and Procedures include:

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons

may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

5.2 Special Meetings. Special meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine. The Chair, ~~or~~ a majority of the Commission, and/or the Community Development Director may call a special meeting at any time by ~~posting~~providing a twenty-four (24) hours advanced notice, pursuant to the Riverbank Code of Ordinances Section 32.32.(B). ~~has been published~~ Such notice shall be delivered to each Commissioner at least twenty-four (24) hours before the special meeting, provided however, that a Commissioner may waive a failure to receive notice to a special meeting by filing a written waiver with the Commission before the meeting or by appearing at the special meeting. Additionally, such notice shall be delivered twenty-four (24) hours in advance to each radio station and local newspaper of general circulation which have requested such notice.

6.1 Notice of Meetings. The agenda for all Commission meetings shall be available to the general public and the Secretary shall cause a copy thereof to be posted at least seventy-two (72) hours before a regular or adjourned meeting in a place and/or places which~~that is~~are accessible to the public twenty-four (24) hours a day, seven (7) days a week.

6.2 Delivery of Agenda. For regular and adjourned meetings, the agenda shall be delivered to Commissioners, available to the general public only after the delivery to the Commissioners, and posted in a spot that is accessible to the public twenty-four (24) hours a day, seven (7) days a week, at least seventy-two (72) hours before the meeting. Additionally, individuals wishing to receive a copy of the agenda by mail may do so by paying the City an annual fee to offset the costs of mailing.

7.1 Public Comments. Members of the public will have the opportunity to directly address the Commission on any item of interest to the public, which is within the subject matter jurisdiction of the Commission. Members of the public will have the opportunity to comment on an item posted on the agenda when the item appears before the Commission. For items not listed on the agenda, which are of public interest and under the subject matter jurisdiction of the Commission, there shall be a public comment period. During public comment period for regular or adjourned meetings, any person may address the Commission on any subject pertaining to the Commission that does not appear on the agenda. During public comments for special meetings, the public may be limited to addressing the Commission only on subjects appearing on the meeting's agenda. At the Chair's

Riverbank Planning Commission

Staff Report 3.1

Meeting of October 21, 2014

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discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than two (2) minutes per person.

Any person desiring to address the Commission at a meeting shall first secure the permission of the Chair to do so, provided however, that any interested person shall have the right to address the Commission upon obtaining recognition by the Chair.

~~During public comments for regular or adjourned meetings any person may address the Commission on any subject pertaining to Commission, regardless of whether the matter is listed on the meeting agenda or not. During public comments for special meetings, the public may address the Commission on any subject appearing on the meeting's agenda. At the Chairpersons discretion, the Chair may impose a time limit for each person wishing to address the Commission during public comments of no less than five (5) minutes per person.~~

12.1 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours on or before 11:00 p.m. with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless the based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately ~~180:00~~ p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by ~~149:00~~ p.m., or whether continuances should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

VI. FINANCIAL IMPACT

There is no evidence fiscal impact from adopting the Rules.

VII. RECOMMENDATION:

Staff recommends that the planning commission ("Commission") motion to adopt Resolution No. 2014-010, adopting rules, regulations and procedures for the City of Riverbank's (the "City") planning commissioners ("Commissioners").

VIII. ALTERNATIVE ACTIONS

The Planning Commission's options regarding Resolution 2014-010 include:

1. Motion to adopt Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures;
2. Motion to adopt Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures with changes or revisions as provided by the Planning Commission;

3. Reject the Resolution No. 2014-010, adopting the City of Riverbank, California Planning Commission Rules and Procedures.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

Attachment 1

**CITY OF RIVERBANK
PLANNING COMMISSION
RESOLUTION NO. 2014-010**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK

WHEREAS, California Government Code section 65102 allows a city to adopt rules and procedures for its planning commission; and,

WHEREAS, Riverbank Municipal Code section 32.39 states that the planning commission must draft rules for conducting its business; and,

WHEREAS, the proper and consistent operation of the planning commission is vital to ensuring a well-planned city; and,

WHEREAS, the City of Riverbank planning commission currently have rules or procedures that were adopted in 1994 through Resolution No. 94-05 to guide the planning commission in noticing or conducting public meetings; and,

WHEREAS, the existing rules and procedures for the planning commission are outdated and should be updated to reflect changes which have occurred since 1994; and

WHEREAS, the planning commission finds that the City of Riverbank, California Planning Commission Rules and Procedures, which are attached hereto and incorporated by this reference, provide a clear and consistent basis for carrying out the planning commission's business in a way that is consistent with applicable state laws; and

WHEREAS, the planning commission finds that it is in the best interest of the city to adopt the City of Riverbank, California Planning Commission Rules and Procedures.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby revokes and replaces Resolution No. 94-05 and adopts the City of Riverbank, California Planning Commission Rules and Procedures, which are attached hereto as Attachment 1.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on 21st day of October, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

John B. Anderson
Contract Community Development Director

Joan Stewart
Planning Commission Chair

Attachments: 1. Planning Commission Rules and Procedures



**CITY OF RIVERBANK, CALIFORNIA PLANNING
COMMISSION RULES AND PROCEDURES**

Adopted _____, 2014 by Resolution No. 2014-010

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ORGANIZATION

Section 1. Purpose, Effect and Authority. The purpose and intent of adopting these Planning Commission Rules and Procedures (the "Rules") for the City of Riverbank Planning Commission (the "Commission") is to provide the Commission with guidance for conducting public business pursuant to Riverbank Code of Ordinances Section 32.39(A). Any noncompliance or violation of these Rules will not affect the validity of any action taken, unless otherwise specifically provided under state law. In the event that there is any inconsistency between these Rules and state law, state law shall prevail.

Section 2. Rotation of Presiding Officers.

2.1 The Commission shall have a chairperson ("Chair") and a vice-chairperson ("Vice-Chair").

2.2 The Chair and the Vice-Chair of the Commission shall each serve a term of one (1) year, pursuant to the Riverbank Code of Ordinances Section 32.36 (C).

2.3 The Chair shall be the most senior member of the Commission who has served as Vice-Chair previously but has not served as the Chair. If all planning commissioners ("Commissioner" or "Commissioners") have already served as Chair, the Chair shall be the Commissioner who has not served as Chair for the longest period of time.

2.4 The Vice-Chair shall be the most senior member of the Commission who has not served as the Vice-Chair. If all Commissioners have already served as Vice-Chair, the Vice-Chair shall be the Commissioner who has not served as Vice-Chair for the longest period of time.

2.5 For the purposes of determining the rotational order to Chair and Vice-Chair appointment, in the event that two or more Commissioners begin serving at the same time, their respective orders for appointment shall be determined by drawing straws, with the Commissioner drawing the shortest straw going first in the rotation and so on. Commissioners re-appointed to successive terms will remain in the rotation order established with their initial appointment.

2.6 No Commissioner shall have the obligation to serve as either Chair or Vice-Chair. A Commissioner shall not serve successive terms as Chair or Vice-Chair, unless all other Commissioners decline to serve.

2.7 The Vice-Chair shall succeed the Chair in the event the Chair vacates the office prior to the end of the term and shall serve the remainder of the unexpired term of the vacated office.

Section 3. Commission Secretary. The City's Community Development Director shall act as the secretary to the Commission ("Secretary"). If the City does not have a Community Development Director, the Commission may select an individual to serve as Secretary, pursuant to the Riverbank Code of Ordinances Section 32.36(D).

Section 4. Duties of Presiding Officers and Secretary.

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

4.2 Vice-Chair. In the event of absence of the Chair or of her inability to act, the Vice-Chair shall take her place and perform her duties.

4.3 Secretary. The Secretary shall: (A) provide professional and technical advice to the Commission; (B) sign approved final subdivision maps; (C) assist the Commission in the discharge of its responsibilities; and (D) maintain minutes of meetings and records of hearings and official actions.

4.4 Absence of Chair and Vice-Chair. In the absence of the Chair and Vice-Chair, any other Commissioner shall call a Commission meeting to order and the Commission shall then elect a Chair pro tem to preside over meeting.

MEETINGS

Section 5. Types of Meetings.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

5.2 Adjourned Meetings. Any meeting may be adjourned to a time, place and date certain, but not beyond the next regular meeting. Once adjourned, the meeting cannot be reconvened.

5.3 Special Meetings. Special meetings of the Commission shall be open to the public and shall be held at such time as the Commission may determine. The Chair, a majority of the Commission, and/or the Community Development Director may call a special meeting at any time by posting a twenty-four (24) hour advanced notice, pursuant to the Riverbank Code of Ordinances Section 32.32.(B). Such notice shall be delivered to each Commissioner at least twenty-four (24) hours before the special meeting, provided however, that a Commissioner may waive a failure to receive notice to a special meeting by filing a written waiver with the Commission before the meeting or by appearing at the special meeting. Additionally, such notice shall be delivered twenty-four (24) hours in advance to each radio station and local newspaper of general circulation which have requested such notice.

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- 7.8** New Business.
- 7.9** Commissioner Items.
- 7.10** Secretary Reports.
- 7.11** County Referral/Correspondence/Information.
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The Chair may change the order of business as determined necessary for the Commission to conduct its business effectively.

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9.1 Voting Procedure. On the passage of every motion, the vote shall be taken by voice or roll call and entered in full upon the record. The Chair shall cast the last vote.

9.2 Reconsideration. Any member may make a motion for reconsideration of the action at the same meeting where the original action was taken. After a motion for reconsideration has been acted on once for a particular action, no other motion for reconsideration thereof shall be made without the unanimous consent of the Commission.

9.3 Conflict of Interest. Any Commissioner prevented from voting due to a conflict of interest shall disclose the nature and extent of such conflict of interest publicly and shall refrain from engaging in debating or voting on the matter. After disclosing the conflict of interest, the Commissioner will leave City Council Chambers prior to discussion of the matter. Notwithstanding the above, the Commissioner may still address the Commission as a private citizen on the matter.

9.4 Duty to Vote. Every Commissioner should vote unless disqualified for cause which has been publicly disclosed.

9.5 Abstentions/Recusals. Abstentions from voting are permissible to avoid the appearance of impropriety where no legal conflict exists. Abstentions shall not count as votes for the purpose of determining whether there has been an affirmative vote of a majority of the Commissioners present. However, abstaining members will be counted for the purpose of determining whether a quorum is present.

9.6 Presumption of Ineligibility. Commissioners who live or own property within five hundred (500) feet of a property that is the subject of a hearing by the Commission are presumed to be ineligible to participate in deliberations or vote on that item, as specified by the rules and regulations promulgated by the Fair Political

Practices Commission. Commissioners who own property that is more than five hundred (500) from the property which is subject to the hearing, but in the vicinity of the subject property shall determine, after consultation with the City Attorney's office or the Fair Political Practices Commission, if participation in the hearing would constitute a conflict of interest.

9.7 Legally Required Participation. If a majority of the Commission shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Commission shall select from the disqualified Commissioners by lot or other means of random selection, so that the Commission has sufficient Commissioners to constitute a quorum.

9.8 Tie Votes. Tie votes shall be lost motions and may be reconsidered by a successful motion offered by any Commissioner who voted on the matter. If the matter involves an appeal and the vote is tied, the decision being appealed stands.

9.9 Motions include Staff Recommendations. A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter and any oral staff report presented during the hearing.

Section 10. Rules, Decorum, Order.

10.1 Points of Order. Immediately after an infraction of the Rules or improper decorum in speaking occurs at a Commission meeting, any Commissioner may call for a point of order. Once a point of order has been raised, the Chair will make a ruling as to whether the Rules have been violated. Any Commissioner may appeal the Chair's ruling to the entire Commission, which will vote on whether to sustain the Chair's determination.

10.2 Decorum and Order- Commissioners.

A. Every Commissioner desiring to speak shall address the Chair and, upon recognition by the Chair, shall confine herself to the question under debate.

B. Once recognized, a Commissioner should not be interrupted while speaking, unless called to order by the Chair, a point of order is raised by another Commissioner, or the speaker chooses to yield to questions from another Commissioner.

i. If a Commissioner is called to order by the Chair while she is speaking, she shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Commissioner shall be permitted to proceed. If ruled to not be in order, the Commissioner shall remain silent or shall alter her remarks so as to comply with the rules of the Commission.

ii. Commissioners shall serve as models of leadership and civility in the community and shall demonstrate honesty and integrity in every action and statement.

iii. At Commission meetings, Commissioners shall respect the dignity, style, values, and opinions of each person present. Commissioners should avoid personal comments that could offend other Commissioners.

iv. Any Commissioner may move to require the Chair to enforce the rules and the affirmative vote of a majority of the Commission shall require her to so act.

10.3 Decorum and Order- Employees. City employees and planning consultants shall observe the same rules of procedure and decorum applicable to members of the Commission. Any employee or consultant wishing to address the Commission or the public at a Commission meeting shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Commissioner or member of the public.

10.4 Maintenance of Order. The Chair is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

10.5 Determination of Chair Final. In presiding over Commission meetings, the Chair shall decide all questions of interpretation of these rules or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Commission present and voting shall be binding and legal.

Section 11. Motions.

11.1 Processing of Motions. When a motion is made and seconded, it shall be stated by the Chair before debate. A motion so stated shall not be withdrawn by the Commissioner who initiated the motion, without the consent of the Commissioner who seconded the motion.

11.2 Division of Question. If the question contains two or more divisible propositions, a Commissioner may request and the Chair may divide the propositions.

11.3 Precedence of Motions. When a motion is before the Commission, no motion shall be entertained except the following, which shall have precedence in the following order:

A. Motion to adjourn the meeting. (not debatable) A motion to adjourn shall be in order at any time, except as follows:

- i. When repeated without intervening business or discussion.
- ii. When made as an interruption of a Commissioner who is speaking.
- iii. When the previous question has been ordered.
- iv. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

B. Motion to fix hour of adjournment. Such motion shall be to set a definite time as which to adjourn and shall be undebatable and unamendable except to the time set. Notice of the adjournment and the date of the subsequent meeting shall be conspicuously posted on or near the door where the meeting was held within twenty-four (24) hours of the adjournment. If the subsequent meeting occurs within five (5) days of the original meeting, the Commission may consider matters placed on the original meeting agenda without posting a new agenda. If the subsequent meeting occurs more than five (5) days from the original meeting, a new agenda must be prepared and posted.

C. Motion to table. A motion to table shall be used to temporarily bypass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. The tabled item may be "taken from the table" at any time by a motion made prior to the end of the meeting. If the item is not taken from the table prior to the end of the meeting, it shall be placed on a future agenda as a new matter.

D. Motion to amend. A motion to amend can be made after a motion is introduced and seconded. A motion to amend shall be debatable only as to amendment. A motion to amend an amendment shall be in order but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating a

different matter shall not be in order. A motion to amend shall be voted on first, followed by a vote on the original motion, as amended or as originally stated, depending upon whether the motion to amend carries.

E. Motion to substitute. A motion to substitute can be made after a motion is introduced and seconded. A substitute motion on the same subject shall be acceptable, and voted on before a vote on a motion to amend the main motion amendment.

F. Motion for Previous Question. A motion for previous question shall be used to close debate on the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

G. Motion to Continue. Motions to continue to a definite time shall be amendable and debatable as to the propriety of postponement and time set. If desired, the Commissioner who initiates the motion to continue may also move to reopen the hearing to receive further testimony.

11.4 Multiple Motions Before the Commission. There can be up to three (3) motions before the Commission at one time. The Chair may reject a fourth (4th) motion until the Commission has addressed the three (3) that have been proposed first. When there are multiple motions before the Commission at one time, the Commission shall address the motions beginning with the most recently made motion.

Section 12. Policies.

12.1 Attendance. Each Commissioner shall attend every regular or special meeting unless unavailable for a valid reason. A Commissioner may be excused if prior notice is given to the Secretary, and if the reason for the absence is stated. In the minutes and in the attendance record the Secretary shall indicate members present and excused. The Commission may recommend to the City Council that the office of any Commissioner who is absent from three (3) consecutive regular meetings, unless excused for cause by vote of the Commission, be declared vacant and that a successor be appointed.

12.2 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours . with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately 800 p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by 9:00 p.m., or whether continuances

should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

12.3 Amendments. These Rules may be amended by the Commission at any regular meeting by a majority vote, or at any special meeting, provided that the proposed amendment is included in a written notice of such meeting.

Attachment 2



**CITY OF RIVERBANK, CALIFORNIA PLANNING
COMMISSION RULES AND PROCEDURES**

Adopted _____, 2014 by Resolution No. _____

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ORGANIZATION

Section 1. Purpose, Effect and Authority. The purpose and intent of adopting these Planning Commission Rules and Procedures (the "Rules") for the City of Riverbank Planning Commission (the "Commission") is to provide the Commission with guidance for conducting public business pursuant to Riverbank Code of Ordinances Section 32.39(A). Any noncompliance or violation of these Rules will not affect the validity of any action taken, unless otherwise specifically provided under state law. In the event that there is any inconsistency between these Rules and state law, state law shall prevail.

Section 2. Rotation of Presiding Officers.

2.1 The Commission shall have a chairperson ("Chair") and a vice-chairperson ("Vice-Chair").

2.2 The Chair and the Vice-Chair of the Commission shall each serve a term of one (1) year, pursuant to the Riverbank Code of Ordinances Section 32.36 (C).

2.3 The Chair shall be the most senior member of the Commission who has served as Vice-Chair previously but has not served as the Chair. If all planning commissioners ("Commissioner" or "Commissioners") have already served as Chair, the Chair shall be the Commissioner who has not served as Chair for the longest period of time.

2.4 The Vice-Chair shall be the most senior member of the Commission who has not served as the Vice-Chair. If all Commissioners have already served as Vice-Chair, the Vice-Chair shall be the Commissioner who has not served as Vice-Chair for the longest period of time.

2.5 For the purposes of determining the rotational order to Chair and Vice-Chair appointment, in the event that two or more Commissioners begin serving at the same time, their respective orders for appointment shall be determined by drawing straws, with the Commissioner drawing the shortest straw going first in the rotation and so on. Commissioners re-appointed to successive terms will remain in the rotation order established with their initial appointment.

2.6 No Commissioner shall have the obligation to serve as either Chair or Vice-Chair. A Commissioner shall not serve successive terms as Chair or Vice-Chair, unless all other Commissioners decline to serve.

2.7 The Vice-Chair shall succeed the Chair in the event the Chair vacates the office prior to the end of the term and shall serve the remainder of the unexpired term of the vacated office.

Section 3. Commission Secretary. The City's Community Development Director shall act as the secretary to the Commission ("Secretary"). If the City does not have a Community Development Director, the Commission may select an individual to serve as Secretary, pursuant to the Riverbank Code of Ordinances Section 32.36(D).

Section 4. Duties of Presiding Officers and Secretary.

4.1 Chair. The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform all other duties necessary, customary, or incidental to this office, including but not limited to calling special meetings of the Commission and signing documents on behalf of the Commission. The Chair may move, second, and debate matters before the Commission, subject only to the limitations imposed on all Commissioners, and the Chair shall not be deprived of any rights and privileges of a Commissioner by reason of her acting as Chair. The Chair shall preserve strict order and decorum at all Commission meetings. The Chair may announce special rules for a particular agenda item, including, but not limited to: (A) the length of time persons may speak; (B) asking a spokesperson to address the Commission on behalf of a group of individuals with the same views; and (C) in the event of a hearing, providing time for arguments and rebuttals from proponents and opponents.

4.2 Vice-Chair. In the event of absence of the Chair or of her inability to act, the Vice-Chair shall take her place and perform her duties.

4.3 Secretary. The Secretary shall: (A) provide professional and technical advice to the Commission; (B) sign approved final subdivision maps; (C) assist the Commission in the discharge of its responsibilities; and (D) maintain minutes of meetings and records of hearings and official actions.

4.4 Absence of Chair and Vice-Chair. In the absence of the Chair and Vice-Chair, any other Commissioner shall call a Commission meeting to order and the Commission shall then elect a Chair pro tem to preside over meeting.

MEETINGS

Section 5. Types of Meetings.

5.1 Regular Meetings. Regular meetings shall be open to the public and shall be held on the third (3rd) Tuesday of each month at 6:00 p.m. in the City Hall Council Chambers at 6707 3rd Street, Riverbank, California, as may be amended from time to time by City Council resolution. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hours on the next succeeding business day, which is not a holiday.

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| 7-107.9 Commissioner Items.

| 7.447.10 Secretary Reports.

| 7.427.11 County Referral/Correspondence/Information.

| 7.437.12 Upcoming Meeting Agenda Items.

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9.1 Voting Procedure. On the passage of every motion, the vote shall be taken by voice or roll call and entered in full upon the record. The Chair shall cast the last vote.

9.2 Reconsideration. Any member may make a motion for reconsideration of the action at the same meeting where the original action was taken. After a motion for reconsideration has been acted on once for a particular action, no other motion for reconsideration thereof shall be made without the unanimous consent of the Commission.

9.3 Conflict of Interest. Any Commissioner prevented from voting due to a conflict of interest shall disclose the nature and extent of such conflict of interest publicly and shall refrain from engaging in debating or voting on the matter. After disclosing the conflict of interest, the Commissioner will leave City Council Chambers prior to discussion of the matter. Notwithstanding the above, the Commissioner may still address the Commission as a private citizen on the matter.

9.4 Duty to Vote. Every Commissioner should vote unless disqualified for cause which has been publicly disclosed.

9.5 Abstentions/Recusals. Abstentions from voting are permissible to avoid the appearance of impropriety where no legal conflict exists. Abstentions shall not count as votes for the purpose of determining whether there has been an affirmative vote of a majority of the Commissioners present. However, abstaining members will be counted for the purpose of determining whether a quorum is present.

9.6 Presumption of Ineligibility. Commissioners who live or own property within five hundred (500) feet of a property that is the subject of a hearing by the Commission are presumed to be ineligible to participate in deliberations or vote on that item, as specified by the rules and regulations promulgated by the Fair Political Practices Commission. Commissioners who own property that is more than five hundred (500) feet from the property which is subject to the hearing, but in the vicinity of the subject property shall determine, after consultation with the City Attorney's office or the Fair Political Practices Commission, if participation in the hearing would constitute a conflict of interest.

9.7 Legally Required Participation. If a majority of the Commission shall be disqualified to vote on a matter by reason of actual or apparent conflict of interest, the Commission shall select from the disqualified Commissioners by lot or other means of random selection, so that the Commission has sufficient Commissioners to constitute a quorum.

9.8 Tie Votes. Tie votes shall be lost motions and may be reconsidered by a successful motion offered by any Commissioner who voted on the matter. If the matter involves an appeal and the vote is tied, the decision being appealed stands.

9.9 Motions include Staff Recommendations. A motion to adopt or approve staff recommendations or simply to approve the action under consideration shall, unless otherwise particularly specified, be deemed to include adoption of all proposed findings and execution of all actions recommended in both the written staff report on file on the matter and any oral staff report presented during the hearing.

Section 10. Rules, Decorum, Order.

10.1 Points of Order. Immediately after an infraction of the Rules or improper decorum in speaking occurs at a Commission meeting, any Commissioner may call for a point of order. Once a point of order has been raised, the Chair will make a ruling as to whether the Rules have been violated. Any Commissioner may appeal the Chair's ruling to the entire Commission, which will vote on whether to sustain the Chair's determination.

10.2 Decorum and Order- Commissioners.

A. Every Commissioner desiring to speak shall address the Chair and, upon recognition by the Chair, shall confine herself to the question under debate.

B. Once recognized, a Commissioner should not be interrupted while speaking, unless called to order by the Chair, a point of order is raised by another Commissioner, or the speaker chooses to yield to questions from another Commissioner.

i. If a Commissioner is called to order by the Chair while she is speaking, she shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Commissioner shall be permitted to proceed. If ruled to not be in order, the Commissioner shall remain silent or shall alter her remarks so as to comply with the rules of the Commission.

ii. Commissioners shall serve as models of leadership and civility in the community and shall demonstrate honesty and integrity in every action and statement.

iii. At Commission meetings, Commissioners shall respect the dignity, style, values, and opinions of each person present. Commissioners should avoid personal comments that could offend other Commissioners.

iv. Any Commissioner may move to require the Chair to enforce the rules and the affirmative vote of a majority of the Commission shall require her to so act.

10.3 Decorum and Order- Employees. City employees and planning consultants shall observe the same rules of procedure and decorum applicable to members of the Commission. Any employee or consultant wishing to address the Commission or the public at a Commission meeting shall first be recognized by the Chair. All remarks shall be addressed to the Chair and not to any one individual Commissioner or member of the public.

10.4 Maintenance of Order. The Chair is responsible for the maintenance of order and decorum at all times. No person is allowed to speak who has not first been recognized by the Chair. All questions and remarks shall be addressed to the Chair.

10.5 Determination of Chair Final. In presiding over Commission meetings, the Chair shall decide all questions of interpretation of these rules or other questions of procedure requiring rulings. Any such decision or ruling shall be final unless overridden or suspended by a majority vote of the Commission present and voting shall be binding and legal.

Section 11. Motions.

11.1 Processing of Motions. When a motion is made and seconded, it shall be stated by the Chair before debate. A motion so stated shall not be withdrawn by the Commissioner who initiated the motion, without the consent of the Commissioner who seconded the motion.

11.2 Division of Question. If the question contains two or more divisible propositions, a Commissioner may request and the Chair may divide the propositions.

11.3 Precedence of Motions. When a motion is before the Commission, no motion shall be entertained except the following, which shall have precedence in the following order:

A. Motion to adjourn the meeting. (not debatable) A motion to adjourn shall be in order at any time, except as follows:

- i. When repeated without intervening business or discussion.
- ii. When made as an interruption of a Commissioner who is speaking.
- iii. When the previous question has been ordered.
- iv. While a vote is being taken.

A motion to adjourn "to another time" shall be debatable only as to the time to which the meeting is adjourned.

B. Motion to fix hour of adjournment. Such motion shall be to set a definite time as which to adjourn and shall be undebatable and unamendable except to the time set. Notice of the adjournment and the date of the subsequent meeting shall be conspicuously posted on or near the door where the meeting was held within twenty-four (24) hours of the adjournment. If the subsequent meeting occurs within five (5) days of the original meeting, the Commission may consider matters placed on the original meeting agenda without posting a new agenda. If the subsequent meeting occurs more than five (5) days from the original meeting, a new agenda must be prepared and posted.

C. Motion to table. A motion to table shall be used to temporarily bypass the subject. A motion to table shall be undebatable and shall preclude all amendments or debate of the subject under consideration. The tabled item may be "taken from the table" at any time by a motion made prior to the end of the meeting. If

the item is not taken from the table prior to the end of the meeting, it shall be placed on a future agenda as a new matter.

D. Motion to amend. A motion to amend can be made after a motion is introduced and seconded. A motion to amend shall be debatable only as to amendment. A motion to amend an amendment shall be in order but a motion to amend an amendment to an amendment shall not be in order. An amendment modifying the intention of a motion shall be in order, but an amendment relating a different matter shall not be in order. A motion to amend shall be voted on first, followed by a vote on the original motion, as amended or as originally stated, depending upon whether the motion to amend carries.

E. Motion to substitute. A motion to substitute can be made after a motion is introduced and seconded. A substitute motion on the same subject shall be acceptable, and voted on before a vote on a motion to amend the main motion amendment.

F. Motion for Previous Question. A motion for previous question shall be used to close debate on the main motion and shall be undebatable. If the motion fails, debate shall be reopened; if the motion passes, a vote shall be taken on the main motion.

G. Motion to Continue. Motions to continue to a definite time shall be amendable and debatable as to the propriety of postponement and time set. If desired, the Commissioner who initiates the motion to continue may also move to reopen the hearing to receive further testimony.

11.4 Multiple Motions Before the Commission. There can be up to three (3) motions before the Commission at one time. The Chair may reject a fourth (4th) motion until the Commission has addressed the three (3) that have been proposed first. When there are multiple motions before the Commission at one time, the Commission shall address the motions beginning with the most recently made motion.

Section 12. Policies.

12.1 Attendance. Each Commissioner shall attend every regular or special meeting unless unavailable for a valid reason. A Commissioner may be excused if prior notice is given to the Secretary, and if the reason for the absence is stated. In the minutes and in the attendance record the Secretary shall indicate members present and excused. The Commission may recommend to the City Council that the office of any Commissioner who is absent from three (3) consecutive regular meetings, unless excused for cause by vote of the Commission, be declared vacant and that a successor be appointed.

12.2 Length of Meetings. Unless a majority of the Commissioners present at a meeting find that exceptional circumstances require otherwise, the Commission will adjourn its meetings after three (3) hours on or before 11:00 p.m. with any unfinished business being continued to the next, regular, adjourned, or special meeting, unless the based on special circumstances the Commission votes to extend the time frame for the meeting. At approximately 4:30:00 p.m., the Chair will call review of any remaining agenda items to consider whether they will likely be completed by 4:49:00 p.m., or whether continuances should be considered. The Secretary, or designee, will post notice of any continued hearing or other unfinished business, as required by law.

12.3 Amendments. These Rules may be amended by the Commission at any regular meeting by a majority vote, or at any special meeting, provided that the proposed amendment is included in a written notice of such meeting.

Attachment 3

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RESOLUTION NO. 94-05(PC)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
RIVERBANK AMENDING THE PLANNING COMMISSION BROWN ACT
RULES AND PROCEDURES

WHEREAS, the Planning Commission adopted rules and regulations
on May 23, 1994 to guide the Commission in the conduct of its
meetings and to formalize its procedures; and

WHEREAS, the Planning Commission finds it necessary to amend
these Rules and Regulations to keep them current.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of
the City of Riverbank that the "Planning Commission Brown Act Rules
and Procedures" is hereby amended as shown in Exhibit A.

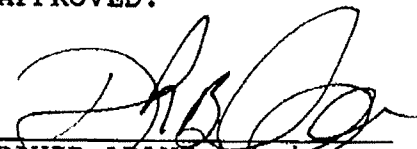
PASSED AND ADOPTED this 19th day of July, 1994 by the
following vote:

AYES: Commissioners Shewmake, McRitchie, Frace, Adams,
Hedlund

NOES: None

ABSENT: Commissioners Savage, Banuelos

APPROVED:


DAVID ADAMS, Chair

ATTEST:

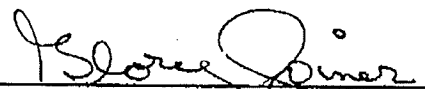

GLORY JOINER, Secretary

EXHIBIT "A"

***PLANNING COMMISSION BROWN ACT
RULES AND REGULATIONS***

1. REGULAR MEETINGS

(a) Time. Regular meetings of the Planning Commission shall be held on the third Tuesday of each month at the hour of 7:00 p.m. Whenever the day fixed for any regular meeting of the Commission falls upon a day designated as a holiday, such meeting may be held at the same hour on the next succeeding day not a holiday.

(b) Place. All regular meetings of the Planning Commission shall be held in the place designated by ordinance.

(c) Public. All meetings of the Commission shall be open to the public; provided, however, the Planning Commission may hold closed sessions as provided by the laws of the State of California.

2. SPECIAL MEETINGS

A special meeting may be ordered at any time by the Chair of the Planning Commission whenever the public business may require it or upon the written request of any three members of the Commission. Whenever a special meeting shall be called, written notice of such meeting shall be delivered personally or by mail by the Secretary to the Planning Commission to each member of the Commission and to each local newspaper of general circulation and radio station requesting notice in writing. Such notice must be delivered at least twenty-four hours before the time of such meeting as specified in the notice. The order shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Commission. The written notice may be dispensed with as to any member of the Commission who, at or prior to the time the meeting convenes, files with the Secretary to the Commission a written waiver of notice.

3. AGENDA

In order to facilitate the orderly conduct of the business of the Commission, the Secretary to the Commission shall be notified no later than 5:00 p.m. of the Wednesday immediately preceding a regular meeting of all reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Commission or discussed at such meeting. Immediately thereafter the Secretary to the Commission shall arrange an agenda

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3 of such matters according to the order of business and furnish each
4 member of the commission, the City Manager, the Planning Director,
5 and the City Attorney with a copy of the agenda prior to the
6 Commission meeting and as far in advance of the meeting as time for
7 preparation will permit. Persons who wish to receive copies of the
8 agenda by mail may receive them by payment of \$15 per year. The
9 agenda shall contain a brief general description of each item of
10 business to be transacted or discussed at the meeting.

11 The Secretary to the Planning Commission shall mark with the
12 "Consent Calendar" those items on the agenda regarding which it can
13 reasonably be expected that there will be no discussion by members
14 of the Planning Commission, the City staff or interested persons in
15 the audience. The Commission shall consider all of the items on
16 the agenda marked "consent" at one time by vote after a motion has
17 been duly made and seconded. If any member of the Commission or
18 City staff or any interested person in the audience requests that
19 a consent item be removed from the list of consent items, such item
20 shall be taken up for consideration and disposition after action on
21 the Consent Calendar. At least 72 hours before each regular
22 meeting the Secretary of the Planning Commission shall post the
23 agenda with a brief general description of each item therein at the
24 following place:

25 1. The entrance door to the City Council Chambers, 6707 Third
26 Street, Riverbank, California 95367.

27 The Secretary of the Planning Commission shall prepare a
28 report prior to each meeting on the posting of the agenda. This
29 report shall be reflected in the minutes of each meeting.

30 4. THE PRESIDING OFFICER

31 The Chair shall preside at all its meetings and perform such
32 other duties consistent with the office as may be imposed by the
33 Commission or City Council.

34 The Chair shall preserve strict order and decorum, at all
35 regular and special meetings of the Commission. The Chair may
36 announce special rules for the consideration of a particular item
37 on the agenda, such as, but not limited to; the length of time
38 persons may speak; require that, if desirable, a spokesman address
39 the Commission on behalf of a group of persons and, in the event of
40 a hearing, provide time for arguments and rebuttals from proponents
41 and opponents. The Chair shall state every question coming before
42 the Commission, call for the vote, announce the decision of the
43 Commission on all questions of order, subject, however, to an

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3 appeal to the Commission, in which event a majority vote of the
4 Commission shall govern and conclusively determine such question of
5 order. The Chair shall sign all resolutions adopted by the
6 Commission during the Chair's presence. In the event of the
7 absence of the Chair, the Vice-Chair shall sign resolutions as then
8 adopted.

6

5. CALL TO ORDER

7

8 The Chair, or in the Chair's absence, the Vice-Chair, shall
9 take the chair at the hour appointed for the meeting, and shall
10 immediately call the Commission to order. In the absence of the
11 Chair or Vice-Chair, the Secretary of the Commission shall call the
12 Commission to order whereupon a temporary chair shall be elected by
13 the members of the Commission present. Upon the arrival of the
14 Chair or Vice-Chair, the temporary Chair shall immediately
15 relinquish the chair upon the conclusion of the business
16 immediately before the Commission.

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6. ATTENDANCE

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14 Before proceeding with the business of the Commission, the
15 Secretary of the Commission shall enter into the minutes the names
16 of the members present or absent. No formal roll call need be
17 taken.

16 7. QUORUM

17

18 A majority of the members of the Commission shall constitute
19 a quorum for the transaction of business, but a lesser number than
20 a quorum may adjourn from time to time. The Commission may adjourn
21 any regular, adjourned regular, special or adjourned special
22 meeting to a time and place specified in the order of adjournment
23 as authorized by section 54954 of the Government Code. If all
24 members are absent from any regular or adjourned regular meeting,
25 the Secretary to the Commission may declare the meeting adjourned
26 to a stated time and place. The Secretary shall cause written
notice of the adjournment to be given in the same manner as
provided for special meetings. A copy of the order or notice of
adjournment shall be posted at the City Office and other places
designated by the Commission within twenty-four hours after the
time of adjournment. Whenever a regular or adjourned regular
meeting is adjourned as provided in this section, the resulting
adjourned regular meeting is a regular meeting for all purposes.
When an order of adjournment of any meeting fails to state the hour
at which the adjourned meeting shall be held, it shall be held at
the hour specified for regular meetings. A regular meeting shall

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3 stop at 11:00 p.m. unless the Commission votes to extend it in 30
4 minute increments.

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5 8. ORDER OF BUSINESS

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6 Promptly at the hour set on the date of each regular meeting,
7 the members of the Planning Commission and Planning Director shall
8 take their regular stations in the Council Chambers and the
9 business of the Commission shall be taken up for consideration and
10 disposition in the following order except that the unanimous
11 consent of the Commission, matters may be taken up out of order:

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1. Roll Call

2. Minutes

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3. Declaration of Conflict of Interest

4. Consent Items

11

5. Public Hearings

6. Other Matters

12

7. Public Business from the Floor

8. Written Communications

13

9. Director's Report

10. Commissioner's Comments

14

11. Adjournment

15

9. READING OF MINUTES

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17 Unless the reading of the minutes of a Commission meeting is
18 requested by a member of the Commission, such minutes may be
19 approved without reading if the Clerk has previously furnished each
20 member with a copy thereof.

18

10. ADDRESSING THE COMMISSION

19

20 Any person desiring to address the Commission at a meeting
21 shall first secure the permission of the Presiding Officer so to
22 do; provided, however, that under the following headings of
23 business, any qualified and interested person shall have the right
24 to address the Commission upon obtaining recognition by the
25 Presiding Officer:

23

24 (a) Public Business from the Floor. Interested persons in
25 the audience or their authorized representatives may address the
26 Commission by oral communication on any matters over which the
Commission has subject matter jurisdiction, provided, however, that
preference shall be given to those persons who have notified the
Secretary to the Commission in advance of their desire to speak in
order that the same may appear on the agenda of the Commission.

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3 However, no action shall be taken on any item not appearing on the
4 agenda unless the action is otherwise authorized by paragraph 12 of
this Resolution or by Section 54954.2 of the Government Code.

5 (b) Written Communications. Interested persons or their
6 authorized representative may address the Commission by written
communication on any matters concerning the Commission's business.

7 Such written communication shall be delivered to the Secretary to
8 the Planning Commission no later than 5:00 p.m. of the Wednesday
immediately preceding the regular Commission meeting the agenda for
9 which such written communication is intended.

10 11. MANNER OF ADDRESSING COMMISSION

11 Each person shall stand at the podium, if one is available,
12 and give his or her name and address for the record. All remarks
13 shall be addressed to the Commission as a body and not to any
14 member thereof. No person, other than the Commission and person
15 having the floor, shall be permitted to enter into any discussion,
either directly or through a member of the commission, without the
16 permission of the Presiding Officer. No question shall be asked a
Commissioner or a member of the City Staff except through the
17 Presiding Officer. No person may address the Commission for more
18 than five minutes unless the Presiding Officer allows more time.

19 12. ACTION ON ITEMS NOT APPEARING ON THE POSTED AGENDA

20 No action shall be taken on any item not appearing on the
21 posted agenda unless:

22 (a) A majority of the Commissioners determine that an
23 emergency situation, as defined by Government Code Section 54956.5
exists.

24 (b) Commissioners determined by a two-thirds vote, or by a
25 unanimous vote if less than two-thirds of the Commissioners are
present, that there is a need for immediate action and the need for
immediate action come to the attention of the Commission after the
agenda was posted.

26 (c) The item was included in a properly posted agenda for a
prior meeting occurring not more than five days prior to the
meeting at which the action is taken and was continued to the
meeting at which the action is taken.

Any items not on the posted agenda requiring action by the

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3 Commission which are raised by Commissioners or by members of the
4 public shall be automatically referred to staff by the presiding
officer and placed on the agenda for the next regular meeting.

5 13. VOTING

6 (a) Members of the Commission shall vote by "voice vote" on
7 all ordinances, resolutions and other matters unless a roll call
8 vote is required by law or is requested by a Commission. Silence
shall be recorded as an affirmative vote. The Secretary of the
9 Commissions shall show on ordinances and resolutions the names of
Commissions voting "Aye" and "No."

10 (b) The vote on any matter being considered by the Commission
11 may be delayed by the Presiding Officer until all members of the
Commission present for a meeting, and not excused, are present at
the Commission table.

12 (c) A member of the Commission who has a conflict of interest
13 regarding any matter being considered by the Commission shall
14 declare the conflict and excuse himself or herself from
participating in the Commission's deliberation and decision
regarding that matter.

15 14. ORDER AND DECORUM

16 (a) By Commissioners. While the Commission is in session,
17 the members must preserve order and decorum, and a member shall
18 neither by conversation or otherwise, delay or interrupt the
19 proceedings or the peace of the Commission nor disturb any member
while speaking or refuse to obey the order of the Commission or its
Presiding Officer, except as otherwise herein provided.

20 (b) By Other Persons. Any person making personal,
21 impertinent, or slanderous remarks or who shall become boisterous
22 while addressing the Commission or who shall by conversation or
23 otherwise delay or interrupt the proceedings or the peace of the
24 Commission or disturb any member while speaking or refuse to obey
the orders of the Commission or its Presiding Officer shall be
forthwith barred by the Presiding Officer from further audience
before the Commission, unless permission to continue be granted by
a majority vote of the Commission. In the interest of an orderly
meeting, applause shall not be permitted.

25 (c) Enforcement of Order and Decorum. A law enforcement
26 officer may be designated as Sergeant-at-Arms of the Commission
when requested by the Presiding Officer. The officer shall carry

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out all orders and instructions given at the Commission meeting. Upon instruction of the Presiding Officer, it shall be the duty of the Sergeant-at-Arms, as to any person who violates the order and decorum of the meeting, to remove and bar such person from the Commission meeting.

(d) Smoking. Smoking shall not be permitted in the Council Chambers during the meetings of the Commission.

15. SPECIAL COMMITTEES.

All special committees shall be appointed by the Presiding Officer with the approval of the Commission.

16. PROTESTS

Any commissioner shall have the right to have the reasons for his dissent from or protest against, any action of the Commission entered on the minutes.

Attachment 4



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, July 15, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua, Commissioner Degele and Commissioner McKinney

Absent: Vice Chair Hughes (Excused)

Invocation: Pastor Mario Jimenez, Community Praise Tabernacle

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the July 15, 2014, Planning Commission Meeting.

ACTION: By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Villapudua, Degele and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

Item No. 2.B: The Agenda for the July 15 2014, Planning Commission Meeting.
ACTION: *By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

Item No. 2.C: The Minutes of the April 15, 2014 and May 21, 2014, Planning Commission Meetings.

ACTION: *By motion moved/second (Degele / McKinney / passed 4-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP.
- As Mr. Anderson went through the PowerPoint presentation he asked the Planning Commission if they had any questions. Mr. Anderson answered all there questions as he went through the presentation.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Angie Timpony spoke on the DTSP and had suggested the city have more water recreational facilities for teenaged kids such as Pasco Washington were she had just visited.
- Evelyn Halbert spoke on the DTSP and questioned the published public noticing, the letters sent to the affected property owners and business owners and proposed zone districts.
- Robert Guardiola asked questions on the parking along Atchison / State Route 108 and the height of buildings.

- Planning Commission discussed the item further and asked Mr. Anderson additional questions.
- Evelyn Halbert asked questions on the parking for businesses & residential within the DTSP area.
- Robert Guadiola spoke again on the parking and suggested parking permits.
- Commissioner McKinney suggested we have another workshop.
- Chair Stewart requested she wanted some information on parking permits.
- Planning Commissioners' would like some financial information for future improvements of the DTSP.
- Planning Commissioners' suggested we have another workshop at our regular scheduled meeting date in August and at that the notices be in Spanish and English.
- Being there were no further comments the workshop ended at 7:34 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- John B. Anderson, City of Riverbank Consulting Planning Director presented the staff report.
- Planning Commissioners' discussed item and made some changes.
- Chair Stewart suggested a time change of (3) hours minimum for meetings and then added that could be changed at the discretion of the Planning Commission Chair.
- Chair Stewart opened the public hearing.
- Robert Guardiola stated that he did not agree to the time limit on meetings.
- Planning Commissioners' suggested to continue this item until the August 19, 2014 regularly scheduled Planning Commission meeting.
- Chair Stewart closed the public hearing.

ACTION: *By motion moved/second (Degele / Villapudua / passed 4-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the August 19, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, Degele, and McKinney

Nays: None

Absent: Hughes (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

Item 6.1: Chair Stewart asked if cinder block walls were allowed. And had asked what can be done about neglected properties.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Continued Public Workshop on the Downtown Specific Plan (FEIR has been previously certified by the CC on March 25, 2013).

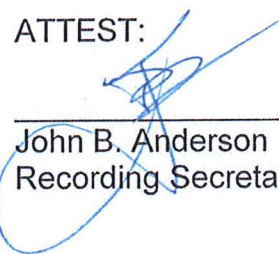
Item 8.2: Continued Public Hearing item from July 15, 2014, Planning Commission meeting to discuss the Planning Commission Rules and Procedures.

Item 8.3: Review of the 5-Year Capital Improvement Program (CIP) for Fiscal Years 2014-2019 for General Plan Conformance.

9. ADJOURNMENT

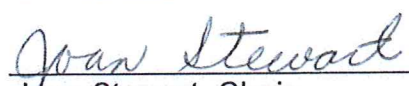
There being no further business, Chair Stewart adjourned the meeting at 7:53 p.m.

ATTEST:



John B. Anderson
Recording Secretary

APPROVED:



Joan Stewart, Chair
Planning Commissioner

Attachment 5



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, August 19, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Commissioner Villapudua, and Commissioner McKinney

Absent: Vice Chair Hughes (Excused), Commissioner Degele (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the August 19, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item No. 2.B: The Agenda for the August 19 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item No. 2.C: The Minutes of the July 15, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Continued Workshop from July 15, 2014 Planning Commission Meeting - Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP Workshop.
- As John B. Anderson went through the PowerPoint presentation he asked and answered question by the Planning Commission.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Daryl Daniels spoke on behalf of the DTSP and asked question pertaining to zoning and how it affects property insurance.
- John Von Buren also spoke on the DTSP.
- Joe Cattedra also spoke on the DTSP.
- Norma Arauza also spoke on the DTSP.
- John Von Buren also asked about additional lighting in alley ways.
- Larry King had a question pertaining to the map.
- Evelyn Halbert spoke on behalf of the DTSP and that she is against it and just wants to be out of the plan and is concerned about parking issues.
- John B. Anderson addressed all questions and comments to those that had spoken.
- Chair Stewart asked John B. Anderson some additional questions.

- Teresa Cattedra asked about sidewalks and ADA ramps at corners. She also asked why the school does not have parking for their employees.
- John B. Anderson read Commissioner Degele's comments he had provided in writing in regards to the DTSP to the Commission since he was unable to attend the meeting.
- Planning Commission discussed the item further and asked Mr. Anderson additional questions.
- Chair Stewart suggested we continue the workshop until the September 16, 2014 Planning Commission meeting.
- Commissioner McKinney also agreed that we should continue the workshop.
- Workshop will be continued until September 16, 2014 Planning Commission with some information on historic homes within the DTSP area.
- Being there were no further comments the workshop ended at 7:15 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until September 16, 2014 Planning Commission Meeting.

ACTION: *By motion moved/second (Villapudua / McKinney passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the September 16, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney

Nays: None

Absent: Hughes (Excused) and Degele (Excused)

Abstained: None

Item 4.2: General Plan Consistency of the 5-year Capital Improvement Program for Fiscal Year 2014-2019.

- John B. Anderson presented the item to the Planning Commission.
- Public Hearing was opened at 7:40 pm
- Public Hearing closed at 7:41 pm
- Commission Villapudua asked how the different items get on the list.
- John B. Anderson explained the process to the Planning Commission.
- **ACTION:** *By motion moved/second (McKinney / Villapudua / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

-
- *Ayes: Planning Commissioners: Stewart, Villapudua, and McKinney*
 - *Nays: None*
 - *Absent: Hughes (Excused) and Degele (Excused)*
 - *Abstained: None*

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

Item 7.1: Referral from Stanislaus County for 1731 & 1729 Patterson Road, requesting to construct a telecommunication facility for Verizon Wireless within a 1,600 sq. ft. lease area in the northwestern corner of a 14.31 acre parcel. The project includes construction of a 104 ft. tall monopole with three (3) antennas, a 202 sq. ft. equipment shelter with attached air conditioners, and a 78 sq. ft. concrete slab with a 30 kilowatt diesel generator and 132 gallon fuel tank. Visitation to the site by a service technician for routine maintenance typically occurs once a month. Access to the site is proposed via a 12 foot easement.

- John B. Anderson presented the item to the Planning Commission.
- Commissioners and John discussed the item and how they wanted to respond to the County in regards to the project. Commissioners were all in favor of a unique way of disguising the cellular tower such as it appearing to look like a windmill, so it would better fit in with the surrounding area, along with any equipment shelter's to look like a barn.
- John B. Anderson will forward the Planning Commissioners comments onto the County.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Continued Public Workshop on the Downtown Specific Plan from the August 19, 2014, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

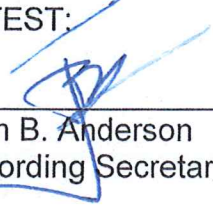
Item 8.2: Continued Public Hearing item from August 19, 2014, Planning Commission meeting to discuss the Planning Commission Rules and Procedures.

Item 8.3: September 30, 2014 Public Workshop on the Housing Element.

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:55 p.m.

ATTEST:



John B. Anderson
Recording Secretary

APPROVED:



Joan Stewart, Chair
Planning Commissioner

Attachment 6



City Of Riverbank
Planning Commission Meeting
MINUTES
Tuesday, September 16, 2014

The following minutes reflect action minutes, with added clarification for the record. A copy of the verbatim recording may be obtained, for a fee, by contacting the Development Services Department at (209) 863-7128.

CALL TO ORDER/ROLL CALL:

Present: Chair Stewart, Vice Chair Hughes and Commissioner McKinney

Absent: Commissioner Degele (Excused) and Commissioner Villapudua (Excused)

CONFLICT OF INTEREST: Any Planning Commissioner and Staff who would have a direct Conflict of Interest on any scheduled agenda item to be considered are to declare their conflict.

No one declared a conflict.

1. PUBLIC COMMENTS (No Action Can Be Taken): At this time, members of the public may comment on any item not appearing on the agenda, and within the subject matter jurisdiction of the Planning Commission. Individual comments will be limited to a **maximum of 5 minutes** per person and each person may speak once during this time; time cannot be yielded to another person. Under State Law, matters presented during the public comment period cannot be discussed or acted upon. For record purposes, state your name and City of residence. Please make your comments directly to the Planning Commission.

2. CONSENT CALENDAR: All items on the Consent Calendar are to be acted upon by a single action of the Planning Commission unless otherwise requested by an individual Planning Commissioner for special consideration. Otherwise, the recommendation of staff will be accepted and acted upon by roll call vote.

Item No. 2.A: Posting of the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.B: The Agenda for the September 16, 2014, Planning Commission Meeting.

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item No. 2.C: The Minutes of the August 19, 2014, Planning Commission Meeting.

ACTION: By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

3. PUBLIC WORKSHOP

Item 3.1: Continued Workshop from July 15, 2014 and August 19, 2014 Planning Commission Meetings - Draft Downtown Specific Plan (FEIR has been previously certified by the City Council on March 25, 2013).

- John B. Anderson, City of Riverbank Consulting Planning Director presented the PowerPoint presentation on the DTSP Workshop #3.
- As John B. Anderson went through the PowerPoint presentation he asked and answered question by the Planning Commission.
- Chair Stewart opened the workshop so the public could give input on the DTSP and the presentation.
- Dennis Zinner thought that a pedestrian over pass would attractive kids to skating boarding on it since the skate park is nearby.
- Planning Commission commented to Mr. Zinner's question.
- Evelyn Halbert spoke against the DTSP.
- John B. Anderson addressed all questions and comments to those that had spoken.
- Being there were no further comments the workshop ended at 6:40 p.m.

4. PUBLIC HEARINGS

Item 4.1: Rules and Procedures for the City of Riverbank's Planning Commission.

- Item was continued until October 21, 2014 Planning Commission Meeting due to the majority of the Commissioners that were not present at the September 16, 2014 Planning Commission meeting.

ACTION: *By motion moved/second (Hughes / McKinney passed 3-0) to approve by roll call vote the continuance of the Rules and Procedures for the City of Riverbank's Planning Commission to the October 21, 2014 Motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes, and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

Item 4.2: **Proposed Moratorium on Tattoo establishments to afford staff time to evaluate and make recommendations as to the appropriate zoning regulations associated with such businesses. The matter affects uses City-Wide.**

- John B. Anderson, City of Riverbank Consulting Planning Director presented the staff report to the Planning Commission.
- Planning Commission asked Mr. Anderson some questions on the item.
- Jamie Garrett, Attorney with Churchwell White LLP, also clarified the proposed Moratorium and guidelines to the Planning Commission.
- Public Hearing was opened at 6:50 pm
- Public Hearing closed at 6:51 pm

ACTION: *By motion moved/second (Hughes / McKinney / passed 3-0) was approved as submitted; motion carried by unanimous roll call vote.*

Ayes: Planning Commissioners: Stewart, Hughes and McKinney

Nays: None

Absent: Planning Commissioners: Degele (Excused) and Villapudua (Excused)

Abstained: None

5. NEW BUSINESS

None.

6. COMMISSION ITEMS

None.

7. COUNTY REFERRAL/CORRESPONDENCE/INFORMATION

None.

8. UP-COMING MEETING AGENDA ITEMS

Item 8.1: Downtown Specific Plan will be brought to the Planning Commission for their approval and recommendation to the City Council either in October or November, 2014, Planning Commission meeting - (FEIR has been previously certified by the CC on March 25, 2013).

Item 8.2: Continued Public Hearing Item 4.1 Rules and Procedures for the City of Riverbank's Planning Commission. To be continued to the October 21, 2014, Planning Commission meeting.

Item 8.3: September 30, 2014 Public Workshop on the Housing Element.

9. ADJOURNMENT

There being no further business, Chair Stewart adjourned the meeting at 7:00 p.m.

ATTEST:

APPROVED:

John B. Anderson
Recording Secretary

Joan Stewart, Chair
Planning Commissioner

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO:	3.2	October 21, 2014
APPLICATION:	A Proposed Moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers to afford Staff time to evaluate and make recommendations as to the appropriate zoning regulations associated with such businesses. The matters affects uses City-Wide.	
LOCATION:	City-Wide	
GENERAL PLAN:	N/A	
ZONING:	N/A	
ENVIRONMENTAL DETERMINATION:	The proposed moratorium on new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in a physical change to the environment, directly or ultimately. Therefore, no CEQA analysis of the project is required	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the planning commission (" <u>Commission</u> ") motion to adopt Resolution No. 2014-014, recommending the City Council of the City of Riverbank (" <u>City</u> ") adopt interim urgency Ordinance No. 2014-xxx creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.	
ACRONYMS:	CEQA – California Environmental Quality Act	
ATTACHMENTS:	1. Planning Commission Resolution No. 2014-014 2. Ordinance No. 2014-XXX	

I. EXECUTIVE SUMMARY

Resolution No. 2014-014 (the "Resolution") recommends that the City Council adopt an interim urgency ordinance to create a moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. The proposed moratorium under that ordinance addresses the use of all types of devices that provide nicotine through the act of smoking and other related activities. The moratorium extends to hookah lounges, vapor bars and drug paraphernalia retailers. The moratorium would temporarily prohibit new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers for an initial period of forty-five (45) days while the City further studies the matter.

II. BACKGROUND

A number of studies have been done regarding the health impacts of both hookah smoking and e-cigarette vapor inhalation. In 2005, the World Health Organization released an Advisory Note regarding waterpipe tobacco smoking.¹ The term waterpipe includes devices such as a hookah. The Advisory Note stated that individuals who engage in waterpipe smoking as well as individuals exposed to the secondhand smoke of hookah pipes are at risk for the same types of diseases that are caused by tobacco cigarette smoking and its secondhand smoke, including cancer, heart disease, respiratory disease, and adverse effects during pregnancy.

In addition, flavorings are often added to these devices to make the smoke or vapor taste sweet and packaging of these products is often designed in a way which could appeal to children. The activity of smoking hookah or e-cigarettes in a lounge space is for adults only, but it can affect children, depending upon where it is located. In order to protect the health, safety, and welfare of the children of the community, the businesses will need to be zoned carefully to address these impacts.

Drug paraphernalia retailers that sell merchandise associated with illicit drug use may result in high concentrations of illegal drug uses within certain areas of the City and may not be compatible with other existing and potential land uses within the City. Additionally, since e-cigarette can involve some of the same health concerns as tobacco products, it is important that the City have similar regulations for retailers selling e-cigarettes as it does for retailers selling tobacco products.

¹ World Health Organization Study Group on Tobacco Product Regulation, Advisory Note: Waterpipe Tobacco Smoking: Health Effects, Research Needs and Recommended Actions by Regulators (2005) <http://www.who.int/tobacco/global_interaction/tobreg/Waterpipe%20recommendation_Final.pdf> (as of: Apr. 16, 2014).

The proliferation of drug paraphernalia retailers, hookah lounges, e-cigarette lounges, e-cigarette retailers, and vapor bars may adversely affect the City's ability to attract and retain businesses and shoppers in the City. Drug paraphernalia retailers, hookah lounges, e-cigarette lounges, e-cigarette retailers, and vapor bars are often open late at night and are associated with the secondary effects of other businesses also open later such as bars and nightclubs. This impact can adversely affect infrastructure such as parking lots and landscaping which will also adversely affect the City's economic vitality.

The dangers of smoking tobacco cigarettes are well established and the secondary impacts of drug paraphernalia retailers are similar to those of hookah lounges and vapor bars.

III. ANALYSIS

The resolution recommends that the City Council adopt an ordinance that will give City staff the time needed to draft regulations that address the sale and use of hookahs, e-cigarettes, and conventional tobacco cigarette products. The moratorium is essentially a time out for the City to evaluate the best way possible to allow these types of businesses in the City while avoiding any negative impacts from rushing into regulation without a careful study first. The City Council will also review the proposed regulations and make a decision whether or not to impose the proposed moratorium. The Commission's recommendation to adopt the moratorium makes clear that giving City planning staff time to properly address this issue is an important interest in the overall planning activities for the City.

A city may adopt an interim ordinance under Government Code section 65858 that prohibits any use that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or planning department is considering, studying, or intending to study within a reasonable time. For the initial adoption of the interim urgency ordinance that establishes the forty-five (45) day moratorium on the use the City Council must comply with two (2) requirements. First, the City Council must find that the interim ordinance is required to protect the public health, safety, and welfare. Second, the ordinance must be passed by a four-fifths (4/5) majority vote of the City Council. Here, the ordinance is required to protect the public health, safety, and welfare as studies indicate that smoking hookah or e-cigarettes is just as harmful as smoking tobacco cigarettes and the dangers of smoking tobacco cigarettes and drug paraphernalia are well established.

IV. ENVIRONMENTAL DETERMINATION

The proposed moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers is not a project within the meaning of Section 15378 of the State CEQA guidelines because it has no potential for resulting in a physical change to the environment, directly or ultimately. Therefore no CEQA analysis of the project is required.

V. FISCAL IMPACT

There is no direct cost in adopting the interim ordinance. However, the City will not receive new business license fees from applicants wishing to open new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers. Also, prohibiting new businesses can inhibit the growth of the City's tax base, but only temporarily while the City develops a strategy for incorporating these businesses into the City.

VI. PUBLIC NOTICE

Where the City complies with the requirements under Government Code 65858, it may adopt a moratorium ordinance immediately without abiding by the typically required notice requirements for ordinances. Thus, the notice of the proposed moratorium contained in the agenda for the City Council meeting is sufficient for the City to adopt the moratorium.

The Planning Commission hearing notice was published in the Riverbank News on October 8, 2014 and posted at City Hall North and South on October 8, 2014. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

Should the City choose to extend the moratorium beyond the forty-five (45) day limit created under this proposed interim ordinance, the City Council must pass another interim ordinance. That ordinance is subject to a ten (10) day notice requirement under Government Code section 65090, and it extends the moratorium for ten (10) months and fifteen (15) days. The City may then extend the moratorium for one (1) additional year, for a moratorium that lasts a total of two (2) years. Any extension of the moratorium must be passed during the period the moratorium is in place.

VII. ALTERNATIVE ACTIONS

The City Council's options regarding Resolution 2014-014 include:

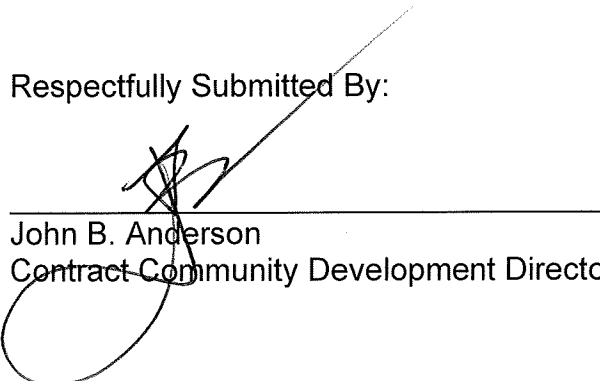
1. Motion to adopt Resolution No. 2014-014, recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers;
2. Motion to adopt Resolution No. 2014-014 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers;

3. Reject the Resolution No. 2014-014, not recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.

VIII. RECOMMENDATION

Staff recommends that the Commission motion to adopt Resolution No. 2014-014, recommending that the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

Attachment 1

**CITY OF RIVERBANK
RESOLUTION 2014-014**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK

WHEREAS, the City's Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby recommends City Council approval of Ordinance No. XXXX establishing a moratorium on the establishment and operation of new hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers for a period of forty-five (45) days, which is attached hereto as **Exhibit A** and incorporated herein by this reference, based on the following findings:

- a. There is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and
- b. Hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and
- c. The proliferation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of October, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

John B. Anderson
Contract Community Development Director

Joan Stewart
Planning Commission Chair

Attachments: 1. Exhibit A: Ordinance 2014-xxx

Exhibit A

Attachment 2

EXHIBIT A

CITY OF RIVERBANK IN THE CITY COUNCIL ORDINANCE 2014-XX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW HOOKAH LOUNGES, E-CIGARETTE LOUNGES, E-CIGARETTE RETAILERS, VAPOR BARS, AND DRUG PARAPHERNALIA RETAILERS FOR A PERIOD OF FORTY-FIVE (45) DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank's ("City") Municipal Code is silent with regard to the regulation and location of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. It is necessary for the City to study the potential impact such facilities may have on the public health, safety, and welfare; and

WHEREAS, there is a threat to the public health, safety, and welfare of the community if hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers locate in the City without proper regulations in place; and

WHEREAS, hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers are typically adults-only uses in a commercial setting and may not be appropriate near uses where minors are present; and

WHEREAS, the proliferation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may adversely affect the City's ability to attract and retain businesses and shoppers in the City, adversely affecting the City's economic vitality, and may promote the consumption and purchase of e-cigarettes by minors, possibly threatening the public health, safety, and welfare; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to: (1) address the community concerns regarding the establishment and operation of hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers; (2) study the potential impacts that hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers may have on the public health, safety, and welfare; (3) study and determine what local regulations may be appropriate or necessary for hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers; (4) study and determine the appropriate zoning and location for hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, and drug paraphernalia retailers and (5) determine appropriate controls for protection of public health and welfare.

THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new hookah lounges, e-cigarette lounges, vapor bars, and drug paraphernalia retailers within the boundaries of the City.

Section 3. Definitions.

1. "Drug paraphernalia" means all equipment, products and materials of any kind which are designed for use or marketed for use, in planting, propagating, cultivating, growing, or harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as further defined in Health and Safety Code section 11014.5.

2. "E-cigarette" or "electronic cigarette" shall mean an electronic or battery operated device, the use of which may resemble smoking, that can be used to deliver an inhaled dose of vapors, including nicotine or other substances. An e-cigarette includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor.

3. "E-cigarette lounge" or "vapor bar" shall mean any facility, building, structure or location, whether fixed or mobile, where customers utilize a heating element that vaporizes liquid solution that releases nicotine or flavored vapor, including the use of e-cigarettes.

4. "E-cigarette retailer" shall mean any establishment, whether fixed or mobile, that sells e-cigarettes or any products used in conjunction with e-cigarettes, include but not limited to kits, e-liquids and "juice".

5. "Establishment" shall mean, as of the effective date of this moratorium, the opening or commencement of any such business as a new business; the conversion of an existing business to a hookah lounge, e-cigarette lounge, vapor bar, or drug paraphernalia retailer; the relocation of any such business; or the expansion, physical or otherwise, of any such business.

6. "Hookah lounge" shall means any facility, building, structure or location, whether fixed or mobile, where customers share flavored tobacco from a communal hookah, waterpipe, shisha, narghile, or other such smoking device, placed at various tables throughout the business.

6. "Drug paraphernalia retailer" shall mean any facility, building, structure or location, whether fixed or mobile, that devotes any floor space to drug paraphernalia products.

Section 4. Public Nuisance.

The establishment, maintenance, or operation of new or expanded hookah lounges, e-cigarette lounges, e-cigarette retailers, vapor bars, or drug paraphernalia retailers as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 5. California Environmental Quality Act ("CEQA").

Pursuant to Section 15001 of the CEQA Guidelines, this Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant effect on the environment. For the reason set forth in subparagraphs (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 6. Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 7. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858.

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor

**CITY OF RIVERBANK
PLANNING COMMISSION
STAFF REPORT**

ITEM NO:	3.3	October 21, 2014
APPLICATION:	A Proposed Moratorium on the establishment and operation of new internet access businesses using simulated gambling devices to afford Staff time to evaluate and make recommendations as to the appropriate zoning regulations associated with such businesses. The matters affects uses City-Wide.	
LOCATION:	City-Wide	
GENERAL PLAN:	N/A	
ZONING:	N/A	
ENVIRONMENTAL DETERMINATION:	The proposed moratorium on new internet access businesses using simulated gambling devices is not a project within the meaning of Section 15378 of the State CEQA Guidelines because it has no potential for resulting in a physical change to the environment, directly or ultimately. Therefore, no CEQA analysis of the project is required.	
PROJECT PLANNER:	John B. Anderson, Contract Community Development Director	
RECOMMENDATION:	Staff recommends that the planning commission (" <u>Commission</u> ") motion to adopt Resolution No. 2014-015, recommending the City Council of the City of Riverbank (" <u>City</u> ") adopt interim urgency Ordinance No. 2014-XXX creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices as defined in the ordinance.	
ACRONYMS:	CEQA – California Environmental Quality Act	
ATTACHMENTS:	1. Planning Commission Resolution No. 2014-015 2. Ordinance No. 2014-XXX	

I. EXECUTIVE SUMMARY

Resolution No. 2014-XX (the "Resolution") recommends that the City Council adopt an interim urgency ordinance to create a moratorium on the establishment and operation of internet access businesses using simulated gambling devices. The City's Municipal Code currently regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than coin-operated video game machines and other related video game equipment. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours, which often results in long lines outside these businesses. The lines outside, if unmitigated, can create safety issues by blocking public right of ways and other unknown impacts on the surrounding area and businesses.

The proposed moratorium will have no effect on traditional internet café businesses that simply provide internet access to individuals even when the business charges for such services. The moratorium is tailored specifically to address businesses that provide a sweepstakes promotion that depends on Vegas style gambling interfaces on the computers that provide internet access as an incentive for individuals to visit the business. Essentially, this moratorium targets a very specific business that has arisen as an attempt to offer opportunities to gambling without complying with state gambling laws.

II. BACKGROUND

The current provisions of the City's Municipal Code fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community. In addition, students and minors are often targeted with advertising for the internet access businesses using simulated gambling devices which may encourage the assembly of significant numbers of unsupervised minors. This can result in truancy problems where minors avoid attending school by patronizing the internet access businesses using simulated gambling devices.

According to the California Bureau of Gambling Control, the operation of internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations. Gambling is prohibited in California by state law, except for in card club establishments and on Indian or tribal property. Therefore, many of these businesses are engaged in illegal activities where they sell internet time or phone cards with a promotional sweepstakes program through simulated gambling devices.

The promotional sweepstakes operations provide a chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games frequently have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them. The City must review its Municipal Code and zoning ordinance to address the impacts to the public safety, health, and welfare for these businesses that offer sweepstakes-like games to the extent they are legal.

III. ANALYSIS

The resolution recommends that the City Council adopt an ordinance that will give City staff the time needed to draft regulations that address the establishment and operation of internet access businesses using simulated gambling devices. The moratorium is essentially a time out for the City to evaluate the best way possible to regulate these businesses in the City while avoiding any negative impacts from rushing into regulation without a careful study first. The City Council will also review the proposed regulations and make a decision whether or not to impose the proposed moratorium. The Commission's recommendation to adopt the moratorium makes clear that giving City planning staff time to properly address this issue is an important interest in the overall planning activities for the City.

A city may adopt an interim ordinance under Government Code section 65858 that prohibits any use that may be in conflict with a contemplated zoning proposal that the legislative body, planning commission, or planning department is considering, studying, or intending to study within a reasonable time. For the initial adoption of the urgency interim ordinance that establishes the forty-five (45) day moratorium on the use the City Council must comply with two (2) requirements. First, the City Council must find that the interim ordinance is required to protect the public health, safety, and welfare. Second, the ordinance must be passed by a four-fifths (4/5) majority vote of the City Council. Here, the ordinance is required to protect the public health, safety, and welfare as internet access businesses using simulated gambling devices may be engaged in an illegal activity and have detrimental secondary effects.

IV. ENVIRONMENTAL DETERMINATION

The proposed moratorium on the establishment and operation of new internet access businesses using simulated gambling devices is not a project within the meaning of Section 15378 of the state CEQA guidelines because it has no potential for resulting in a physical change to the environment, directly or ultimately. Therefore no CEQA analysis of the project is required.

V. FISCAL IMPACT

There is no direct cost in adopting the interim ordinance. However, the City will not receive new business license fees from applicants wishing to open new internet access businesses using simulated gambling devices. Also, prohibiting new businesses can inhibit the growth of the City's tax base, but only temporarily while the City develops a strategy for incorporating these businesses into the City.

VI. PUBLIC NOTICE

Where the City complies with the requirements under Government Code 65858, it may adopt a moratorium ordinance immediately without abiding by the typically required notice requirements for ordinances. Thus, the notice of the proposed moratorium contained in the agenda for the City Council meeting is sufficient for the City to adopt the moratorium. A public notice, however, was completed for this Planning Commission hearing.

The Planning Commission hearing notice was published in the Riverbank News on October 8, 2014 and posted at City Hall North and South on October 8, 2014. Written comments received by the City shall be supplied to the Commission at the day of the meeting and read into the public record.

Should the City choose to extend the moratorium beyond the forty-five (45) day limit created under this proposed interim ordinance, the City Council must pass another interim ordinance. That ordinance is subject to a ten (10) day notice requirement under Government Code section 65090, and it extends the moratorium for ten (10) months and fifteen (15) days. The City may then extend the moratorium for one (1) additional year, for a moratorium that lasts a total of two (2) years. Any extension of the moratorium must be passed during the period the moratorium is in place.

VII. ALTERNATIVE ACTIONS

The City Council's options regarding Resolution 2014-015 include:

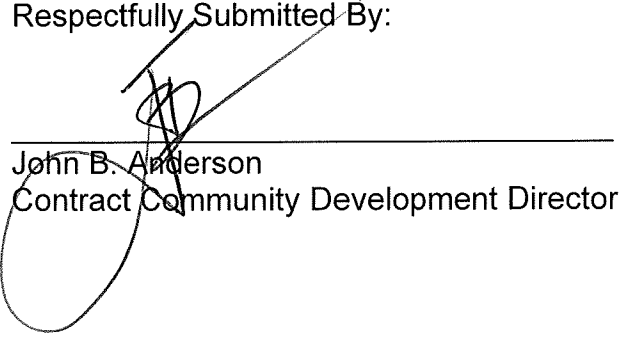
1. Motion to adopt Resolution No. 2014-015, recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices;
2. Motion to adopt Resolution No. 2014-015 as amended by the Commission, recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices;

3. Reject Resolution No. 2014-015, not recommending the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

VIII. RECOMMENDATION

Staff recommends that the Commission motion to adopt Resolution No. 2014-015, recommending that the City Council adopt interim urgency Ordinance No. 2014-XX creating a forty-five (45) day moratorium on the establishment and operation of new internet access businesses using simulated gambling devices.

Respectfully Submitted By:



John B. Anderson
Contract Community Development Director

Attachment 1

**CITY OF RIVERBANK
RESOLUTION 2014-015**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIVERBANK

WHEREAS, the City of Riverbank ("City") is aware of an increase in development, establishment, and operation of internet access businesses using simulated gambling devices throughout California; and

WHEREAS, the provisions of the City's Municipal Code that may regulate the development, establishment, and operation of the internet access businesses using simulated gambling devices in the City are inadequate and need review, study, and revision. The current provisions also fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding internet access businesses using simulated gambling devices. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Riverbank hereby recommends City Council approval of Ordinance No. XXXX establishing a moratorium on the establishment and operation of new internet access businesses using simulated gambling devices for a period of forty-five (45) days, which is attached hereto as **Exhibit A** and incorporated herein by this reference, based on the following findings:

- a. There is a potential threat to the public health, safety, and welfare of the community if internet access businesses using simulated gambling devices locate in the City without proper regulations in place; and
- b. The internet access businesses using simulated gambling devices can appeal to students and minors within the local community, thereby potentially encouraging the assembly of significant numbers of unsupervised minors; and

- c. The City's Municipal Code regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than conventional video game machines, resulting in different impacts and escaping from existing regulations due to a technicality. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours which can result in long lines outside these businesses. This creates unknown secondary impacts on the surrounding area and businesses; and
- d. Gambling is prohibited in California by state law, except in card club establishments and on Indian or tribal properties. The California Bureau of Gambling Control has determined that internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations; and
- e. The promotional sweepstakes that are illegal online gambling operations which can be offered at internet access businesses using simulated gambling devices, provide the chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games can have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them.

PASSED AND ADOPTED by the Planning Commission of the City of Riverbank at a regular meeting held on the 21st day of October, 2014; motioned by Commissioner _____, seconded by Commissioner _____, and upon roll call was carried by the following vote of ____:

AYES:

NAYS:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

John B. Anderson
Contract Community Development Director

Joan Stewart
Planning Commission Chair

Attachments: 1. Exhibit A: Ordinance 2014-XXX

Exhibit A

Attachment 2

EXHIBIT A

CITY OF RIVERBANK IN THE CITY COUNCIL ORDINANCE 2014-XX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF NEW INTERNET ACCESS BUSINESSES USING SIMULATED GAMBLING DEVICES FOR A PERIOD OF 45 DAYS PENDING STUDY OF ZONING REGULATIONS THAT ARE NEEDED TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE

WHEREAS, the City of Riverbank ("City") is aware of an increase in development, establishment, and operation of internet access businesses using simulated gambling devices throughout California, including in several cities near the City itself; and

WHEREAS, the provisions of the City's Municipal Code that may regulate the development, establishment, and operation of the internet access businesses using simulated gambling devices in the City are inadequate and need review, study, and revision. The current provisions also fail to thoroughly address the impacts related to the location and manner of development, establishment, and operation of internet access businesses using simulated gambling devices in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on parking, surrounding uses, and the community; and

WHEREAS, the internet access businesses using simulated gambling devices often appeal to students and minors within the local community, thereby potentially encouraging the assembly of significant numbers of unsupervised minors; and

WHEREAS, the City's Municipal Code regulates bingo, but the computer stations at internet access businesses using simulated gambling devices are used in a different manner than bingo parlors or other video games amusement establishments, resulting in different impacts and escaping from existing regulations due to a technicality. Individuals generally pay a charge and then may occupy a station for multiple consecutive hours which often results in long lines outside these businesses. This creates unknown secondary impacts on the surrounding area and businesses; and

WHEREAS, gambling is prohibited in California by state law, except in card club establishments and on Indian or tribal properties. The California Bureau of Gambling Control has determined that internet access businesses using simulated gambling devices that sell internet time or phone cards in conjunction with a promotional sweepstakes are illegal online gambling operations; and

WHEREAS, the promotional sweepstakes that are illegal online gambling operations which are sometimes offered at internet access businesses using simulated gambling devices provide the chance to win cash or prizes through the betting of purchased or won sweepstakes game entries. These games can have the appearance of casino-style games of chance, such as slot machines, and to the extent that these promotional sweepstakes games are not illegal under state law, the City's zoning ordinance and Municipal Code do not specifically regulate them; and

WHEREAS, it is necessary that the City study the possible adoption of amendments to the City's Municipal Code regarding internet access businesses using simulated gambling devices. City staff needs time to study whether to limit such businesses to certain zoning districts, and which zoning districts would be appropriate for such uses; and

WHEREAS, Government Code section 65858 provides for the adoption of interim ordinances for certain express purposes and by vote of four-fifth (4/5) majority of the voting City Council members; and

WHEREAS, this moratorium shall remain in effect for forty-five (45) days from the date of its adoption and may be extended, after notice and public hearing, for a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years; and

WHEREAS, California Government Code section 65858, subsection (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to the public health, safety, or welfare; and

WHEREAS, the City Council desires to (1) address the community concerns regarding the establishment and operation of internet access businesses using simulated gambling devices, (2) study the potential impacts that internet access businesses using simulated gambling devices may have on the public health, safety, and welfare, (3) study and determine what local regulations may be appropriate or necessary for internet access businesses using simulated gambling devices, (4) study and determine the appropriate zoning and location for internet access businesses using simulated gambling devices, and (5) determine appropriate controls for protection of public health and welfare.

THE CITY COUNCIL OF THE CITY OF RIVERBANK DOES ORDAIN AS FOLLOWS:

Section 1. Recitals Made Findings.

The above recitals are hereby declared to be true and correct and findings of the City Council of the City.

Section 2. Moratorium Established.

After the effective date of this ordinance, the City shall prohibit the issuance of permits or licenses for all new internet access businesses using simulated gambling devices within the boundaries of the City.

Section 3. Definition.

1. Internet access businesses using simulated gambling devices defined.

"Internet access businesses using simulated gambling devices" shall mean an establishment that meets all of the following requirements:

a. The establishment provides four (4) or more computers or other electronic devices for access to the world wide web, internet, email, video games, or computer software programs which operate alone or are networked (via LAN, WAN, or otherwise) or which function as a client or server program;

b. The establishment seeks compensation, in any form, from users;

c. The establishment offers users a contest or game of skill, entertainment, amusement, or chance, whether or not registering a score; and

d. The establishment offers users a chance to win anything of value, any cash payout or anything that could be redeemed, directly or indirectly, for any cash payout.

2. Bingo excepted.

Nothing herein shall be construed to prohibit issuance of a license to conduct bingo games under Chapter 112 of the Riverbank Municipal Code.

Section 4. Restricted Activities.

For the period of forty-five (45) days, commencing on the date of the adoption of this interim ordinance, or until such time as this ordinance may expire subject to any extension of this ordinance that the City Council may adopt and approve pursuant to Government Code section 65868, no use permit, variance, building permit, business license, or any other permit or entitlement for use shall be approved of or issued for the commencement, establishment, operation, relocation or expansion of any internet access businesses using simulated gambling devices as that phrase is defined herein, and no other person or entity shall commence, establish, operate, relocate or expand any internet access businesses using simulated gambling devices, or

participate as an employee, contractor, agent, volunteer, or in any other manner or capacity, in any internet access businesses using simulated gambling devices, upon any property in any zoning district in the City during the period this ordinance is in effect.

Section 5. Applicability.

The ordinance will not affect any existing or proposed internet cafes, business centers, or copy shops that do not offer customers gaming on simulated gambling devices. Notwithstanding the foregoing, the City may take such enforcement action as is appropriate against such businesses to abate a public nuisance or if it is determined that the operation of the business is illegal. Additionally, this Ordinance will not affect exiting internet access businesses using simulated gambling devices that have already been issued a business license by the City before October 21, 2014, provided there are any.

Section 6. Public Nuisance.

The establishment, maintenance, or operation of internet access businesses using simulated gambling devices as defined herein within the City limits is a public nuisance. Violations of the Ordinance may be enforced by any applicable law, including but not limited to, injunctions, administrative citations, or criminal penalties.

Section 7. California Environmental Quality Act ("CEQA").

Pursuant to Section 15001 of the CEQA Guidelines, the Ordinance is exempt from CEQA based on the following:

1. This Ordinance is not a project within the meaning of Section 15378 of the state CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately.

2. This Ordinance is not subject to CEQA under the general rule that CEQA applies only to a project or projects which have the potential for causing a significant effect on the environment. For the reason set forth in subparagraph (1), above, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 8. Severability.

If any provision or clause of this Ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this Ordinance which can be implemented without the invalid provision, clause, or application; and to this end, the provisions of this Ordinance are declared to be severable.

Section 9. Effective Date and Duration.

This Ordinance shall become effective upon adoption if passed and adopted by at least four-fifths (4/5) vote of the City Council and shall be in effect for forty-five (45) days unless extended by the City a maximum of twenty-two (22) months and fifteen (15) days for a total duration of two (2) years in accordance with Government Code section 65858

The foregoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Riverbank held on _____, 2014, and Councilmember _____ seconded by Councilmember _____, moved the adoption of said ordinance, and upon roll call was carried by the following vote:

AYES: COUNCIL MEMBERS
NOES: COUNCIL MEMBERS
ABSENT: COUNCIL MEMBERS
ABSTAIN: COUNCIL MEMBERS

ATTEST:

APPROVED

Annabelle Aguilar, CMC
City Clerk

Richard O'Brien
Mayor