



City Council Agenda

City of Campbell, 70 North First Street, Campbell, California

CITY COUNCIL EXECUTIVE SESSION

Tuesday, November 1, 2016 – 7:00 p.m.

Ralph Doetsch Conference Room - 70 N. First Street

- A. Personnel - Pursuant to G.C. Section 54957(b)(1): Public Employee Appointment – Title of Position: City Manager
- B. Litigation
- C. Real Property
- D. Labor Negotiations – Pursuant to G.S. Section 54957.6: Conference with Labor Negotiator – Agency Negotiator: Jill Lopez, Human Resources Manager. Employee Organization: Campbell Peace Officers Association (CPOA)

REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, November 1, 2016 – 7:30 p.m.

Council Chamber – 70 N. First Street

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

Pledge: Cheryl Houts

SPECIAL PRESENTATIONS AND PROCLAMATIONS

1. **Proclamation declaring November 17, 2016 as “World Pancreatic Cancer Day” in the of City of Campbell**
Recommended Action: Proclaim November 17, 2016 as “World Pancreatic Cancer Day” in the City of Campbell.
2. **Presentation to Discuss a Program to Address Homeless and at Risk of Homelessness Families Living in the City of Campbell**
Recommended Action: Accept presentation.

COMMUNICATIONS AND PETITIONS

ORAL REQUESTS

NOTE: This portion of the meeting is reserved for persons wishing to address the City Council on any matter not on the agenda. Persons wishing to address the Council are requested, but not required to complete a Speaker's Card. Speakers are limited to two (2) minutes. The law generally prohibits the Council from discussion or taking action on such items. However, the Council may instruct staff accordingly regarding Oral Requests.

COUNCIL ANNOUNCEMENTS

CONSENT CALENDAR

NOTE: All matters listed under consent calendar are considered by the City Council to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a request is made by a member of City Council, City staff, or a member of the public. Any person wishing to speak on any item on the consent calendar should ask to have the item removed from the consent calendar prior to the time the Council votes to approve. If removed, the item will be discussed in the order in which it appears.

3. **Minutes of Special Meeting of September 30, 2016**
Recommended Action: Approve the special meeting minutes.
4. **Minutes of Special Meeting of October 4, 2016**
Recommended Action: Approve the special meeting minutes.
5. **Minutes of Study Session of October 18, 2016**
Recommended Action: Approve the study session meeting minutes.
6. **Minutes of Regular Meeting of October 18, 2016**
Recommended Action: Approve the regular meeting minutes.
7. **Approving Bills and Claims**
Recommended Action: Approve the bills and claims in the amount of \$1,773,803.28.
8. **Monthly Investment Report – September, 2016**
Recommended Action: Note and file the monthly investment report for September 2016.
9. **Second Reading of Ordinance 2210 Approving a Zoning Map Amendment for a Previously Approved Project Which as Erroneously Approved by Resolution Rather Than by Ordinance (Ordinance Second Reading/Roll Call Vote)**
Recommended Action: Approve Second reading of Ordinance 2210 approving a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road.

10. **Second Reading of ordinance 2211 Approving a Zoning Map Amendment (PLN2016-275) to Change the Zoning District Designation from R-M (Multi-Family Residential) to P-D (Planned Development) for the property located at 1223 Walnut Drive. (Ordinance Second Reading/Roll Call Vote)**
Recommended Action: Approve Second reading of Ordinance 2211 approving a Zoning Map Amendment (PLN2016-275) to change the zoning district designation from R-M (Multi-Family Residential) to P-D (Planned Development) for the property located at 1223 Walnut Drive.
11. **Second Reading of Ordinance 2212 Approving a Zoning Map Amendment (PLN2015-357) to Amend the Campbell Zoning Map Designation From C-2 (General Commercial) Zoning District to the C-2-O (General Commercial/Overlay) Combing Zoning District; and Ordinance 2213 Amending Various Sections of Title 21 (Zoning Code) of the Master Use Permit, Including its Land Use Program, Administrative Procedures, and Master Sign Plan, Including Allowance for a Freeway-Oriented Sign and Rooftop Signage for Property Located at 1875, 1887, and 1995 S. Bascom Avenue (Ordinance Second Reading/Roll Call Vote)**
Recommended Action: Approve the second reading and adopt Ordinance 2212 approving a Zoning Map Amendment (PLN2015-357); and Ordinance 2213 approving a Zoning Code Amendment (PLN2015-76) for property located at 1875, 1887, and 1995 S. Bascom Avenue.
12. **Accept the Resignation of Ron Bonhagen from the Planning Commission**
Recommended Action: Accept the resignation of Ron Bonhagen from the Planning Commission and direct the City Clerk to advertise the vacancy and prepare the appropriate recognition of service.
13. **Authorization of Plans and Specifications, Authorize Solicitation of Bids, Award of Contracts, Associated Actions, and Budget Adjustment for Americans with Disability Act (ADA) Accessibility Ramp Installation Project No. 16-AA (Resolution/Roll Call Vote)**
Recommended Action: Approve the plans and specification for the Accessibility Ramp Installation Project No. 16-AA; authorize the solicitation of Bids; authorize the Public Works Director to award and execute construction contracts and encumber a 10% construction contingency; and approve the budget adjustment to recognize the grant from the community Development Block Grant (CDBG) program.
14. **First Quarter Update –FY 2016-17 Council Strategic Priorities and City Council Reserve Fund Projects**
Recommended Action: Accept the first quarter report providing a status update on work related to Council Strategic Priorities and Reserve Funds Project.

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

NOTE: Members of the public may be allotted up to two (2) minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of five (5) minutes for opening statements and up to a total of three (3) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

15. **Appeal of the Planning Commission Determination (PLN2016-293) that a Non-Conforming Use (Liquor Establishment), Had Discontinued for a Continuous Period of Six Months, Thereby Losing its Vested Right to Continue Operation (Resolution/Roll Call Vote)**
Recommended Action: Adopt a resolution denying the appeal and upholding the Planning Commission determination (PLN2016-293) that a nonconforming use (liquor establishment) had discontinued for a continuous period of six month, thereby losing its vested right to continue operation.
16. **Minimum Wage (Introduction of Ordinance/Roll Call Vote)**
Recommended Action: Establish a minimum wage by introducing an Ordinance to the Campbell Municipal Code as requested by the Cities Association of Santa Clara County.
17. **Urgency Ordinance of the City Council of the City of Campbell Prohibiting and Regulating Non-Medical Marijuana in the Event of the Passage of State Proposition 64**
Recommended Action: Find that the proposed action is exempt from CEQA; adopt an urgency ordinance prohibiting and regulating non-medical marijuana; and waive the reading of the ordinance in its entirety for the immediate preservation of the public peace, health and safety of Campbell and add Chapter 8.40 entitled: "Non-Medical Marijuana" to Title 8 of the Campbell Municipal Code.

NEW BUSINESS

18. **Campbell Water Tower Lighting Request**
Recommended Action: Review and provide direction related to Water Tower Request from the Pancreatic Cancer Action Network to light the Water Tower purple on Thursday, November 17, 2016; and consider the addition of September 11, "National Day of Service and Remembrance", with red, white, and blue to the standing schedule of events in the Council Policy 1.29.
19. **2017 Silicon Valley Clean Energy Authority's 100% Renewable Energy**
Recommended Action: Take action to direct staff to register all of the City of Campbell's electrical energy services to the Silicon Valley Clean Energy Authority's Green Start in 2017 when the service becomes available.
20. **Approval of Special Meeting for December 12, 2016**
Recommended Action: Schedule a Special Meeting on December 12, 2016 to declare the canvass return results of the General Municipal Election to be held on November 8, 2016 and conduct the City Council Reorganization.

COUNCIL COMMITTEE REPORTS

21. **City Councilmember Reports/Updates on Committee Assignments**
Recommended Action: Report on committee assignments and general comments.

ADJOURN

In compliance with the Americans with Disabilities Act, listening assistive devices are available for all meetings held in the City Council Chambers. If you require accommodation, please contact the City Clerk's Office, (408) 866-2117, at least one week in advance of the meeting.



*City
Council
Report*

Item: 1.
Category: Special Presentation
Meeting Date: November 1, 2016

TITLE: Proclamation declaring November 17, 2016, as “World Pancreatic Cancer Day” in the City of Campbell

RECOMMENDATION

It is recommended that the City Council proclaim November 17, 2016, as “World Pancreatic Cancer Day” in the City of Campbell.

DISCUSSION

The cause of most pancreatic cancers is unknown and symptoms are usually subtle, often attributed to less serious medical conditions. Early detection is vital, patients diagnosed in time for surgery are more likely to live five years and beyond. Pancreatic cancer is the third leading cause of cancer death in the United States, and it is the only major cancer with a five-year relative survival rate in the single digits at just eight percent. The incidence and death rate for pancreatic cancer are increasing, and pancreatic cancer is anticipated to be the second leading cause of cancer-related death in the U.S. by 2020.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachment:

Proclamation

PROCLAMATION

OF THE MAYOR OF THE CITY OF CAMPBELL

WHEREAS, in 2016, an estimated 53,070 people will be diagnosed with pancreatic cancer in the United States and 41,780 will die from the disease;

WHEREAS, pancreatic cancer surpassed breast cancer this year to become the third leading cause of cancer death in the United States, and it is projected to become the second leading cause by 2020;

WHEREAS, pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just eight percent;

WHEREAS, when symptoms of pancreatic cancer present themselves, it is generally in later stages, and 71 percent of pancreatic cancer patients die within the first year of their diagnosis;

WHEREAS, approximately 4,390 deaths will occur in California in 2016;

WHEREAS, pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world;

WHEREAS, there will be an estimated 418,451 new pancreatic cancer cases diagnosed worldwide in 2020;

WHEREAS, the good health and well-being of the residents of Campbell are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes and effective treatments; and

NOW, THEREFORE, I, Jason T. Baker, Mayor of the City of Campbell do hereby designate November 17th 2016 as "World Pancreatic Cancer Day" in the City of Campbell.

WITNESS MY HAND AND SEAL OF THE CITY OF CAMPBELL this 21st day of November 2016.

Jason T Baker, Mayor
City of Campbell, California



City Council Report

Item: 2.
Category: Special Presentation
Meeting Date: November 1, 2016

TITLE: Presentation to Discuss a Program to Address Homeless and at Risk of Homelessness Families Living in the City of Campbell

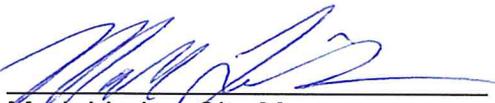
DISCUSSION

The proposed program would have a homelessness prevention (HP) and a rapid rehousing (RRH) component. The program would assist families who are at imminent risk of homelessness by providing one-time financial assistance and supportive services. In addition, the program would help homeless families obtain and maintain permanent housing through short-term rental assistance and supportive services. The program complements existing countywide efforts to reduce and prevent homelessness among families by building partnerships with cities and school districts. The presentation will summarize needs among homeless and low income families; summarize the program models and existing services; and, describe the proposed expansion and partnership between the various agencies.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



CITY COUNCIL EXECUTIVE SESSION

Friday, September 30, 2016 – 8:00 a.m.

**Marriott Courtyard San Jose Campbell - Board Room
655 Creekside Way, Campbell, California**

The City Council Special Meeting will be teleconferenced pursuant to Government Code Section 54953(b)(3) with Councilmember Jeffrey Cristina from the location of 73896 Desert Bloom Trail, Palm Desert, California, 92260. The teleconference location shall be accessible to the public for the open session portion of the meeting pursuant to Government Code Section 54953(b)(3).

Note: This Special Meeting was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

CALL TO ORDER, ROLL CALL

The City Council of the City of Campbell convened this day in a special meeting at the Marriott Courtyard San Jose Campbell, 655 Creekside Way, Campbell, California.

Roll Call:

Present: Councilmembers: Kotowski, Resnikoff, Cristina (teleconferenced), Gibbons, Baker

Absent: Councilmembers: None

PUBLIC COMMENTS

There were no public comments.

EXECUTIVE SESSION

- 1. Pursuant to G.C. Section 54957(b)(1): Public Employee Appointment – Title of Position: City Manager**

The City Council met in Executive Session regarding agenda item one.

ADJOURNMENT

Mayor Baker adjourned Executive Session at approximately 4:30 p.m.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



CITY COUNCIL EXECUTIVE SESSION

Tuesday, October 4, 2016 – 8:30 a.m.

Campbell Community Center – Orchard City Banquet Hall
1 W. Campbell Avenue, Campbell, California

The City Council Special Meeting will be teleconferenced pursuant to Government Code Section 54953(b)(3) with Councilmember Jeffrey Cristina from the location of 73896 Desert Bloom Trail, Palm Desert, California, 92260. The teleconference location shall be accessible to the public for the open session portion of the meeting pursuant to Government Code Section 54953(b)(3).

Note: This Special Meeting was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

CALL TO ORDER, ROLL CALL

The City Council of the City of Campbell convened this day in a special meeting at the Campbell Community Center – Orchard City Banquet Hall, 1 W. Campbell Avenue, Campbell, California.

Roll Call:

Present: Councilmembers: Kotowski, Resnikoff, Cristina (teleconferenced), Gibbons, Baker

Absent: Councilmembers: None

PUBLIC COMMENTS

There were no public comments.

EXECUTIVE SESSION

1. Pursuant to G.C. Section 54957(b)(1): Public Employee Appointment – Title of Position: City Manager

The City Council met in Executive Session regarding agenda item one.

ADJOURNMENT

Mayor Baker adjourned Executive Session at approximately 2:30 p.m.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



CAMPBELL CITY COUNCIL STUDY SESSION

Tuesday, October 18, 2016 - 6:30 p.m.

Council Chamber – 70 N. First Street

NOTE: No action may be taken on a matter under Study Session other than direction to staff to further review or prepare a report. Any proposed action regarding items on a Study Session must be agendized for a future Regular or Special City Council meeting.

This Study Session was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

This meeting was recorded and can be viewed in its entirety at www.cityofcampbell.com/agendacenter.

NOTE: No action may be taken on a matter under Study Session other than direction to staff to further review or prepare a report. Any proposed action regarding items on a Study Session must be agendized for a future Regular or Special City Council meeting.

CALL TO ORDER, ROLL CALL

The City Council of the City of Campbell convened this day in the Council Chambers of City Hall, 70 N. First Street, Campbell, California, to discuss medical marijuana.

Present: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

Absent: Councilmembers: Cristina

Staff Present: Mark Linder, City Manager; Bill Seligmann, City Attorney; Wendy Wood, City Clerk; and Gary Berg, Police Captain.

NEW BUSINESS

1. **Medical Marijuana**

Recommended Action: Conduct study session and provide direction to staff.

City Manager Mark Linder gave brief background information from the previous study session.

Michelle McGurk, Assistant to the City Manager for the City of San Jose, spoke about Proposition 64 and what aspects the City can prohibit and regulate.

PUBLIC COMMENT

Susan Landry, Campbell resident, spoke about concerns with the medical marijuana initiative and personal cultivation.

Council discussed allowing delivery in the City and discussed issues with the medical marijuana initiative that they are not willing to allow.

After further discussion, Council directed staff to prepare an emergency ordinance for the November 1, 2016 City Council meeting to address the issues of Proposition 64; authorized the Mayor to meet with the local ballot measure proponents to see if there is room for compromise.

ADJOURN

Mayor Baker adjourned the meeting at 7:24 p.m.

APPROVED:

ATTEST:

Jason T. Baker, Mayor

Wendy Wood, City Clerk

CITY COUNCIL MINUTES

City of Campbell, 70 North First Street, Campbell, California



REGULAR MEETING OF THE CAMPBELL CITY COUNCIL

Tuesday, October 18, 2016 – 7:30 p.m.
Council Chamber – 70 N. First Street

This City Council meeting was duly noticed pursuant to open meeting requirements of the Ralph M. Brown Act (G.C. Section 54956).

This meeting was recorded and can be viewed in its entirety at www.cityofcampbell.com/agendacenter.

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE

The City Council of the City of Campbell convened this day in the regular meeting place, the Council Chamber of City Hall, 70 N. First Street, Campbell, California.

Roll Call:

Present: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

Absent: Councilmembers: Cristina

SPECIAL PRESENTATIONS AND PROCLAMATIONS

There were no special presentations and proclamations.

COMMUNICATIONS AND PETITIONS

There were no communications or petitions.

ORAL REQUESTS

NOTE: This portion of the meeting is reserved for persons wishing to address the City Council on any matter not on the agenda. Persons wishing to address the Council are requested, but not required to complete a Speaker's Card. Speakers are limited to two (2) minutes. The law generally prohibits the Council from discussion or taking action on such items. However, the Council may instruct staff accordingly regarding Oral Requests.

Doug Gillison, Campbell resident, submitted a list of residents for the record that would like to be part of the Harriet and McCoy Avenue working group to address traffic calming and pedestrian bike safety issues.

Richa, Ahana, Yash, and Advik provided a hand out for council and gave a brief presentation about bee conservation.

Arnold Breit stated concerns with an individual parking old cars and taking up several spaces in the parking garage building located at 155 E. Campbell Avenue.

COUNCIL ANNOUNCEMENTS

Applications are now being accepted for seats on the Parks and Recreation Commission for terms expiring December 2016. To be eligible for appointment to this voluntary advisory commission, applicants must reside within Campbell city limits and be at least 18 years old. Applications are due October 31 by 5:00 p.m. Contact the City Clerk's Office for more information at (408) 866-2117.

Established neighborhood associations and neighborhood groups considering establishment are encouraged to apply for grant funding up to \$500. The deadline to submit applications for consideration by the Civic Improvement Commission is Monday, October 31. Applications and information are available on the CIC's web page at www.cityofcampbell.com. Contact Michael Thomas with the City Manager's Office at (408) 866-2125 for more information.

This Friday's History Happy Hour event at the Ainsley House features a presentation entitled *Campbell Rails* by Councilmember Michael Kotowski. This presentation will cover rail service in Campbell from the 19th Century to today and how the City contributed to California's economic growth. Doors open at 5:30 p.m. with presentation at 6:00 p.m. Register online at www.cityofcampbell.com/museum or call (408) 866-2104. Contact Kerry Perkins at (408) 866-2718 for more information.

In celebration of American Archives Month, the Campbell Historical Museum and Ainsley House will be participating in the Santa Clara Valley Archives Crawl on Saturday October 22 from noon to 4:00 p.m. Visitors can explore the Ainsley House's special exhibit, "Agents of Decay," where they can use detective skills to solve case files. Participants can visit the Historical Museum for a hands-on history experience. Contact the Historical Museum for more information about this admission-free event at (408) 866-2119.

The Heritage Theatre's concert series opens this Saturday, October 22 with a performance by county music artist Sammy Kershaw at 8:00 p.m. You can purchase tickets for this and other shows including season ticket packages at [cityofcampbell.com/Heritage Theatre](http://cityofcampbell.com/HeritageTheatre). Tickets can also be purchased at the Heritage Theatre Box Office by calling (408) 866-2700.

The Historical Museum will host its 14th annual Spooky Night Halloween event on Friday, October 28th from 2:00 p.m. to 6:00 p.m. This free event invites kids and families to come in costume or enjoy the Halloween crafts and games for kids of all ages. Contact the Historical Museum at (408) 866-2119 for more information.

The Campbell Veterans Memorial Foundation is hosting its annual salute to veterans gala dinner and fundraiser on Saturday, November 5 at Orchard City Banquet Hall at 5:30 p.m. Funds raised support an endowment to help returning veterans re-enter

civilian life by attending college and other training programs. For more information and to purchase tickets to this event, please visit www.campbellveteransmemorial.org.

Join the Campbell Police Foundation's breakfast fundraising event on Saturday, November 5 at the Home Church at 8:00 a.m. This event helps fund training and equipment for the Police Department. For more information and to purchase tickets, visit www.campbellpolicefoundation.org.

The Silicon Valley Clean Energy Authority will host a panel discussion to provide information on this new agency's role, purpose and benefits. This free community event is also an opportunity for community members and businesses to ask questions about this new agency's services. This event is scheduled from 7:00 PM to 10:00 PM in the council chambers at Campbell City Hall.

CONSENT CALENDAR

NOTE: All matters listed under consent calendar are considered by the City Council to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a request is made by a member of City Council, City staff, or a member of the public. Any person wishing to speak on any item on the consent calendar should ask to have the item removed from the consent calendar prior to the time the Council votes to approve. If removed, the item will be discussed in the order in which it appears.

Mayor Baker asked if any Councilmember or anyone in the audience wished to remove any item from the Consent Calendar.

The Consent Calendar was considered as follows:

1. **Minutes of Study Session of October 4, 2016**

Recommended Action: Approve the regular meeting minutes.

This action approves the Study Session Minutes of October 4, 2016.

2. **Minutes of Regular Meeting of October 4, 2016**

Recommended Action: Approve the regular meeting minutes.

This action approves the minutes of the regular meeting of October 4, 2016.

3. **Approving Bills and Claims**

Recommended Action: Approve the bills and claims in the amount of \$1,170,359.75.

This action approves the bills and claims in the amount of \$1,170,359.75 as follows: payroll check dated September 22, 2016 in the amount of \$263,579.36; bills and claims checks dated September 26, 2016 in the amount of \$797,139.26; and bills and claims checks dated October 3, 2016 in the amount of \$109,641.13.

4. **Approval to Carryover Unspent Capital Budget Appropriations and Operating Budget Encumbrances (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution amending the City's capital budget in the amount of \$8,107,003 plus related transfers, re-allocations, and consolidations; and adopt a resolution amending the City's operating budget in the amount of \$1,323,846 for re-appropriation of operating encumbrances.

Resolution 12060 amends the City's capital budget in the amount of \$8,107,003 plus related transfers, re-allocations, and consolidations; and resolution 12061 amends the City's operating budget in the amount of \$1,323,846 for re-appropriation of operating encumbrances.

5. **Authorize the City Manager to Sign a Memorandum of Understanding Between the City of Milpitas and City of Campbell for Shared Use of Public Safety Computer Aided Dispatch System and to Make FY17 Budget Adjustments Necessary for the Project (Resolution/Roll Call Vote)**

Recommended Action: Adopt a resolution authorizing the City Manager to sign a Memorandum of Understanding between the City of Milpitas and City of Campbell for Shared Use of Public Safety Computer Aided Dispatch System; and authorize a budget adjustment to reimburse Milpitas for the time their System Administrator will work on the shared system for Campbell related implementation/support.

Resolution 12062 authorizes the City Manager to sign a Memorandum of Understanding between the City of Milpitas and City of Campbell for Shared Use of Public Safety Computer Aided Dispatch System; and authorizes a budget adjustment to reimburse Milpitas for the time their System Administrator will work on the shared system for Campbell related implementation/support.

6. **Second Reading of Ordinance 2209 Approving a City-Initiated Text Amendment (PLN2015-365) to Reinsert Language Regarding Payday Lending Establishments that was Inadvertently Omitted when the Municipal Code was Updated on April 5, 2016 Concerning Massage Establishments (Ordinance/Roll Call Vote)**

Recommended Action: Take the second reading and adopt Ordinance 2209 approving a Text Amendment Amending Section 21.10.50 of the Campbell Municipal Zoning Code (C-2 General Commercial Zoning District).

This action approves the second reading and adopts Ordinance 2209 approving a Text Amendment Amending Section 21.10.50 of the Campbell Municipal Zoning Code (C-2 General Commercial Zoning District).

M/S: Gibbons/Kotowski - that the City Council approve the Consent Calendar. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

NOES: Councilmembers: None

ABSENT: Councilmembers: Cristina

PUBLIC HEARINGS AND INTRODUCTION OF ORDINANCES

NOTE: Members of the public may be allotted up to two (2) minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of five (5) minutes for opening statements and up to a total of three (3) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

7. Public Hearing to Introduce an Ordinance Approving a Zoning Map Amendment for a Previously Approved Project which was Erroneously Approved by Resolution Rather than by Ordinance (Ordinance/Roll Call Vote)

Recommended Action: Take first reading and introduce an Ordinance approving a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road.

This is the time and place for a public hearing to introduce Ordinance 2210 approving a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road.

Senior Planner McCormick presented staff report dated October 18, 2016.

Mayor Baker declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

There being no one wishing to speak, Mayor Baker closed the public hearing.

M/S: Gibbons/Resnikoff - that the City Council take first reading and introduce Ordinance 2210 approving a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road. Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

NOES: Councilmembers: None

ABSENT: Councilmembers: Cristina

City Clerk Wood read the title of Ordinance 2210.

M/S: Kotowski/Gibbons – that the City Council waive further reading of Ordinance 2210. Motion was adopted unanimously (4-0-1 vote Councilmember Cristina was absent).

8. **Public Hearing to Consider the Application of Majid Saneinead for a Zoning Map Amendment (PLN2016-275) to Change the Zoning District Designation from R-M (Multi-Family Residential) to P-D (Planned Development), Planned Development Permit (PLN2016-276) to Allow the Construction of Two (2) Two-Story Detached Single-Family Homes, Tentative Parcel Map (PLN2016-019) to Create Two Residential Lots and One Common Lot, Tree Removal Permit (PLN2016-277) to Allow for the Removal of One Protected Tree, and Negative Declaration (PLN2016-278) at 1223 Walnut Drive. (Resolution/Ordinance/Roll Call Vote)**

Recommended Action: Introduce an Ordinance, approving a Zoning Map Amendment (PLN2016-275) to change the zoning district designation from R-M (Multi-Family Residential) to P-D (Planned Development); and adopt a Resolution, approving a Planned Development Permit (PLN2016-276) to allow the construction of two (2), two-story detached single-family homes subject to Conditions of Approval; and adopt a Resolution, approving a Tentative Parcel Map (PLN2016-019) to create two single family lots and one commonly owned lot, subject to Conditions of Approval; and adopt a Resolution, approving a Tree Removal Permit (PLN2016-277) to allow for the removal of one protected tree, subject to Conditions of Approval; and adopt a Resolution, adopting a Negative Declaration (PLN2016-278).

This is the time and place for a public hearing to Consider the Application of Majid Saneinead for a Zoning Map Amendment (PLN2016-275) to Change the Zoning District Designation from R-M (Multi-Family Residential) to P-D (Planned Development), Planned Development Permit (PLN2016-276) to Allow the Construction of Two (2) Two-Story Detached Single-Family Homes, Tentative Parcel Map (PLN2016-019) to Create Two Residential Lots and One Common Lot, Tree Removal Permit (PLN2016-277) to Allow for the Removal of One Protected Tree, and Negative Declaration (PLN2016-278) at 1223 Walnut Drive.

Senior Planner McCormick presented staff report dated October 18, 2016.

Mayor Baker declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

Audrey Kiehtriber, President of the San Tomas Area Community Coalition, stated appreciation for the collaborative efforts of staff and the developer on this project.

There being no one else wishing to speak, Mayor Baker closed the public hearing.

M/S: Resnikoff/Gibbons - that the City Council Introduce Ordinance 2211, approving a Zoning Map Amendment (PLN2016-275) to change the zoning district designation from R-M (Multi-Family Residential) to P-D (Planned Development); and adopt Resolution 12063, approving a Planned Development Permit (PLN2016-276) to allow the construction of two (2), two-story detached single-family homes subject to Conditions of Approval;

and adopt Resolution 12064, approving a Tentative Parcel Map (PLN2016-019) to create two single family lots and one commonly owned lot, subject to Conditions of Approval; and adopt Resolution 12065, approving a Tree Removal Permit (PLN2016-277) to allow for the removal of one protected tree, subject to Conditions of Approval; and adopt Resolution 12066, adopting a Negative Declaration (PLN2016-278). Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

NOES: Councilmembers: None

ABSENT: Councilmembers: Cristina

City Clerk Wood read the title of Ordinance 2211.

M/S: Gibbons/Kotowski – that the City Council waive further reading of Ordinance 2211. Motion was adopted unanimously (4-0-1 vote Councilmember Cristina was absent).

9. **Public Hearing to Consider the Application of CFEP Pruneyard, LLC for a Zoning Map Amendment (PLN2015-357) to Amend the Campbell Zoning Map to Rezone a Portion of The Pruneyard from the C-2 (General Commercial) Zoning District to the C-2-O (General Commercial / Overlay) Combining Zoning District; a Master Use Permit (PLN2015-358) to Allow the Construction of a 100,000 square-foot (5-story) Office Building, Four Retail Buildings Constituting 18,600 Square-feet, a 30,000 Square-foot Fitness Facility or a 12,000 Square-foot Retail/Office Building, Expansion of the Existing Parking Structure (3 or 5 stories), Various Site Improvements, Alterations to Existing Buildings, Establishment of a New Land Use Program Including Specifying Permitted and Conditional Uses, Continued Allowance of a Shared Parking Program, and Implementation of a Transportation Demand Management Program (TDM); a Tentative Vesting Parcel Map (PLN2015-77) to Allow Division of the Property into Three Parcels; a Tree Removal Permit (PLN2015-335) to Allow removal of On-Site "Protected" Trees; a Master Sign Plan with a Freeway Oriented Sign (PLN2015-78) to Allow a New Comprehensive Signage Scheme Including an Increase in Sign Area, Height, and Number; and a Zoning Code Amendment (PLN2015-76) to Revise Various Sections of the Campbell Zoning Code (Title 21 of the Campbell Municipal Code) to Reference the Land Use Program Created by the Master Use Permit and to Allow the Signage Proposed by the Master Sign Plan, for Property Located at 1875, 1887, 1901, 1919, 1995, & 1999 S. Bascom Avenue. (Resolutions/Ordinance/Roll Call Vote)**

Recommended Action: Adopt a Resolution, adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (PLN2015-79); and introduce an Ordinance, approving a Zoning Map Amendment (PLN2015-357); and introduce an Ordinance, approving a Zoning Code Amendment (PLN2015-

76); adopt a Resolution, approving a Master Use Permit; and adopt a Resolution, approving a Tentative Vesting Parcel Map; adopt a Resolution, approving a Master Sign Plan (PLN2015-78) with a freeway-oriented sign and an increase to the allowable sign area, height, and number; and adopt a Resolution, approving a Tree Removal Permit (PLN2015-335).

This is the time and place for a public hearing to Consider the Application of CFEP Pruneyard, LLC for a Zoning Map Amendment (PLN2015-357) to Amend the Campbell Zoning Map to Rezone a Portion of The Pruneyard from the C-2 (General Commercial) Zoning District to the C-2-O (General Commercial / Overlay) Combining Zoning District; a Master Use Permit (PLN2015-358) to Allow the Construction of a 100,000 square-foot (5-story) Office Building, Four Retail Buildings Constituting 18,600 Square-feet, a 30,000 Square-foot Fitness Facility or a 12,000 Square-foot Retail/Office Building, Expansion of the Existing Parking Structure (3 or 5 stories), Various Site Improvements, Alterations to Existing Buildings, Establishment of a New Land Use Program Including Specifying Permitted and Conditional Uses, Continued Allowance of a Shared Parking Program, and Implementation of a Transportation Demand Management Program (TDM); a Tentative Vesting Parcel Map (PLN2015-77) to Allow Division of the Property into Three Parcels; a Tree Removal Permit (PLN2015-335) to Allow removal of On-Site "Protected" Trees; a Master Sign Plan with a Freeway Oriented Sign (PLN2015-78) to Allow a New Comprehensive Signage Scheme Including an Increase in Sign Area, Height, and Number; and a Zoning Code Amendment (PLN2015-76) to Revise Various Sections of the Campbell Zoning Code (Title 21 of the Campbell Municipal Code) to Reference the Land Use Program Created by the Master Use Permit and to Allow the Signage Proposed by the Master Sign Plan, for Property Located at 1875, 1887, 1901, 1919, 1995, & 1999 S. Bascom Avenue.

Senior Planner Fama presented staff report dated October 18, 2016.

Dean Rubinson, Director of Development; Melinda Ellis Evers, Managing Principal; James Ellis, Managing Principal; Ken Lowney, Founder and Principal, from Ellis Partners gave a presentation of the project.

Mayor Baker declared the public hearing open and asked if there was anyone in the audience wishing to be heard.

Stephen Blechman stated support for the project and spoke about the positive relationship between the businesses and Ellis Partners.

Trudy Blechman, owner and founder of Trudy's, stated support for the project and spoke about the positive relationship between the businesses and Ellis Partners.

Roger Blechman, owner and founder of Trudy's, stated that he is looking forward to continuing a relationship with Ellis Partners and contributing to the Pruneyard shopping center.

Richard Amico, owner of apartment building at 760 E. Campbell Avenue, stated he preferred build design option two for the new building proposed and spoke about concerns with access to the apparent building during peak traffic times.

Mark Dunkle, Campbell resident, spoke in favor of the proposed project and commented on the relationship with Ellis Partners with the community.

Cole Cameron gave positive comments on Ellis Partners and stated support for the project.

Dan Orloff, Campbell resident and investor in Camera 7, gave positive comments on Ellis Partners and stated support for the project.

Jack NyBlom, Campbell resident and owner of Camera 7, gave positive comments on Ellis Partner and stated support for the project.

Sarah Roberts, Campbell resident, stated concerns with parking and would like to have McBain Avenue a parking permit street.

Audrey Kiehtriber, President of the San Tomas Area Community Coalition, spoke about having handicap parking near the stores throughout the shopping center spoke about a sculpture garden and would like landscaping near the portal to the orchards.

Susan Landry, Campbell resident, spoke about the project and a bike pedestrian connection and stated concerns with intersection at Union and E. Campbell Avenue.

Vikki Essert, Campbell resident, City Planning Liaison and Committee Chair for the Pruneyard/Dry Creek neighborhood, spoke in support of the project and gave positive comments on the Ellis Partners.

Carl San Miguel, Chamber Board of Directors for the Campbell Chamber of Commerce, spoke about the proposed improvements and stated support of the project.

There being no one else wishing to speak, Mayor Baker closed the public hearing.

After discussion, **M/S: Resnikoff/Kotowski – that the City Council adopt Resolution 12067, adopting a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (PLN2015-79); introduce Ordinance 2212, approving a Zoning Map Amendment (PLN2015-357); introduce an Ordinance 2213, approving a Zoning Code Amendment (PLN2015-76); adopt Resolution 12068, approving a Master Use Permit; adopt Resolution 12069, approving a Tentative Vesting Parcel Map; adopt Resolution 12070, approving a Master Sign Plan (PLN2015-78) with a freeway-oriented sign**

and an increase to the allowable sign area, height, and number; and adopt Resolution 12071, approving a Tree Removal Permit (PLN2015-335). Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

NOES: Councilmembers: None

ABSENT: Councilmembers: Cristina

City Clerk Wood read the title of Ordinance 2212.

After discussion, **M/S: Resnikoff/Kotowski** – that the City Council amend the previous motion to make an amendment to Resolution 12068, to include an easement to allow the antennas on top of the building to stay; to the extent as reasonably possible provide bike path design improvements from the creek trail to Campbell Avenue; place public art in the plaza and next to the office building near the portals; and add language stating “definition of standard operation hours which shall be operational hours other than the hours defined for late night activities as defined in section 21.72.020 of the Campbell Municipal Code” and “definition of late night hours shall mean hours defined for late night activities as defined in section 21.72.020 of the Campbell Municipal Code.” Motion was adopted by the following roll call vote:

AYES: Councilmembers: Kotowski, Resnikoff, Gibbons, Baker

NOES: Councilmembers: None

ABSENT: Councilmembers: Cristina

M/S: Gibbons/Kotowski – that the City Council waive further reading of Ordinance 2212. Motion was adopted unanimously (4-0-1 vote Councilmember Cristina was absent).

City Clerk read the title of Ordinance 2213.

M/S: Gibbons/Kotowski – that the City Council waive further reading of Ordinance 2213. Motion was adopted unanimously (4-0-1 vote Councilmember Cristina was absent).

Mayor Baker stated they would be taking a 10 minute break. Meeting reconvened at 10:50 p.m.

NEW BUSINESS

There were no agenda items.

COUNCIL COMMITTEE REPORTS

10. **Extend Application Deadline for the Historic Preservation Board Opening**
Recommended Action: Extend the application deadline for the Historic Preservation Board until a sufficient number of applications are received.

City Clerk Wood presented staff report dated October 18, 2016.

M/S: Resnikoff/Gibbons - that the City Council extend the application deadline for the Historic Preservation Board until a sufficient number of applications are received. Motion was adopted unanimously (4-0-1 vote Councilmember Cristina was absent).

11. **City Councilmember Reports/Updates on Committee Assignments**
Recommended Action: Report on committee assignments and general comments.

-- Councilmember Kotowski attended the Friends of the Heritage Theatre Board meeting; spoke about a claim filed by the West Valley Sanitation District against San Jose; attended the Oktoberfest Fun Run; and spoke about his upcoming History Happy Hour presentation on October 21st.

-- Councilmember Resnikoff attended the Downtown Campbell Business Association meeting; Rosemary Elementary Fall Festival; Valley Transportation Authority Policy Advisory Committee meeting; Oktoberfest fun run; spoke about the Campbell Police Foundation dunk tank; and Silicon Valley Animal Control Authority 49er's event.

-- Vice Mayor Gibbons spoke about meeting the new senior team for Campbell Middle School; hosted the Casa de Mir Middle School and took them on a tour of the Police Department; spoke about possible new board members for the Campbell Historical Museum & Ainsley House Foundation; attended the Silicon Valley Clean Energy Authority Board of Directors meeting; League of California Cities Conference; volunteered at the Oktoberfest; spoke about affordable housing for disabled persons and encouraged staff to continue working with the McCoy and Harriet neighborhood.

-- Mayor Baker attended the Valley Transportation Board meeting; the Mega Region Working Committee meeting; attended the West Valley Mayor and Managers meeting; Community Coffee with Assembly Member Evan Low; spoke about a class trip to the Museum; participated in the Campbell Police Foundation dunk tank; and attended the Cities Association of Santa Clara County meeting.

ADJOURN

Mayor Baker adjourned the meeting at 11:10 p.m.

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



City Council Report

Item: 7.
Category: Consent Calendar
Meeting Date: November 01, 2016

TITLE: Approving Payment of Bills and Claims

RECOMMENDATION

Approve the attached lists of bills and claims for payment in the amount of \$1,773,803.28.

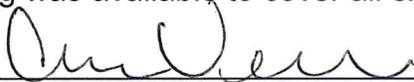
DISCUSSION

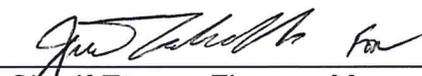
Attached are the lists of bills and claims that have been audited and approved by staff for payments made as noted below:

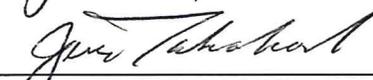
<u>Type</u>	<u>Check Date</u>	<u>Amount</u>
Payroll	October 06, 2016	\$314,173.89
Bills & Claims	October 10, 2016	\$355,235.32
Bills & Claims	October 17, 2016	\$1,104,394.07
	Total	\$1,773,803.28

FISCAL IMPACT

Adequate funding was available to cover all expenses as listed.

Prepared by: 
Carolina Vargas, Accounting Clerk II

Reviewed by: 
Sharif Etman, Finance Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

Attachments:

Attachment 1 – Bills & Claims Lists



City Council Report

Item: 8.
 Category: Consent Calendar
 Meeting Date: November 1, 2016

Title: Monthly Investment Report – September, 2016

RECOMMENDATION

That the attached Investment Report for September, 2016 be noted and filed.

DISCUSSION

The City invests primarily in the State of California Local Agency Investment Fund (LAIF) and US Government Agency securities to preserve the safety of the City's surplus funds while achieving a reasonable return on its portfolio. The City's strategy is one of buy-and-hold in which a portion of the portfolio is invested in fixed income securities of varying maturities that will provide sufficient cash flow to meet the City's operational needs.

During the month of September, the City did not purchase any new investments, nor did any investments get called. The total portfolio decreased approximately \$1.3 million mainly due to the seasonal variations in property tax receipts and increase holding in cash position. The City withdrew \$2 million from LAIF to cover operating expenditures.

All investments are made in accordance with the City's established Investment Policy or as authorized pursuant to bond covenants. Presented within this report are the following:

- Investment balance and earnings for September, 2016
- Summary of investments by types as of September, 2016
- List of investments by institution as of September, 2016
- Reconciliation of pooled cash as of September, 2016
- Investment transactions as of September, 2016
- Actual Receipts and Disbursements for September, 2016
- Cash flow projections for the month of December, 2016

Investment Balance and Earnings - September, 2016

Bal. at Beg. of Month 09/01/16	Purchases/ Deposits	Maturities/ Withdrawals	Bal. at End of Month 09/30/16	Interest Earned this Month	Interest Earned YTD	% of Interest Earned YTD/Budget
\$ 40,393,677	\$ 9,815,446	\$ (11,150,421)	\$ 39,058,702	\$ 24,828	\$ 71,109	41.83%

<u>Summary of Investments by Type - September, 2016</u>						
<u>Description</u>	<u>Current Month</u> <u>09/30/16</u>	<u>% of Total Portfolio</u>	<u>Prior Month</u> <u>08/31/16</u>	<u>% of Total Portfolio</u>	<u>Prior Year</u> <u>9/30/15</u>	<u>% of Total Portfolio</u>
L.A.I.F.	\$ 30,844,404	78.97%	\$ 32,844,404	81.31%	\$ 27,113,822	76.92%
Agencies	5,500,000	14.08%	5,500,000	13.62%	4,000,000	11.35%
Corporate Notes	2,031,100	5.20%	2,031,100	5.03%	-	0.00%
Money Market (U.S. Bank)	0	0.00%	5.80	0.00%	4,133,535	11.73%
Money Market (BNY Mellon)	683,198	1.75%	18,167	0.04%	-	-
Total	\$ 39,058,702	100.00%	\$ 40,393,677	100.00%	\$ 35,247,357	100.00%

Cash Flow Projections

The cash flow projection reflects there are sufficient funds available to meet the City of Campbell's anticipated expenditures for December, 2016 through May, 2017 (See Exhibit II).

<u>List of Investments by Institution - September, 2016</u>				
<u>Institution</u>	<u>Cost</u>	<u>% of Total Portfolio</u>	<u>Market Value</u>	<u>Diff. Bet. Cost & Market</u>
L.A.I.F.	\$ 30,844,404	78.97%	\$ 30,853,844	\$ 9,440
Federal National Mortgage Assn. (FNMA) *	2,000,000	5.12%	2,002,800	2,800
Federal Farm Credit Bank (FFCB)*	1,500,000	3.84%	1,500,285	285
Federal Home Loan Mortgage Corp (FHLMC) *	2,000,000	5.12%	2,000,200	200
Wells Fargo Bank *	2,031,100	5.20%	2,009,000	(22,100)
BNY Mellon-Money Market Fund **	683,198	1.75%	683,198	-
	\$ 39,058,702	100.00%	\$ 39,049,327	\$ (9,375)

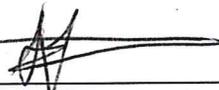
* The City intends to hold treasury/agency securities to maturity or until they are called, as a result this is a paper gain and/or loss that will not be realized.

** Cash with fiscal agent held for debt service payment and cost of issuance for 2016 Leased Revenue Bonds and cost of issuance for 2016 Tax Allocation Bonds.

<u>Reconciliation of Pooled Cash per Ledgers to Investment Report</u>	
<u>September, 2016</u>	
Balance per ledger - September, 2016	\$ 40,680,399
August, 2016 payments to be journalized - refinance of debts	(2,286,722)
September, 2016 payments & interest to be journalized - refinance of debts	(4,506)
September, 2016 lease revenue bond obligation to be journalized	669,531
Adjusted General Ledger Balance	<u>39,058,703</u>
Balance Per Investment Report	<u>39,058,703</u>

<u>Summary of Total Cash Invested</u>			
<u>Description</u>	<u>Current Month</u> <u>09/30/16</u>	<u>Prior Month</u> <u>08/31/16</u>	<u>Prior Year</u> <u>09/30/15</u>
Cash on Deposit	\$ 2,687,826	\$ 1,393,233	\$ 1,991,194
Investments	<u>39,058,702</u>	<u>40,393,677</u>	<u>35,247,357</u>
Total Cash and Investments	<u>\$ 41,746,528</u>	<u>\$ 41,786,910</u>	<u>\$ 37,238,551</u>
% of Total Cash Invested	<u>93.56%</u>	<u>96.67%</u>	<u>94.65%</u>

Prepared by: 
Sophie Kao, Accountant

Reviewed by: 
Sharif Etman, Finance Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Approved by: 
Mark Linder, City Manager

- Attachment 1 - Monthly Schedule of Investments
- Attachment 2 - Cash Flow Projection
- Attachment 3 - Actual Receipts & Disbursements

**City of Campbell
Monthly Schedule of Investments
For the month ending September, 2016**

Attachment 1

	Beginning Balance	Purchases/ Deposits	Maturities/ Calls/ Withdrawals	Ending Balance	% of Type	% of Assets	Par Value	* Market Value	Maturity Date	Remain Days To Mat	Interest Rate (Annual)	Interest Earned To Maturity	# of Days In Month	Int.Recv. Beginning Balance	Interest Earned This Mo.	Interest Received This Mo.	Int.Recv. Ending Balance	Interest Received To Date	Interest Bal. to Maturity
Local Agency Investment Fund (L.A.I.F.)	\$ 32,844,404.23		\$ (2,000,000.00)	\$ 30,844,404.23	100.00%	78.97%	\$ 30,844,404	\$ 30,853,844	N/A	N/A	0.634% Q	N/A	30	\$ 34,029.48	\$ 16,717.65		\$ 50,747.13	\$ 46,701.31	N/A
Cash & Gov't Securities (Custodian-BNY Bank)																			
Fed. Farm Credit Bank (FFCB) Fixed	1,500,000.00			1,500,000.00	27.27%	3.84%	1,500,000	1,500,285	11/30/18	791	1.340% S	59,859	30	5,066.29	1,652.05		6,718.34	10,050.00	49,809
Fed. Nat'l Mtg. Assoc. (FNMA) Fixed	2,000,000.00			2,000,000.00	36.36%	5.12%	2,000,000	2,002,800	05/25/21	1,698	1.750% S	175,096	30	11,794.51	2,876.71		14,671.22	-	175,096
Fed. Home Loan Mortgage (FHLMC)	2,000,000.00			2,000,000.00	36.36%	5.12%	2,000,000	2,000,200	03/30/18	546	1.000% S	49,973	30	8,438.36	1,643.84	10,000.00	82.20	20,000.00	29,973
Subtotal-Gov't Securities	5,500,000.00	-	-	5,500,000.00	100.00%	14.08%	5,500,000	5,503,285			1.366%	284,928		25,299.16	6,172.60	10,000.00	21,471.76	30,050.00	254,878
Corporate Notes																			
Wells Fargo Bank	2,031,100.00			2,031,100.00	100.00%	5.20%	2,000,000	2,009,000	05/24/19	966	1.750%	100,110	30	(515.87)	1,937.32		1,421.45	-	-
Subtotal-Corporate Notes	2,031,100.00	-	-	2,031,100.00	100.00%	5.20%	2,000,000	2,009,000			2.150%	100,110		(515.87)	1,937.32	-	1,421.45	-	-
Investment Contract (Bayerische Landesbank)						0.00%	0	0			S								
Investments under the management of contracted parties:																			
Trustee: U.S. Bank																			
1997 COP																			
Treasury Obligations - Lease Payment	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	2,873.71	N/A
Treasury Obligations	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	-	-
2002 COP																			
First American Treasury D - Lease Pmt	0.16	-	-	0.16	0.00%	0.00%	0	0	N/A	N/A	0.003% M	N/A	30	-	-	-	-	4,760.72	N/A
First American Treasury D - Improvement	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	152,311.90	N/A
2002 RDA TABs																			
First American Treasury D - Interest	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.003% M	N/A	30	-	-	-	-	3,755.22	N/A
First American Treasury D - Reserve	5.64	0.38	(6.02)	-	0.00%	0.00%	0	0	N/A	N/A	0.006% M	N/A	30	-	0.38	0.38	-	154,388.90	N/A
First American Treasury D - Principal	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.002% M	N/A	30	-	-	-	-	2,616.89	N/A
First American Treasury D - Redevelop	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	4,081.34	N/A
2005 RDA TABs																			
First American Treasury D - Interest	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	2,226.96	N/A
First American Treasury D - Principal	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	623.73	N/A
First American Treasury D - Reserve	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.001% M	N/A	30	-	-	-	-	111,418.63	N/A
First American Treasury D	-	-	-	-	0.00%	0.00%	0	0	N/A	N/A	0.000% M	N/A	30	-	-	-	-	-	N/A
Trustee: BNY Mellon																			
2016 Lease Revenue Proceeds	-	9,145,915.02	(9,145,915.02)	-	0.00%	0.00%	0	0	N/A	N/A	0.000%	N/A	30	-	-	-	-	-	-
2016 Lease Revenue COI	5,330.82	-	(2,250.00)	3,080.82	0.45%	0.01%	3,081	3,081	N/A	N/A	0.000%	N/A	30	-	-	-	-	-	N/A
2016 Lease Revenue Bond Payment	-	669,531.11	-	669,531.11	98.00%	1.71%	669,531	669,531	N/A	N/A	0.000%	N/A	30	-	-	-	-	-	-
2016 TAB Refunding COI	12,836.33	-	(2,250.00)	10,586.33	1.55%	0.03%	10,586	10,586	N/A	N/A	0.000%	N/A	30	-	-	-	-	-	N/A
Subtotal-Trust A/C	18,172.95	9,815,446.51	(9,150,421.04)	683,198.42	100.00%	1.75%	683,198	683,198			N/A	N/A		-	0.38	0.38	-	439,057.99	-
Total Portfolio	\$ 40,393,677.18	\$ 9,815,446.51	(\$ 11,150,421.04)	\$ 39,058,702.65	100.00%	\$ 39,027,602	\$ 39,049,327	Wgt Avg	0.768%	\$ 385,038	\$ 58,812.77	\$ 24,827.95	\$ 10,000.38	\$ 73,640.34	\$ 515,809.30	\$ 254,878			

Investment Portfolio increased / (Decreased) by: **\$ (1,334,974.53)** Weighted Average to Maturity = **199.2 Days**

Note:	Month	Portfolio Balance		% of Total Cash Invested		Month	Wgt Avg	Rate/Annual Yield		Actual Interest Earned		Actual Interest Received	
		FY 16-17	FY 15-16	FY 16-17	FY 15-16			FY 16-17	FY 15-16	FY 16-17	FY 15-16		
S - Semi-Annual	July	\$ 43,680,399	\$ 37,670,072	93.04%	95.78%	July	Wgt Avg	0.671%	0.415%	\$ 24,819	\$ 13,268	\$ 46,706	\$ 20,071
Q - Quarterly	August	40,393,677	35,670,878	96.67%	89.78%	August	Wgt Avg	0.745%	0.408%	21,462	12,516	6	10,318
M - Monthly	September	39,058,703	35,247,357	93.56%	94.65%	September	Wgt Avg	0.768%	0.341%	24,828	9,550	10,000	6,568
	October		33,195,877		93.33%	October	Wgt Avg		0.413%		11,634		24,996
	November		33,195,882		91.10%	November	Wgt Avg		0.426%		11,635		5
	December		33,195,890		93.30%	December	Wgt Avg		0.476%		12,721		8
	January		37,220,681		92.07%	January	Wgt Avg		0.517%		16,347		24,792
	February		38,220,687		94.67%	February	Wgt Avg		0.530%		15,909		5
	March		37,620,138		92.13%	March	Wgt Avg		0.467%		14,933		19,784
	April		40,254,803		90.31%	April	Wgt Avg		0.552%		18,274		34,114
	May		43,354,808		97.32%	May	Wgt Avg		0.629%		23,744		10,055
	June		45,602,593		97.45%	June	Wgt Avg		0.642%		21,124		5
30-Sep-16													
30	Average	\$ 41,044,260	\$ 37,537,472	Average 94.42%	Average 93.49%	Average		0.728%	0.485%	\$ 71,109	\$ 181,655	\$ 56,712	\$ 150,719

Per Governmental Code requirements, this schedule of Investments complies with the City of Campbell's Investment Policy, and there are adequate funds available to meet the budgeted expenditures for the next six months.

* Market prices are obtained from the monthly investment statements of the various institutions or the City's third-party custodian, BNY Mellon Bank.

Cash Flow Projection for the Month of December 2016

Date	Revenue Description	Receipt Amount	Date	Expenditure Description	Payment Amount
1	Community Center Leases/Rentals	\$ 216,000	1	Outstanding Checks	\$ 850,000
5	Environmental Services Fees	45,000	5	Bills & Claims	200,000
5	Franchise Fees	210,000	12	Bills & Claims	350,000
12	Property Taxes	1,900,000	19	Bills & Claims	850,000
12	Other Taxes	60,000	26	Bills & Claims	550,000
12	Licenses and Permits	250,000	1	Payroll	700,000
12	Fines/Forfeitures/Penalties	24,000	8	Payroll - Holiday Pay	145,000
19	Investment Interest	50,000	15	Payroll	695,000
19	Motor Vehicle in Lieu	-	29	Payroll	690,000
19	Highway Users Tax	-	9	CalPers Health Insurance Payment	150,000
19	Intergovernmental	417,000	30	CalPers Retirement Funding	150,000
19	Charges for Current Services	600,000			
26	Sales & Use Tax (incl. Meas.O)	30,000			
26	Park Dedication Fees	-			
30	Transient Occupancy Tax (monthly)	137,000			
30	Miscellaneous Receipts	25,000			
	Sub-total (Receipts)	3,964,000		Sub-total (Expenditure)	5,330,000
	Amount expected to be withdrawn from Investments to cover this month's expenditures.	1,366,000		Amount of expected revenue available for investment.	-
	Total	\$ 5,330,000		Total	\$ 5,330,000

Note:

The approximately \$30.8 million invested with the Local Agency Investment Fund (see Exhibit I) is highly liquid and available on any business day. It, therefore, can be reasonably estimated that sufficient funds are readily available to cover normal expenditures for the subsequent six-month period. More specifically, the monthly cash flow projection reflects that sufficient funds are available to meet the anticipated expenditures for the month.

Actual Receipts & Disbursements for the Month of September 2016

Fund / Account	Revenue Description	Receipt Amount	Date	Expenditure Description	Payment Amount
4810, 4819	Community Center/Dev. Leases/Rentals	\$ 226,624	1	Outstanding Checks as of 8/31/2016	\$ 531,385
F209, 4720, 21, 22, 24	Environmental Services Fees	36,737	5	Bills & Claims	307,541
4120-4125	Franchise Fees	251,519	12	Bills & Claims	230,902
40XX, 4153	Property Taxes	48,991	19	Bills & Claims	243,098
4151,4152,4155	Other Taxes	47,129	26	Bills & Claims	792,103
42XX	Licenses and Permits	164,294	31	Bills & Claims-manual & voided checks	16,872
43XX	Fines/Forfeitures/Penalties	20,612	8	Bills & Claims-PR vendors' checks	309,745
4410,4431, 4450	Investment Interest	10,000	22	Bills & Claims-PR vendors' checks	263,579
4580	Motor Vehicle in Lieu	8,989	8	Payroll	700,934
4586	Highway Users Tax	-	22	Payroll	690,630
other 45XX	Intergovernmental--Other	50,314	8	Calpers Insurance Payment	150,043
4510-4516	Intergovernmental--Gas Taxes	-			
4571, 4572	Intergovernmental--VTA Meas. B	-			
4590,4591,4592 F333	Intergovernmental--Successor Agency	-			
46XX-47XX, excl 4725	Charges for Current Services	312,970			
4110-4115	Sales & Use Tax (incl. Meas.O)	1,255,029			
F295,4920	Park Dedication Fees	-			
4150	Transient Occupancy Tax (monthly)	425,587			
48XX-49XX, excl F798	Miscellaneous Receipts	11,904			
F366,368,4450,4966	Miscellaneous Receipts (from RDA)	-			
F207,236,367exc237,5XXX	Special Assessment	-			
	Sub-total (Receipts)	2,870,699		Sub-total (Expenditure)	4,236,833
	Amount withdrew from Investments to cover this month's expenditures.	1,366,134		Amount of expected revenue available for investment.	-
	Total	\$ 4,236,833		Total	\$ 4,236,833



City Council Report

Item: 9.
Category: Consent Calendar
Meeting Date: November 1, 2016

TITLE: Second Reading of Ordinance 2210 Approving a Zoning Map Amendment for a Previously Approved Project which was Erroneously Approved by Resolution Rather than by Ordinance (Ordinance Second Reading/Roll Call Vote)

RECOMMENDATION:

That the City Council approve the second reading and adopt Ordinance 2210 approving a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road.

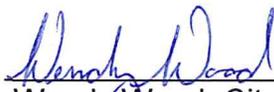
DISCUSSION:

On October 18, 2016, the City Council approved the first reading to Ordinance 2210. Second reading of Ordinance 2210 will approve a Zoning Map Amendment (PLN2015-037) to change the zoning district designation from R-2 (Multi-Family Residential) to P-D (Planned Development) for the property located at 1685 Bucknall Road. Ordinance 2210 will become effective 30 days following the date of the second reading.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachment – Ordinance 2210

ORDINANCE NO. 2210

BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL APPROVING A ZONING MAP AMENDMENT (PLN2015-37) TO CHANGE THE ZONING DISTRICT DESIGNATION FROM R-2 (MULTI-FAMILY RESIDENTIAL) TO P-D (PLANNED DEVELOPMENT) FOR THE PROJECT LOCATED AT **1685 BUCKNALL ROAD**.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The City Council finds as follows with regard to the recommended approval of a Zoning Map Amendment (PLN2016-37):

Environmental Finding

1. An Initial Study has been prepared for the Residential Development project located at 1685 Bucknall Road, and provides documentation for the factual basis for concluding that a Negative Declaration may be adopted since no substantial evidence exists, in light of the whole record, that the project may have a significant effect on the environment. The project consists of the development of three residential units.

Evidentiary Findings

1. The proposed project ("project") includes a Planned Development Permit (PLN2015-35) to allow the construction of three (3), two-story, detached single-family townhomes; Tentative Parcel Map (PLN2015-36) to subdivide a parcel into four parcels including one common lot, Zoning Map Amendment (PLN2015-37) to allow a PD zoning designation, and a Tree Removal Permit (PLN2015-38) on property located at 1685 Bucknall Road.
2. The project site is a .28 net acre property.
3. The project site is generally located on the north side of Bucknall Road, between Rachel Court to the west and Della Court to the east.
4. The project site is currently zoned R-2 (Multi-family Residential) but the applicant has applied for a P-D (Planned Development) Zoning Map Amendment (PLN2015-37).
5. The project site has a General Plan Land Use Designation of *Medium Density Residential (14-20 units/Gr. Acre)*.
6. The proposed Zoning Map Amendment (PLN2015-37) may be approved concurrently, and subject to, a Planned Development Permit (PLN2015-35), Tentative Parcel Map (PLN2015-36), and Tree Removal Permit (PLN2015-38).

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

7. The proposed amendment is consistent with the goals, policies, and actions of the General Plan.

- 8. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city.
- 9. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.
- 10. The parcel is physically suitable (including absence of physical constraints, access, and compatibility with adjoining land uses, and provision of utilities) for the requested zoning designation(s) and anticipated land uses/project.

After due consideration of all evidence presented, the City Council of the City of Campbell does ordain as follows:

SECTION ONE: That this Ordinance be adopted to approve a Zoning Map Amendment (PLN2016-37) to amend the Zoning Map designation from R-2 (Residential Multi-Family) to P-D (Planned Development) for property located at **1685 Bucknall Road**, as depicted by **Exhibit A**.

SECTION TWO: This Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, one time within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

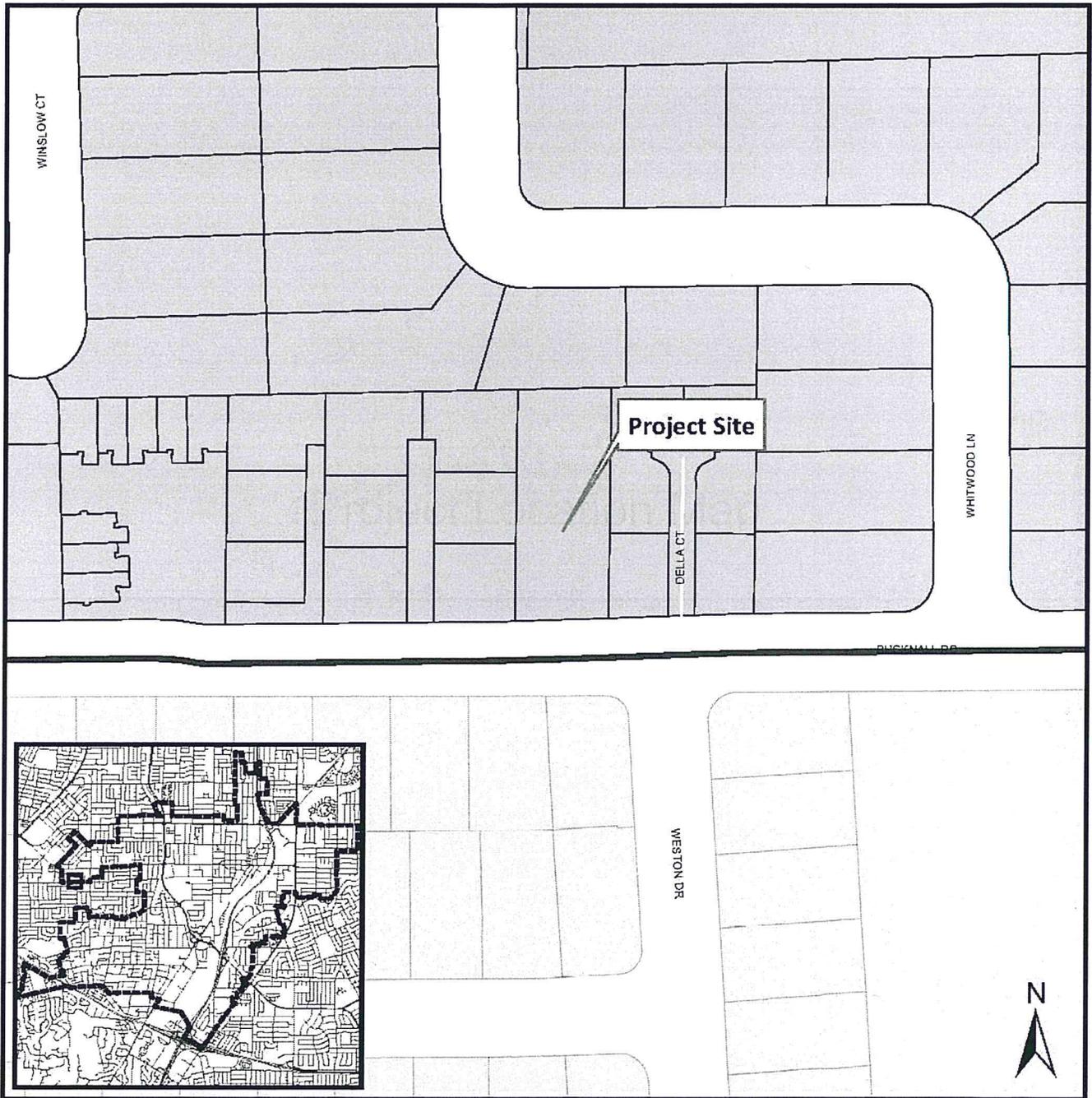
PASSED AND ADOPTED this _____ day of _____, 2016, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

Project Location Map





City Council Report

Item: 10.
Category: Consent Calendar
Meeting Date: November 1, 2016

TITLE: Second Reading of Ordinance 2211 Approving a Zoning Map Amendment (PLN2016-275) to Change the Zoning District Designation from R-M (Multi-Family Residential) to P-D (Planned Development) For Property Located at 1223 Walnut Drive. (Ordinance Second Reading/Roll Call Vote)

RECOMMENDATION:

That the City Council approve the second reading and adopt Ordinance 2211 approving a Zoning Map Amendment (PLN2016-275) to change the zoning district designation from R-M (Multi-Family Residential) to P-D (Planned Development) for the property located at 1223 Walnut Drive.

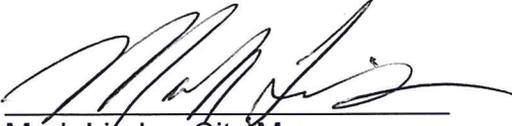
DISCUSSION:

On October 18, 2016, the City Council approved the first reading to Ordinance 2211. Second reading of Ordinance 2211 will approve a Zoning Map Amendment (PLN2016-275) to change the zoning district designation from R-M (Multi-Family Residential) to P-D (Planned Development). Ordinance 2211 will become effective 30 days following the date of the second reading.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

Prepared by: 
Wendy Wood, City Clerk

Approved by: 
Mark Linder, City Manager

ORDINANCE NO. 2211

BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL APPROVING A ZONING MAP AMENDMENT (PLN2016-275) TO CHANGE THE ZONING DISTRICT DESIGNATION FROM R-M (MULTI-FAMILY RESIDENTIAL) TO P-D (PLANNED DEVELOPMENT) FOR THE PROJECT LOCATED AT **1223 WALNUT DRIVE**.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The City Council finds as follows with regard to the recommended approval of a Zoning Map Amendment (PLN2016-275):

Environmental Finding

1. An Initial Study has been prepared for the project which provides documentation for the factual basis for concluding that a Negative Declaration (PLN2016-278) may be adopted since no substantial evidence exists, in light of the whole record, that the project may have a significant effect on the environment as conditioned.

Evidentiary Findings

2. The proposed project ("project") includes a Tentative Parcel Map (PLN2016-019) to create two residential lots and one common lot, Zoning Map Amendment (PLN2016-275) to change the zoning designation from R-M (Multi-Family Residential) to P-D (Planned Development), a Planned Development Permit (PLN2016-276) to allow the construction of two (2) two-story detached single-family homes, a Tree Removal Permit (PLN2016-277) to allow for the removal of one protected tree, and a Negative Declaration (PLN2016-278).
3. The project site consists of a 10,011 square foot (net area) lot located on Walnut Drive between Wendell Drive and Hacienda Avenue.
4. The lot is currently developed with one single-family residence that will be demolished as part of the proposed project.
5. Abutting land uses include a single-family residence to the south, single-family townhomes to the north and east, and a senior living facility to the west.
6. The project site is designated Low-Medium Density Residential (6-13 Units / Gr. Acre) as shown on the Campbell General Plan Map.
7. The proposed residential land use, at a density of approximately seven (7) units/gr. acre, is consistent with the allowable land use and maximum density permitted by the Low-Medium Density Residential General Plan land use designation.
8. The project would be consistent with the following General Plan policies and strategies:

Policy LUT-3.1: Variety of Residential Densities: Provide land use categories for and maintenance of a variety of residential densities to offer existing and future residents of all income levels, age groups and special needs sufficient opportunities and choices for locating in Campbell.

Strategy LUT-5.2a: Neighborhood Compatibility: Promote new residential development and substantial additions that are designed to maintain and support the existing character and development pattern of the surrounding neighborhood, especially in historic neighborhoods and neighborhoods with consistent design characteristics.

9. The project site is zoned R-M (Multi-Family Residential) as shown on the Campbell Zoning Map and will be rezoned to P-D (Planned Development).
10. The land use entitlements for the proposed Project may be approved concurrently where approval of the Tentative Parcel Map is subject to approval of the Zoning Map Amendment and Planned Development Permit.
11. There are no responsible agencies or trustee agencies responsible for resources affected by the project.
12. On the basis of the Initial Study, and as supported by substantial evidence, the project will not have a significant effect on the environment due to the application of uniformly applicable development policies and incorporation of project-specific conditions of approval.
13. The City of Campbell provided a Notice of Intent to adopt a Negative Declaration to the public via the Campbell Express, the County Clerk, and on the City website.
14. The City of Campbell provided a 20-day public review period of the Negative Declaration pursuant to the California Environmental Quality Act Guidelines. The 20-day public review period began on May 25, 2016 and the public was invited to comment on the Draft Negative Declaration in writing and/or in person at the Planning Commission Public Hearing on June 14th and September 13th and the City Council public hearing on October 18, 2016. No comments have been received on the draft Negative Declaration.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

15. The proposed amendment is consistent with the goals, policies, and actions of the General Plan.
16. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city.

17. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.
18. The parcel is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested zoning designation(s) and anticipated land uses/project.

After due consideration of all evidence presented, the City Council of the City of Campbell does ordain as follows:

SECTION ONE: That this Ordinance be adopted to approve a Zoning Map Amendment (PLN2016-275) to amend the Zoning Map designation from R-M (Multi-Family Residential) to P-D (Planned Development) for property located at **1223 Walnut Drive**, as depicted by **Exhibit A**.

SECTION TWO: This Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, one time within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

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

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

Project Location Map





City Council Report

Item: 11.
Category: Consent Calendar
Meeting Date: November 1, 2016

TITLE: Second Reading of Ordinance 2212 Approving a Zoning Map Amendment (PLN2015-357) to Amend the Campbell Zoning Map Designation From C-2 (General Commercial) Zoning District to the C-2-O (General Commercial/Overlay) Combing Zoning District; and Ordinance 2213 Amending Various Sections of Title 21 (Zoning Code) of the Master Use Permit, Including its Land Use Program, Administrative Procedures, and Master Sign Plan, Including Allowance for a Freeway-Oriented Sign and Rooftop Signage for Property Located at 1875, 1887, and 1995 S. Bascom Avenue (Ordinance Second Reading/Roll Call Vote)

RECOMMENDATION:

That the City Council approve the second reading and adopt Ordinance 2212 approving a Zoning Map Amendment (PLN2015-357); and Ordinance 2213 approving a Zoning Code Amendment (PLN2015-76) for property located at 1875, 1887, and 1995 S. Bascom Avenue.

DISCUSSION:

On October 18, 2016, the City Council approved the first reading to Ordinance 2212 and 2213. Second reading of Ordinance 2212 will approve a Zoning Map Amendment (PLN2015-357) to amend the Campbell Zoning Map designation from C-2 (General Commercial) Zoning District to the C-2-O (General Commercial/Overlay) Combing Zoning District; and Ordinance 2213 will amend various sections of Title 21 (Zoning Code) of the Master Use Permit, including its land use program, administrative procedures, and Master Sign Plan, including allowance for a freeway-oriented sign and rooftop signage for property located at 1875, 1887, and 1995 S. Bascom Avenue. Ordinance 2212 and 2213 will become effective 30 days following the date of the second reading.

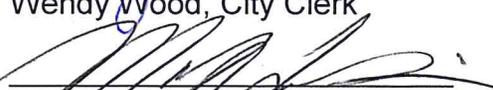
FISCAL IMPACT:

There is no fiscal impact associated with this action.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachments

1. Ordinance 2212
2. Ordinance 2213

ORDINANCE NO. 2212

BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL APPROVING A ZONING MAP AMENDMENT (PLN2015-357) TO AMEND THE CAMPBELL ZONING MAP DESIGNATION FROM THE C-2 (GENERAL COMMERCIAL) ZONING DISTRICT TO THE C-2-O (GENERAL COMMERCIAL / OVERLAY) COMBINING ZONING DISTRICT OF PROPERTY COMMONLY KNOWN AS **1875, 1887, and 1995 S. BASCOM AVENUE.**

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The City Council finds as follows with regard to File No. PLN2015-337:

Environmental Finding

1. An Initial Study has been prepared for the Pruneyard Shopping Center and Offices Expansion Project ("Proposed Project") which provides documentation for the factual basis for concluding that a Mitigated Negative Declaration may be adopted since no substantial evidence exists, in light of the whole record, that the project may have a significant effect on the environment.

Evidentiary Findings

1. The Project Site is The Pruneyard Shopping Center and Offices, a 27 acre multi-use property encompassing three professional office buildings, a hotel, a multi-building retail shopping center, and a multi-level parking garage. The property is bounded by Bascom and Campbell Avenues to the east and south, Highway 17 to the west, and the Pruneridge Plaza Apartments and the Campisi Way terminus to the north.
2. The Proposed Project includes a Zoning Map Amendment (PLN2015-357), a Master Use Permit (PLN2015-358), a Vesting Tentative Parcel Map (PLN2015-77), a Tree Removal Permit (PLN2015-335), a Master Sign Plan (PLN2015-78), and a Zoning Code Amendment (PLN2015-76).
3. The Project Site is within the C-2 (General Commercial) Zoning District and the C-2-O (General Commercial/Overlay) Combining Zoning District as depicted on the Campbell Zoning Map adopted pursuant to Campbell Municipal Code Section 21.040.030.
4. The Project Site is designated by the General Plan Land Use Diagram as *General Commercial*, which corresponds with the above referenced Zoning District designations.

5. The Zoning Map Amendment would rezone that portion of the Project Site commonly known 1875, 1887, and 1995 S. Bascom Avenue, containing The Pruneyard Shopping Center, Outback Steakhouse restaurant, and Doubletree by Hilton hotel, respectively, from the C-2 (General Commercial) Zoning District to the C-2-O (General Commercial / Overlay) Combining Zoning District, as more specifically illustrated by the map exhibit attached to the draft ordinance.
6. Use of land within the C-2-O (General Commercial / Overlay) Combining Zoning District will be governed by a Master Use Permit adopted in compliance with the revised provisions of Campbell Municipal Code Section 21.14.030, as amended by a separate Zoning Code Amendment.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

1. The proposed amendment is consistent with the goals, policies, and actions of the General Plan.
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city.
3. The parcel is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested zoning designation(s) and anticipated land uses/project.

After due consideration of all evidence presented, the City Council of the City of Campbell does ordain as follows:

SECTION ONE: That this Ordinance be adopted to approve a Zoning Map Amendment (PLN2015-357) to amend the Campbell Zoning Map designation from the C-2 (General Commercial) Zoning District to the C-2-O (General Commercial / Overlay) Combining Zoning District of property commonly known as **1875, 1887, and 1995 S. Bascom Avenue**, as depicted by **Exhibit A**.

SECTION TWO: This Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, one time within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

City Council Ordinance
Approving a Zoning Map Amendment
The Pruneyard Shopping Center and Offices Expansion Project

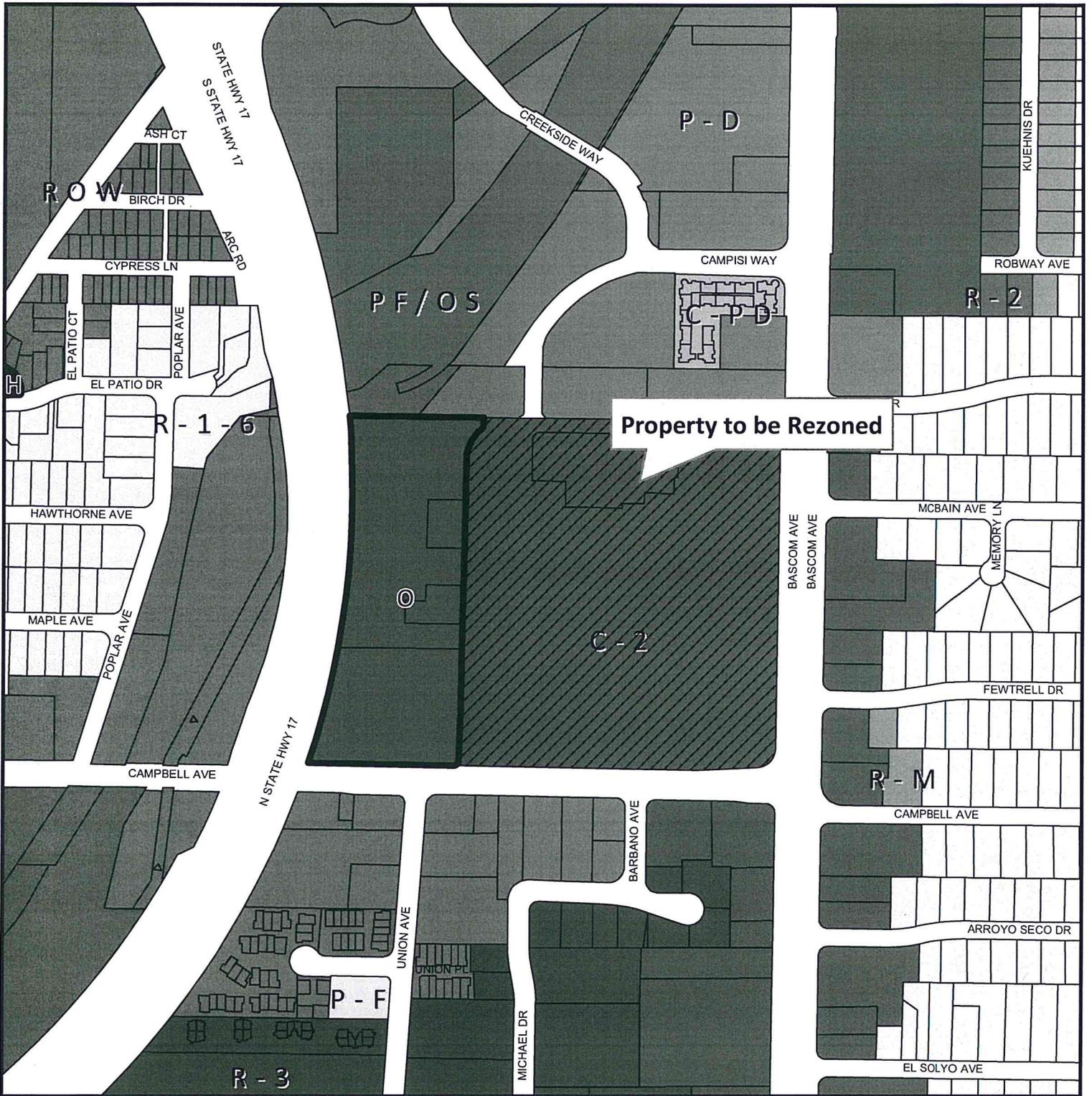
PASSED AND ADOPTED this _____ day of _____, 2016, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

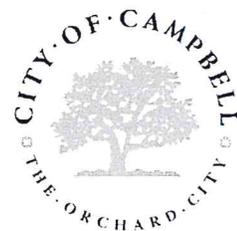
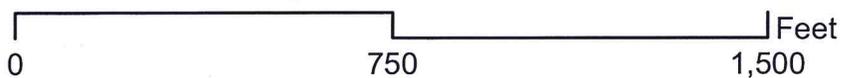
APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

ZONING MAP AMENDMENT



Location: 1875, 1887, and 1995 S. Bascom Ave.
Current Zoning: C-2 (General Commercial)
Proposed Zoning: C-2-O (General Commercial / Overlay)
Planning File No.: PLN2015-357



Community Development Department
 Planning Division

Ordinance No. 2213

BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL AMENDING VARIOUS SECTIONS OF TITLE 21 (ZONING CODE) OF THE CAMPBELL MUNICIPAL CODE TO ALLOW PROVISION FOR THE PRUNEYARD MASTER USE PERMIT, INCLUDING ITS LAND USE PROGRAM, ADMINISTRATIVE PROCEDURES, AND MASTER SIGN PLAN, INCLUDING ALLOWANCE FOR A FREEWAY-ORIENTED SIGN AND ROOFTOP SIGNAGE.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

After due consideration of all evidence presented, the City Council of the City of Campbell does ordain as follows:

SECTION 1. The City Council finds and determines that the adoption of the Zoning Code amendment is a component of a private development application that has been analyzed in compliance with the California Environmental Quality Act (CEQA) by preparation of an Initial Study and a draft Mitigated Negative Declaration that has been reviewed and adopted by the City Council.

SECTION 2. The City Council further finds and determines that the proposed Zoning Code amendment is consistent with the goals, policies, and actions of the General Plan; would not be detrimental to the public interest, health, safety, convenience, or general welfare of the city; and is internally consistent with other applicable provisions of the Zoning Code.

SECTION 3. Sign Definitions: The "R" definitions provided in Campbell Municipal Code Section 21.30.020 (Definitions) are amended to read as follows with underlining indicating new text and ~~strikeouts~~ (strikeout) indicating deleted text. Definitions not referenced are not amended:

"ReaderBoard sign, electronic" means a sign intended for a periodically changing advertising message whereby the periodically changing message is controlled by means of electronic programming. This may also be referred to as an electronic message center, electric readerBoard sign or programmable display sign.

"ReaderBoard sign, manual" means a sign intended for a periodically changing advertising message whereby the individual letters or words are manually changed from the exterior of the sign.

"Real estate sign" means a temporary sign indicating a particular premises or parcel is for sale, lease or rent or open for viewing (e.g., sign advertising an open house).

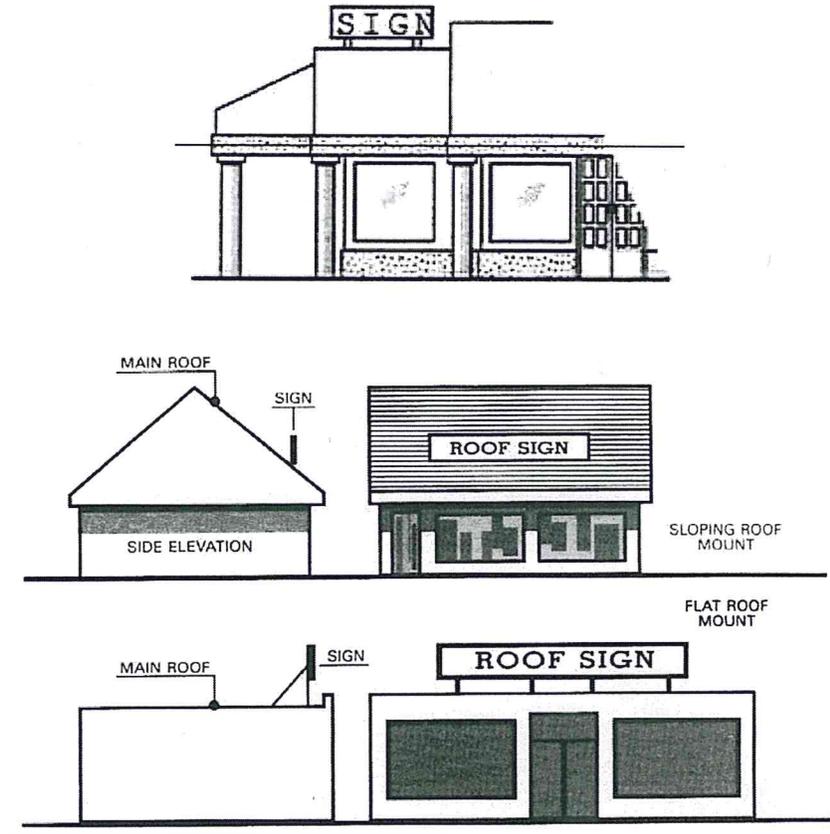
"Regional Commercial Center" means a group or cluster of retail businesses, offices, and hotel(s) sharing common pedestrian and off-street parking, and which are located on parcel(s) of land having the following characteristics:

1. Minimum area of twenty acres uninterrupted or undivided by public streets; and

2. Abutted on at least two sides by public streets that intersect at one corner of the commercial center, and by a freeway on one other side.

May consist of one or more legal parcels tied together by a binding legal agreement providing rights of reciprocal vehicular parking and access, and one or more ownerships.

"Roof sign" or "roof-mounted" sign means a sign that is mounted upon a roof or above a parapet or eave of a building or structure or above the highest point of the ridgeline.



**Figure 3-10
Roof Sign**

"Running neon" means neon lighting that outlines the shape or architectural elements of a structure which shall be considered a sign for the purposes of this chapter.

SECTION 4. Site Definition: The definition of "site" provided in Campbell Municipal Code Section 21.30.020 (Definitions) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (strikeout) indicating deleted text.

"Site" means ~~except as otherwise provided in this chapter, the parcel or commercial center, whichever is larger, on which the business, accommodations, services, property, products or commercial activities identified or advertised on a sign are located,~~ except

as applied to freeway-oriented signs, for which the term "site" shall mean only the space occupied by the subject business and any associated parking area or other common areas utilized by the subject business on the same parcel. "Site," as applied to freeway-oriented signs shall not include other tenant spaces or business locations whether or not located on the same parcel or commercial center. The latter definition of the term "site" shall not apply to a regional commercial center.

SECTION 5. Sign Permit Required: Subsection A (Sign permit required) of Campbell Municipal Code Section 21.30.030 (Administrative procedures) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text.

- A. Sign permit required. Signs, including temporary and permanent signs, (except those exempt from these regulations as provided in Section 21.30.040 of this chapter, and those permitted by issuance of a zoning clearance as authorized by a regional commercial center master sign plan,) shall not be erected, created, altered, or allowed to be located (regardless of whether or not it is initially erected, or painted by the property owner or lessee) unless:
1. A sign permit has been issued by the community development director in compliance with the regulations of this chapter.
 2. A building permit has been issued by the building official, as required by the codes and ordinances of the city.
 3. Any illegal or nonconforming signs associated with the business are made to comply with the provisions of this chapter.

SECTION 6. Master Sign Plan: Subsection H (Master sign plan required) of Campbell Municipal Code Section 21.30.030 (Administrative procedures) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text.

H. Master sign plan required.

1. Applicability. A master sign plan shall be required prior to the issuance of a sign permit for:
 - a. New nonresidential projects with four or more tenants in conjunction with the applicable development application;
 - b. Major rehabilitation work that involves the exterior remodeling of an existing nonresidential project with four or more tenants. For the purposes of this chapter, major rehabilitation means adding more than fifty percent to the total square footage of the building/buildings, or exterior redesign of more than fifty percent of the length of the building's facade within the development; or
 - c. A sign application for a nonresidential project with four or more tenants, which seeks approval of two or more signs.

2. Decision-Making Body. The decision-making body for a master sign plan shall be the community development director, except where a request for a freeway-oriented sign, off-site sign, readerboard sign, an increase in sign area, an increase to sign height, and/or an additional number signs, is included, which shall require approval of the master sign plan by the Planning Commission or City Council pursuant to Section 21.30.030.C.
- 2-3. Design elements. Signs covered by a master sign plan shall have the following elements:
 - a. Uniform background in terms of color, illumination, and materials;
 - b. Letter colors that are consistent with the approved master sign plan;
 - c. Uniform sign type (e.g., channel letters or cabinet sign); and
 - d. Uniform location with building's design.
4. Regional commercial centers. A master sign plan for a regional commercial center may include provision for roof-mounted signs. Request for signs reviewed pursuant to a regional commercial center master sign plan shall be granted by issuance of a zoning clearance.
- 3-5. Findings. In approving a master sign plan, the decision-making body shall make the following findings:
 - a. That the signs are consistent with the requirements of this chapter;
 - b. That the design complies with the design elements criteria listed in subsection ~~(H)~~(2)H.3 of this section;
 - c. That both the location of the proposed signs and the design of their visual elements (lettering, words, figures, colors, decorative motifs, spacing, and proportions) are legible under normal viewing conditions; and
 - d. That the location and design of the proposed signs do not obscure existing or adjacent signs from view.

SECTION 7. Prohibited Signs: Subsection E (Roof-mounted signs) of Campbell Municipal Code Section 21.30.050 (Prohibited signs) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text.

- E. Roof-mounted signs. Roof-mounted signs are prohibited, except as permitted by a master sign plan for a regional commercial center.

SECTION 8. Freeway-Oriented Signs: Subsection E (Freeway-oriented signs) of Campbell Municipal Code Section 21.30.080 (Permanent Signs) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text.

E. Freeway-oriented signs. Signs located on parcels adjoining a freeway or expressway and oriented to freeways or expressways shall comply with the following standards:

~~1. Freeway-oriented signs shall be limited to one on-site freestanding or wall mounted sign for each parcel or commercial center, whichever is less, that adjoins an expressway or freeway except that the uses identified in Section 21.30.080E.2.e shall be allowed one wall mounted freeway-oriented sign for each fifty thousand square feet of building space occupied by a tenant, provided that there be no more than two freeway-oriented wall mounted signs on a building and no tenant shall be allowed more than one freeway-oriented sign. Notwithstanding the definition of "site" contained in Section 21.30.020 of this chapter, as applied to freeway-oriented signs, the term "site" shall mean only the space occupied by the subject business and any associated parking area or other common areas utilized by the subject business on the same parcel. "Site," as applied to freeway-oriented signs shall not include other tenant spaces or business locations whether or not located on the same parcel or commercial center;~~

2.1. Allowable Uses: The Freeway-oriented signs shall be limited to parcels that have the following uses that traditionally draw a significant number of patrons from persons using regional expressways and freeways and only when the use itself is not directly identifiable from the freeway or expressway:

- a. Gasoline stations;
- b. Hotels and motels (stand-alone or as part of a regional commercial center);
- c. Commercial schools occupying at least fifteen thousand square feet of building space;
- d. Retail stores that occupy at least fifty thousand square feet of building space;
- e. Professional Office or Research and Development; properties adjoining a freeway, located within one hundred feet of a freeway interchange with a building tenant(s) that occupies at least fifty thousand square feet of building space;
- f. Regional commercial center;

2. Allowable Number. The allowable number of freeway-oriented sign(s) per parcel or site shall be as follows:

- a. Professional office and research and development: One wall mounted freeway-oriented sign for each fifty thousand square feet of building space occupied by a tenant, provided that there be no more than two freeway-oriented wall mounted signs on a building and no tenant shall be allowed more than one freeway-oriented sign.
- b. Regional commercial center. One wall mounted freeway-oriented sign and one free-standing freeway-oriented sign.
- c. All other uses listed by subsection E.1 (Allowable uses). One on-site freestanding or wall mounted freeway-oriented sign for each parcel or commercial center, whichever is less, that adjoins an expressway or freeway.

~~3. The business itself is not directly identifiable from the freeway or expressway;~~

3. Allowable size. The permitted size of allowable freeway-oriented signs shall be as follows:

4.a. Freestanding freeway-oriented signs. A freestanding freeway-oriented sign shall be the minimum height and size necessary to achieve visibility from the freeway, or expressway, but in no case shall it exceed forty-five feet in height and three hundred fifty square feet in area.

5.b. Wall-mounted freeway-oriented signs. Freeway-oriented wall mounted signs shall be limited to one square foot of sign area for each two linear feet of freeway property frontage, but in no case shall a single sign exceed one hundred twenty-five square feet total and the total sign area for freeway-oriented wall mounted signs on a building shall not exceed two hundred square feet.

c. Regional commercial center. Each wall-mounted and freestanding freeway-oriented sign shall be limited to three hundred fifty square feet in area, except that the total display area for freeway-oriented signs within a regional commercial center shall be no greater than five hundred square feet.

4. Roof-signs prohibited. Freeway-oriented signs that are "roof-mounted", as defined by Section 21.30.020 of this chapter, are prohibited.

SECTION 9. Overlay/combining zoning district: Campbell Municipal Code Section 21.14.030 (O (Overlay) overlay/combining zoning district) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

21.14.030 - O (Overlay) overlay/combining zoning district.

A. Purpose. The purpose of the overlay district is to provide modifications, additions and limitations to zoning districts to meet special conditions and situations concerning properties within such zoning districts that cannot otherwise be treated satisfactorily. The "O" overlay district may only be combined with ~~any of the~~ commercial or industrial zoning districts identified by Chapter 21.10 (Commercial and industrial districts) designated in the zoning code except the R-I, P-D and C-PD zoning districts, which are referred to by this section as the "base zoning district".

The addition of an overlay district designated with any zoning district shall not operate to reduce or eliminate any requirements established by the basic district regulations, regulations applicable to all districts, or other requirements contained in this chapter applicable to any district with which the overlay district is added except variations to lot area, lot width, open space in yard, setbacks, height and parking space requirements, and as otherwise specified by the zoning code.

B. Conditional use permit required. No building, structure or use shall be created, established, erected, constructed, enlarged, placed or installed in any zoning district with which the overlay district is combined until a conditional use permit is issued by the City Council, upon recommendation of the Planning Commission, in conformance with the provisions of Chapter 21.46 (Conditional Use Permits). A conditional use permit may also restrict the allowable uses that may be allowed in the combined zoning district so long as such uses are not prohibited by the base zoning district.

C. Master Use Permit. A conditional use permit for regional commercial center shall be referenced as a master use permit.

1. Adoption. A master use permit shall be adopted by resolution of the City Council, and shall become effective upon project establishment in compliance with Section 21.56.030.B.1 (Issuance of Building Permit).

2. Boundaries. A master use permit shall be operative over the area for which a Zoning Map Amendment has combined the "O" overlay district with a base zoning district in compliance with Chapter 21.60 (Amendments (General Plan, Zoning Code, and Zoning Map Amendments)).

3. Amendments. Any action requiring an amendment to a master use permit shall be processed as follows:

a. Eligibility. An Amendment may be initiated by written request of an owner's association, or by an owner or business operator with the written consent of the owner's association, if any.

b. Content of Request and Filing fees. A written request for an amendment shall state the specific change(s) requested and the purpose for the request. The filing fee for an amendment shall be the same as that for a General Plan Amendment, as specified in the Schedule of Fees and Charges.

c. Consideration Procedure. The City Council, upon recommendation of the Planning Commission, shall approve, conditionally approve, or deny a request for an amendment by resolution with respect to the considerations provided in subsection D (Consideration in review of applications) and the findings for a conditional use permit provided in Section 21.46.040 (Findings and decision) in compliance with procedures prescribed by Campbell Municipal Code Chapter 21.64 (Public Hearings):

4. Administrative authority. Notwithstanding anything in Chapter 21.42 (Site and architectural review) or 21.46 (Conditional use permits), the Community Development Director shall be the decision-making authority for determination of a conditional use approval (termed "conditional use authorization") or site and architectural review approval (termed "architectural modification") as specified by a master use permit. The administrative procedures provided in Chapter 21.71 (Administrative decision process) shall be followed for all such requests.
5. Allowable land uses. Conditional and permitted land uses shall be as specified by a master use permit.
6. Living document. A master use permit may be administratively modified by the community development director as specified by procedures contained in the master use permit.
7. Interpretation. The procedures for an Interpretation provided in Campbell Municipal Code Section 21.020.030 (Procedures for Interpretations) shall be followed, including the provisions for an appeal, for any disagreement as to the meaning of any provision contained in a master use permit.
8. Conflicts. Where a conflict may exist between the Zoning Code and a master use permit, the provisions of the Zoning Code shall prevail; provided, however, that any deviations from the requirements of the base zoning district that are enacted under the authority of subsection A of this section shall prevail over any conflicting requirements of the base zoning district.
9. Master sign plan. A master sign plan may be considered as a component of a master use permit.
10. Extensions. Request for extensions of time shall be processed as an Amendment pursuant to subsection 3 (Amendments).

G.D. Consideration in review of applications. The community development director, site and architectural review committee, and planning commission, and City Council shall consider the following matters and others when applicable to their review of development applications:

1. Considerations relating to traffic safety, traffic congestion, and site circulation:

- a. The effect of the site development plan on traffic conditions on abutting streets;
 - b. The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exit driveways and walkways;
 - c. The arrangement and adequacy of off-street parking facilities to prevent traffic congestion;
 - d. The location, arrangement and dimensions of truck loading and unloading facilities;
 - e. The circulation patterns within the boundaries of the development; and
 - f. The surfacing and lighting of off-street parking facilities.
2. Considerations relating to landscaping:
- a. The location, height and material of walls, fences, hedges, and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other unsightly development;
 - b. The planting of ground cover or other surfacing to prevent dust and erosion; and
 - c. The unnecessary destruction of existing healthy trees.
3. Considerations relating to buildings and site lay-out:
- a. Consideration of the general silhouette and mass, including location on the site, elevations and relation to natural plant coverage, all in relationship to the neighborhood;
 - b. Consideration of exterior design in relation to adjoining structures in height, bulk, and area openings, breaks in the facade facing on the street, line and pitch of roof, and arrangement of structures on the parcel; and
 - c. Consideration of special conditions and situations concerning the property and the adjoining properties.

SECTION 10. Eligibility for Filing: Subsection A (Eligibility for filing) of Campbell Municipal Code Section 21.38.030 (Application filing and fees) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

- A. Eligibility for filing. An Application may be filed by owners of property, lessees authorized by written consent of the owners, or others who have contracted to purchase or lease the property contingent on the acquisition of necessary permits from the city, which application shall be accompanied by a copy of the contract, except as otherwise limited by Section 21.14.030.C.3 (Amendments). Any applicant may be represented by an agent authorized in writing to file on behalf of the applicant;

SECTION 11. Site and Architectural Review Permit Required: Subsection A (Planning Commission site and architectural review permit required) of Campbell Municipal Code section 21.42.020 (Site and architectural review permit required) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- A. Planning Commission site and architectural review permit required. No use or structure shall be constructed, created, enlarged, erected, installed, maintained, or placed on any property in any zoning district until a site and architectural review permit is approved by the Planning Commission, except as identified in subsections B and C of this section, and as otherwise specified by Section 21.14.030.C.4 (Administrative authority).

SECTION 12. Conditional Use Permit Required: Campbell Municipal Code section 21.46.020 (Conditional use permit required) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.46.020 - Conditional use permit required.

No use shall be established in any existing structure, nor shall any structure be constructed, created, enlarged, erected, installed, or placed on any site for which a conditional use permit is required, in compliance with Article 2, (Zoning Districts), until the conditional use permit has been granted, except as otherwise specified by Section 21.14.030.C.4 (Administrative authority).

SECTION 13. Special findings for Liquor Establishments: Campbell Municipal Code section 21.46.070 (Special findings for liquor establishments) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.46.070 - Special findings for liquor establishments.

Whenever a Conditional Use Permit is required for a liquor establishment by this Zoning Code, the planning commission shall first find all the following conditions in addition those findings identified in Section 21.46.040, are satisfied in order to approve the Conditional Use Permit application, except for property located within an overlay combining zoning district subject to a master use permit authorized by section 21.14.030.C (Master use permit):

SECTION 14. Approval Authority: Subsection A (Approval authority) of Campbell Municipal Code Chapter 21.71 (Administrative Decision Process) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

- A. Approval authority. The community development director is the approval authority for the following discretionary permits processed through the administrative decision process:

1. Administrative planned development permits;
2. Administrative site and architectural review permits;
3. Fence exceptions; and
4. Tree Removal Permits;
5. Conditional Use Authorization (in compliance with Section 21.14.030.C.4 (Administrative authority)); and
6. Architectural Modification (in compliance with Section 21.14.030.C.4 (Administrative authority)).

SECTION 15. Extensions of Time: Subsection C (Extensions of time) of Campbell Municipal Code Section 21.56.030 (Permit time limits and extensions) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

C. Extensions of time.

1. The applicant may request an extension of the permit expiration date by filing a written request for an extension no later than thirty days before the expiration of the permit, together with the filing fee required by the city's schedule of fees and charges.
2. The permittee has the burden of proof to establish, with substantial evidence that the applicant has made a good faith effort to fulfill all the requirements of the permit approval, the justification for extension of the permit.
3. The applicable decision-making body identified in subsection D of this section may grant an extension for a period of time that is deemed commensurate with the justification for the extension presented by the applicant, but in no event for more than an aggregate total extension of twenty-four months beyond the original approval time limit, unless conditions of approval authorize longer extensions.
4. A request for an extension of time for property located within an overlay combining zoning district shall be reviewed pursuant to the terms of a master use permit as specified by Section 21.14.030.C.10 (Extensions).

SECTION 16. Decision-Making Body on Extensions: Subsection D (Decision-making body) of Campbell Municipal Code Section 21.56.030 (Extension of time) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

D. Decision-making body.

1. Upon good cause shown, the first extension may be approved, approved with modifications, or denied by the community development director for a maximum period of twelve months beyond the original approval time limit. The community development director may defer action on the extension and refer the

application to the planning commission. This provision shall not apply to property located within an overlay combining zoning district, as specified by Section 21.14.030.C.10 (Extensions).

2. Subsequent extensions of permits approved by the planning commission, beyond those allowed by the community development director, may only be approved, approved with modifications or denied by the planning commission.
3. Subsequent extensions of permits approved by the City Council, beyond those allowed by the community development director, may only be approved, approved with modification, or denied by the City Council.
4. Permit extension decisions may be appealed in compliance with Chapter 21.62, (Appeals).

SECTION 17. Major Changes: Subsection D (Major changes) of Campbell Municipal Code section 21.56.060 (Amendments to an Approved Project) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

D. Major changes.

1. Major changes include changes to the project involving features specifically described in subsection (C)(2) of this section, and as specified by a master use permit authorized by Section 21.14.030.C (Master use permit) and shall only be approved, modified, or denied by the decision-making body that originally approved the permit.
2. A major change request shall be processed in the same manner as the original permit or approval.

SECTION 18. Appeal of the Community Development Director's Decision: Subsection B (Appeal of community development director's decisions) of Campbell Municipal Code section 21.62.020 (Appeals from administrative decisions) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

B. Appeal of community development director's decisions. The applicant or any other interested party may file an appeal to the planning commission from any of the following decisions made by the community development director:

1. Administrative planned development permits;
2. Administrative site and architectural review permits;
3. Fence exceptions;
4. Notice of intent to record;
5. Parking modification permits;
6. Reasonable accommodation; ~~and~~
7. Tree removal permits;~~;~~

8. Conditional Use Authorization (in compliance with Section 21.14.030.C.4 (Administrative authority); and
9. Architectural Modification (in compliance with Section 21.14.030.C.4 (Administrative authority).

SECTION 19. Liquor Stores: Campbell Municipal Code section 21.36.110 (Liquor stores) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

21.36.110 - Liquor stores.

This section provides locational and operational standards for the establishment of off-site alcoholic beverage sales, in compliance with Article 2 (Zoning Districts), which shall be subject to the following criteria and standards, except for property located within an overlay combining zoning district subject to a master use permit authorized by Section 21.14.030.C (Master use permit):

- A. Conditional use permit required. Off-site alcoholic sales establishments shall be allowed by conditional use permit, in compliance with Chapter 21.46, (Conditional Use Permits), and subject to all of the restrictions of the applicable zoning district.
- B. Plans. Plot plans, landscaping and irrigation plans, and floor plans shall be subject to the approval of the planning commission.
- C. Proximity to sensitive receptors. All off-site alcoholic sales establishments, except grocery stores, shall be separated from a park, playground, or school a minimum distance of 300 feet measured between the nearest property lines.
- D. Proximity to other establishments. All off-site alcoholic establishments, except grocery stores, shall be a minimum of 500 feet from another such use, either within or outside the city.
- E. Additional conditions. The planning commission may add additional conditions required to protect the public health, safety, and general welfare of the community.
- F. Proximity to payday lenders. All off-site alcoholic establishments, except grocery stores, shall be a minimum of five hundred feet from any payday lender, either within or outside the city.

SECTION 20. Parking Spaces Required: Subsection A (Parking requirements by land use) of Campbell Municipal Code section 21.28.040 (Number of parking spaces required) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

- A. Parking requirements by land use. Each land use shall be provided the number of parking spaces required by Table 3-1, (Parking Requirements by Land Use), except land uses located in the C-3 (Central Business District) zoning district, which are subject to Section 21.10.060, (C-3 (Central Business) zoning district), and those

located within an overlay combining zoning district subject to a master use permit authorized by section 21.14.030.C (Master use permit).

SECTION 21. Parking Modification Permit: Subsection A (Applicability) of Campbell Municipal Code Section 21.28.050 (Parking modification permit) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

- A. Applicability. An application for a parking modification permit shall be required by the community development director in conjunction with an application for a land use permit or zoning clearance whenever a proposed use or structure does not provide the number of parking spaces required by this chapter or when the number of parking spaces for an existing use or building is reduced to a lesser number than required by this chapter, except for a development located within an overlay combining zoning district.

SECTION 22. Revocations and Modification: Section 21.68.020 (Hearing and Notice) of Campbell Municipal Chapter 21.68 (Revocations and Modifications) is amended as follows with underlining indicating new text and ~~strikeouts~~ (~~strikeout~~) indicating deleted text:

21.68.020 - Hearing and Notice.

- A. Notice of noncompliance. The community development director may issue a notice of noncompliance for any failure to comply with a condition of a permit or for failure to comply with any code, law, ordinance, regulation, or statute of the city, State, or Federal governments, or if the use creates a nuisance.
- B. Failure to comply with notice. If the noncompliance or nuisance is not abated, corrected, or rectified, in compliance with Municipal Code Chapter 6.10 (Nuisance Abatement and Property Maintenance Regulations) within the time specified in the notice, the community development director may set a date for a public hearing.
- C. Appropriate decision-making body. The decision-making body that originally approved the permit may hold a public hearing to revoke or modify any permit granted in compliance with the provisions of this Zoning Code.
- D. 10 days before hearing. Notice shall be delivered in writing to the applicant and owner of the property for which the permit was granted at least 10 days before the public hearing.
- E. Deemed delivered. Notice shall be deemed delivered two days after being mailed, first class, to the owner as shown on the last equalized assessment roll adopted by the County of Santa Clara and to the project applicant, where the applicant is not the owner of the subject property.
- F. Stay on further approvals. Should the community development director convene a public hearing pursuant to this chapter for a property located within an overlay combining zoning district subject to a master use permit authorized by section 21.14.030.C (Master use permit), no further land use approvals shall be granted

until all proceedings under this chapter have concluded or the instigating violation has been resolved.

SECTION 23. Decision-Making Table: Table 4-1 (Decision-Making Table) of Section 21.38.020 (Authority for land use and zoning decisions) is amended to read as follows with underlining indicating new text and ~~strikeout~~ indicating deleted text:

**Table 4-1
Decision-Making Body**

Type of Permit or Decision	Decision-making body and Role (1)			
	Procedures are found in:	Community Development Director (2)	Planning Commission	City Council
Land Use Permits and other Development Entitlements				
Administrative Planned Development Permits	21.12.030	Decision	Appeal	Appeal
Administrative Site and Architectural Review Permits	21.42	Decision	Appeal	Appeal
Conditional Use Permits	21.46		Decision <u>(5)</u>	Appeal
Development Agreements	21.52		Recommend	Decision
Fence Exceptions	21.18.060	Decision	Appeal	
Home Occupation Permits	21.44	Issuance		
Parking Modification Permit (5)	21.28.050	Decision	Decision/Appeal	Decision/Appeal
Planned Development	21.12.030		Recommend	Decision

Permits				
Pre-applications	21.41	Comments(4)	Comments(4)	
Reasonable Accommodations	21.50	Decision	Appeal	Appeal
Sign Permits	21.30	Issuance(2)	Decision(2)	Decision(2) Appeal(2)
Site and Architectural Review Permits	21.42		Decision(5)	Appeal
Tree Removal Permits	21.32	Decision	Appeal	Appeal
Variances	21.48		Decision	Appeal
Zoning Clearances	21.40	Issuance		
Zoning Code Administration and Amendments				
General Plan Amendments	21.60		Recommend	Decision
Interpretations	21.02	Decision	Appeal	Appeal
Zoning Code Amendments	21.60		Recommend	Decision
Zoning Map Amendments	21.60		Recommend	Decision

Notes:

(1) "Recommend" means that the decision-making body makes a recommendation to a higher decision-making body; "issuance" means that the permit is a ministerial action that is issued by the decision-making body; "decision" means that decision-making body makes the final decision on the matter; "appeal" means that the decision-making body may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 21.62, (Appeals).

(2) A sign permit that meets the minimum requirements of the sign regulations (Chapter 21.30) shall be reviewed and issued by the community development director. Off-site signs, readerboard signs and signs that exceed the minimum requirements of the sign regulations shall be reviewed by the planning commission and are appealable to the city council. Freeway-oriented signs shall be reviewed by the city council after recommendation by the planning commission. Signs for property located within an overlay combining zoning district subject to a master use permit authorized by section 21.14.030.C (Master use permit) are reviewed as a Zoning Clearance.

(3) The decision-making body for a parking modification permit is the decision-making body established for the accompanying land use permit application, except for properties located in the C-3 (Central Business District) zoning district, where the city council shall be the decision-making body.

(4) The pre-application process does not replace, but is ancillary to the land use application process and does not result in, nor can the planning commission or community development director, render a decision with regard to land use entitlements, and nothing contained in the process precludes either the community development director, planning commission or city council from approving or denying a subsequent formal land use application.

(5) Decision-making authority for Site and Architectural Review Permits and Conditional Use Permits is granted to the community development director for property located within an overlay combining zoning district subject to a master use permit authorized by section 21.14.030.C (Master use permit).

SECTION 24. Similar Uses: Subsection F (Allowable uses of land) of Campbell Municipal Code Section 21.02.020 (Rules of interpretation) is amended to read as follows with underlining indicating new text and ~~strikeouts~~ indicating deleted text:

F. Allowable uses of land. If a proposed use of land is not specifically listed in Article 2 (Zoning Districts) the use shall not be allowed, except as follows:

1. Similar uses allowed. The community development director may determine that a proposed use not listed in Article 2 or specified by a master use permit authorized by section 21.14.030.C (Master use permit) may be allowed as a permitted or conditional use, or is not allowed. A determination by the community development director that a use is not allowed may be appealed in compliance with Chapter 21.62 (Appeals). In making this determination, the community development director shall first find that:

a. The characteristics of, and activities associated with the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, dust, intensity, noise, parking, population density, or traffic generation than the uses listed in the zoning district;

- b. The proposed use will meet the purpose/intent of the zoning district that is applied to the site; and
 - c. The proposed use will be consistent with the goals, objectives, and policies of the General Plan and any applicable specific plan.
2. Applicable standards and permit requirements. When the community development director determines that a proposed, but unlisted use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Zoning Code apply.

SECTION 25. Definitions: Campbell Municipal Code Section 21.72.010 (Purpose) is amended to read as follows with underlining indicating new text and strikeouts (~~strikeout~~) indicating deleted text:

21.72.010 - Purpose.

This chapter provides definitions of terms and phrases used in this Zoning Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Code, except those specified by a master use permit authorized by section 21.14.030.C (Master use permit). If a word is not defined in this chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

SECTION 26. Definition of Regional Commercial Center: Subsection R (DEFINITIONS, "R.") of Campbell Municipal Code Section 21.72.020 (Definitions of specialized terms and phrases) is amended to insert the following definition of "Regional Commercial Center" between the definitions of "Recycling facilities" and "Repair and maintenance, consumer products" to read as follows, with underlining indicating new text:

"Regional Commercial Center" means a group or cluster of retail businesses, offices, and hotel(s) sharing common pedestrian and off-street parking, and which are located on parcel(s) of land having the following characteristics:

- 1. Minimum area of twenty acres uninterrupted or undivided by public streets; and
- 2. Abutted on at least two sides by public streets that intersect at one corner of the commercial center, and by a freeway on one other side.

May consist of one or more legal parcels tied together by a binding legal agreement providing rights of reciprocal vehicular parking and access, and one or more ownerships.

SECTION 27. Definition of Owner's Association: Subsection O (DEFINITIONS, "O.") of Campbell Municipal Code Section 21.72.020 (Definitions of specialized terms and phrases) is amended to insert the following definition of "Owner's Association" after the definition of "Outdoor storage" to read as follows, with underlining indicating new text:

Owner's Association means an organization established under State law operated in compliance with adopted covenants, codes, and restrictions (CCR's) or comparable instrument, which collectively represents individuals with fee interest in property within a subdivision, planned development, or condominium.

SECTION 28: This Ordinance shall become effective thirty (30) days following its passage and adoption and shall be published, one time within fifteen (15) days upon passage and adoption in the Campbell Express, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

PASSED AND ADOPTED this ____ day of _____, 2016 by the following roll call vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



City Council Report

Item: 12.
Category: Consent
Meeting Date: November 1, 2016

TITLE: Accept the Resignation of Ron Bonhagen from the Planning Commission

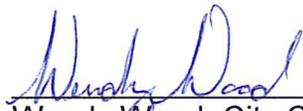
RECOMMENDATION

That the City Council accept the resignation of Ron Bonhagen from the Planning Commission and direct the City Clerk to advertise the vacancy and prepare the appropriate recognition of service.

DISCUSSION

Ron Bonhagen notified staff on October 20, 2016 of his resignation effective immediately. Planning Commissioner Bonhagen stated that due to unforeseen circumstances he will be unable to fulfill the duties required for the Planning Commission. Attached is a letter from Commissioner Bonhagen stating his resignation. Staff recommends that the City Council accept the resignation and direct the City Clerk to prepare the Notice of the Unscheduled Vacancy and appropriate recognition service

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager

Attachment – Resignation Letter



A Berkshire Hathaway Affiliate

Paul Kermoyan
Director
Community Development Department
70 N. First St.
City Hall - Upper Level
Campbell, CA 95008

October 20, 2016

Dear Director Kermoyan:

I am submitting to you my resignation from the City of Campbell's Planning Commission, effective immediately. Due to unforeseen family circumstances, I am unable to fulfil all of my duties and obligations as one of the city's Planning Commissioners.

I'd like to thank you and your Planning Department staff for providing such excellent and highly professional work that you have done and continue to do every day for the City of Campbell. I'd also like to thank my fellow Planning Commissioners for their continued hard work and commitment to moving the city forward. It has truly been a pleasure to serve the community with these Commissioners and to serve with you and your highly professional staff.

I look forward to someday in the future being offered another opportunity to serve again on the Commission. I have thoroughly enjoyed my nearly 2 years on the Commission and I hope that I have helped in a small way to make a contribution to the future and well being of the city and to the citizens of Campbell.

Very Best Regards,

Ron Bonhagen

Ron J. Bonhagen, Sr. | Broker Associate
Intero Real Estate Services, a Berkshire Hathaway Affiliate
408-335-3100 mobile
408-805-4750 office (voice or text)
Ron@SBREGroup.com
www.SBREGroup.com
BRE# 01798056

12900 Saratoga Avenue, Saratoga, CA 95070



City Council Report

Item: 13.
Category: Consent
Meeting Date: November 1, 2016

TITLE: Approval of Plans and Specifications, Authorize Solicitation of Bids, Award of Contracts, Associated Actions, and a Budget Adjustment for Americans with Disability Act (ADA) Accessibility Ramp Installation Project No. 16-AA (Resolution/Roll Call Vote)

RECOMMENDATION

That the City Council adopt the attached resolution:

1. Approving the plans and specifications for the Accessibility Ramp Installation Project No. 16-AA;
2. Authorizing the solicitation of bids;
3. Authorizing the Public Works Director to award and execute construction contracts and encumber a 10% construction contingency;
4. Authorizing the City Engineer to negotiate and execute contract change orders up to and within the 10% construction contingency;
5. Approving the budget adjustment to recognize the grant amount from the Community Development Block Grant (CDBG) program.

BACKGROUND

The City Council approved ADA Accessibility Ramps Project No. 16-AA as part of the Fiscal Year 2016/2017 Capital Improvement Plan. The approved project budget consisted of \$50,000 of construction tax funds. Since then, the federally funded CDBG program awarded the City \$145,904 for the installation of curb cuts. Hence, the total amount available to install accessibility ramps/curb cuts is \$195,904.

The County of Santa Clara has notified the City that this year's CDBG allocation will be the last time the program will distribute guaranteed dollars to local agencies. A new fund distribution method (likely to be competitively based) will be determined and announced at a later date.

DISCUSSION

The project will install a total of twenty-two (22) ADA compliant accessibility ramps/curb cuts at the following intersections:

1. W. Latimer Avenue at Morrene Drive
2. W. Latimer Avenue at Michelle Drive
3. Lavonne Drive at Nadine Drive
4. Lavonne Drive at Colleen Way
5. Radford Drive at Paula Drive

**Approval of Plans and Specifications, Associated Actions and,
Budget Adjustment for ADA Ramp Project 16-AA
November 1, 2016**

- 6. W. Latimer Avenue at Coventry Drive
- 7. W. Latimer Avenue at Branbury Drive
- 8. W. Latimer Avenue at Marathon Drive
- 9. 3rd Street at Watson Drive
- 10. 3rd Street at Gomes Court

The following is the anticipated schedule for Project 16-AA:

Advertise for Bids	November 2016
Opening of Bids	December 2016
Award of Contract	January 2017
Construction Begins	February 2017
Construction Completed	June 2017

FISCAL IMPACT

The anticipated source and use of funds for the project is as follows:

Source of Funds

Construction Tax	\$ 50,000
Community Development Block Grant (CDBG)	<u>\$ 145,904</u>
TOTAL	\$ 195,904

Anticipated Use of Funds

Design	\$ 9,314
Construction Engineering (Inspection, Materials Testing)	\$ 33,690
Construction Contract	\$ 139,000
Construction Contingency – 10%	<u>\$ 13,900</u>
TOTAL	\$ 195,904

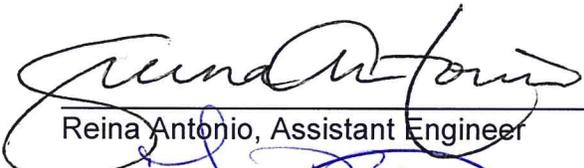
As the economy remains strong, construction costs have and continue to rise throughout the Santa Clara County Region. Staff contacted neighboring cities (ie. Los Gatos, Sunnyvale, Santa Clara, Morgan Hill) and found that with similar type and size projects, the unit price to install an accessibility ramp can vary anywhere from \$4000 to \$6500 per ramp. Given the market condition, Staff has taken a conservative approach when preparing the engineer's cost estimate.

The attached resolution has been prepared to approve the project plans and specifications and authorize the bidding of the project. Additionally, the attached resolution authorizes the Public Works Director to execute a construction contract with the lowest responsive and responsible bidder in an amount not to exceed the engineer's estimate of \$139,000 and to encumber a 10% construction contingency in an amount not to exceed \$13,900 for a total amount not to exceed \$152,900. The attached resolution authorizes the City Engineer to negotiate and execute contract change orders up to and within the total not to exceed amount of \$152,900.

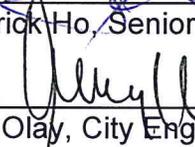
A budget adjustment has been prepared to recognize the grant amount from the Community Development Block Grant for Project 16-AA.

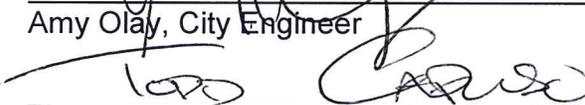
ALTERNATIVES

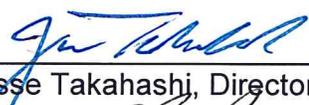
Do not approve the plans and specifications for Project 16-AA, however this is not recommended as installing the accessibility ramps helps the City move forward with meeting its goals for the ADA Transition Plan. Additionally, the use of CDBG funds commits the City to spend the funds no later than June 30, 2017. Failure to do so would jeopardize the City's ability to request reimbursement from the CDBG program.

Prepared by: 
Reina Antonio, Assistant Engineer

Reviewed by: 
Fredrick Ho, Senior Civil Engineer

Reviewed by: 
Amy Olay, City Engineer

Reviewed by: 
Todd Capurso, Public Works Director

Reviewed by: 
Jesse Takahashi, Director of Finance

Approved by: 
Mark Linder, City Manager

- Attachments:
- 1. Resolution
 - 2. Location Map
 - 3. Budget Adjustment

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL
APPROVING PLANS AND SPECIFICATIONS, AUTHORIZING SOLICITATION OF BIDS,
AWARD OF CONTRACTS, ASSOCIATED ACTIONS, AND A BUDGET ADJUSTMENT
FOR AMERICANS WITH DISABILITY ACT (ADA) ACCESSIBILITY RAMPS
PROJECT NO. 16-AA**

WHEREAS, the City Council approved ADA accessibility Ramps Project No. 16-AA as part of the 5-year CIP Budget beginning in FY 16/17; and

WHEREAS, plans and specifications and engineer’s cost estimate for Project 16-AA have been prepared; and

WHEREAS, the encumbrance of a 10% construction contingency will allow for contract adjustments for unforeseen complications associated with work during construction; and

WHEREAS, the Community Development Block Grant (CDBG) funds in the amount of \$145,904 has been awarded to the City;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell hereby

1. Approves the plans and specifications for the ADA Accessibility Ramps Project No. 16-AA;
2. Authorizes the Public Works Director to solicit bids;
3. Authorizes the Public Works Director to award and to execute a construction contract in an amount not to exceed 110% of the engineer’s cost estimate of \$139,000, total not to exceed \$152,900;
4. Authorizes the City Engineer to negotiate and execute contract change orders up to and within the total not to exceed amount;

BE IT FURTHER RESOLVED, that the City Council of the City of Campbell hereby approves, a budget adjustment recognizing the grant amount from the Community Development Block Grant program for Project 16-AA.

PASSED AND ADOPTED this 1st day of November, 2016, by the following roll call vote:

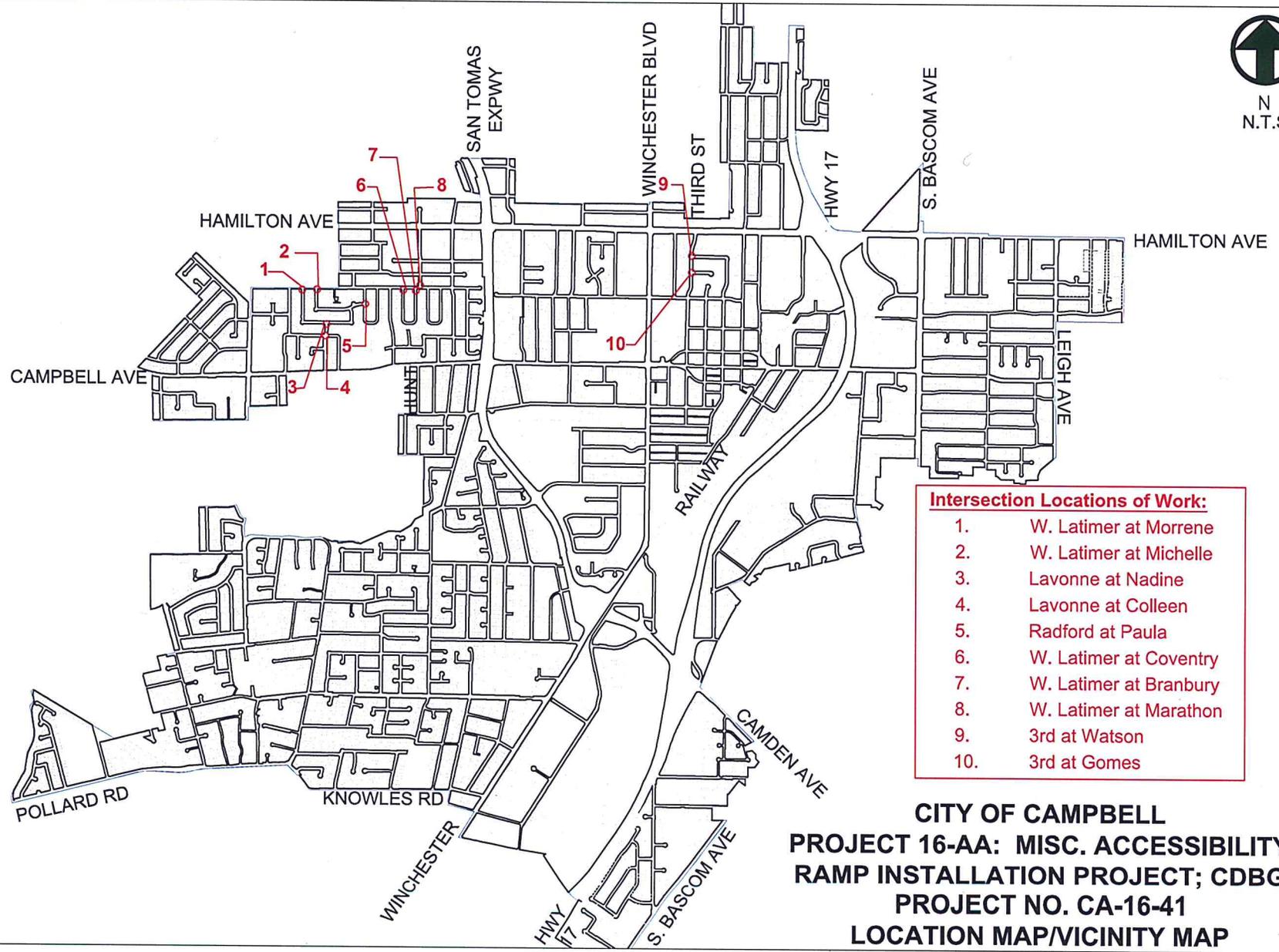
AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



- Intersection Locations of Work:**
1. W. Latimer at Morrene
 2. W. Latimer at Michelle
 3. Lavonne at Nadine
 4. Lavonne at Colleen
 5. Radford at Paula
 6. W. Latimer at Coventry
 7. W. Latimer at Branbury
 8. W. Latimer at Marathon
 9. 3rd at Watson
 10. 3rd at Gomes

**CITY OF CAMPBELL
PROJECT 16-AA: MISC. ACCESSIBILITY
RAMP INSTALLATION PROJECT; CDBG
PROJECT NO. CA-16-41
LOCATION MAP/VICINITY MAP**

City of Campbell Request for Budget Adjustments

Department/Program	Division	Date	Request No.
Public Works	CIP 16-AA Accessibility Ramp	November 1, 2016	BA 6

Budget to be Reduced

Fund	Account Number	Description	Amount

Budget to be Increased

Fund	Account Number	Description	Amount
218	535.4520	Community Development Block Grant	145,904
218	16AA.9999	Capital Transfers Out Transfer to Capital Project	145,904
435	990.6999	Capital Transfers In CIP 16AA Accessibility Ramps	145,904
435	16AA.7130	Project Salary & Benefits CIP 16AA Accessibility Ramps	26,690
435	16AA.7430	Professional & Special Services CIP 16AA Accessibility Ramps	9,314
435	16AA.7883	Improvements other than Building CIP 16AA Accessibility Ramps	109,900

REASON FOR REQUEST - BE SPECIFIC:

Request to add additional funding source from Federal Community Development Block Grant (CDBG) program, and to increase expenditure budget in CIP 16AA Accessibility Ramps.

 Todd Capurso Public Works Director	 Jesse Takahashi Finance Director	 Mark Linder City Manager
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City Council Report

Item: 14.
Category: Consent Calendar
Date: November 1, 2016

TITLE: FIRST QUARTER UPDATE – FY 2016-17 COUNCIL STRATEGIC PRIORITIES AND CITY COUNCIL RESERVE FUND PROJECTS

RECOMMENDATION

Accept the first quarter report providing a status update on work related to Council Strategic Priorities and Reserve Fund Projects.

BACKGROUND

Each year, the City Council holds an annual Council Priorities workshop for the purpose of identifying projects of strategic importance to the City Council. The setting of these annual priorities allows the organization to plan for any related work load, timeline and budget impacts associated with the City Council priorities.

On January 29, 2016, the City Council held the Fiscal Year (FY) 16-17 Priority Setting Session. At this meeting, Council and City staff also discussed current departmental projects that require significant staffing and departmental resources, concluding in a list of 33 projects grouped in the following order:

A. High Priority - 7 Projects

- These seven projects were identified as high priority projects for the City Council: Potential Ballot Measure; General Plan Update; Residential and Commercial Impact Fees; Firearms Safety Ordinance; Campbell Village Area Plan, Use of Park Impact Fees; and Traffic Calming Processes.
- Six of the seven projects were identified for review or completion during the first six months of the fiscal year, identified with a plus sign (+).

B. Medium Priority – 9 Projects

- These 9 projects were all continued from the prior fiscal year (FY 15-16) and identified with an asterisk (*). They also have a *FY 16* notation.

C. Low Priority – 1 Project

- One project continued from FY 15-16 and identified with an asterisk (*) and *FY 16* notation.

D. FY 15-16 City Council Reserve Allocation – 8 Projects

- In 2015, the City Council established a \$500,000 reserve in the General Fund to be used for specific Council projects.
- Eight projects were identified in 2015. Three projects were completed in FY 2015-16: CERT supplies, iPads for Planning Commissioners, and Super Bowl 50 marketing.

E. Not Selected – 8 Projects

The following eight projects were discussed at the priority setting session but did not receive a majority of the Council support and are therefore not active departmental projects. However, the Minimum Wage Policy will be presented to Council for discussion at the November 1 meeting per a request from the Santa Clara County Cities Association. The completion of the report on regional impacts associated with an increase in minimum wage led to various cities in the County considering adoption of a Minimum Wage Police.

1	City Manager's Office	Supporting Homeless Services	Participation in regional efforts
2	City Manager's Office	Update Admin. Policies & Procedures	Review of all City policies & procedures
3	City Manager's Office	Minimum Wage Policy	Policy in alignment with regional actions
	City Attorney		
4	Community Development	Planning & Building Permit Process Survey	Provision of status and feedback information relative to permitting process
5	Public Works	Traffic Impact Fees	Review and modification consideration
	City Attorney		
6	Public Works	Street Maintenance & Sidewalks Community Survey	Status and feedback information relative to streets maintenance & sidewalks
7	Recreation & Community Services	Enhancing Service Options for Target Groups	Focus on veterans and disabled populations
8	Recreation & Community Services	Enhancing Involvement Options for Senior Adults	Consideration of opportunities within programs and services

These priorities were formally adopted on June 21, during the adoption of the FY 2016-17 Operating Budget.

DISCUSSION

The attached document provides an update on the 19 projects that received a majority of the Council support and identified as FY 16-17 Strategic Priorities and the remaining five projects funded from the Fiscal Year (FY) 15-16 City Council Reserve fund.

High Priority Projects

As directed by Council during the adoption of the Council Priorities, staff addressed all six of the projects identified for completion or review during the first six months of the fiscal year.

- Firearms Safety Ordinance and Use of Park Impact Fees have been completed.
- Council will be presented with next steps options for the Campbell Village Area Plan and Traffic Calming Processes at its December 6, 2016 meeting.
- Staff is awaiting next steps from Council regarding Residential and Commercial Impact Fees.
- Staff will calendar a discussion with Council regarding future revenue measures to be placed on an election ballot in early 2017.
- Work on the Envision Campbell General Plan Update progresses with updates from the consultant provided to the Council on a monthly basis.

Medium Priority Projects

- Work on the "Medium" priorities identified in FY 16 continues to steadily progress. In 2017, Council can expect to take action related to the implementation of Community Choice Energy, Public Art expansion and if approved, Envision Silicon Valley Measure B funds.
- Public Works projects on LED streetlight conversions, San Tomas Aquino Creek Trail development, and a feasibility report on a signal at Gilman & Page are anticipated to continue throughout the remaining portion of the fiscal year.
- In July, Council approved updates to the Density Bonus Ordinance to achieve consistency with State law. On October 18, Council reviewed Ordinance changes related to the Sign Ordinance as part of the Pruneyard Master Use Permit discussion. However, if Council would like to direct staff to work on changes beyond those already conducted, additional funds and Council direction would be needed.

- The two year pilot "Youth Engagement" priority will be completed in June 2017. Staff anticipates assessing the staffing and program costs during the development of the FY 2017-18 budget.

Low Priority Projects

- In July, when Council voted to not place a revenue measure on the November 2016 ballot, discussion regarding the Civic Center Master Plan paused. Staff recommends reconvening with Council on this project in early 2017.

Council Reserve Fund Projects

- As of June 30, 2016, the balance in this reserve fund is \$429,681.
- The Public Art Policy has been completed and the implementation work will now be tracked via Strategic Priority #9 "Public Art Expansion."
- Council can expect to see various activities related to Bicycle Transportation and Community Beautification for feedback/direction in early 2017.

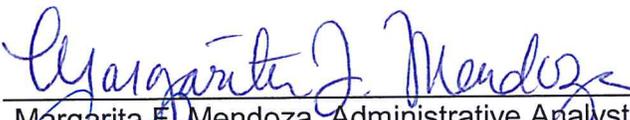
FISCAL IMPACT

There is no additional fiscal impact associated with the approval of the first quarter report of the FY 2016-17 Council Strategic Priorities and City Council Reserve Fund Projects. Funding for these projects is included as part the proposed FY 2016-17 City budget. Mid-Year budget requests to fund these projects may be forthcoming during the Mid-Year budget review process beginning in January 2017.

ALTERNATIVES

1. Provide other direction to staff.

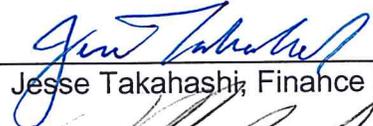
Prepared by:


Margarita F. Mendoza, Administrative Analyst

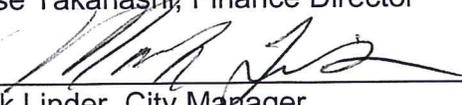
Reviewed by:


Al Bito, Deputy City Manager

Reviewed by:


Jesse Takahashi, Finance Director

Approved by:


Mark Linder, City Manager

Attachment:

1. First Quarter Update Strategic Priorities Matrix (July 2016 – June 2017)

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested	
HIGH PRIORITY (A) – 7 Projects					
1	City Manager's Office	Potential Ballot Measure* (+) FY 16	Consideration of options and work plans based upon outcomes	<p><u>July 2016:</u> Council voted to not place a ballot measure on the Nov. 2016 ballot.</p> <p><u>January 2017:</u> Begin staff work to study the scope, timeline, and related public outreach to place a measure in the 2018 election cycle.</p>	
2	Community Development	Envision Campbell General Plan Update* (+) FY 16	Implementation of the general plan update	<p><u>October 2016:</u> Consultant will provide monthly project updates to the Council.</p> <p>October – January: Consultant working on Existing Conditions Report to be completed in January 2017.</p>	
3	Community Development City Attorney	Residential and Commercial Impact Fees (+)	Review and modification consideration	<p><u>October 2016:</u> Consultant presented the Nexus Study at the October 4 meeting. No action was taken.</p> <p>Next step is for the Council to forward staff their list of questions for consultant to answer.</p>	Funded \$25,000 in FY 16. Keyser Marston Associates performing the study. Organized by Silicon Valley Community Foundation.

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year
 (+) Project prioritized for completion or review during the first six months of the Fiscal Year
 FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
4	Police	Firearms Safety Ordinance	Development of an ordinance patterned after City of Sunnyvale	<p><u>July 2016:</u> The following State legislation achieves the goals of this priority. No additional City specific Ordinance is needed.</p> <ul style="list-style-type: none"> • SB 146 outlaws high capacity magazines in the State of California. • SB1235 requires all ammunition purchases beginning January 2017 to be registered. In addition, purchasers must pass a background check. • Penal Code Section 25105 requires the safe storage of firearms in a home. <p>PRIORITY COMPLETED.</p>	
	City Attorney				
5	Public Works	Campbell Village Area Plan* (+) FY 16	Development of potential action items	<p><u>October 2016:</u> PW and CDD is conducting three community meetings (October 6, 13, and 20) to revise the draft Area Plan. Staff is anticipating the need for further discussion to address unresolved issues.</p> <p><u>November 2016:</u> Council review of draft Area Plan.</p> <p><u>December 6:</u> Study Session.</p>	The FY 2016-17 proposed budget includes a request for \$20,000 in the Public Works operating budget to fund the time of an engineer dedicated to this project.
	Community Development				

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year

(+) Project prioritized for completion or review during the first six months of the Fiscal Year

FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
6	Public Works	Use of Park Impact Fees* (+) <i>FY 16</i>	Consideration of implementation options	<u>September 2016</u> : Policy was adopted by the City Council with clarifying language. PRIORITY COMPLETED.	
	Recreation & Community Services				
	City Manager's Office				
7	Public Works	Traffic Calming Processes (+)	Review of current status, focus on Circulation Element and Neighborhood barriers policy	<u>November 2016</u> : Compiled an inventory of best practices from other local cities. <u>December 6</u> : Draft policy with key discussion points, will be presented to Council.	The FY 2016-17 proposed budget includes a request for \$20,000 in the Public Works operating budget to fund the time of an engineer dedicated to this project.
MEDIUM PRIORITY (B) - 9 Projects					
8	City Manager's Office	Community Choice Energy* <i>FY 16</i>	Consideration of options	<u>September 2016</u> : Recruitment of staff positions and CPUC certification. November <u>October 2016</u> : Campbell to consider 100% renewable energy options.	No additional staff or fiscal resources requested.
9	City Manager's Office	Public Art Expansion* <i>FY 16</i>	Consideration and implementation of options	<u>June 2016</u> : City Council approved new public art policy. <u>October 2016</u> : Staff has received a proposal for a statute to be placed at Campbell Park. Proposal analysis underway and to proceed according to Policy framework.	No additional resources requested.

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year
 (+) Project prioritized for completion or review during the first six months of the Fiscal Year
 FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
10	Community Development	Density Bonus Ordinance* <i>FY 16</i>	Provide an analysis of discreet components and options	<u>July 19, 2016:</u> City Council approved the Density Bonus Ordinance updates to achieve consistency with State Law. PRIORITY COMPLETE. See notes in the next column.	Any additional changes the Council wants over and above state law were not part of this priority.
	City Attorney				
11	Community Development	Sign Ordinance Update* <i>FY 16</i>	Review and modification of current sign ordinance	<u>August 2016:</u> Planning Commission approved revisions to two sections of the Sign Ordinance relating to freeway-oriented and roof-top signage at its August 23 meeting. <u>October 18, 2016:</u> Council review of Ordinance changes during the Pruneyard Master Use Permit discussion.	A comprehensive update to the Sign Ordinance is not possible with existing staffing. If a comprehensive update is desired, the City should prepare a formal RFP and hire a consultant. Staff estimates a \$100,000 budget. The RFP, with approved Scope of Work, will help refine the actual amount.
	City Attorney				
12	Public Works	Envision SV* <i>FY 16</i>	Council consideration of options	<u>November 8:</u> If approved, Campbell's estimated share of Measure B funds allocated for Annual Street Maintenance is \$800,000 per year for the life of the measure – 30 years. <u>January 2017:</u> If the measure is approved, staff will present related information during the tentatively scheduled Street Maintenance Study Session.	
	City Manager's Office				

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year

(+) Project prioritized for completion or review during the first six months of the Fiscal Year

FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
13	Public Works	LED Streetlights Upgrade* FY 16	Phase II conversions- targeting over 500 streetlights utilizing PG&E Financing	<u>June 2016</u> : Retrofit work on identified streetlights anticipated by the end of the fiscal year.	If direction is provided to expand retrofits Citywide – funds need to be identified. Citywide conversions are currently listed on the CIP Unfunded List.
14	Public Works	San Tomas Aquino Creek Trail Development* FY 16	Exploration of funding and coordination options	<u>May 2016</u> : Established a Technical Advisory Team.	Consultant hired by May 2016 and project carried over as an active Capital Improvement Project. The FY 15-16 CIP budget for this project totaled \$520,000.
	Recreation & Community Services			<u>October 2016</u> : One Community meeting held. Currently in study/feasibility analysis stage. <u>November 2016</u> : Next round of TAC and community meetings.	
15	Public Works	Signal at Gilman & Page* FY 16	Feasibility Memo on Status	<u>October 2016</u> : Currently being evaluated as part of the development proposal for the Del Grande property.	Feasibility/status report will be prepared by in-house staff with some support from consultant services. Design resources will be required.
16	Recreation & Community Services	Youth Engagement* FY 16	Continued implementation of coordination efforts	Year 2 efforts underway. <ul style="list-style-type: none"> • <u>September 2016</u>: 15 Youth Commissioners were appointed for terms ending in May 2017. • <u>October 2016</u>: Hired eight teens under the Work Experience program to work in various City departments. 	No additional funding in FY 17. Funding to continue the Limited Term Recreation Specialist position will be reviewed during FY 18 budget process.

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year

(+) Project prioritized for completion or review during the first six months of the Fiscal Year

FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department	Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested	
LOW PRIORITY (C) - 1 Active Project					
17	Public Works City Manager's Office	Civic Center Master Plan (CCMP)* FY 16	Consideration of options and recommendations	<p><u>March 2016</u>: Study Session held to discuss design scenarios, cost, and project scale.</p> <p><u>July 2016</u>: Council did not approve the placement of a ballot measure to fund the CCMP.</p> <p><u>Early 2017</u>: Staff recommends reconvening with Council to discuss scoping and financing mechanisms.</p>	Requires additional in-house project management services.
FY 15-16 CITY COUNCIL RESERVE ALLOCATION – 5 Projects					
18	City Manager's Office	Community Beautification	Development of a "Community Beautification Grant Program"	<p><u>August 2016</u>: CIC formed a Beautification Subcommittee to develop program goals and guidelines.</p> <p><u>October - December 2016</u>: CIC discussion and forwarding recommending to the City Council for action.</p>	
19	City Manager's Office	Planning Commission technology support	iPads for Planning Commissioners	<p><u>February 2016</u>: Planning Commissioners began to use their iPads for City business.</p> <p>PRIORITY COMPLETED.</p>	

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year
 (+) Project prioritized for completion or review during the first six months of the Fiscal Year
 FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
20	City Manager's Office	Super Bowl 50 Marketing	Promotion support to market City restaurant, hotels and events during Super Bowl 50 festivities.	<u>February 2016</u> : Purchased Downtown banners, video vignette, Promotional Fun Card, and partial funding of Water Tower lighting enhancements. PRIORITY COMPLETED.	
21	City Manager's Office	Public Art	Public Art Policy	<u>June 2016</u> : Policy completed. PRIORITY COMPLETED. Implementation of the policy will be tracked via Priority #9- Public Art Expansion.	
22	City Manager's Office	Volunteer Appreciation	Enhancing the event and gift provided to individuals who volunteer for the City in various capacities.	<u>April 2016</u> : Volunteers luncheon. Umbrellas with logos distributed as appreciation gifts. <u>November 29, 2016</u> : Board & Commission appreciation event. Appreciation gifts will be provided.	\$10,000 to fund appreciation gift for both events.
23	Community Development	Economic Development Activities	Enhancements to the City's Economic Development efforts.	<ul style="list-style-type: none"> • The Division's website continues to be improved. • Staff is preparing an Economic Development Plan and has begun by identifying draft objectives. • City to host "Brokers Breakfast" on October 27 with participation from the 	

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year

(+) Project prioritized for completion or review during the first six months of the Fiscal Year

FY 16: Project identified as an "A" Strategic Priority in Fiscal Year 2015-16

**City of Campbell
Strategic Priorities
July 1, 2016 – June 30, 2017**

Department		Project Name	Description	Status / Anticipated Timeline	Additional Resources Requested
				Silicon Valley Economic Development Alliance (SVEDA) through Joint Venture Silicon Valley.	
24	Public Works	Bicycle Transportation	Various efforts in support of bicycle transportation.	<ul style="list-style-type: none"> • Project to install electronic bike lockers at Campbell Light Rail Stations (consistent with other VTA facilities) is moving forward. • June – October: Bike Valet at weekly Farmer’s Market. • January 2017: Installation of approximately 30 bike racks for the downtown area. • Early 2017: Second phase of downtown bike rack installations around City Hall and the Library. 	\$22,000 (City grant match)
25	Police	CERT supplies	Supporting the CERT volunteer program with enhanced one-time funding to purchase needed supplies.	Captain Cefalu discussed with the CERT Board their equipment needs and purchased items accordingly. PRIORITY COMPLETED.	

* FY 15-16 Strategic Priority Project not completed and will be continued to the following Fiscal Year
 (+) Project prioritized for completion or review during the first six months of the Fiscal Year
 FY 16: Project identified as an “A” Strategic Priority in Fiscal Year 2015-16



City Council Report

Item: 15.
Category: Public Hearing
Date: November 1, 2016

TITLE Appeal of the Planning Commission determination (PLN2016-293) that a non-conforming use (liquor establishment), had discontinued for a continuous period of six months, thereby losing its vested right to continue operation. (Resolution / Roll Call Vote)

RECOMMENDATION

Staff recommends that the City Council take the following action:

1. **Adopt a Resolution**, denying the appeal and upholding the Planning Commission determination (PLN2016-293) that a nonconforming use (liquor establishment) had discontinued for a continuous period of six months, thereby losing its vested right to continue operation.

ENVIRONMENTAL DETERMINATION

The Planning Commission found that this action is Categorically Exempt under Section 15321(a) of the California Environment Quality Act (CEQA), pertaining to enforcement actions by regulatory agencies to enforce or revoke an entitlement for a use issued, adopted or prescribed by the regulatory agency.

DISCUSSION

Project Site: The project site is located on the south side of E. Campbell Avenue, east of S. Second Street and west of S. First Street (reference **Attachment 2** – Location Map). The property is zoned C-3 (Central Business District), with a Central Commercial General Plan Land Use Designation, and is located in Downtown Campbell.

PURPOSE & SCOPE OF REVIEW

Pursuant to Campbell Municipal Code (CMC) Section 21.10.060.L, whenever a nonconforming use is 'abandoned' or 'discontinued' for a continuous period of six months, the 'grandfathered status' is lost and the business may not continue operations until a Conditional Use Permit is obtained.

As such, the purpose of the public hearing is to determine whether or not the Cardiff Lounge bar¹ had remained closed for a 'continuous period of six months'. The scope of review is limited to the nature and duration of the closure, and does not pertain to questions of land use compatibility, business operations, or where or not the use of the property as a bar should be supported.

The general purpose of the nonconforming provisions of the CMC is to allow uses that do not comply with current zoning requirements to continue while bringing properties

¹ Defined as a 'liquor establishment' pursuant to CMC21.72.020.L. Definitions, "L."

into conformance with current zoning requirements when those uses are discontinued or abandoned. Allowing for a business to reassume operations after having been closed for less than six-months is intended to allow a reasonable period of time for a business to be reestablished (e.g. accommodate a transfer of ownership), while not allowing a nonconforming use to continue indefinitely.

BACKGROUND

The Cardiff Lounge² had continuously operated as a bar since the 1960's. In 1988, the downtown core was rezoned to C-3 (Central Business District), which served to enact a requirement for liquor establishments to be approved through a Conditional Use Permit. As the business was not required to have a Conditional Use Permit when it was established, the liquor establishment has existed as a nonconforming use (due to the lack of a Conditional Use Permit) since that time.

Between February and August/September of 2016, the Cardiff remained closed to the public while handling internal business affairs (reference **Attachment 7** – Updated Administrative Record and Supporting Materials) garnering the attention of the City and staff. In that the business remained closed for more than six-months, staff initiated the Planning Commission hearing as a means of providing the Commission an opportunity to make a determination and the owner and operator the opportunity to provide a response to the reasoning behind the closure prior to the nonconforming use status being deemed lost.

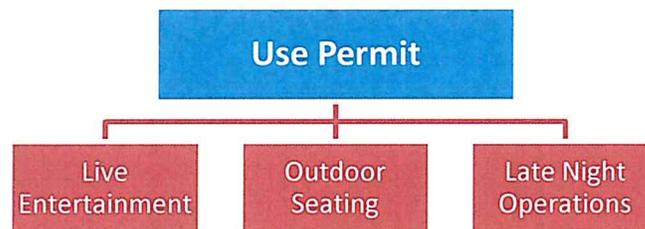
Planning Commission Review: On September 27, 2016 the Planning Commission held a public hearing on this item, taking comments from Sam Ramirez and Vee Maharu (owners of Cardiff & Cocktails). The owners explained that a significant reason behind the extended closure was due to difficulties in securing a new alcohol license with ABC (Alcoholic Beverage Control) due to problems with a former business partner (Paul Pantanguí). During the meeting, the City Attorney clarified that while it was staff's position to not include the efforts of the business to reopen during the closure, the Planning Commission could consider those efforts in making its determination. The Commission's discussion focused on questions of the nature and duration of the business closure (reference **Attachment 5** – September 27, 2016 – Planning Commission Minutes). After due consideration, the Planning Commission determined that the business had remained closed for more than six months, and lost its vested right to continue to operate (four voting in favor, one opposed, two absent) with a modification to Finding #13 to revise the closure date from February 26, 2016 until September 15, 2016 (202 days) as presented by staff, to February 26, 2016 and August 26, 2016 (183 days) based on desk items provided by the owners which indicated that a series of soft openings occurred before the grand opening (reference **Attachment 6** – Previous Desk Items).

Appeal Analysis: On October 6, 2016, the City Clerk received an appeal letter from Ms. Sandra Escobar (reference **Attachment 3**), which requests reconsideration of the Planning Commission's determination on the basis of four key points. A summary of these points and staff analysis has been provided in greater detail below:

² Under different ownership and name; now operating as "Cardiff & Cocktails", historically the Busy Bee Lounge.

1. The Planning Commission did not take into consideration the existing Conditional Use Permit that was issued for late night activities and live entertainment in conjunction with the existing bar.

Contrary to this point, the Planning Commission reviewed both Use Permits (UP79-16 & PLN2004-63) and adopted findings (#5, 8, & 11) concluding that neither served to establish a Use Permit for the nonconforming liquor establishment. Instead, Use Permit (PLN2004-63) only served to add late night operations and live entertainment to the existing legal non-conforming bar. The term 'in conjunction' in the context of the findings serves to recognize the presence of the existing bar and indicate that the late night activity and live entertainment permits (which function as appendages to the vested right) are only valid when operated in combination with the bar. This distinction asserts that if the 'existing bar' were to close, Use Permit (PLN2004-63) would not resultantly validate the use of the site as a live entertainment venue with late night hours which would be separately permitted and defined. Conversely, should the late night operation or live entertainment permit be rescinded, the vested bar use right would remain intact. To assist in visualizing this hierarchical relationship and distinction, the following graphic shows a typical configuration of a Use Permit³:



As such, the Planning Commission did not err by “not taking into consideration the existing Conditional Use Permit conditioned the entire premise”, as the previous entitlement did not serve this function. The Conditional Use Permit (PLN2014-63) only served to add live entertainment and late night activity to an existing legal non-conforming use.

2. The method of calculating ‘six months’, presented by Sam Ramierez and Vee Mahura, conclude that the business had been closed for 182 days, which is within the 183 days in which the business is permitted to have been closed.

The appellant contends that they were closed from February 26, 2016 to August 26, 2016 (182 days; not including August 26) which does not amount to six months. This argument is based on the following observations:

1. 2016 is a leap year which has 366 days.
2. A ‘month’ is 1/12 of a year, and is therefore 30.5 days ($366/12 = 30.5$).
3. Six months is therefore 183 days ($30.5 \times 6 = 183$).

³ In the case of Cardiff, the Use Permit is effectively replaced with a ‘vested right’ due to its operations having been operation had been established prior to the current zoning provisions.

4. Cardiff was closed from February 26 and August 26 (not including August 26), which is 182 days.
5. 183 days > 182 days and therefore the use did not close for six months.

In contrast with the appellant, the Planning Commission found that the business was closed February 26 through August 26, 2016 (183 days; including both days) which represented the business being closed for 'at least six months' based on the following:

1. The City of Campbell lacks a definition for what constitutes a 'month'.
2. Campbell Municipal Code Section 21.72.10 provides that when a word is not defined, the most common dictionary definition is presumed to be correct.
3. Merriam-Webster defines 'Month' as: a measure of time corresponding nearly to the period of the moon's revolution and amounting to approximately 4 weeks or 30 days or 1/12 of a year.
4. Six months is therefore 180 days (30 x 6 = 180). This was the standard used in staff's analysis.
5. Cardiff was closed from February 26 through August 26 (including both days), which is 183 days and greater than 180.
6. The Cardiff closed for at least six months (February 26 to March 26 to April 26 to May 26 to June 26 to July 26 to August 26). During this duration, the use was closed overlapping six months.

Based on the above, the Commission found that the legal non-conforming bar use lost its vested right to continue to operate.

3. The letter provided to the Planning Commission from Paul Patanguí (the former owner) includes misinformation meant to discredit Sam Ramirez.

The letter provided by Paul Pantanguí arrived after the Planning Commission meeting, and therefore was not taken into account in their determination. The City Council could consider this new information and its credibility in rendering its decision, which could result in a determination that the business had been closed five days earlier (February 21, 2016), rather than adhering to the date established by the Planning Commission (February 26, 2016). The letter, and supporting follow up statements from Paul Pantanguí, has been provided as **Attachment 11** with these new days reflected in the Updated Administrative Record and & Supporting Documents (reference **Attachment 7**) and supporting exhibit illustrating the significant dates by month (reference **Attachment 12 – Illustrative Months**).

4. The business owner is experienced with running the Cardiff and has operated with a CUP since 2004. It is not reasonable of the Planning Commission to require a new CUP.

The purpose of the public hearing is to determine whether or not the nonconforming use had ceased to operate for six or more continuous months. As such, whether or not the business owner is "experienced with running the Cardiff" is not relevant to the discussion. As previously discussed in response to the first

discussion point (pertaining to the validity of the Use Permit), the business does not have a valid CUP for the liquor establishment (only live entertainment and late night hours). Further, in determining that the use had discontinued for six or more months, the Planning Commission action does not require the applicant to apply for a CUP as that decision would be left to the discretion of the property owner.

NEXT STEPS

Should the City Council uphold the Planning Commission decision, the Cardiff would be required to discontinue operations. In contrast to the Planning Commission action, which was appealable to Council, the owner would have 90-days to challenge the Council decision in court. During these 90-days, the City would be unlikely to take any action to close the business, in that any attempt to close the business prior to the matter being 'fully adjudicated' could result in the City being found liable for inverse condemnation. In addition, or as an alternative to filing a challenge of the Council's decision, the Cardiff could apply for a Conditional Use Permit to allow for the operation of a bar.

ALTERNATIVES

1. **Approve the Appeal and Overturn the Determination:** If the City Council determines that the Planning Commission's determination was in error, the Council may reverse the determination by continuing the public hearing to a date certain, and providing direction to staff to return with findings (articulated in the motion) in support of overturning the decision.
2. **Deny the Appeal and Modify the Approval:** If the Council is generally agreeable to the determination as approved by the Planning Commission, but wishes to refine findings, the Draft City Council Resolution may be modified as appropriate.
3. **Refer back to the Planning Commission:** The application could be referred back to the Planning Commission with specific direction for further consideration.

Prepared by:



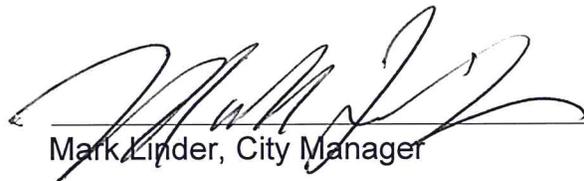
Stephen Rose, Associate Planner

Reviewed by:



Paul Kermoyan, Community Development Director

Approved by:



Mark Linder, City Manager

Attachments:

1. Draft City Council Resolution (PLN2016-293)⁴
2. Location Map
3. Appeal Letter
4. September 27, 2016 – Planning Commission Staff Report
5. September 27, 2016 – Planning Commission Minutes
6. Previous Desk Items
7. Updated Administrative Record & Supporting Documentation
8. Property Photos
9. UP 79-16 – Allowing a Remodel of 266 E. Campbell Avenue
10. PLN2004-63 – Allowing Live Entertainment & Late Night Activities
11. Letter from Paul Pantangui & Follow Up Materials
12. Illustrated Months

⁴ The Draft City Council Resolution (reference **Attachment 1**) includes minor revisions, which serve to note that ‘Exhibit A’ serves to reflect informational requirements (and not conditions of approval), indicate that the City Council is upholding the determination, and clarifying that the date range specified in Finding #13, includes the days on either end of the range as dates of closure.

RESOLUTION NO.

BEING A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION DETERMINATION THAT A NONCONFORMING USE (LIQUOR ESTABLISHMENT) HAD DISCONTINUED FOR A CONTINUOUS PERIOD OF SIX-MONTHS (PLN2016-293), THEREBY LOSING ITS VESTED RIGHT TO CONTINUE OPERATION ON PROPERTY LOCATED AT **260 E. CAMPBELL AVENUE.**

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

The City Council finds as follows with regard to the discontinuation of a nonconforming use (PLN2016-293):

Environmental Finding

1. The project is Categorical Exempt under Section 15321(a) of the California Environment Quality Act (CEQA), pertaining to enforcement actions by regulatory agencies to enforce or revoke an entitlement for a use issued, adopted or prescribed by the regulatory agency.

Evidentiary Findings

2. The project site is located at 260 E. Campbell Avenue, Campbell CA 95008.
3. The project site is located on the south side of E. Campbell Avenue, east of S. Second Street and west of S. First Street.
4. The subject property is zoned C-3 (Central Commercial) and has a General Plan Land Use Designation of Central Commercial.
5. The Cardiff Lounge, under different ownership and name, had continuously operated as a bar in its present location since the 1960's, before the enactment of the current zoning ordinance.
6. On July 23, 1979, the City Council approved (by minute action) UP 79-16 for 260 and 266 E. Campbell Avenue allowing for the remodel of 266 E. Campbell Avenue.
7. On November 28, 1988, the City Council approved a City-Initiated zone change of the Downtown Core Area to C-3, thereby enacting requirements for liquor establishments to be approved by a Conditional Use Permit.
8. On December 14, 2004, the Planning Commission adopted Resolution No. 3618 approving a Conditional Use Permit to allow late night activities and live entertainment in association with the existing bar.

9. A bar is defined as a liquor establishment pursuant to CMC21.72.020.L. Definitions, "L." and means a retail activity that is primarily devoted to the selling of alcoholic beverages as a stand-alone bar or tavern, or in conjunction with a restaurant or nightclub facility, for consumption on the premises.
10. The C-3 zoning district requires a Conditional Use Permit to establish a liquor establishment.
11. While both Use Permits, UP 79-16 and PLN2006-63, serve to acknowledge the presence of the existing bar, neither serves to establish a Use Permit for the operation of a liquor establishment.
12. The liquor establishment, therefore, existed as a nonconforming use due to a lack of a Conditional Use Permit.
13. The Cardiff Lounge was closed February 26, 2016 through August 26, 2016 (183 days; including both days in the range), ceasing to operate and conduct alcohol sales.
14. While the business owner made efforts to resume operations during this time, whether or not the business had been open and conducting alcohol sales serves to establish a 'bright-line' for whether the operation of a liquor establishment (by definition) had been discontinued.
15. Pursuant to CMC 21.10.60.L (Nonconforming uses and structures in the C-3- (Central Business District) zoning district: Whenever a nonconforming use has been abandoned or discontinued for a continuous period of six months, the nonconforming use shall not be reestablished, and the use of the structure and site shall comply with the regulations for the C-3 zoning district.
16. The City of Campbell lacks a codified definition for what constitutes an 'abandoned' or 'discontinued' use.
17. The City of Campbell lacks a codified definition for what constitutes a 'month'.
18. Campbell Municipal Code Section 21.72.10 provides that when a word is not defined, the most common dictionary definition is presumed to be correct.
19. Merriam-Webster defines 'Abandoned' as: given up: left empty or unused <abandoned houses>.
20. Merriam-Webster defines 'Discontinue' as: to break the continuity of: cease to operate, administer, use, produce or take.
21. Merriam-Webster defines 'Month' as: a measure of time corresponding nearly to the period of the moon's revolution and amounting to approximately 4 weeks or 30 days or $\frac{1}{12}$ of a year.

Based upon the foregoing findings of fact, the City Council further finds and concludes that:

22. Cardiff & Cocktails discontinued operation of the liquor establishment for at least six months, thereby losing its vested right to continue operation.

THEREFORE, BE IT RESOLVED that the City Council adopts a Resolution denying an appeal and upholding the Planning Commission determination that a nonconforming use (liquor establishment) had discontinued for a continuous period of six-months (PLN2016-293), thereby losing its vested right to continue operation at 260 E. Campbell Avenue, subject to the attached requirements (attached **Exhibit A**).

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

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

APPROVED: _____
Jason T. Baker, Mayor

ATTEST: _____
Wendy Wood, City Clerk

Determination of Discontinued Use (PLN2016-293)

Where approval by the Director of Community Development, City Engineer, Public Works Director, City Attorney or Fire Department is required, that review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations and accepted engineering practices for the item under review. Additionally, the applicant is hereby notified that he/she is required to comply with all applicable Codes or Ordinances of the City of Campbell and the State of California that pertain to this development and are not herein specified.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

1. Discontinuation of Use: The City Council determination shall be effective immediately and the business shall cease and desist operation of a liquor establishment until such time that a Conditional Use Permit is obtained. Should the business continue to operate without a permit, the City will assess a \$1,000 per day fine until the violation has been resolved. Please note that failure to comply with this Condition of Approval may result in further actions, including but not limited to criminal prosecution, civil suits or administrative proceedings.
2. Sign: The 'Open' sign on the front façade shall be removed within **fourteen (14) calendar days**. Please be advised that this sign had been installed without the benefit of a building permit and does not comply with the C-3 (Central Business District) sign requirements (which prohibit exposed neon lighting).

Location Map



October 6, 2016

Mayor Baker
 Honorable Members of the City Council
 City of Campbell
 70 N. First Street
 Campbell, CA 95008

RECEIVED
 OCT 07 2016
 CITY CLERK'S OFFICE

Re: Appeal of the Planning Commission's Denial of Cardiff & Cocktails
 Legal Non-Conforming Status
 File No. PLN2016-293
 Planning Commission Hearing: September 27, 2016

Dear Mayor Baker and Honorable Members of the City Council:

Sam Ramirez and Vee Meharu, owners of Cardiff & Cocktails respectfully request the City Council reconsider the Planning Commission's denial of the legal non-conforming status of their bar for the following reasons:

I. EXISTING CONDITIONAL USE PERMIT PLN 2004-63

Cardiff & Cocktails, previously Cardiff Lounge located at 260 E. Campbell has been in operation since the 1960's as a legal non-conforming bar. In 2004, entertainment and late night activities were added with a Conditional Use Permit (CUP) (attached).

The Planning Commission at the September 27, 2016 hearing did not take into consideration the existing Conditional Use Permit that when issued conditioned the entire premise that included the existing bar. In particular, one of the CUP findings states that, "The proposed late night activities and live entertainment in conjunction with the existing bar will be compatible with the C-3 zoning designation with approval of a Conditional Use Permit".

Because of the issuance of a Conditional Use Permit for the entire use, including the bar, the legal non-conforming status of the bar became a moot point. When the Cardiff Lounge ceased to operate on February 29, 2016 the CUP with all its conditions stayed with the land without an expiration date. The CUP for a bar with entertainment and late night activities is in place for the next operator.

The majority of the Planning Commissioners felt strongly about the bar and its status of legal non-conforming. They saw the need for a CUP resulting from their denial vote as a positive that would bring the use "into the fold" of conditioned permitted uses versus legal non-conforming. They did not take into consideration nor discuss or question the existing CUP even though it was in their packet. They were instructed to focus on the closure timeline and neglected to consider all the facts provided to them. The resulting closure and subsequent application for a CUP became foremost even though unnecessary because of the existing CUP that was granted after the C-3 Central Business District zoning district was established. The current CUP conditions are what may be included in a new CUP so why impose unnecessary financial hardship by requiring a duplicate CUP?

II. TIMELINE DOCUMENT SUPPORTING THE RIGHT TO STAY OPEN

WITHOUT A NEW CUP BASED ON A FACTUAL CALCULATION OF DAYS CLOSED

The Merriam-Webster definitions for 'Month' and a three page formula and day count demonstrating that the 180 days mandate had not been compromised was provided to the Planning Commissioners by the owners of Cardiff & Cocktails (attached). The information was not discussed at the hearing. The information made a strong argument against the supposed breach and in support of allowing the bar to remain open. According to the facts provided by Sam Ramirez and Vee Mehura the use had been closed 182 days and is within the 183 days calculated by using a count that is supported and factual versus the 180 days calculated by staff using 30 days per month that is an approximate figure.

EFFORT TO MEET 180 DAYS DEADLINE

Sam Ramirez and Vee Mehura worked diligently to meet the deadline of 180 days as evidenced in various emails and documents provided to planning staff and the Planning Commission (attached) The primary reason for the delay was issuance of a new ABC license (Alcoholic Beverage Control) required prior to opening. Paul Patangui prior Cardiff Lounge partner caused the delay intentionally. Paul Patangui misrepresented his lease status to Amanda Votaw, ABC staff causing over a 30-day delay of the process. An email from Amanda Votaw, ABC (attached) that was part of the Planning Commission packet supports our claim of interference by Paul Patangui.

According to William Seligmann, Campbell City Attorney at the hearing, efforts to meet the deadline could be considered during the Planning Commission hearing. The staff report said that efforts should not be considered (page1) a point that should have been discussed further and considered when making their discussion.

IV. CARDIFF LOUNGE PRIOR OWNER LETTER SENT TO THE PLANNING COMMISSION

Paul Patangui sent a letter (attached) to the Planning Commission with misinformation meant to discredit Sam Ramirez. Neither the February 21 date of closure, his ownership status, lease information nor his contact with ABC staff is correct. An example of the misinformation is contained in a July email from Amanda Votaw, ABC staff stating that Mr. Patangui said that he currently held a month to month lease at 260 E. Campbell but yet never came back with proof. That untruth held up Mr. Ramirez and Mr. Maharu's liquor license for over 30 days. Paul Patangui had turned over the Cardiff Lounge keys to Sam Ramirez on February 29, 2016 and no longer had any lease rights or access to the building.

V. BUSINESS OWNER EXPERIENCE

Sam Ramirez as 25% owner, Big Man, LLC and contracted manager of the Cardiff Lounge and now a partner with Vee Meharu and manager of Cardiff & Cocktails has been a responsible operator for over 13 years in Downtown Campbell as it metamorphosed into what it is today, a vibrant and successful Campbell destination. Without a doubt, his business contributed to that success. He operated the Cardiff Lounge with a CUP since 2004 without the need for amendments to keep up with the downtown growth.

It is not reasonable to require a new CUP as per the Planning Commission's vote that requires the permit to continue the Cardiff & Cocktails operation. There is an existing permit already in place, Sam Ramirez has passed his probationary period with his thirteen years in Downtown Campbell and should be able to continue to operate along with his partner, Vee Meharu and contribute to the success of the City of Campbell.

The facts provided for your consideration are sufficient to support the appeal and keep the Cardiff & Cocktails doors open. Sam Ramirez and Vee Meharu request that the City Council support the appeal and not uphold the Planning Commissions position concerning the time that the Cardiff Lounge closed as their perspective will cause their new business to shut down and cause financial hardship for Mr. Ramirez and Mr. Meharu.

The 180 days deadline for a legal non-conforming use according to the September 27, 2016 staff report is to allow time for the sale of a business, the continuation of a use or space. We ask that you honor the intention of the 180 days by accepting the facts provided in this Appeal and allow the Cardiff & Cocktails to remain in business.



Sandra Escobar
Escobar Legacy Consulting
(408) 483-4611
Sesco2@aol.com

Attachments

Conditional Use Permit 2004/ Resolution
Timeline and Campbell Municipal Code Section 21.72.10
Timeline/ABC license/documents
Amanda Votaw, ABC Email
Paul Patangui Letter



CITY OF CAMPBELL · PLANNING COMMISSION
Staff Report · September 27, 2016

**City-Initiated
Determination of
Discontinued Use
(PLN2016-293)**

Public Hearing to determine if a nonconforming use (e.g. the Cardiff Lounge) has been discontinued for a continuous period of six months (PLN2016-293) on property located at **260 E. Campbell Avenue**.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution** determining that a nonconforming use (liquor establishment) had discontinued for a continuous period of six months, thereby losing its vested right to continue operation.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Planning Commission find that this action is Categorically Exempt under Section 15321(a) of the California Environment Quality Act (CEQA), pertaining to enforcement actions by regulatory agencies to enforce or revoke an entitlement for a use issued, adopted or prescribed by the regulatory agency.

PROJECT LOCATION

The project site is located on the south side of E. Campbell Avenue, east of S. Second Street and west of S. First Street (reference **Attachment 2** – Location Map). The property is zoned C-3 (Central Business District), with a Central Commercial General Plan Land Use Designation, and is located in the Campbell Downtown.

PURPOSE & SCOPE OF REVIEW

Pursuant to Campbell Municipal Code (CMC) Section 21.10.060.L, whenever a nonconforming use is ‘abandoned’ or ‘discontinued’ for a continuous period of six months, the ‘grandfathered status’ is lost and the business may not continue operations until a Conditional Use Permit is obtained.

As such, the purpose of the public hearing is to determine whether or not the Cardiff Lounge bar¹ had remained closed for a ‘continuous period of six months’. This determination is distinct from whether or not activity of ‘any kind²’ had transpired, or whether the operator had intent to reopen or operate. As such, the scope of review is limited to the nature and duration of the

¹ Defined as a ‘liquor establishment’ pursuant to CMC21.72.020.L. Definitions, “L.”

² For example, operations behind closed doors not contributing to the continued operation of the liquor establishment.

closure, and does not pertain to questions of land use compatibility, business operations, or if the use of the property as a bar should be supported.

The general purpose of the nonconforming provisions of the CMC is to allow uses that do not comply with current zoning requirements to continue while bringing properties into conformance with current zoning requirements when those uses are discontinued or abandoned. Allowing for a business to reassume operations after having been closed for less than six-months is intended to allow a reasonable period of time for a business to be reestablished (e.g. accommodate a transfer of ownership), while not allowing a nonconforming use to continue indefinitely.

BACKGROUND

Cardiff & Cocktails, under different ownership and name³, had continuously operated as a bar⁴ since the 1960's. In 1988, the downtown core was rezoned to C-3 (Central Business District), which served to enact a requirement for liquor establishments to be approved through a Conditional Use Permit. As the business was not required to have a Conditional Use Permit when it was established, the liquor establishment has existed as a nonconforming use (due to the lack of a Conditional Use Permit) since that time.

Between February 26, 2016 and September 15, 2016, Cardiff remained closed to the public while handling internal business affairs (reference **Attachment 4** – Closure Date and Grand Opening Announcement) garnering the attention of the City and staff. In that the business remained closed for more than six-months (approximately 202-days), staff initiated the subject hearing as a means of providing the owner and operator the opportunity for a public hearing prior to the nonconforming use status being deemed lost. However, staff was made aware that the operator conducted a soft opening on Friday, September 2, 2016. At that day, the Cardiff Lounge would have remained closed for 190 days.

DISCUSSION

The extended period of closure, from February to September, amounts to Cardiff having been closed for 22 days more than what is required for the vested right of the bar to operate to have been lost. While the exact date range could be debated, subsequent emails from the operator, site inspections, and sales tax records from Q1 (Jan-March 2016), all support the conclusion that the business has been closed for at least six months.

Whereas staff is aware that the business owner had made efforts to reassume operations during this time, whether or not the business was open and conducting alcohol sales during this time serves to establish a bright-line⁵ for whether the operation of a liquor establishment (by definition) had been discontinued.

USE PERMITS

As noted in the Administrative Record, two Use Permits are on file for the property which include UP 79-16 and PLN2004-63 (reference **Attachments 6 & 7**). Staff evaluated these Use

³ Formerly Cardiff Lounge; originally believed to operate as Busy Bee Lounge.

⁴ Defined as a 'liquor establishment' pursuant to CMC21.72.020.L. Definitions, "L."

⁵ Providing an unambiguous criterion or guideline especially in law <a bright-line distinction>.

Permits, concluding that, while both Conditional Use Permits serve to acknowledge the presence of the existing bar, neither serves to establish a Use Permit for the operation of a liquor establishment⁶.

PUBLIC COMMENT

The application was noticed to all property owners within a 300-foot radius. No responses were received as of the preparation of this staff report. Materials provided to staff in advance of the meeting will be included as desk items.

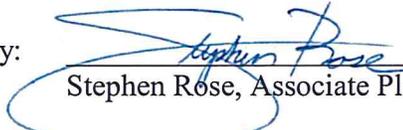
NEXT STEPS

Should the Planning Commission determine the use to have been discontinued for a period of six months, the determination may be appealed to the City Council. In the event the determination is not appealed, the decision would be final in ten calendar days requiring the use of the property as a bar to discontinue until such time a Conditional Use Permit is obtained.

ALTERNATIVES

- Continue to the item, requesting more information from the business operator, owner or staff.

Prepared by:



Stephen Rose, Associate Planner

Approved by:



Paul Kermoyan, Community Development Director

Attachments:

1. PC Resolution - (PLN2016-293)
2. Location Map
3. Administrative Record & Supporting Documentation
4. Property Photos
5. Closure Date & Grand Opening Announcement
6. UP 79-16 – Allowing a Remodel of 266 E. Campbell Avenue
7. PLN2004-63 – Allowing Live Entertainment & Late Night Activities

⁶ UP 79-16 served to allow a remodel of 266 E. Campbell Avenue, the adjacent tenant space, which had been focused on façade changes to the building exterior (at the time Site and Architectural alterations required a Use Permit in the Planned Development Zoning District). Further, PLN2004-63 served to allow live entertainment and late night hours in association with the existing bar, but in and of itself did serve to establish a Use Permit for the existing bar.

CITY OF CAMPBELL PLANNING COMMISSION

MINUTES

7:30 P.M.

TUESDAY

SEPTEMBER 27, 2016
CITY HALL COUNCIL CHAMBERS

The Planning Commission meeting of September 27, 2016, was called to order at 7:30 p.m., in the Council Chambers, 70 North First Street, Campbell, California by Chair Dodd and the following proceedings were had, to wit:

ROLL CALL

Commissioners Present:	Chair:	Cynthia L. Dodd
	Vice Chair:	Yvonne Kendall
	Commissioner:	JoElle Hernandez
	Commissioner:	Philip C. Reynolds, Jr.
	Commissioner:	Donald C. Young

Commissioners Absent:	Commissioner:	Ron Bonhagen
	Commissioner:	Michael L. Rich

Staff Present:	Community Development
	Director: Paul Kermoyan
	Senior Planner: Cindy McCormick
	Associate Planner: Stephen Rose
	City Attorney: William Seligmann
	Recording Secretary: Corinne Shinn

APPROVAL OF MINUTES

Motion: Upon motion by Commissioner Reynolds, seconded by Commissioner Kendall, the Planning Commission minutes of the meeting of September 13, 2016, were approved with correction to a name on page 3. (5-0-2; Commissioners Bonhagen and Rich were absent)

COMMUNICATIONS

Director Kermoyan listed the desk item(s):

1. Two items for Agenda Item No. 2.

AGENDA MODIFICATIONS OR POSTPONEMENTS

None

ORAL REQUESTS

None

CONSENT

None

DISCLOSURES

None

PUBLIC HEARINGS

Chair Dodd read Agenda Item No. 1 into the record as follows:

1. **PLN2016-219** Public Hearing to consider the application of Aaron Winklebleck for a Site and Architectural Review Permit (PLN2016-219) to allow a 629-square-foot addition to an existing 1,265-square-foot, single-story, single-family residence on property located at **1045 Normandy Drive**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Cindy McCormick, Senior Planner*

Ms. Cindy McCormick, Senior Planner, presented the staff report.

Chair Dodd asked for the SARC report:

Commissioner Kendall provided the Site and Architectural Review Committee report as follows:

- SARC reviewed this item on September 13, 2016, and was generally supportive.
- Advised that SARC had questioned whether the garage needed updates and it was determined that none were required.

Chair Dodd asked if there were questions of staff. There were none

Chair Dodd opened the Public Hearing for Agenda Item No. 1.

Chair Dodd closed the Public Hearing for Agenda Item No. 1.

Commissioner Young:

- Explained that SARC was satisfied that the converted garage had been taken care of and that the detached carport was being removed.
- Stated that this project looks good. The findings and conditions are good to go.

Chair Dodd agreed that this seems to be a straightforward request and asked for a motion.

Motion: Upon motion of Commissioner Young, seconded by Commissioner Reynolds, the Planning Commission adopted Resolution No. 4332 approving a Site and Architectural Review Permit (PLN2016-219) to allow a 629-square-foot addition to an existing 1,265-square-foot, single-story, single-family residence on property located at 1045 Normandy Drive, subject to the conditions of approval, by the following roll call vote:

AYES: Dodd, Hernandez, Kendall, Reynolds and Young

NOES: None

ABSENT: Bonhagen and Rich

ABSTAIN: None

Chair Dodd advised that this action is final unless appealed in writing to the City Clerk within 10 calendar days.

Chair Dodd read Agenda Item No. 2 into the record as follows:

2. **PLN2016-293** Public Hearing to determine if a nonconforming use (formerly known as Cardiff Lounge) has been discontinued for a continuous period of six months (PLN2016-293) on property located at **260 E. Campbell Avenue**. Staff is recommending that this item be deemed Categorical Exempt under CEQA. Planning Commission action final unless appealed in writing to the City Clerk within 10 calendar days. Project Planner: *Stephen Rose, Associate Planner*

Mr. Stephen Rose, Associate Planner, presented the staff report.

Chair Dodd asked if there were questions of staff.

Commissioner Reynolds asked the City Attorney if a posting on a door of a closure is accepted by the Courts.

City Attorney William Seligmann responded that such a posting together with a mailing notification to the last known address is sufficient to serve as noticing.

Commissioner Reynolds said that the applicant hadn't directly notified the City of their closure but rather posted a notice on their door.

City Attorney William Seligmann said that it doesn't matter when the City became aware of this business being closed. It simply matters how long that business has been closed.

Commissioner Young asked staff when such an action as this (loss of grandfathered status due to six-month closure of a use) has been enacted.

Planner Stephen Rose replied that he had not found other such cases during his research.

Commissioner Young asked if the remodel done had included building permits.

Planner Stephen Rose replied no. The work done was without permits but represented minor cosmetic work including addition of wallpaper and the reupholstering of furniture.

Chair Dodd asked about the Valentine's Day event held on February 14th. She questioned whether Cardiff has ever been just a special events location at times.

Planner Stephen Rose replied no. He added that they would have special events in addition to their regular business operations.

Chair Dodd opened the Public Hearing for Agenda Item No. 2.

Sam Ramirez, Operator of the Cardiff Lounge:

- Reported that he has been the operator of the Cardiff for the last 15 years and believes he has done a pretty good job of it.
- Advised that problems arose between him and his partner. The partner misled ABC (Alcohol Beverage Control) regarding the business lease and the liquor license issued to this use. ABC contacted City Planning and the City provided the resolution that had been issued for their Conditional Use Permit.
- Stated that Cardiff has been an icon for the Downtown Area.
- Admitted that he hated to see it closed even for a few days and reopening was ultimately delayed because of people misleading ABC.
- Reiterated that he and Cardiff have been a part of this community for a long time. Campbell has a great Downtown.
- Concluded that he was available for any questions.

Commissioner Young asked Mr. Ramirez if it would be a hardship for him to come into conformance with current Code standards.

Sam Ramirez replied that it would if they would have to close at midnight. He reminded that they have invested a lot of money in their recent upgrades including stocking much nicer quality spirits.

V. Meharu, Investor, Cardiff:

- Stated that Sam Ramirez covered most of his points.
- Explained that he is a primary stakeholder in this business.
- Added that he had created a timeline to explain what has occurred to require their temporary closure. Due to the turmoil caused by a previous partner, the closure was longer than they had anticipated. They would have reopened two months earlier.
- Assured that they are good tenants and part of this community. They have 20 plus employees both full-time and part-time.
- Added that he has invested his life savings in this endeavor.
- Concluded that he was available for questions.

Chair Dodd closed the Public Hearing for Agenda Item No. 2.

Commissioner Reynolds:

- Said that this is a tough situation to consider. There are lots of dates to compute to determine just when they closed and when they reopened.
- Suggested it might be worth considering whether the length of closure is all that far off the required timeframe that the City would win in the event of a legal battle. It seems there are several questions about dates that could be raised in a legal matter that might not be worth the expense of litigation for the City.
- Said it might be better to give these operators the benefit of the doubt.
- Pointed out that oftentimes things can go sideways between business partners. No crimes have been committed but simply this represents a business transaction between partners that went in a bad direction.
- Said when he looks at the data it doesn't seem like the Yelp information can be confirmed. Therefore he's looking at March 8th as the date when the notice of closure was posted.
- Said that the next question is when the first transaction of alcohol sales made. It was on August 26th. There are both grand openings and soft openings for such a business. He counts 171 closed dates using March 8th through August 26th, which is under the 180 days (six month) standard.
- Said that he would feel differently if they had gone way beyond six months and/or if ABC had shut them down. That would be a different story.
- Concluded that this should be an easy decision to make.

Chair Dodd said she is not so sure and advised that it is not the charge of the Planning Commission to determine the cost of potentially litigating a matter under its consideration.

Director Paul Kermoyan:

- Reminded that the operator has given testimony about the circumstances that have occurred that were beyond his control.

- Added that staff observed the closed sign on this business frontage on February 26th.
- Reported that afterwards staff reached out to Sam Ramirez several times by email.
- Advised that the reason Planner Stephen Rose checked Yelp was to try and obtain more information about the closure.

City Attorney William Seligmann:

- Agreed that it is not the Commission's purview to predict what happens with possible litigation.
- Advised that the Planning Commission makes its determinations using existing Code.
- Said that the Commission can consider the on-going efforts to keep the business operating.

Chair Young:

- Said that the Campbell Municipal Code is pretty clear. The intent is to have non-conforming uses come into compliance rather than kept non-compliant in perpetuity.
- Stated that he counts 182 days when looking at the material provided.
- Stated that having this business brought into conformance with current standards brings us opportunities.

Commissioner Hernandez:

- Stated that the issue before this Commission is straightforward in terms of the Code.
- Added that the intent is to bring non-conforming uses into conformance when the opportunity comes up. It's time to take that opportunity.
- Said that may be unfortunate for this operator but they have been "grandfathered" for many years. They had every opportunity to communicate with the City on what was going on. This is the point of these provisions in the Code.
- Stated the question is whether they were operating or not during that time frame. It is clear that they were not operating. It's pretty straightforward.

Commissioner Kendall:

- Agreed with Commissioner Hernandez.
- Pointed out that Mr. Meharu has indicated that he is a new owner with a new license. This is a new operation and license. The old one closed and a new one is opening with a new ABC license.
- Stated that this use has been closed longer than the minimum 180 days.
- Added that this is not intended as a penalty but simply the way the Code is written. It can be addressed with processing of a new Conditional Use Permit. That doesn't mean that it has to have a midnight closure although the Commission has been pretty strict. However, the Commissioner considers each request independently.
- Concluded her belief that this business was closed for more than 180 days.

Commissioner Reynolds:

- Asked Director Paul Kermoyan to clarify dates. The City observed the posted closure notice on February 26th while the staff report indicates March 8th.

Planner Stephen Rose clarified that March 8th is the date the photograph was taken of the sign but that he had first observed it on February 26th.

Commissioner Reynolds asked staff which closing date the Commission is going with.

Chair Dodd said that when the sign was first seen indicating the business was closed as seen by staff.

Commissioner Reynolds asked what day is considered the reopening.

Commissioner Hernandez said that August 26th is the date on the first receipt, which is 182 days.

Chair Dodd said that the question is whether this is the time to bring a non-conforming business into compliance with current Code.

Planner Stephen Rose said that the range of dates is between February 26 and August 26, 2016. On August 26th, the business had a "super soft opening". A flyer from the business owner indicated February 29th as the date the keys were returned to the property owner.

Commissioner Hernandez added that this doesn't mean that this operator cannot re-establish their use but there is a process to follow. It's unfortunate that the closure slipped outside of the six-month time frame.

Commissioner Young:

- Said that he believes the 180 days have been met. He referenced Items 13, 14, 16 and 17.
- Said that he can codify the soft opening as August 26th even without sales receipts.
- Stated that the draft resolution, with conditions, has been met.

Commissioner Kendall questioned Commission Young about Item 13.

Commissioner Hernandez said that there is no proof of sales.

Commissioner Kendall said that they turned on the "open" sign on August 27th. If you count between February 26th and August 26th, that is 182 days.

Chair Dodd said she believes this is an opportunity to bring a non-conforming business into line with current standards. It is not a penalty but rather an opportunity for us. She pointed out that our Downtown is constantly evolving.

Motion: Upon motion of Commissioner Kendall, seconded by Commissioner Hernandez, the Planning Commission adopted Resolution 4333 determining that a nonconforming use (formerly known as Cardiff Lounge) has been discontinued for a continuous period of six months on property located at 260 E. Campbell Avenue, with the following changes:

- Change Item 13 date to August 26th

by the following roll call vote:

AYES: Dodd, Hernandez, Kendall, Reynolds and Young

NOES: None

ABSENT: Bonhagen and Rich

ABSTAIN: None

Chair Dodd advised that this action is final unless appealed in writing to the City Clerk within 10 calendar days.

REPORT OF THE COMMUNITY DEVELOPMENT DIRECTOR

Director Paul Kermoyan provided the following update to his written report:

- Reported that the Fence Exception that had been appealed to Council was upheld.
- Reported that Chair Dodd and Commissioner Young would be attending the CalAPA Conference in Pasadena in October.

ADJOURNMENT

The Planning Commission meeting adjourned at 8:20 p.m. to the next Regular Planning Commission Meeting of **October 11, 2016**.

SUBMITTED BY: _____
Corinne Shinn, Recording Secretary

APPROVED BY: _____
Cynthia Dodd, Chair

ATTEST: _____
Paul Kermoyan, Secretary

MEMORANDUM**City of Campbell**

Planning Division

To: Chair Dodd and Planning Commission Members **Date:** Sept. 27, 2016
From: Stephen Rose, Associate Planner 
Subject: Item 2 (260 E. Campbell Avenue) ~ Desk Item

This morning Sam Ramirez (business operator) of Cardiff & Cocktails emailed a copy of the attached documents (13 pages). Included in the package are emails indicating that the business had two very limited “soft soft” openings on August 26, 2016 and August 27, 2016 which were cash-only / open bar events for friends and family (the later date also included 20 members of the general public), which were not noted in the Administrative Record (reference **Attachment 3**) provided by staff.

Also included in the documents are two credit card receipts from September 2, 2016 (the date noted in the staff report as the ‘friends and family’ soft opening date), as well records indicating efforts made by the business to reopen the business throughout the months it was closed.

The last page of the documents includes a summary of key dates as follows:

- Soft Soft Open 8/26 & 8/27
- Soft Open 9/2 & 9/3
- Soft Open 9/9 & 9/10
- Friends and Family Open 9/13
- VIP Open 9/14
- Grand Openings 9/15

If the Planning Commission should accept the August 26, 2016 “soft soft” (cash only / open bar) date, as the official ‘reopening’ of the business (the staff report references September 15, 2016 as the reopening date), it should be noted that between February 26, 2016 (date of closure) and August 26, 2016 that the business would still have been closed for over six-months (182 days).

May 18 ABC Filing

June ABC

Contacted ABC and they said they needed time to review due to Mr Patangui insisted that he was the rightful tenant and therefore delayed the investigation of the ABC licensing process.

July 26th ABC

ABC still could not issue license because Mr Patangui's false claims to lease and tenancy.

July 28th

Spoke to Amanda and explained the "blocking" by Mr Patangui and cleared all open question. Amanda said Mr Patangui was not able to substantiate any of his claims and she agreed he was intentionally trying to jeopardize the ABC license.

August 1st

ABC agreed with MR Families and proceeded to get authorization.

Post ABC authorization Escrow Company advised that there was an issue with the newly purchased license and that the owner of said license owed money to the Board of Equalization and also to the Franchise Tax Board. Escrow was not able to get a timely response from tax entities further delaying.

ABC License 8/26 LIVE

License Information
License Number: 569632
Primary Owner: MR FAMILIES LLC
ABC Office of Application: 25 - SAN JOSE
Business Name
Doing Business As: CARDIFF LOUNGE
Business Address
Address: 260 E CAMPBELL AVE Census Tract: 5065.02
City: CAMPBELL County: SANTA CLARA
State: CA Zip Code: 95008
Licensee Information
Licensee: MR FAMILIES LLC
Company Information
OFFICER: MEHARU, VIRAMRINDER SINGH (MEMBER)
OFFICER: MEHARU, VIRAMRINDER SINGH (MEMBER)
License Types
1) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES
License Type Status: ACTIVE
Status Date: 29-AUG-2016 Term: 12 Month(s)
Original Issue Date: 26-AUG-2016 Expiration Date: 31-JUL-2017
Master: Y Duplicate: 0 Fee Code: P40
License Type was Transferred On: 26-AUG-2016 FROM: 47-345674

Soft Open | 1 8/26 & 8/27 very limited

Email chain between Sam and Vee

Date	From	Subject	Date	Time	Size
Friday	Sam Ramirez	Fwd: Cardiff Lounge	Fri 8/26/2016	1:54 PM	145 KB
Tuesday	vmeharu@wptzspeed.com	Fwd: CARDIFF LOGO PACK.zip	Tue 8/30/2016	4:29 PM	5 MB
Today	'Sam Ramirez'	RE: We're Live ABC license	Sun 8/28/2016	7:25 PM	6 KB
Yesterday	'Sam Ramirez'	License is approved! We're soft soft opening tonight	Sat 8/27/2016	9:16 AM	5 KB
Last Week	Sam Ramirez	Re: Application	Fri 8/26/2016	1:37 PM	4 KB
	'Sam Ramirez'	We're Live ABC license	Fri 8/26/2016	12:19 PM	5 KB

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez'
Subject: We're Live ABC license

Sammy,

We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this ...

Regards,

Vee Meharu
(408)666-9005

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Saturday, August 27, 2016 9:16 AM
To: 'Sam Ramirez'
Subject: License in approved! We're soft soft opening tonight

So excited finally!

We're opening tonight as planned. No cash registers no problem we'll have to do cash only bar and open bar for F&F.
Let's invite our F&F.

Turn on the Open sign and let people wonder in. People are waiting.

Regards,

Vee Meharu
(408)666-9005

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Sunday, August 28, 2016 7:25 PM
To: 'Sam Ramirez'
Subject: RE: We're Live ABC license

Ok it was a good soft open F&F plus like 20 locals.... think we need to press for the new registers and get the staff working a bit faster.

Regards,

Vee Meharu
(408)666-9005

From: Vee Meharu [mailto:vee@meharu.com]
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez' <sammy@sammyramirez.com>
Subject: We're Live ABC license

Sammy,

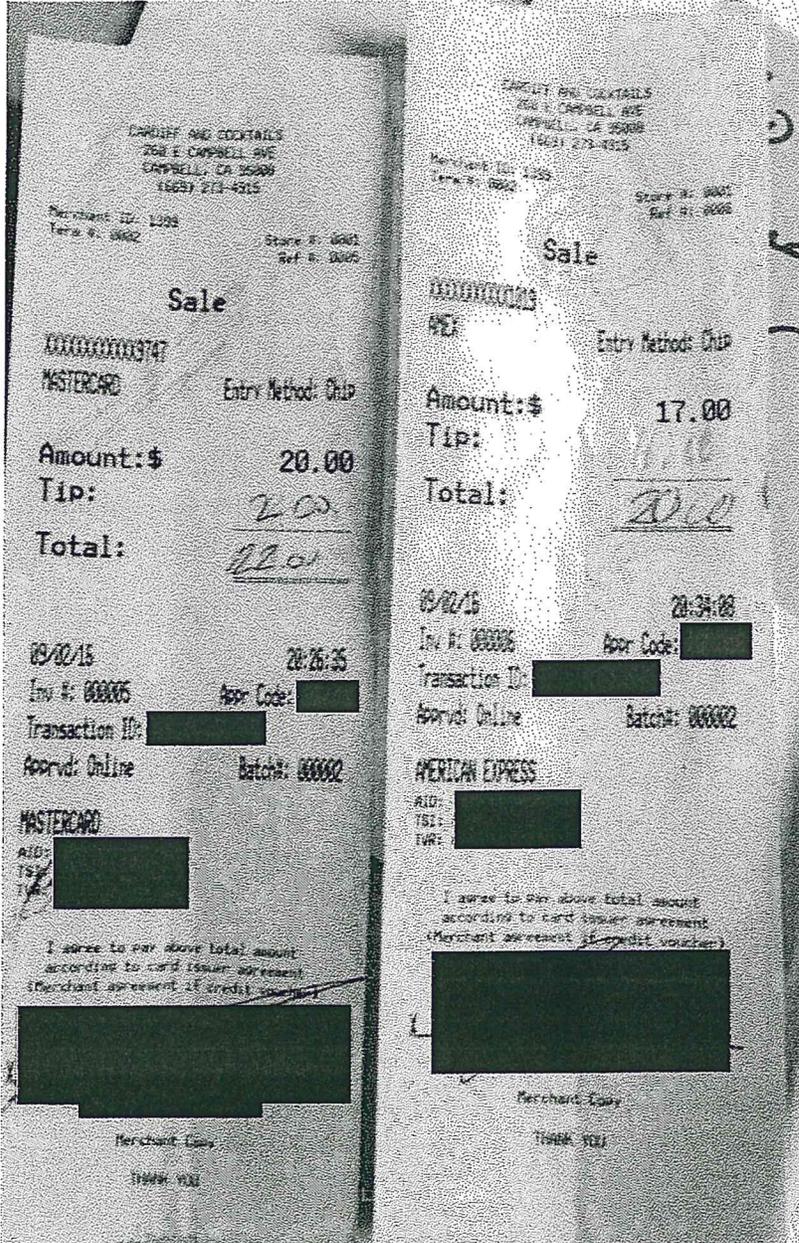
We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this ...

Regards,

Vee Meharu
(408)666-9005

Soft Open 9/2 with registers

Receipts



Email List and content

0706 email to Amada of ABC

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Wednesday, July 06, 2016 11:28 AM
To: amanda.votaw@abc.ca.gov
Cc: Lyd2u@sbcglobal.net
Subject: Cardiff ACB License
Attachments: RAMIREZ V. PATANGUI COMPLAINT.pdf; ramirez v. patangui_fax re case.pdf; ramirez v. patangui_3DAYPOQ_2-5-16.pdf

Hi Amada,

Thank you for calling me today. Please find attached all the legal documents in regards to the previous tenant abandoning / surrendering the building and prior actions the landlord attempted to collect payment for rent.

Please note the previous tenant has surrendered the building removing all assets and returned the keys to the landlord. The PDF Ramirez v. patangui fax is the document from their lawyer stating returning of the key and no lease agreements.

Mr. Patangui or any other party will not be able to provide any documents showing payments of rent or any rights to the building. I have the lease which Lydia should have already passed to you as part of the application.

I request you please approve my application for the APC license as the previous tenant is just trying to block my progress in hopes to cause me financial distress for no apparent reason other than sour grapes.

I am the current lease holder in possession of the property 100%.
Please call me for any information you may need as you process the application.

Regards,

Vee Meharu
(408)666-9005

0726 email from Amanda

Vee Meharu

From: Votaw, Amanda@ABC <Amanda.Votaw@abc.ca.gov>
Sent: Tuesday, July 26, 2016 4:56 PM
To: vee@meharu.com
Subject: FW: 260 E. Campbell Avenue sub-lease dispute

From: Votaw, Amanda@ABC
Sent: Tuesday, July 26, 2016 4:32 PM
To: 'Lydia Engdol'
Subject: FW: 260 E. Campbell Avenue sub-lease dispute

Hi Lydia,

Could you please contact Vee to let him know I'm waiting to see if I can get a definitive answer on what we need to put this to rest? I sent the below e-mail to the property manager.

From: Votaw, Amanda@ABC
Sent: Tuesday, July 26, 2016 3:14 PM
To: 'jbowen@providentrentals.com'
Subject: 260 E. Campbell Avenue sub-lease dispute

Hi John,

I have a couple of questions with regard to this property, as we attempt to understand the sequence of events surrounding tenancy of this property. We cannot issue the pending ABC license until the issue of is resolved.

Sam Ramirez also provided a CAR form to me, which affirms the right to sublease the property as of 6/1/04, but it is dated 7/20/16.

The prior tenant (Paul Patangu) brought in a lease between Steve Rin, CEO of On the Rocks, LLC and Robert L. Raffanti, Trustee of the Living Trust Agreement (Robert L. Raffanti Trust). The lease runs from 5/1/2003-4/30/2013 and was signed on 5/1/2003 by the landlord and tenant. This lease did grant the option of sub-leasing, but the lease is expired. He advised me that he is on a month-to-month lease currently, for which I have been given no evidence for the past several weeks. As I stated in our conversation, he also claims to be in lease negotiations with Margery Raffanti, which could not be substantiated on your end.

The license applicant (Mr Families, LLC) provided an undated sublease agreement (that states the lease agreement is "made and entered into as of May, 2016"). The sublease agreement states that sublessor Sam Ramirez, Jr. assumed that role under written agreement as of 6/1/04. The sublease references Section 16 of a lease (presumably the expired lease as Section 16 of the lease dealt with assignment and subletting. Is there an intermediate lessor between Margery Raffanti and Mr. Ramirez currently? Is there a complete current head lease we could have a copy of? We have nothing after 4/30/13, except for a three-page sub-lease agreement.

As Mr. Families only began to sub-lease this property recently, would it be possible to find out who were the prior sub-lessees between the establishment of the sub-lease and now?

0727 Email from Landlords Property Management Company

Vee Meharu

From: Sam Ramirez <sammy@sammyramirez.com>
Sent: Wednesday, July 27, 2016 4:25 PM
To: VEE
Subject: Fwd: 260 E. Campbell Avenue sub-lease dispute
Attachments: Attachments.html; Untitled attachment 00069.htm

This is what property manager sent to Amanda FYI

Sam Ramirez
Sammy@sammyramirez.com
408-340-3830
www.fastcalgroup.com
www.thecontinentalbar.com
Twitter
@thecontinentalbar
@sammyramirez

Begin forwarded message:

From: "John Bowen" <JBowen@ProvidentRentals.com>
Date: July 27, 2016 at 3:38:41 PM PDT
To: "Votaw, Amanda@ABC" <Amanda.Votaw@abc.ca.gov>
Subject: RE: 260 E. Campbell Avenue sub-lease dispute

ShareFile Attachments

Title	Size
CAR Addendum No 1 - Consent to Sublease 072016.pdf	229.0 KB
Lease - Campbell Ave 260.pdf	4.8 MB
Lease Extension - Campbell Avenue 260 053120.pdf	394.8 KB
Property Profile - 260 E Campbell Avenue (Raffanti).pdf	180.4 KB

John Bowen uses ShareFile to share documents securely. [Learn More.](#)

Hi Amanda,

I would love to help clear things up for you...but as for outdated subleases from before we were managing the property, I'm afraid I can't help. We have managed this property (260 E. Campbell Avenue), since June 15, 2015. I have very little knowledge of the property prior to then.

I can confirm (as do county records) that this property is owned by the Margery R. Raffanti Trust and that Marge Raffanti is the trustee of that trust. I would assume you have access to county records that would show you the same thing, but if that is not the case, I have attached here, for your convenience, the property profile showing data pulled from those records.

As for the current lease, please find attached the lease we inherited when we took over management. It is between Robert L. Raffanti and Sam Ramirez Jr.

As for the transfer of the property from the late Robert Raffanti to his wife Marge Raffanti, I cannot speak; that was prior to our involvement with the property.

I have also attached a copy of the most recent Extension of Lease for this property, which is between Sam Ramirez (Tenant) and Marge Raffanti (Landlord).

I am also attaching the CAR Addendum No 1 which I drafted on behalf of and as agent for Marge Raffanti and the Marge Raffanti Trust, because the tenant, Sam Ramirez, Jr. was requesting that Marge give her approval to the sublease, which she does. That addendum references the lease with Mr. Ramirez (which is common practice so everyone will know the primary document), and is dated 7/20/16 because that is when it was requested by the tenant to demonstrate to your office that he does indeed have the right to sublease under his current lease and that the landlord gives approval.

Marge did indicate that someone affiliated with Paul contacted her by phone. She directed them to contact our office regarding anything having to do with the property. They have not contacted our office. There are no lease negotiations going on between Marge and Paul. Paul is not a tenant in this property. He does not have possession.

Unfortunately, that is all the documentation we can provide. If you are requiring a statement of these facts signed by Ms. Raffanti, please have your attorney send us a copy. Please let me know if I can help in any other way.

Thank you,

John

John R. Bowen
President, Founder & CEO

Provident Property Management
1035 Minnesota Avenue, Suite C
San Jose, CA 95125

(408) 995-5900 office / (408) 497-0907 mobile / (408) 995-5901 fax

Real Estate Sales ~ www.ProvidentRealEstateServices.com
Property Management ~ www.ProvidentRentals.com

California Bureau of Real Estate, license #01316775 (Broker)
California Bureau of Real Estate, license #01526063 (Corporation)

From: Votaw, Amanda@ABC [mailto:Amanda.Votaw@abc.ca.gov]
Sent: Tuesday, July 26, 2016 3:14 PM
To: jbowen@providentrentals.com
Subject: 260 E. Campbell Avenue sub-lease dispute

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Sam Ramirez also provided a CAR form to me, which affirms the right to sublease the property as of 6/1/04, but it is dated 7/20/16.

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The license applicant (Mr Families, LLC) provided an undated sublease agreement (that states the lease agreement is "made and entered into as of May __, 2016"). The sublease agreement states that sublessor Sam Ramirez, Jr. assumed that role under written agreement as of 6/1/04. The sublease references Section 16 of a lease (presumably the expired lease as Section 16 of the lease dealt with assignment and subletting. Is there an intermediate lessor between Margery Raffanti and Mr. Ramirez currently? Is there a complete current head lease we could have a copy of? We have nothing after 4/30/13, except for a three-page sub-lease agreement.

As Mr. Families only began to sub-lease this property recently, would it be possible to find out who were the prior sub-lessees between the establishment of the sub-lease and now?

Is there any way we could obtain a signed document from Mrs. Raffanti to explain/confirm who has control over the property and perhaps answer the above questions? (Beyond the CAR form dated 7/20/16.) The CAR Addendum that was provided to our office states the Robert L. Raffanti Trust is the landlord, but the sub-lease agreement was made between Marge Raffanti as Trustee of the Margery R. Raffanti Trust, so the document shows a lease made between a sub-lessee and someone other than the landlord. I understand Mr. Raffanti died, but how does Mrs. Raffanti have the authority to act in the capacity of landlord? Was she the successor trustee?

If I'm missing something or not understanding how the sub-lease should work, please let me know.

Amanda Votaw
Licensing Representative
Department of Alcoholic Beverage Control
100 Paseo de San Antonio Suite 119
San Jose, CA 95113

0801 ABC Agrees with MR Families

Vee Meharu

From: Votaw, Amanda@ABC <Amanda.Votaw@abc.ca.gov>
Sent: Monday, August 01, 2016 1:05 PM
To: Lydia Engdot Vee Meharu
Subject: RE: Need to talk to Karyn on Monday

Hi,

I just wanted to let you know I discussed this further with my supervisor and, based on the information provided by the property manager, I will be able to move forward with this file.

Amanda

From: Lydia Engdot [mailto:lyd2u@sbcglobal.net]
Sent: Thursday, July 28, 2016 12:43 PM
To: Vee Meharu
Cc: Votaw, Amanda@ABC
Subject: Re: Need to talk to Karyn on Monday

Thank you Amanda... Seems that our applications are not as easy as they may seem. You have put a lot of time into this and you are so appreciated!

Sent from my iPhone

On Jul 28, 2016, at 12:34 PM, Vee Meharu <vee@meharu.com> wrote:

Thank you Amanda

Please excuse any grammatical errors or typos as message is typed and being sent from my mobile device.

Vee Meharu
(408) 666-9005

On Jul 28, 2016, at 12:26 PM, Votaw, Amanda@ABC <Amanda.Votaw@abc.ca.gov> wrote:

Hi,

I wanted to let you know that I will not have anything further to offer today with regard to the situation and that I will need to talk to Karyn (my supervisor's boss) on Monday to see if we can move forward with what has been provided from Mr. Bowen.

Sorry I do not have any news, I will let you know the outcome of my discussion on Monday.

Amanda Votaw
Licensing Representative
Department of Alcoholic Beverage Control
100 Paseo de San Antonio Suite 119
San Jose, CA 95113

0826 Soft Open / We're live

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez'
Subject: We're Live ABC licence

Sammy,

We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this...

Regards,

Vee Meharu
(408)666-9005

- Soft Soft Open 8/26 & 8/27
- Soft Open 9/2 & 9/3
- Soft Open 9/9 & 9/10
- Friends and Family Open 9/13
- VIP Open 9/14
- Grand Openings 9/15

Item #2 - Additional Desk Item

MSG Confirm

Date/Time : FEB-29-2016 12:42PM MON
Model Name : Dell B2375dnf Mono MFP
Service Tag : 520Z4Y1
Host Name : DEL30CDA7AD3A2B

No	Name/Number	StartTime	Time	Mode	Page	Result
138	14082419624	02-29 12:41PM	00'26	BCM	001/001	OK



February 29, 2016

VIA FACSIMILE ONLY (408) 241-9024
Attn: Kirkman J. Hoffman, Esq.
2011 The Alameda, #275
San Jose, CA 95126

Page 1

RE: Matter: *Sara Ramirez, Jr. v. Paul Patanbul, et al.*
Our Client: **ON THE ROCKS, LLC**
Your Client: *Sara Ramirez, Jr.*
Property address: *260 E. Campbell Avenue, Campbell, CA 95008*
(hereinafter "The Property")

Dear Mr. Hoffman:

Please be advised our client represents **ON THE ROCKS, LLC** in connection with the aforementioned unlawful detainer matter.

On or about Saturday, February 27, 2016, Paul Patanbul of **ON THE ROCKS, LLC** received notice from the court regarding this matter. Please be advised that none of the named defendants have been served. Also, it should be noted in written lease between any of the named defendants and Mr. Ramirez never existed.

Finally, Paul's parents, Lambert Patanbul and Della Patanbul, have no connection whatsoever to The Property.

That said, none of the named defendants are in possession of The Property. Paul Patanbul will mail the keys to your office today.

Please contact us when you have received the keys to The Property. Also, please kindly confirm the unlawful detainer action has been dismissed as to all defendants. Thank you in advance for your professional courtesy and cooperation.

Very truly yours,
JAC-S
ZURIEL A. CERVANTES

3885 Alton Creek Road, Suite 1020, Aliso Viejo, CA 92656-2201
Tel: (949) 260-8822 Fax: (949) 260-8825 Email: zuriel@zuriel.com
www.zuriel.com

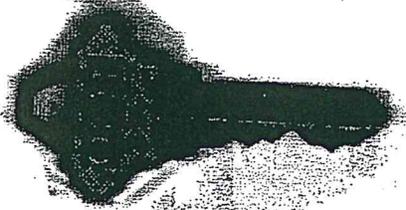
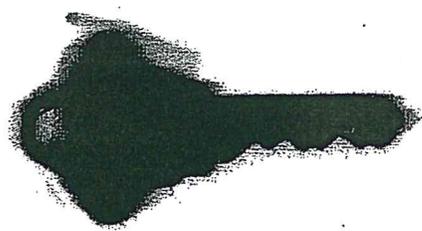
2/29/16

Enclosed

and the keys for Credit Lounge

260 East Campbell Ave
Campbell, CA 95008

Paul Patanbul
Paul Patanbul



Updated Administrative Record & Supporting Documentation

The following is an abridged summary of significant events pertaining to the subject property and vicinity dating back to the original site construction until present.

On or around March 28, 1947 the one-story stucco building located at 260 & 266 E. Campbell Avenue was originally built.

On or around May 3, 1948 the building at 260 E. Campbell Avenue was used by a Cleaner, and 266 E. Campbell Avenue was used for a Post Office.

On March 28, 1952 the City of Campbell was incorporated and included the subject property..

Between 1967 & 1968 the building was extensively remodeled, and the building was noted as having been divided into two. The first area measuring 32' x 80' (266 E. Campbell Avenue) was used as a billiard parlor (d.b.a. Campbell Billiard Center) and the other area measuring 24' x 80' (260 E. Campbell Avenue) was used as a bar (d.b.a. Busy Bee Lounge).

On July 23, 1979, the City Council approved (by minute action) UP 79-16 for 260 and 266 E. Campbell Avenue allowing for the remodel of 266 E. Campbell Avenue.

On November 28, 1988, the City Council approved a City-Initiated zone change of the Downtown Core Area to C-3, thereby enacting requirements for liquor establishments to be approved by a Conditional Use Permit.

On December 14, 2004, the Planning Commission adopted Resolution No. 3618 approving a Conditional Use Permit to allow late night activities and live entertainment in association with the existing bar.

On February 14, the Cardiff held a Valentine's Day event as noted on the Cardiff Facebook page. No additional events are known to have occurred between this date and September 8, 2016.

On February 21, 2016 the business had its last sales based on information provided by the former business partner (Paul Patanguí). **This information was not available to the Planning Commission when its decision was rendered.**

On February 26, 2016 the City observed that the business was closed. A review was also posted on Yelp noting that the place is closed. (Date Closed per Planning Commission)

On February 29, 2016, Associate Planner Daniel Fama left a voicemail with Sam Ramirez to determine the operational status of Cardiff and ascertain whether or not the business was closed permanently.

On March 1, 2016, Associate Planner Daniel Fama followed up with an email to determine the operational status of Cardiff and ascertain whether or not the business was closed permanently.

On March 8, 2016, Associate Planner Stephen Rose took a picture of the note posted on the door specifying that the business was "Closed for Remodel".

On August 26, 2016 the Cardiff planned to have a 'soft' soft opening. No confirmation of this event occurring was provided; email correspondence between the operators appears to convey that the 'soft' soft opening did not occur until the next day.

On August 27, 2016 the Cardiff conducted a 'soft' soft opening (based on information from the current owners). This date appears to be confirmed by email correspondence between the business operators (Date Reopened per Planning Commission).

On September 2, 2016 & September 3, 2016 the Cardiff held a soft opening (based on information from the current owners).

On September 9, 2016 & September 10, 2016 the Cardiff held a soft opening (based on information from the current owners).

On September 13, 2016 the Cardiff held a soft opening for friends and family (based on information from the current owners).

On September 14, 2016 the Cardiff held a VIP Opening (based on information from the current owners).

On September 15, 2016 Cardiff & Cocktails held its Grand Opening. (Date sales receipts recommenced)

RESOLUTION NO. 3618

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING A CONDITIONAL USE PERMIT (PLN2004-63) TO ALLOW LATE NIGHT ACTIVITIES AND LIVE ENTERTAINMENT IN AN EXISTING BAR ON PROPERTY OWNED BY MR. ROBERT RAFFANTI LOCATED AT 260 E. CAMPBELL AVENUE IN THE C-3-S (CENTRAL BUSINESS DISTRICT) ZONING DISTRICT. APPLICATION OF MR. SAM RAMIREZ, ON BEHALF OF THE CARDIFF LOUNGE. FILE NO. PLN2004-63.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

After due consideration of all evidence presented, the Planning Commission did find as follows with respect to application PLN2004-63.

1. The proposed late night activities and live entertainment in conjunction with the existing bar is consistent with the Central Commercial General Plan land use designation.
2. The proposed late night activities, occurring between 11:00 p.m. and 6:00 a.m., and live entertainment in conjunction with the existing bar will be compatible with the C-3 (Central Business District) zoning designation with approval of a Conditional Use Permit.
3. The project site consists of a 6,720 square foot lot, developed with 4,619 square feet of building area, zero square feet of landscaping, and 2,101 square feet of paving.
4. The project site is located on the south side of East Campbell Avenue, between South First Street and South Second Street. The property is surrounded by commercial uses on the north, east and west sides, and a parking lot to the south.
5. The proposed project is consistent with other developments and uses in the surrounding area.
6. No exterior modifications to the building are proposed in conjunction with the proposed late night activities and live entertainment.
7. The Police Department has not expressed a concern with the proposed project.
8. The hours of operation shall be restricted to 12:00 p.m. to 2:00 a.m. daily and the hours for live entertainment shall be restricted to 9 p.m. to 1:30 a.m. daily.
9. The types of live entertainment offered at the establishment would consist of live D.J.'s, three piece bands, and karaoke.
10. The project qualifies as a Categorical Exempt project per Section 15301, Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA).

Based upon the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The proposed project is consistent with the General Plan.
2. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area.
4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate.
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
7. No substantial evidence has been presented which shows that the project, as currently presented and subject to the required conditions of approval, will have a significant adverse impact on the environment.
8. There is a reasonable relationship and a rough proportionality between the conditions of approval and the impacts of the project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar on property owned by Mr. Robert Raffanti located at 260 E. Campbell Avenue in the C-3-S (Central Business District) Zoning District, subject to the following conditions:

Where approval by the Director of Community Development, City Engineer, Public Works Director, City Attorney or Fire Department is required, that review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations and accepted engineering practices for the item under review. Additionally, the applicant is hereby notified that he/she is required to comply with all applicable Codes or Ordinances of the City of Campbell and the State of California that pertain to this development and are not herein specified.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division:

1. **Approved Project:** Approval is granted for a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar on property located at 260 E. Campbell Avenue. The project shall substantially conform to the plans and project description received by the Planning Division on November 19, 2004, except as may be modified by the conditions of approval contained herein.
2. **Conditional Use Permit Approval Expiration:**
 - a. The Conditional Use Permit approval shall be valid for one year from the date of final approval. Within this one-year period the use must be established on the property and the conditions of approval satisfied. Failure to meet this deadline will result in the Conditional Use Permit being void.
 - b. This Conditional Use Permit will be reviewed by the Planning Commission in six months.
3. **Revocation of Permit:** Operation of the use in violation of the Conditional Use Permit or any standards, codes, or ordinances of the City of Campbell shall be grounds for consideration of revocation of the Conditional Use Permit by the Planning Commission.
4. **Property Maintenance:** The owner/operator of the subject property shall maintain all exterior areas of the business free from graffiti, trash, rubbish, posters and stickers placed on the property.
5. **Trash and Recycling Enclosure:** The applicant/property owner shall submit a building permit for the construction of a new trash and recycling enclosure(s) within three months of the date of Planning Commission approval. The design and location of the enclosure shall be to the satisfaction of the Community Development Director. All refuse and recycling containers shall be located in an enclosure constructed and consisting of a concrete floor at least six inches in depth, surrounded by a minimum six-foot high masonry wall and having a solid metal gate. The design of the enclosure shall be compatible with the building. Driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles utilized by the designated collector. The wall, gate and surface inside the enclosure must be kept in sound repair and condition. The refuse and recycling containers shall be kept in the enclosure at all times except when being emptied by collection personnel.
6. **Recordation of Covenant:** The applicant/property owner shall record a covenant that stipulates that the businesses located in the building located on parcel number 412-06-033 shall have the shared right to use the parking spaces located on the separate properties known as parcel number 412-06-035 and 412-06-081 for the life of the building. This document

shall be recorded within three months of the date of Planning Commission approval and proof of the recorded document shall be submitted to the Planning Division.

7. **Signing and Advertising:** No signage is approved as part of the development application approved herein. All signs advertising events shall be installed and maintained consistent with the provision of the Sign Ordinance, Chapter 21.30 of the Campbell Municipal Code. The posting of flyers and posters on public property is prohibited. The business owner shall be considered responsible for these postings, if they occur, and shall cause their immediate removal. Failure to comply may result in Revocation of the Conditional Use Permit.
8. **Loitering:** There shall be no loitering allowed outside the business in the rear parking lot or the side parking lot areas.
9. **Outdoor Storage:** No outdoor storage is permitted on the subject property. No equipment, materials or business vehicles shall be parked and/or stored outside the building or within the parking lot.
10. **Noise:**
 - a. **Noise Standard:** Any noises, sounds and/or voices, including but not limited to amplified sounds, loud speakers, sounds from audio sound systems, music, and/or public address system, generated by the subject use shall not be audible to a person of normal hearing capacity from any residential property.
 - b. **Noise Management:** In the event complaints are received by the City regarding noise, the Community Development Director may immediately modify the hours of operation and/or limit the extended hours of operation, subject to the project being brought back to the Planning Commission for review.
 - c. **Back Door:** The back door to the business leading to the rear parking area shall be closed at all times during business hours.
 - d. **Trash & Clean Up:** Trash and clean up shall not be done in the evening or early morning hours. All trash and clean shall be done between 12 p.m. to 6 p.m. daily.
11. **Business Operational Hours:** The operational hours shall be limited to 12:00 p.m. to 2:00 a.m. seven days a week. The 2 a.m. closing shall mean that the business is closed and shuttered with no activity. Hours of operation will include the conclusion of liquor sales at 1:30 a.m.
12. **Live Entertainment Hours:** The live entertainment hours shall be limited to 9 p.m. to 1:30 a.m. seven days a week.
13. **Parking and Driveways:** All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 of the Campbell Municipal Code.

POLICE DEPARTMENT

14. Live Entertainment Permit: The applicant shall process a Live Entertainment Permit with the Police Department consistent with Chapter 5.24 of the Campbell Municipal Code prior to the establishment of live entertainment on site.
15. Security and Staffing: The owner/operator of the subject property shall provide one bonded, certified (guard card), uniformed, security guard for every 50 patrons in conjunction with the live entertainment events.

PASSED AND ADOPTED this 14th day of December, 2004, by the following roll call vote:

AYES:	Commissioners:	Alderete, Doorley, Francois, Gibbons, Rocha and Roseberry
NOES:	Commissioners:	None
ABSENT:	Commissioners:	None
ABSTAIN:	Commissioners:	None

APPROVED: _____

George Doorley, Chair

ATTEST: _____

Sharon Fierro, Secretary

CAMPBELL MUNICIPAL CODE SECTION 21.72.10

Campbell Municipal Code Section 21.72.10 provides that when a word is not defined, the most common dictionary definition is presumed to be correct.

Definition as per Merriam-Webster defines 'Month' as: a measure of time corresponding nearly to the period of the moon's revolution and amounting to approximately 4 weeks or 30 days or $\frac{1}{12}$ of a year.

Definition of approximately

Almost correct or exact: close in value or amount but not precise

Source: Merriam-Webster's Learner's Dictionary

STATEMENT OF FACT FOR 2016:

The total number of days between Friday, January 1st, 2016 and Saturday, December 31st, 2016 is 365 days.

The 365 day measure does not include the end date of December 31, 2016. So if you want the duration of an event that includes both the starting date and the ending date, then it would actually be 366 days.

THE BELOW IS BASED ON 365 DAYS IN A YEAR.

Please note there are actually 366 days in the year 2016.

Please see Exhibit Labeled 2016 Days per Month

- $\frac{1}{12}$ of a year is 30.41 days.
- There are 365 days in the year 2016
- There are 12 months in a year
- Days in $\frac{1}{2}$ Year based on 365 days in a year: $365/2=182.5$ Days

*Based on the commission's assessment Cardiff was closed 182 days this is less than 182.5 days in a year which is by definition 6 month based on Campbell Municipal Code Section 21.72.10 provides that when a word is not defined, the most common dictionary definition is presumed to be correct.

*Days in $\frac{1}{2}$ Year based on 365 days in a year: $365/2=182.5$ Days

Commission used 30 days per month as basis for refusal to honor grandfather clause which equated to 180 Day which is less than 182 days. 30 days multiplied by 6 month = 180 days.

Actual day calculation should be 30.5 multiplied by 6 = 183 days

THE BELOW IS BASED ON THE ACTUAL 366 DAYS IN 2016

Please see Exhibit Labeled **2016 Days per Month** which provided the number of days in each month of 2016.

Supporting reference site of data:

<http://www.convertunits.com/dates/from/Jan+1,+2016/to/Dec+31,+2016>

- 1/12 of a year is 30.5 days.
- There are 366 days in the year 2016
- Days in ½ Year based on 366 days in a year: $366/2=183$ Days

*Based on the commission's assessment Cardiff was closed 182 days this is less than 183 days in a 1/2 year which is by definition is 6 month based on Campbell Municipal Code Section 21.72.10 provides that when a word is not defined, the most common dictionary definition is presumed to be correct.

*Days in ½ Year based on 365 days in a year: $365/2=183$ Days

Commission used 30 days per month as basis for refusal to honor grandfather clause which equated to 180 Day which is less than 182 days. 30 days multiplied by 6 month = 180 days.

*Actual day calculation should be 30.5 multiplied by 6 = 183 days.
This is based on a 366 day count which is supported and factual.*

2016 DAYS PER MONTH

Month 2016	Days
January	31
February	29
March	31
April	30
May	31
June	30
July	31
August	31
September	30
October	31
November	30
December	31
Total Days	366

May 18 ABC Filing

June ABC

Contacted ABC and they said they needed time to review due to Mr Patangui insisted that he was the rightful tenant and therefore delayed the investigation of the ABC licensing process.

July 26th ABC

ABC still could not issue license because Mr Patangui's false claims to lease and tenancy.

July 28th

Spoke to Amanda and explained the "blocking" by Mr Patangui and cleared all open question. Amanda said Mr Patangui was not able to substantiate any of his claims and she agreed he was intentionally trying to jeopardies the ABC license.

August 1st

ABC agreed with MR Families and proceeded to get authorization.

Post ABC authorization Escrow Company advised that there was an issue with the newly purchased license and that the owner of said license owed money to the Board of Equalization and also to the Franchise Tax Board. Escrow was not able to get a timely response from tax entities further delaying.

ABC License 8/26 LIVE

License Information	
License Number: 569632	
Primary Owner: MR FAMILIES LLC	
ABC Office of Application: 25 - SAN JOSE	
Business Name	
Doing Business As: CARDIFF LOUNGE	
Business Address	
Address: 260 E CAMPBELL AVE Census Tract: 5065.02	
City: CAMPBELL County: SANTA CLARA	
State: CA Zip Code: 95008	
Licensee Information	
Licensee: MR FAMILIES LLC	
Company Information	
OFFICER: MEHARU. VIRAMRINDER SINGH (MEMBER)	
OFFICER: MEHARU. VIRAMRINDER SINGH (MEMBER)	
License Types	
1) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES	
License Type Status: ACTIVE	
Status Date: 29-AUG-2016 Term: 12 Month(s)	
Original Issue Date: 26-AUG-2016 Expiration Date: 31-JUL-2017	
Master: Y Duplicate: 0 Fee Code: P40	
License Type was Transferred On: 26-AUG-2016 FROM: 47-345674	

Soft Open | 1 8/26 & 8/27 very limited

Email chain between Sam and Vee

4	Date: Friday	Sam Ramirez	Fwd: Cardiff Lounge	Fri 9/2/2016 1:54 PM	145 KB	>
4	Date: Tuesday	vmeharu@wyrespeed....	Fwd: CARDIFF LOGO PACK.zip	Tue 8/30/2016 4:29 PM	5 MB	>
4	Date: Today	'Sam Ramirez'	RE: We're Live ABC license	Sun 8/28/2016 7:25 PM	6 KB	>
4	Date: Yesterday	'Sam Ramirez'	License in approved! We're soft soft opening tonight	Sat 8/27/2016 9:16 AM	5 KB	>
4	Date: Last Week	Sam Ramirez	Re: Application	Fri 8/26/2016 1:37 PM	4 KB	>
		Sam Ramirez	We're Live ABC license	Fri 8/26/2016 12:19 PM	5 KB	>

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez'
Subject: We're Live ABC license

Sammy,

We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this ...

Regards,

Vee Meharu
(408)666-9005

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Saturday, August 27, 2016 9:16 AM
To: 'Sam Ramirez'
Subject: License in approved! We're soft soft opening tonight

So excited finally!

We're opening tonight as planned. No cash registers no problem we'll have to do cash only bar and open bar for F&F.
Let's invite our F&F.

Turn on the Open sign and let people wonder in. People are waiting.

Regards,

Vee Meharu
(408)666-9005

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Sunday, August 28, 2016 7:25 PM
To: 'Sam Ramirez'
Subject: RE: We're Live ABC license

Ok it was a good soft open F&F plus like 20 locals.... think we need to press for the new registers and get the staff working a bit faster.

Regards,

Vee Meharu
(408)666-9005

From: Vee Meharu [mailto:vee@meharu.com]
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez' <sammy@sammyramirez.com>
Subject: We're Live ABC license

Sammy,

We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this ...

Regards,

Vee Meharu
(408)666-9005

Soft Open 9/2 with registers

Receipts

CARDIFF AND COCKTAILS 268 E CAMPBELL AVE CAMPBELL, CA 95008 (669) 273-4915	
Merchant ID: 1399 Term #: 0002	Store #: 0001 Ref #: 0005
Sale	
XXXXXXXXXXXX3747 MASTERCARD	Entry Method: Chip
Amount: \$	20.00
Tip:	2.00
Total:	<u>22.00</u>
09/02/16	20:26:35
Inv #: 000005	Appr Code: [REDACTED]
Transaction ID: [REDACTED]	
Apprvd: Online	Batch#: 000002
MASTERCARD	
AID: [REDACTED]	
TSI: [REDACTED]	
TVR: [REDACTED]	
I agree to pay above total amount according to card issuer agreement (Merchant agreement if credit voucher)	
X	[REDACTED]
Merchant Copy	
THANK YOU	

CARDIFF AND COCKTAILS 268 E CAMPBELL AVE CAMPBELL, CA 95008 (669) 273-4915	
Merchant ID: 1399 Term #: 0002	Store #: 0001 Ref #: 0005
Sale	
XXXXXXXXXXXX1819 AMEX	Entry Method: Chip
Amount: \$	17.00
Tip:	4.00
Total:	<u>21.00</u>
09/02/16	20:34:03
Inv #: 000006	Appr Code: [REDACTED]
Transaction ID: [REDACTED]	
Apprvd: Online	Batch#: 000002
AMERICAN EXPRESS	
AID: [REDACTED]	
TSI: [REDACTED]	
TVR: [REDACTED]	
I agree to pay above total amount according to card issuer agreement (Merchant agreement if credit voucher)	
X	[REDACTED]
Merchant Copy	
THANK YOU	

As for the current lease, please find attached the lease we inherited when we took over management. It is between Robert L Raffanti and Sam Ramirez Jr.

As for the transfer of the property from the late Robert Raffanti to his wife Marge Raffanti, I cannot speak; that was prior to our involvement with the property.

I have also attached a copy of the most recent Extension of Lease for this property, which is between Sam Rameriz (Tenant) and Marge Raffanti (Landlord).

I am also attaching the CAR Addendum No 1 which I drafted on behalf of and as agent for Marge Raffanti and the Marge Raffanti Trust, because the tenant, Sam Ramirez, Jr, was requesting that Marge give her approval to the sublease, which she does. That addendum references the lease with Mr. Ramirez (which is common practice so everyone will know the primary document), and is dated 7/20/16 because that is when it was requested by the tenant to demonstrate to your office that he does indeed have the right to sublease under his current lease and that the landlord gives approval.

Marge did indicate that someone affiliated with Paul contacted her by phone. She directed them to contact our office regarding anything having to do with the property. They have not contacted our office. There are no lease negotiations going on between Marge and Paul. Paul is not a tenant in this property. He does not have possession.

Unfortunately, that is all the documentation we can provide. If you are requiring a statement of these facts signed by Ms. Raffanti, please have your attorney send us a copy. Please let me know if I can help in any other way.

Thank you,

John

John R. Bowen
President, Founder & CEO

Provident Property Management
1035 Minnesota Avenue, Suite C
San Jose, CA 95125

(408) 995-5900 office / (408) 497-0907 mobile / (408) 995-5901 fax

Real Estate Sales ~ www.ProvidentRealEstateServices.com
Property Management ~ www.ProvidentRentals.com

California Bureau of Real Estate, License #01316775 (Broker)
California Bureau of Real Estate, License #01526063 (Corporation)

From: Votaw, Amanda@ABC [mailto:Amanda.Votaw@abc.ca.gov]
Sent: Tuesday, July 26, 2016 3:14 PM
To: jbowen@providentrentals.com
Subject: 260 E. Campbell Avenue sub-lease dispute

Hi John,

0826 Soft Open / We're live

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Friday, August 26, 2016 12:19 PM
To: 'Sam Ramirez'
Subject: We're Live ABC license

Sammy,

We're live.... Get the work out we're soft soft opening tonight for F&F and also let general public wonder in.
Let's do this ...

Regards,

Vee Meharu
(408)666-9005

- Soft Soft Open 8/26 & 8/27
- Soft Open 9/2 & 9/3
- Soft Open 9/9 & 9/10
- Friends and Family Open 9/13
- VIP Open 9/14
- Grand Openings 9/15

Email List and content

0706 email to Amada of ABC

Vee Meharu

From: Vee Meharu <vee@meharu.com>
Sent: Wednesday, July 06, 2016 11:28 AM
To: amanda.votaw@abc.ca.gov
Cc: Lyd2u@sbcglobal.net
Subject: Cardiff ACB License
Attachments: RAMIREZ V. PATANGUI COMPLAINT.pdf; ramirez v. patangui_fax re case.pdf; ramirez v. patangui_3DAYPOQ_2-5-16.pdf

Hi Amada,

Thank you for calling me today. Please find attached all the legal documents in regards to the previous tenant abandoning / surrendering the building and prior actions the landlord attempted to collect payment for rent.

Please note the previous tenant has surrendered the building removing all assets and returned the keys to the landlord. The PDF Ramirez v. patangui fax is the document from their lawyer stating returning of the key and no lease agreements.

Mr. Patangui or any other party will not be able to provide any documents showing payments of rent or any rights to the building. I have the lease which Lydia should have already passed to you as part of the application.

I request you please approve my application for the APC license as the previous tenant is just trying to block my progress in hopes to cause me financial distress for no apparent reason other than sour grapes.

I am the current lease holder in possession of the property 100%.
Please call me for any information you may need as you process the application.

Regards,

Vee Meharu
(408)666-9005

I have a couple of questions with regard to this property, as we attempt to understand the sequence of events surrounding tenancy of this property. We cannot issue the pending ABC license until the issue of is resolved.

Sam Ramirez also provided a CAR form to me, which affirms the right to sublease the property as of 6/1/04, but it is dated 7/20/16.

* The prior tenant (Paul Patanguj) brought in a lease between Steve Rin, CEO of On the Rocks, LLC and Robert L. Raffanti, Trustee of the Living Trust Agreement (Robert L. Raffanti Trust). The lease runs from 5/1/2003-4/30/2013 and was signed on 5/1/2003 by the landlord and tenant. This lease did grant the option of sub-leasing, but the lease is expired. He advised me that he is on a month-to-month lease currently, for which I have been given no evidence for the past several weeks. As I stated in our conversation, he also claims to be in lease negotiations with Margery Raffanti, which could not be substantiated on your end.

The license applicant (Mr Families, LLC) provided an undated sublease agreement (that states the lease agreement is "made and entered into as of May __, 2016"). The sublease agreement states that sublessor Sam Ramirez, Jr. assumed that role under written agreement as of 6/1/04. The sublease references Section 16 of a lease (presumably the expired lease as Section 16 of the lease dealt with assignment and subletting. Is there an intermediate lessor between Margery Raffanti and Mr. Ramirez currently? Is there a complete current head lease we could have a copy of? We have nothing after 4/30/13, except for a three-page sub-lease agreement.

As Mr. Families only began to sub-lease this property recently, would it be possible to find out who were the prior sub-lessees between the establishment of the sub-lease and now?

Is there any way we could obtain a signed document from Mrs. Raffanti to explain/confirm who has control over the property and perhaps answer the above questions? (Beyond the CAR form dated 7/20/16.) The CAR Addendum that was provided to our office states the Robert L. Raffanti Trust is the landlord, but the sub-lease agreement was made between Marge Raffanti as Trustee of the Margery R. Raffanti Trust, so the document shows a lease made between a sub-lessee and someone other than the landlord. I understand Mr. Raffanti died, but how does Mrs. Raffanti have the authority to act in the capacity of landlord? Was she the successor trustee?

If I'm missing something or not understanding how the sub-lease should work, please let me know.

Amanda Votaw
Licensing Representative
Department of Alcoholic Beverage Control
100 Paseo de San Antonio Suite 119
San Jose, CA 95113

0801 ABC Agrees with MR Families

Vee Meharu

From: Votaw, Amanda@ABC <Amanda.Votaw@abc.ca.gov>
Sent: Monday, August 01, 2016 1:05 PM
To: Lydia Engdot; Vee Meharu
Subject: RE: Need to talk to Karyn on Monday

Hi,

I just wanted to let you know I discussed this further with my supervisor and, based on the information provided by the property manager, I will be able to move forward with this file.'

Amanda

From: Lydia Engdol [mailto:lyd2u@sbcglobal.net]
Sent: Thursday, July 28, 2016 12:43 PM
To: Vee Meharu
Cc: Votaw, Amanda@ABC
Subject: Re: Need to talk to Karyn on Monday

Thank you Amanda... Seems that our applications are not as easy as they may seem. You have put a lot of time into this and you are so appreciated!

Sent from my iPhone

On Jul 28, 2016, at 12:34 PM, Vee Meharu <vee@meharu.com> wrote:

Thank you Amanda

Please excuse any grammatical errors or typos as message is typed and being sent from my mobile device.

Vee Meharu
(408) 666-9005

On Jul 28, 2016, at 12:26 PM, Votaw, Amanda@ABC <Amanda.Votaw@abc.ca.gov> wrote:

Hi,

I wanted to let you know that I will not have anything further to offer today with regard to the situation and that I will need to talk to Karyn (my supervisor's boss) on Monday to see if we can move forward with what has been provided from Mr. Bowen.

Sorry I do not have any news, I will let you know the outcome of my discussion on Monday.

Amanda Votaw
Licensing Representative
Department of Alcoholic Beverage Control
100 Paseo de San Antonio Suite 119
San Jose, CA 95113

City of Campbell
70 N. First St.
Campbell, Ca. 95008

September 29, 2016

Attn: Planning Commission
Re: Cardiff Lounge

On February 21, 2016 the Cardiff Lounge, located at 260 E. Campbell Ave, Campbell, Ca. 95008, closed its doors for business due to financial hardship caused by the mismanagement of staff and resources through the negligence of Sam Ramirez who is a contractor hired by Paul Patangui of the Cardiff Lounge. In order to resolve our internal issues it was my decision, Paul Patangui as the sole owner and operator of On the Rocks, LLC (dba Cardiff Lounge), to close the Cardiff Lounge on February 21, 2016. On this date all inventory and equipment was removed from the Cardiff Lounge to prevent further operation by any staff or contracted employees.

Further documentation can be provided to the City of Campbell confirming the closure date. Please be advised that any operations or building activity after February 21, 2016 was not under the supervision or knowledge of On the Rocks, LLC. The final sale of liquor was recorded on February 21, 2016. All business operations halted after February 21, 2016.

It is my understanding that the Cardiff Lounge has reopened as 'Cardiff & Cocktails' which has no affiliation with the Cardiff Lounge that has done business in the City of Campbell for over 13 years. Our Facebook page: www.facebook.com/cardifflounge has been updated to reflect the permanent closure of the Cardiff Lounge. From the February 21, 2016 closure of the Cardiff Lounge I have been in contact with the Alcoholic Beverage Control office to notify their staff that the Cardiff Lounge will not be in operation and has discontinued business for over six months. Cardiff & Cocktails is not the Cardiff Lounge and we have not reopened our business since closing back in February 21, 2016.

I would be happy to discuss and provide any further materials that can establish the Cardiff Lounge's nonconforming use (liquor establishment) has been discontinued for a continuous period of six months.

Sincerely,



Paul Patangui

From: [Sam Ramirez](#)
To: [Daniel Fama](#)
Subject: Re: Cardiff Status
Date: Tuesday, March 01, 2016 10:10:12 AM

No sir just handling some internal Buisness
Thanks for checking in

Sam Ramirez
Sammy@sammyramirez.com
408-340-3830
www.lastcallgroup.com
www.thecontinentalbar.com
Twitter
@thecontinentalbar
@sammyramirez

On Mar 1, 2016, at 8:52 AM, Daniel Fama <danielf@cityofcampbell.com> wrote:

Hi Sam – I'm following up on my voicemail from yesterday. What's going on with the Cardiff? Is it closed for good?

Daniel

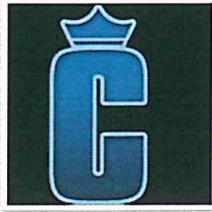
<!--[if !vml]--><!--[endif]--> **Daniel Fama | Associate Planner**
Community Development Department | Planning Division
danielf@cityofcampbell.com
☎ 408.866.2193 | 📠 408.871.5140
✉ 70 N. First Street, Campbell, CA 95008

Email or Phone

Password

Log In

[Forgot account?](#)



The Cardiff Lounge

@CardiffLounge

Home

About

Events

Photos

Reviews

Videos

Likes

Menu

New Tab 1

Posts

Create a Page



More

Call Now



The Cardiff Lounge shared Darren Holland's event.

February 12

<https://www.facebook.com/events/1571131946543155>



FEB 13 The Cardiff lounge presents The Valentines House Edi...
Sun 9:00 PM · Campbell, CA
8 people interested · 2 people going

Like Comment Share



The Cardiff Lounge shared Darren Holland's event.

January 28

<https://www.facebook.com/events/225069841163489/#>



JAN 30 The Cardiff Lounge Presents- Saturday Night at The G...
Sat 9:00 PM in PST · Campbell, CA
22 people interested · 9 people going

Bar · Campbell, California

4.2

Always Open

Search for posts on this Page

PEOPLE

2,543 likes
24,476 visits

ABOUT



260 E Campbell Ave
Campbell, CA 95008-2022

(408) 374-7477

Open 24 Hours

Menu

<http://www.cardiffounge.com/>

APPS

New Tab 1

PHOTOS

Cardiff & Cocktails

[HOME](#) [ABOUT](#) [CALENDAR](#) [INSTAGRAM](#) [CONTACT](#)

It looks like nothing was found at this location. Maybe try one of the links below or a search?



Search

Archives

Try looking in the monthly archives. 😊

Select Month

UPCOMING EVENTS

1.

Cardiff & Cocktails Grand Opening

September 15 @ 7:00 pm - September 16

2:00 am

[View All Events](#)



Ken O.
Campbell, CA
15 friends
6 reviews

★☆☆☆☆ 2/26/2016

This place is now closed. No more Cardiff. Long time Campbell place is no more.

Hopefully something good will replace it.

Was this review ...?

Useful 4 Funny Cool

Figure 1: Yelp Review noting business closure on February 26, 2016.

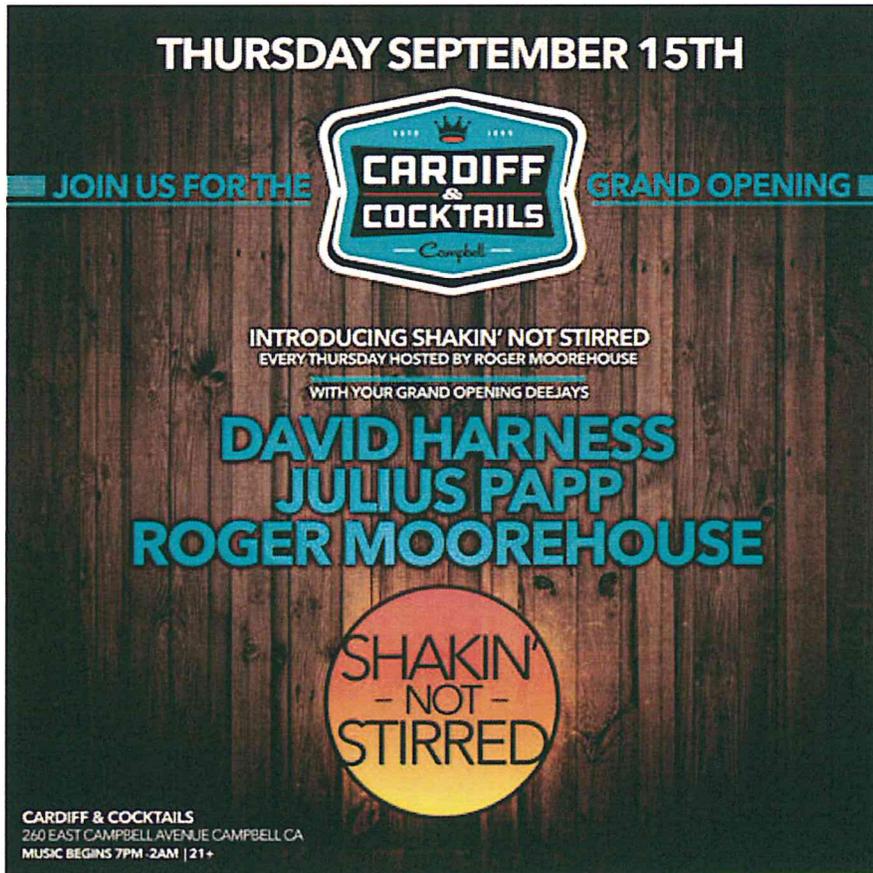


Figure 2: Grand Opening Announcement for September 15, 2016



March 8, 2016 - Sign observed noting 'Closed for Remodel'

LOCATIONS & ENTITIES V9.0
DATE: 09/12/2016
TIME: 12:19:32

City of Campbell
GENERAL BUSINESS REPORT - ALL LICENSES

PAGE NUMBER: 1
MODULE : busgenrpt

SELECTION CRITERIA:

BUS. ID	BUSINESS ID	BUSINESS ADDRESS	ESTAB DT	LICENSE NO	CATEGORY	ISSUE DT	EXPIRAT.	STAT
001055	CARDIFF LOUNGE/LIVE ENTERTAINM	260 E CAMPBELL AVE	07/18/80	5159	7929L	07/18/80		C
	PARC ID: 412-06-033	STATUS: C	DATE CLOSED: 03/13/03					
	OWNER : SHIFLET, GARY & DOROTHY	CAMPBELL CA 95008						
001056	CARDIFF LOUNGE/POOL TABLES	260 E CAMPBELL AVE	07/18/80	5168	7999P	07/18/80		C
	PARC ID: 412-06-033	STATUS: C	DATE CLOSED: 03/13/03					
	OWNER : SHIFLET, GARY & DOROTHY	CAMPBELL CA 95008						
021833	CARDIFF LOUNGE	260 E CAMPBELL AVE	10/31/05	76687	7929L	10/31/05	09/30/16	A
	PARC ID: 412-06-033	STATUS: O						
	OWNER : SAM RAMIREZ / PAUL PATANGUI	CAMPBELL CA 95008						
004053	CARDIFF COCKTAIL LOUNGE	260 E CAMPBELL AVE	02/22/79	12578	5813	02/22/79	05/31/03	C
	PARC ID: 412-06-033	STATUS: C	DATE CLOSED: 03/13/03					
	OWNER : CARDIFF SWIM/RAC CLUB INC	CAMPBELL CA 95008						
010540	CARDIFF LOUNGE/AMUSEMNT DEVICE	260 E CAMPBELL AVE	06/20/80	27381	7993	06/20/80		C
	PARC ID: 412-06-033	STATUS: C	DATE CLOSED: 03/13/03					
	OWNER : SHIFLET, GARY & DOROTHY	CAMPBELL CA 95008						
019394	THE CARDIFF LOUNGE DBA:	260 E CAMPBELL AVE	02/25/03	62057	5813	02/25/03	01/31/16	C
	PARC ID: 412-06-033	STATUS: C	DATE CLOSED: 06/01/16					
	OWNER : PAUL PATANGUI/SAM RAMIREZ	CAMPBELL CA 95008						

TOTAL BUSINESSES: 6

ORDINANCE NO. 1734

BEING AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF CAMPBELL AMENDING THE
ZONING MAP FROM INTERIM ZONING DISTRICT
TO C3 (CENTRAL BUSINESS DISTRICT) FOR PROPERTIES
LOCATED WITHIN CIVIC CENTER DRIVE AND ORCHARD CITY
DRIVE (DOWNTOWN CORE AREA) AS SHOWN ON THE ATTACHED
EXHIBIT (CITY-INITIATED APPLICATION; ZC 88-04).

The City Council of the City of Campbell does ordain as follows:

SECTION ONE: That the Zoning Map of the City of Campbell is hereby changed and amended by adopting the attached Exhibit A entitled Map of Said Property, as per the City-initiated application for approval of a Zone Change for properties located within Civic Center Drive and Orchard City Drive (Downtown Core Area) from Interim Zoning (PD - Planned Development) to C3 (Central Business District).

SECTION TWO: This Ordinance shall become effective thirty days following its passage and adoption and shall be published once within fifteen days upon passage and adoption in the San Jose Mercury News, a newspaper of general circulation in the City of Campbell, County of Santa Clara.

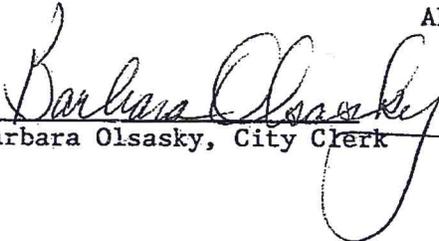
PASSED AND ADOPTED this 28th day of November, 19 88 by the following roll call vote:

AYES: Councilmembers: KOTOWSKI, ASHWORTH, BURR, WATSON

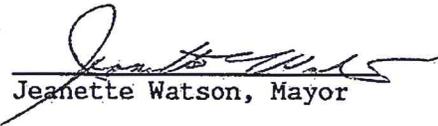
NOES: Councilmembers: NONE

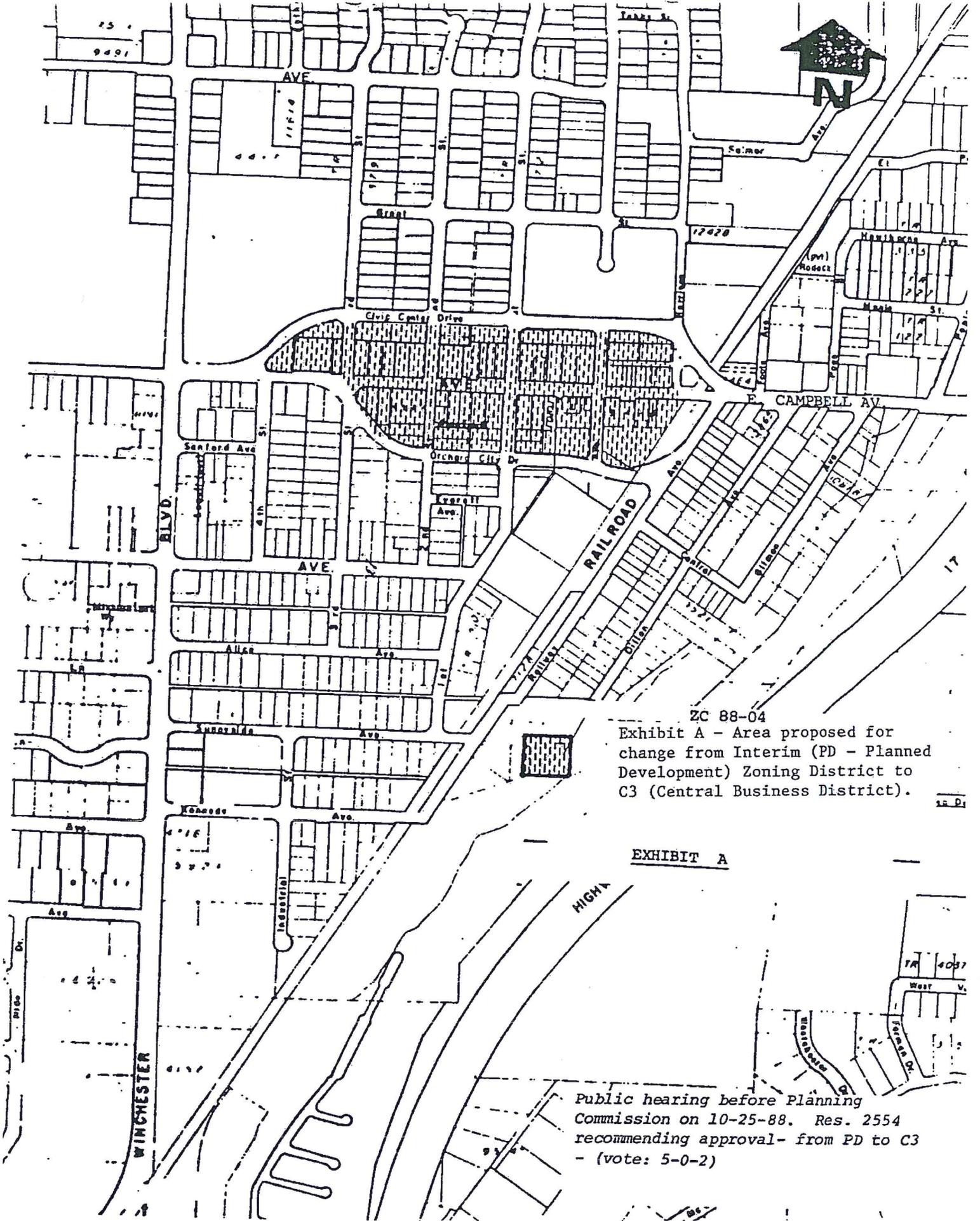
ABSENT: Councilmembers: NONE

ATTEST:


Barbara Olsasky, City Clerk

APPROVED:


Jeanette Watson, Mayor



ZC 88-04
 Exhibit A - Area proposed for
 change from Interim (PD - Planned
 Development) Zoning District to
 C3 (Central Business District).

EXHIBIT A

Public hearing before Planning
 Commission on 10-25-88. Res. 2554
 recommending approval- from PD to C3
 - (vote: 5-0-2)

Transfer	Date	Grantee	Consideration	Remarks
		R.L. + Olva C. Lodge		
334 681	1-23-45	John R. + Sarah M. Lynden	5-56	
		John R. + Sarah M. Lynden		
476395	8-26-47	John R. Lynden, Jr. Esther Lynden Farr + Richard Lynden	N.R.S.	
2483212	9-18-62	Raffanti, Robert + Geraldine et al	49 th W.O.P.	

Permit	Date	Alterations — Repairs	Amount	Remarks
B4500	3/26/47	Bldg Judkins	\$500 ⁰⁰	
344	Jan 57	Sign Elec Prod Corp	400 ⁰⁰	
3579	10-7-62	repairs, Mangrove (H. Hoy Gran.) & interior	7800	
4798	7/19/67	R. Raffanti - remodel front NEW STUCCO-STONE FRONT; REMOVE EXISTING GLASS STORE FRONT	\$6,000	
10299	10-9-79	EXISTING GLASS STORE FRONT	2,000	
13130	1-86	SunRay Juniterial-interior part. 107A	16800	
13218	3-31-86	T.I.	6800-	
94-06260	8-26-94	T.I.	20,000	

E. W. Russell, Jr.
3/20/68

413-6-75

STRUCTURE:

One story stucco building originally built in 1947 and remodeled extensively in 1967-1968. Building divided in two; area 32 x 80' used as billiard parlor; other area 24 x 80' used as a bar.

BAR: Wall to wall carpeting over asphalt tile floor wall paper one wall, paneled one wall. Acoustical ceiling. (1) women's (1) men's restroom.

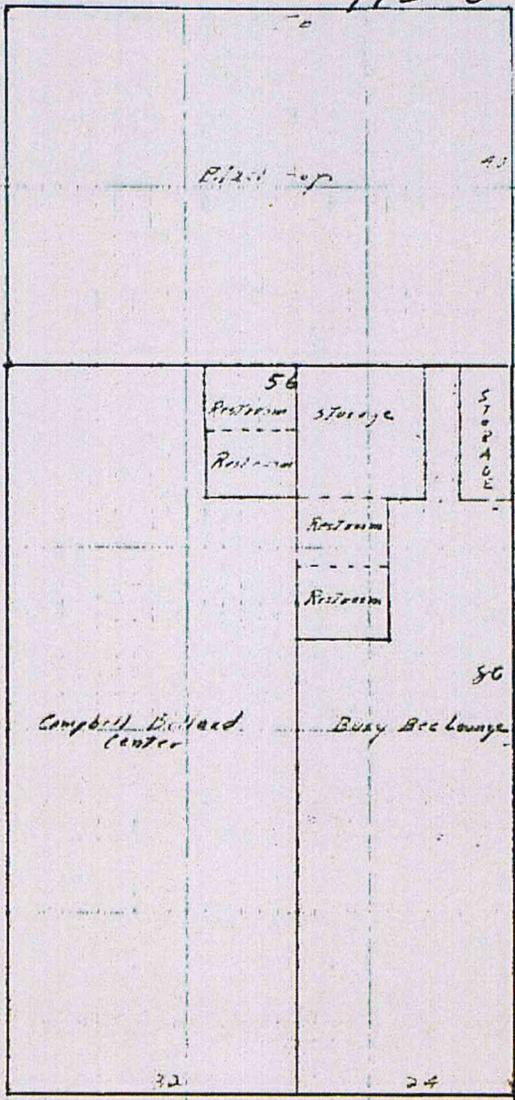
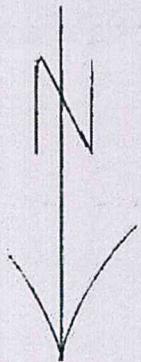
BILLIARD PARLOR: Paneled walls, wall to wall carpeting over asphalt tile. (1) men's (1) women's restroom.

CLASSIFICATION: D 5 A (AH 532.21 5/1/63, pg.3)

COMPUTATIONS:

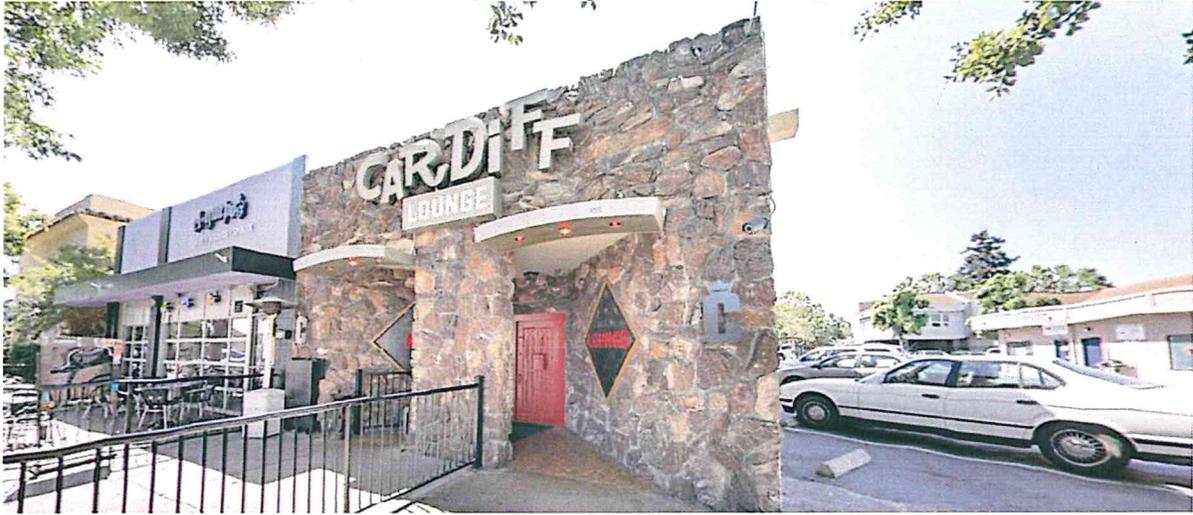
1) 4480 \square @ 6.63 (AH 532.21 6/13/67 pg.10) x area adjustment factor 1.01 = 6.69 x 4480	= \$29,971
2) 4 Type 2 Toilet fixtures	= 1,300
3) 56 lin. ft. medium quality store front @ \$75.	= 4,200
4) 118 lin. ft. of partitions @ \$20.	= 2,360
5) 2240 \square Black Top @ .30¢	= <u>672</u>
	38,503
	<u>x.25</u>
	9,630 A.V.

413-6-75



Campbell Avenue

Property Photos



CITY COUNCIL MTG.
7-23-79

UP 79-16 - 260 & 266 East
Campbell Ave. - Raffanti

This is minute action approving UP 79-16 - 260 and 266
East Campbell Avenue - R. Raffanti.

PC MINUTES
7-17-79

UP 79-16
Raffanti, R.

This is the time and place for a public hearing to consider the application of Mr. Robert Raffanti for a use permit and approval of plans to remodel an existing building located on property known as 260 & 266 E. Campbell Avenue in a P-D (Planned Development/Commercial) Zoning District.

Commissioner Kasolas reported that the applicant had met with the Site and Architectural Review Committee this morning and the Committee is recommending approval of this application.

Mr. Kee stated that staff is also recommending approval.

Chairman Samuelson declared the public hearing open and invited anyone in the audience to speak for or against this item.

No one wishing to be heard, Commissioner Vierhus moved that the public hearing be closed, seconded by Commissioner Pack and unanimously adopted.

RESOLUTION NO. 1800

Commissioner Vierhus moved that the Planning Commission adopt Resolution No. 1800 approving the application of Mr. Robert Raffanti for a use permit and approval of plans to remodel an existing building located on property known as 260 & 266 E. Campbell Avenue in a P-D (Planned Development/Commercial) Zoning District, UP 79-16, seconded by Commissioner Meyer and unanimously adopted by the following roll call vote:

-10-

AYES: Commissioners: Meyer, Dickson, Campos, Pack, Vierhus, Kasolas, Samuelson
NOES: Commissioners: None
ABSENT: Commissioners: None

* * *

MEMORANDUM



File
CITY OF CAMPBELL

To: Honorable City Council

Date: July 18, 1979

From: Planning Commission

Subject: UP 79-16 Raffanti, R.
260 & 266 E. Campbell Avenue

RECOMMENDATION

That the City Council ratify the attached resolution approving the application of Mr. Robert Raffanti for a use permit and approval of plans to remodel an existing building located on property known as 260 & 266 E. Campbell Avenue in a P-D (Planned Development/Commercial) Zoning District, subject to the attached conditions.

DISCUSSION

The applicant is proposing to remodel the front of a building formerly occupied by Campbell Billiards, to add a 4-foot overhang to the rear of the structure, and to eliminate the rock veneer from the side and rear of the building.

The applicant is also proposing to repair the stucco on the existing building and repaint the exterior a tan color.

The site plan indicates that there are 28 parking spaces available for use by the portion of the building to be remodeled and the adjoining Beehive Lounge. These parking spaces result in a parking ratio of one space for every 165 square feet of the gross building area. The total building area is 4,600 square feet. The Commission is of the opinion that the 28 spaces should provide adequate parking for the proposed offices and existing cocktail lounge.

The Architectural Advisor is of the opinion that the design is acceptable.

At its meeting of July 17, 1979, the Planning Commission recommended approval of UP 79-16 by a vote of 7-0-0.

PJS:ld
Attachments

RESOLUTION NO. 1800

After notification and public hearing as specified by law on the application of Mr. Robert Raffanti for a use permit and approval of plans to remodel an existing building located on property known as 260 & 266 E. Campbell Avenue in a P-D (Planned Development/Commercial) Zoning District, as per application filed in the Office of the Planning Department on June 18, 1979, and after presentation by the Planning Director, proponents, and opponents, the hearing was closed.

After due consideration of all evidence presented, the Commission did find as follows:

That the establishment, maintenance, and operation of the proposed use will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the neighborhood of such use, or be detrimental or injurious to the property and improvements in the neighborhood or the general welfare of the City.

Based on the above findings, the Planning Commission does hereby grant the requested use permit subject to the following conditions:

1. All mechanical equipment located on roofs to be screened as approved by the Planning Director.
2. Approval shall not become effective until ratified by the City Council.

The applicant is notified as part of this application that he/she is required to meet the following conditions in accordance with Ordinances of the City of Campbell and Laws of the State of California.

- A. All parking and driveway areas to be developed in compliance with Section 21.50 of the Campbell Municipal Code. All parking spaces to be provided with appropriate concrete curbs or bumper guards.
- B. Underground utilities to be provided as required by Section 20.16.070 of the Campbell Municipal Code.
- C. Plans submitted to the Building Department for plan check shall indicate clearly the location of all connections for underground utilities including water, sewer, electric, telephone and television cables, etc.
- D. Sign application to be submitted in accordance with provisions of the sign ordinance for all signs. No sign to be installed until application is approved and permit issued by the Building Department. (Section 21.68.070 of the Campbell Municipal Code.)

- E. Ordinance No. 782 of the Campbell Municipal Code stipulates that any contract for the collection and disposal of refuse, garbage, wet garbage and rubbish produced within the limits of the City of Campbell shall be made with Green Valley Disposal Company. This requirement applies to all single-family dwellings, multiple apartment units, to all commercial, business, industrial, manufacturing, and construction establishments.
- F. Trash container(s) of a size and quantity necessary to serve the development shall be located in area(s) approved by the Fire Department. Unless otherwise noted, enclosure(s) shall consist of a concrete floor surrounded by a solid wall or fence and have self-closing doors of a size specified by the Fire Department. All enclosures to be constructed at grade level.
- G. Applicant shall comply with all appropriate State and City requirements for the handicapped.

FIRE DEPARTMENT

- H. Construct a trash enclosure at rear of building.

The applicant is notified that he shall comply with all applicable Codes or Ordinances of the City of Campbell which pertain to this development and are not herein specified.

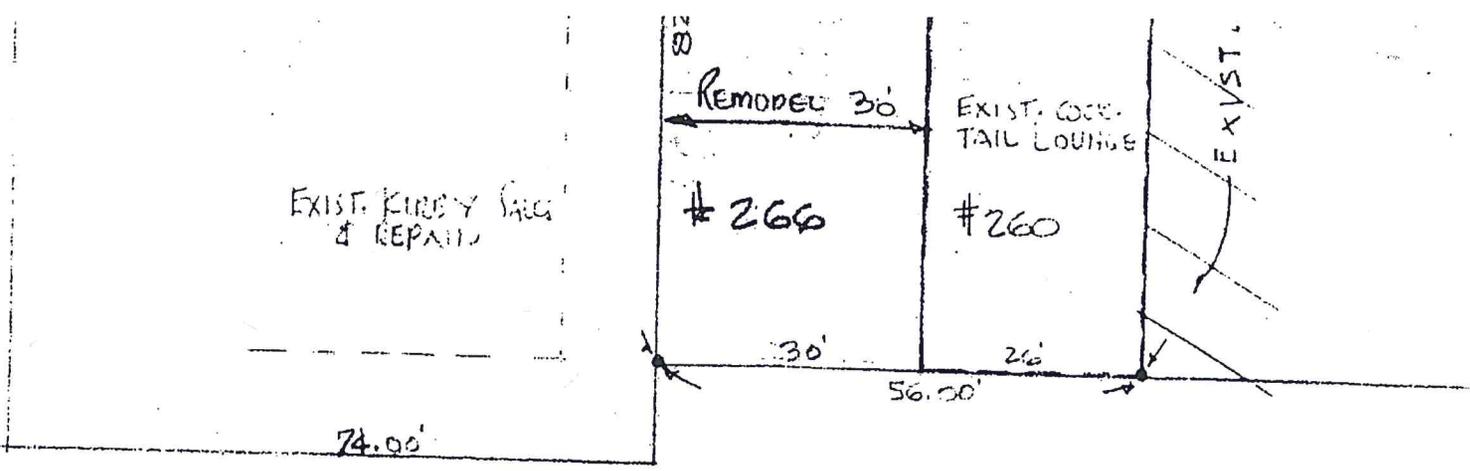
PASSED AND ADOPTED this 17th day of July, 1979, by the following roll call vote:

AYES: Commissioners: Meyer, Dickson, Campos, Pack, Vierhus, Kasolas, Samuelson
NOES: Commissioners: None
ABSENT: Commissioners: None

APPROVED: Carl E. Samuelson
Chairman

ATTEST: Arthur A. Kee
Secretary

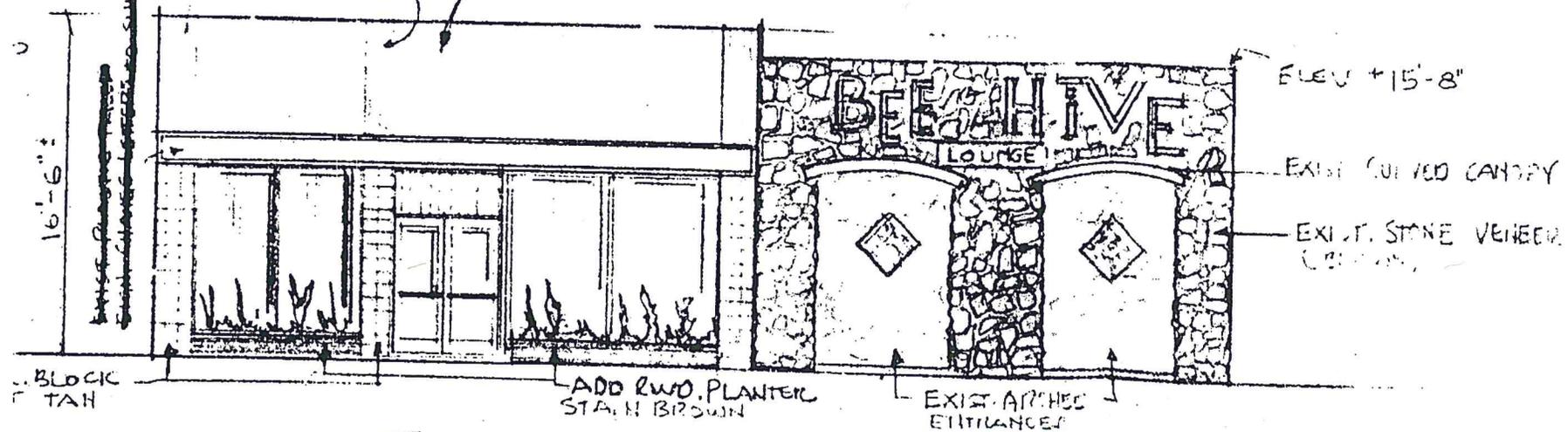
T. SIGHT.



ALL SIGNS TO
BE REVIEWED UNDER
SEPARATE APPLICATION

E. CAMPBELL

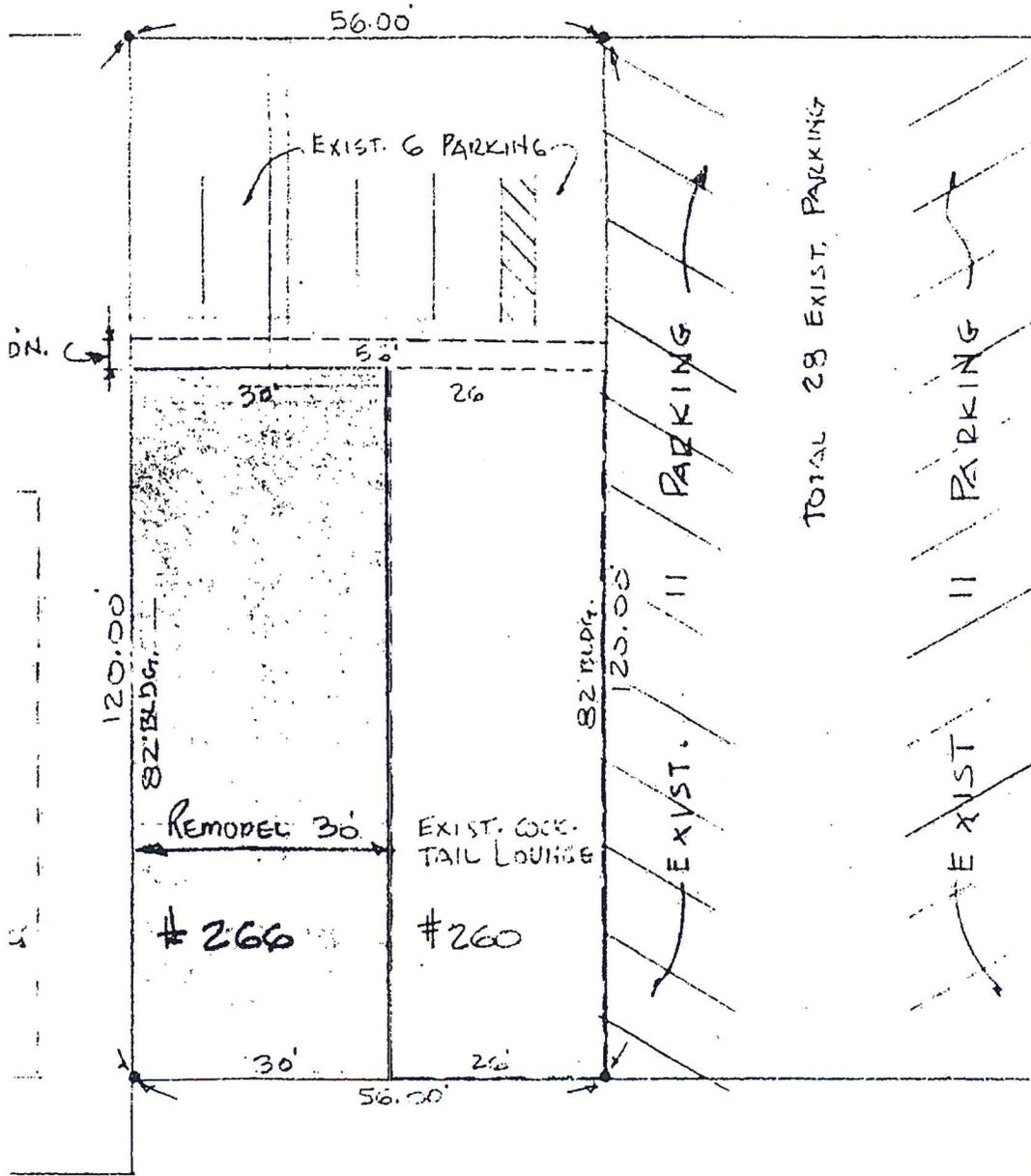
EXIST. STUCCO-LATEX OR EQ. EXT. PAINT, COLOR TAN TO MATCH
EXIST. COMBED STUCCO BLDG. #234.



FRONT ELEV.

14 00 EXIST. SPACES
(12 CAR SPACES)

PINE AVE. (15'-0" WIDE)



USE PERMIT 79-16
 APPROVED BY THE PLANNING
 COMMISSION ON 7/17/79
 RESOLUTION NO. 1800

ARTHUR A. KEE / RS
 ARTHUR A. KEE, SECRETARY

RATIFIED BY THE
 CITY COUNCIL ON 7/23/79

EXIST. BLDG.
 # 234 E. CAMPBELL
 N. S.

50'

54'

11P7

R. Raffanti
234 E. Campbell Ave.
Campbell, Calif. 95008
June 15, 1979
Ph. 866-8801

Re: Use Permit

City of Campbell
Planning Department

Dear Sirs,

The property at No. 260 and 266 E. Campbell Ave. needs upgrading so that it will improve the general neighborhood. No. 266 has been vacant for months and it seems the only way I can rent the building is to cut the interior into small offices.

By re-stucco work and a complete new paint application, along with redwood planters at the front, this should help with the improvement of the downtown area.

Hoping you find justification in granting the use permit needed to accomplish the above improvements.

Respectfully submitted,


R. Raffanti

RECEIVED
JUN 18 1979

CITY OF CAMPBELL
PLANNING DEPARTMENT

CITY OF CAMPBELL, CALIFORNIA
INITIAL STUDY

EIR-1

ENVIRONMENTAL INFORMATION FORM - TO BE COMPLETED BY APPLICANT

Date Filed: _____

GENERAL INFORMATION:

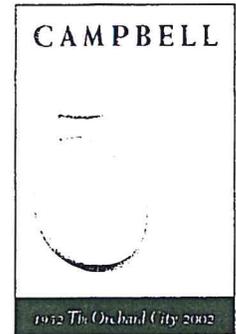
1. Name and address of developer or project sponsor:
Mr. R. Raffanti
234 E. Campbell Ave. Campbell, Calif. 95008
 2. Address of project: 260 and 266 E. Campbell Ave.
Assessor's Block and Lot Number 413-6-75
 3. Name, address, and telephone number of person to be contacted concerning this project:
R. Raffanti 234 E. Campbell Ave. Campbell, Calif. 95008 ph. 866-8801
 4. Indicate number of the permit application for the project to which this form pertains: _____
 5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:
none
 6. Existing zoning district: Commercial
 7. Proposed use of site (Project for which this form is filed):
Remodel #266 vacant bldg. into office spaces and add overhang at the rear of #260 & 266 E. Campbell Ave.
- PROJECT DESCRIPTION (ATTACHED ADDITIONAL SHEETS IF NECESSARY)**
8. Site size. 56'x 120'
 9. Square footage. 6720
 10. Number of floors of construction. 1
 11. Amount of off-street parking provided. 17 plus
 12. Attach plans.
 13. Proposed scheduling. Start remodelling 30 days after approval by City of Campbell
 14. Associated projects. none
 15. Anticipated incremental development. none

RECEIVED
JUN 18 1979

CITY OF CAMPBELL
PLANNING DEPARTMENT



CITY OF CAMPBELL
Community Development Department



December 16, 2004

Sam Ramirez
265 Shadow Dance
San Jose, CA 95110

Re: PLN2004-63 – 260 E. Campbell Avenue – Use Permit – Cardiff Lounge

Dear Applicant:

Please be advised that at its meeting of December 14, 2004, the Planning Commission adopted Resolution No. 3618 approving a Conditional Use Permit to allow late night activities and live entertainment on the above referenced property.

This action is effective in ten calendar days, unless appealed in writing to the City Clerk by 5 p.m. on Friday, **December 24, 2004**. The time within which judicial review of this action must be sought is governed by Section 1094.6 of the California Code of Civil Procedure, unless another statute (such as California Government Code Section 65009 or some other applicable provision) sets forth a more specific time period is set forth.

If you have any questions, please do not hesitate to contact me at (408) 866-2140.

Sincerely,

Stephanie Willsey
Planner I

cc: Ed Arango, Public Works
Frank Mills, Building
Ryan Rucker, County Fire
Art Markham, Police Department

Robert Raffanti (Property Owner)
1711 Marseilles Court
San Jose, CA 95138

RESOLUTION NO. 3618

BEING A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CAMPBELL APPROVING A CONDITIONAL USE PERMIT (PLN2004-63) TO ALLOW LATE NIGHT ACTIVITIES AND LIVE ENTERTAINMENT IN AN EXISTING BAR ON PROPERTY OWNED BY MR. ROBERT RAFFANTI LOCATED AT 260 E. CAMPBELL AVENUE IN THE C-3-S (CENTRAL BUSINESS DISTRICT) ZONING DISTRICT. APPLICATION OF MR. SAM RAMIREZ, ON BEHALF OF THE CARDIFF LOUNGE. FILE NO. PLN2004-63.

After notification and public hearing, as specified by law and after presentation by the Community Development Director, proponents and opponents, the hearing was closed.

After due consideration of all evidence presented, the Planning Commission did find as follows with respect to application PLN2004-63.

1. The proposed late night activities and live entertainment in conjunction with the existing bar is consistent with the Central Commercial General Plan land use designation.
2. The proposed late night activities, occurring between 11:00 p.m. and 6:00 a.m., and live entertainment in conjunction with the existing bar will be compatible with the C-3 (Central Business District) zoning designation with approval of a Conditional Use Permit.
3. The project site consists of a 6,720 square foot lot, developed with 4,619 square feet of building area, zero square feet of landscaping, and 2,101 square feet of paving.
4. The project site is located on the south side of East Campbell Avenue, between South First Street and South Second Street. The property is surrounded by commercial uses on the north, east and west sides, and a parking lot to the south.
5. The proposed project is consistent with other developments and uses in the surrounding area.
6. No exterior modifications to the building are proposed in conjunction with the proposed late night activities and live entertainment.
7. The Police Department has not expressed a concern with the proposed project.
8. The hours of operation shall be restricted to 12:00 p.m. to 2:00 a.m. daily and the hours for live entertainment shall be restricted to 9 p.m. to 1:30 a.m. daily.
9. The types of live entertainment offered at the establishment would consist of live D.J.'s, three piece bands, and karaoke.
10. The project qualifies as a Categorically Exempt project per Section 15301, Class 1 (Existing Facilities) of the California Environmental Quality Act (CEQA).

Based upon the foregoing findings of fact, the Planning Commission further finds and concludes that:

1. The proposed project is consistent with the General Plan.
2. The proposed use is allowed within the applicable zoning district with Conditional Use Permit approval, and complies with all other applicable provisions of this Zoning Code and the Municipal Code.
3. The proposed site is adequate in terms of size and shape to accommodate the fences and walls, landscaping, parking and loading facilities, yards, and other development features required in order to integrate the use with uses in the surrounding area.
4. The proposed site is adequately served by streets of sufficient capacity to carry the kind and quantity of traffic the use would be expected to generate.
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses on-site and in the vicinity of the subject property.
6. The establishment, maintenance, or operation of the proposed use at the location proposed will not be detrimental to the comfort, health, morals, peace, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
7. No substantial evidence has been presented which shows that the project, as currently presented and subject to the required conditions of approval, will have a significant adverse impact on the environment.
8. There is a reasonable relationship and a rough proportionality between the conditions of approval and the impacts of the project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission approves a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar on property owned by Mr. Robert Raffanti located at **260 E. Campbell Avenue** in the C-3-S (Central Business District) Zoning District, subject to the following conditions:

Where approval by the Director of Community Development, City Engineer, Public Works Director, City Attorney or Fire Department is required, that review shall be for compliance with all applicable conditions of approval, adopted policies and guidelines, ordinances, laws and regulations and accepted engineering practices for the item under review. Additionally, the applicant is hereby notified that he/she is required to comply with all applicable Codes or Ordinances of the City of Campbell and the State of California that pertain to this development and are not herein specified.

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division:

1. Approved Project: Approval is granted for a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar on property located at 260 E. Campbell Avenue. The project shall substantially conform to the plans and project description received by the Planning Division on November 19, 2004, except as may be modified by the conditions of approval contained herein.
2. Conditional Use Permit Approval Expiration:
 - a. The Conditional Use Permit approval shall be valid for one year from the date of final approval. Within this one-year period the use must be established on the property and the conditions of approval satisfied. Failure to meet this deadline will result in the Conditional Use Permit being void.
 - b. This Conditional Use Permit will be reviewed by the Planning Commission in six months.
3. Revocation of Permit: Operation of the use in violation of the Conditional Use Permit or any standards, codes, or ordinances of the City of Campbell shall be grounds for consideration of revocation of the Conditional Use Permit by the Planning Commission.
4. Property Maintenance: The owner/operator of the subject property shall maintain all exterior areas of the business free from graffiti, trash, rubbish, posters and stickers placed on the property.
5. Trash and Recycling Enclosure: The applicant/property owner shall submit a building permit for the construction of a new trash and recycling enclosure(s) within three months of the date of Planning Commission approval. The design and location of the enclosure shall be to the satisfaction of the Community Development Director. All refuse and recycling containers shall be located in an enclosure constructed and consisting of a concrete floor at least six inches in depth, surrounded by a minimum six-foot high masonry wall and having a solid metal gate. The design of the enclosure shall be compatible with the building. Driveways or aisles shall provide unobstructed access for collection vehicles and personnel and provide at least the minimum clearance required by the collection methods and vehicles utilized by the designated collector. The wall, gate and surface inside the enclosure must be kept in sound repair and condition. The refuse and recycling containers shall be kept in the enclosure at all times except when being emptied by collection personnel.
6. Recordation of Covenant: The applicant/property owner shall record a covenant that stipulates that the businesses located in the building located on parcel number 412-06-033 shall have the shared right to use the parking spaces located on the separate properties known as parcel number 412-06-035 and 412-06-081 for the life of the building. This document

shall be recorded within three months of the date of Planning Commission approval and proof of the recorded document shall be submitted to the Planning Division.

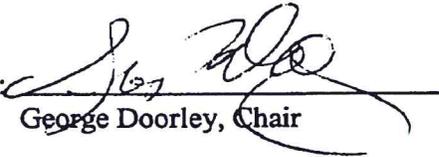
7. Signing and Advertising: No signage is approved as part of the development application approved herein. All signs advertising events shall be installed and maintained consistent with the provision of the Sign Ordinance, Chapter 21.30 of the Campbell Municipal Code. The posting of flyers and posters on public property is prohibited. The business owner shall be considered responsible for these postings, if they occur, and shall cause their immediate removal. Failure to comply may result in Revocation of the Conditional Use Permit.
8. Loitering: There shall be no loitering allowed outside the business in the rear parking lot or the side parking lot areas.
9. Outdoor Storage: No outdoor storage is permitted on the subject property. No equipment, materials or business vehicles shall be parked and/or stored outside the building or within the parking lot.
10. Noise:
 - a. Noise Standard: Any noises, sounds and/or voices, including but not limited to amplified sounds, loud speakers, sounds from audio sound systems, music, and/or public address system, generated by the subject use shall not be audible to a person of normal hearing capacity from any residential property.
 - b. Noise Management: In the event complaints are received by the City regarding noise, the Community Development Director may immediately modify the hours of operation and/or limit the extended hours of operation, subject to the project being brought back to the Planning Commission for review.
 - c. Back Door: The back door to the business leading to the rear parking area shall be closed at all times during business hours.
 - d. Trash & Clean Up: Trash and clean up shall not be done in the evening or early morning hours. All trash and clean shall be done between 12 p.m. to 6 p.m. daily.
11. Business Operational Hours: The operational hours shall be limited to 12:00 p.m. to 2:00 a.m. seven days a week. The 2 a.m. closing shall mean that the business is closed and shuttered with no activity. Hours of operation will include the conclusion of liquor sales at 1:30 a.m.
12. Live Entertainment Hours: The live entertainment hours shall be limited to 9 p.m. to 1:30 a.m. seven days a week.
13. Parking and Driveways: All parking and driveway areas shall be maintained in compliance with the standards in Chapter 21.28 of the Campbell Municipal Code.

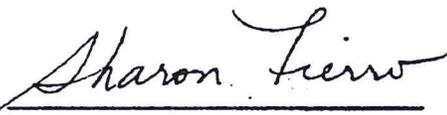
POLICE DEPARTMENT

- 14. Live Entertainment Permit: The applicant shall process a Live Entertainment Permit with the Police Department consistent with Chapter 5.24 of the Campbell Municipal Code prior to the establishment of live entertainment on site.
- 15. Security and Staffing: The owner/operator of the subject property shall provide one bonded, certified (guard card), uniformed, security guard for every 50 patrons in conjunction with the live entertainment events.

PASSED AND ADOPTED this 14th day of December, 2004, by the following roll call vote:

AYES:	Commissioners:	Alderete, Doorley, Francois, Gibbons, Rocha and Roseberry
NOES:	Commissioners:	None
ABSENT:	Commissioners:	None
ABSTAIN:	Commissioners:	None

APPROVED: 
George Doorley, Chair

ATTEST: 
Sharon Fierro, Secretary



CITY OF CAMPBELL • PLANNING COMMISSION
Staff Report • December 14, 2004

PLN2004-63
Ramirez, S.

Public Hearing to consider the application of Mr. Sam Ramirez, on behalf of The Cardiff Lounge, for a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar on property owned by Mr. Robert Raffanti located at **260 E. Campbell Avenue** in the C-3 (Central Business District) Zoning District.

STAFF RECOMMENDATION

That the Planning Commission take the following action:

1. **Adopt a Resolution**, incorporating the attached findings, approving a Conditional Use Permit (PLN2004-63) to allow late night activities and live entertainment in an existing bar, subject to the attached conditions of approval.

ENVIRONMENTAL DETERMINATION

Staff recommends that the Planning Commission find that this project is Categorical Exempt under Section 15301, Class 1 of the California Environmental Quality Act (CEQA), pertaining to minor alterations to existing private structures.

PROJECT DATA

Net Lot Area:	6,720 square feet (0.15 acres)
Site Utilization:	
Building Coverage:	4,619 square feet (69%)
Landscape Coverage:	0 square feet (0%)
Paving Coverage:	2,101 square feet (31%)
Subject Tenant Space:	1,900 square feet
Proposed Hours of Operation:	Seven days a week 12:00 p.m. to 2:00 a.m.
Proposed Live Entertainment Hours:	Seven days a week 9 p.m. to 1:30 a.m.
Surrounding Uses:	
North:	Commercial
South:	Parking Lot
East:	Commercial
West:	Commercial

DISCUSSION

Applicant's Proposal: The applicant is requesting approval of a Conditional Use Permit to allow late night activities and live entertainment in an existing bar (The Cardiff Lounge) located at 260 E. Campbell Avenue.

Background: The subject property is currently developed with a single-story, multi-tenant, commercial building constructed in approximately 1947. There are currently three tenant spaces in the building. The Cardiff Lounge (formerly the Bee Hive Lounge) occupies one of the tenant spaces and has been in its current location for approximately 30 years.

Project Location: The project site is located on the south side of East Campbell Avenue, between South First Street and South Second Street. The property is surrounded by commercial uses on the north, east and west sides, and a parking lot to the south.

ANALYSIS

General Plan Designation: The General Plan land use designation for the project site is Central Commercial. The proposed late night operational hours and live entertainment in conjunction with the existing bar is consistent with this land use designation.

Zoning Designation: The zoning designation for the project site is C-3 (Central Business District). The C-3 Zoning District allows late night activities, occurring between 11:00 p.m. and 6:00 a.m., and live entertainment with approval of a Conditional Use Permit. The proposed project would be consistent with the Zoning Ordinance with approval of a Conditional Use Permit.

Late Night Operational Hours: On April 3, 2001 the City Council adopted Ordinance No. 2002, which is intended to eliminate non-permitted late night uses. The ordinance requires businesses in the City's commercial zoning districts to obtain a Conditional Use Permit to operate between 11:00 p.m. and 6:00 a.m. Even businesses that were previously "grand fathered" are required to comply with the standard hours of operation or obtain a Conditional Use Permit from the Planning Commission for late night operations. The Ordinance provided for a two year grace period which gave businesses time to get their Use Permit applications into the City or modify their hours of operation. The two year grace period expired on May 3, 2003.

The applicant is requesting approval to operate between the hours of 12:00 p.m. to 2:00 a.m., seven days a week. The applicant has indicated in the attached business description (Attachment #3) that the bar currently operates until 2:00 a.m. with liquor finished being served at 1:30 a.m. and the building emptied by 2:00 a.m. The applicant is requesting approval to maintain the existing hours of operation this bar has operated under for approximately 30 years. Staff has compiled in the attached table (Attachment #4) information about the other similar businesses in Downtown Campbell that have approval to operate past 11:00 p.m. and have approval for live entertainment.

Staff is not proposing to modify the requested hours of operation because the business is primarily surrounded by other commercial uses and is a sufficient distance from any residential uses that would be burdened by adjacent late night operations. Staff is recommending two

conditions of approval that require the back door to be closed at all times during business hours and that no loitering be allowed in the parking lot behind, or to the side of the business.

Live Entertainment: Live entertainment is permitted within the C-3 Zoning District, subject to the approval of a Conditional Use Permit and approval of a Live Entertainment Permit by the City Council. The applicant is proposing to have live entertainment in conjunction with the Cardiff Lounge business seven days a week between the hours of 9:00 p.m. and 1:30 a.m. The attached project description (Attachment #3) indicates that the types of live entertainment offered at the establishment would consist of live D.J.'s, three piece bands, and karaoke.

Use Permit Review: Staff is recommending a condition of approval that allows for the review of the Conditional Use Permit by the Planning Commission if verified noise complaints are received as a result of the live entertainment or late night operational hours. If staff is unable to immediately resolve the matter with the business owner/operator, the Community Development Director may immediately modify the hours of operation and/or prohibit the live entertainment, subject to the project being brought back to the Planning Commission for review.

Exterior Modifications: No exterior modifications to the building are proposed in conjunction with the proposed application. Staff is recommending a condition of approval that requires the applicant to provide a new trash/recycling enclosure in the parking lot behind the building within three months of the date of approval.

Police Department Review: The Campbell Police Department has reviewed the application and has no concerns or objections to the proposed late night operational hours and live entertainment at this location.

They have recommended that two conditions of approval be added which require that the applicant process a Live Entertainment Permit with the Police Department and provide one bonded, certified (guard card), uniformed, security guard for every 50 patrons in conjunction with the live entertainment.

Site and Architectural Review Committee: The Site and Architectural Review Committee did not review this application, as there are no proposed changes to the exterior of the building or site configuration.

Attachments:

1. Findings for Approval of File No. PLN2004-63
2. Conditions of Approval for File No. PLN2004-63
3. Applicant's Business Description
4. Downtown Businesses Table
5. Exhibits
6. Location Map

Prepared by: Stephanie Willsey
Stephanie Willsey, Planner I

Approved by: Geoff I. Bradley
Geoff I. Bradley, Senior Planner

City of Campbell
70 N. First St.
Campbell, Ca. 95008

September 29, 2016

Attn: Planning Commission
Re: Cardiff Lounge

On February 21, 2016 the Cardiff Lounge, located at 260 E. Campbell Ave, Campbell, Ca. 95008, closed its doors for business due to financial hardship caused by the mismanagement of staff and resources through the negligence of Sam Ramirez who is a contractor hired by Paul Patangui of the Cardiff Lounge. In order to resolve our internal issues it was my decision, Paul Patangui as the sole owner and operator of On the Rocks, LLC (dba Cardiff Lounge), to close the Cardiff Lounge on February 21, 2016. On this date all inventory and equipment was removed from the Cardiff Lounge to prevent further operation by any staff or contracted employees.

Further documentation can be provided to the City of Campbell confirming the closure date. Please be advised that any operations or building activity after February 21, 2016 was not under the supervision or knowledge of On the Rocks, LLC. The final sale of liquor was recorded on February 21, 2016. All business operations halted after February 21, 2016.

It is my understanding that the Cardiff Lounge has reopened as 'Cardiff & Cocktails' which has no affiliation with the Cardiff Lounge that has done business in the City of Campbell for over 13 years. Our Facebook page: www.facebook.com/cardifflounge has been updated to reflect the permanent closure of the Cardiff Lounge. From the February 21, 2016 closure of the Cardiff Lounge I have been in contact with the Alcoholic Beverage Control office to notify their staff that the Cardiff Lounge will not be in operation and has discontinued business for over six months. Cardiff & Cocktails is not the Cardiff Lounge and we have not reopened our business since closing back in February 21, 2016.

I would be happy to discuss and provide any further materials that can establish the Cardiff Lounge's nonconforming use (liquor establishment) has been discontinued for a continuous period of six months.

Sincerely,



Paul Patangui

Stephen Rose

From: Paul Patangui <paul.patangui@gmail.com>
Sent: Sunday, October 02, 2016 9:33 PM
To: Stephen Rose
Cc: Paul Kermoyan; Paul Resnikoff
Subject: Re: Cardiff Lounge Closure
Attachments: Cardiff.bank.stmnt.2.29.16.pdf

Hi Stephen,

Attached is a copy of Cardiff's bank statement that shows under the deposits and credits section the final deposit from Global Payments, Cardiff's merchant services that handles credit card transactions. It takes 2 full business days to process and deposit credit card transactions. The last deposit into the account is on Wed Feb 24th which reflects the credit card transactions done on Sun Feb 21st. Since we close at 130 am on the following day then Sun's credit card batches were completed on Mon Feb 22nd.

I also included a brief video taken inside the Cardiff late Tues night Feb 23 thru the morning of Wed Feb 24th. I removed all the inventory - glassware and alcohol/beer/wine, sound system - speakers, amplifier rack, turntables, mixer, CD players, flat screen tvs, ATM machine, point of sale equipment, credit card terminals and computers.

After I removed everything inside Cardiff Tues night thru early wed morning, I never returned back to Cardiff. I stored everything in the public storage on Salmar Ave. Sam changed the locks on the doors shortly after I left. I have no knowledge of when the remodeling sign was put on the front door. I heard through mutual friends that Sam did some major renovations to the mens and womens bathroom, replaced the bar top, interior wall paper and light fixtures. You can compare the video I attached to what the current interior of Cardiff looks like now.

Let me know if you need anything else. I hope this helps clarify everything .

Regards,
Paul Patangui



STATEMENT OF ACCOUNT

CAMPBELL
790 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008
408-558-5100

ON THE ROCKS LLC
DBA CARDIFF LOUNGE CAMPBELL
260 E CAMPBELL AVE
CAMPBELL CA 95008-2022

X

Statement Date 2/29/2016
Page 1 of 11

Important Customer Information

Did you know the best time to apply for a line of credit is when you don't need one? We'll provide you with options. Visit your local First Bank branch or www.firstbanks.com for more details.

Attention Small Business owners! First Bank has partnered with Paychex to provide payroll solutions that just make sense. If you need to process payroll and you value cutting-edge products and personalized service, Paychex is where you belong. Visit your nearest branch location or www.firstbanks.com to learn more.

Relationship Summary

Account Name	Account #	Balance	Other Information
SMALL BUSINESS CHECKING	[REDACTED]	\$440.64-	
Deposit Total		\$440.64-	



STATEMENT OF ACCOUNT

CAMPBELL
790 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008
408-558-5100

Page
2 of 11

Lead Account # [REDACTED]

SMALL BUSINESS CHECKING # 9419916498

Previous Statement Balance as of 1/31/16	Deposits & Credits	Earnings This Period	Checks, Debits, Other Fees & Service Charges	Ending Balance as of 2/29/16
\$ 390.24	# 41 Amount \$ 47,280.44	Interest \$.00 APY N/A	# 125 Amount \$ 48,111.32	\$ 440.64-

Deposits and Other Credits

Date	Description	Amount
02-01	CHECKING DEPOSIT	\$ 4000.00
02-01	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/01/16 NAME: ON THE ROCKS LLC	\$ 2388.00
02-02	4920	\$ 423.09
02-02	RETURNED ITEM COMCAST COMCAST ID: 0030097426 SPA02/01/16 NAME: LOUNGE,THE CARDIFF	\$ 136.25
02-02	15539	\$ 82.58
02-02	RETURNED ITEM	
02-02	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/02/16 NAME: ON THE ROCKS LLC	\$ 3227.00
02-02	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/02/16 NAME: ON THE ROCKS LLC	\$ 3203.00
02-02	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/02/16 NAME: ON THE ROCKS LLC	\$ 1057.90
02-03	GLOBAL PAYMENTS GLOBAL STL ID: 8788720012840 02/02/16 NAME: CARDIFF LOUNGE	\$ 1002.68
02-03	EFBOARDOFEQUALIZ BOE A-PAY ID: 0006009495402/02/16 NAME: ON THE ROCKS LLC	\$ 1000.00
02-03	PAYCHEX TPS TAXES ID: 64856600009641X02/02/16 NAME: ON THE ROCKS LLC	\$ 443.48
02-03	PMA FINANCE CASH C&D ID: 8788720012840 02/02/16 NAME: CARDIFF LOUNGE	\$ 337.87
02-03	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/03/16 NAME: ON THE ROCKS LLC	\$ 90.00

NAME: ON THE ROCKS LLC
PRIVACY POLICY - Terms of Use of First Bank of California, Member FDIC. All Rights Reserved.





STATEMENT OF ACCOUNT

CAMPBELL
790 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008
408-558-5100

Page

3 of 11

Lead Account ~~XXXXXXXXXX~~

Deposits and Other Credits

Date	Description	Amount
02-04	CHECKING DEPOSIT	\$ 456.00
02-04	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/04/16 NAME: ON THE ROCKS LLC	\$ 87.00
02-05	4920	\$ 423.09
02-05	RETURNED ITEM	
02-05	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/05/16 NAME: ON THE ROCKS LLC	\$ 264.50
02-08	CHECKING DEPOSIT	\$ 1555.00
02-09	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/09/16 NAME: ON THE ROCKS LLC	\$ 3380.00
02-09	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/09/16 NAME: ON THE ROCKS LLC	\$ 1973.00
02-09	GLOBAL PMTS INC EFT ID: EID 2840332 02/09/16 NAME: CARDIFF LOUNGE	\$ 1647.32
02-09	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/09/16 NAME: ON THE ROCKS LLC	\$ 1032.50
02-10	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/10/16 NAME: ON THE ROCKS LLC	\$ 358.00
02-11	15544	\$ 200.45
02-11	RETURNED ITEM	
02-11	15536	\$ 173.73
02-11	RETURNED ITEM	
02-11	CHECKING DEPOSIT	\$ 600.00
02-11	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/11/16 NAME: ON THE ROCKS LLC	\$ 77.00
02-12	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/12/16 NAME: ON THE ROCKS LLC	\$ 105.00
02-16	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/16/16 NAME: ON THE ROCKS LLC	\$ 1236.00
02-17	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/17/16 NAME: ON THE ROCKS LLC	\$ 2893.00



STATEMENT OF ACCOUNT

CAMPBELL
790 EAST CAMPBELL AVENUE
CAMPBELL, CA 95008
408-558-5100

Page

4 of 11

Lead Account # [REDACTED]

Deposits and Other Credits

Date	Description	Amount
02-17	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/17/16 NAME: ON THE ROCKS LLC	\$ 2199.00
02-17	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/17/16 NAME: ON THE ROCKS LLC	\$ 1292.00
02-17	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/17/16 NAME: ON THE ROCKS LLC	\$ 1074.00
02-18	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/18/16 NAME: ON THE ROCKS LLC	\$ 157.00
02-19	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/19/16 NAME: ON THE ROCKS LLC	\$ 216.00
02-22	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/22/16 NAME: ON THE ROCKS LLC	\$ 1633.00
02-23	CHECKING DEPOSIT	\$ 48.00
02-23	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/23/16 NAME: ON THE ROCKS LLC	\$ 3013.00
02-23	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/23/16 NAME: ON THE ROCKS LLC	\$ 2479.00
02-23	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/23/16 NAME: ON THE ROCKS LLC	\$ 1048.00
02-24	GLOBAL PAYMENTS GLOBAL DEP ID: 8788720012840 02/24/16 NAME: ON THE ROCKS LLC	\$ 268.00

02-24
LAST Day
Sun 2/21

Numerical Check Listing

Check #	Date	Amount	Check #	Date	Amount
99	02/23	\$2,500.00	4912 *	02/03	\$176.05
99 *	02/22	\$1,100.00	4920 *	02/04	\$423.09
99 *	02/02	\$2,300.00	4920 *	02/01	\$423.09
99 *	02/01	\$4,002.00	4921	02/02	\$700.00
99 *	02/01	\$1,359.70	4922	02/08	\$500.00

January 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29					

Red on Orange

March 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21 Month 5 (Partner Letter)	22	23
24	25	26 (PC Month 5)	27	28	29	30
	31					

August 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21 Month 6 (Partner Letter)	22 Past 6 Months	23 Past 6 Months	24 Past 6 Months	25 Past 6 Months	26 'Soft' Soft Open (PC Month 6)	27 'Soft' Soft Open
28 Past 6 Months	29 Past 6 Months	30 Past 6 Months	31 Past 6 Months			

September 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 Past 6 Months	2 Soft Open	3 Soft Open
4 Past 6 Months	5 Past 6 Months	6 Past 6 Months	7 Past 6 Months	8 Past 6 Months	9 Soft Open	10 Soft Open
11 Past 6 Months	12 Past 6 Months	13 F&F Opening	14 VIP Opening	15 Grand Opening (Original Staff)	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

October 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
	30	31				

November 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December 2016

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

MEMORANDUM



City of Campbell

Planning Division

To: Honorable Mayor Baker and City Council Members Date: Nov. 1, 2016

From: Stephen Rose, Associate Planner 

Via:  Mark Linder, City Manager

Subject: **Item 15** (Cardiff)– Letter requesting continuance

The attached letter was received from Sandra Escobar requesting the City Council continue the subject item to the Council meeting of December 6, 2016 or a date even further out in January if possible (it is in the appellant's best interests to continue the item indefinitely).

Regardless of the Council decision, it is recommended to take public comment and select from one of the following dates:

- November 1, 2016 (reject request; conflict with appellant & one partner)
- November 15, 2016 (next available meeting; no specified conflict in letter)
- **December 6, 2016 (requested hearing date of appellant)**
- January 3, 2016 (preferred hearing date of appellant)
- January 17, 2016 (preferred hearing date of appellant)

In consideration of these dates, staff would recommend either hearing the item **as scheduled** or continuing the item to **Nov. 15, 2016** (as a date certain).

October 19, 2016

Mayor Baker
Honorable Members of the City Council
City of Campbell
70 N. First Street
Campbell, CA 95008

Re: Request for Deferral
File No. PLN2016-293

Dear Mayor Baker and Honorable Members of the City Council:

On behalf of Sam Ramirez and Vee Meharu, owners of Cardiff & Cocktails I am requesting the City Council defer their project from November 1, 2016 to the December 6, 2016 Council meeting. If possible, a meeting date in January would be preferred.

Both Mr. Meharu and I will not be available on November 1 due to previously scheduled travel. Mr. Meharu will be in London that day and I will be on my way to Australia. It is imperative that I be at the meeting as their consultant to present their project. Mr. Meharu as an owner also feels that it is important that he be at the meeting.

Cardiff & Cocktails is a well-managed business that will not be a detriment to Downtown Campbell during the time that it takes to get the project heard by Council. Sam Ramirez has been an owner and manager of the previous Cardiff Lounge for thirteen years at the same location without any incidents. The current business has an approved Conditional Use Permit for late night activities and live entertainment. The issue before Council is not about the operation, it is about the legal non-conforming status of the bar. Cardiff & Cocktails will continue to operate "business as usual" and will provide a new venue in its remodeled state for visitors in Downtown Campbell.

Thank you for your consideration of my clients' request for a postponement. We look forward to your positive response.

Sandra

Sandra Escobar
Escobar Legacy Consulting
(408) 483-4611
Sesco2@aol.com



*City
Council
Report*

Item: 16.
Category: Public Hearing
Date: November 1, 2016

TITLE: MINIMUM WAGE (Introduction of Ordinance)

RECOMMENDATION

That the City Council establish a minimum wage by introducing an Ordinance to the Campbell Municipal Code as requested by the Cities Association of Santa Clara County.

BACKGROUND

As of January 1, 2016, the State of California minimum wage is \$10.00 per hour. With some exceptions, almost all employees in the state must be paid this minimum wage rate.

In April of this year, the Governor signed Senate Bill No. 3, which will increase the State's minimum wage rate by \$1.00 from \$10.00 to \$11.00 per hour effective January 1, 2017 and \$1.00 per hour more each year thereafter until the minimum wage of \$15.00 per hour is reached by the year 2022. This requirement applies to employers with 26 or more employees. Employers with 25 employees or less would meet minimum wage requirements from January 1, 2018 to January 1, 2023, unless temporarily suspended by the Governor. On or before July 28, 2017, and each year thereafter until the specified amount is reached, the State Finance Director will determine whether economic conditions can support a scheduled minimum wage increase.

Based on its analysis and findings from a study completed last fall, the Cities Association of Santa Clara County seeks to increase the minimum wage in the region to \$15.00 per hour by 2019, and is asking member cities to adopt a minimum wage in a regional effort to avoid having different rules in each city, which can cause economic and operational issues for employers and employees (Attachment 2).

Some cities in the County have already increased their minimum wage. The proposed regional approach to increasing the hourly wage and corresponding rate schedule would effectively have cities at the same minimum wage level one year after the Cities of Mountain View and Sunnyvale, and three years before the State of California's target year.

The Cities Association is recommending a regional minimum wage increase according

to the following schedule:

- Increase minimum wage to \$15 by 2019 in three steps:
- \$12.00 on January 1, 2017¹
- \$13.50 on January 1, 2018¹
- \$15.00 on January 1, 2019¹
- "Off-Ramp" triggers during the ramp-up phase that would allow for scheduled increases to be delayed under certain economic conditions.
- Index to Bay Area Consumer Price Index for Urban Wage Earners & Clerical Workers (CPI-W) after 2019, capped at 5%
- Round to nearest 5 cents
- No exemptions

Status of Minimum Wage Ordinances in Santa Clara County

Ten of the fifteen cities in Santa Clara County currently follow the State's minimum wage rate of \$10.00 an hour, including the City of Campbell (see Attachment 5). Of these ten, three cities have approved the Cities Association recommendation (i.e. Cupertino, Los Altos and Palo Alto).

The Cities of Gilroy and Los Altos Hills are either not considering an ordinance at this time and/or have determined that there is an absence of applicable commercial industries within their jurisdictions to warrant minimum wage legislation.

Los Gatos, Milpitas, Monte Sereno, Morgan Hill, San Jose, Santa Clara and Saratoga are still considering the Cities Association minimum wage adjustments and have not yet taken official positions.

The five cities that have taken action to raise the minimum wage higher than the State's level are Mountain View (which has taken action to reach \$15.00 per hour by January 1, 2018); Palo Alto (\$12.00 by January 1, 2017); San Jose (\$10.30 by voter initiative in 2012); and Sunnyvale (\$15.00 by January 1, 2018).

Please see (Attachment 5) for more information on the comparison of the cities' current and scheduled actions.

¹ Should the Campbell City Council express support for this minimum wage schedule by the Cities Association, staff recommends that the effective dates for each year occur on July 1 of each year, to allow sufficient time for public outreach and implementation.

DISCUSSION

According to the regional minimum wage study led by the City of San Jose, increasing the minimum wage to \$15 per hour by 2019 in Santa Clara County would increase earnings for 250,000 workers with an almost net-zero loss of employment in the 10-county region; raise average annual earnings of affected workers by 19.4% or \$3,200 (in 2014 dollars); and increase average prices in Santa Clara County by 0.2% over three years.

The attached draft model ordinance has been developed and is being shared by the Cities Association to assist member cities in tailoring their own rules.

Local Outreach

In April 2015, the City Manager's Office conducted a voluntary Minimum Wage Survey of Campbell business owners and operators to hear their views on considerations for a potential minimum wage ordinance in Campbell. A total of 357 completed surveys were returned. The survey's major findings include:

- 94.5% of respondents were either business owners or managers;
- 77.8% of respondents had 15 or fewer employees in their organization;
- 77.4% of respondents had between 0% to 10% of their employees earning the minimum wage rate;
- 74.8% of respondents would 'Definitely Not' or 'Probably Not' eliminate (and not replace) any positions to compensate for increased labor costs;
- 74.5% of respondents would 'Definitely Not' or 'Probably Not' reduce employee work hours to account for increased labor costs;
- 61.1% of respondents would 'Definitely Not' or 'Probably Not' increase prices to customers to account for increased labor costs;
- 84.4% of respondents listed a minimum wage increase as being 'Highly Unlikely' or 'Unlikely' to cause their establishment to move to another city with a lower minimum wage rate; and
- 75.5% of respondents would support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of employee qualifications, to offset all, or part, of the increased labor costs associated with a minimum wage increase.

The survey's methodology, data and findings were presented by staff to the Council at a Study Session in May 2015 (Attachment 3). At that time, Council did not express a desire to pass a minimum wage ordinance, but preferred a regional effort.

In September, City staff attended board meetings of the Downtown Business Association (DCBA) and Campbell Chamber of Commerce (CCOC) to inform them of the Cities Association's regional initiative related to minimum wage. Staff provided attendees with the proposed implementation schedule and hourly rates and answered questions. As to be expected, some of the employer attendees, especially small business owner-operators, expressed concerns over the intent of local and State legislative action on increasing minimum wages and the impact to their business operations.

Should they wish to weigh in on the matter, staff informed the members of the DCBA and CCOC that the Campbell City Council would decide how, or if, to proceed on this issue at the November 1, 2016 regular meeting of the City Council.

Staff also contacted Maria Fernandez, a representative from Working Partnerships, to inform her and her members about the upcoming November 1 Council meeting. Her community based organization focusses on campaigns to improve wages and promote jobs, growth, and healthy communities in Silicon Valley.

FISCAL IMPACTS

An increase to the minimum wage may result in modest increases in retail and restaurant prices for customers, which may affect consumer spending. If consumer spending decreases, Campbell's sales tax revenue would be negatively impacted.

However, if consumer spending remains constant after a minimum wage increase, the City's sales tax revenue may be positively affected due to sales tax being levied on increased restaurant and retail prices.

Additionally, should the minimum wage be increased, there may be an economic benefit to the City if workers in Campbell were to have more buying power, which would result in an increase to sales tax revenue.

As an employer, the City of Campbell has a variety of temporary part-time positions that pay the minimum wage. Most of these jobs are seasonal and are based in the Recreation and Community Services Department. In FY 2016, the City paid out \$39,756 for all positions earning the minimum wage, a figure approximately 0.19% of total City payroll costs. Should the City elect to increase the minimum wage to \$12.00/hour, this 20% increase from the current \$10.00/hour equates to an additional General Fund cost of approximately \$8,000 for the first year of implementation. At

\$13.50/hour, the City's minimum wage classes would cost an additional 12.5% or \$9,000 in year 2. Finally, at \$15.00/hour, the 12.5% increase equates to another increase of \$10,125 in year 3. The three year implementation would therefore cost the City's General Fund an additional \$27,125 for the minimum wage classes alone.

If a new minimum wage is adopted by Council, staff will review and analyze all of its job classifications and corresponding hourly wage ranges to determine which positions should have corresponding salary increases to maintain appropriate separations based on market conditions or internal policies. Staff would then return to the City Council to review and approve modifications, if any, to the City's hourly wage schedule.

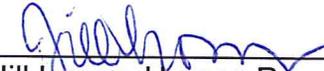
Finally, there would be some level of budgetary impacts associated with City staff conducting enforcement of a new minimum wage. Tasks would include tracking and monitoring to ensure compliance with a new minimum wage ordinance. To mitigate the costs, the City may consider contracting with another City in the County. The Cities of Mountain View and San Jose have established such a partnership.

However, there may be some offset of staff costs related to employer fines for noncompliance.

ALTERNATIVES

1. Do not introduce an ordinance establishing a citywide minimum wage;
2. Adopt a citywide minimum wage schedule in an amount and time frame different than the one requested by the Cities Association of Santa Clara County;
3. Consider creating exceptions for certain employers (i.e. small businesses and/or not-for-profit organizations);
4. Consider whether certain categories of employees (i.e. teens) should not be covered by the minimum wage ordinance;
5. Consider modifying the effective date of the proposed ordinance (currently July 1, 2017); or
6. Provide other direction to staff

Prepared by: 
Al Bito, Deputy City Manager

Reviewed by: 
Jill Lopez, Human Resources Manager

Reviewed by: 
Jesse Takahashi, Finance Director

Reviewed by: 
William Seligmann, City Attorney

Approved by: 
Mark Linder, City Manager

Attachments:

1. Model Minimum Wage Ordinance
2. Letter of Request by Cities Association (July 27, 2016)
3. Campbell Study Session report on Minimum Wage (May 19, 2015)
4. "The Effects of a \$15 Minimum Wage by 2019 in San Jose and Santa Clara County", Center on Wage and Employment Dynamics, Policy Brief, June 2016
5. Cities' Status Re: Minimum Wage Ordinances (as of September 23, 2016)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL TO ADD CHAPTER 5.59 (MINIMUM WAGE ORDINANCE) TO TITLE 5 BUSINESS LICENSES AND REGULATIONS OF THE CAMPBELL MUNICIPAL CODE TO INCREASE THE CITY-WIDE MINIMUM WAGE

WHEREAS, families and workers need to earn a living wage, and public policies which help achieve that goal are beneficial; and

WHEREAS, payment of a minimum wage advances the interests of the City as a whole by creating jobs that keep workers and their families out of poverty; and

WHEREAS, a minimum wage will enable a worker to meet basic needs and avoid economic hardship; and

WHEREAS, this ordinance is intended to improve the quality of services provided in the City to the public by reducing turnover, absenteeism, and instability in the workplace; and

WHEREAS, prompt and efficient enforcement of this Chapter will provide workers with economic security and the assurance that their rights will be respected; and

WHEREAS, key findings of a regional minimum wage study and survey performed by the Institute for Research on Labor and Employment at UC Berkeley and BW Research showed that increasing the minimum wage to \$15.00 an hour by 2019 in Santa Clara County would:

- Increase earnings for 250,000 workers
- Raise average annual earnings of affected workers by 19.4 percent, or \$3,200.00 (in 2014 dollars)
- Slightly increase average prices in Santa Clara County by 0.2 percent over three years
- Have a net effect on employment that is slightly negative at the county level (1,450 jobs) and close to zero at a 10 county regional level;

WHEREAS, the Cities Association of Santa Clara County recommends a regional minimum wage increase to \$15.00 by 2019 as an effort to prevent an uneven playing field that can be damaging to local economies, provide equity to our shared economy, and implement regional consistency across the county.

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

SECTION 1: CHAPTER 5.59 IS HEREBY ADDED TO THE CAMPBELL MUNICIPAL CODE TO READ AS FOLLOWS:

5.59 Minimum Wage.

5.59.010 Title.

This chapter shall be known as the "Minimum Wage Ordinance."

5.59.020 Authority.

This chapter is adopted pursuant to the powers vested in the City of Campbell under the laws and Constitution of the state of California, including, but not limited to, the police powers vested in the city pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Code.

5.59.030 Definitions.

The following words and phrases, whenever used in the chapter, shall be construed as defined in this section:

(a) "City" shall mean the City of Campbell, California or any agency designated by the City to administer the terms of this chapter.

(b) "Employee" shall mean any person who:

1. In a calendar week performs at least two (2) hours of work for an employer as defined below; and
2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California Minimum Wage Law, as provided under Sec. 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a welfare-to-work Program.

(c) "Employer" shall mean any person, including corporate officers or executives, as defined in Sec. 18 of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary employment agency, staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any employee and who is either subject to the City's business license requirements or maintains a business facility in the city.

(d) "Governmental agencies" shall include federal agencies, state agencies, school districts and auxiliary organizations as defined under Education Code Sections 72670(c) and 89901. "Governmental agency" does not include the City of Campbell.

(e) "Minimum wage" shall have the meaning set forth in Section 5.59.040 of this chapter.

(f) "Welfare-to-Work Program" shall mean the CalWORKS Program, County Adult Assistance Program (CAAP) which includes the Personal Assisted Employment Services (PAES) Program, and General Assistance Program, and any successor programs that are substantially similar to them.

5.59.040 Minimum wage.

(a) Employers shall pay employees no less than the minimum wage set forth in this section for each hour worked within the geographic boundaries of the City of Campbell. Governmental agencies are exempt from the minimum wage requirements under the principle of governmental immunity when the work performed is related to the agency's governmental function.

(b) Effective July 1, 2017, the Minimum Wage shall be an hourly rate of twelve dollars (\$12.00). Effective July 1, 2018, the minimum wage shall be an hourly rate of thirteen dollars and fifty cents (\$13.50). Effective July 1, 2019, the minimum wage shall be an hourly rate of fifteen dollars (\$15.00), except when these scheduled increases are temporarily suspended under subdivision (f). To prevent inflation from eroding its value, beginning on July 1, 2020, and each July 1st thereafter, the Minimum Wage shall increase by an amount corresponding to the increase, if any, in the cost of living, not to exceed 5%. The prior year's increase in the cost of living shall be measured by the percentage increase, if any, as of August of the immediately preceding year of the Bay Area Consumer Price Index (Urban Wage Earners and Clerical Workers, San Francisco-Oakland-San Jose, CA for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the Minimum Wage increase rounded to the nearest multiple of five (\$.05) cents. If there is no net increase in the cost of living, the minimum wage shall remain unchanged for that year. The adjusted Minimum Wage shall be announced by October 1st of each year, or as soon as practicable thereafter if the Consumer Price Index for August has not yet been published, and shall become effective as the new Minimum Wage on January 1st of the following year.

(c) Commissions or guaranteed gratuities, not including discretionary tips, may be counted toward payment of the minimum wage when the commissions or guaranteed gratuities are earned and paid together with other compensation paid to an employee and the combination of these forms of compensation is equal to or greater than the

current minimum wage. For each pay period, employers shall pay the employee an amount that equals or exceeds the current hourly minimum wage.

(d) The employer may offset a portion of the minimum wage for housing and meal costs only if the offsets are the same as those available under the California Minimum Wage Law. The offsets shall only be recognized if there is a prior voluntary agreement between the employer and the employee.

(e) A violation for unlawfully failing to pay the minimum wage shall be deemed to continue from the date immediately following the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the wages are paid in full.

(f) On or before September 1, 2017, and on or before every September 1 thereafter until the minimum wage is fifteen dollars (\$15.00) per hour, the City Manager or designee shall annually make a determination and certify to the City Council whether each condition below is met to ensure that economic conditions can support a minimum wage increase:

(A) Total nonfarm employment for California, seasonally adjusted, decreased over the three-month period from April to June, inclusive, prior to the September 1 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in March, as reported by the Employment Development Department.

(B) Total nonfarm employment for California, seasonally adjusted, decreased over the six-month period from January to June, inclusive, prior to the September 1 determination. This calculation shall compare seasonally adjusted total nonfarm employment in June to seasonally adjusted total nonfarm employment in December, as reported by the Employment Development Department.

(C) California state retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending one month prior to the September 1 determination is less than retail sales and use tax cash receipts from a 3.9375-percent tax rate for the July 1 to June 30, inclusive, period ending 14 months prior to the September 1 determination. The calculation for the condition specified in this subparagraph shall be made by the City Manager or designee using data posted online by the State Board of Equalization, following the procedure specified in paragraph (1) of subdivision (c) of Section 1182.12 of the California Labor Code as follows:

(i) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the total retail sales (sales before adjustments) for the prior month derived from their daily retail sales and use tax reports.

(ii) The State Board of Equalization shall publish by the 10th of each month on its Internet Web site the monthly factor required to convert the prior month's retail sales and use tax total from all tax rates to a retail sales and use tax total from a 3.9375-percent tax rate.

(iii) The Department of Finance shall multiply the monthly total from clause (i) by the monthly factor from clause (ii) for each month.

(iv) The Department of Finance shall sum the monthly totals calculated in clause (iii) to calculate the 12-month July 1 to June 30, inclusive, totals needed for the comparison in this subparagraph.

(g) If, for any year, the condition in either subparagraph (A) or (B) of paragraph (f) is met, and if the condition in subparagraph (C) of paragraph (f) is met, the City Council may, on or before October 1 of that year, make a determination to temporarily suspend the minimum wage increase scheduled for the following year.

(h) If the City Council makes a determination to temporarily suspend the scheduled minimum wage increases for the following year, all dates specified in paragraph (b) that are subsequent to the October 1 determination date shall be postponed by an additional year.

5.59.050 Waiver through collective bargaining.

All or any portion of the applicable requirements of this Chapter shall not apply to Employees covered by a bona fide collective bargaining agreement to the extent that such requirements are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

5.59.060 Notice, posting and payroll records.

(a) By November 1st or as soon as practicable thereafter of each year, the city shall publish and make available to employers a bulletin announcing the adjusted minimum wage rate for the upcoming year, which shall take effect on January 1st. In conjunction with this bulletin, the city shall by November 1st, or as soon as practicable thereafter of each year, publish and make available to employers, in the top three languages spoken in the city based on the latest available census information for the city, a notice suitable for posting by employers in the workplace informing employees of the current minimum wage rate and of their rights under this chapter.

(b) Every employer shall post in a conspicuous place at any workplace or job site where any employee works the notice published each year by the city informing employees of the current minimum wage rate and of their rights under this chapter. Every employer shall post such notices in the top three languages spoken in the city

based on the latest available census information for the city at the workplace or job site. Every employer shall also provide each employee at the time of hire with the employer's name, address, and telephone number in writing.

(c) Employers shall retain payroll records pertaining to employees for a period of four years, and shall allow the city access to such records, with appropriate notice and at a mutually agreeable time, to monitor compliance with the requirements of this chapter. Where an employer does not maintain or retain adequate records documenting wages paid or does not allow the city reasonable access to such records, the employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise.

5.59.070 Retaliation prohibited.

(a) It is unlawful for an employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected under this chapter. Rights protected under this chapter include, but are not limited to: the right to file a complaint or inform any person about any party's alleged noncompliance with this chapter; and the right to inform any person of his or her potential rights under this chapter and to assist him or her in asserting such rights. Protections of this chapter shall apply to any person who mistakenly, but in good faith, alleges noncompliance with this chapter.

(b) Taking adverse action against a person within ninety days of the person's exercise of rights protected under this chapter shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

5.59.080 Implementation.

(a) Guidelines. The city shall be authorized to coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. Any guidelines or rules promulgated by the city shall have the force and effect of law and may be relied on by employers, employees and other parties to determine their rights and responsibilities under this chapter. Any guidelines or rules may establish procedures for ensuring fair, efficient and cost effective implementation of this chapter, including supplementary procedures for helping to inform employees of their rights under this chapter, for monitoring employer compliance with this chapter, and for providing administrative hearings to determine whether an employer or other person has violated the requirements of this chapter.

(b) Reporting Violations. An employee or any other person may report to the city in writing any suspected violation of this chapter. The city shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the employee or person reporting the violation. Provided, however, that with the authorization of such person,

the city may disclose his or her name and identifying information as necessary to enforce this chapter or other employee protection laws. In order to further encourage reporting by employees, if the city notifies an employer that the city is investigating a complaint, the city shall require the employer to post or otherwise notify its employees that the city is conducting an investigation, using a form provided by the city.

(c) Investigation. The city shall be responsible for investigating any possible violations of this chapter by an employer or other person. The city shall have the authority to inspect workplaces, interview persons and request the city attorney to subpoena books, papers, records, or other items relevant to the enforcement of this chapter.

(d) Informal Resolution. The city shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the city shall take no more than one year to resolve any matter, before initiating an enforcement action. The failure of the city to meet these timelines within one year shall not be grounds for closure or dismissal of the complaint.

5.59.090 Enforcement.

(a) Where prompt compliance is not forthcoming, the city may take any appropriate enforcement action to secure compliance. All remedies in the Campbell Municipal Code ("the code") are considered cumulative and the use of one or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing these provisions.

(1) The city may issue an administrative citation pursuant to Chapter 6.10 of the code with a fine of not more than fifty dollars (\$50.00) for each day or portion thereof and for each employee or person as to whom the violation occurred or continued. The council may modify the fine amount by resolution up to the maximum penalties allowed under section 6.10.180.

(2) The City may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction.

(b) Any person aggrieved by a violation of this chapter, any entity a member of which is aggrieved by a violation of this chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the employer or other person violating this chapter and, upon prevailing, shall be awarded reasonable attorneys' fees and costs and shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation, including, without limitation, the payment of any back wages unlawfully withheld, the payment of an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to each employee or person whose rights under this chapter were violated for each day that the violation occurred or continued, reinstatement in employment and/or injunctive relief. Provided, however, that any person or entity

enforcing this chapter on behalf of the public as provided for under applicable state law shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to employees, and reasonable attorneys' fees and costs.

(c) This section shall not be construed to limit an employee's right to bring legal action for a violation of any other laws concerning wages, hours, or other standards or rights nor shall exhaustion of remedies under this chapter be a prerequisite to the assertion of any right.

(d) Except where prohibited by state or federal law, city agencies or departments may revoke or suspend any registration certificates, permits or licenses held or requested by the employer until such time as the violation is remedied.

(e) Relief. The remedies for a violation of this chapter include, but are not limited to:

(1) Reinstatement, the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of fifty dollars (\$50.00) to each employee or person whose rights under this chapter were violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this code or state law.

(2) Interest on all due and unpaid wages at the rate of interest specified in subsection (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

(3) Reimbursement of the city's administrative costs of enforcement and reasonable attorney's fees.

5.59.100 Relationship to other requirements.

This chapter provides for payment of a local minimum wage and shall not be construed to preempt or otherwise limit or affect the applicability of any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends other protections.

5.59.110 Application of minimum wage to welfare-to-work programs.

The minimum wage established pursuant to Section 5.59.040 of this chapter shall apply to the Welfare-to-Work Programs under which persons must perform work in exchange for receipt of benefits. Participants in Welfare-to-Work Programs shall not, during a given benefits period, be required to work more than a number of hours equal to the value of all cash benefits received during that period, divided by the minimum wage.

5.59.120 Fees.

Nothing herein shall preclude the city council from imposing a cost recovery fee on all employers to pay the cost of administering this chapter.

5.59.130 CEQA Exemption.

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(2), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that the adoption of an ordinance of general policy and procedure does not constitute a project within the meaning of CEQA.

5.59.140 Constitutionality; Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause -and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 2: AMENDING 6.10.020(A)(6)(Q) TO ADD REFERENCE TO CHAPTER 5.59

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

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk



*A Unified Voice for the 15 Cities of
Santa Clara County, California*

July 27, 2016

Dear Mayors and City Managers,

At the June 2016 Board of Directors Meeting the Cities Association of Santa Clara County recommended adoption of a minimum wage by member cities as outlined below. The collaboration amongst Mayors across the County and the Cities Association Board of Directors is much appreciated and has led to groundbreaking efforts on a regional approach to a minimum wage.

As you know, a regional approach to raising the minimum wage is essential to providing equity when it comes to our shared economy. Different rules for different cities create an uneven playing field that can be damaging to local economies. According to the regional minimum wage study led by the City of San Jose, increasing the minimum wage to \$15 an hour by 2019 in our County would:

- Increase earnings for 250,000 workers;
- Raise average annual earnings of affected workers by 19.4 percent, or \$3,200 (in 2014 dollars);
- Increase average prices in Santa Clara County by 0.2 percent over three years;
- Have a net effect on employment that is slightly negative at the county level (1,450 jobs) and close to zero at a 10 county regional level.

Based on the results of the study, Board Member input, and community input, the Cities Association of Santa Clara County recommends a regional minimum wage increase according to the following:

- Increase minimum wage to \$15 by 2019 in three steps: \$12.00 on 1/1/17, \$13.50 on 1/1/18, \$15.00 on 1/1/19;
- "Off-ramp" triggers during ramp-up phase that would allow for scheduled increases to be delayed under certain economic conditions;
- Index to Bay Area CPI-W after 2019, capped at 5%;
- Round to nearest 5 cents;
- No exemptions.

Though several cities have already increased minimum wage, the proposed increase and schedule would lead cities to land at \$15 one year after Mountain View and Sunnyvale, and three years before the State of California. Ultimately, the goal is to have all or most of our cities at nearly the same wage by 2019 and ahead of the State due to the region's high cost of living.

To ease implementation, a model ordinance has been provided and is available at the following link: <https://docs.google.com/document/d/11-NBB2YrwJhpVT5j4fIH48GwZ57Lylhm-PUscf0raXY/edit?invite=CLG4uZgG&ts=576c9fe5&pref=2&pli=1>. The model ordinance may be adjusted and revised based on feedback from participating cities. It is expected that each city and council will need to do the necessary outreach to its businesses and constituents and will ultimately

decide whether or not to increase the minimum wage within its own jurisdiction according to the needs of its community.

As stewards of your communities, we urge you to consider joining your neighboring jurisdictions in providing all workers with a more livable standard of wage in our region and increasing the wealth of low- and middle-income families so they can have better financial security. For more information regarding the results of the study, employer survey, presentations and analyses, please see information at the following link:

<http://www.sanjoseinfo.org/external/content/document/1914/2857034/1/06-20-16-OED.pdf>.

Thank you for your collaboration and invaluable leadership.

Sincerely,



Hon. Jim Griffith, Sunnyvale
President, Cities Association



Hon. Rod Sinks, Cupertino
Member, Minimum Wage
Subcommittee



Hon. Greg Scharff, Palo Alto
Member, Minimum Wage
Subcommittee

MEMORANDUM**CITY OF CAMPBELL**
City Manager's Office

To: Honorable Mayor and City Council
Via: Mark Linder, City Manager *ML*
From: Oscar Murillo, Graduate Intern *OM*
Subject: Council Study Session on Minimum Wage

Date: May 19, 2015

PURPOSE

The purpose of the May 19, 2015 Council Study Session is to review and discuss the Council's interest in considering legislation to establish a minimum wage ordinance.

BACKGROUND

The issue of the minimum wage has long been a topic of contention among economists, business owners, union leaders, and public officials, with countless studies showing both the positive and negative effects related to increasing it. As with many other laws, it can be regulated at the federal, state, county, and city levels. While a federal minimum wage exists, as of February 2015, 29 states and the District of Columbia have enacted their own minimum wage laws above the federal rate. Similarly, as of December 2014, four counties and 15 cities in the U.S. had minimum wage ordinances exceeding their respective state rates, as well as five other cities with proposed ordinances (Attachment 1).

Beginning July 24, 2009, the federal minimum wage was raised to \$7.25 per hour for covered nonexempt employees. The provisions of the federal minimum wage are contained in the Fair Labor Standards Act. The federal minimum wage primarily regulates hourly wage, overtime pay, child labor, and tip credit, although some occupations and establishments are exempt from minimum wage and/or overtime pay provisions. Exceptions apply under specific circumstances to workers with disabilities, full-time students, youth under 20 years of age, tipped workers, and student-learners.

States may also enact minimum wage laws with higher minimum wage rates and/or greater employee protections than that of federal law. Employers within those states' borders must comply with both federal and state laws. Beginning July 1, 2014, the State of California increased its minimum wage rate to \$9.00 per hour for all industries, and is scheduled to increase to \$10.00 per hour effective January 1, 2016. While California's minimum wage law also provides some exemptions, almost all employees in the state must be paid the minimum wage rate.

As cities and counties may enact minimum wage ordinances, differences in regional costs of living provide the primary reason for doing so. The San Francisco Bay Area (Bay Area) is often referred to as having a high cost of living compared to the rest of the nation and state. According to the 2013 Council for Community and Economic Research's (C2ER) Cost of Living Index, the San Jose-Sunnyvale-Santa Clara, CA metropolitan area had a cost of living index score that was 49.3% higher than the national average. During the period from 2009-2013, its average cost of living index score was 52.8% higher than the rest of the nation. Compared to the ten California metropolitan areas surveyed by C2ER, its 2013 cost of living index score was also 21.2% higher (Attachment 2).

In the Bay Area, the cities of Berkeley, Emeryville, Mountain View, Oakland, Richmond, San Francisco, San Jose, and Sunnyvale have enacted or approved minimum wages ordinances ranging from \$9.60 per hour to \$14.44 per hour (Attachment 1). Further, the City of San Jose's minimum wage ordinance has been tied to the Consumer Price Index (CPI) to automatically increase each year based on the previous year's cost of living increase. The City of Sunnyvale has also modeled its ordinance based on San Jose's, and the City of Mountain View adopted a work plan on March 31, 2015 to reach a minimum wage of \$15.00 per hour by 2018. Attachment 3 shows Mountain View's minimum wage increase schedule, work plan actions, and corresponding staff report. Additionally, the City of Morgan Hill is currently studying the possibility and effects of tying its minimum wage to the CPI, and the City of Palo Alto will be reviewing a recommended minimum wage ordinance by its Policy and Services Committee.

Theoretical Models and Studies

The literature on the minimum wage has typically followed one of three routes: efficiency at reducing poverty, effect on low-wage employment and hours worked in all industries, and effect on employment and hours worked in low-wage industries. While studies on the first two have generally been consistent in their findings of minor negative employment effects, there is often mixed evidence on the effect of minimum wage increases on low-wage industries, such as retail and restaurants. The two principal labor market models utilized in this field, standard competitive and dynamic monopsony, provide differing methods of interpreting the effect of minimum wage increases on labor markets. Though their predictions of negative employment effects and no employment effects, respectively, are not always aligned, they are also not mutually exclusive.

The standard competitive model, or supply-demand model, has traditionally remained prominent with economists studying the minimum wage as resulting in negative employment effects. In its simplest form it states that as the price of goods or services increases, the demand for them decreases. When organizations experience increased labor costs due to a minimum wage increase, they respond in one or a combination of the following: reduction in the number employees, reduction in employee hours worked, increased prices to consumers, reduced profits, reduced expansion or development, increased use of tipped workers, reduced worker training, and reduced worker fringe benefits.

The dynamic monopsony model has in recent years grown in use with studies providing evidence contrary to the assumptions of the standard competitive model. The model asserts that organizations have the ability to establish increased wages to attract employees and reduce costs related to recruitment. Organizations then offset all or part of increased labor costs by attracting more qualified and productive employees, and experiencing reduced employee turnover and training costs. Studies utilizing each of the models have drawn criticism, and at times have been replicated using the same or similar data to provide differing outcomes and interpretations. The following is a brief overview of a few of the major models and studies related to federal, state, and local minimum wage increases and their effect on employment and consumers.

1. Restaurants and Retail

Restaurant and retail establishments have long been popular subjects for minimum wage studies because of the high percentage of low-wage workers they tend to employ. Research by Aaronson, French and MacDonald (2008) found restaurant prices to increase 0.072% for every percentage point increase in the minimum wage. Allegretto and Reich (2014) also found similar estimates for San Jose's minimum wage increase of 25% in 2013. Lee et. al. (2000) and Benner and Jayaraman (2012) found restaurant operating costs to increase by roughly 0.1% for each percentage point increase in the minimum wage. These studies suggest that 70-75% of cost increases are passed on to customers as increased restaurant prices (Reich et. al., 2014).

However, research on full-time equivalent employment by Ropponen (2011) found positive employment effects for small fast-food restaurants and negative employment effects for large fast-food restaurants. Dube, Lester, and Reich (2010) compared differences in restaurant employment across 1,381 counties, between 1990 and 2006, with different minimum wage levels. The study found no negative employment effects and identified a flaw in previous research of failing to identify and account for regional employment trends that resulted in negative employment effects unrelated to the minimum wage (Schmitt, 2013).

Sabia (2009) examined the effects of minimum wage increases on retail employment and hours worked. Using monthly data from the 1979-2004 Current Population Survey (CPS), the study suggested modest reductions in retail employment with a 10% increase in the minimum wage leading to a 1.1% reduction in employment. Employees' average weekly hours worked remained unchanged, though teenagers employed in the retail sector experienced a 3.4% to 3.8% reduction in employment and a 3.8% to 4.2% reduction in hours worked.

Addison, Blackburn, and Cotti (2009) examined the employment effects of minimum wage increases on the retail sector and its specific subsectors. The study found little support for disemployment effects resulting from increases in minimum wages, and in some instances modest increases in employment. A possible explanation for increases in employment is that workers' hours were instead reduced, but other studies (Zavodny, 2000; Sabia, 2009) have shown that to not be the case.

In regard to restaurant employee turnover, Dube, Lester and Reich (2013) found that a 10% increase in the minimum wage results in a 2.1% decrease in turnover. Boushey and Glynn (2012) found that the median replacement cost for jobs paying less than \$30,000 per year is 16.1% of an employee's salary. Associated reductions in employer's recruitment and retention costs then offset roughly 20-25% of increased labor costs related to minimum wage increases (Dube, Lester and Reich, 2013). Additionally, studies have found that paying employees increased wages can affect morale, absenteeism, the number of grievances, customer service, and work effort among other metrics (Reich, Jacobs and Dietz, 2014; Hirsch, Kauffman and Zelenka, 2011).

Studies have shown mixed results in regard to retail and restaurant employment, but have remained consistent in findings of relatively modest increases in fast food and restaurant prices.

II. Teenage Employment

The effect of minimum wage increases on teenage employment has also been explored, to a lesser degree, because of the large percentage of teenage employees with low-wage jobs. Zavodny (2000) studied the effects of minimum wage increases on teenage employment and hours worked using state- and individual-level U.S. panel data. The study used state annual averages to examine the effects on aggregate teen employment and average weekly hours worked. The study found that in the short-term, employers may choose to reduce hours instead of employment for reasons related to employee morale, but that in the long-term, natural attrition may take effect. From the state-level data, the study found that minimum wage increases may reduce employment rates but have no significant effect on teen hours worked. The individual-level data also led to results that failed to indicate a significant effect in the reduction of low-wage teenage hours worked.

Alegretto, Dube, and Reich (2011) performed an analysis of the effect of minimum wage increases on teenage employment using CPS data from 1990-2009. The study found no significant disemployment effects in regard to teenagers. Other more recent studies (Meer and West, 2013; Giuliano, 2013) have also resulted in similar findings.

Coomer and Wessels (2013) studied the effects of minimum wage increases on covered teenage employment, as opposed to previous studies having examined total teenage employment. Covered employment is defined as positions with wages at or above the minimum wage, and does not include tipped workers or those earning youth subminimum wages. The study analyzed the probability that teenage workers would be in a covered job in periods of increased minimum wages, and found that increases in the minimum wage negatively affected covered employment at a significantly higher rate than total employment, with the effect being more pronounced with low-skilled teenagers.

III. Meta-Studies

As a whole, the previously mentioned studies show evidence in support of both the standard competitive and dynamic monopsony labor market models. Schmitt (2013) in his analysis of minimum wage studies conducted in the previous twenty years concluded that “the minimum wage has little or no discernible effect on the employment prospects of low-wage workers.” Schmitt stated reasons for this occurrence to be related to the small part that labor increases constitute in overall firm costs. While reductions in employment may occur, it is believed that other reductions may also occur, such as those associated with the dynamic monopsony model. Organizational responses may differ on a case-by-case basis, but do not significantly impact overall low-wage employment prospects. Other meta-studies (Doucouliagos and Stanley, 2009; Wolfson and Belman, 2014) have found similar findings for low-wage employment and teenage employment, respectively. With this in mind, the Congressional Budget Office (Elmendorf, 2014) performed a study to predict the effects of a federal minimum wage increase. Its review of the literature led to the use of an assumption that a 10% increase in the minimum wage would lead to a 0.33% decrease in adult employment and a 1% decrease in teen employment (Acs et. al., 2014).

IV. City-Level

Much of the earlier literature had focused on the effects of federal and state minimum wages, but in recent years as local jurisdictions have begun to establish local minimum wage ordinances, the focus has experienced a shift toward the employment effects of local minimum wage laws. While minimum wage laws have the same direct effect of raising hourly wages, the indirect effects on employment may not necessarily translate equally across entire states as it would in individual cities. Differing economic conditions and other factors prevent a generalization of all the assumptions and outcomes of the labor market models from the state level to the local level. Previous studies are also limited in scope by the extent of minimum wage increases, which at the federal and state level tend to be smaller than those implemented by cities. Recent research related to minimum wage ordinances in the cities of San Francisco, San Jose, Santa Fe, and Washington D.C. have provided new insights into the economic and employment impacts of larger increases in the minimum wage specific to individual cities.

Dube, Naidu, and Reich (2007) studied the economic impacts of San Francisco’s citywide minimum wage ordinance of 2004, a 26% increase from California’s minimum wage at the time. The study consisted of a survey of table-service and fast-food restaurants. Using county-level Quarterly Census of Employment and Wages data, San Francisco was compared to the control group of neighboring Alameda County. The study found there to be no detectable employment losses resulting from the minimum wage ordinance, with evidence of increased worker pay and reduced wage inequality. Additionally, fast-food restaurants experienced minimal price increases with considerable increases in the proportion of full-time employees and job tenure. The findings provided support for both labor market models, as

prices of meals increased slightly, employment levels stayed consistent, and job quality and worker attachment increased. It also suggested evidence countering some of the larger negative and positive employment effects characterized by previous studies.

Potter (2006) studied the employment effects of Santa Fe, New Mexico's minimum wage ordinance of 2004 (for large businesses: 25 or more employees), a 65% increase from the state minimum wage. Comparing average quarterly earnings from the year prior to and after the increase to that of the neighboring city of Albuquerque, the study found there to be an increase in worker earnings and no negative employment effects. The retail, accommodations, and food service sectors also experienced larger job growth and employee earnings compared to large Albuquerque businesses and small Santa Fe businesses (fewer than 25 employees). However, the construction industry experienced decreased job growth and employee earnings compared to the same groups. Potter attributed this effect on the construction industry with other trends and factors unrelated to the minimum wage increase.

Schmitt and Rosnick (2011) analyzed the effects on employment and wages resulting from minimum wage ordinances in San Francisco, Santa Fe, and Washington D.C. The study found results indicating increased worker earnings with no detectable negative employment effects in the cities of San Francisco and Santa Fe. No conclusions regarding the Washington D.C. minimum wage ordinance of 1993 were reached since the increase was seen as too small, not sufficiently expansive, and not properly enforced to create detectable effects on employment.

Acs et. al. (2014) performed a study to predict the employment effects of Washington D.C.'s minimum wage increase of 39% set for 2016. Using employment data from the American Community Surveys (ACS) from 2009-2011, and an assumption of a 1.1% decline in total employment resulting from a 10% increase in the minimum wage, the study predicted a small impact on earnings, employment, and income, similar to that experienced by San Francisco from 2004-2011. The study alluded to possible explanations for a lack of significant disemployment effects resulting from employers raising prices, experiencing reduced worker turnover and increased productivity, and reducing workers' noncash compensations.

Reich (2012) performed a predictive analysis of San Jose, California's 25% minimum wage increase in 2013. Using 2010 ACS county-level data to estimate the number of affected workers and its impact on firms, Reich found that firms would likely experience an increase of labor costs of under 0.25% and would accommodate such costs through increased productivity and reduced worker turnover. The economy was also predicted to experience growth of roughly \$190 million per year in spending due to increased worker earnings, which in turn would generate roughly 200 new jobs in the area. However, restaurants were predicted to increase prices by up to \$0.71, with other industries experiencing smaller increases. Data released by the City of San Jose (retrieved from the California Employment Development Department, San Jose Downtown Association, and U.S. Bureau of Labor Statistics) one year after implementation of the minimum wage increase shows that "unemployment was reduced, the number of businesses grew, the number of minimum wage jobs expanded, average employee hours remained constant and the economy was stimulated" (Myers-Lipton and Quyo, 2014, p. 1). While these results may be affected by

other economic factors, and may have resulted even without the implementation of a minimum wage ordinance, they suggest that disemployment effects are likely to not have had a significant effect on employment.

ANALYSIS

Minimum Wage Survey of Campbell Businesses

The Campbell City Manager's Office conducted a survey of Campbell businesses to study the employment effects of a minimum wage ordinance that would increase Campbell's currently utilized California minimum wage rate of \$9.00 per hour to a rate of \$10.30 per hour. The figure of \$10.30 per hour was selected based on its use by the cities of San Jose, Mountain View, and Sunnyvale. Employment effects were focused on changes in the amount of workers employed, workers' average weekly hours, the price of goods/services to consumers, probability of expansion/development, and worker productivity, morale, and turnover.

The survey consisted of four background questions and 14 multiple-choice situational questions asking participants for their professional opinion of how they or their organization's management would respond to a \$1.30 per hour minimum wage increase. Attachment #4 shows the full list of questions included in the survey.

Participants for the minimum wage survey were selected using a database of listings from the City's business license directory. The City's directory contains over 5,000 active business licenses, but also includes home businesses located within apartment complexes, businesses with two or fewer employees, and businesses located outside of the City limits. For the purposes of the survey, those businesses were not included in the participant list. The survey and a self-addressed stamped envelope were then sent to the remaining 1,236 businesses on April 3, 2015, with a requested return date of April 13, 2015. Surveys were received and counted until April 17, 2015.

A total of 357 completed surveys were returned, with 36 surveys having come back marked as undeliverable, insufficient address, no mail receivable, no such address, or address unknown. Accounting for undeliverable surveys, the survey's response rate was 29.75%, with a total of 357 of 1,200 surveys completed and returned. Attachment #5 shows a full listing of survey results. The following are a few of the survey's major findings:

- 94.5% of respondents were either business owners or managers.
- 77.8% of respondents had 15 or fewer employees in their organization.
- 77.4% of respondents had between 0% – 10% of their employees earning the minimum wage rate.

- 74.8% of respondents would 'definitely not' or 'probably not' eliminate (and not replace) any positions to compensate for increased labor costs.
- 66.7% of respondents would 'definitely not' or 'probably not' increase the hourly wages of any higher-paying positions following a minimum wage increase.
- 74.5% of respondents would 'definitely not' or 'probably not' reduce employee work hours to account for increased labor costs.
- 61.1% of respondents would 'definitely not' or 'probably not' increase prices to customers to account for increased labor costs.
- 84.4% of respondents listed a minimum wage increase as being 'highly unlikely' or 'unlikely' to cause their establishment to move to another city with a lower minimum wage rate.
- 75.5% of respondents would support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of employee qualifications, to offset all or part of the increased labor costs associated with a minimum wage increase.
- 62.7% of respondents would not support a minimum wage increase if it did not lead to increases in employee productivity, employee retention, employee morale, and the level of employee qualifications, to offset all or part of the increased labor costs associated with a minimum wage increase.

Survey respondents listed anticipated behaviors more closely aligned with a combination of the standard competitive and dynamic monopsony labor market models. While this may imply minor disemployment effects, or none, it is difficult to generalize the results as a necessarily accurate prediction. Additionally, the applicability of previous studies and data from other cities may not fully apply in the same manner to jurisdictions of different sizes. Other environmental and economic factors may also play a role in the determination of how establishments and economies respond, such as interest rates, unemployment levels, revenue trends, and political climate, regardless of how business owners and managers anticipate they will respond. As there is no control group to compare minimum wage increases with, studies cannot truly show causation. Ultimately, long-term studies will provide a clearer understanding of the effects of minimum wage increases in the context of individual jurisdictions.

In the case of the Campbell survey, the results are similar to those conducted by the cities of San Jose, Mountain View, and Sunnyvale (Attachment #3). The survey's participant size, response rate, and respondent characteristics provide an acceptable sample to reasonably generalize results to the non-respondent group.

FISCAL IMPACTS

As indicated in the literature, a minimum wage increase may result in modest increases in restaurant prices. If so, consumer spending may be affected. If spending were to decrease, Campbell's sales tax revenue would be negatively affected. If spending were to remain constant, sales tax revenue would be positively affected due to sales tax being collected on increased restaurant prices.

However, if employees working in Campbell were to have increase earnings, there is a possibility of increased consumer spending in Campbell. If so, sales tax revenue would be positively affected. Additionally, if consumer spending were to increase in Campbell, there is a possibility of experiencing job growth to accommodate additional consumer spending.

The City has various temporary part-time non-benefitted positions that pay the minimum wage. Most of these positions are held during the summer months in the Recreation and Community Services Department. In FY 2013/2014, the City paid out \$24,097 for all positions earning the minimum wage, a figure equaling roughly 0.13% of total City payroll costs. During that time, the California minimum wage was \$8.00 per hour. By converting the FY 2013/2014 minimum wage payroll cost to the current minimum wage rate of \$9.00 per hour, the figure increases to an estimated \$27,109 for the current fiscal year. By multiplying the percentage difference from \$9.00 to \$10.30 (14.44%) to the \$27,109 amount, the result in an estimated difference of roughly \$3,915 in payroll costs for the current fiscal year following a minimum wage increase to \$10.30 per hour.

Staff enforcement costs to track and ensure compliance with a minimum wage ordinance would also be incurred by the City. Some of those costs may be offset by the collection of penalties from noncompliant employers. The contracting of minimum wage enforcement, such as the partnership between the cities of Mountain View and San Jose, may also result in decreased staff enforcement costs.

CONCLUSION

Based on the City Manager's Office's recent survey responses, there seems to be some measure of support for an increased minimum wage, so long as business owner or operators believe that the increase will lead to higher employee productivity, morale and tenure, and higher-qualified applicants to offset some of the costs associated with a minimum wage increase. It is difficult to generalize the results from the literature and data from other cities because of differing population sizes and economic conditions. However, based on other cities having implemented minimum wage ordinances, significant negative employment effects have not been present.

At the May 19, 2015 City Council Study Session, the Council will discuss the topic of the minimum wage and provide direction to staff on whether or not to further explore considerations for enacting a minimum wage ordinance similar to what has been done in the charter cities of San Jose, Mountain View, and Sunnyvale.

Attachments:

- 1 – Minimum Wage Ordinances in the U.S. and Bay Area
- 2 – Cost of Living and Demographic Charts
- 3 – Mountain View Minimum Wage Efforts, Staff Report, and Survey Results
- 4 – City of Campbell Minimum Wage Survey
- 5 – City of Campbell Minimum Wage Survey Results
- 6 – Studies Referenced

As of December 2014

Fig 1. Local Minimum Wage Ordinances in the U.S.

Passed in 2003	Minimum Wage
Santa Fe, NM	\$10.66
San Francisco, CA	\$10.74
Passed in 2012	Minimum Wage
Albuquerque, NM	\$8.60
San Jose, CA	\$10.15
Passed in 2013	Minimum Wage
Bernalillo County, NM	\$8.50
Washington, DC	\$11.50 (by 2016)
Montgomery County, MD	\$11.50 (by 2017)
Prince George's County, MD	\$11.50 (by 2017)
SeaTac, WA	\$15.00
Passed in 2014	Minimum Wage
Las Cruces, NM	\$10.10
Santa Fe County, NM	\$10.66
Mountain View, CA	\$10.30 (by 2015)
Sunnyvale, CA	\$10.30 (by 2015)
San Diego, CA	\$11.50 (by 2017)*
Oakland, CA	\$12.25 (by 2015)
Berkeley, CA	\$12.53 (by 2016)
Richmond, CA	\$13.00 (by 2018)

*San Diego increase awaits review by voters in 2016

Passed in 2014 (cont'd)	Minimum Wage
Chicago, IL	\$13.00 (by 2019)
San Francisco, CA	\$15.00 (by 2018)
Seattle, WA	\$15.00 (by 2018-21)
Current Proposals	Proposed Rate
Washington, DC	\$15.00 (by 2019)
Los Angeles, CA – Mayor	\$13.25 (by 2017)
Los Angeles, CA – City Council	\$15.25 (by 2019)
New York, NY	\$13.13 (by 2016)
Portland, ME	\$10.68 (by 2017)
Louisville, KY	\$10.10 (by 2017)

Local Minimum Wages Have Become Mainstream Policy Tools in Diverse Cities Across the Country

Over the past year, an unprecedented number of cities and counties have moved to adopt higher local minimum wages. In addition, cities are proposing substantially higher wage levels than in past years (see Fig 1). Indicative of this new wave of action around local minimum wages was the U.S. Conference of Mayors' "Cities of Opportunity Task Force" in August of 2014, which endorsed higher city minimum wages as key tools for fighting income inequality at the local level.²

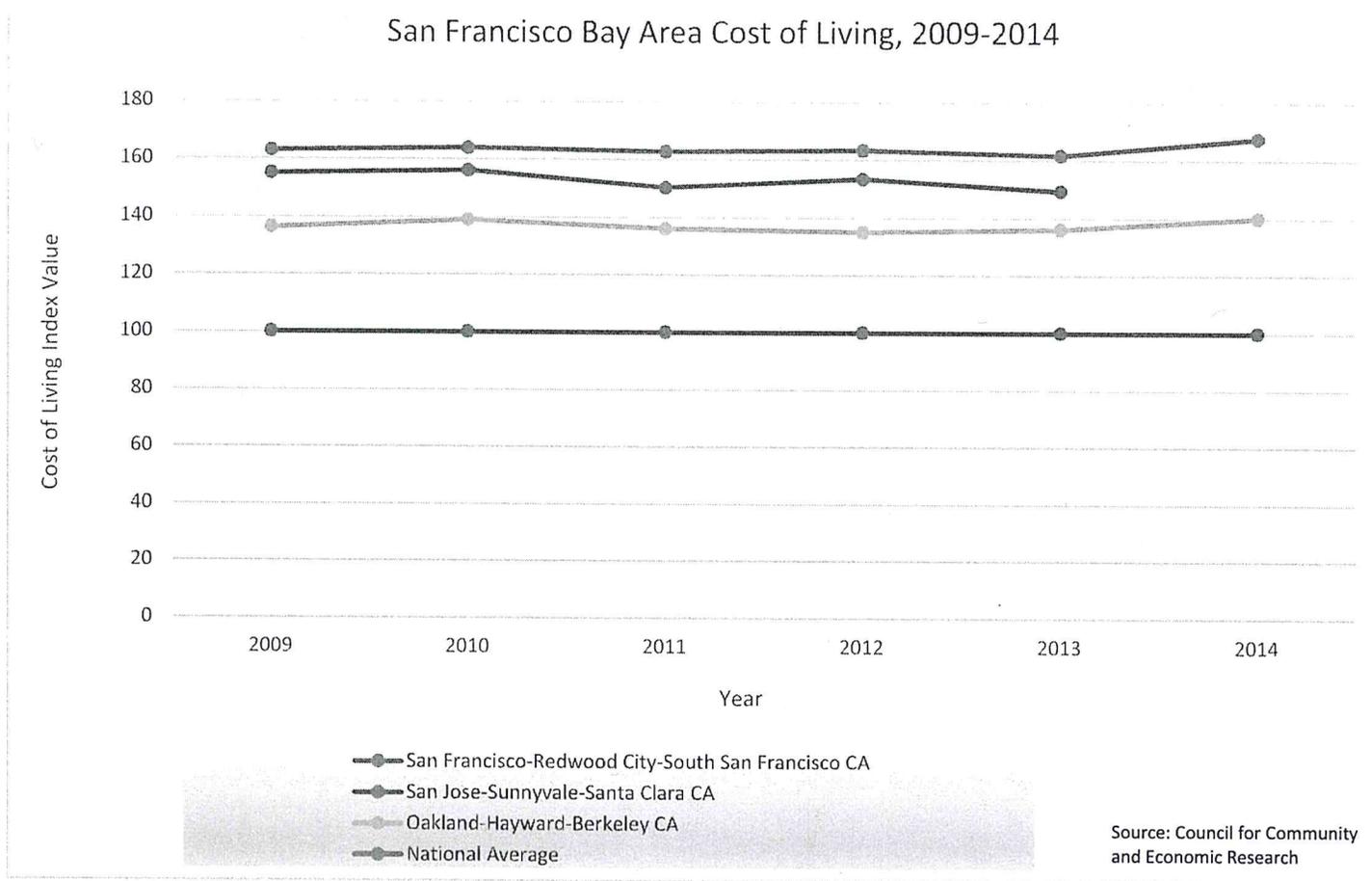
Source: National Employment Law Project. Retrieved from <http://www.nelp.org/content/uploads/2015/03/City-Minimum-Wage-Laws-Recent-Trends-Economic-Evidence.pdf>

Bay Area Minimum Wage Ordinances

City	Ordinance Adopted	Current Hourly Minimum Wage Rate	Notes
Berkeley	6/27/2014	\$10.00 \$11.00 on 10/1/2015 \$12.53 on 10/1/2016	Passed by the City Council.
Campbell	-	\$9.00	The City Council will hold a study session on 5/19/2015 to examine the issue of a minimum wage ordinance.
Emeryville	5/5/2015	\$9.00 \$14.44 (for large businesses) on 7/1/2015 \$12.25 (for small businesses) on 7/1/2015 \$13.00 (for small businesses) on 7/1/2016 \$14.00 (for small businesses) on 7/1/2017 \$15.00 (for small businesses) on 7/1/2018 \$16.00 (for small businesses) on 7/1/2019	Passed by the City Council. Small business classification for those with fewer than 55 employees. Minimum wage rate for large businesses will be tied to the Consumer Price Index (CPI) and increase each July 1 starting in 2016.
Morgan Hill	-	\$9.00	The City Council has directed staff to study the issue of a minimum wage ordinance tied to the CPI.
Mountain View	10/9/2014	\$9.00 \$10.30 on 7/1/2015 \$12.00 on 7/1/2016 \$13.50 on 7/1/2017 \$15.00 on 7/1/2018	Passed by the City Council. Tied to the CPI after 2018.
Oakland	11/4/2014	\$12.25	Voter-initiated ordinance (Measure FF). Tied to the CPI, will increase January 1 of each year.

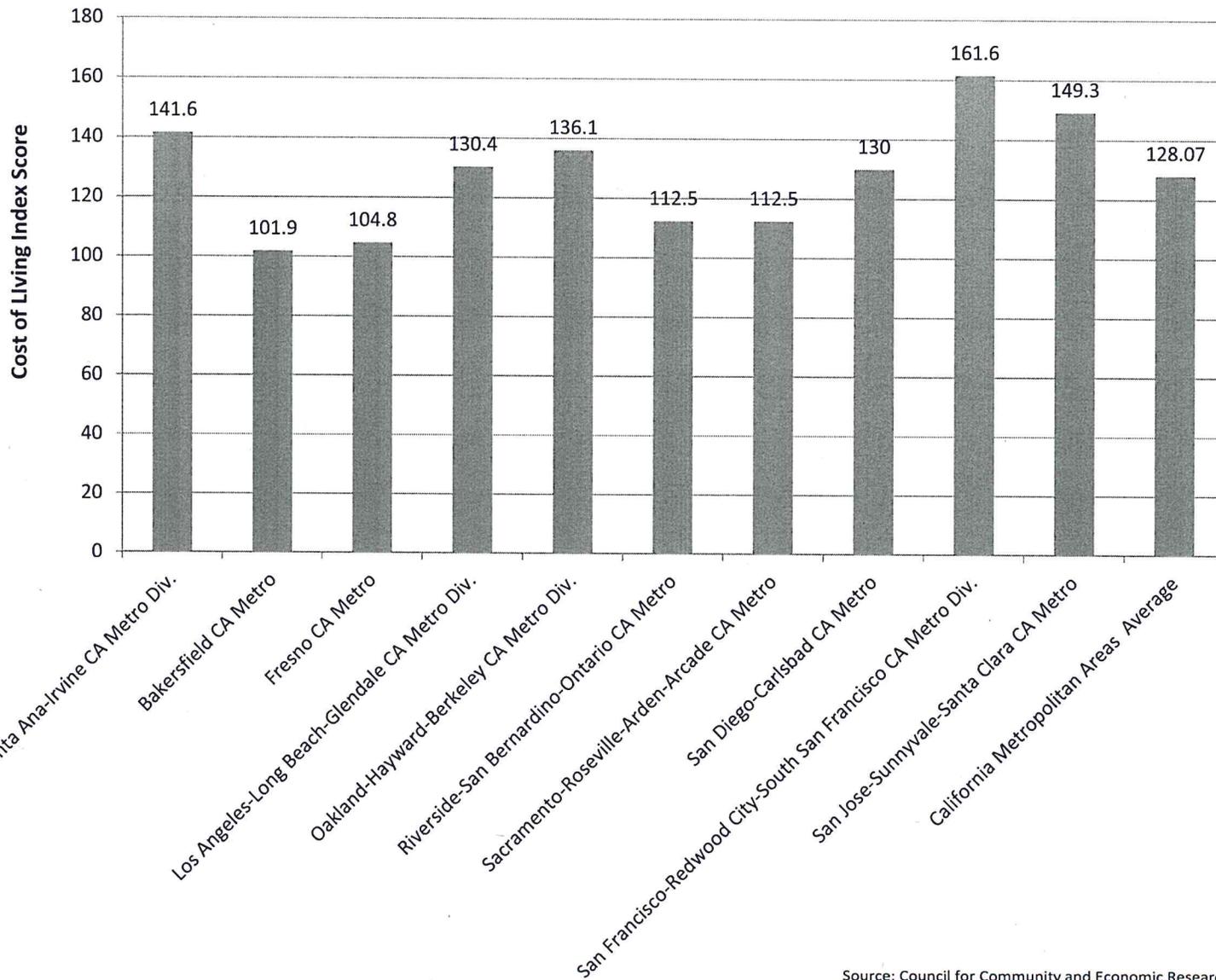
City	Ordinance Adopted	Current Hourly Minimum Wage Rate	Notes
Palo Alto	-	\$9.00	The City Council Policy and Services Committee endorsed the following minimum wage rate schedule on 4/28/2015: \$11.00 on 1/1/2016, which would gradually climb to \$15.00 by 2018 through increments approved by the City Council.
Richmond	5/6/2014	\$9.60 \$11.52 on 1/1/2016 \$12.30 on 1/1/2017 \$13.00 on 1/1/2018	Passed by the City Council. Employers who pay less than 800 hours of employee wages over a two-week period are exempt. Employers who derive more than 50% of their income where the point of sale is outside the city must pay an intermediate wage halfway between the city and state minimum wage.
San Francisco	11/4/2003	\$12.25 \$13.00 on 7/1/2016 \$14.00 on 7/1/2017 \$15.00 on 7/1/2018	Voter-initiated ordinance (Measure J). Tied to the CPI after 2018.
San Jose	3/11/2013	\$10.30	Voter-initiated ordinance (Measure D). No exceptions. Tied to the CPI, will increase January 1 of each year.
Sunnyvale	10/14/2014	\$10.30	Passed by the City Council. Based on San Jose's ordinance.

Charts



Index average for all participating places, both metropolitan and nonmetropolitan, is 100. An index value of 150 indicates a 50% higher cost of living compared to an index score of 100. The San Jose – Sunnyvale – Santa Clara metropolitan area did not provide data for 2014.

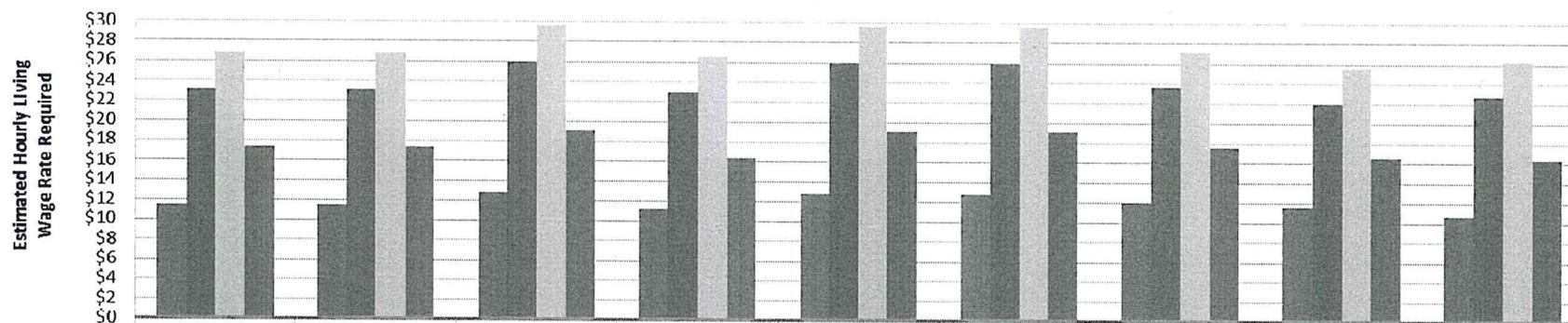
California Metropolitan Areas Cost of Living Index, 2013



Source: Council for Community and Economic Research

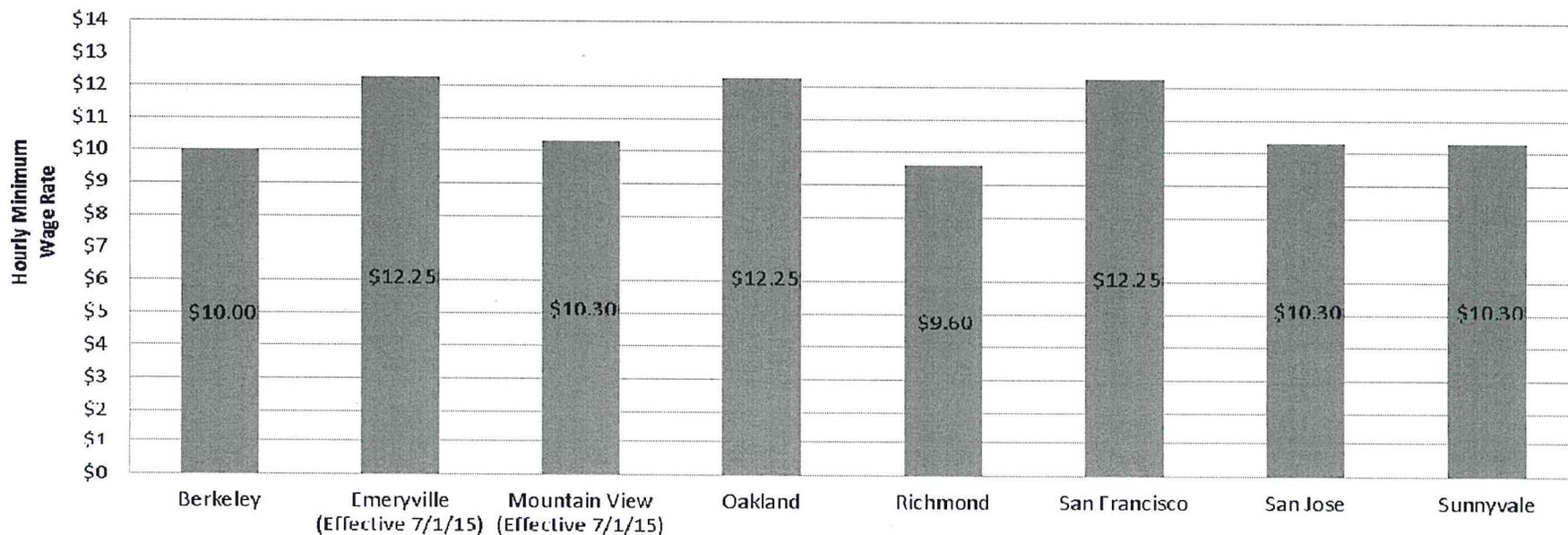
Bay Area Counties Estimated Living Wage Rates, 2010

Source: Dr. Amy K. Glasmeier and Massachusetts Institute of Technology



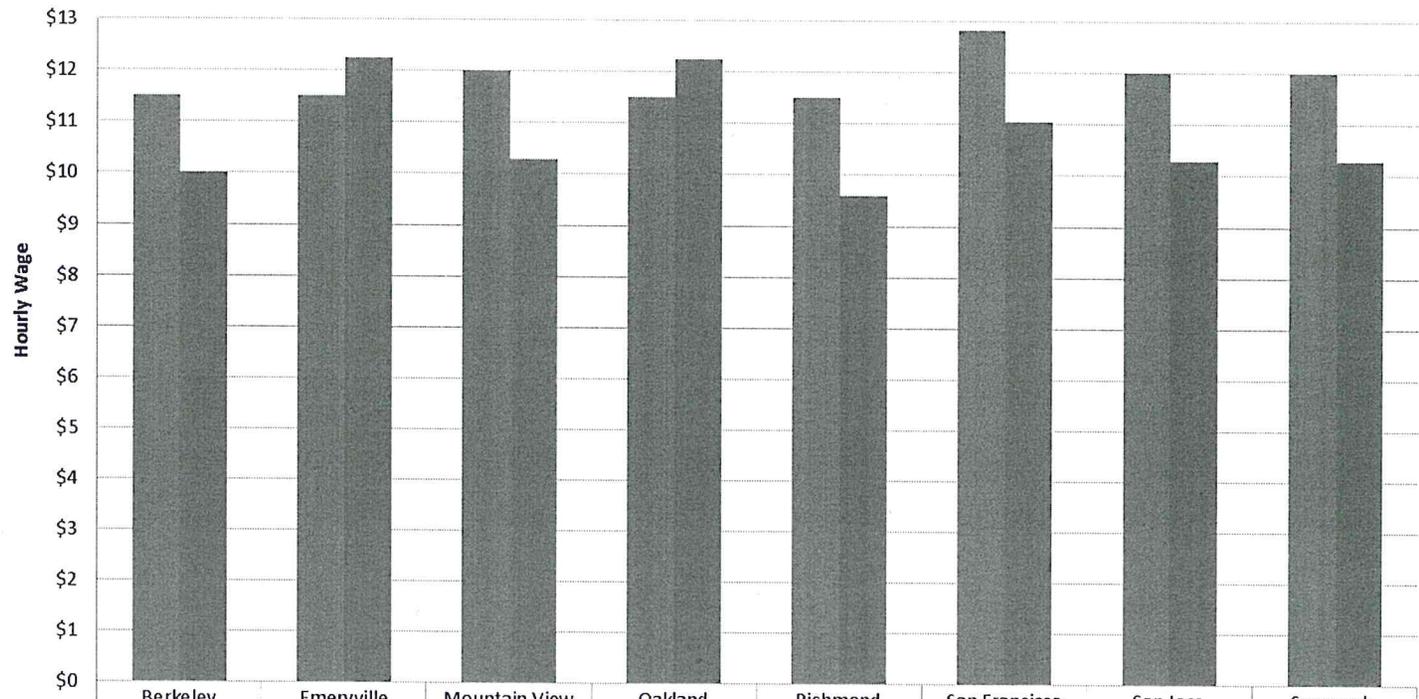
	Alameda	Contra Costa	Marin	Napa	San Francisco	San Mateo	Santa Clara	Solano	Sonoma
■ 1 Adult	\$11.51	\$11.51	\$12.83	\$11.25	\$12.83	\$12.83	\$12.01	\$11.64	\$10.69
■ 1 Adult, 1 Child	\$23.22	\$23.22	\$26.03	\$23.02	\$26.03	\$26.03	\$23.66	\$21.99	\$22.69
■ 1 Adult, 2 Children	\$26.83	\$26.83	\$29.66	\$26.63	\$29.66	\$29.66	\$27.28	\$25.60	\$26.31
■ 2 Adults	\$17.38	\$17.38	\$19.17	\$16.48	\$19.17	\$19.17	\$17.63	\$16.59	\$16.44

Bay Area Cities with Minimum Wage Ordinances, May 2015



Source: Respective City Websites

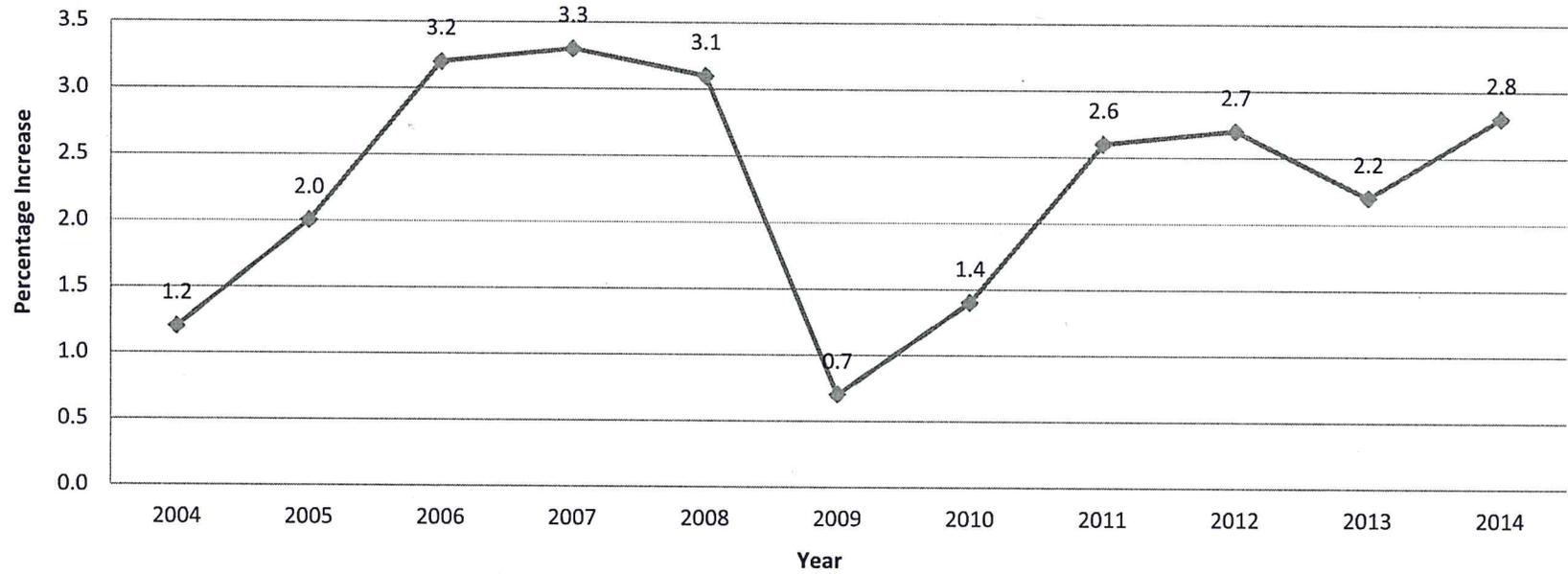
2010 Estimated Living Wage and 2015 Minimum Wage Comparison



Source: Dr. Amy K. Glasmeier and Massachusetts Institute of Technology

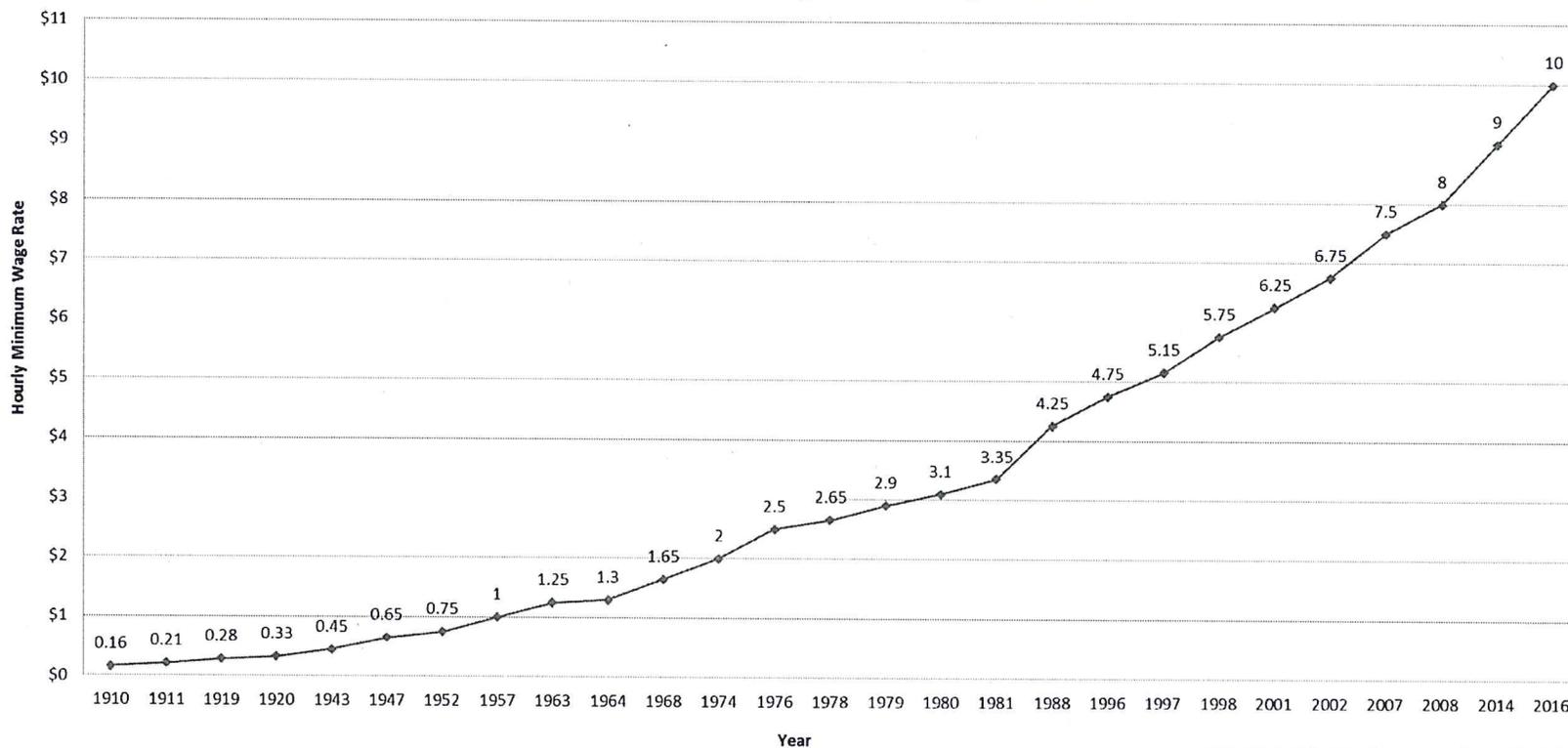
	Berkeley	Emeryville	Mountain View	Oakland	Richmond	San Francisco	San Jose	Sunnyvale
■ 2010 Living Wage Rate for 1 Adult	\$11.51	\$11.51	\$12.01	\$11.51	\$11.51	\$12.83	\$12.01	\$12.01
■ 2015 Minimum Wage Rate	\$10.00	\$12.25	\$10.30	\$12.25	\$9.60	\$11.05	\$10.30	\$10.30

Consumer Price Index Annual Percent Change, San Francisco-Oakland-San Jose CA



Source: Bureau of Labor Statistics

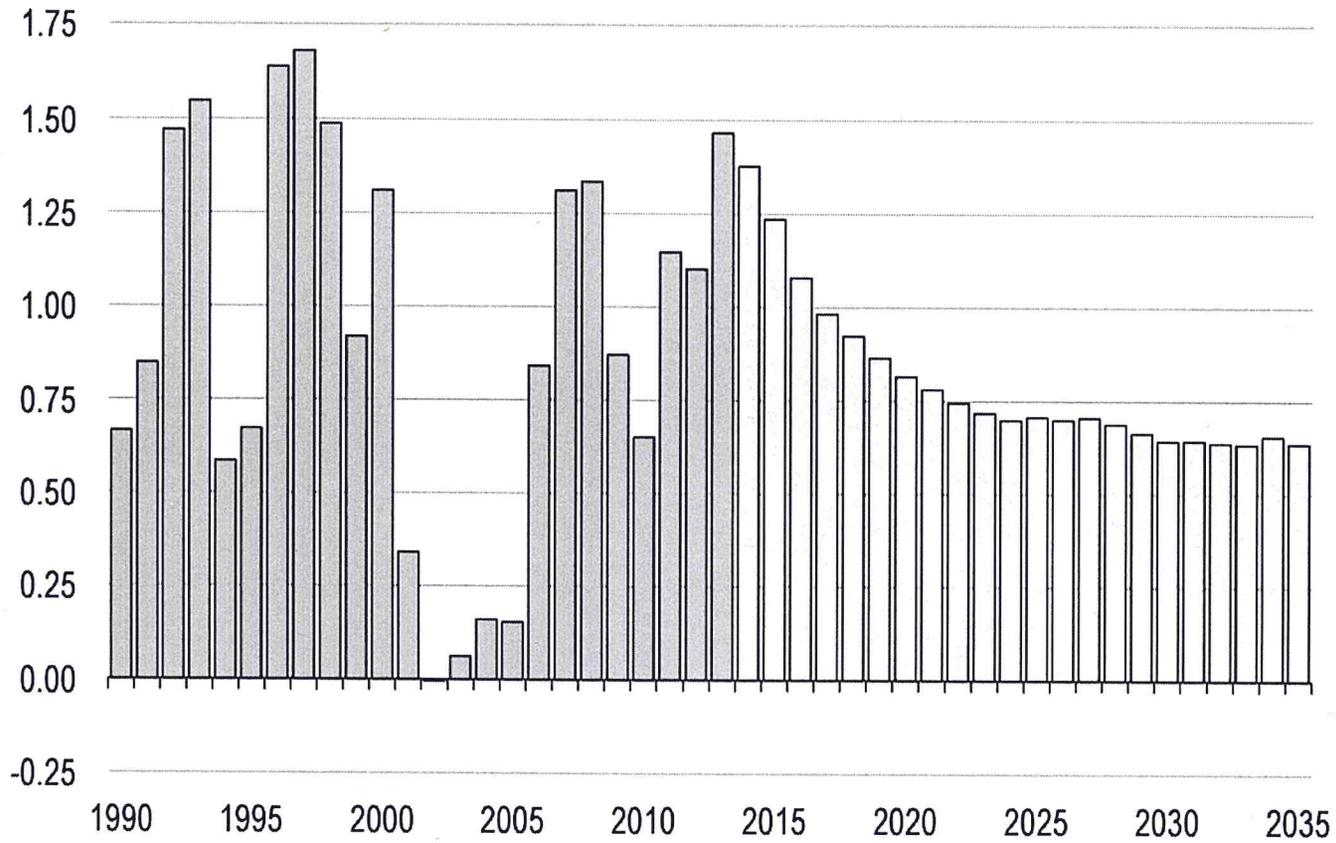
California Minimum Wage Rate History, 1916-2016



Source: State of California Department of Industrial Relations

percent
change

Santa Clara County Population Growth Forecast, 1990 – 2035



Retrieved from California Department of Transportation,
http://www.dot.ca.gov/hq/tpp/offices/eab/socio_economic_files/2014/SantaClara.pdf

Santa Clara County Economic and Demographic Indicators

Projected Economic Growth (2014-2019)

<u>Expected retail sales growth:</u>	16.6%
<u>Expected job growth:</u>	10.0%
<u>Fastest growing jobs sector:</u>	Professional Services
<u>Expected personal income growth:</u>	23.3%

<u>Expected population growth:</u>	5.2%
<u>Net migration to account for:</u>	32.3%
<u>Expected growth in number of vehicles:</u>	6.0%

Demographics (2014)

<u>Unemployment rate (April 2014):</u>	5.3%
<u>County rank* in California (58 counties):</u>	7th
<u>Working age (16-64) population:</u>	66.8%

<u>Population with B.A. degree or higher:</u>	45.7%
<u>Median home selling price (2013):</u>	\$645,000
<u>Median household income:</u>	\$88,478

Quality of Life

<u>Violent crime rate (2012):</u>	267 per 100,000 persons
<u>County rank* in California (58 counties):</u>	15th
<u>Average commute time to work (2014):</u>	27.3 minutes

<u>High school drop out rate (2012):</u>	15.4%
<u>Households at/below poverty line (2014):</u>	6.9%

* The county ranked 1st corresponds to the lowest rate in California

CAMPBELL *California*



Multi-year Projections Beyond FY 16

- ◆ Sales Tax Growth of 1.5 - 2%
- ◆ Property Tax Growth of 4%
- ◆ TOT Growth of 4-9%
- ◆ Property and Sales Tax from Various Developments in FY 17
- ◆ Fire Contract: 4%
- ◆ Additional PERS Rate Increases in FY 17 and Beyond (Average 3.0%/year for next 5 years)

Oscar Murillo

From: McCarthy, Kimbra <Kimbra.McCarthy@mountainview.gov>
Sent: Monday, April 06, 2015 4:12 PM
To: Oscar Murillo
Subject: RE: Proposed Minimum Wage Schedule

Hello Oscar,

Sure, here is the direction Council gave: On March 31, 2015, the Mountain View City Council received an update from staff on minimum wage ordinance regional developments and adopted a work plan to reach a minimum wage of \$15.00 by 2018, working in cooperation with neighboring cities, and with input from the Mountain View community and business stakeholders. Council directed staff to return with feedback from the outreach and a draft ordinance by October 2015.

For starting purposes, the following rate schedule should be used:

Possible Effective Date	Possible Minimum Wage Rate
7/1/2015	\$10.30
7/1/2016	\$12.00
7/1/2017	\$13.50
7/1/2018	\$15.00
July 1st Each Following Year	CPI Increase

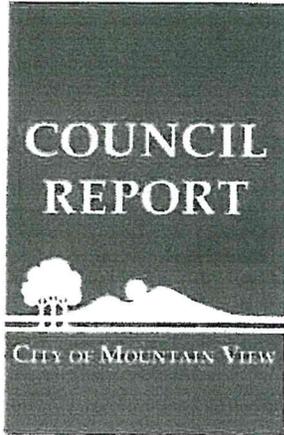
Mountain View work plan actions include the following items:

- Send a letter of support for SB 3.
- Support a regional minimum wage increase approach at the Cities Association of Santa Clara County.
- Work in cooperation with Sunnyvale and other cities who may adopt the \$15.00 by 2018 goal.
- Send a letter to all Mayors and City Managers, jointly with Sunnyvale, outlining the regional effort and seeking their support.
- Host two community engagement meetings to receive feedback on a regional plan (the first to be held jointly with Sunnyvale, the second in Mountain View).
- Conduct targeted outreach to solicit input from the business community.
- Post an Open City Hall question on the issue.
- Direct staff to return in the fall to present feedback from public input and other cities, information on studies for and against increasing the minimum wage, and options for a new ordinance.

Please let me know if you have any additional questions.

Thanks,

Kimbra McCarthy
 Deputy City Manager
 City of Mountain View



DATE: October 9, 2014

CATEGORY: Public Hearing

DEPT.: City Attorney's Office and City Manager's Office

TITLE: Introduce an Ordinance Adding Chapter 42, Article II to the Mountain View City Code to Require the Payment of a City-Wide Minimum Wage

RECOMMENDATION

Introduce an Ordinance Adding Chapter 42, Article II to the Mountain View City Code to Require the Payment of a City-Wide Minimum Wage (Attachment 1 to the Council report), to be read in title only, further reading waived, and set a second reading for October 28, 2014.

BACKGROUND

State law requires the minimum wage for all industries to be no less than \$9.00 per hour on and after July 1, 2014, and \$10.00 per hour on and after January 1, 2016. The Federal minimum wage for covered nonexempt employees has been \$7.25 per hour since July 24, 2009.

On November 6, 2012, City of San Jose voters approved a minimum wage ordinance that was placed on the ballot by an initiative. It required employers to pay their employees a minimum wage of \$10.00 per hour as of March 11, 2013 for work performed within the City of San Jose and required the minimum wage to increase annually by the cost of living, beginning on January 1, 2014. The current minimum wage under the San Jose ordinance is \$10.15 per hour, and it will increase by an annual Consumer Price Index (CPI) adjustment to \$10.30 per hour effective January 1, 2015.

On April 22, 2014, Council expressed interest in establishing a minimum wage City-wide and exploring an ordinance based on that adopted in San Jose, and possibly working in coordination with neighboring cities. Council also noted a general awareness of wages not keeping pace with the high cost of living and housing in many Bay Area cities, including Mountain View, as an impetus for consideration of a minimum wage increase. On June 10, 2014, Council directed staff to bring back a minimum wage ordinance in October 2014, modeled on the City of San Jose's ordinance, after conducting one public outreach meeting.

Council also directed staff to research the approaches taken by other cities in the region which have adopted or considered adopting a minimum wage ordinance (Attachment 2). For example, the City of Berkeley adopted a minimum wage ordinance on June 27, 2014 of \$10.00 per hour effective October 1, 2014, and the City of Richmond adopted an ordinance on May 6, 2014 of \$9.60 per hour effective January 1, 2015. In addition, the City of Sunnyvale will consider an ordinance on October 14, 2014. In the interest of addressing the matter expeditiously, and in light of other regional increases already adopted or under consideration, Council did not direct staff to perform a detailed economic analysis of the potential impacts of a minimum wage increase.

ANALYSIS

Public Outreach and Input

Most cities who adopted minimum wage ordinances conducted some form of outreach prior to their council's formal consideration of the ordinance. The most common forms of outreach were community input meetings and online surveys.

City of Mountain View staff established the Open City Hall online forum and also conducted a community input meeting. Staff announced these input opportunities via the City website, e-mail distributions, press releases, ad placements in the *Mountain View Voice*, KMVT, social media, outreach to the Mountain View Chamber of Commerce, flyer distribution at City facilities, and outreach in Spanish through the Multilingual Community Outreach Program to local partners and stakeholder groups.

The public outreach meeting on the draft proposed minimum wage ordinance was held on September 8, 2014 at the Senior Center. Staff gave a brief overview of the draft ordinance and invited participants to provide feedback through written comment cards or by speaking at a microphone. Staff also provided translation services through headphones as well as translated for Spanish-speakers at the microphone. The event was attended by approximately 60 people. Of those attending, 18 individuals spoke, with 17 voicing their support for an increased minimum wage in Mountain View, and 1 asked whether the City would provide notice to businesses if the ordinance is adopted. There were also 19 comment cards submitted, all of which supported a minimum wage increase. In addition, many participants voiced their support for raising the minimum wage to either \$12.00 or \$15.00 per hour.

During the period of August 18 through September 19, 2014, the City sought additional community input on the proposed draft minimum wage ordinance through Open City Hall, an online forum for civic engagement. Open City Hall was designed so that community members could comment on key City government issues from their

computer or mobile device. The minimum wage ordinance was the first topic posted for feedback on this forum. Citizens accessed the tool by visiting www.mountainview.gov/council/open_city_hall and providing feedback to the question: "Should the City of Mountain View adopt an ordinance setting a local minimum wage?"

As of September 19, 2014, a total of 110 responses were given on Open City Hall. Of those responses, 88 supported a minimum wage ordinance, 18 were against, and 4 responses were unclear. Of the 88 responses in favor of an ordinance, 56 indicated that the minimum wage should be higher than \$10.15 per hour, with at least 30 of those stating it should be \$15.00 per hour or higher. Out of the 110 responses, 60 of those were registered comments, or were made "on forum," and are, therefore, available for viewing at the link shown above.

Potential Business and Economic Impact

Although Council did not direct staff to perform a detailed economic analysis of the potential impacts of a minimum wage increase in Mountain View, the results of local surveys and studies were gathered in order to provide a general overview.

Two predominant viewpoints on the impact of a minimum wage increase are whether an increase would stimulate the economy, boost spending, and reduce employee turnover versus whether it would create increased business costs, higher prices on goods and services, and job losses.

These varying perspectives are reflected in surveys conducted of the local business community. This year, the Mountain View Chamber of Commerce conducted a survey of its members to determine the impacts to local businesses, as did the City of Sunnyvale. In 2012, the San Jose Chamber of Commerce and the Silicon Valley Council of Nonprofits also conducted surveys. It is important to note that each survey utilized different methodology in collecting data and the results do not represent a scientific sample of the surveyed population (Attachment 3).

The Mountain View Chamber of Commerce survey found that 77 percent of the 62 businesses responding would support a minimum wage ordinance, while 23 percent of respondents indicated they would not support an ordinance. In addition, 12 percent of respondents indicated that their suppliers may raise rates/fees, and 11 percent stated they would cut back on worker hours. The City of Sunnyvale survey found 70 percent of respondents (employers, employees, and residents) in support of a minimum wage ordinance, while 30 percent did not support an ordinance. Of those responding, approximately 30 percent stated they would delay future hiring and would cut back on worker hours.

In the San Jose Chamber of Commerce survey, 30 percent of respondents stated they would support an increase in the minimum wage, while 60 percent reported they would not. Fifty-one percent (51%) of all respondents stated they would cut back on worker hours to adjust for a new wage. In addition, the Silicon Valley Council of Nonprofits survey found that 60 percent of respondents believe a minimum wage ordinance would improve the standard of living for the clients that they serve. At least 13 percent of nonprofit respondents in this survey worried that a minimum wage ordinance would cause hiring freezes and would lead to inflation that would erode the value of the new wage.

In 2012, during the City of San Jose minimum wage deliberations, a study was released by Beacon Economics on behalf of the California Restaurant Association, which advised that minimum wage ordinances have a large impact on the restaurant industry, where profit margins are generally slim. The report suggested that San Jose's minimum wage ordinance would lead to a loss of 900 to 3,100 jobs, and would cost San Jose employers \$88 million to \$96 million in increased wages and payroll expenses, which would be partially offset from increased spending by workers of \$26 million to \$28 million.

A subsequent report issued by the Institute for Research on Labor and Employment at the University of California, Berkeley, differed from the Beacon Economics findings. In contrast, Berkeley economists found that increasing the minimum wage would increase business operating costs by an "average of less than 2.5 percent," and would create cost savings due to lower employee turnover rates and higher worker productivity. Further, with more income, minimum wage workers would have more spending power and inject more money into the local economy, which would benefit both businesses through increased sales and the government through increased sales tax revenue. Finally, the report asserts that gainful employment of low-wage workers does not change after a minimum wage increase, and any negative outcomes typically affect teens, not adults.

Since the San Jose minimum wage increase took effect on January 1, 2014, the Institute for Research on Labor and Employment estimates that operating costs for restaurants rose by approximately 0.25 percent to 1.0 percent over the past year and prices for customers rose less than 1.0 percent on average. These cost increases coincided with a booming economy and increased consumer spending throughout Silicon Valley. Employers also reported experienced employees staying longer at their jobs. Overall, minimum wage ordinances may create tangible impacts to the business community and consumers. The magnitude of these impacts is difficult to assess and would likely vary by city.

Legal Framework of Ordinance

As directed by Council, the framework of the proposed minimum wage ordinance follows the San Jose model. Because its ordinance was adopted by initiative, San Jose anticipates developing a companion set of administrative guidelines to assist in implementation and enforcement of the ordinance. The guidelines do not alter the text of the ordinance (as voter initiatives cannot be substantively altered) but rather would clarify its terms based on application of the ordinance to specific facts. The City of Mountain View has the option to insert additional terms to its minimum wage ordinance as it is not constrained by voter initiative established for San Jose's and, therefore, the draft ordinance includes terms clarifying exempt organizations such as State, Federal, and County agencies, as well as school districts because of sovereign immunity. Other than this item, and certain enforcement procedures discussed below, the draft ordinance is identical to San Jose's ordinance. The ordinance also authorizes the City to adopt administrative guidelines to retain flexibility in developing implementation and enforcement procedures and responding to specific instances.

As drafted, the ordinance requires covered employers who are either subject to the City's business license requirements or who maintain a business facility in the City to pay the minimum wage to covered employees. Covered employees are those who perform at least two (2) hours of work in a calendar week within the geographic boundaries of the City. Note that independent contractors are exempt from State minimum wage law and would similarly not be considered covered employees under the City's ordinance. The ordinance, as drafted, would become effective on July 1, 2015 to provide time to educate the community and allow employers to prepare for implementation of the ordinance. The City's minimum wage on July 1, 2015 would be San Jose's 2015 rate of \$10.30 per hour and would be adjusted by CPI annually thereafter on January 1 of each following year.

Other significant terms of the ordinance include that covered employers are required, in addition to the payment of the minimum wage, to:

- Post a notice at the workplace of the current and prospective minimum wage rates and the employees' rights under the local law;
- Maintain payroll records for a period of four years; and
- Provide the employer's name, address, and telephone number in writing to each employee at the time of hire.

The ordinance also prohibits retaliation or discrimination against any person seeking to enforce its terms. The enforcement provisions of the ordinance include the right for

employees to pursue a civil action to recover back wages and to seek reinstatement. The ordinance also authorizes the City to issue administrative citations and monetary fines, conduct administrative hearings, and seek injunctive relief against noncompliant employers.

Compliance and Enforcement

If Mountain View adopts an ordinance substantially the same as San Jose's, compliance and enforcement under the ordinance could be a coordinated effort with the City of San Jose Office of Equality Assurance (OEA). Staff recommends that, at least initially, certain functions be performed by the OEA because: (1) the OEA has dedicated staff who are well-versed in the workings of the ordinance which would offer efficient enforcement for the City; and (2) through initial assistance from the OEA, the City will learn from San Jose's experience in administering the ordinance, with the possibility of eventually taking over full compliance and enforcement functions after the ordinance has been operational for a period of time in the City.

Prior to presenting the ordinance for Council's consideration, City staff met with OEA staff who indicated they are willing to contract with the City to handle early enforcement functions such as initial complaint intake and investigation, and informal resolution of complaints. This arrangement would be memorialized by contract between the City and OEA, with fees to be set as flat fee per task. The OEA has proposed a scope of services and a per-task rate schedule to the City. Based on the relatively low number of enforcement cases handled by San Jose to date, staff estimates the annual cost of OEA enforcement assistance to be low, not exceeding several thousand dollars annually. City of Sunnyvale staff has indicated that if a local minimum wage is adopted, staff will recommend that Sunnyvale contract with OEA to perform initial complaint intake and investigation and informal resolution of complaints.

For enforcement cases that are not resolved by the preliminary and informal processes performed by OEA, the City will conduct enforcement hearings in accordance with established administrative hearing procedures already contained in the City Code. Based on San Jose's experience to date, the staff resources needed for this are not expected to be significant, but that could change over time.

Adoption of an ordinance to increase the minimum wage City-wide is exempt from CEQA per Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment.

FISCAL IMPACT

The adoption of a minimum wage ordinance is anticipated to have a minimal fiscal impact on the City in terms of both wages paid by the City and anticipated enforcement costs. The City currently pays the State minimum wage of \$9.00 per hour or above to all City employees. Approximately 14 hourly positions are paid at minimum wage. The State minimum wage will increase to \$10.00 per hour on January 1, 2016, and the City would similarly pay that wage rate if it does not adopt a minimum wage ordinance. In addition, all City contractors are also required to pay their employees the State minimum wage. If adopted, the City minimum wage would be \$10.30 per hour on July 1, 2015, adjusted annually thereafter by CPI increases on January 1 of each following year.

In terms of enforcement costs, the ordinance as drafted allows delegation of preliminary investigation and informal resolution tasks to the San Jose OEA, which staff recommends. The OEA has provided the City with a flat fee, per-task schedule which ranges from \$200 to \$1,000 per task based on complexity of work and size of employer being investigated. Based upon a relatively low volume of complaints received in San Jose since the adoption of its ordinance, the cost for this delegated work is estimated to not exceed several thousand dollars per year.

Once a complaint advances to the formal administrative hearing stage, the ordinance provides that the City will handle such procedures in accordance with already-established procedures in the City Code. The City sometimes employs an outside hearing officer to conduct such hearings pursuant to an hourly rate. The estimated cost for a hearing officer is approximately \$150 per hour and costs for hearings vary depending upon the complexity of the complaint. Based on the low number of complaints which reached the administrative hearing stage in San Jose, staff anticipates City costs for formal administrative hearing procedures to be nominal. The proposed ordinance would become effective July 1, 2015, concurrent with the City's fiscal year. Anticipated costs could be built into the Fiscal Year 2015-16 budget.

CONCLUSION

As directed by Council, staff has prepared a draft ordinance based upon San Jose's ordinance which, if adopted, would set the minimum wage in the City of Mountain View at \$10.30 per hour effective July 1, 2015. Community input has been sought and information on other communities' ordinances is provided.

ALTERNATIVES

1. Council could opt to not adopt an ordinance establishing a City-wide minimum wage.
2. Council could adopt a City-wide minimum wage in an amount different than the City of San Jose.
3. Council could consider whether certain employers should be exempted from paying the minimum wage (such as small businesses and/or not-for-profit organizations).
4. Council could consider whether certain categories of employees should not be covered by the ordinance (such as teenagers).
5. Council could consider modifying the effective date of the ordinance (currently July 1, 2015).
6. Council could provide other direction.

PUBLIC NOTICING

Agenda posting. In addition, multiple forms of public noticing (City website, newspaper, social media, KMVT cable television, and communications to stakeholders) were used for the September 8, 2014 community input meeting as well as the October 9, 2014 Council meeting.

Prepared by:

Krishan Chopra
Assistant City Attorney

Kimbra McCarthy
Deputy City Manager

Approved by:

Jannie L. Quinn
City Attorney

Daniel H. Rich
City Manager

KC-KM/7/CAM/610-10-09-14CR-E

- Attachments:
1. Ordinance Adding Chapter 42, Article II, to the Mountain View City Code to Require the Payment of a City-Wide Minimum Wage
 2. Cities Which Have or May Adopt Minimum Wage Ordinances
 3. Minimum Wage Survey Results

CITIES WHICH HAVE OR MAY ADOPT MINIMUM WAGE ORDINANCES

City	Ordinance Adoption Date	Current Minimum Wage/Hr. All Cities Future Increases Tied to CPI	Notable Aspects
San Jose	3/11/13	\$10.00 on 3/11/13 \$10.15 on 1/1/14 \$10.30 on 1/1/15	Voter-initiated ordinance. No exceptions.
San Francisco	11/4/03	\$10.74 on 1/1/14	Annual increase tied to CPI . City-initiated ballot measure slated for November 4, 2014 election would raise minimum wage to \$15.00/hr. in 2018.
Sunnyvale	To be introduced 10/14/14	Based on San Jose's ordinance.	
Berkeley	6/27/14	\$10.00 effective 10/1/14; \$11.00 on 10/1/15; \$12.53 on 10/1/16	
Richmond	5/6/14	\$9.60 on 1/1/15; \$11.52 on 1/1/16; \$12.30 on 1/1/17; \$13.00 on 1/1/18	Several exemptions negotiated late in adoption process. Employers who pay less than 800 hours of employee wages over a two-week are exempt. Employers who derive more than 50 percent of their income where the point of sale is outside the city must pay intermediate wage halfway between the city and state minimum wage.
Oakland	7/29/14	On 7/29/14, Council voted down incremental increase to \$13.50 by 2018.	Lift Up Oakland ballot measure on 11/4/14 ballot would increase the minimum wage from \$9.00 to \$12.25/hr. starting 3/1/15.
San Diego	7/28/14	\$9.75 on 1/1/15; \$10.50 on 1/1/16; \$11.50 on 1/1/17	Vetoed by Mayor on 8/8/14. Council overrode Mayor's veto on 8/19/14.
Los Angeles	9/24/14	\$15.37 on 7/1/15 Only applies to employees of hotels with 300 or more rooms.	In 2016, the law would expand to include hotels with 150 or more rooms.

CITIES WHICH HAVE OR MAY ADOPT MINIMUM WAGE ORDINANCES

City	Ordinance Adoption Date	Current Minimum Wage/Hr. All Cities Future Increases Tied to CPI	Notable Aspects
Seattle	5/29/14	Beginning April 1, 2015, phase-in of a \$15.00 hour minimum wage annually over 3 to 7 years, depending on employer size.	<p>Large Employers (more than 500 employees in the U.S.):</p> <p>\$11.00/hr. by 4/1/15 \$13.00/hr. by 1/1/16 \$15.00/hr. by 1/1/17</p> <p>Large Employers (more than 500 employees) who pay medical benefits:</p> <p>\$11.00/hr. by 4/1/15 \$12.50/hr. by 1/1/16 \$13.50/hr. by 1/1/17 \$15.00/hr. by 1/1/18</p> <p>Small employers (500 or less employees in the U.S.):</p> <p>\$10.00/hr. by 4/1/15 \$10.50/hr. by 1/1/16 \$11.00/hr. by 1/1/17 \$11.50/hr. by 1/1/18 \$12.00/hr. by 1/1/19 \$13.50/hr. by 1/1/20 \$15.00/hr. by 1/1/21</p>

MINIMUM WAGE SURVEY RESULTS

	Number Responding	Do you support a minimum wage?	Impact on Business
Mountain View Chamber of Commerce	62	Yes – 77% No – 23%	<p>12% would raise the wages of non-minimum wage workers.</p> <p>12% state that their suppliers may raise rates/fees.</p> <p>11% would cut back on worker hours to adjust for new wage.</p>
San Jose Silicon Valley Chamber of Commerce	163	Yes – 28.8% No – 60.3% Not Sure – 10.9%	<p>53.8% would delay future hiring.</p> <p>51.4% would cut back on worker hours to adjust for new wage.</p> <p>31.8% would not open another business location in San Jose.</p>
*City of Sunnyvale	460	Yes – 70% No – 30%	<p>30.8% would delay future hiring.</p> <p>30.8% would not open another business location in Sunnyvale.</p> <p>26.9% would cut back on workers' hours to adjust for the new wage.</p>

MINIMUM WAGE SURVEY RESULTS

Silicon Valley Council of Nonprofits	68	Yes – 87% No – 13%	86% would not be affected due to paying employees above minimum wage. 14% would be impacted, and would delay hiring and cut back on worker hours to adjust for new wages.
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* City of Sunnyvale survey included responses from residents, business owners, and employees.

City of Campbell – Minimum Wage Survey



The City would like to thank you for taking this short survey. The City Council will be holding a study session and public hearing in May 2015 to review the issue of minimum wage. The City would like to hear from business owners and managers regarding the consideration for a potential minimum wage ordinance in Campbell. Your voluntary input would assist staff in this initial analysis. Please return this survey using the enclosed self-addressed stamped envelope by **April 13, 2015**. Thank you.

Background (For each question, circle one selection)

Type of Business:

Retail	Restaurant or Fast Food	Hospitality	Manufacturing	Other (Please specify) _____
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Are you a:

Business Owner	Business Manager	Other (Please specify) _____
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How many employees does your business employ?

0-5	6-10	11-15	16-30
31-45	46-75	76-90	91 or more

What percentage of your business' employees earn the minimum wage?

a. 0% - 10%	d. 31%-40%	g. 61%-70%	j. 91%-100%
b. 11%-20%	e. 41%-50%	h. 71%-80%	-
c. 21%-30%	f. 51%-60%	i. 81%-90%	-

For questions 1 – 14, please indicate how your business would respond to the following scenario:

A minimum wage ordinance of \$10.30 per hour has been enacted in the City of Campbell.

1. Would your business eliminate (and not replace) any positions to compensate for increased labor costs? (If no or unsure, skip to question 3)

a. Definitely Yes	b. Probably Yes	c. Maybe Yes
d. Definitely No	e. Probably No	f. Maybe no
g. Unsure	-	-

2. What percentage of total positions would be eliminated (and not replaced)?

a. 0% - 10%	d. 31%-40%	g. 61%-70%	j. 91%-100%
b. 11%-20%	e. 41%-50%	h. 71%-80%	-
c. 21%-30%	f. 51%-60%	i. 81%-90%	-

3. Would your organization also increase the hourly wages of any higher-paying positions, such as those who supervise minimum wage employees?

a. Definitely Yes	b. Probably Yes	c. Maybe Yes
d. Definitely No	e. Probably No	f. Maybe no
g. Unsure	-	-

4. Would your business reduce employee work hours? (If no or unsure, skip to question 6)

a. Definitely Yes	b. Probably Yes	c. Maybe Yes
d. Definitely No	e. Probably No	f. Maybe no
g. Unsure	-	-

5. What percentage of employees would have their work hours reduced?

a. 0% - 10%	d. 31%-40%	g. 61%-70%	j. 91%-100%
b. 11%-20%	e. 41%-50%	h. 71%-80%	-
c. 21%-30%	f. 51%-60%	i. 81%-90%	-

6. Would your business increase its prices to customers? (If no, skip to question 8)

a. Definitely Yes	b. Probably Yes	c. Maybe Yes
d. Definitely No	e. Probably No	f. Maybe no
g. Unsure	-	-

7. What percentage would your business' prices to customers increase?

a. 0% - 10%	d. 31%-40%	g. 61%-70%	j. 91%-100%
b. 11%-20%	e. 41%-50%	h. 71%-80%	-
c. 21%-30%	f. 51%-60%	i. 81%-90%	-

8. If there was a possibility to expand your organization, would a minimum wage increase affect this expansion?

- a. Definitely more likely to expand
- b. Probably more likely to expand
- c. Equally likely to expand
- d. Probably less likely to expand
- e. Definitely less likely to expand
- f. Non-applicable

9. How likely would a minimum wage increase to \$10.30 per hour be to cause your organization to move to another city with a lower minimum wage?

- a. Highly likely
- b. Likely
- c. Unlikely
- d. Highly unlikely
- e. Not sure

10. What percentage of your organization's total expenditures would a \$1.30 increase in the minimum wage be?

a. 0% - 10%	d. 31%-40%	g. 61%-70%	j. 91%-100%
b. 11%-20%	e. 41%-50%	h. 71%-80%	-
c. 21%-30%	f. 51%-60%	i. 81%-90%	-

11. Would increased wages for your lowest-paid employees result in higher qualified applicants for these positions?

- a. Yes, significantly more qualified applicants
- b. Yes, slightly more qualified applicants
- c. No, equally qualified applicants
- d. No, slightly less qualified applicants
- e. No, significantly less qualified applicants
- f. Unsure

12. Would increased wages for your lowest-paid employees result in any of the following among those workers? (Select all that may apply)

- a. Increased productivity
- b. Increased morale
- c. Reduced turnover
- d. Unsure

13. Would you support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?

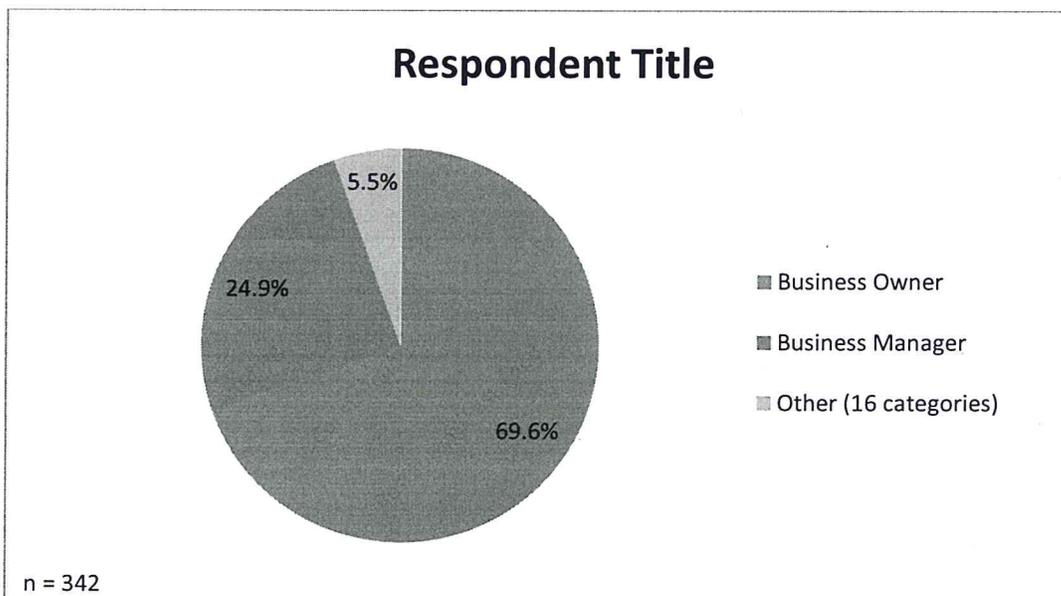
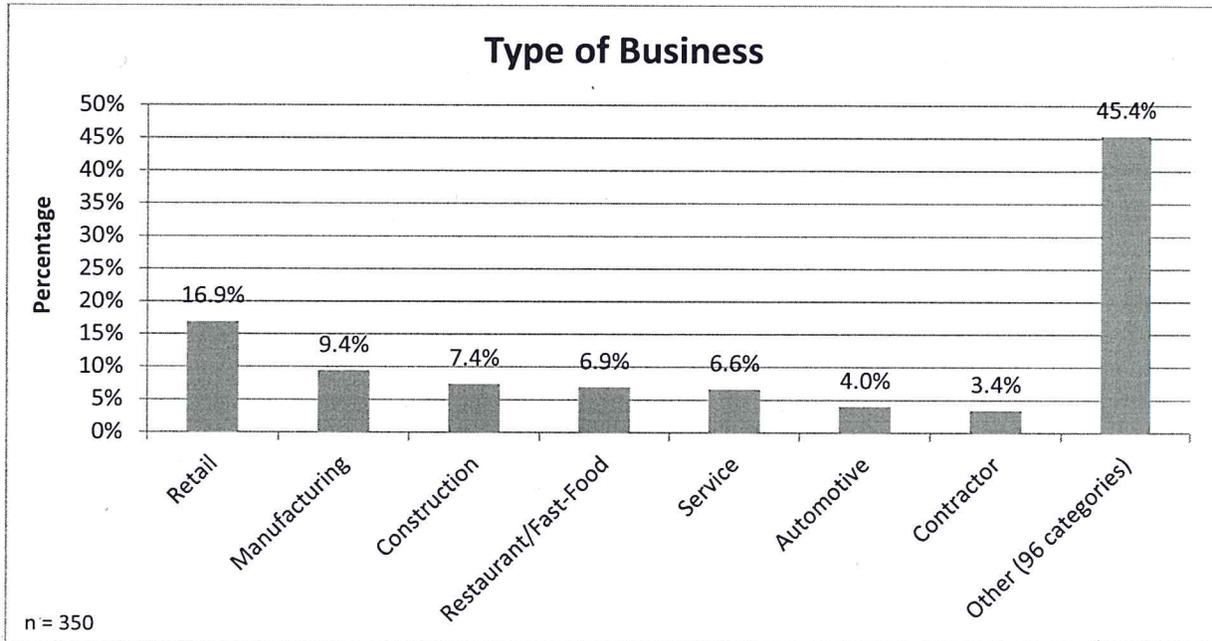
- a. Yes
- b. No

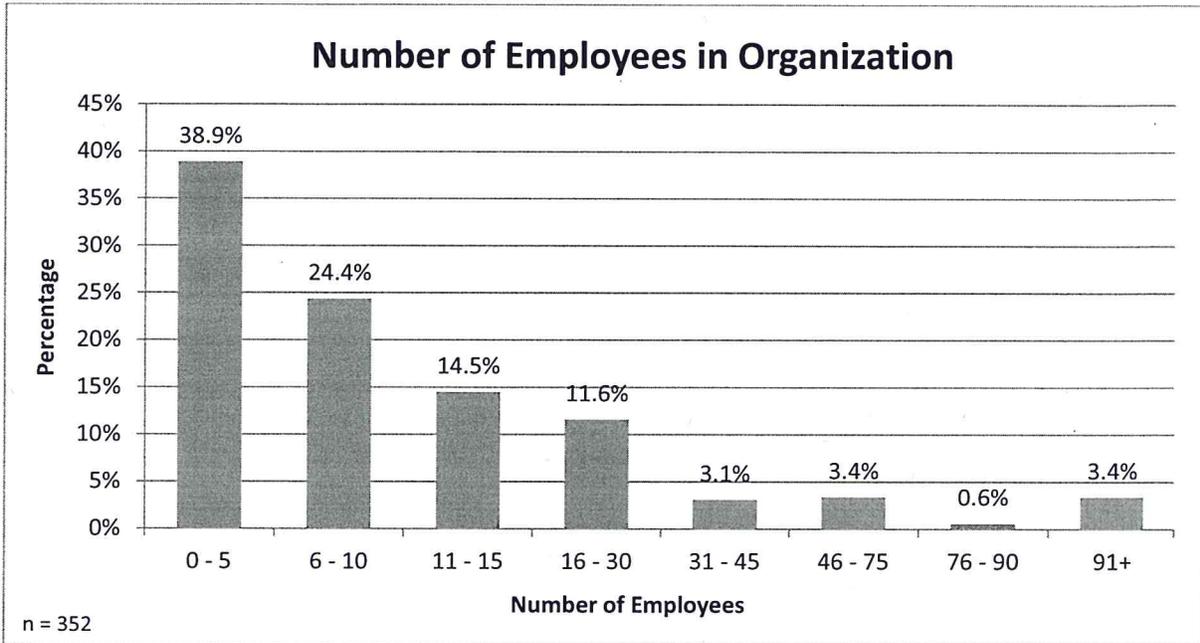
14. Would you support a minimum wage increase if it did not lead to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?

- a. Yes
- b. No

Thank you for completing the survey. If you have any questions or concerns please contact Oscar Murillo at (408) 871-5304 or oscarm@cityofcampbell.com. Again, please return by **April 13, 2015**.

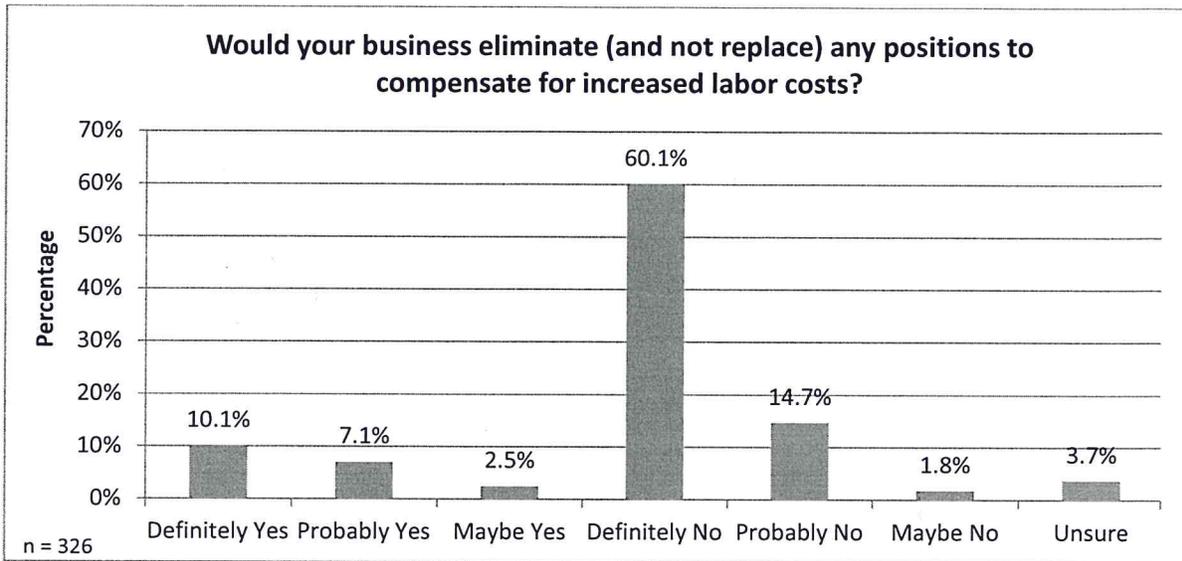
Survey Results





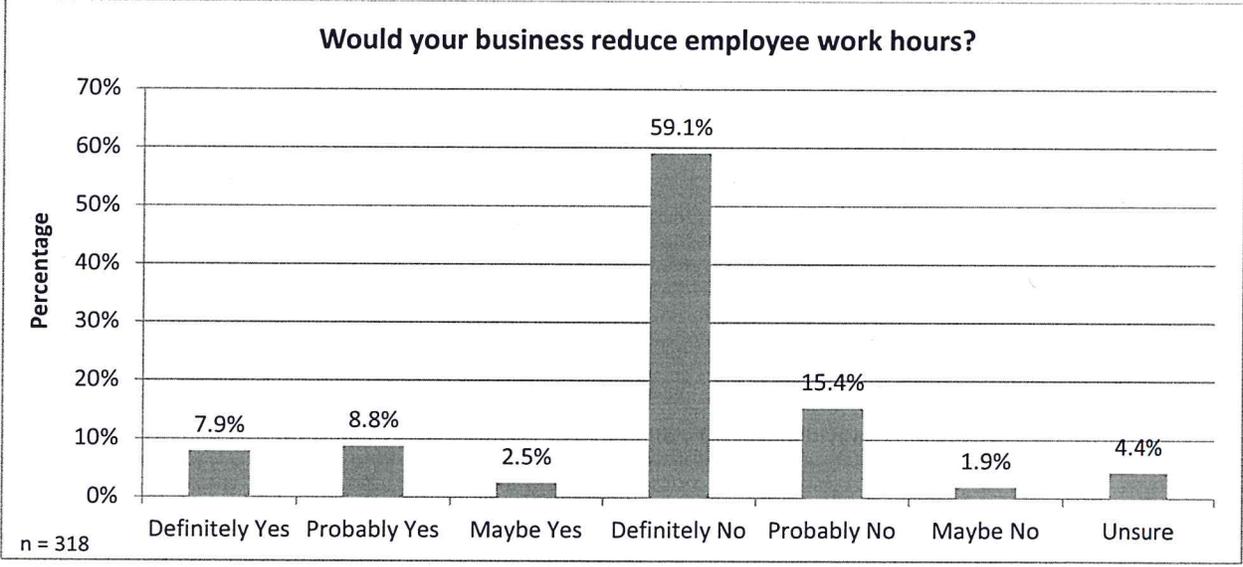
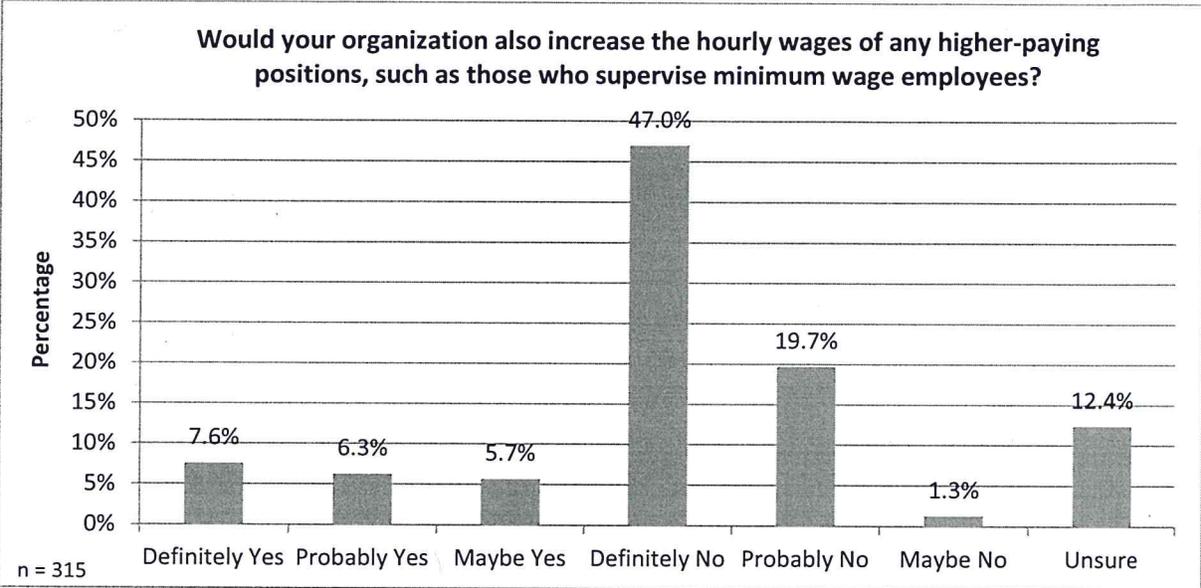
Percentage of Minimum Wage Employees in Organization

	Frequency	Percent	Cumulative Percent
0% - 10%	270	77.4	77.4
11% - 20%	10	2.9	80.2
21% - 30%	4	1.1	81.4
31% - 40%	9	2.6	84.0
41% - 50%	8	2.3	86.2
51% - 60%	6	1.7	88.0
71% - 80%	4	1.1	89.1
81% - 90%	1	0.3	89.4
91% - 100%	37	10.6	100.0
Total	349		



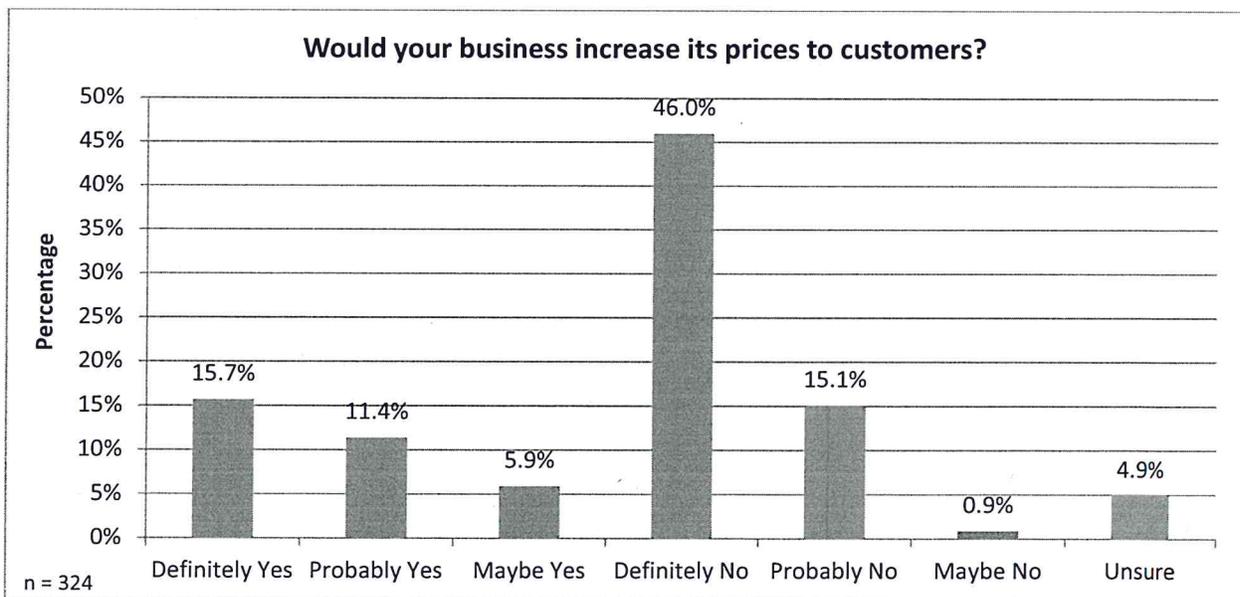
What percentage of total positions would be eliminated (and not replaced)?

	Frequency	Percent	Cumulative Percent
0% - 10%	227	84.4	84.4
11% - 20%	26	9.7	94.1
21% - 30%	8	3.0	97.0
31% - 40%	4	1.5	98.5
41% - 50%	1	0.4	98.9
51% - 60%	1	0.4	99.3
61% - 70%	1	0.4	99.6
71% - 80%	1	0.4	100.0
Total	269		



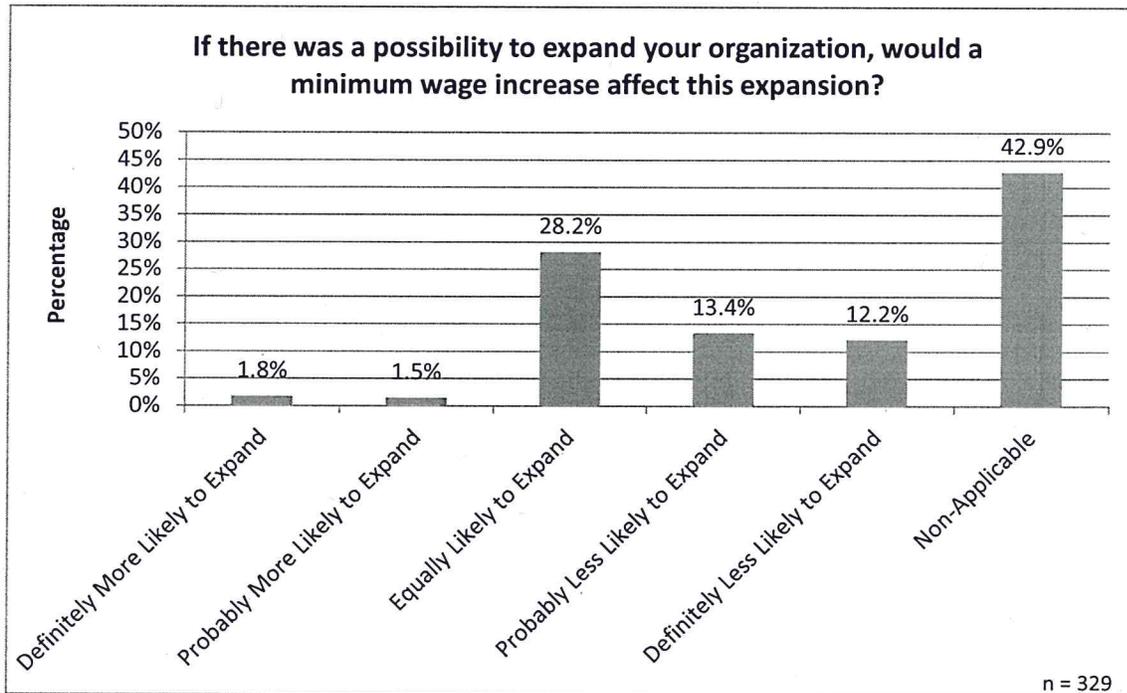
What percentage of employees would have their work hours reduced?

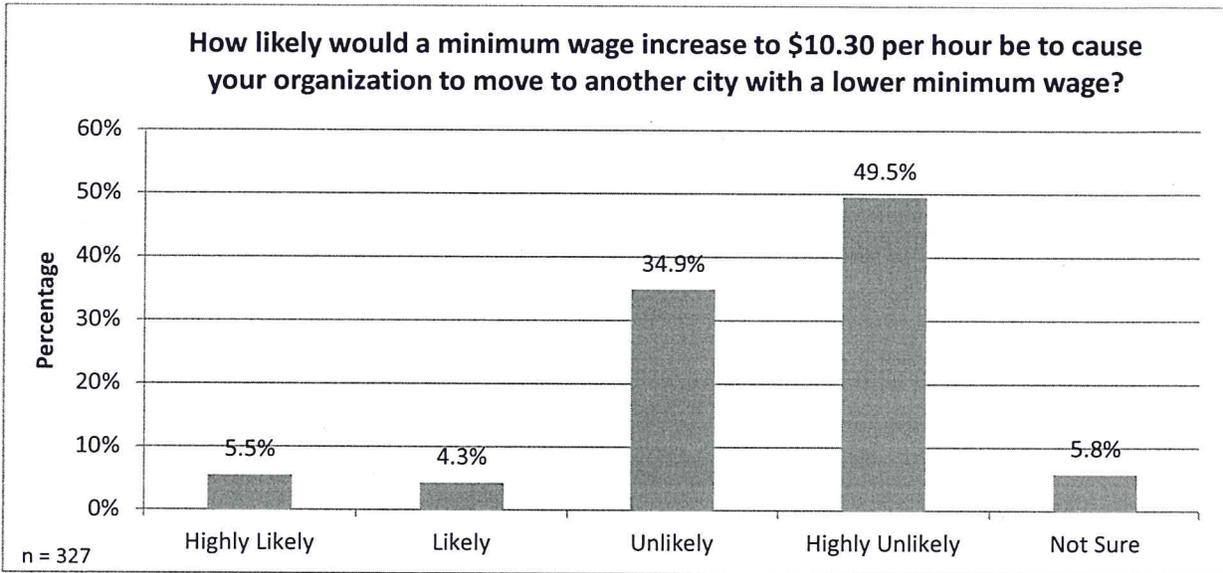
	Frequency	Percent	Cumulative Percent
0% - 10%	214	80.5	80.5
11% - 20%	10	3.8	84.2
21% - 30%	11	4.1	88.3
31% - 40%	8	3.0	91.4
41% - 50%	9	3.4	94.7
51% - 60%	3	1.1	95.9
71% - 80%	2	0.8	96.6
81% - 90%	1	0.4	97.0
91% - 100%	8	3.0	100.0
Total	266		



What percentage would your business' prices to customers increase?

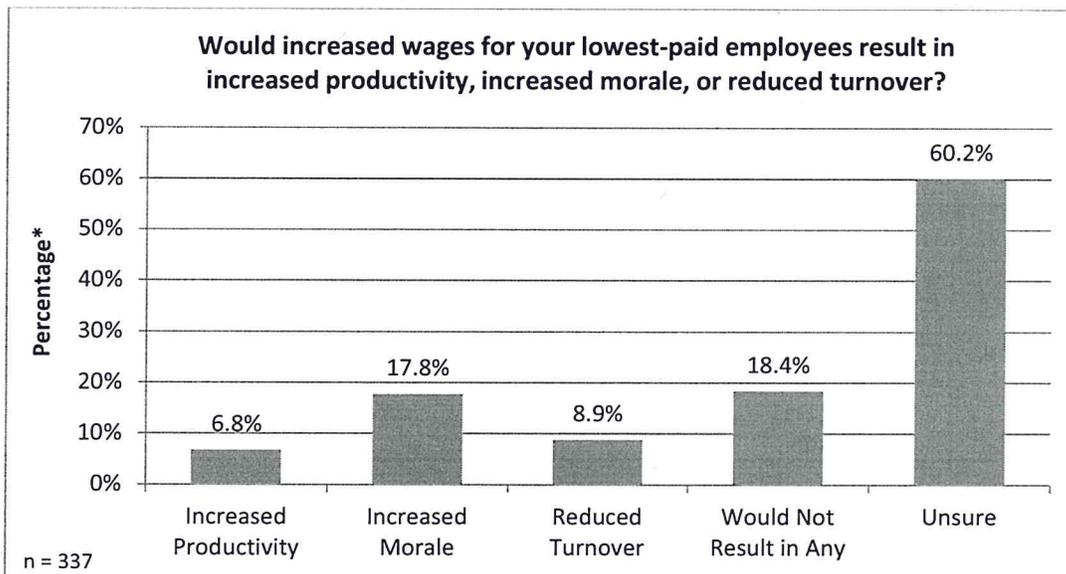
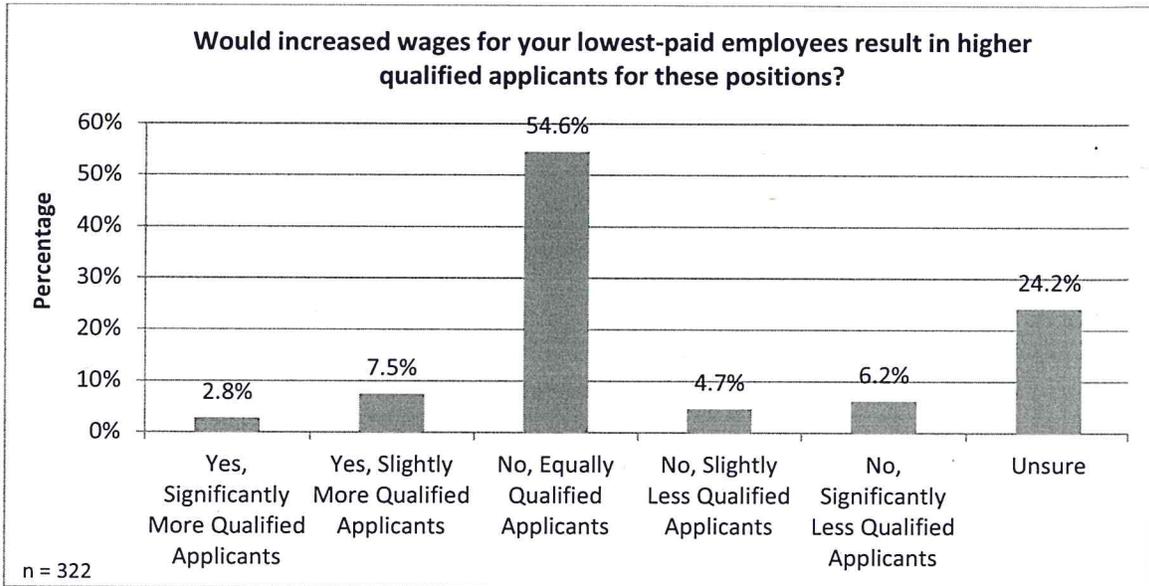
	Frequency	Percent	Cumulative Percent
0% - 10%	194	78.5	78.5
11% - 20%	26	10.5	89.1
21% - 30%	10	4.0	93.1
31% - 40%	7	2.8	96.0
41% - 50%	2	0.8	96.8
51% - 60%	1	0.4	97.2
71% - 80%	1	0.4	97.6
91% - 100%	6	2.4	100.0
Total	247		





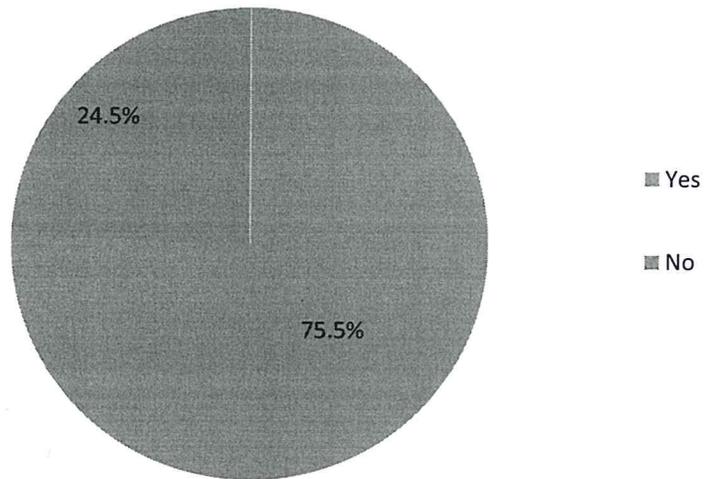
What percentage of your organization's total expenditures would a \$1.30 increase in the minimum wage be?

	Frequency	Percent	Cumulative Percent
0% - 10%	249	80.3	80.3
11% - 20%	28	9.0	89.4
21% - 30%	8	2.6	91.9
31% - 40%	9	2.9	94.8
41% - 50%	4	1.3	96.1
51% - 60%	6	1.9	98.1
61% - 70%	2	0.6	98.7
71% - 80%	1	0.3	99.0
81% - 90%	2	0.6	99.7
91% - 100%	1	0.3	100.0
Total	310		



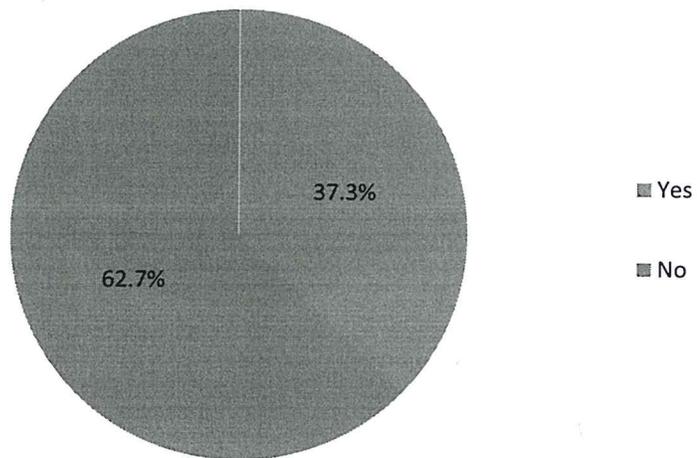
*Question allowed for multiple responses per respondent, thus total figures sum to greater than 100%.

Would you support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?



n = 322

Would you support a minimum wage increase if it did not lead to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?



n = 322

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City Council Study Session - Minimum Wage

Campbell City Council
May 19, 2015

Purpose

- Review the results of the City Manager's Office minimum wage survey.
- Update the Council on minimum wage ordinances that other cities in the county have enacted or approved.
- Review and discuss the Council's interest in considering legislation to establish a minimum wage ordinance.

Background – Legislation

Federal

- Minimum wage can be regulated at the federal, state, county, and city levels.
- The federal minimum wage was enacted in 1938 as part of the Fair Labor Standards Act. It is currently set at a rate of \$7.25/hr.
- As of February 2015, 29 states and the District of Columbia have enacted their own minimum wage laws above the federal rate.

Background – Legislation (cont'd)

State and Local Governments

- As of December 2014, four counties and 15 cities in the U.S. had minimum wage ordinances exceeding their respective state rates, as well as five other cities with proposed ordinances.
- States, counties, and cities choose to adopt higher and/or stricter minimum wage laws and ordinances than federal law for various reasons. Some of these reasons include:
 - Higher regional costs of living
 - Higher inflation rates
 - Allows localities in states where the legislature is not ready to raise the minimum wage to address the issue on their own.
 - Provides an avenue for demonstrating the feasibility of substantially higher minimum wages and pursuing key reforms that are less commonly adopted at state or federal levels.

Background – Legislation (cont'd)

State and Local Governments

- The State of California enacted its minimum wage in 1910.
- The rate has been increased 26 times since then, and is currently set at \$9.00/hr. An increase to \$10.00/hr. is scheduled to take effect on January 1, 2016.
- Though some exceptions apply, virtually all employees in the state are covered by California's minimum wage law.

Studies on Minimum Wage Increases at the State and Federal Levels

- Multiple studies show both the positive and negative effects of raising the minimum wage.
- Two principal labor market models are used in minimum wage studies. Each has its own interpretation of how organizations respond to the increased labor costs associated with minimum wage increases.
 - ▣ Standard competitive
 - ▣ Dynamic monopsony

Studies on Minimum Wage Increases at the State and Federal Levels (cont'd)

□ Standard competitive model

- Results in negative employment effects.
- As the price of goods or services increases, the demand for them decreases. Organizations respond in one or a combination of the following:
 - Reduction in the number employees
 - Reduction in employee hours worked
 - Increased prices to consumers
 - Reduced profits
 - Reduced expansion or development
 - Increased use of tipped workers
 - Reduced worker training
 - Reduced worker fringe benefits

Studies on Minimum Wage Increases at the State and Federal Levels (cont'd)

□ Dynamic monopsony model

- Results in no significant negative employment effects, or positive employment effects.
- Organizations have the ability to establish increased wages to attract employees and reduce costs related to recruitment.
- Organizations offset all or part of increased labor costs by:
 - Attracting more qualified and productive employees
 - Experiencing reduced employee turnover
 - Incurring reduced employee recruitment and training costs.
- Model has grown in use in recent years with studies providing evidence contrary to the assumptions of the standard competitive model.

Studies on Minimum Wage Increases at the State and Federal Levels (cont'd)

- Various studies have documented evidence in support of each labor market model.
- The models provide differing interpretations of the effects of minimum wage increases, but should not be viewed as mutually exclusive.
- Studies on the effects of minimum wage increases in the cities of San Francisco, San Jose, Santa Fe, and Washington D.C. have shown evidence of the presence of both models.
 - Restaurant prices increased
 - Employee earnings increased
 - Job tenure increased
 - Employment levels remained constant

City Survey - Methodology

- Survey of Campbell businesses
- Participants selected from City's business license directory
 - ▣ Located within the city limits
 - ▣ Three or more employees
 - ▣ Not located within apartment complexes
- Survey sent to 1,236 businesses
- Four background questions and 14 multiple-choice situational questions.
- 357 survey responses (29.75% response rate)

City Survey - Results



- 94.5% of respondents were either business owners or managers.
- 77.8% of respondents had 15 or fewer employees in their organization.
- 77.4% of respondents had between 0% – 10% of their employees earning the minimum wage rate.
- 74.8% of respondents would ‘definitely not’ or ‘probably not’ eliminate (and not replace) any positions to compensate for increased labor costs.
- 74.5% of respondents would ‘definitely not’ or ‘probably not’ reduce employee work hours to account for increased labor costs.

City Survey – Results (cont'd)

- 61.1% of respondents would 'definitely not' or 'probably not' increase prices to customers to account for increased labor costs.
- 84.4% of respondents listed a minimum wage increase as being 'highly unlikely' or 'unlikely' to cause their establishment to move to another city with a lower minimum wage rate.
- 75.5% of respondents would support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of employee qualifications, to offset all or part of the increased labor costs associated with a minimum wage increase.
- 62.7% of respondents would not support a minimum wage increase if it did not lead to increases in employee productivity, employee retention, employee morale, and the level of employee qualifications, to offset all or part of the increased labor costs associated with a minimum wage increase.

Cost of Living in the Bay Area

- According to the Council for Community and Economic Research, the 2009 - 2013 average cost of living index score for the San Jose-Sunnyvale-Santa Clara metropolitan area was 52.8% higher than the national average.
- San Jose-Sunnyvale-Santa Clara metropolitan area's 2013 cost of living index score was:
 - 49.3% higher than the national average.
 - 21.2% higher than the ten California metropolitan areas surveyed.

Minimum Wage in the Bay Area

- In the Bay Area, the following cities have enacted or approved minimum wage ordinances ranging from \$9.60/hr. to \$14.44/hr.:
 - Berkeley
 - Emeryville
 - Mountain View
 - Oakland
 - Richmond
 - San Francisco
 - Sunnyvale

- Mountain View's City Council has approved a series of advocacy efforts for a regional minimum wage.

- The Cities Association of Santa Clara County will review and discuss the issue of a countywide minimum wage during their June 11 meeting.

Conclusion

- Cities, counties, and states enact minimum wage increases to account for high costs of living and inflation rates.
- Studies and data from cities show evidence of both labor market models.
- Campbell's survey results point to a combination of both labor market models, with some measure of support for a minimum wage increase if it leads to effects related to the dynamic monopsony model.
- It may be difficult to generalize data from other cities because of differing economic and environmental conditions (i.e., population, unemployment rate, interest rates, political climate).
- There is no control group to compare minimum wage increases with, therefore causation cannot be established.
- Long-term studies will provide a clearer understanding of the employment effects of minimum wage increases.

Council Direction

- Staff asks for Council's direction on the issue of minimum wage.
 - Move on to other Council priorities?
 - Revisit the issue at a later time?
 - Draft a proposed ordinance?
 - Work with other cities on a potential regional minimum wage?

Questions

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council

Date: May 18, 2015

From: Wendy Wood, Acting City Clerk *WW*

Via: Mark Linder, City Manager *ML*

Subject: **Desk Item #A – Minimum Wage**

On May 15th Jessica M. LaMaack, California Restaurant Association Director, Government Affairs & Public Policy, submitted a letter to the Clerks Office as part of the public record in regards to Minimum Wage Study Session.

Attached is the letter for your consideration.



May 15, 2015

City Council
City of Campbell
70 N First Street
Campbell, CA 95008

RE: Minimum Wage Study Session

Dear Members of the City Council:

The California Restaurant Association (CRA) is the definitive voice of the food service industry in California and is the oldest restaurant trade association in the nation. I am respectfully submitting this letter on behalf of the Members of the CRA to express our concerns over a possible ordinance that seeks to increase the cities minimum wage.

The restaurant community is characterized as having one of the most competitive business models with razor-thin profit margins. According to a recent report by the National Restaurant Association and Deloitte & Touche LLP, every dollar a restaurant makes in sales they keep less than six cents. Research has shown that 25 percent of restaurants close or change ownership in their first year. Furthermore, over a three-year period, the number of restaurants increases to three in five. With a tight profit margin such as this, any additional increase to the minimum wage will add to the already challenging set of cost increases operators are trying to grapple with.

Minimum wage increases often have a perverse effect on the restaurant industry, as the wage increase typically benefits tipped employees who earn the most per hour. A minimum wage increase will ultimately hurt those it intends to help: hardworking non-tipped team members in the heart of the house who are paid an hourly wage greater than the minimum wage, but still at the lower end of the pay scale. The added pressure from the mandatory annual wage increase for the employees already earning the most (tipped employees) takes the finite labor dollars an operator may have and reduces, if not eliminates, their ability to provide non-tipped employees with a wage increase.

An additional increase to the minimum wage forces restaurants and other small businesses to make unfortunate operational decisions to meet the increased labor costs. Restaurants have no choice but to adjust their business plans and budgets, which may mean forgoing expansion and/or reducing operational hours and opportunities for all team members. Furthermore, this increased cost of doing business could discourage

new businesses from locating within Campbell.

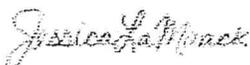
The minimum wage will not only increase the wages of the most highly compensated team members in the house (tipped employees), but will also increase employer costs as well. The annual wage increase will also result in corresponding annual increases associated with payroll taxes and temporary/permanent disability benefits paid out to employees through workers' compensation. The cumulative impact of these individual costs leaves an operator with few choices reducing staff levels or cutting staff hours is an unfortunate reality.

We strongly encourage the City Council to consider the minimum wage issue in a more targeted approach to avoid unintended consequences and ensure wage increases are going to those most in need. Below are some points that we respectfully request that you consider incorporating:

- A gradual increase that is phased in over a reasonable period of time with built-in triggers to review any possible negative impact on local business. This process would allow the Council to adjust to any needed changes and avoids tying the wage to inflation which seeks to tie the wage to a single economic factor (inflation), while ignoring other measurements of the local economy.
- Create a Total Compensation model where employees whose total taxable and verifiable compensation is greater than the proposed local minimum wage would not receive the city minimum wage increase. This proposal would use the state minimum wage as the earnings floor, plus other taxable and employer-verified income as defined by the State of California. Incorporating this solution would allow the restaurant industry to use their finite labor dollars to benefit those employees who are bringing home a salary based on wages alone and may be more in need of additional compensation.
- Include a training or teen wage aspect into the ordinance that will preserve entry level first-time jobs for the youth who are unexperienced and looking for a part-time opportunity while they are still in school. As minimum wages are increased above the statewide minimum wage, operators become less likely to hire teens and youth due to the risk of hiring relatively untrained individuals at a high cost.

Thank you for your attention and consideration. We remain committed to working cooperatively with the Council on this issue as it moves through the process. Should you have any questions, please contact me at jlamaack@calrest.org

Sincerely,



Jessica M. LaMaack
Director, Government Affairs + Public Policy

MEMORANDUM



City of Campbell
City Clerk's Office

To: Honorable Mayor and City Council

Date: May 18, 2015

From: Wendy Wood, Acting City Clerk 

Via: Mark Linder, City Manager 

Subject: Desk Item #A – 2 – Minimum Wage

Attached is an addendum to staff memo for public record in regards to Minimum Wage Study Session.

5/19/2015 – Addendum to Staff Memo

Question 13: Would you support a minimum wage increase if it led to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?

- All respondents: 75.5% Yes ; 24.5% No

Question 14: Would you support a minimum wage increase if it did not lead to increases in employee productivity, employee retention, employee morale, and the level of qualifications of applicants, to offset all or part of increased labor costs?

- All respondents: 37.3% Yes ; 62.7% No
-

Scenario 1: Remove all respondents with 0% - 10% of employees in their organization earning the minimum wage.

Question 13: Yes – 58.5%

No – 41.4%

Question 14: Yes – 22.9%

No – 77.1%

Scenario 2: Remove all respondents with 0% - 50% of employees in their organization earning the minimum wage.

Question 13: Yes – 54.8%

No – 45.2%

Question 14: Yes – 28.6%

No – 71.4%

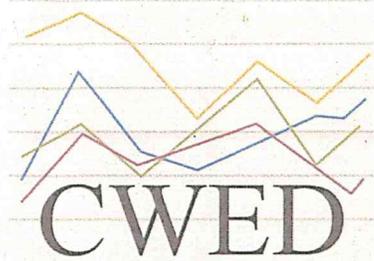
Scenario 3: Remove all respondents with 0% - 90% of employees in their organization earning the minimum wage.

Question 13: Yes – 68.8%

No – 31.3%

Question 14: Yes – 34.4%

No – 65.6%



Center on Wage and Employment Dynamics

POLICY BRIEF

June 2016

Institute for Research on Labor and Employment
University of California, Berkeley

The Effects of a \$15 Minimum Wage by 2019 in San Jose and Santa Clara County

**By Michael Reich, Claire Montialoux, Sylvia Allegretto, Ken Jacobs,
Annette Bernhardt, and Sarah Thomason**

With the assistance of Saika Belal and Ian Perry

Michael Reich is a Professor at UC Berkeley and Chair of the Center on Wage and Employment Dynamics at UC Berkeley's Institute for Research on Labor and Employment (IRLE). Claire Montialoux is an Economics Researcher at IRLE. Sylvia Allegretto is Co-Chair of the Center on Wage and Employment Dynamics at IRLE. Ken Jacobs is the Chair of the UC Berkeley Center for Labor Research and Education at IRLE. Annette Bernhardt is a senior researcher at IRLE. Sarah Thomason is a data analyst at the Center for Labor Research and Education at IRLE. Saika Belal and Ian Perry are members of the UC Berkeley IRLE Minimum Wage Research Group.

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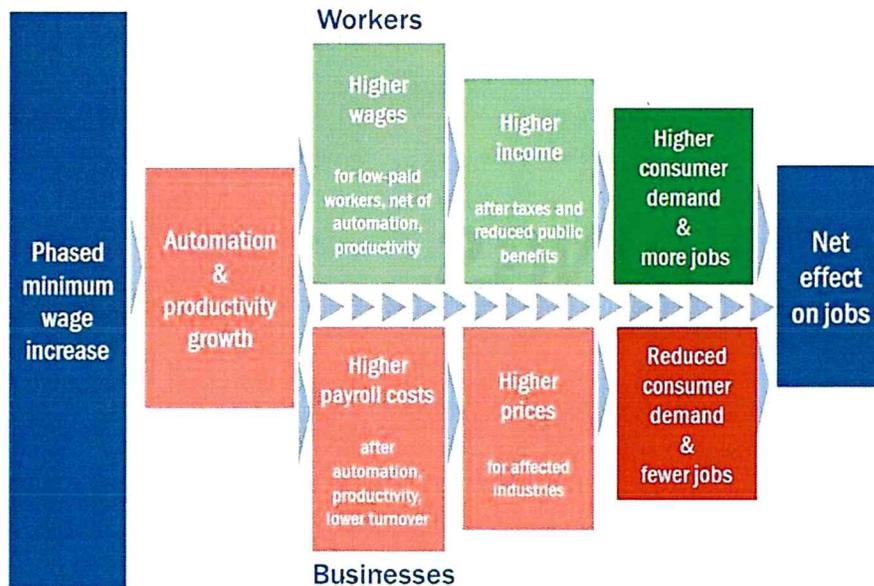
KEY FINDINGS

We present here, at the request of the City of San Jose, an analysis of the impact of minimum wage increases for both San Jose and all of Santa Clara County. Both scenarios begin on January 1, 2017 and increase to \$15 by January 1, 2019.¹

Critics of minimum wage increases often cite factors that will reduce employment, such as automation or reduced sales, as firms raise prices to recoup their increased costs. Advocates often argue that better-paid workers are less likely to quit and will be more productive, and that a minimum wage increase positively affects jobs and economic output as workers can increase their consumer spending. Here we take into account all of these often competing factors to assess the net effects of the policy.

Our analysis applies a new structural labor market model that we created specifically to analyze the effects of a \$15 minimum wage. We take into account how workers, businesses, and consumers are affected and respond to such a policy and we integrate these responses in a unified manner. In doing so, we draw upon modern economic analyses of labor and product markets. As we explain in the report, the main effects of minimum wages are made up of substitution, scale, and income effects. The figure below provides a guide to the structure of our model.

Figure 1. UC Berkeley IRLE minimum wage model



Source: UC Berkeley IRLE Minimum Wage Research Group

Our data are drawn from the Census Bureau’s American Community Survey and from other Census and U.S. Bureau of Labor Statistics datasets. We also make use of the extensive research conducted by economists—including ourselves—in recent years on minimum wages, and upon research on related economic topics.

Our estimates of the effects of a \$15 minimum wage are also based upon existing research on labor markets, business operations, and consumer markets. Our estimates compare employment numbers if the policy were to be adopted to employment numbers if the policy is not adopted. Other factors that may affect employment by 2019 are therefore outside the scope of our analysis. We have successfully tested our model with a set of robustness exercises.

Our analysis does not incorporate the recent state minimum wage law passed in April 2016. Since the San Jose and Santa Clara County scenarios are on a faster timeline, the number and demographics of workers affected would be similar if we had included the scheduled statewide increases. However, the size of the average wage increase and the effect on firms compared to the new baseline established by the state would be somewhat smaller.

SCENARIO A: KEY FINDINGS FOR A \$15 MINIMUM WAGE INCREASE IN SAN JOSE – BY 2019

Economic context

- When accounting for inflation, median earnings in San Jose were 10.5 percent lower in 2014 compared to their 2007 pre-recession level. Median annual earnings in San Jose are 20.9 percent higher than the state as a whole, but 17.3 percent less than median earnings in Santa Clara County.
- Unemployment rates have declined significantly for the state and San Jose. The April 2016 unemployment rate for California was 5.3 percent, down to its 2007 pre-recession rate. Annual unemployment in San Jose had been 4.5 percent in 2015, lower than its pre-recession rate (5.2 percent in 2007).²

Effects on workers – by the end of 2019

- Increasing the minimum wage to \$15 would increase earnings for 115,000 workers, or 31.1 percent of the city's workforce.
- Among those getting raises in San Jose, annual pay would increase 17.8 percent, or about \$3,000 (in 2014 dollars) on average. These estimates include a ripple effect: some workers who already earn \$15 will also receive an increase.
- 96 percent of workers who would get increases are over 20 and 56 percent are over 30—with a median age of 32.
- The proposed minimum wage increase would disproportionately benefit Latinos, who represent 53 percent of affected workers.
- Workers who would get pay increases are less-educated than the overall workforce, but almost half (48 percent) have some college experience or higher.
- The median annual earnings of workers who would get raises (\$18,100 in 2014 dollars) are 36 percent of median earnings for all workers in San Jose (\$50,507). Workers getting increases are disproportionately employed in part-time jobs, and are also less likely to have health insurance through their employer.
- Workers who would get pay increases disproportionately live in low-income families; on average, they earn close to half of their family's income.

-
- The research literature suggests downstream benefits from the proposed wage increase, such as improved health outcomes for both workers and their children, and increases in children's school achievement and cognitive and behavioral outcomes.

Effects on businesses and consumers – by the end of 2019

- Three industries account for over half of the private sector workers getting increases in San Jose: restaurants (21.0 percent), retail trade (19.1 percent), and administrative and waste management services (14.7 percent).
- 77.8 percent of workers in the restaurant industry in the private sector would receive a wage increase, compared to 11.5 percent in manufacturing.
- Total wages would increase by 10.1 percent for restaurants and 1.3 percent across all employers. This increase is much smaller than the minimum wage increase because many businesses already pay over \$15 and many workers who would get pay increases are already paid more than the current minimum wage. In addition, the workers who would receive pay increases are the lowest paid workers in San Jose and their wages represent only 8.3 percent of total wages.
- Employee turnover reductions, automation, and increases in worker productivity would offset some of these payroll cost increases.
- Businesses could absorb the remaining payroll cost increases by increasing prices slightly—by 0.3 percent through 2019. This price increase is well below annual inflation of 2.5 percent over the past five years. Price increases in restaurants would be higher, 3.1 percent.
- Price increases would be much smaller than labor cost increases because labor costs average about 22 percent of operating costs; compared to 31 percent for restaurants and 11 percent for retail.
- The consumers who would pay these increased prices range across the entire income distribution.

Net effect on employment in San Jose, Santa Clara County and nine nearby counties – by the end of 2019

- Our estimate projects slightly slower employment growth during the phase-in period than without the minimum wage increase: cumulatively, 960 fewer jobs by the end of 2019 in San Jose, which corresponds to 0.3 percent of projected 2019 employment. In comparison, employment in the state is projected to grow 1.32 percent annually in the same time period.

-
- Most of the reduction in job growth in San Jose reflects leakage of the increased spending by workers getting increases into the rest of the region. A substantial share of San Jose workers who would get pay increases live and spend their increased income in neighboring areas. Taking into account the increased spending in surrounding areas, we estimate there would be 80 fewer jobs over the larger regional area than without the wage increase. This area includes the following counties: Santa Clara, Alameda, San Mateo, San Francisco, Santa Cruz, Monterey, and San Benito.

SCENARIO B: KEY FINDINGS FOR A \$15 MINIMUM WAGE INCREASE IN ALL OF SANTA CLARA COUNTY – BY 2019

Economic context

- After accounting for inflation, the earnings of typical workers in the county declined by 8.3 percent between their pre-recession level in 2007 and 2014. Median annual earnings in Santa Clara County are 49.6 percent higher than in the state as a whole.
- Santa Clara County has experienced rapid employment growth in the recovery from the recession. Over 62 percent of Santa Clara County's working age residents are employed, compared to 57 percent in the state as a whole.
- The unemployment rate in Santa Clara County was 4.2 percent in 2015, significantly below the pre-recession rate and falling.

Effects on workers – by the end of 2019

- Increasing the minimum wage to \$15 would increase earnings for about 250,000 workers in Santa Clara County, or 25.3 percent of the county's workforce.
- Among those getting raises in Santa Clara County, annual pay would increase 19.4 percent, or \$3,200 (in 2014 dollars) on average. These estimates include a ripple effect in which some workers who already earn \$15 will also receive an increase.
- The demographics of the affected workers in Santa Clara County mirror those in San Jose: 95.5 percent are over the age of 20, with a median age of 32; 37.0 percent are married; 33.9 percent have children; nearly half are Latino.
- The median annual earnings of affected workers (\$17,821 in 2014 dollars) are about one-third of the median for all workers in Santa Clara County (\$57,956).

Effects on businesses and consumers – by the end of 2019

- Three industries account for nearly half of the private sector workers getting increases in Santa Clara County: food services (20.2 percent), retail trade (16.1 percent), and administrative and waste management services (11.9 percent).
- 71 percent of workers in the restaurant industry in the private sector would receive a wage increase, compared to 11.2 percent in manufacturing.

-
- Total wages would increase by 9.5 percent for restaurants and one percent across all employers. This increase is much smaller than the minimum wage increase because many businesses already pay over \$15 and many workers who will get pay increases are already paid over the current minimum wage. In addition, the workers who would receive pay increases are the lowest paid workers in Santa Clara County and their wages represent only 6.1 percent of total wages.
 - Employee turnover reductions, automation, and increases in worker productivity would offset some of these payroll cost increases.
 - Businesses would absorb the remaining payroll cost increases by increasing prices slightly—by 0.2 percent through 2019. This price increase is well below annual inflation of nearly 2.5 percent over the past five years. Price increases in restaurants would be higher at 2.9 percent.
 - Price increases would be much smaller than labor cost increases because labor costs average about 22 percent of operating costs; compared to 31 percent for restaurants and 11 percent for retail.
 - The consumers who would pay these increased prices range across the entire income distribution.

Net effect on employment in Santa Clara County and nine nearby counties – by 2019

- Our estimate projects slower employment growth over the phase-in period than without the minimum wage increase: cumulatively, 1,350 fewer jobs by the end of 2019 in Santa Clara County, which corresponds to 0.1 percent of projected 2019 employment. In comparison, employment in the state is projected to grow 1.32 percent annually in the same time period.
- Based upon regional commuting and spending patterns, we estimate a net gain of less than one hundred jobs over the larger region that includes the counties of Santa Clara, Alameda, San Mateo, San Francisco, Santa Cruz, Monterey, and San Benito. The employment gains generated by a \$15 minimum wage within Santa Clara County are spread over nearby counties.

LIMITS TO OUR STUDY

- Any prospective impact study involves an inherent level of uncertainty. Actual effects may differ from our estimates if future economic conditions vary from current forecasts.
- We estimate the net effects on jobs in the city, county and region. The effects will vary for particular industries.
- We do not take into account the effects of higher wages on worker health and on worker training, which are likely to be positive. Also, although higher parental earnings have well-documented effects on children's health, educational outcomes, and future earnings, these long-run effects are beyond the time scope of our study.
- These results cannot be generalized to minimum wages higher than \$15. Our model predicts additional negative effects would occur at some higher minimum wage.

CONCLUSION

- Like all forecasts, our results may differ if other economic conditions change.
- A \$15 countywide minimum wage by 2019 would generate a significant increase in earnings for about 115,000 workers in San Jose and 250,000 workers in Santa Clara County. The improvement in living standards would outweigh the small effect on employment.
- How can such a major improvement in living standards occur without adverse employment effects? While a higher minimum wage induces some automation, as well as increased worker productivity and slightly higher prices, it simultaneously increases worker purchasing power. These positive and negative effects on employment largely offset each other. In the end, the impacts of the minimum wage will be employee turnover reductions, productivity increases and modest price increases.

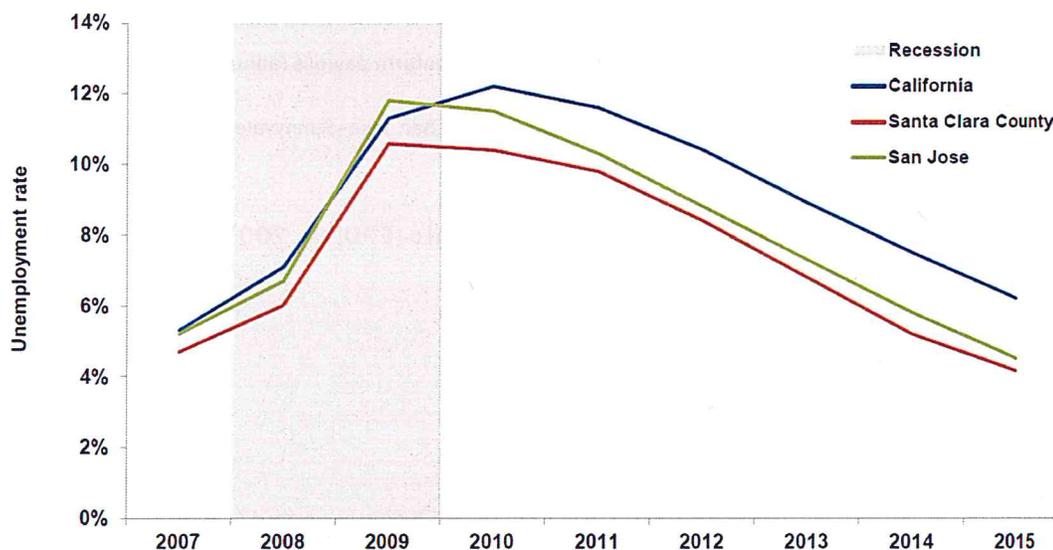
PART 1. THE POLICY CONTEXT

1. THE ECONOMIC CONTEXT

We review here the current economic conditions in Santa Clara County, the City of San Jose and, for context, California. We focus on four economic indicators over the Great Recession and recovery: unemployment rates, job growth, employment rates, and earnings. Each provides a somewhat different perspective on the nature of the current recovery.

The Great Recession started near the end of 2007 and officially lasted until June 2009. California was hit hard by the recession as state unemployment rates soared into double digits as did the rates for San Jose and Santa Clara County (Figure 2). Unemployment rates started to decline as the economy improved. The April 2016 unemployment rate for California was 5.3 percent, down to its 2007 pre-recession rate. The 2015 annual unemployment in San Jose was 4.5 percent, lower than its pre-recession rate (5.2 percent in 2007).

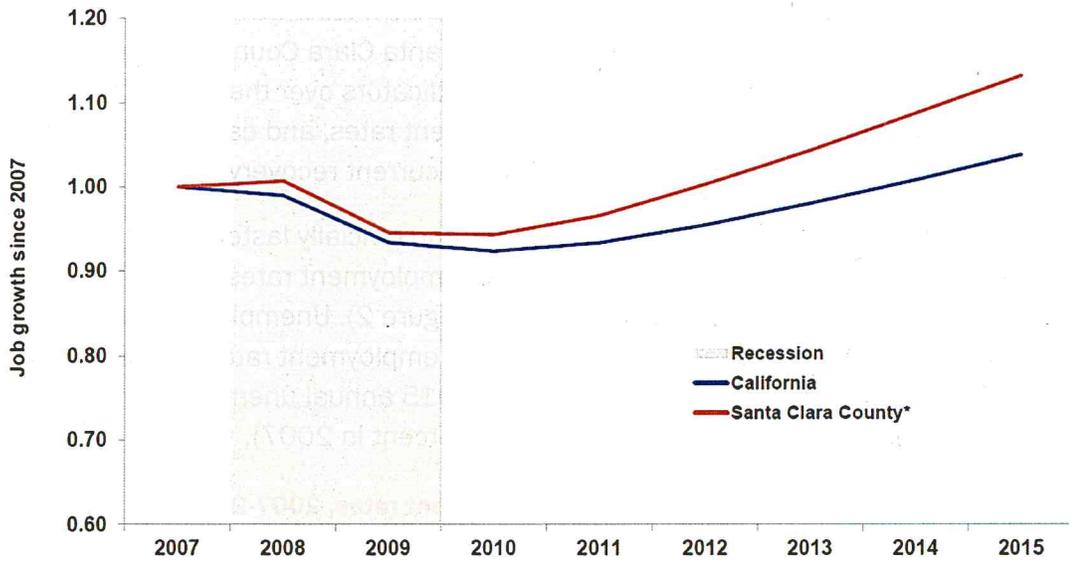
Figure 2. Annual unemployment rates, 2007-2015



Source: Annual unemployment rates are from the California Employment Development Department.

Unemployment rates improved as job growth strengthened over the last several years. Figure 3 shows the sizable job losses in Santa Clara County and California during the recession. Job growth returned in 2011—at a faster pace in Santa Clara County than in California—and that higher pace of job growth in Santa Clara County has increased even as job growth in the state steadily improved.

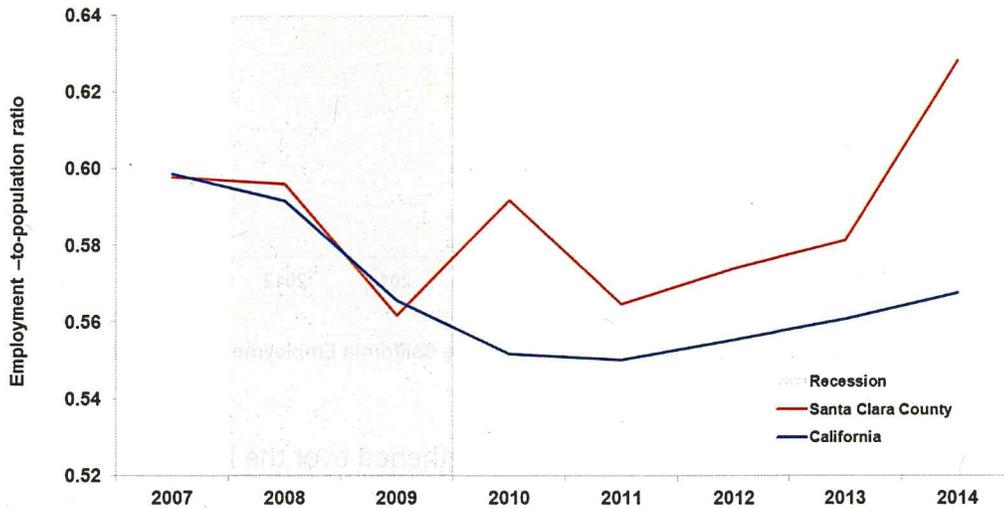
Figure 3. Job growth, California and Santa Clara County, 2007-2015



Source: Authors' calculation of growth in total nonfarm payrolls (annual averages) from Current Employment Statistics.

Note: *Data for Santa Clara County refers to the San Jose–Sunnyvale–Santa Clara MSA

Figure 4. The employment rate (EPOPS), 2007-2014

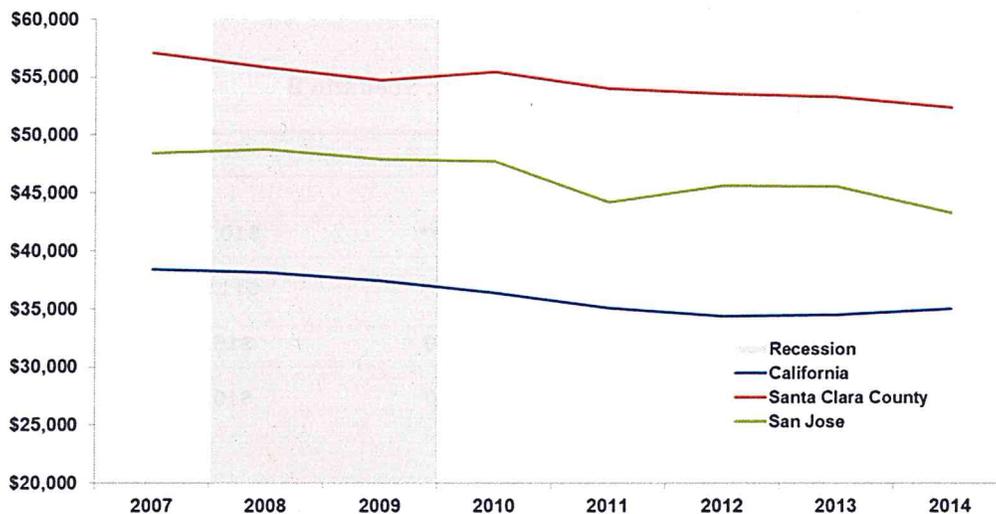


Sources: California state employment-to-population ratios are calculated using annual employment data from the CPS and annual population data from the U.S. Census. Santa Clara County ratios are calculated using annual employment data from EDD and annual population data from the U.S. Census.

Figure 4 depicts trends in the employment rate - the share of the working age population that is employed. This indicator is a companion to the unemployment rate as it counts workers who stopped looking for work and those who want more hours of work. Santa Clara County has experienced rapid employment growth over the recovery. Over 62 percent of Santa Clara County residents are employed compared to 57 percent for the state as a whole. Figure 4 shows that the earnings of typical workers in Santa Clara County far outpace earnings for workers in San Jose and the state overall. Median annual earnings in Santa Clara County are \$52,377 (in 2014 dollars) which is 49.6 percent higher than the state as a whole. Annual earnings in San Jose are \$43,313 (in 2014 dollars), which is 20.9 percent higher than the state as a whole, but 17.3 percent less than median earnings in Santa Clara County.

However, pay in both the county and the state is lower than it was in 2007. In Santa Clara County, after accounting for inflation, earnings of typical workers have declined by 8.3 percent, compared to pre-recession levels. The pay of typical workers in the City of San Jose is 10.5 percent lower compared to the 2007 pre-recession level. These patterns suggest that inequality has continued to increase even during economic expansions.³

Figure 5. Real median earnings, 2007-2014



Source: American Community Surveys 2007-2014.
 Note: Median annual earnings for workplace geography in real 2014 inflation-adjusted dollars for workers 16 years and over with earnings.

In summary, unemployment and employment trends show that California’s economic recovery has strengthened substantially in recent years—and even more so in Santa Clara County and San Jose. Median annual earnings are considerably higher in Santa Clara County and San Jose than in the state as a whole. However, the earnings of typical workers have declined despite the economy recovery.

2. THE MINIMUM WAGE INCREASE SCHEDULES

Both of the scenarios considered in this report would phase in minimum wage increases over three years, starting with \$12 an hour in 2017 and reaching \$15 an hour in 2019. In Scenario A, this minimum wage schedule is adopted in San Jose. In Scenario B, this minimum wage schedule is adopted throughout Santa Clara County, including San Jose. Tables 1 and 2 compare these two minimum wage scenarios to the “baseline” schedules currently in effect (as of March 1, 2016). In the impact analyses that follow, our logic will be to estimate the effects of Scenario A and B, relative to their respective baseline schedules. (Our analysis does not take into account the recent state minimum wage increase signed into law in April 2016).

Table 1. San Jose Minimum Wage Schedule: Scenario A

	2017	2018	2019
Baseline schedule*	\$10.53	\$10.76	\$11.00
Scenario schedule	\$12.00	\$13.50	\$15.00

* Based on San Jose’s minimum wage schedule as of March 1, 2016. It does not take into account the state minimum wage increase enacted on April 4, 2016. San Jose’s minimum wage was indexed to the U.S. All Cities CPI-W. We estimate each year’s minimum wage using the average annual increase in the CPI-W over the past 10 years.

Table 2. Santa Clara County Minimum Wage Schedule: Scenario B

	2015 workforce	2017	2018	2019
Baseline schedules				
San Jose & Sunnyvale	431,000	\$10.53*	\$10.76*	\$11.00*
Palo Alto & Santa Clara City	211,000	\$11.25*	\$11.50*	\$11.75*
Mountain View	84,000	\$13.00	\$15.00	\$15.37*
Rest of Santa Clara County (state schedule)	180,000	\$10.00	\$10.00	\$10.00
Scenario schedule				
Santa Clara County (except Mountain View)	906,000	\$12.00	\$13.50	\$15.00

Note: The baselines for these schedules were in effect as of March 1, 2016. Proposals being considered by individual cities were not used. We do not take into account the state minimum wage increase enacted on April 4, 2016.

* Where minimum wages are scheduled to increase according to CPI, we estimate the increase using the average annual CPI increase over the past 10 years. Mountain View’s minimum wage is indexed to the San Francisco CMSA CPI-W. All other cities are indexed to the U.S. All Cities CPI-W.

PART 2. EMPLOYMENT IMPACT ANALYSIS IN SAN JOSE AND SANTA CLARA COUNTY

1. PREVIOUS MINIMUM WAGE RESEARCH

In the past two decades, economists have conducted numerous econometric studies of the effects of minimum wages. The overwhelming majority have focused on the employment effects (Belman and Wolfson 2014; Belman and Wolfson 2015; Schmitt 2015). Typically these studies make use of panel data on workers or firms from standard government sources such as the Current Population Survey or the Quarterly Census on Employment and Wages.

Most extant research on minimum wages does not detect significant effects on workers age 20 and over. Some observers attribute the lack of visible effects to the relatively small proportion of adults who were affected by past minimum wage increases in the U.S.⁴ These observers argue that minimum wage effects should be detectible by examining groups that are more affected, notably teens and restaurant workers (Brown 1999).

Economists have therefore focused on these two groups. After two decades of methodological controversy among researchers, the literature has produced some areas of agreement. In particular, recent studies of the effects on restaurant workers by researchers with opposing methodological views have arrived at a consensus: the employment effects are either extremely small or non-existent.⁵ The effects of minimum wages on teen employment remain somewhat controversial. Some researchers find significant but not large negative effects (Neumark, Salas, and Wascher 2014) while others find effects that are much smaller, close to zero (Allegretto et al. 2015).

The remaining controversy over effects on teens has become less relevant than it once was. While teens once represented one-fourth of all workers affected by minimum wages nationwide, their importance has fallen to less than half that level today. We find that teens represent only 4.5 percent of the workers who would be affected by the proposed \$15 Santa Clara County minimum wage. Moreover, compared to teens, the rest of the low-wage workforce is older and has more work experience and schooling than was the case in previous decades. Results that are specific to teens are therefore not as informative for the effects on the workforce as a whole.

This minimum wage research uses quasi-experimental methods, exploiting time and state variation between 1979 and 2012 in federal and state minimum wages to identify causal effects. The most credible of the studies use state of the art statistical methods to ensure that the causal comparisons are apples to apples. However, the minimum wage changes in these past experiences, which peak at about \$10, generated increases for at most 8-10 percent of the workforce. In contrast, approximately 31 percent of all workers would receive a wage increase in the \$15 San Jose scenario and 25 percent in the \$15 Santa Clara County scenario, far higher than is the case in the minimum wage research literature to date. As a result, this previous research is at best only suggestive of the effects we consider here.

Moreover, this quasi-experimental econometric approach does not tell us whether employment effects are the result of automation, or price increases, or other possible mechanisms. Instead, it incorporates the results of all these mechanisms without identifying which are at work.

Since the quasi-experimental econometric approach is not appropriate for our study, we draw here upon the other major empirical method used by economists—building and calibrating a structural model. Thus, in order to better understand the impacts of a larger minimum wage increase, we model how the minimum wage policy works its way through the San Jose and Santa Clara County economy, examining workers, businesses, and consumers. We incorporate outcomes from economists' best research on labor markets, business practices, and consumer spending to construct a structural, multi-iterative model to estimate the effects of the scenarios for San Jose and Santa Clara County.

2. THE UC BERKELEY IRLE MINIMUM WAGE MODEL

In 2015, the UC Berkeley Institute for Research on Labor and Employment (IRLE) minimum wage group developed a structural model to study the prospective impacts of a \$15 minimum wage in Los Angeles.⁶ This model was further enhanced to study the effects of a \$15 minimum wage in New York State (Reich et al. 2016). The current report, which uses that model, contains two components:

- A wage simulation model that predicts the number of workers that will be affected by (i.e., receive) minimum wage increases. The results of this model are described in the first part of this report, and the model itself is described in detail in the appendix.
- An economic impact model that predicts the effect of minimum wage increases, given the structure of the workforce affected, on consumer demand. We focus on the latter in this section.

We also adapt the model to apply to San Jose and Santa Clara County in particular. Our estimates draw on standard government data sources, the large body of economic research on the minimum wage, other research studies, and a standard regional economic model (IMPLAN). These data sources and models are fully documented in the text, accompanying endnotes, and in the appendix.

Our economic impact model recognizes that higher minimum wages will affect labor supply and labor demand. Adjustments to labor supply include lower employee turnover and lower job vacancy rates. Adjustments to labor demand include possible substitutions of capital for labor and skilled labor for unskilled labor, greater worker productivity when wages rise, reductions in employment because higher prices reduce sales, and increases in employment because workers' spending out of their higher income will increase sales and employment. The net effect depends upon the magnitudes of the individual adjustments, again taking into account interactions among them.

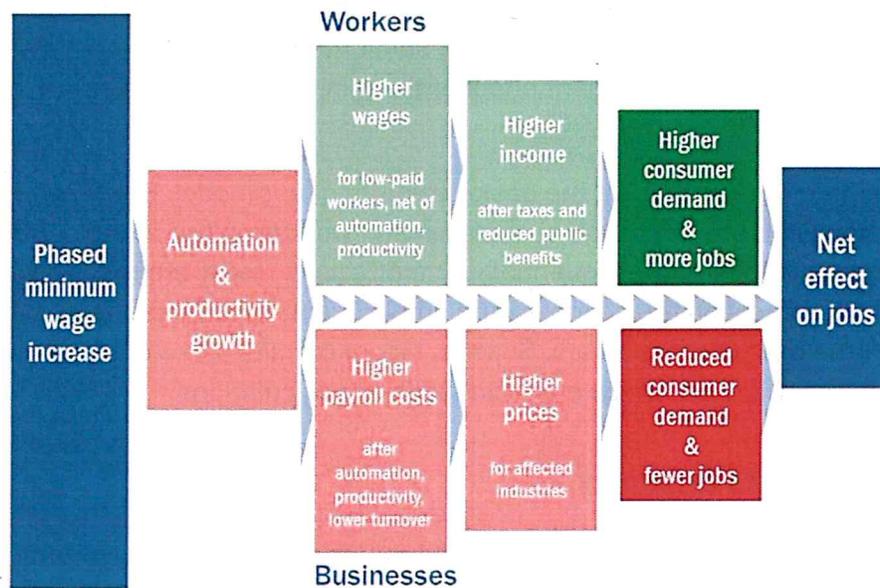
The labor demand model draws from standard labor economic textbook analyses. For industry labor demand, these analyses incorporate “substitution” and “scale” effects in labor, capital, and goods markets. For a formal version of this labor demand model, see Cahuc, Carcillo and Zylberg (2014). Since our concern here is on the effects of an economy-wide minimum wage, we add an “income effect.” The income effect accounts for changes in the level of economic output when wage increases lead to increased consumer demand.

Model Structure

Figure 6 summarizes our model qualitatively in a flow diagram. The green boxes refer to the effects on workers and the red boxes refer to the effects on businesses. The automation and

productivity box is placed first to highlight how businesses will respond to a minimum wage. Automation here refers only to capital-labor substitution that is induced by the minimum wage, not to the much larger degree of automation that has taken place for decades. Productivity growth can come from automation, from workers working harder or smarter when pay is high, and from workers having more experience, as when minimum wages reduce employee turnover.

Figure 6. UC Berkeley IRLE minimum wage model



Source: UC Berkeley IRLE Minimum Wage Research Group

Examine next the effects on workers, shown in the green boxes and move from left to right. The first green box refers to the higher wages received by lower-paid workers. The next green box accounts for the net effect of taxes and reduced receipt of public benefit programs on workers' income. Workers will pay more in taxes as their wages increase and eligibility for public benefits will decline. The third box refers to how workers' increased spending power out of their higher net income translates into higher consumer demand and more jobs. We will refer to this mechanism as the *income effect* of minimum wages.

Examine now the effects on businesses and again move from left to right. The higher minimum wage will increase businesses' payroll costs, but some of these higher costs will be offset because employee turnover will fall, generating savings in recruitment and retention costs. Firms may also find that higher-paid and more experienced workers will be more productive, which could also offset payroll cost increases. In other words, one effect of a higher minimum wage is to induce more efficient management practices.

Higher payroll costs (net of turnover and productivity savings) will lead firms to increase prices, leading to reduced consumer demand. We will refer to this adjustment mechanism as the *scale effect*, as it identifies reductions in the scale of output that will reduce the demand for workers.

As we have already mentioned, businesses may also respond to higher minimum wages by increasing their investment in equipment. This *substitution effect* (think automation) also reduces their demand for workers.

The income effect has a positive effect on employment, while the scale and substitution effects each have negative effects on employment. The sum of the income, scale, and substitution effects determines the net employment effect of the minimum wage, as shown in the blue box on the right side of Figure 6.

Figure 6 is useful for understanding the basic structure of our model. But it leaves out some important details. First, the effects on businesses and workers in the red and green boxes of the model occur simultaneously, not sequentially. The effects in reality are therefore captured only by examining the net effects on the economy and employment. These net effects are symbolized by the blue box at the right of the diagram. Second, Figure 6 omits some feedback loops that would make the figure unwieldy, but which are included in our calculations.

Model calibration and dynamics

The net effect of minimum wages on employment equals the sum of the income, scale, and substitution effects. The income effect will always be positive, while the scale and substitution effects will always be negative. Whether the net effect is positive, zero, or negative therefore depends upon the relative magnitudes of its three components.

These relative magnitudes in turn depend upon the quantitative responses of workers and businesses to a minimum wage increase. We refer to the model's parameters as the inputs that determine these multiple quantitative responses. Some of these parameters, such as the propensity to substitute capital for labor, may not vary with the magnitude of the minimum wage increase. Other parameters, such as turnover cost savings, are likely to vary with the size of the increase. As with any economic model, we calibrate our model using the best data and research findings available. The details are presented in Section 5 below and in Appendix A2.

The model's parameters and dynamics must be consistent with two conditions. First, the model must be consistent with the very small effects that researchers find for the smaller pre-2015 increases in federal and state minimum wages. Second, although labor demand in low-wage labor markets may be much less responsive to wages than is commonly thought, labor demand is not completely unresponsive. The model must therefore be consistent with growing negative effects if minimum wages were to reach extremely high levels, such as at \$25 or \$40 per hour. The big unknown, of course, is: At what level do the effects become visibly negative and how quickly do they become more negative?

In a forthcoming paper, Reich et al. (2016) show that our calibrated model predicts extremely small effects for minimum wage increases of up to 25 percent, to a minimum wage of \$10. At this minimum wage, the income, scale, and substitution effects are each very small. As the minimum wage reaches higher levels, the (positive) income effect weakens since the increase in the proportion of workers getting pay increases slows down, and because the propensity to consume of higher-paid workers is lower than that of lower paid workers. At the same time, the (negative) scale effect strengthens because turnover cost savings diminish and the price elasticity of consumer demand becomes higher for higher-priced goods.⁷ Our model is thus consistent with growing negative employment effects at higher minimum wage levels.

We have tested our model's calibration by undertaking a series of robustness tests. The tests show that this net effect changes by small amounts when we vary the model's parameters (Reich et al. 2016). In the next sections, we discuss how we quantify the effects in each of the boxes in Figure 6.

3. EFFECTS ON WORKERS

We begin by analyzing the effects of the Scenario A (San Jose) and Scenario B (Santa Clara County) minimum wage increases on workers. To estimate these effects, we use publicly-available government datasets to model (a) the number of workers who would receive pay increases under the two minimum wage scenarios and (b) the size of those wage increases. We exclude federal and state government employees, local school district employees, In Home Supportive Services (IHSS) workers, and self-employed workers from our analysis, since those groups of workers would not be eligible for local minimum wage laws.

Specifically, for each scenario, our model produces two different simulations of the future wage distribution. First, we conduct a baseline simulation, in which we assume that the minimum wage will increase each year according to minimum wage laws that are already in effect (see Tables 1 and 2 above). For Scenario B (Santa Clara County), we assume that cities that do not have their own minimum wage law will follow the state minimum wage schedule in effect as of January 1, 2016 (again, this analysis does not take into account the new state minimum wage law signed in April 2016). Second, we conduct a simulation that models the future wage distribution under each of the two minimum wage increase scenarios.

We then compare the baseline and scenario simulations and estimate, for each yearly phase-in step, the number of workers that would be affected by the scenario and the additional wages they would receive as a result, above and beyond any currently scheduled minimum wage increases. In constructing these estimates, our model adjusts for expected growth in employment, wages and inflation over time. Our estimates also take into account what is often referred to as a “ripple” or “compression” effect: workers who make slightly more than the scenario minimum wage are also likely to receive wage increases. More information on our methodology is available in Appendix A1.

3.1 Workforce Impacts

Table 3 shows the estimated number and percentage of eligible workers affected under Scenario A (San Jose) and Scenario B (Santa Clara County). Under Scenario A, we estimate that 115,000 workers in San Jose will receive a pay raise by 2019, or about 31.1 percent of the eligible workforce. Of these, 92,000 are directly affected workers (earning less than \$15 per hour when the scenario would be fully implemented in 2019) and 23,000 are indirectly affected (earning slightly more than \$15 per hour when the scenario would be fully implemented in 2019).

Under Scenario B, 250,000 workers, or about 25.3 percent of the eligible workforce in Santa Clara County, would receive a pay raise by 2019. Of these, 198,000 are directly affected workers and 52,000 are indirectly affected workers. Estimates for Santa Clara County include San Jose.

Table 3. Estimated cumulative impacts on workers by 2019

Cumulative workforce impacts	Scenario A: San Jose	Scenario B: Santa Clara County
Percent of eligible workforce receiving pay increases	31.1%	25.3%
Total number of workers receiving increases	115,000	250,000
Number of workers affected directly	92,000	198,000
Number of workers affected indirectly	23,000	52,000
Average hourly wage increase (2014 dollars)	\$1.81	\$1.92
Average annual earnings increase for workers receiving increases (2014 dollars)	\$3,000	\$3,200
Average percent annual earnings increase for workers receiving increases	17.8%	19.4%
Total aggregate increase in wages (2014 dollars)	\$345 million	\$796 million

Source: Authors' analysis of ACS, OES, and QCEW data. See Appendix A1 for details.

Note: Santa Clara County impacts include those for the entire county, including San Jose. Eligible workers are those that work in the city/county where the new minimum wage policy is implemented. Directly affected workers earned between 50% of the old minimum wage and 100% of the new minimum wage. Indirectly affected workers earned between 100% and 115% of the new minimum wage. Average annual earnings is per worker, not per job.

We also estimate the additional earnings that affected workers would receive under each scenario, relative to their earnings under current minimum wage schedules. Table 3 shows the estimated cumulative increase in affected workers' hourly wages, annual earnings, and percentage increase in annual earnings, as well as the cumulative total earnings increase for all affected workers. By full implementation in 2019, we estimate that the wages of affected workers will have risen by about \$1.92 per hour in Santa Clara County and \$1.81 per hour in San Jose. That amounts to an estimated additional \$3,000 in earnings per year for impacted workers in San Jose and \$3,200 for impacted workers in Santa Clara County. In total, we estimate that affected workers will earn an additional \$796 million by 2019 in Santa Clara County. In San Jose, we estimate that affected workers will earn an additional \$345 million by 2019. All estimates are listed in 2014 dollars.⁸

3.2 Impact on Benefits Eligibility and Poverty

Some policymakers have expressed concern that affected workers and their families could ultimately be worse off after minimum wage increases if they are no longer eligible for means-tested social assistance programs. However, research suggests that most workers will come out well ahead financially, because the benefits from most social assistance programs phase out as recipients' income rises. This means that as the earnings of affected workers rise, the benefits they receive will gradually decline instead of being eliminated all at once.⁹ In fact, the Congressional Budget Office (Congressional Budget Office 2012) has estimated that the average marginal tax rate for low-and moderate-income workers is 34.8 percent, meaning that affected workers will keep 65.2 cents of each additional dollar they earn. So while taxes and reductions in social assistance benefits will erode some of the additional earnings for affected workers, most

families will still see significant gains in income under the scenario minimum wage increases. Finally, Arin Dube has estimated that for each percentage increase in the minimum wage, household poverty is reduced by -0.24 percent (2013). Applying this measure of the elasticity of poverty with respect to the minimum wage, we estimate that an increase to \$15 would reduce the number of households in poverty by 8.5 percent in San Jose and 8.2 percent in Santa Clara County.

3.3 Demographics of Affected Workers

Next, we analyze the demographic and job characteristics of the workers who would be affected by the two minimum wage scenarios (including both directly and indirectly affected workers). Table 4 profiles workers affected by Scenario A in San Jose. In the first column, we display the characteristics of all eligible workers. For example, 58.3 percent of San Jose workers are men and 41.7 percent are women. In the second column, we show the *distribution of affected workers* by 2019. For example, we estimate that 51.4 percent of affected workers are men and 48.6 percent are women. In the third column, we present the *share of each demographic group that will receive a wage increase*. For example, we estimate that 27.4 percent of male workers and 36.2 percent of female workers eligible for the proposed increase will receive a raise.

Contrary to the common perception that minimum wage workers are mainly teens, we estimate that 95.6 percent of affected workers in San Jose are in their twenties or older and 56.3 percent are in their thirties or older. The scenario will be particularly beneficial to Latino/a workers in San Jose, as half of these workers (50.8 percent) will receive a raise. Workers of all education levels would benefit from the scenario, with less educated workers benefitting the most. About half of affected workers have no college education (51.2 percent)

We estimate that over a third of affected workers in San Jose have children (33.9 percent) and 37.1 percent are married. Affected workers in San Jose disproportionately live in low-income families, with 40.3 percent at or below 200 percent of the federal poverty level. Fully 91.8 percent of workers in poor families will receive a pay increase. On average, affected workers in San Jose bring home 48.5 percent of their family's income, suggesting that they are primary breadwinners in their families and are not providing supplementary income.

We estimate that the median annual earnings of affected workers (\$18,100 in 2014 dollars) is less than half (35.8 percent) of the median earnings for all workers in San Jose. Affected workers are disproportionately employed in part-time or part-year jobs, and are much less likely to have health insurance provided by their employer than the overall San Jose workforce.¹⁰

Table 4. Demographic and job characteristics of affected workers in Scenario A - San Jose

	Percent of eligible workers	Percent of eligible workers getting a raise	Percent of group getting a raise
Gender			
Male	58.3	51.4	27.4
Female	41.7	48.6	36.2
Median Age			
	39	32	
Age			
16-19	1.6	4.4	86.6
20-29	22.4	39.3	54.4
30-39	27.2	22.8	26.1
40-54	35.6	23.7	20.7
55-64	13.3	9.8	22.9
Race/Ethnicity			
White (Non-Latino)	33.8	20.9	19.2
Black (Non-Latino)	2.6	3.1	37.5
Latino/a	29.9	50.8	52.8
Asian (Non-Latino)	31.0	22.7	22.7
Other	2.6	2.4	28.7
Education			
Less than High School	11.1	23.9	66.7
High School or G.E.D.	16.5	27.3	51.4
Some College	20.2	26.7	41.0
Associate's Degree	7.1	7.7	33.4
Bachelor's Degree or Higher	45.0	14.4	9.9
Country of Birth			
U.S. Born	51.8	48.0	28.8
Foreign Born	48.2	52.0	33.5
Family Structure			
Married	55.0	37.1	20.9
Has Children	44.2	33.9	23.8
Family Income Relative to Poverty Level (FPL)			
Less than 100% of FPL	3.8	11.4	91.8
100% to 150% of FPL	5.1	14.3	86.6
150% to 200% of FPL	6.0	14.7	75.8
200% to 300% of FPL	13.0	24.2	57.7
Greater than 300% of FPL	72.1	35.5	15.3
Average Worker Share of Family Income	62.9	48.5	
Median Individual Annual Earnings (2014 Dollars)	\$50,507	\$18,100	
Full-Time / Part-Time Worker			
Full-Time (35 or More Hours per Week)	82.8	64.6	24.2
Part-Time (Fewer than 35 Hours per Week)	17.2	35.4	64.0
Full-Year / Part-Year Worker			
Full-Year (50-52 Weeks per Year)	87.1	80.2	28.6
Part-Year (Fewer than 50 Weeks per Year)	12.9	19.8	47.7
Health Insurance Provided by Employer			
Yes	77.1	52.0	20.9
No	22.9	48.0	65.1

Source: Authors' analysis of ACS, OES, and QCEW data. See Appendix A1 for details.

In Table 5, we show the demographic and job characteristics of the affected workers under Scenario B in Santa Clara County. Affected workers in Santa Clara County as a whole share many of the same characteristics as affected workers in San Jose. Nearly half of Latino/a workers would receive a raise as a result of the proposed law. Over half are in their thirties or older (56.6 percent) and most are in their twenties or older (95.5 percent). About a third have children (33.9 percent).

As in San Jose, a disproportionate number of affected workers in Santa Clara County live in families at or below 200 percent of the federal poverty level (39.9 percent), and most workers living in families below the poverty line will receive a pay increase (91.1 percent). On average, affected workers bring home almost half of their family's income (48.0 percent).

The earnings gap between affected workers and the overall workforce is higher for Santa Clara County than for San Jose. We estimate that the median annual earnings of affected workers (\$17,821 in 2014 dollars) is less than one third (30.7 percent) of the median earnings for all workers in Santa Clara County. As in San Jose, affected workers in Santa Clara County are disproportionately employed in part-time or part-year jobs, and are much less likely to have health insurance provided by their employer than the overall Santa Clara County workforce.¹¹

Table 5. Demographic and job characteristics of affected workers in Scenario B - Santa Clara County

	Percent of eligible workers	Percent of eligible workers getting a raise	Percent of group getting a raise
Gender			
Male	57.3	49.2	24.4
Female	42.7	50.8	33.3
Median Age	39	32	
Age			
16-19	1.4	4.5	86.7
20-29	21.6	38.9	50.6
30-39	28.0	22.7	23.3
40-54	35.9	24.1	18.9
55-64	13.2	9.8	20.6
Race/Ethnicity			
White (Non-Latino)	34.9	21.1	17.3
Black (Non-Latino)	2.5	3.2	35.6
Latino/a	26.2	49.3	50.8
Asian (Non-Latino)	33.6	23.9	20.6
Other	2.8	2.5	25.8
Education			
Less than High School	9.3	22.9	66.0
High School or G.E.D.	14.2	26.5	50.0
Some College	18.8	26.8	39.0
Associate's Degree	7.0	8.0	31.3
Bachelor's Degree or Higher	50.7	15.9	9.2
Country of Birth			
U.S. Born	51.5	48.2	26.3
Foreign Born	48.5	51.8	30.2
Family Structure			
Married	56.2	37.0	18.7
Has Children	44.8	33.9	21.4
Family Income Relative to Poverty Level (FPL)			
Less than 100% of FPL	3.3	11.2	91.1
100% to 150% of FPL	4.4	14.2	86.4
150% to 200% of FPL	5.2	14.5	75.2
200% to 300% of FPL	11.7	24.0	55.3
Greater than 300% of FPL	75.4	36.1	13.7
Average Worker Share of Family Income	63.9	48.0	
Median Individual Annual Earnings (2014 Dollars)	\$57,956	\$17,821	
Full-Time / Part-Time Worker			
Full-Time (35 or More Hours per Week)	84.1	64.7	21.9
Part-Time (Fewer than 35 Hours per Week)	15.9	35.3	60.3
Full-Year / Part-Year Worker			
Full-Year (50-52 Weeks per Year)	87.4	79.7	25.8
Part-Year (Fewer than 50 Weeks per Year)	12.6	20.3	44.8
Health Insurance Provided by Employer			
Yes	79.8	53.2	19.0
No	20.2	46.8	62.7

Source: Authors' analysis of ACS, OES, and QCEW data. See Appendix Section A1 for details.

3.5 Downstream effects

The increases in earnings shown in Tables 4 and 5 would be substantial and would have an immediate impact on the lives of low-wage workers and their families in San Jose and Santa Clara County. But it is important to recognize that there are longer-term effects of minimum wage increases as well.

Low wages have been shown to affect workers negatively in a variety of ways, but the health impacts are most pronounced. All else being equal, low wages (and in turn poverty) result in increased rates of high blood pressure and high levels of stress, as well as shorter life expectancy (Leigh and Du 2012). A recent study from the United Kingdom found that by reducing the financial strain on low-wage workers, an increase in the minimum wage improves mental health at a level comparable to the effect of antidepressants on depression (Reeves et al. 2016). In another study, additional income led to fewer arrests for parents and increases in parental supervision of their children (Akee et al. 2010). Similarly, increases in Earned Income Tax Credit (EITC) program payments led to improvements in the mental health of mothers (Evans and Garthwaite 2010; Congressional Budget Office 2012).

Multiple rigorous studies also establish a causal negative effect of low incomes on outcomes for children. A recent review of peer-reviewed articles found that 29 of 34 studies established a negative effect of poverty on children's outcomes (K. Cooper and Stewart 2013). Using data from a randomized control trial of the Minnesota Family Investment Program, researchers found positive, significant effects on children's social behavior and school engagement due to increases in income (Morris and Gennetian 2003). Other researchers analyzed data from ten such studies and found significant effects of increased income on school achievement (Rodgers 2004).

Generally, these studies show that additional income has a positive effect on the outcomes of children in households of all income levels. However, multiple studies also suggest that additional income has a larger effect in very-low-income households compared to middle-income households (Dahl and Lochner 2012); (Akee et al. 2010); (Costello et al. 2003). Some evidence indicates that additional income early in life is important to cognitive outcomes, whereas additional income in later childhood may be more important in terms of behavioral outcomes (K. Cooper and Stewart 2013).

4. EFFECTS ON BUSINESSES

How a higher minimum wage affects a firm depends on how much the firm's operating costs change and on how the firm responds to those changes. In this section, we first identify the industries that will be highly affected by the two minimum wage increase scenarios. We then estimate the impact of the minimum wage increases on firms' operating costs across the entire economy and for highly affected industries, taking into account savings from reduced turnover. We describe the effects on businesses separately for Scenario A (San Jose) and Scenario B (Santa Clara County).

4.1 Scenario A: San Jose

Minimum wage increases do not affect all industries equally. We therefore begin with an analysis of the impact of Scenario A at the industry level. Table 6 shows the estimated distribution of affected workers across San Jose's industries by 2019. In the first column, we show the percentage of the overall eligible San Jose workforce in each industry. The second column displays our estimate of *the distribution across industries* of workers getting a raise under the scenario. The third column presents our estimate of the percentage of workers getting a raise *within each industry*.

Over half of affected workers are employed in just three service sector industries: food services (21.0 percent), retail (19.1 percent), and administrative and waste management services (14.7 percent), which is comprised mainly of building services contractors and employment agencies. The service sector also dominates the list of industries that have high rates of low-wage work—that is, industries where we estimate a high share of workers will get a raise (for example, 77.8 percent in food services and 50.7 percent in administrative and waste management services).

We also examine the sectoral distribution of affected workers in Table 6. Our estimates show that affected workers are largely employed in the private, for-profit sector. Nonprofit and public sector workers are less likely to be affected than the overall San Jose workforce.

Table 6. Cumulative impact estimates for major industries in San Jose by 2019

	Percent of eligible workers	Percent of eligible workers getting a raise	Percent of industry getting a raise
All Sectors			
Agriculture, Forestry, Fishing, Hunting, and Mining	0.2	0.3	
Construction	6.0	6.5	33.3
Manufacturing	16.5	6.1	11.5
Wholesale Trade	4.6	3.2	21.2
Retail Trade	12.7	19.1	46.8
Transportation, Warehousing, and Utilities	2.8	2.8	31.0
Information	3.1	0.9	9.5
Finance, Insurance, Real Estate, and Rental and Leasing	4.8	3.1	20.1
Professional, Scientific, and Management	11.9	2.7	7.2
Administrative and Waste Management Services	9.0	14.7	50.7
Educational Services	1.9	1.6	25.9
Health Services	8.5	5.5	20.4
Social Assistance	1.7	2.4	45.4
Arts, Entertainment, Recreation, and Accommodation	2.8	4.5	49.2
Food Services	8.4	21.0	77.8
Other Services	3.1	4.7	47.9
Public Administration	2.0	0.7	10.7
Total	100.0	100.0	
By Sector			
Private, For-Profit	90.0	93.8	32.4
Private, Non-Profit	6.0	4.6	23.6
Public	4.0	1.6	12.6
Total	100.0	100.0	

Source: Authors' analysis of ACS, OES, and QCEW data. See Appendix A2 part B for details.

Note: Blank value for "Percent of Industry That is Getting a Raise" indicates insufficient sample size for that category.

Changes in a firm's operating costs due to a minimum wage increase are determined by the following factors: the share of workers receiving wage increases, the average size of the wage increases, and the labor share of operating costs within the firm. As we saw in Table 6, in most industries only a minority of workers in San Jose will receive a wage increase under Scenario A. Furthermore, among workers that do receive an increase, not everyone will receive the full increase (because many of the affected workers already earn more than the current minimum). Specifically, we estimate that the total wages of all affected workers will increase by 15.3 percent in San Jose. However, affected workers' wages represent only 8.3 percent of all workers' wages in San Jose. As a result, total wages in San Jose will increase by 1.3 percent.

Economic research suggests that some of the increased labor costs that businesses face as a result of a higher minimum wage can be offset through lower turnover. In our calculations below,

we take the midpoint of those estimates and assume that 17.5 percent of increased labor costs are absorbed via turnover savings in the first year.¹² These savings are likely to accrue at smaller rates as wage levels go higher; we therefore assume that by 2019 the marginal increase in earnings relative to 2017 no longer yields any additional turnover savings. As a result, we estimate that the total savings from turnover at a \$15 minimum wage in 2019 would be 11.3 percent of increased labor costs.¹³

Table 7 shows our estimates of the increase in business operating costs (net of savings from reduced turnover) in retail and restaurants, the two industries with the largest number of workers receiving a raise under Scenario A. By 2019, we estimate that businesses in the restaurant industry would see their payroll costs rise by 10.2 percent and businesses in the retail industry would see their payroll costs rise by 2.2 percent; these cost estimates include payroll taxes and workers' compensation insurance expenses.¹⁴ Across the entire San Jose economy, we estimate that payroll costs would rise by 1.2 percent by 2019.

However, operating costs will rise by a much smaller amount, because labor costs only make up a portion of the total costs that businesses face. We estimate that labor costs excluding health benefits currently account for 30.7 percent of restaurant operating costs, 10.8 percent of retail operating costs, and 22.1 percent for the overall economy (these percentages will increase over time as labor costs rise faster than other costs due to the proposed minimum wage increase). We therefore estimate that by 2019, total operating costs would rise by 3.1 percent for restaurants, 0.2 percent for retail, and 0.3 percent for the overall economy. (See Appendix A2.2 for more detail on how we estimate the labor share of operating costs by industry.)

Table 7. Cost impacts for businesses in San Jose by 2019

	Percent change in payroll costs	Labor costs as percent of operating costs	Percent change in operating costs and prices
All	1.2	22.1	0.3
Restaurants	10.2	30.7	3.1
Retail	2.2	10.8	0.2

Source: US Census Annual Wholesale Trade Report and authors' analysis of ACS, OES, and QCEW data. See Appendix A2 Part B for details.

4.2 Scenario B: Santa Clara County

Table 8 shows the estimated distribution of affected workers across industries in Santa Clara County under Scenario B. As in Scenario A, over half of affected workers are employed in three service sector industries: food services (20.2 percent), retail (16.1 percent), and administrative and waste management services (11.9 percent). These same industries have a high proportion of low-wage workers who would get a raise in the scenario (for example, 71.0 percent in food services and 47.6 percent in administrative and waste management services).

Affected workers in Santa Clara County are also mostly employed in the private, for-profit sector. Nonprofit and public sector workers are less likely to be affected than the overall Santa Clara County workforce.

Table 8. Cumulative impact estimates for major industries in Santa Clara County by 2019

	Percent of eligible workers	Percent of eligible workers getting a raise	Percent of industry getting a raise
All Sectors			
Agriculture, Forestry, Fishing, Hunting, and Mining	0.3	0.9	67.8
Construction	4.4	5.5	31.9
Manufacturing	16.6	7.4	11.2
Wholesale Trade	3.8	3.0	20.1
Retail Trade	9.2	16.1	44.4
Transportation, Warehousing, and Utilities	1.9	2.2	28.7
Information	7.5	1.4	4.6
Finance, Insurance, Real Estate, and Rental and Leasing	3.7	2.7	18.9
Professional, Scientific, and Management	16.0	4.1	6.5
Administrative and Waste Management Services	6.4	11.9	47.6
Educational Services	3.8	3.8	25.2
Health Services	10.2	7.7	19.1
Social Assistance	2.0	3.3	43.0
Arts, Entertainment, Recreation, and Accommodation	2.3	4.2	46.2
Food Services	7.2	20.2	71.0
Other Services	2.7	4.8	45.4
Public Administration	2.0	0.7	9.4
Total	100.0	100.0	
By Sector			
Private, For-Profit	88.7	92.3	26.4
Private, Non-Profit	7.3	5.9	20.4
Public	4.0	1.8	11.3
Total	100.0	100.0	

Source: Authors' analysis of ACS, OES, and QCEW data. See Appendix A2 Part B for details.

Note: Blank value for "Percent of Industry That is Getting a Raise" indicates insufficient sample size for that category.

We estimate that the total wages of all affected workers in Santa Clara County will increase by 16.4 percent. But again, because affected workers' wages represent only 6.1 percent of all workers' wages in Santa Clara County, total wages in the county will increase by 1.0 percent.

Table 9 shows our estimates of the increase in business operating costs for Santa Clara County for retail and restaurants, the two industries with the largest number of workers receiving a raise under the proposed minimum wage law, as well as for businesses across all industries. After accounting for reductions in turnover we estimate that businesses in the restaurant industry will see their payroll costs rise by 9.5 percent and businesses in the retail industry will see their

payroll costs rise by 2.1 percent.¹⁵ Across the entire Santa Clara County economy, we estimate that payroll costs will rise by 1.0 percent by 2019.

We therefore estimate that by 2019, total operating costs will rise by 2.9 percent for restaurants, 0.2 percent for retail, and 0.2 percent for the overall economy.

Table 9. Cost impacts for businesses in Santa Clara County by 2019

	Percent change in payroll costs	Labor costs as percent of operating costs	Percent change in operating costs and prices
All	1.0	22.1	0.2
Restaurants	9.5	30.7	2.9
Retail	2.1	10.8	0.2

Source: US Census Annual Wholesale Trade Report and authors' analysis of ACS, OES, and QCEW data. See Appendix A2 Part B for details.

5. EFFECTS ON EMPLOYMENT

A principal goal of the proposed minimum wage policy for San Jose (Santa Clara County) is to raise the earnings of low-wage workers, while minimizing the tradeoffs in economic costs. In previous sections, we have assessed the benefits to low-wage workers as well as the impact on businesses' operating costs in particular industries. In this section we consider whether the proposed policy would generate net gains or losses to the city's (county's) economy.

In Section 5.1, the key issues concern how much employers will substitute equipment or skilled labor for unskilled labor and how much of their cost increases employers will pass on in the form of higher prices. In Section 5.2, we discuss who might pay the costs of the higher minimum wage. Higher prices reduce consumption demand, which translates into reductions in employment and economic activity.

Section 5.3 examines the increased spending that derives from the higher income of low-wage workers. We take into account the effects of taxes and reduction in public benefits on the affected workers' take-home pay and the rate at which their households spend income compared to others. Greater spending from consumers increases economic demand, which translates into increases in employment and economic activity.

The net effects on the economy will then depend upon the sum of the effects estimated in each of these three sections. Section 5.4 estimates these net impacts on economic activity and employment.

5.1 Automation, productivity and substitution away from unskilled labor

It is often argued that a higher minimum wage will lead firms to reduce their use of workers. This reduction in labor demand can occur through two different channels: one involves substituting capital for labor, *i.e.*, automation or mechanization of jobs while keeping sales at the same level; the other involves lower demand for workers when prices increase and sales fall. We discuss here the automation channel and consider the effect on sales in the following section.

Automation: economic theory and measurement

Mechanization does not necessarily lead to a net loss of jobs. As David Autor (2014a; 2014b) points out, machines (including smart robots) do not just substitute for labor; they are also complements to existing jobs and they can lead to the creation of new jobs and industries. Indeed, previous rounds of automation and computerization have created more jobs than they destroyed. Moreover, automation does not involve only the replacement of labor by machines. It also involves the replacement of old machines (think manual cash registers) with newer ones (think electronic cash registers and electronic screens like iPads).

In general, the effect of automation on employment depends upon the elasticity of substitution of capital for labor (σ)—the change in the relative prices of capital and labor—and the share of profits in revenue. The lower is σ , the more difficult it is to substitute capital for labor. Robert Chirinko, the leading economist specializing in estimates of σ , finds an economy-wide σ of about 0.4 (Chirinko and Mallick 2016). While the estimates in this study are identified across all economic sectors, most of the variation occurs among manufacturing industries. Lawrence (Lawrence 2015) also finds that the economy-wide σ is less than 1 and that it is lower still in low-wage manufacturing industries than in high-wage manufacturing industries.

Alvarez-Cuadrado, Van Long and Poschke (2015) estimate substitution elasticities separately for manufacturing and services using data on 16 countries. They find that service sector elasticities are considerably lower than in manufacturing. However, their study does not examine low-wage services separately. The results in these papers nonetheless suggest, as Autor et al. conjectured, that automation possibilities are lower in low-service jobs.

Aaronson and Phelan (Aaronson and Phelan 2015) have carefully studied the short-run impact of minimum wages on the automation of different kinds of low-wage jobs. Their study is the first to examine automation within low-wage industry contexts. Aaronson and Phelan find that minimum wage increases do reduce routinized low-wage jobs (such as cashiers) and increase the number of less-routinized low-wage jobs (such as food preparation). As it turns out, the changes offset each other almost equally, resulting in no net change in employment. Thus, Aaronson and Phelan (2015) find that σ is essentially zero in low-wage occupations.

We use a σ of 0.2 in our calculations, half-way between Chirinko and Mallick and Aaronson and Phelan. This conservative assumption may therefore result in an over-estimate of the magnitude of the automation effect.

Aaronson and Phelan's findings also suggest very little substitution of highly skilled workers for lower skilled workers. Dube, Lester and Reich (2016) obtained a similar result. Consequently, we do not include any effect of skilled labor being substituted for unskilled labor in our model.

Automation in practice

Machines that process automated transactions—at airports and in airplanes, banks, self-checkout stations in retail stores, parking garages, and gasoline stations—have become particularly widespread over the past 30 years. During this period, the price of computer-related machines has rapidly declined. Labor-saving automation will occur even when wages do not rise, insofar as the technological change continues to push down the price of equipment, making investments in new equipment and software profitable.

The effects of a rising minimum wage on actual automation depend in part upon whether new labor-saving technology that has not yet been adopted continues to become available. We suggest that much of existing labor-saving technological change has already been embodied in low-wage industries, in equipment and software such as smart electronic cash registers, remote

reservations, and ordering systems. An increase in the minimum wage is likely only to generate small increases in the adoption of more automated systems.

Equally important, the rate of adoption of technical change depends on changes in the relative prices of capital and labor, not just on the price of low-wage labor. Although the prices of computer-related equipment and software have fallen dramatically, by approximately a factor of ten in the past several decades, the decline in the past five years is much smaller. Meanwhile, median wages have stagnated and real minimum wages remain lower than they were in the early 1970s.

The declining cost of capital is also reflected in declines in long-term interest rates in recent decades. Five-year and ten-year inflation-protected interest rates have also fallen dramatically. These changes in relative prices have been the main impetus to increased automation. Even a doubling of the minimum wage policy, which would imply (according to (Allegretto et al. 2015) an average wage increase of about 22 percent, would have very little impact in comparison. However, interest rates are unlikely to fall further. It is therefore likely that actual automation in low-wage industries is slowing.

To summarize, empirical estimates of the elasticity of substitution of capital for labor that include low-wage industries in their sample range between 0 and 0.4. We use 0.2, the midpoint of this range. Since Aaronson and Phelan find a much smaller elasticity, our use of 0.2 is conservative.

Reductions in paid hours relative to working hours

Some commentators assert that a higher minimum wage will lead employers to cheat workers of a portion of their wages. However, such practices already exist; the question at hand is how much the minimum wage increase will increase their prevalence and intensity. Although it is difficult to measure changes in wage theft, we know that employee-reported increases in pay (to a census surveyor) after a minimum wage increase match up well to employer-reported increases in pay on administrative reports that determine payroll taxes (Dube, Lester, and Reich 2010). These results suggest that most employers comply about as much after the increase as before.

Employee turnover and employer recruitment and retention costs

The correlation between low wages and high employee turnover is well known (Cotton and Tuttle 1986).¹⁶ Over the last decade, annual employee turnover in accommodation and food service averaged 70 percent a year, compared to 41.4 percent in other services, 30.5 percent in health care and social assistance, and 32 percent in non-durable manufacturing (Statistics 2014).¹⁷ Quits are higher in low-wage occupations because workers leave to find higher-wage jobs or because they are unable to stay in their jobs due to problems such as difficulties with transportation, child care, or health.

Recent labor market research has gone beyond establishing a correlation between pay and turnover. We now know minimum wage increases have well-identified causal impacts that reduce worker turnover. Dube, Naidu and Reich (2007) found that worker tenure increased substantially

in San Francisco restaurants after the 2003 minimum wage law, especially in limited service restaurants. Dube, Lester and Reich (2016) found that a 10 percent increase in the minimum wage results in a 2.1 percent reduction in turnover for restaurant workers and for teens. Jacobs and Graham-Squire (2010) reviewed studies of the impact of living wage laws on employment separations and found that a 1 percent increase in wages is associated with a decline in separations of 1.45 percent.

Turnover creates financial costs for employers (Blake 2000; Dube, Freeman, and Reich 2010; Hinkin and Tracey 2000). These costs include both direct costs for administrative activities associated with departure, recruitment, selection, orientation, and training of workers, and the indirect costs associated with lost sales and lower productivity as new workers learn on the job. Hinkin and Tracey (2000) estimate the average turnover cost for hotel front desk employees at \$5,864. A study of the cost of supermarket turnover by the Coca Cola Research Council estimates the replacement cost for an \$8 an hour non-union worker at \$4,199 (Blake 2000). Boushey and Glynn (2012) estimate that the median replacement cost for jobs paying \$30,000 or less equals 16 percent of an employee's annual salary.

Pollin and Wicks-Lim (2015) estimate that 20 percent of the increased costs from a minimum wage increase are offset by reductions in turnover. Similar estimates can be found in Fairris (2005) and Jacobs and Graham-Squire (2010). In a small case study of quick service restaurants in Georgia and Alabama (Hirsch, Kaufman, and Zelenska 2011), managers reported they offset 23 percent of the labor cost increases through operational efficiencies.

For our calculations below, we assume that 17.5 percent of the increase in payroll costs is absorbed through lower turnover in the early years of the proposed minimum wage increase.¹⁸ However, these turnover savings do not continue to grow at higher wage levels. Dube, Lester and Reich (2016) find that most of the reduction in turnover occurs among workers with less than three months of job tenure.

This result suggests that the effect of higher wages on increasing tenure dissipates as wage levels increase. We therefore assume that the increases in wages after 2018 no longer result in turnover reductions, yielding an overall lower rate of savings from turnover of 13.4 percent in 2019.

Impact of higher wages on worker performance

Paying workers more can also affect worker performance, morale, absenteeism, the number of grievances, customer service, and work effort, among other metrics (Hirsch, Kaufman, and Zelenska 2011; Reich, Jacobs, and Dietz 2014; Ton 2012; Wolfers and Zilinsky 2015).

Efficiency wage models of the labor market argue that wage increases elicit higher worker productivity, either because when employers pay workers more, workers are more willing to be more productive, or because they remain with the firm longer and thereby gain valuable experience, or because higher pay tends to reduce idleness on the job. This theoretical result

holds whether one company raises its wage above the market-clearing level, or whether all do (Akerlof and Yellen 1986).

Reduced employee turnover means that workers will have more tenure with the same employer, which creates incentives for both employers and workers to increase training and therefore worker productivity. A large scholarly literature makes this point, and it has been emphasized recently by firms such as Walmart, TJ Maxx, and The Gap as principal reasons underlying their announced policies to increase their minimum wages nationally to \$10. However, because of the lack individual- or firm-level productivity data, the earlier efficiency wage literature does not provide a reliable quantitative assessment of the importance of the effect on worker productivity among low-wage workers.

A new paper by Burda, Gedanek and Hamermesh (2016) does just that. Using microdata for 2003- 2012 from the American Time Use Study, Burda et al. find that working time while on the job increases when wages are higher. Their results imply that an increase in hourly pay from \$10 to \$15 increases the level of productivity by 0.05 percent.

Burda et al.'s estimate may be too high, given the difficulty of disentangling cause from effect in their loafing data. On the other hand, they do not have measures of worker engagement while working, which could make the actual worker productivity improvement potentially twice as large. To capture this range of productivity effects in our model, we use the Burda et al. estimate of 0.05 percent.¹⁹

Another relevant new paper (Card et al. 2016) appeared after the analysis for this report was completed. This paper uses firm-based data on value added per worker and pay to examine how much the rise of wage inequality derives from increases in firm-based productivity differences. The results in this paper (Card, personal communication) imply that a one percent wage increase leads to a 0.04 percent increase in log of productivity, which translates into a productivity increase of 0.1 percent. Consequently, our productivity estimate may be too low, which offsets our automation estimates, which may be too high.

A recent study by John Abowd et al. (Abowd et al. 2012) demonstrates the substantial room for productivity and wage growth in low-wage industries in the U.S. Using longitudinally linked employer-employee data, Abowd et al. disentangle wage differentials among industries that are attributable to individual heterogeneity (such as the demographic, educational, and work experience characteristics of workers in the industry), which they label person effects, from the characteristics of the product market and bargaining power of firms in the industry, which they label industry effects.

Abowd et al. can observe wage changes when individual workers move from one employer to another. They find very strong industry average firm effects, particularly for industries that have high average pay and low average pay. Among restaurants, for example, they find that 70 percent of the relatively low wages in the industry are attributable to firm effects, and only 30 percent to

person effects. These findings suggest that a change in an industry's environment can have large effects on worker pay.

Effects on prices

As we have seen, previous prospective studies have made different assumptions on how much costs will affect prices—and therefore also profits. Card and Krueger (1995) provide an extensive discussion of this issue. As they point out, from the point of view of an individual employer in a perfectly competitive industry, profits would be unaffected only in the extreme case in which firms can costlessly replace low-wage labor with high-skill labor and/or capital, and without cutting output. Since such substitutions are costly, from this perspective a minimum wage increase would have to reduce profits. Firms do not envision a price increase as a solution, as it fears losing sales to its competitors.

A different result emerges when Card and Krueger consider the point of view of an industry as a whole. This perspective is necessary since the minimum wage increase applies to all the firms in an industry. Now, when individual firms respond to the prospect of reduced profits by raising their prices, they find that other firms are doing the same. Some of the price increases will stick and the industry will recapture some of the reduced profits. However, since demand for the industry's product is not fixed, this increase in price entails some reduction in product demand, implying that industry output (and therefore employment) will fall. In other words, the price increase will permit employers to recover only a portion of their reduced profits. Card and Krueger do not, however, take into account the income effect that will increase sales when a minimum wage applies to an entire economy, not just a single industry.

The evidence on whether profits do fall is extremely scant. The most important study remains the one in Card and Krueger (1995). These authors obtained mixed results when examining the effects of minimum wage changes on shareholder returns for fast-food restaurant chains. Using British data, Draca et al. (2011) find a small negative effect on profits. However, one segment of this study uses data for firms in the British residential care industry. Firms in this industry were not permitted to increase prices, making the results not very useful for other sectors. Harasztosi and Lindner (2015) examine a large (60 percent) and persistent increase in the Hungarian minimum wage, which affected much of manufacturing. These authors find that cost increases were entirely passed through, but employment did not change and profits did not fall. Of course, the relevance of the British and Hungarian studies for the U.S. is highly uncertain.

In our model, employers pass all of the increase in operating costs stemming from a minimum wage increase onto prices, after accounting for the above-mentioned turnover savings, automation, and productivity growth. Studies of price effects of minimum wages are consistent with this model. These studies generally examine data on restaurants. Aaronson (2001) and Aaronson, French and MacDonald (2008) both find complete pass through of costs. However, their data come from a period of much higher inflation, are based on a handful of observations per metro area, and they do not correct their standard errors for clustering. In contrast, Allegretto

and Reich (2015) collected a large sample of restaurant price data in and near San Jose, before and after a 25 percent minimum wage increase in 2013 (from \$8.00 to \$10.00). Their results indicate that most of the costs are passed through to consumers in higher prices. Using scanner data from supermarkets, Montialoux et al. (forthcoming) find a similar effect for retail prices.

Effects on profits and rent

Some economists have argued that many firms have captured above-normal profits in recent decades. An increase in the minimum wage could therefore reduce such economic rents. We attempted to include such an effect in our model, but were stymied by limited data on the proportion of reduced profits that would be borne within the study area.

Our simulations did confirm that insofar as payroll cost increases are partly absorbed by profits, then the scale effect is smaller. The reduced profits have much less effect on the income effect because propensities to spend are low among shareholders and managers, and because much of the profit decline affects capital owners outside of the study area. As a consequence, including a fall in profits in our model would have led to more positive effects on employment.

Minimum wage increases will likely affect the composition of businesses within and among industries. Aaronson, French and Sorkin (2015) find that minimum wage increases raise both exit and entry rates among restaurants, suggesting that entering firms arrive with a business model that is more oriented to the higher wage minimums. These higher-wage firms could be instituting business methods that improve productivity or improve product quality, or both. It is not possible for us to quantify these secondary effects, as they require more data on such adjustment mechanisms than are available.

Franchisee-franchiser relationships and commercial rental leases could also be altered by minimum wage increases. Franchises are particularly important among restaurants. In principle, franchisees could pass their increased costs to franchisers, either through a relaxation of fees or land rent. However, data on such changes are not available, to our knowledge. Effects on commercial rents are also difficult to detect, in part because of the lack of data and in part because such leases are typically of longer duration.

5.2 Scale effects of increased prices on reduced sales of consumer goods

Economists use the term price elasticity of consumer demand to refer to the effect of an increase in prices on reducing consumer demand. Taylor and Houthakker (2010) report price elasticities for six categories of goods and services that together cover all of consumption. We adjust their health care elasticity to -0.20, to take into account changes in the structure of health care provision since the 1990s, and then compute a weighted average elasticity across the six categories using personal consumption expenditure shares from the U.S. Consumer Expenditure Survey (McCully 2011). The result is a price elasticity of consumer demand of -0.72.²⁰

This estimate is compatible with, but somewhat larger than, price elasticities estimated from aggregate panel data. Hall (2009), for example, obtains a price elasticity of -0.50. On the other hand, our estimate is very close to that of Blundell et al. (1993).

5.3 Income effects

We consider here the increased spending that derives from the higher income of low-wage workers. Our model takes into account the effects of taxes and reduction in public benefits on the affected workers' take-home pay and the rate at which their households spend (as opposed to save) income compared to others. Greater spending by consumers increases economic demand, which translates into increases in employment and economic activity.

We do not expect all of the increases in household incomes to translate into increased consumption demand. A substantial portion of minimum wage earners come from households in the middle of the household wage distribution. These households will save some of their increased income. The amount of such savings will depend on their current savings rates and on the extent to which they view the increase in income as permanent, rather than a short-term windfall.

Economic research has found that changes in permanent income generate much higher consumption effects than changes that are, or are perceived as, transitory. Low wage-earners who are young and have more education may regard their low-wage status as transitory. These earners may regard a minimum wage increase as transitory.

However, recent research has found that an increasing proportion of minimum wage workers are stuck in minimum wage careers (Boushey 2005; Casselman 2015). These results suggest that the proportion of workers who regard a minimum wage increase as constituting a one-time increase will be small. Moreover, economic theory and evidence suggests strongly that the distinction between permanent and transitory income does not apply to workers who are credit-constrained and whose households have accumulated very little in assets (Achdou et al. 2014). The majority of minimum wage workers fit this description.

The IMPLAN model does not account for savings that come from transitory income. The considerations above indicate that any such effects are likely to be small. This is nonetheless a topic for future research.

5.4 Model calculations and net effects on employment for scenario A: a \$15 minimum wage increase in San Jose

Table 10 displays the results of our model for 2019. Note that the estimates in this table are *cumulative*. They are estimated relative to the city's minimum wage in each year, and therefore capture the full effect of increases in the suggested city minimum wage in previous years.

Table 10. Scenario A: Cumulative net changes in employment in San Jose

	Impacts in San Jose	Additional impact in the rest of Santa Clara County & nine nearby counties	Total impact of a \$15 MW increase in San Jose, the rest of Santa Clara County and nine nearby counties
A. Cumulative reduction in wage bill due to capital-labor substitution and productivity gains			
Reduction in number of jobs from substitution effects and productivity gains	-1,190	n.a.	-1,190
B. Scale effect: Cumulative reduction in consumer spending			
Reduction in consumer spending from price increase (millions)	-\$107	n.a.	n.a.
Reduction in number of jobs due to the scale effect	-580	n.a.	n.a.
Reduction in GDP due to the scale effect (millions)	-\$64	n.a.	n.a.
C. Income effect: Cumulative increase in consumer demand			
Aggregate increase in consumer spending (millions)	\$204	+\$101	\$305
Increase in number of jobs due to the income effect	800	+890	1,690
Increase in GDP due to the income effect	\$92	+\$105	\$197
D. Cumulative net change in employment			
Net change in employment	-960	+880	-80
Net change in employment, as a percent of total employment	-0.3%	+0.3%	0.0%
Net change in GDP (millions)	\$25	+\$105	\$130
Net change in GDP, as a percent of total GDP	0.0%	+0.1%	0.1%

Source: Authors' calculations using the regional economic impact model IMPLAN.

Note: The nine nearby counties taken into account are: Alameda, San Mateo, San Francisco, Santa Cruz, Monterey, San Benito, Contra Costa, San Joaquin, and Merced. All estimates are in 2019 dollars.

Panel A: Reduction in employment due to capital-labor substitution and productivity gains

Panel A in Table 10 shows our estimates for the reduction in the number of jobs due to both capital-labor substitution effects and productivity gains. With an assumed capital-labor substitution elasticity of 0.2 and a productivity effect of 0.005, we find a negative employment effect of about 1,190 jobs.

Panel B: Scale effects due to reduced consumer spending

Panel B in Table 10 presents our estimates of the reductions in consumer spending from the higher payroll costs that are generated by the suggested minimum wage increase in 2019, in both (1) San Jose and (2) in San Jose, the rest of Santa Clara County and 9 nearby counties (Alameda, San Mateo, San Francisco, Santa Cruz, Monterey, San Benito, Contra Costa, San Joaquin, and Merced). Row 3 restates the total net percentage increase in payroll costs from the proposed policy, accounting for savings from reduced turnover costs. This number comes from the top line of Table 6, using the same assumption that expected savings from reduced turnover will be 17.5 percent in 2017, 17.5 percent in 2018 and 11.30 in 2019. Similarly, Row 4 in Table 8 restates the percentage change in prices from Table 6. Percentage changes in prices are equal to the percentage change in operating costs (after accounting for savings from turnover).

Row 5 presents our estimate of the reduction in consumer spending in San Jose from the price increase. As previously discussed, we estimate that each 1 percent increase in consumer prices results in a -0.72 percent decline in consumer spending. We apply this price elasticity of demand to the percentage increase in prices and then multiply by annual consumer spending in San Jose.²¹

The result is an estimate of \$64 million cumulative reduction in consumer spending by 2019. We then use IMPLAN to estimate the total reduction in consumer demand, including multiplier effects.²² Row 6 then translates these results into numbers of jobs.

Panel C: Income effect-- cumulative increases in wages from proposed minimum wage increase

Panel C of Table 10 presents the estimated income effect: increases in consumer demand deriving from increased incomes of low-paid workers. The income effects are presented first for San Jose (column 1), and then detailed for a broader region (column 3). The additional increase in income effects coming from the broader region is detail in column 2. We estimate that only 65 percent of workers are affected by scenario A work and live in San Jose. As a consequence, the income effect presented in column 1 captures only the positive effects of a boosted consumption for 65 percent of affected workers. Column 3 presents a more complete picture of these income effects: 99 percent of affected San Jose workers live in Santa Clara County and nine nearby counties.

Row 7 shows the total wage increase from the proposed law for all affected workers. These estimates are taken from Table 4, converted to nominal dollars in 2019. Row 8 adjusts the total wage increase for an estimated loss of 14.75 percent due to reduced eligibility for public assistance programs, as well as lost worker income due to reductions in consumer spending from

Panel A.²³ The result is an estimated net income increase of \$204 million by 2019 in San Jose, and \$305 million in Santa Clara County and nine nearby counties. We then use IMPLAN to estimate the increase in employment for San Jose resulting from the increased household spending triggered by the income increase, accounting for multiplier effects and spending leakage outside the city (respectively outside Santa Clara County and nine nearby counties).²⁴ Row 9 shows the employment change associated with this increase in income in San Jose (column 1), and in Santa Clara County and nine nearby counties (column 3).

Panel D: Net effect

As we have previously mentioned, the substitution productivity, scale, and income effects in Parts A to C occur simultaneously, not sequentially. It is thus not correct to infer that the employment changes in Parts A to C actually occur. Net employment changes occur only to the extent that is registered after we add Parts A to C together to obtain the net effects.

Panels A to C do tell us that the net effects will likely differ by job wage rates. In particular, the automation and productivity effects in Part A will occur entirely among low-wage jobs. The scale and income effects of Parts B and C, however, will affect jobs throughout the state's consumer demand industries and among a much broader wage distribution. We have not been able to quantify these differences, as they depend on the relative concentration of scale and income effects in low-wage industries.

In Panel D of Table 10, we present our estimate of the net change in employment from scenario A.

- For San Jose only (column 1), we estimate a cumulative net loss in employment, due to the policy, of 960 jobs by 2019, or -0.3 percent of total employment. To put this estimate in context, we project, based on past QCEW data on employment that San Jose will grow annually by 1.32 percent from 2014 to 2019. (For more details see Appendix A2.)
- For Santa Clara County as a whole and nine nearby counties (column 3), we estimate a cumulative net loss in employment, due to the policy, of 80 jobs by 2019, or -0.0 percent of total employment. We've also assumed that this broader region will grow annually by 1.32 percent from 2014 to 2019, at the same pace as San Jose. (For more details see Appendix A2.)

We emphasize again that our cumulative estimate will be spread over the preceding years of the minimum wage increase—the 2019 estimate includes effects in 2016, 2017, 2018 and 2019.

The key point in Table 10 is that a \$15 minimum wage has negligible effect on net on employment when examining the region as a whole.

5.5 Model calculations and net effects on employment for scenario B: a \$15 minimum wage increase in Santa Clara County

We conduct a similar analysis as in section 5.3 for a \$15 minimum wage increase in Santa Clara County. In Table 11 we present our results for Santa Clara County in column 1 and for Santa Clara County and nine nearby counties. We estimate that 84 percent of Santa Clara County affected workers are also living in Santa Clara County and therefore spend their additional income in this county. We also estimate that 99 percent of Santa Clara County affected workers live in Santa Clara County and nine surrounding counties.

Panel A: Reduction in employment due to capital-labor substitution and productivity gains

Panel A in Table 11 shows our estimates for the reduction in the number of jobs due to both capital-labor substitution effects and productivity gains. With an assumed capital-labor substitution elasticity of 0.2 and a productivity effect of 0.005, we find a negative employment effect of about 2,700 jobs.

Panel B: Scale effects due to reduced consumer spending

Panel B in Table 11 presents our estimates of the reductions in consumer spending from the higher payroll costs that are generated by the proposed minimum wage law in 2019.

We estimate that scenario B would lead to a \$214 million cumulative reduction in consumer spending by 2019. We then use IMPLAN to estimate the total reduction in consumer demand, including multiplier effects. Row 6 then translates these results into numbers of jobs.

Panel C: Income effect--cumulative increases in wages from proposed minimum wage increase

Panel C of Table 11 presents the estimated income effect: increases in consumer demand deriving from increased incomes of low-paid workers.

We estimate that scenario B could trigger a net income increase of \$602 million by 2019 in Santa Clara County, and \$706 million in Santa Clara County and nine nearby counties (column 3), i.e. an additional \$104 million (column 2). We then use IMPLAN to estimate the increase in employment for Santa Clara County resulting from the increased household spending triggered by the income increase, accounting for multiplier effects and spending leakage outside the city (respectively outside Santa Clara County and nine nearby counties).²⁵ Row 9 shows the employment change associated with this increase in income in Santa Clara County (column 1), and in Santa Clara County and nine nearby counties (column 3).

Panel D: Net effect

Panel D of Table 11 presents our estimate of the net change in employment in scenario B.

- For Santa Clara County only (column 1), we estimate a cumulative net loss in employment, due to the policy, of 1,350 jobs by 2019, or -0.1 percent of total employment.

- For Santa Clara County and nine nearby counties (column 3), we estimate a cumulative net gain in employment, due to the policy, of 60 jobs by 2019, or 0.0 percent of total employment.

Scenario B, as scenario A would lead to negligible effect on net employment by 2019 if the benefits of the income effect are fully taken into account. The job losses are greater if the area of study is smaller.

Table 11. Scenario A: Cumulative net changes in employment in Santa Clara County

	Impacts in Santa Clara County only	Additional impact in nine nearby counties	Total impact of a \$15 MW increase in Santa Clara County and nine nearby counties
A. Cumulative reduction in wage bill due to capital-labor substitution and productivity gains			
Reduction in number of jobs from substitution effects and productivity gains	-2,700	n.a.	-2,700
B. Scale effect: Cumulative reduction in consumer spending			
Reduction in consumer spending from price increase (billions)	-\$214	n.a.	n.a.
Reduction in number of jobs due to the scale effect	-1,120	n.a.	n.a.
Reduction in GDP due to the scale effect (millions)	-\$130	n.a.	n.a.
C. Income effect: Cumulative increase in consumer demand			
Aggregate increase in consumer spending (millions)	\$602	+\$104	\$706
Increase in number of jobs due to the income effect	2,480	+1,410	3,890
Increase in GDP due to the income effect (millions)	\$285	+\$170	\$455
D. Cumulative net change in employment			
Net change in employment	-1,350	+1,410	60
Net change in employment, as a percent of total employment	-0.1%	+0.1%	0.0%
Net change in GDP (in millions)	\$160	+\$170	\$330
Net change in GDP, as a percent of total GDP	0.1%	+0.0%	0.1%

Source: Authors' calculations using the regional economic impact model IMPLAN.

Note: The nine nearby counties taken into account are: Alameda, San Mateo, San Francisco, Santa Cruz, Monterey, San Benito, Contra Costa, San Joaquin, and Merced. All estimates are in 2019 dollars.

PART 3. POLICY ISSUES

IMPACTS ON SPECIFIC SUBPOPULATIONS

Young Adults and Learners

California regulation allows for “learner” employees to be paid 85 percent of the minimum wage during their first 160 hours of employment in occupations in which the employee has no previous similar or related experience (California Department of Industrial Relations 2013).

Local minimum wage laws typically incorporate state definitions of which employees are covered by state labor law. Of the 18 local minimum wage laws in California:

- 11 have no other special provisions for teens or learners
- 4 exempt youth training programs operated by a non-profit corporation or government agency (Sacramento, Richmond, Berkeley, San Diego).
- 1 exempts publicly subsidized job-training and apprenticeship programs for teens (San Francisco)
- 2 extend the state learner provision to 480 hours or 6 months (Santa Monica, Long Beach)
- 2 restrict the learner provision to youth under the age of 18 (Los Angeles, Pasadena)

The goal behind exempting young workers from minimum wage requirements is to avoid creating disincentives for hiring such workers. In theory, higher minimum wages could reduce the incentive for employers to hire less skilled workers, thus disadvantaging teens. On the other hand, higher minimum wages might draw more teen workers into the labor market, leading to an increase in teen employment.

Teens make up a shrinking share of the workforce. We estimate that teens will constitute 4 percent of workers affected by the proposed increase (see Table 4). A large body of research suggests that the effect of minimum wage laws on teen employment is either negligible or very small, and may run in either direction (Manning 2016). Giuliano (2013) finds a small increase in relative employment of teens after a minimum wage increase using personnel data from a large U.S. retail firm. Neumark and Wascher (1992) find a modest negative impact on teen employment through cross-state comparisons. Allegretto, Dube and Reich (2011) follow Neumark and Wascher’s methods, but control for regional differences and find no measurable impact on teen employment.²⁶

On the downside, subminimum or training wages for teens may create an incentive to hire middle-class teenagers over low-wage adult workers in high-turnover industries such as food-fast restaurants. When state or federal law has included a subminimum wage for teens, very few employers made use of it (Card and Krueger 1995).²⁷

To summarize, it appears that differential treatment for teens beyond what is already permissible in California law is not necessary.

Transitional Jobs Programs

Transitional jobs programs provide short-term, subsidized employment and supportive services through a non-profit organization to help participants overcome barriers to employment. This may include programs for the formerly incarcerated, youth from disadvantaged backgrounds, adults with mental health challenges and the homeless. The programs typically provide a mix of services to their client employees including vocational training, legal services, counseling, etc.

Most minimum wage laws treat transitional jobs programs the same as other non-profit organizations. To the degree the programs are funded by public contracts and philanthropy, the considerations for these programs may not be significantly different from other non-profit health and human service agencies. In Los Angeles and Santa Monica, participants in transitional jobs programs that meet specified criteria are exempted from the higher minimum wage for a maximum of 18 months.

Other Exemptions

General exemptions under state law

As discussed above, local minimum wage laws generally incorporate the definition of who is an eligible employee from state law. Under California law the following employees are exempt from the state minimum wage:

- A parent, child or spouse of the employer.
- A person under the age of 18 employed as a babysitter for a minor child of the employer in the employer's home.
- Persons employed by the federal government.
- "Outside salespersons" who spend more than half of their time away from their employer's place of business.

People employed in "executive, administrative or professional capacities" are exempt from most state wage orders (overtime, meal breaks, etc.). In order to be an exempt employee in California, the employee must earn a salary equal to twice the state minimum wage.

Subminimum wages for workers with severe mental or physical disabilities

Workers with severe mental or physical disabilities may be paid a sub-minimum wage if an employer has received a special license from the state labor commissioner. Wages are set based on the individuals' productivity and the prevailing wage for similar work. There is no legal wage floor for these programs.

This practice, which dates back to the passage of the Fair Labor Standards Act in 1938 has become more controversial in recent years. Opponents include the National Disability Rights Network and the National Federation for the Blind ("Groups Supporting the Repeal of Section 14(c) of the Fair Labor Standards Act" 2016). They argue that this allows for exploitation of disabled individuals. Proponents, such as Goodwill Industries, argue that it provides opportunities

to work for people who otherwise would not be employable due to their lower productivity. Maryland abolished the subminimum wage for people with disabilities earlier this year (Marans 2016).

Nonprofit organizations

Nonprofits comprise a wide range of organizations. Some are large institutions (universities, hospitals, large services providers) that have sizeable annual budgets with varied funding streams and that are therefore able to absorb minimum wage increases. Such institutions account for a significant portion of the nonprofit sector. At the same time, other nonprofits may face real constraints on their ability to adjust to minimum wage. These are typically smaller nonprofits dependent on a few public funding streams that are fixed over the short or even medium term, and over which they have little leverage.

A local minimum wage policy offers an opportunity to address the problem of low-wage work in certain nonprofit service-providing sectors—a problem that impacts the well-being of both workers and program clients through the quality of care provided. Raising wages in human services and early care and education has benefits for clients as well as workers.

There is a well-documented link between quality jobs, worker turnover and quality care in human services and early care and education.

Larson et al. (2004) found that, in the field of developmental disability services, high vacancies are associated with lower consumer and family satisfaction. Furthermore, families reported increased stress, greater financial challenges, and more job losses due to reduction in services that were at least in part connected to high turnover and vacancies. Wage increases have been shown to reduce turnover and vacancies. For example, after Wyoming legislation increased wages for developmental disability industry workers, turnover rates fell from 52 percent to 32 percent in just two years (Harmuth and Dyson 2005). Similarly, turnover decreased 17 percent among home care workers in San Francisco after an increase in wages (Howes 2002).

Other studies have directly linked wages and quality care. The National Childcare Staffing Study (Whitebook, Howes, and Phillips 1989) found that staff wages provided the strongest predictor of child care quality. Observations in child care centers in Wisconsin revealed an increase in the quality of care after a wage increase (Center on Wisconsin Strategy (COWS) 2002). Child care quality in turn has long-term impacts on children's learning, health and development (Whitebook, Howes, and Phillips 2014). Larson et al.'s 2004 study similarly found a link between lower wages in developmental disabilities services and lower quality of life assessments for consumers (Larson et al. 2004).

A higher minimum wage would help to reduce turnover in lower paid occupations within the nonprofit sector and improve quality outcomes for consumers. Exempting groups of nonprofit organizations from a minimum wage increase, conversely, could have negative effects on the quality of care by increasing employee turnover. If certain nonprofits pay lower wages than the

rest of the market, it will make it harder for them to attract and retain workers. But requiring higher wages without addressing the need to increase funding streams, or without providing sufficient phase-in time, is likely to result in cuts to services.

Ultimately, the solution is to increase public funding for the services provided by these nonprofits. San Jose and Santa Clara County could choose to fund the higher wages in certain sectors. San Francisco's C-Wages program, for example, provides County wage subsidies to child care centers and family child care providers that meet certain quality measures and enroll at least 25 percent of their children from low-income families. Funding for this program was increased to assist providers in meeting the higher minimum wage in 2015. San Jose could also engage with private philanthropy to help support nonprofit agencies through the transition. This should include both financial aid and technical assistance and management support in adjusting to the higher wage rate.

A number of city minimum wage laws have provided for slower phase-ins for nonprofit organizations to provide more time to adjust to the higher minimum wage. In San Francisco's 2003 law, implementation was delayed by one year for nonprofits; however, its recent 2014 law had no such phase-in. Berkeley's 2014 law exempts nonprofits for one year, at which point they are required to pay the same minimum wage as for-profit firms. Los Angeles allows nonprofit organizations to seek a one year deferral provided that either the chief executive officer earns a salary that is less than five times the lowest paid employee; it is a transitional employer as discussed above; it serves as a child care provider; or it is primarily funded by public grants or reimbursements. The new California minimum wage law treats nonprofits the same as all employers.

Small Businesses

The California State minimum wage law and a number of the city laws that reach \$15 an hour have provided slower phase-ins for small businesses. The State of California, Los Angeles, Los Angeles County, Long Beach and Santa Monica all delay the raises by one year for businesses with 25 or fewer employees. Emeryville has a slower phase-in for businesses with 55 or fewer employees (combined with a one year 60 percent increase in the minimum wage for larger firms). San Francisco, Sunnyvale, Mountain View and El Cerrito treat all firms equally, regardless of size.

In all of these cases the wages ultimately converge between large and small firms. This is important to reduce any perverse incentives created by permanently different wage structures for different business sizes. The State of California and Los Angeles area policies all begin indexing the year after the small firms reach the final mandated wage level, leaving the wage for larger firms at \$15 for two consecutive years. Emeryville increased the wage for large firms to \$14.44 in one step in 2015 and began indexing the following year. Wages for small firms reach \$15 in 2018 and are increased to match the rate for larger businesses the following year (estimated at \$16 an hour).

If San Jose or other cities in Santa Clara County choose to go this route, another important consideration is the definition of what counts as a business for the purpose of counting employees. Large firms often operate via multiple small establishments (i.e., retail clothing stores or bank branches); therefore, a small business definition based on establishment size will erroneously include large national or multinational firms. We would therefore recommend a definition based on firm, rather than establishment size. The same principle holds in the case of franchises—i.e., all franchises or other businesses owned by a given owner or group of owners should be counted toward firm size.²⁹

Whether or not the City institutes a longer phase-in period for certain small businesses, the Cities may want to seek ways to assist small businesses through the transition, including providing access to small business loans and technical assistance and training.

WAGE LEVEL

Economists often look at two summary statistics when assessing a proposed minimum wage increase schedule. The first measures the ratio of the minimum wage to the median full-time wage, a common metric used both in the U.S. and in other countries (Organization for Economic Co-operation and Development (OECD) 2013). The second estimates the percentage of the workforce directly or indirectly affected by the minimum wage increase. Both metrics provide a measure of scale of impact and therefore give us insight into the ability of an economy to absorb higher minimum wage levels (the two metrics are related but do not necessarily move in strict tandem). Table 11 shows our estimates of these metrics for the San Jose and Santa Clara County minimum wage scenarios at \$15 in 2019.

We begin with the ratio of the minimum wage to the median full-time wage (minimum-to-median ratio for short). Historically, this ratio reached a high of 55 percent in 1968 at the federal level (Dube 2014). The average for OECD countries is 49 percent; five, including France and New Zealand, have minimum-to-median ratios of 60 percent or more (2013). The United Kingdom recently pegged the minimum wage to a ratio of 60 percent (O'Connor 2016).

Table 11 shows that \$15 an hour in 2019 would result in a minimum to median ratio of 41 percent in San Jose and Santa Clara County, well within the historical range in the United States. Even at \$20, the minimum to median ratio in San Jose or Santa Clara County would be below 55 percent. This compares to 62 percent for \$15 in California when full phased in in 2023. New York City is projected to reach 57 percent, Los Angeles 62 percent, Seattle 53 percent and San Francisco 46 percent at the point of full implementation in each of those cities.

It is important not to place too much weight on the minimum to median wage measure. While the minimum to median ratio provides a simple tool of thumb for comparisons across geographical areas, it can be misleading on its own, especially for small geographic areas, and is best used in combination with other measures.

Table 11. Minimum wage to median ratio, bite and average percent increase per year

	Minimum Wage to Median Full-Time Ratio	Share of workers getting pay increases (Percent)	Average Percent Earnings Increase (Percent)
San Jose (\$15)	0.41	31	18
Santa Clara County (\$15)	0.41	25	19
San Jose (\$20)	0.55	NA	NA
Santa Clara County (\$20)	0.54	NA	NA
California	0.62	39	24
New York City	0.57	35	28
Los Angeles City	0.62	39	29
Seattle	0.53	29	NA
San Francisco	0.46	23	16

Sources: UC Berkeley-IRLE calculations using ACS data and Cooper (2016) for New York State; Reich et al. (2015) for a \$15.25 minimum wage in Los Angeles and in Seattle; Reich et al. (2014) for a \$15 minimum wage by 2018 in San Francisco.

Notes: The figures are provided for the end point of the minimum wage increase. The end point for California is 2023. It is 2019 for New York City and Los Angeles and 2018 for Seattle and San Francisco. The Share of workers getting pay increases for Seattle is the percent of employees who earn \$15 or under and live and work in Seattle.

Our second metric shows that that the percentage of workers directly and indirectly affected under the proposed law. The share of affected workers in San Jose (31 percent) and Santa Clara County (25 percent), are below each of the other \$15 minimum wage laws, with the exception of San Francisco (23 percent). Similarly, the average projected increase per worker in San Jose (18 percent) and Santa Clara County (19 percent) are well below the other policies, again with the exception of San Francisco (16 percent). In contrast, state and federal minimum wage increases between 1979 and 2012 have generally affected 10 percent or less of the workforce (D. H. Autor, Manning, and Smith 2016).

Effects of a \$20 Minimum Wage

Setting a higher minimum wage (such as \$20) can be expected to amplify each of the effects discussed in the minimum wage model, but not to the same degree. The higher wage level is likely to increase the negative consumption effects caused by higher prices, and negative employment effects from automation and increased productivity. Since more of the individuals receiving wage increases would have higher income levels, either as a result of the wage increase or because the increases are reaching farther up into the wage distribution, a greater portion of the increased wages is likely to be saved rather than spent. This means that the positive consumption effects from higher wages will decline as the size of the increase goes up. As a result, a \$20 minimum wage in 2019 is likely to generate larger negative net employment effects. To understand the size of those effects would require further research. Any projections at wage levels much higher than previously studied necessarily entail greater uncertainty.

Raising the minimum wage steeply over a short period of time is also likely to generate greater disruption of existing firms (Aronson and Phelan 2015). While by some of the indicators discussed above San Jose and Santa Clara County may well be able to absorb a higher minimum wage than \$15 an hour, if the City and County were to pursue such an option, a longer phase in time should be considered and assistance provided to non-profit human service agencies and small businesses as they make the transition to higher wages.

CONCLUSION

The proposal to increase the minimum wage to \$15 by 2019 will generate benefits and costs for workers and businesses in Santa Clara County and San Jose. Like all forecasts, our estimates of the benefits and costs are subject to some uncertainty. First, economic conditions, such as employment and wage growth in the absence of the policy, may differ in future years from the standard forecasts that we rely upon in this report. For example, in a recession employment would fall and wages would not grow as quickly. Our cost estimates might then be somewhat larger, but then so would our benefit estimates. Our estimates of the net effects are therefore likely to change, but not by a large amount. Second, our estimates rely on parameters that are themselves estimated with some uncertainty. We have tested the sensitivity of our calculations to these parameters. The results were encouraging, but require further research.

The proposed policy would result in substantial benefits to low-wage workers and their families. The policy will raise wages for 115,000 workers in San Jose and 250,000 in Santa Clara County by 2019. On average, for workers getting increases, their annual earnings will increase by 17.8 percent or \$3,000, in San Jose and \$3,200 or 19.4 percent in Santa Clara County by 2019.

These large increases in pay will raise overall wages in for-profit businesses by only 1.3 percent in San Jose and one percent in Santa Clara County. This amount is surprisingly small because many businesses already pay more than \$15, because many of the workers who are now paid below \$15 are already paid above the current minimum wage, and because the pay of low-wage workers makes up a smaller share of total payroll costs.

Businesses will absorb the additional payroll costs partly through savings on employee turnover costs, higher worker productivity gains, and some automation (the substitution effect). Most of the increase in costs will likely be passed on to consumers via increased prices. Since labor costs make up only about one-fourth of operating costs, consumer prices will increase only slightly—about 0.3 percent in San Jose and 0.2 percent in Santa Clara County over the entire phase-in period. Prices will be most affected in the restaurant industry, where they will increase by 3.1 percent in San Jose and 2.9 percent in Santa Clara County.

These higher prices by themselves would reduce consumer sales and reduce the demand for labor (the scale effect). But simultaneous positive effects on increased consumer spending from workers receiving wage increases will offset the scale and substitution effects.

After taking into account all of these factors, we estimate that the proposed minimum wage policy would result in slower employment growth, reducing overall net employment (as a percent of total employment) in San Jose by 0.3 percent and in Santa Clara County by 0.1 percent by 2019, over the baseline. This estimate is cumulative (and so will be spread over several the phase-in period). In comparison, employment in the state is projected to grow 1.32 percent annually in the same time period. Most of the job declines reflect leakage of the increased spending into the rest of the region. When taking into account the surrounding counties, the net effect on jobs is close to zero.

In sum, it is possible to effect a substantial improvement in living standards for a quarter of the workforce in San Jose and nearly a third of the workforce in Santa Clara County without generating a significant net adverse employment effect. It can do so through induced efficiencies (more automation, productivity gains, and turnover savings) and slight price increases borne by all consumers. Based on our analysis, we conclude that the proposed minimum wage will have its intended effects in improving incomes for low-wage workers. Any effects on employment and overall economic growth are likely to be small. The net impact of the policy will therefore be positive.

APPENDIX: DATA AND METHODS

In this appendix, we document the data and methods we use in this study. Section A1 details how the Census' American Community Survey was used both to estimate pay increases for affected workers and the median full-time wages in San Jose and Santa Clara County. Section A2 describes the data and methods we use to calibrate the UC Berkeley IRLE minimum wage model.

A1. THE WAGE SIMULATION MODEL

In this section, we describe our simulation model for estimating the number of workers that would be affected by the Scenario A and Scenario B minimum wage increases. We provide a general overview of our methodology here. For full documentation of the model and data we use, see Perry, Thomason and Bernhardt (Forthcoming).

The logic of our method is to simulate the future San Jose and Santa Clara County wage distributions with and without the scenario minimum wage increases. First, we use our model to run a “baseline” simulation of the wage distribution through 2019 assuming existing minimum wage schedules (see Table 2 and Table 3). We then use our model to run a “scenario” simulation of the wage distribution through 2019 assuming the minimum wage increases specified in the two scenarios.

We then compare the baseline and scenario simulated wage distributions to identify the impact of the minimum wage increase scenarios above and beyond currently scheduled minimum wage increases. With this comparison, we are able to estimate (a) the number of workers affected by each scenario, and (b) the additional wages earned as a result of the increase. In our estimate of affected workers, we include those workers who earn just above the new minimum wage but who also receive an increase via the ripple effect (see below). Our estimates are adjusted for projected wage and employment growth.

Dataset

We combine the 2013 and 2014 IPUMS American Community Survey (ACS) (<https://usa.ipums.org/usa/>) in order to attain sufficient sample size for our analysis (Ruggles et al. 2015). The American Community Survey is the largest annual survey conducted by the U.S. Census Bureau, and interviews more than 2.3 million households throughout the United States. The ACS is better suited than the Current Population Survey (CPS) for conducting labor market analyses at the state or sub-state level for two main reasons: first, the ACS sample size is much larger than the CPS; and second, the ACS contains place of work data, while the CPS data are limited to place of residence. This allows us to disaggregate wage and employment data for sub-state geographical units.

Sample definition

We make the following adjustments to our ACS sample:

1. We restrict the sample to individuals age 16 to 64 who had positive wage and salary income in the previous 12 months, who worked in the previous 12 months, and who were not self-employed or unpaid family workers.

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2. We exclude the following workers from our sample who would not be eligible for a municipal or county minimum wage law:
 - a. Federal and state government workers would not be eligible for the minimum wage increases in Scenario A and Scenario B because local governments do not have jurisdiction over federal or state employees.
 - b. Public education employees are excluded from our sample because local school districts are state entities and are exempt from local minimum wage laws.
 - c. In-Home Supportive Service (IHSS) workers are also excluded because IHSS programs are administered at the county level and are exempt from local minimum wage laws.

Wage measure

Because the ACS only records workers' annual earnings, it is necessary to estimate an hourly wage variable in order to perform simulations of the effects of minimum wage increases. The hourly wage is estimated for all workers in the sample using their reported annual earnings, usual hours of work per week, and weeks worked in the previous year. The annual earnings measure includes wages, salaries, commissions, cash bonuses, and tips from all jobs, before deductions for taxes. The "number of weeks worked in the previous year" variable is a categorical variable of intervals of weeks worked (such as 14–26 weeks or 50–52 weeks). This variable is converted to a discrete variable using the mid-point of each interval. The hourly wage variable is then estimated as annual earnings divided by the product of the number of weeks worked in the previous year and usual hours worked per week. Workers in occupations that receive tips as the majority of their earnings are coded with hourly wage values equal to state minimum wage, since we only want to measure wages paid by their employer in this study.

Geography

The smallest geographic unit for the ACS place-of-work variable is the county. In order to estimate the impact of the minimum wage scenarios for cities within Santa Clara County, we conduct our simulation as described above using county-level data, and then estimate the number of affected workers in the city by applying the percentage of affected workers to city-level employment estimates from the Quarterly Census of Employment and Wages (QCEW). This step introduces additional assumptions; namely, that the wage distribution of those who work in the city (not all of whom live in the city) is the same as the wage distribution of those who work in the county, and that future wage and employment growth trends in the city will mirror those at the county level. We therefore make two adjustments to our county-level ACS data to better approximate the city-level wage distribution:

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1. We use data from the California Employment Development Department to adjust the industry and sector distribution of the county-level ACS data to match the city's distribution.
 2. We adjust wages for two high-impact industries where QCEW data show a significant difference in wages in San Jose and Santa Clara County.

Our model for Santa Clara County takes into account the different local minimum wage laws in effect within the county (see Table 3).

Identifying affected workers

Our model estimates the impact of minimum wage increases on three groups of affected workers: minimum wage workers, subminimum wage workers, and those who are indirectly affected (via spill-over effects). The spill-over effect means that workers who make slightly more than the new proposed minimum wage level are also likely to receive wage increases.

The main group of affected workers – minimum wage workers – consists of those who earn between the old minimum wage and the new minimum wage. Given measurement error, we include in this group workers who earn somewhat below the old minimum wage (down to 90 percent of the old minimum wage). Subminimum wage workers include those earning between 50 percent to 89 percent of the old minimum wage. Indirectly affected workers are those earning between 100 and 115 percent of the new minimum wage.³⁰

We then estimate the additional wages earned by affected workers as a result of the minimum wage increase scenario, as summarized in Table A1. Minimum wage workers simply receive the new minimum wage. Subminimum wage workers receive a percentage wage increase of the same size as the percentage change in the statutory minimum wage. Indirectly affected workers receive a quarter of the difference between their current wage and the upper bound of the spill-over band (115 percent of the new minimum wage).

This model is used to simulate the scenario minimum increases for each of the phase-in years from 2017 to 2019, but also to simulate baseline minimum wage increases between 2013 and 2019 (i.e. minimum wage increases that have already occurred or are planned under existing law). We model overall regional wage growth over time using the average annual growth rate of the San Francisco CMSA CPI-W Urban Wage Earners & Clerical Workers between 2005 and 2014 (2.45 percent).

A2. CALIBRATING THE UC BERKELEY IRLE MINIMUM WAGE MODEL

A2.1 Structure of the model, and calculations step by step

Table A1 summarizes the structure of our model. The table has four components. The top part describes the number of workers in the state who will receive pay increases by 2021. Part A describes the effects of automation and worker productivity gains. Part B describes how much consumer prices will increase and how much those increases will reduce consumer demand and employment. Part C describes how we calculate the income effect: how pay increases will increase consumer spending and employment. Part D describes how we calculate the net effect on employment. In this section we document in detail the data and methods that we use in each part of Table A1. In section A2.2, we document the source of the key parameters used to calibrate our model.

Top part: Workers affected and wage increase

Lines [1] to [3] in Table A1 use our estimates (described in detail in the first section of the appendix) on how the labor force will grow and how the proposed minimum wage increase would affect the wage distribution of workers in San Jose (respectively Santa Clara County). The wage estimates include the number of workers directly and indirectly affected by the two scenarios, and their nominal wages with and without the policy. We also use our estimate of the total wage bill by 2019: it will be \$31.1 billion in San Jose with minimum wage increase (as described in scenario A) and \$30.7 billion without the minimum wage increase. In Santa Clara County, we estimate that the total wage bill will be 90.0 billion with the minimum wage increase (as described in scenario B) and 89.1 billion without the minimum wage increase.

Part A: Impact of capital-labor substitution and productivity gains

Part A calculates the impact of capital-labor substitution and productivity gains on employment and the total wage bill. Our estimates are calculated as follows:

The reduction in number of jobs from substitution effects (line [5] in Table A2) is calculated by multiplying four components: (i) the capital-labor substitution elasticity (see section A2.2) (ii) the average wage increase of workers getting increases, that we estimate to be 18 percent based in San Jose (respectively 19 percent in Santa Clara County), (iii) the profit share of revenues (see section A2.2), and (iv) the total number of affected workers.

The reduction in number of jobs from productivity gains ([6]) is calculated by multiplying two components: (i) the productivity gains (see section A2.2 for a description of the values we use to calibrate the model) and (ii) the total number of affected workers (that we estimate to be 115,000 in San Jose and 250,000 million in Santa Clara County according to our wage simulation model).

The reduction in wage bill due to substitution effects and productivity gains ([7]) is calculated by multiplying the reduction in number of jobs due to capital-labor substitution and productivity gains ([8]) by the nominal average annual earnings of workers who would otherwise remained employed ([9]).

Table A1. Structure of the UC Berkeley IRLE minimum wage model for the case of San Jose

A. Workers affected and wage increases	
Total employment	[1]
Total number of affected (directly and indirectly) workers in San Jose in 2019	[2]
Working age population growth from 2014 to 2019	[3]
B. Impact of K-L substitution and productivity gains on number of jobs and wage bill	
Reduction in # of jobs from substitution effects and productivity gains	[4]=[5]+[6]
Reduction in # of jobs from substitution effects in 2019	[5]
Reduction in # of jobs from productivity gains in 2019	[6]
Reduction in wage bill due to substitution effects and productivity gains job loss (in millions)	[7]=[8]*[9]/1e6
Reduction in # of jobs from substitution effects and productivity gains	[8]=[4]
Nominal average annual earnings of directly and indirectly affected workers without the policy	[9]
C. Scale effects: increase in consumer prices and reduction in consumer demand	
Percentage increase in consumer prices	[10]=[11]
Percentage increase in operating costs	[11]=[12]*[13]
Payroll share of operating costs	[12]
Net percentage payroll increase, accounting for savings from reduced turnover and productivity gains	[13]
Annual reduction in consumer demand from price increase (in millions)	[14]=[15]*[16]
Percentage reduction in demand from price increase	[15]
Annual aggregate consumer spending in San Jose (in millions)	[16]
Reduction in # of jobs from consumer spending reduction in San Jose	[17]
Reduction in # of jobs, as a percentage of total employment	[18]
D. Income effects: effects of pay increases on consumer spending and employment	
Net change in compensation for workers in San Jose (in millions)	[19]=[20]-[21]
Total wage increase for state workers in San Jose from proposed minimum wage increase (in millions)	[20]
SNAP and ACA benefit reduction	[21]
Increase in # of jobs from wage increase in San Jose (respectively in SC county and nine counties)	[22]
Increase in # of jobs, as a percentage of total employment	[23]
E. Net effects	
Cumulative net change in # of jobs in San Jose	[24]
Cumulative net change in # of jobs, as a percent of total employment	[25]=[24]/[1]
Annual net change in # of jobs in San Jose	[26]=[24]/5
Annual net change in # of jobs, as a percent of total employment	[27]=[25]/5

Source: UC Berkeley minimum wage model.

Part B: Scale effects: increase in consumer prices and reduction in consumer demand

Part B of Table A1 estimates the percentage increase in consumer prices due to an increase in operating costs for firms and the annual reduction in consumer demand from price increase. We use the 2014 IMPLAN model to calculate the impact of this reduction in consumer spending on employment. Our estimates are calculated as follows:

- The percentage increase in consumer prices ([10]) is assumed to be equal to the percentage increase in operating costs ([11]), following the widely-used Dixit-Stiglitz model of monopolistic competition (Dixit and Stiglitz 1977).
- The percentage increase in operating costs ([11]) is obtained by multiplying the net percentage payroll increase ([13]) by the labor share of operating costs ([12]).
- The net percentage payroll increase ([13]) includes savings from reduced turnover and the reduction in wage bill due to substitution effects and productivity gains. We estimate the total wage bill increase to be \$389 million in San Jose by 2019 (respectively \$899 million in Santa Clara County). We subtract the reduction in total wage bill due to substitution effects and productivity gains ([1]). We also account for the increase in payroll costs that corresponds to Medicare, Social Security, and Workers' Compensation costs. This share equals 10.36 percent in 2019 (see section A2.2 for the source). To compute the net percentage increase in payroll costs, we apply a partial offset for turnover cost savings (see section A2.2 for the source).
- The labor share of operating costs ([12]): we estimate the economy-wide labor share of operating costs to be 22.1 percent in 2016 (see section A2.2 for the source).
- The reduction in consumer demand from price increase ([14]) is obtained by multiplying the percentage reduction in demand from price increase ([15]) by the annual aggregate consumer spending in San Jose (respectively Santa Clara County) ([16]). The estimated reduction in consumer demand due to higher prices equals \$107 million in San Jose (respectively \$214 million in Santa Clara County). The key components of this calculation are:
 - The percentage reduction in consumer demand from price increase ([14]). It depends on two parameters: (i) the percentage increase in consumer prices as calculated in line [10], and (ii) the price elasticity of demand (see section A2.2 for the source). The bigger the price elasticity of demand is, the more sensitive the consumers are to a price change and the greater the percentage reduction in demand from price increase is.
 - Annual aggregate consumer spending ([16]) is obtained by multiplying the projected annual GDP for San Jose and Santa Clara County in 2019 by an overall estimated share of consumer spending in GDP. We estimate San Jose GDP and

Santa Clara County GDP so that it is consistent with the underlying value of the GDP in IMPLAN in 2019 (see section A2.2), and we estimate that the share of consumer spending in GDP is 58.8 percent (see section A2.2). We estimate that the annual aggregate consumer spending is \$57.9 billion in 2019 in San Jose and 146.5 billion in Santa Clara County.

- The annual reduction in jobs resulting from price increases is estimated using the 2014 IMPLAN model (see (Day 2013) for documentation on this software). We adjust those estimates by working age population growth from 2014 to 2019, estimated to be 6.79 percent for the overall period in both San Jose and Santa Clara County (see section A2.2).

Part C: Income effects

Part C of Table A1 estimates the income effects resulting from pay increases for low-wage workers, the resultant increase in consumer demand, and its impact on employment. Our estimates are calculated as follows:

- The net change in compensation for affected workers ([19]) is calculated as the total wage bill increase for affected workers ([20]) minus the wage bill reduction from a reduction in the Supplemental Nutrition Assistance Program (SNAP) and in premium tax credits under the Affordable Care Act benefit reduction ([21]).
- The offset from SNAP and premium tax credits ([21]) under the ACA is estimated to be 14.75 percent of the total wage increase (see Appendix A2) and is applied to the total wage bill increase for all households, as there is no easy way to separate this out by income brackets.
- The annual increase in jobs resulting from higher consumer demand is estimated using the 2014 IMPLAN model. We adjust those estimates by the working age population growth from 2014 to 2019, estimated to be 6.79 percent for the overall period in both San Jose and Santa Clara County (see section A2.2 for the source).

Part D: Net effects

Part D of Table A1 estimates the cumulative net effect on employment ([24]), simply by subtracting the reduction in employment due to substitution effects, productivity gains ([4]), and scale effects ([17]) from ([the employment gains due to income effects 22]). We compute the annual estimates by dividing the cumulative effects on employment by five, to account for the number of years needed for the policy to be fully phased in. These numbers are therefore approximate annual averages.

A2.2 Key parameters and assumptions used in the model

Our key parameters are drawn from the best available evidence. We vary some of them in our robustness tests. We explain and document below the range of those parameters and the

sources we used. The values of the key parameters used in the model are summarized in table A2.

Table A2. Key parameters of the model

	In San Jose	In Santa Clara County
A. Workers affected and wage increases		
Working age population growth from Dec 31 2012 to July 1 2021	6.79%	6.79%
B. Impact of K-L substitution and productivity gains on number of jobs and wage bill		
Capital-Labor substitution	0.2	0.2
Profit share (taking into account the share going to intermediate inputs and materials) of revenues	0.15	0.15
Productivity gains - in levels	0.005	0.005
C. Scale effects: increase in consumer prices and reduction in consumer demand		
Labor percent of operating costs	22.1%	22.1%
Percent of wage costs for Medicare, Social Security, and worker compensation	10.36%	10.36%
Turnover reduction (as share of payroll increase)	0.11	0.11
Price elasticity of demand	-0.72	-0.72
Annual GDP in 2019 (in millions)	\$98,420	\$249,225
Share of consumer spending in GDP	0.588	0.588
D. Income effects: effects of pay increases on consumer spending and employment and employment		
Percentage offset from reduced SNAP benefits and lower premium tax credits	14.75%	14.75%
Offset from reduced EITC	0.60%	0.60%
Offset from reduced SNAP benefits	4.20%	4.20%
Offset from lower premium tax credits under the ACA	2.30%	2.30%
Offset from reduced payroll taxes	7.65%	7.65%
E. Net effects		
<i>No key parameters used in this section</i>		

Source: UC Berkeley minimum wage model.

Future Employment Growth

Our estimate of future employment growth in San Jose and Santa Clara County comes from data supplied by the California Employment Development Department (EDD) (2015).

Capital-labor substitution

For a discussion about capital-labor substitution and the sources we used, see section 4.2 in the main report.

Profit share of revenues

We use Table 1.14. "Gross Value Added of Domestic Corporate Business in Current Dollars and Gross Value Added of Nonfinancial Domestic Corporate Business in Current and Chained Dollars" of the National Income and Product Accounts Tables (NIPA) published by the Bureau of Economic Analysis to estimate the labor and capital share of national income. Using the 2014 data, we estimate that the labor share of national income is 62 percent and the capital share of national

income (including capital depreciation) is 38 percent. Knowing that the labor share of operating costs is 22.1 percent in 2016, we apply the growth rate of payroll costs to estimate the labor share of operating costs in 2019 and estimate that the profit share of revenues is therefore estimated to be 0.15 in 2021. The remainder of businesses revenues is composed of materials, intermediate inputs and rent.

Productivity gains

For a discussion of productivity gains and the sources we used, see section 5.1 in the main report.

Labor share of operating costs

Net payroll cost increases for businesses are a function of three factors: (1) the total wage bill increase, after reduction due to substitution effects and productivity gains; (2) Medicare, Social Security, and Workers' Compensation increases, and (3) turnover costs savings. The payroll costs increase as total compensation increases and decrease with turnover costs savings.

- The total wage bill increase from 2016 to 2019 is estimated with our wage simulation model based on micro data. For each year, we calculate the reduction in wage bill due to job losses from substitution effects and productivity gains, assuming that capital-labor substitution and productivity gains are constant over the years. We assume in our calculations that capital-labor substitution is equal to 20 percent every year, and that productivity gains are equal to 5 percent every year.
- Employers' costs for Medicare, Social Security, and Workers' Compensation will equal 10.36 percent of wages from 2016 to 2019. We estimate the three components—Medicare (1.45 percent), Social Security (6.2 percent), and Workers' Compensation costs—separately. Since we are estimating only the effects of a minimum wage increase, we assume the Medicare and Social Security rates will not change between 2016 and 2019. For Workers' Compensation costs, we draw from a report of the National Academy of Social Insurance (Citation)(2013). Table 14 (p. 37) of this report indicates that Workers' Compensation employer costs in 2013 amounted to \$1.50 per \$100 of eligible wages. These costs increased \$0.11 cent increase a year over 2011–2013, slightly more than the 2009–2011 change. To account for these cost increases, we adjust the 2013 cost by \$0.34. Consequently, we estimate that Workers' Compensation costs will equal 1.84 percent of wages in San Jose and Santa Clara County from 2016 to 2019.
- Turnover costs savings are based on the estimates of Pollin and Wicks-Lim (2015), Fairris (2005), Dube, Freeman and Reich (2010), Dube, Lester and Reich (2016), Boushey and Glynn (2012), and Jacobs and Graham-Squire (2010). See section 5.1 in the main report.

The labor share of operating costs by industry

For each industry, we estimate labor costs as the sum of the annual wage costs, payroll taxes and employer paid insurance premiums (except health insurance), and other benefits (other than contributions to pension plans). The labor share is estimated using 2012 Census Bureau surveys—the most recent year available. We use these surveys only for select individual industries: retail trade; food services; wholesale trade; manufacturing; administrative and waste management services; health care and social assistance (including ambulatory care, hospitals, and long-term care); and other services. We document here our sources and methods for these individual industries as well as for our estimates of the labor share of operating costs in the overall economy.

- **Retail trade (including grocery stores):** The 2012 U.S. Census Annual Retail Trade Reports provides data on retail sales, payroll costs, merchandise purchased for resale, and detailed operating expenses. We add operating expenses and purchases together to determine total operating costs. We add the costs of payroll taxes, employer paid insurance premiums, and employer benefits (excluding health insurance and retirement benefits) to annual payroll to estimate total labor costs. Health and retirement benefits are excluded since, unlike payroll taxes and Workers' Compensation insurance, the costs of the benefits will not change if wages are increased. Dividing labor costs by operating costs gives us the labor share in retail trade.
- **Food services industry:** Industry data on gross operating surplus are available from the Bureau of Economic Analysis Input-Output Account Data, before Redefinitions, Producer Value. We subtract gross operating surplus from sales to obtain total restaurant operating costs, and then proceed as we did for retail to obtain labor cost data.
- **Wholesale trade:** Data are from the U.S. Census Annual Wholesale Trade Report. We follow the same methods as with retail trade.
- **Manufacturing:** Data are from the 2012 Economic Census (Table EC1231I1). To determine operating expenses we add together payroll costs and benefits, total cost of materials, total capital expenditures, depreciation, rental or lease payments, and all other operating expenses. To determine labor costs we add together payroll costs and payroll taxes, employer paid insurance premiums, and employer benefits (excluding health insurance and retirement benefits).
- **Administrative and waste management services, health care and social assistance (including ambulatory care, hospitals, and long-term care), and other services:** Data are from the U.S. Census Annual Services Report, which provides data on payroll and operating expenses. Total operating expenses are reported directly in the data. To determine labor costs we add together payroll costs and payroll taxes, employer paid insurance premiums, and employer benefits (excluding health insurance and retirement benefits).

-
- Overall economy: We sum the total labor and operating costs across all industries with available data and then divide the aggregate labor costs by the aggregate operating costs. In addition to the industries listed above, we are able to use the Annual Services Report to gather data on the following industries: utilities; transportation and warehousing; information; finance and insurance; real estate and rental and leasing; professional, scientific, and technical services; educational services; and arts, entertainment, and recreation. We are missing data for the following industries, and as a result they are not included in our calculation: agriculture, forestry, fishing, and hunting; mining, quarrying, and oil and gas extraction; construction; accommodation; and public administration. Overall, we estimate that the labor share of operating costs is 22.1 percent in 2012, and assume it is constant between 2012 and 2016.

Share of payroll costs for Medicare, Social Security and Workers' compensation

The share of Medicare, Social Security, and Workers' Compensation is assumed to continue to be 10.36 percent from 2016 to 2019. We estimate the Medicare, Social Security, and Workers' Compensation costs separately. Employers are liable for 6.2 percent Social Security taxes and 1.45 percent Medicare taxes. We estimate that the Workers' Compensation employer cost is 2.71 percent of wages in California. The estimate of 2.71 comes from Workers' Compensation Insurance Rating Bureau of California (2014), Chart 6 for "all industries":

http://www.wcirb.com/sites/default/files/documents/state_of_the_wc_system_report_140815.pdf.

Turnover reduction

For a discussion on savings generated by turnover reduction and the sources we used, see section 5.1 in the main report.

Price elasticity of demand

The price elasticity of demand measures the effect of a price increase on reducing consumer demand. We use a price elasticity of 0.72. This estimate is based on Taylor and Houthakker (2010), who report price elasticities for six categories of goods and services. We adjust their estimates to account for changes in the elasticity of health care spending attributable to the Affordable Care Act and other changes in the health care system.

GDP for San Jose and Santa Clara County in 2019

The 2019 GDP used in our model has been forecasted using the following methodology:

- We start with the 2014 GDP reported in IMPLAN, i.e. \$84.4 billion in San Jose, and \$213.7 billion in Santa Clara County;
- We then forecast the GDP for San Jose (respectively for Santa Clara County) by applying the employment growth of 6.79 percent from 2014 to 2019 (respectively 6.79 percent for Santa Clara County), the projected wage growth using the last 10 years of CPI-W growth of

12.9 percent (respectively 12.9 percent for Santa Clara County), and the GDP deflator in IMPLAN for 2019 (1.039 for both San Jose and Santa Clara County).

Share of consumer spending in GDP

Our estimate of the share of consumer spending in GDP includes only consumer spending that flows through households. We therefore reduce the BEA's estimate of the consumption share by 14.1 percent.

Offsets from benefit reductions and payroll tax increases

We estimate that the total offset from reduced EITC to be 0.6 percent, the offset from reduced SNAP benefits to be 4.20 percent, the offset from lower premium tax credits under the ACA to be 2.3 percent, and the offset from reduced payroll taxes to be 7.65 percent (the remaining personal income taxes are removed by IMPLAN). These estimates have been calculated using Congressional Budget Office (2012). These results are for the year 2012, and we assume they will remain constant until 2021.

Share of in-commuters

We use 2014 ACS data to estimate the proportion of affected workers in Santa Clara County who live outside of the county (16.2 percent). However, we are not able to estimate the share of in-commuters for San Jose with ACS data alone because the ACS does not provide place of work data at the city level. LEHD Origin Destination Employment Statistics (LODES) data accessed through the Census Bureau's On the Map website provides employer location and worker residence data at the city level, but is not as reliable as ACS data because employers' addresses do not always correspond to a worker's physical workplace. To estimate the share of in-commuters for San Jose, we therefore first calculate the ratio of the ACS estimate of the share of in-commuters in Santa Clara County to the LODES estimate of the share of in-commuters in Santa Clara County. We then apply that ratio to the LODES estimate to the share of in-commuters in San Jose.

ENDNOTES

¹ Portions of this report draw from Reich et al. 2016.

² The April 2016 non-seasonally adjusted unemployment rate for San Jose reported by California EDD was 4.1 percent. We do not include this statistic here because it is not seasonally adjusted.

³ See, for example, the report on inequality from the California Budget and Policy Center: <http://calbudgetcenter.org/wp-content/uploads/Inequality-and-Economic-Security-in-Silicon-Valley-05.25.2016.pdf>

⁴ However, Aaronson, Agarwal and French (2012), Table A-3, report a positive earnings effect for adults and nonetheless find no detectable effect on employment.

⁵ Neumark, Salas and Wascher (2014), the best-known researchers who find negative effects, report a 0.06 minimum wage employment elasticity for restaurants, very close to the findings in Allegretto et al. (2015).

⁶ The study was prepared for the Los Angeles City Council; see Reich, Jacobs, Bernhardt and Perry (2015).

⁷ The capital-labor substitution elasticity is not likely to be higher or lower at higher minimum wage rates.

⁸ Constant dollar values are calculated using the average annual change for the past ten years of the San Francisco-Oakland-San Jose Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

⁹ One exception is child care assistance, which does have a maximum income threshold that, once exceeded, results in the immediate loss of benefits. However, since there is a substantial waiting list for child care assistance benefits, any affected workers who lose eligibility will be replaced by lower-wage workers not currently receiving benefits. Workers who are no longer eligible for Medi-Cal will be eligible for subsidized health care through Covered CA. While most families will come out well ahead financially, the change in costs for specific families will depend on income and health care utilization.

¹⁰ This analysis is based on data gathered before the full implementation of the Affordable Care Act.

¹¹ This analysis is based on data gathered before the full implementation of the Affordable Care Act.

¹² Hirsch, Kaufman, and Zelenska (2011) and Reich, Hall, and Jacobs (2003) found improvements in worker productivity following higher wage mandates.

¹³ The turnover savings are considered constant in 2017 and 2018, at 17.5 percent of increased labor costs, a midpoint estimate in the literature (Hirsch, Kaufman, and Zelenska 2011; Reich, Hall, and Jacobs 2003). These savings are likely to accrue at smaller rates as wage levels go higher; we therefore assume that by 2019 the marginal increase in earnings relative to 2017 no longer yields any additional turnover savings. As a result, we estimate that the total savings from turnover at a \$15 minimum wage in 2019 would be 11.3 percent of increased labor costs for San Jose and 11.9 percent of increased labor costs for Santa Clara County.

¹⁴ We use a payroll tax rate of 7.65 percent (6.2 percent for Social Security and 1.45 percent for Medicare). Workers' compensation insurance rates vary by industry (see Table 6: http://www.wcirb.com/sites/default/files/documents/state_of_the_wc_system_report_140815.pdf).

¹⁵ The turnover savings are considered constant in 2017 and 2018, at 17.5 percent of increased labor costs, a midpoint estimate in the literature (Hirsch, Kaufman, and Zelenska 2011; Reich, Hall, and Jacobs 2003). These savings are likely to accrue at smaller rates as wage levels go higher; we therefore assume that by 2019 the marginal increase in earnings relative to 2017 no longer yields any additional turnover savings. As a result, we estimate that the total savings from turnover at a \$15 minimum wage in 2019 would be 11.3 percent of increased labor costs for San Jose and 11.9 percent of increased labor costs for Santa Clara County.

¹⁶ Since workers often increase their wages by moving from one employer to another, we cannot assume that the correlation between wages and turnover indicates that low wages are causing higher turnover. As we discuss below, however, policy experiments with living wages and minimum wages have provided the evidence needed to determine that wages do, in fact, affect turnover.

¹⁷ These averages include the low-turnover period of the Great Recession, and can be expected to increase towards higher pre-recession levels as the labor market tightens.

¹⁸ The estimate of 17.5 percent represents the midpoint between the 20 percent estimate of Pollin and Wicks-Lim (2015) and a 15 percent (unpublished) estimate that draws upon Dube, Freeman and Reich (2010) and Dube, Lester and Reich (2016).

¹⁹ Burda et al. 2016, Table 6 (cols. 3 and 5) reports that a \$1 increase in weekly pay reduces the incidence of shirking by $-.027$ (.0054), on a base of $.032$ (from Table 1). For a full-time worker, going from \$10 to \$15 per hour raises weekly pay by \$200, so the effect on productivity would be about $.2 \times .027 = .005$, or 0.5 percent. This estimate measures just the effect of reducing

idleness. Positive effects on absenteeism and worker engagement would add to the productivity improvement.

²⁰ Taylor and Houthakker's industry elasticities are based on regressions of U.S. panel data across over 300 cities and pooled over 1996-99. As we discuss below in Section 5.5, we do not expect that a substantial component of consumer sales will move outside the state's borders. Liu and Chollet (2006)'s review essay suggests that the price elasticity of demand for out-of-pocket individual healthcare expenses is -0.2. Our health care elasticity recognizes that employers shift their cost of health care on to employees. We also recognize that for those with subsidized coverage, increases in premium costs for lower-income families—who are more price-sensitive—are borne by the federal government.

²¹ Annual consumer spending for San Jose (respectively Santa Clara County) is estimated at 58.8 percent of IMPLAN's estimated GDP for San Jose (respectively Santa Clara County). This percentage excludes the government share of health care costs.

²² IMPLAN household spending model (proportional to city consumer spending patterns by household income level), using reduced consumer spending in Row 3 and forcing IMPLAN to apply 100 percent of the reduction in the city; see the appendix for details on IMPLAN modeling.

²³ This includes an offset of 4.20 percent for reduction in SNAP, and 2.3 percent in lower premium tax credits and cost sharing subsidies under the ACA (Congressional Budget Office 2012). We also reduce the aggregate increase in wages by lost earnings due to estimated job loss in Panel A. This offset may be too high. According to Chodorow-Reich and Karabarbounis (2015), the consumption expenditures of the unemployed equal 75 percent of the consumption expenditures of the employed, even after taking into account the limited duration of unemployment insurance benefits. Their result echoes a similar result by Aguiar and Hurst (2005) for food expenditures only.

²⁴ IMPLAN household income model for New York State, using net wage increase from Row 5 and subtracting net wage increase going to affected workers who live outside New York State; see Appendix A2 and Day (2013) for more details on IMPLAN. The net wage increase is distributed across household income categories by the household distribution of increased wages from the minimum wage increase. Our wage simulation model estimates that 6.6 percent of increased wages will go to workers living outside the state.

²⁵ IMPLAN household income model for New York State, using net wage increase from Row 5 and subtracting net wage increase going to affected workers who live outside New York State; see Appendix A2 and Day (2013) for more details on IMPLAN. The net wage increase is distributed across household income categories by the household distribution of increased wages from the

minimum wage increase. Our wage simulation model estimates that 6.6 percent of increased wages will go to workers living outside the state.

²⁶ Neumark, Salas and Wascher (2014) have criticized these findings. A response paper (Allegretto et al. 2015) refutes the criticisms.

²⁷ Federal law permits a 90-day subminimum wage for workers under the age of 20.

²⁹ For example, the State of California uses the following definition in SB-3 Sec. 3(b)(4): “Employees who are treated as employed by a single qualified taxpayer under subdivision (h) of Section 23626 of the [California] Revenue and Taxation Code, as it read on the effective date of this section, shall be considered employees of that taxpayer for the purposes of this ordinance.”

³⁰ There is no single consensus estimate of the size of the ripple-effect from minimum wage increases. We draw on Wicks-Lim (2006), who finds a modal ripple effect of 115 percent across state and federal minimum wage increases from 1983-2002. Cooper (2013) uses a common convention of defining the ripple-effect band as equal to the new minimum wage plus the absolute value of the minimum wage increase being studied.

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Institute for Research on Labor and Employment

irle.berkeley.edu

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Center on Wage and Employment Dynamics

irle.berkeley.edu/cwed

CWED was established within IRLE in 2007 to provide a focus for research and policy analysis on wage and employment dynamics in contemporary labor markets.

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Updated September 23, 2016

**Cities' Status Re: Minimum Wage Ordinances since
Cities Association Recommendation of June 2016**

Jurisdiction	Current Minimum Wage	Response to Cities Association Recommendation and Next Steps
Campbell	\$10.00	Conducted community outreach in 2015; Council agreed to wait for regional direction; Council to consider Cities Association Recommendation on October 4, 2016.
Cupertino	\$10.00	Council considered Cities Association Recommendation on September 20, 2016 and approved ordinance as recommended; adoption (second reading) scheduled for October 4, 2016.
Gilroy	\$10.00	Is not currently planning to consider the recommendation and will continue to follow State's minimum wage ordinance.
Los Altos	\$10.00	Council considered Cities Association Recommendation on September 13, 2016 and approved ordinance as presented; adoption (second reading) scheduled for September 27, 2016.
Los Altos Hills	\$10.00	Council considered recommendation at July 21 st Council Meeting and determined it was not applicable to Los Altos Hills due to the absence of commercial zones/industry.
Los Gatos	\$10.00	The Mayor is scheduling a study session to discuss minimum wage options and determine Council direction for future consideration.
Milpitas	\$10.00	Council provided direction in June to continue with outreach to businesses, especially with translation services; outreach to continue through October.
Monte Sereno	\$10.00	Council to consider recommendation in September or October.
Morgan Hill	\$10.00	Council Considered Cities Association Recommendation at August 24 th Council Meeting after completion of community outreach; no action taken; future reconsideration TBD.
Mountain View	\$11.00	Adopted ordinance to increase minimum wage to reach \$15 by January 1, 2018.
Palo Alto	\$11.00	Adopted minimum wage increase January 1, 2016. The Council's Policy and Services Committee discussed current ordinance and Cities Association Recommendation at August 16 th Meeting; Committee supported recommendation and forwarded to Council for consideration on September 26, 2016.
San Jose	\$10.30	Voter approved initiative increased minimum wage in 2012; consideration of Cities Association Recommendation TBD.
Santa Clara	\$11.00	Adopted minimum wage increase January 1, 2016; consideration of Cities Association Recommendation TBD.
Saratoga	\$10.00	Cities Association Recommendation to be considered in November.
Sunnyvale	\$11.00	Adopted ordinance to increase minimum wage to reach \$15 by January 1, 2018.

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: November 1, 2016

From: Wendy Wood, City Clerk 

Via: Mark Linder, City Manager 

Subject: Desk Item 16 – Email from Jessica Lynam

On November 1, 2016, an email was received from Jessica Lynam as part of the public record in regards to Item 16.

Wendy Wood

Subject: FW: Minimum Wage
Attachments: Campbell_MinWage_11.1.16.pdf; ATT00001.htm

From: Jessica Lynam <jlynam@calrest.org>
Date: November 1, 2016 at 1:37:36 PM PDT
To: Jason Baker <jasonb@cityofcampbell.com>, Liz Gibbons <lizg@cityofcampbell.com>, Michael Kotowski <michaelk@cityofcampbell.com>, Jeffrey Cristina <jeffc@cityofcampbell.com>, Paul Resnikoff <paulr@cityofcampbell.com>, Al Bito <ALB@cityofcampbell.com>
Subject: Minimum Wage

Hello Mayor Baker and Members of the City Council,

On behalf of the local members of the California Restaurant Association within the City of Campbell, I respectfully submit the attached position letter regarding tonight's hearing on the topic of Minimum Wage.

Please do not hesitate to contact me via phone or email should further questions or comments arise.

Warmest Regards,

Jessica

Jessica Lynam
Director, Local Government Affairs – Bay Area Region
Government Affairs + Public Policy
California Restaurant Association
P.O. Box 794
Santa Clara, CA 95052
C: 408.823.9329
E: jlynam@calrest.org
www.calrest.org

Membership Matters!

While all information released by the California Restaurant Association (CRA) is intended to provide accurate information on the subject covered, the CRA does not provide legal advice and any information provided by the CRA shall not constitute legal advice. You are encouraged to consult your attorney, accountant, or other appropriate professional, as needed.

Confidentiality note:

This electronic message transmission contains information from the California Restaurant Association which may be confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

If you have received this electronic transmission in error, please immediately notify us by telephone at 800.765.4842.



November 1, 2016

City Council
City of Campbell
70 N First Street
Campbell, CA 95008

RE: Minimum Wage

Dear Members of the City Council:

The California Restaurant Association (CRA) is the definitive voice of the food service industry in California and is the oldest restaurant trade association in the nation. On behalf of the Campbell members of the CRA, I respectfully submit this letter to express our concerns over the draft ordinance that seeks to increase the city's minimum wage to \$15 faster than current state law.

Minimum wage increases often have a perverse effect on the restaurant community, as the wage increase typically benefits those being paid minimum wage- primarily tipped employees who earn the most per hour. A minimum wage increase will ultimately hurt those it intends to help: hardworking non-tipped team members in the heart of the house who are paid an hourly wage **greater** than the minimum wage, but still at the lower end of the pay scale. The added pressure from the mandatory annual wage increase for the employees already earning the most (tipped employees) takes the finite labor dollars an operator has and reduces, if not eliminates, their ability to provide non-tipped employees with a wage increase.

The minimum wage will not only increase the wages of the most highly compensated team members in the house (tipped employees), but will also increase employer costs as well. The annual wage increase will also result in corresponding annual increases associated with payroll taxes and temporary/permanent disability benefits paid out to employees through workers' compensation. The cumulative impact of these individual costs leaves an operator with the choice of reducing staff levels or cutting staff hours- an unfortunate reality.

We strongly encourage the City Council to consider the minimum wage issue in a more targeted approach to avoid unintended consequences and ensure wage increases are going to those most in need. Below, we have put forward several solutions that, if adopted, could result in a smarter and more targeted minimum wage hike that could truly raise the living standard for the intended beneficiaries while giving employers the ability to better manage these new costs. A thoughtful and balanced approach is what we are seeking.

(1) Phase-in the Wage with Triggers

The state's minimum wage rate has increased from \$8.00 in 2014 to \$10.00 in 2016 - a 22% increase over a 2-year period. Now, the City is proposing yet another 20% minimum wage increase on local businesses within less than 1 year. The restaurant community is characterized by razor-thin profit margins that range between three to five percent in a strong economy. While our members are busy working on ways to continue to operate, they are also asked to implement other regulations such as the Affordable Care Act, new paid sick leave requirements, rising worker's compensation rates, unemployment insurance tax increases, and recycling mandates. Local businesses are simply trying to maintain their workforce and continue to price their product so that it is affordable to their consumer yet, the added pressures of another \$2 increase to wages will not allow for the sufficient time needed to prepare. We propose that any Campbell increase be gradual and phased-in over multiple years with a thoughtful and reflective analysis process that would allow a regular evaluation of any negative economic impact on local business.

(2) Total Compensation

We are suggesting a "total earnings" framework where restaurant employees whose total taxable and verifiable earnings are greater than the proposed local minimum wage would continue to receive at least the state minimum wage. This proposal would use the state minimum wage as the earnings floor for those employees who receive tips. This proposal would not be a "tip credit" or "sub-minimum wage" which involves paying less than the state minimum wage and is the current practice amongst 46 other States. To the contrary, this proposal will ensure that the highest paid individuals will continue to receive the increases at the recently enacted state level plus gratuities while others who are unable to receive tips due to the recent 9th Circuit Court's ruling against Tipped Pooling, will receive the local higher minimum wage increases.

Incorporating this solution would allow the restaurant community to use their finite labor dollars to benefit those employees who are bringing home a salary based on wages alone, not other taxable earnings and benefits such as tips, and are most in need of additional compensation.

(3) Youth/Training Wage

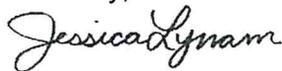
The restaurant community has long been an entry point for many young people into the job market. In fact, nearly half of all adults have worked in the restaurant community at some point during their lives and more than one out of four adults had their first job in a restaurant. Many of our young employees are unskilled, inexperienced and looking for a part-time opportunity while they are in school. For many years, the restaurant community has hired and trained these first time employees knowing that more than half will decide to leave their positions soon after being hired. Despite this risk, the restaurant community continues to employ our youth because they recognize

their role in our communities and their unique ability to provide our youth with the skills and opportunity for growth. California has 6 of the nation's worst youth employment regions and we are seeing that in areas that have "super minimum wages", we are seeing restaurant operators less and less likely to take the risk, hire, and train youth at such high entry wages. We propose that Campbell establish a youth wage or training wage that would provide an entry point consistent with state law.

Throughout Santa Clara County and the greater Bay Area, no regional consistency has been met on this topic of Minimum Wage. Each City has voted to enact or not enact a policy within this sphere that differs from its neighbors. The Cities of Mountain View and Sunnyvale have passed policies that do not allow for any exemptions and a quicker rate than the rest of the County along with the Cities of Los Altos Hills, Gilroy, and Morgan Hill voting not to even pursue the topic. Palo Alto's recently enacted wage ordinance is much different than Los Altos' and Cupertino's which allow for an exemption through collective bargaining – exempting large groups of unionized employees, as well as an off ramp for a recession. We ask that the Council take into consideration the proposals above and amend the current draft language to create an ordinance which will continue to allow local restaurants the ability to thrive within the City of Campbell.

Thank you for your attention and consideration. We remain committed to working cooperatively to help the Council design a minimum wage policy that is a win-win for our hard working employees as well as for the Campbell employer community.

Sincerely,



Jessica Lynam
Director, Government Affairs + Public Policy
California Restaurant Association

Cc: Al Bito, Deputy City Manager

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: November 1, 2016

From: Al Bito, Deputy City Manager

Via: Mark Linder, City Manager

Subject: Desk Item #16 – State of California – Scheduled Minimum Wage Increases

Currently, California's minimum wage is \$10/hour. Scheduled wage increases (if increases are not paused) are as follows:

	26 Employees or More	25 Employees or Less
\$10.50/hour	January 1, 2017	January 1, 2018
\$11/hour	January 1, 2018	January 1, 2019
\$12/hour	January 1, 2019	January 1, 2020
\$13/hour	January 1, 2020	January 1, 2021
\$14/hour	January 1, 2021	January 1, 2022
\$15/hour	January 1, 2022	January 1, 2023

Off-Ramp Provisions

Governor can choose to pause any scheduled increase for one year if either economy or budget conditions are met. The increase to \$10.50/hour is not subject to off-ramps. Initial determination of Governor by August 1 of each year prior to a January increase. The Governor makes the final determination by September 1.

1. Economy

Governor has the ability to pause an increase if seasonally adjusted statewide job growth for either the prior 3 or 6 months is negative and retail sales receipts for the prior 12 months is negative.

2. Budget

Governor has the ability to pause an increase if any year from the current budget year to two additional years is forecasted to be in deficit when including the next scheduled increase. Pursuant to Proposition 2, a multiyear forecast is adopted as part of the annual Budget Act. A deficit is if the operating reserve is projected to be negative by more than 1 percent of annual revenues, currently about \$1.2 billion. The budget off-ramp can only be used twice.

Indexing

Index annually for inflation (national CPI) beginning the first January 1 after small businesses are at \$15/hour. Floor of 0 percent (no decreases) and a ceiling of 3.5 percent. Off-ramps do not apply once the state gets to \$15/hour.

IHSS Sick Days

Implementation of one sick day in July 2018. Second day added in the first July following \$13/hour implementation for larger businesses, and third day added following \$15/hour implementation.



City Council Report

Item: 17.
Category: Public Hearing
Meeting Date: November 1, 2016

TITLE: AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMPBELL PROHIBITING AND REGULATING NON-MEDICAL MARIJUANA IN THE EVENT OF THE PASSAGE OF STATE PROPOSITION 64 (URGENCY ORDINANCE/ROLL CALL VOTE)

RECOMMENDATIONS

1. Find that the proposed action is exempt from CEQA; and
2. Adopt an urgency ordinance prohibiting and regulating non-medical marijuana. Waive the reading of the ordinance in its entirety for the immediate preservation of the public peace, health and safety of Campbell and add Chapter 8.40 entitled "Non-Medical Marijuana" to Title 8 of Campbell Municipal Code.

BACKGROUND

Following the adoption of three bills (Assembly Bill 243, Assembly Bill 266, and Senate Bill 643) creating a licensing and regulatory framework for medical marijuana, on January 19, 2016, the City adopted a resolution affirming that the cultivation of marijuana is prohibited under the zoning title of the Campbell Municipal Code. Similarly, on March 1, 2016, the City Council adopted Ordinance No. 2197, expressly prohibiting marijuana processing, distribution, dispensing and delivery in the City of Campbell. However, that resolution and ordinance did not regulate non-medical marijuana, which remains prohibited under both federal and state law.

In November 2016, Proposition 64, also known as the Adult Use Marijuana Act (AUMA) is officially on the ballot. If passed by voters, AUMA would become effective on November 9, 2016. The initiative would legalize the possession of up to 28.5 grams of marijuana, up to eight (8) grams of marijuana in the form of concentrated cannabis for adults 21 years and older, which may be present in marijuana products such as edibles, and up to six (6) living marijuana plants, and any marijuana produced by those plants. It also prohibits cities from completely banning indoor grows for personal use. However, cities will be allowed to reasonably regulate cultivation.

Beginning in 2018, the State will begin issuing licenses and regulations for small and medium cultivators to conduct retail sales. While there are certain limits, cities will be allowed to add to or create additional regulations. Proposition 64 would also impose state sales taxes of 15% of the sales price and cultivation taxes per ounce of flowers and leaves. Again, cities would be entitled to implement additional taxes. Marijuana remains illegal at the federal level; however, federal agencies are currently not enforcing laws regulating marijuana as closely as they historically did.

If passed, Proposition 64 will change the City's ability to prohibit marijuana from being sold, dispensed, delivered, and cultivated within the City limits. Under AUMA, if passed, the City will be required to allow indoor growing for personal use. AUMA does allow for "reasonable regulations" at the local level, however, these regulations have not yet been specifically defined by the act. AUMA authorizes cities to "reasonably regulate" indoor cultivation of marijuana in private residences, ban outdoor cultivation of marijuana entirely, unless it becomes federally legalized, and prohibit any marijuana-related business entirely. Cities will also be able to regulate or completely ban the commercial cultivation, production, sale and distribution of marijuana.

Currently, the City has a total ban on medical marijuana cultivation, processing, deliveries and dispensaries. At the October 18, 2016 Council Meeting staff held a study session to address marijuana issues within the City. Council directed staff to bring back an urgency ordinance limiting the use and cultivation of non-medical marijuana within the law, to take effect if AUMA does pass.

Currently, the Campbell Municipal Code does not list non-medical marijuana dispensaries, cultivation sites, and other non-medical marijuana establishments as either permitted or conditionally-permitted land uses. Such activities, are both prohibited under the principles of permissive zoning (any use not enumerated is deemed prohibited) and illegal under both state and federal law.

The proposed ordinance, entitled "Non-Medical Marijuana" would become enforceable upon AUMA being adopted and would restrict personal cultivation to the limits of state law, which is 6 plants per residence. It also provides for specific requirements if an individual does grow marijuana for personal use. The ordinance also specifically prohibits commercial marijuana activity, including but not limited to cultivation, processing, delivery, sale and dispensing. Once the City's staff has had an opportunity to more fully analyze the impacts of AUMA on

the City of Campbell, a more comprehensive ordinance may be brought back to the Council for consideration.

DISCUSSION

Staff recommends that the City Council adopt an urgency ordinance which prohibits activities related to the cultivation, delivery, and other commercial cannabis activities of non-medical marijuana similar to one adopted for medical marijuana in March 2016. The urgency ordinance is effective immediately in order to ensure that the City has an ordinance before the November 8, 2016 General Election to preserve Campbell's local control over this important topic. If passed, Proposition 64 provides for a state licensing program for distribution and cultivation, which is not expected to begin for at least a year. However, some provisions of Proposition 64, specifically, personal use cultivation, would be effective immediately.

Should Proposition 64 pass, staff intends bring a regular ordinance to the City Council for consideration, once the full impacts are more completely understood. That ordinance would proceed under the usual path, and would be effective thirty days after the ordinance enactment.

The proposed urgency ordinance stipulates that the City's current prohibition on all of the potential marijuana business that could possibly operate under the medical marijuana laws applies equally to non-medical marijuana. Proposition 64 allows the City to prohibit outdoor cultivation of marijuana for personal recreational use but not indoor cultivation of marijuana for personal recreational use. The urgency ordinance prohibits outdoor cultivation for personal use but allows indoor cultivation of recreational marijuana for personal use subject to a number of restrictions intended to promote the health and safety of the public.

The urgency ordinance contains findings stating the basis for the urgency as well as the facts to justify the preservation of the public health, safety, and welfare. As stated in the staff report dated January 19, 2016 and the materials provided when Council considered medical marijuana, many California cities have experienced negative secondary effects from medical marijuana businesses, including dispensaries, cultivation facilities, and delivery services. In addition, the negative effects of non-medical marijuana use are also widely documented in various news stories from states where recreational marijuana use has been legalized. These negative impacts have included unsafe construction and electrical wiring, noxious fumes and odors, and increased crime in and around marijuana establishments.

The state has yet to license medical marijuana facilities. According to the California Bureau of Medical Cannabis Regulation, the Bureau is still in the early stages of development and won't be accepting applications for licenses until 2018. Therefore, assuming Proposition 64 passes, state licensing of non-medical marijuana is not anticipated at least until 2018.

Although the City does not take formal position on Proposition 64, adoption of the urgency ordinance ensures that the City does not lose the ability to regulate, allow or prohibit non-medical marijuana dispensaries, cultivation sites and delivery services in the future should the City wish to consider allowing such uses to operate within the City at a later date.

VOTE REQUIREMENT

The proposed ordinance will require a four-fifths vote to pass as an urgency measure.

ENVIRONMENTAL IMPACT (CEQA)

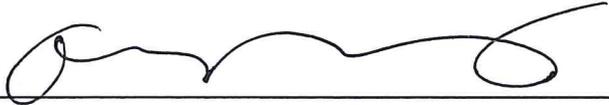
The proposed ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this ordinance is found to be a project under CEQA, it is exempt CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment, as such uses are already prohibited under the Municipal Code.

FISCAL IMPACT

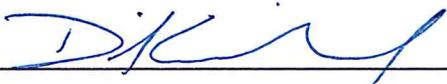
There is no fiscal impact related to this item.

ALTERNATIVES

- 1) Do not adopt the urgency ordinance.
- 2) Provide other direction to staff.

Prepared by: 

Gary Berg, Captain

Reviewed by: 

David Carmichael, Chief of Police

Reviewed by: 

William Seligmann, City Attorney

Approved by: 

Mark Linder, City Manager

ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF CAMPBELL
PROHIBITING AND REGULATING NON-MEDICAL
MARIJUANA IN THE EVENT OF THE PASSAGE OF
STATE PROPOSITION 64**

The City Council of the City of Campbell does ordain as follows:

Section 1: Findings and Recitals:

The City Council finds and acknowledges:

- A. The Federal Controlled Substances Act, 21 U.S.C. section 841, prohibits the possession, sale and distribution of marijuana; and all uses that are inconsistent with Federal law are presently prohibited in all zoning districts in the City of Campbell;
- B. Many California cities, as well as the City of Campbell, have reported negative impacts of marijuana processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests;
- C. Marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors;
- D. The strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery;
- E. The indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants;
- F. The Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime;
- G. In light of these threats to the public peace, health and safety, on January 19, 2016, the City Council adopted Resolution 11938, affirming that the cultivation

of marijuana is prohibited under the zoning title of the Campbell Municipal Code;

- H. Similarly, on March 1, 2016, the City Council adopted Ordinance No. 2197, expressly prohibiting marijuana processing, distribution, dispensing and delivery in the City of Campbell;
- I. The Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") has qualified for the November 8, 2016 ballot as Proposition 64. The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use;
- J. Among other things, AUMA would authorize the personal cultivation of up to six marijuana plants in a private residence for non-medical purposes;
- K. However, AUMA authorizes cities to prohibit marijuana businesses within their jurisdictions;
- L. Likewise, under AUMA, cities can enact reasonable regulations for the cultivation of non-medical marijuana that occurs inside a residence or accessory structure, and may completely prohibit outdoor non-medical marijuana cultivation until such time as the California Attorney General determines that the non-medical use of marijuana is lawful in California under federal law; and the California Attorney General has not made a determination that non-medical use of marijuana is lawful in California under Federal law;
- M. It is not entirely clear under AUMA whether or not a City must expressly prohibit non-medical marijuana uses in order to preclude such uses within the jurisdiction of the City;
- N. Section 7 of Article 11 of the California Constitution provides the City Council with the authority to make and enforce all laws, rules and regulations with respect to not in conflict with general laws, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;
- O. Based on the foregoing findings the City Council further finds and concludes that the impact of the potential adoption of AUMA on the City of Campbell creates an urgent and immediate threat to the public peace, health or safety, necessitating the adoption of this ordinance;

- P. It would not be possible to adopt this ordinance by routine procedures in time to become effective prior to the November 9, 2016 effective date of AUMA;
- Q. Therefore, the adoption of this ordinance as an urgency measure is necessary for the immediate preservation of the public peace, health or safety

Section 2: The City Council hereby adds Chapter 8.40 entitled "Non-Medical Marijuana" to Title 8 of Campbell Municipal Code to read as follows:

8.40.010 Legislative Findings and Statement of Purpose.

The City Council finds that the prohibitions on marijuana processing, delivery, cultivation, sale and distribution are necessary for the preservation and protection of the public health, safety, and welfare for the City and its community.

8.40.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. Except as otherwise set forth in this section, the definitions contained in section 8.38.020 of this Title shall apply;

B. "Marijuana" shall also include all things covered by section 11018 of the California Health and Safety Code, in addition to the definition contained in section 8.38.020;

C. "Medical marijuana or medical marijuana use" means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, California Health and Safety Code sections 11362.5 and 11362.7 et seq.;

D. "Non-medical marijuana" or "non-medical marijuana use" means all marijuana or uses of marijuana not included within the definition of medical marijuana use;

E. "Private residence" means a lawfully existing house, an apartment unit, a mobile home or other similar dwelling.

8.40.030 Prohibited Activities.

Except as otherwise provided in this Title, all non-medical marijuana use is prohibited in the City of Campbell, including but not limited to cultivation, processing, delivery, sale and dispensing.

8.40.040 Indoor Cultivation.

To the extent that the City is required by State law to allow the cultivation of marijuana, the rules set forth in this section shall apply:

- A. The cultivation of marijuana may take place only inside a lawfully existing and fully enclosed and secure private residence, or inside a lawfully existing and fully enclosed and secure accessory structure to a private residence that is located on the same parcel as the private residence. No cultivation shall occur outside of a fully enclosed structure;
- B. The primary use of the property shall be for a residence;
- C. All areas used for cultivation of non-medical marijuana shall comply with Title 18 (Buildings Codes and Regulations) of the Campbell Municipal Code, as well as all other applicable laws;
- D. Indoor grow lights are not allowed in any structure used for human habitation. Indoor grow lights in any other structure shall not exceed 1,000 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the City;
- E. The use of gas products (CO₂, butane, propane, natural gas, etc.) or generators for cultivation of non-medical marijuana is prohibited;
- F. Any structure used for the cultivation of non-medical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana. This ventilation shall at a minimum consist of a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s));
- G. Any accessory structure used for the cultivation of non-medical marijuana shall be located in the rear yard area of the parcel or premises, and must maintain a minimum setback equal to the greater of (1) the setback imposed pursuant to the applicable zoning provisions of Title 21 of this Code, or ten-feet from any

property line. The yard where the structure is maintained must be enclosed by a solid fence at least six feet in height;

- H. Adequate mechanical locking or electronic security systems must be installed as part of the structure prior to the commencement of cultivation;
- I. Marijuana cultivation shall be limited to six marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or in an accessory structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the private residence;
- J. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. No room used for cooking of meals, sleeping and bathing shall be used for cultivation;
- K. Cultivation of non-medical marijuana shall only take place on impervious surfaces;
- L. There shall be no exterior evidence of marijuana cultivation occurring on the parcel;
- M. No more than one room in any structure may be used for cultivation;
- N. The marijuana cultivation area shall not exceed thirty-two (32) square feet and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of individuals residing in the residence;
- O. No room or area in a structure that is used for cultivation shall be accessible to persons under 21 years of age;
- P. Written consent of the property owner to cultivate non-medical marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by agents of the City;
- Q. A portable fire extinguisher, that complies with the regulations and standards adopted by the State Fire Marshal and applicable law, shall be kept in any room used for cultivation of marijuana;

- R. No one other than a full-time resident of the residence shall be involved or take part in the cultivation;
- S. No chemicals fertilizers, pesticides, or other chemical agents shall be used for marijuana cultivation;
- T. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts; and shall not be conducted in a manner that is hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation;
- U. The owner and any lessee of the residence upon which cultivation will occur shall inform the Police Department of the intent to cultivate marijuana. This notification shall be provided prior to the commencement of the cultivation;
- V. Cultivation shall be limited exclusively for the personal use of lawful residents of the property on which the cultivation is occurring.

Section 3: Subparagraph (Q) of paragraph (6) of subsection (a) of section 6.10.020 of the Campbell Municipal Code is hereby amended to read (with underlining indicating new text):

A violation of any of the provisions of Campbell Municipal Code Chapters 5.24, 5.28, 5.29, 5.30, 5.36, 5.48, 5.58, 6.11, 6.20, 6.30, 8.34, 8.38, 8.40, 11.04, 11.08, 11.12, 11.16, 11.32, 13.04, or 14.02,

Section 4: The provisions of Campbell Municipal Code section 8.40.030 as enacted by Section 2 of this ordinance are declaratory of existing law in the City of Campbell, and are intended to clarify and facilitate, and not to supersede the existing provisions contained in existing law.

Section 5: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared, invalid or unconstitutional.

Section 6: The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a

project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 7: This ordinance is adopted as an urgency measure pursuant to subsection (b) of California Government Code section 36937, and shall take effect immediately, except that it shall not become enforceable unless and until AUMA is enacted into law. In the event that the voters do not approve AUMA at the election of November 8, 2016, this ordinance shall be of no further force or effect.

PASSED AND ADOPTED this 1st day of November, 2016 by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Jason T. Baker, Mayor

ATTEST:

Wendy Wood, City Clerk

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: October 31, 2016

From: ^{AS} Andrea Sanders, Deputy City Clerk

Via: ^{RM} for Mark Linder, City Manager

Subject: Desk Item 17 – Email from Susan Landry

On October 28, 2016, an email was received as part of the public record in regards to Item 17.

Andrea Sanders

To: Wendy Wood
Subject: RE: Nov 1st Council Agenda Item No. 17 - Emergency Ordinance regarding Recreational Marijuana

From: Susan M. Landry [<mailto:environmental.architect@yahoo.com>]
Sent: Friday, October 28, 2016 1:06 PM
To: Mark Linder; Wendy Wood; Jason Baker; Michael Kotowski; Paul Resnikoff; Liz Gibbons; Paul Kermoyan
Subject: Nov 1st Council Agenda Item No. 17 - Emergency Ordinance regarding Recreational Marijuana

I support this emergency ordinance.

I do have some additional concerns regarding this Agenda Item and Prop. 64.

Item NOT addressed in the ordinance:

* What about smoking recreational marijuana in a residence that has multiple residences, such as an apartment or condo?

*refer to discussion below.

Potential Addition/Change to Ordinance:

* 8.40.040 Indoor Cultivation, Item U states:

This item states that the owner or lessee of the residence shall inform the Police Department of the intent to Cultivate.

*** Change the word 'Inform Police' to something like:**

- Prior to MMJ Cultivation in a residence, a written statement is required from the person about intent to cultivate. In multi-unit residences, the Property Owner to provide a written statement acknowledging they approve the cultivation. (Item P only states they have to have statement at residence)

- Also address the Building Code regarding electrical, ventilation. There could be a requirement to provide a floor plan showing what is proposed and/or required Building Department approval prior to submitting to Police.

- Should the Police provide a 'Registration Certificate' similar to what SJ gives a Collective.

It is not called a permit for legal reasons.

SMOKING IN A RESIDENCE in multi-residential buildings.

* Smoking marijuana in an apartment or other residence that shares common walls/structure with a separate residence can be very problematic.

* Studies regarding tobacco smoking show that smoke seeps through walls/structures as second-hand smoke, which can be harmful to people, especially children.

* According to Campbell's Municipal Code, Chapter 6.11, as cited below, Smoking is defined as 'Tobacco' products, it even states that 'Non-tobacco products are exempt.'

If I read this section correctly, smoking marijuana, either medical or recreational is **NOT** restricted inside a residential building that has multiple tenants. Is this a correct understanding?

I think the Council needs to address 'SMOKING MARIJUANA' in residential buildings with multiple residences.

Chapter 6.11 - SMOKING POLLUTION CONTROL

6.11.050 - Declaration of nonsmoking establishment.

Notwithstanding any other provision of this chapter, any person, employer, or business with legal control over any property may declare that entire business as a nonsmoking establishment and prohibit smoking on any part of such property, even if smoking is not otherwise prohibited in that area.

6.11.040 - Exceptions.

Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the Smoking restrictions of this chapter:

(7) *Private Residences*: Smoking is permitted in private residences, except for those residences licensed as family day care homes. In those cases, Smoking is prohibited during the hours when the home is used as a family day care home and in those areas where children are present.

6.11.110 - Definitions.

(18) "Smoke" means the gases and particles released into the air by combustion when the apparent or usual purpose of the combustion is human inhalation of the resulting combustion products, such as, for example, tobacco smoke, except with the combustible material contains no tobacco and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense.

(19) "Smoking" means engaging in any activity that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, a lighted cigar, or a lighted cigarette of any kind; or lighting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

Thank you for you time and consideration.
This is a very complex and challenging topic.

Susan M. Landry
Environmental Architect

Designing Spaces Between the Natural and Built Environment™

Trees were not consumed in the transmission of this email. Please try this on your end too.

MEMORANDUM



City of Campbell

City Clerk's Office

To: Honorable Mayor and City Council

Date: November 1, 2016

From: Andrea Sanders, Deputy City Clerk *AS*

Via: Mark Linder, City Manager *ML*

Subject: Desk Item 17 – Email from Larry Pine

On November 1, 2016, an email was received as part of the public record in regards to Item 17.

Andrea Sanders

From: Larry <tallpinetree@att.net>
Sent: Tuesday, November 01, 2016 11:05 AM
To: Andrea Sanders
Subject: Urgency measure for Marijuana Grows, Sales, and Delivery

Dear Members of the City Council,

I would like to commend your past decisions on the issue of drug use in our community. Unlike a neighboring city, you have stood with the majority of our citizens against making the specific drug, marijuana, available to our children and adults. I have written you before but, concerning this urgent matter, would like to encourage you since the majority of our citizens are not aware that action must be taken to deal with this onslaught.

You are our representatives. You do not represent some minority of businesses, or uncaring individuals. The protection of our citizens from known products that affect the human body does fall on you by virtue of your office. Please do not wait, but take the action you legally can to protect us. The law-abiding majority of citizens thank you for your actions.

Larry Pine


Campbell, CA 95008



City Council

Item: 18.
Category: New Business
Date: November 1, 2016

TITLE: Campbell Water Tower Lighting Request

RECOMMENDATION:

1. That the City Council review and provide direction (approve or decline) a request from the Pancreatic Cancer Action Network to light the Water Tower in purple lighting on Thursday, November 17.
2. That the City Council consider the addition of September 11, national day of service and remembrance, with the color theme of red, white and blue to the standing schedule of events in Council Policy 1.29

BACKGROUND AND DISCUSSION:

Council Policy 1.29 established a process for individuals and/or organizations to submit special Water Tower lighting requests to the City Council for review and consideration.

World Pancreatic Cancer Day

In accordance with this policy, staff received a request on October 7 from the Pancreatic Cancer Action Network. The petitioner is requesting to light the Campbell Water Tower purple to promote awareness of pancreatic cancer and resources available to those impacted by the disease, and to this end is requesting to light the Water Tower on the evening of Thursday, November 17, which is World Pancreatic Cancer Day.

According to the petitioner's request form, the Pancreatic Cancer Action Network (PCAN) is a nationwide organization committed to advancing research, and supporting patients and others affected by this disease. PCAN's goal is to double pancreatic cancer survival by 2020. The National Cancer Institute and the American Cancer Society estimate that 53,070 people will be diagnosed with pancreatic cancer while 41,780 will die of the rare disease in 2016. In addition, one in 65 people will be diagnosed with pancreatic cancer in their lifetime. These organizations report that pancreatic cancer accounts for almost 3% of all cancers in the United States and nearly 7% of cancer deaths nationwide.

Patriot Day & National Day of Service & Remembrance

In conjunction with the lighting request for World Pancreatic Cancer Day, staff proposes to include Patriot Day and National Day of Service and Remembrance among the standing lighting events schedule in Council Policy 1.29. In addition to lowering flags to half-staff as directed by Presidential action each year, staff seeks to light the Water Tower red, white and blue to express the City’s observance of September 11 each year.

The United States Congress approved a joint resolution (Public Law 107-89) on December 18, 2001, designating September 11 of each year as “Patriot Day,” and Public Law 111-13 on April 12, 2009, recognizing September 11 as an annual “National Day of Service and Remembrance.”

Recent Council Approvals

On August 2, 2016, City Council action approved lighting requests submitted by the Teal Foundation in support ovarian cancer awareness and the Campbell Police Officers’ Association in recognition of community support.

The table below summarizes the two lighting requests referenced above.

Requested by	Lighting Date	Alternate Date(s)	Requested Color	In support of...
Pancreatic Cancer Action Network	November 17 (one-time)	November 16 November 18	Purple	World Pancreatic Cancer Day and Pancreatic Cancer Awareness
City Staff	September 11 (annually)	NA	Red, white and blue	Patriot Day & National Day of Service & Remembrance for September 11, 2001

FISCAL IMPACTS

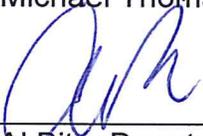
The processing and review of each water tower lighting request requires approximately two hours of staff time. In the event Council-approved special lighting requests are made, the City’s lighting contractor charges a services fee of \$200 per visit to manually program custom themed lighting. This \$200 fee covers programming services for up to two hours per visit.

Despite several service calls this calendar year, the contractor has not charged the City any fees as part of the lighting system's 12 month service warranty.

ALTERNATIVES

1. Do not approve both lighting requests,
2. Approve one of the requests; or
3. Provide other direction to staff.

Prepared by: 
Michael Thomas, Human Resources Assistant

Reviewed by: 
Al Bitto, Deputy City Manager

Reviewed by: 
Todd Capurso, Public Works Director

Approved by: 
Mark Linder, City Manager

ATTACHMENTS:

1. Council Policy 1.29, Water Tower Lighting
2. Application submitted by the Pancreatic Cancer Action Network
3. 2016 Presidential proclamation on "Patriot Day" and National Day of Service

Council Policy 1.29 Campbell Water Tower Lighting Policy

Purpose: The purpose of this policy is to establish protocols for themed lighting of the Campbell Water Tower. Specifically, this policy addresses the following situations:

- a) Responsibility
- b) National holidays and events recognized by the City
- c) Third party requests
- d) Special events and other displays of recognition

Responsibility:

The City Council may consider special lighting requests by third parties on a case-by-case basis subject to a majority vote. The Mayor or his / her designee can implement color themes in which to illuminate the Water Tower in special circumstances that occur between council meetings.

Dates and Duration of Illumination:

The Water Tower may be illuminated for federal holidays and events recognized by the City as determined by the City Council. The following table lists the federal holidays, annual events and color themes recognized by the City, and serves as a standing list that can be amended by the City Council as needed.

Event	Date*	Type	Color(s)
New Year's Day	January	Federal Holiday	White
Martin Luther King, Jr. Day	January	Federal Holiday	Red, White & Blue
Valentine's Day & Fun Run	February 14	National Custom / City Event	Red & White
Presidents' Day	February	Federal Holiday	Red, White & Blue
St. Patrick's Day	March 17	National Custom	Green
Earth Day	April 22	National Event	Green & Blue
National Peace Officers' Memorial Day	May 15	National Event	Royal Blue
Memorial Day	May	Federal Holiday	Red, White & Blue
Independence Day	July	Federal Holiday	Red, White & Blue
Labor Day	September	Federal Holiday	Red, White & Blue
September 11	September 11	National Event	Red, White & Blue
Columbus Day	October	Federal Holiday	Red, White & Blue
Halloween	October 31	National Custom	Orange
Veteran's Day	November	Federal Holiday	Red, White & Blue
Thanksgiving	November	Federal Holiday	Orange, Brown & Yellow
Christmas Day	December	Federal Holiday	Red & Green

*Dates for federal holidays will follow dates published in the federal holiday schedule.

To the extent possible, the Building Maintenance Division of the Public Works Department will program themed lighting so that the Water Tower is illuminated automatically from sundown to sunrise as resources and staff schedules allow.

Notwithstanding the dates and special occasions referenced in this policy, the City's Water Tower will generally remain illuminated in white decorative lighting during evening and night time hours during the calendar year. Themed lighting will last for one evening and overnight period from

sunset to sunrise unless otherwise directed by the City Council. When the Water Tower is illuminated, themed lighting is to remain static and not rotate. Given technical challenges of replicating the color black, this color will not be included in any lighting theme unless otherwise directed by the City Council and Mayor.

Third Party Requests:

Not-for-profit agencies, non-governmental organizations, as well as individuals and businesses are considered third parties that are not directly affiliated with the City of Campbell. Third party requests should not be accepted, but the City Council may consider third party requests at its discretion on a case-by-case basis within reason that benefit the community at-large when placed on the regular meeting agenda subject to majority vote. Such requests must be made to the City Manager's Office and forwarded to the Council for consideration. Lighting requests made via, or including petitions and / or social media campaigns will not be considered.

Themed lighting must not reflect the following:

- Religious organizations, orders, themes and / or events.
- Ethnic, racial and gender-based organizations, themes and / or events
- For profit and private businesses and organizations

Third party requests must be submitted 30 days prior to the requested date and must include:

- The organization's name
- Description and reasons for request
- Desired date for illumination
- Desired color(s)

If granted by the City, third party requests are subject, but not limited to the following terms:

- There is no automatic agreement renewal for lighting requests as third parties must submit requests for consideration each time they wish to illuminate the Water Tower.
- The applicant / contact on the original submitted request will receive written notification, stating a request's approval or denial via e-mail.
- The City of Campbell is under no obligation to provide specific feedback to any individual or organization regarding the status, merit and / or denial of its request.

Special Circumstances and Other Displays of Recognition:

Any special events and other displays of recognition will be considered as needed by the Mayor or his or her designee on a very limited basis. Such examples can include, but are not limited to, displays of solidarity (e.g. major tragedy) and celebrating local sports teams, as well as displays of recognition initiated by presidential action from the White House. Themed lighting for such instances is to last for one evening and overnight period from sunset to sunrise unless otherwise directed by the City Council.



CITY OF CAMPBELL

WATER TOWER THEMED LIGHTING REQUEST APPLICATION FORM

Applications must be submitted at least 30 days before requested date

OCT 07 2016

CITY OF CAMPBELL
HUMAN RESOURCES DIVISION
CITY MANAGER'S OFFICE

Themed lighting requests must not reflect the following:

- Promote or advance religion;
- Promote or advance unlawful discrimination based on race, ethnicity, gender, national origin, or sexual orientation and,
- For profit and private businesses and organizations.

NAME OF CONTACT PERSON MAKING REQUEST: Cheryl Howts on behalf of

ORGANIZATION / APPLICANT NAME: Pancreatic Cancer Action Network

ADDRESS: 1500 Rosecrans Avenue, Suite 200
Manhattan Beach, CA 90266

PHONE: 877-272-6226

E-MAIL: chouts@pancanvolunteer.org

WEBSITE (OPTIONAL): pancan.org

Please include a description of your organization. (501c3 organization)

The Pancreatic Cancer Action Network is a nationwide
network of people dedicated to working together to advance
research, support patients and create hope for those affected
by pancreatic cancer. Our vision, after seeing too little
progress in pancreatic cancer survival in over half a century, is
to double pancreatic cancer survival by 2020.

Explain the reason(s) for this request. Describe the event associated with your organization's request.

Pancreatic Cancer Action Network has declared November 17
as Worldwide Pancreatic Cancer Day in an effort to
bring awareness to the world, community by community,
of the disease and of the resources available to those
touched by the disease. I am personally touched by the
disease as I lost my mother to it 10 years ago October 12, 2006.

The White House
Office of the Press Secretary
For Immediate Release
September 09, 2016

Presidential Proclamation -- Patriot Day and National Day of Service and Remembrance, 2016

PATRIOT DAY AND NATIONAL DAY OF SERVICE AND REMEMBRANCE, 2016

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Fifteen years ago, nearly 3,000 innocent lives men, women, and children who had been going about their normal routines were taken from us, depriving families and loved ones of a lifetime of precious moments. But the acts of terror of September 11, 2001, sought to do more than hurt our people and bring down buildings: They sought to break our spirit and destroy the enduring values that unite us as Americans. In the years that followed, our capacity to love and to hope has guided us forward as we worked to rebuild, more sound and resilient than ever before. With the hearts of those we lost held faithfully in our memories, we reaffirm the unwavering optimism and everlasting strength that brought us together in our darkest hour, and we resolve to give of ourselves in service to others in that same spirit.

The pain inflicted on our Nation on September 11 was felt by people of every race, background, and faith. Though many young Americans have grown up without knowing firsthand the horrors of that day, their lives have been shaped by it. They hear of the many acts of service that occurred coworkers who led others to safety, passengers who stormed a cockpit, and first responders who charged directly into the fire. Many Americans did everything they could to help survivors, from volunteering their time to donating food, clothing, and blood. And many signed up to don our Nation's uniform to prove to the world that no act of terror could eclipse the strength or character of our country.

United by a common creed, a commitment to lifting up our neighbors, and a belief that we are stronger when we stand by one another, we must find the courage to carry forward the legacy of those who

stepped up in our time of need. By devoting ourselves to each other and recognizing that we are a part of something bigger than ourselves just as heroic patriots did on September 11 we are paying tribute to their sacrifices. On this National Day of Service and Remembrance, we must ensure that darkness is no match for the light we shine by engaging in acts of service and charity. I invite all Americans to observe this day with compassionate and selfless deeds that embody the values that define our people, and to visit www.Serve.gov to find opportunities to give back to their communities.

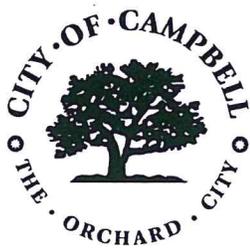
America endures in the tenacity of our survivors, and in the dedication of those who keep us safe. Today, we honor all who lost their lives in the heartbreaking attacks of September 11, and all who made the ultimate sacrifice for our country in the years that followed. In memory of these beautiful souls, we vow to keep moving forward. Let us have confidence in the values that make us American, the liberties that make us a beacon to the world, and the unity we sustain every year on this anniversary. Above all, let us stand as strong as ever before and recognize that together, there is nothing we cannot overcome.

By a joint resolution approved December 18, 2001 (Public Law 107-89), the Congress has designated September 11 of each year as "Patriot Day," and by Public Law 111-13, approved April 21, 2009, the Congress has requested the observance of September 11 as an annually recognized "National Day of Service and Remembrance."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim September 11, 2016, as Patriot Day and National Day of Service and Remembrance. I call upon all departments, agencies, and instrumentalities of the United States to display the flag of the United States at half-staff on Patriot Day and National Day of Service and Remembrance in honor of the individuals who lost their lives on September 11, 2001. I invite the Governors of the United States and its Territories and interested organizations and individuals to join in this observance. I call upon the people of the United States to participate in community service in honor of those our Nation lost, to observe this day with appropriate ceremonies and activities, including remembrance services, and to observe a moment of silence beginning at 8:46 a.m. Eastern Daylight Time to honor the innocent victims who perished as a result of the terrorist attacks of September 11, 2001.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of September, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

BARACK OBAMA



City Council Report

Item: 19.
Category: New Business
Date: November 1, 2016

TITLE: 2017 SILICON VALLEY CLEAN ENERGY AUTHORITY'S 100% RENEWABLE ENERGY

RECOMMENDATION

That the City Council take ministerial action to direct staff to register all of the City of Campbell's electrical energy services accounts to the Silicon Valley Clean Energy Authority's GreenStart program in 2017 when the service becomes available.

BACKGROUND

The Silicon Valley Clean Energy Authority (SVCEA), a partnership of 12 local governments, will bring its residents and businesses 100% carbon free electricity at lower costs when it begins operation in 2017.

The City of Campbell officially joined the SVCEA in February 2016 and appointed Vice Mayor Liz Gibbons as its representative Director on the SVCEA Board. Councilmember Jeff Cristina serves as the City's Alternate.

Since February 2016, the SVCEA has selected a Chief Executive Officer and by Board action, approved new key staff positions with recruitments for these positions currently underway.

In the coming months, and working with member communities, the SVCEA will be expanding its public outreach, including targeted outreach to key business organizations in the region.

The Board has been guiding negotiations with power suppliers for the period of the next five years for 100% carbon free electricity at a lower cost than Silicon Valley residents and businesses pay now. The initial power supply mix for SVCE's GreenStart is planned to be comprised of 50% renewable power sources and 50% carbon free large hydroelectric sources, for a total of 100% carbon free electricity. The other option to be offered to residents and businesses is GreenPrime which will be 100% renewable power.

SVCEA represents the cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Gilroy, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale, and the unincorporated portions of Santa Clara County.

Status of SVCEA Member Agencies in Considering 100% Renewable Energy

Except for the Cities of Mountain View, Cupertino and Campbell, no other cities to date have yet taken policy positions on 100% renewable energy considerations for 2017. However, these municipalities are expected take up the issue in the coming months.

At their June 14, 2016 Study Session on a three year Environmental Sustainability Action Plan, the Mountain View City Council expressed majority interest in pursuing 100% renewable energy when offered by the SVCEA in 2017. Their additional operational cost is projected to be \$100,000 per year.

On November 1, 2016, Cupertino City staff will bring forward to their Council a recommendation to express intent to pursue either the GreenStart or GreenPrime tier options.

DISCUSSION

It is anticipated that by April 2017, SVCEA will be offering its two alternative energy tiers to consumers in Santa Clara County. "GreenStart" is estimated to cost 1% less than PG&E's expected costs and "GreenPrime" is estimated to cost between 5% to 15% above GreenStart. Final program costs will be set when rates approved by the Board of Directors in January 2017.

By purchasing renewable energy, the City of Campbell would be supporting its sustainability efforts to achieve short- and long-term greenhouse gas reduction goals.

Based on projected annual energy savings for all of the City's street lights, traffic lights and building facilities, staff is recommending GreenStart.

FISCAL IMPACTS

For calculating baseline costs, staff reviewed the City's PG&E expenses in FY 2015/16. The accounts examined included all of the City's operational facilities and infrastructure utilizing electrical services including the Community Center, Museum, Public Works Service Center, City Hall, traffic signals and all street lights within the City's jurisdiction. In FY 2015/16, the City's electrical cost was \$740,940. It should be noted that this cost includes unmetered energy usage for all of the City's street lights as the City pays a flat fee for these during the year.

For SVCEA's GreenStart, the projected cost is 1% less than PG&E's existing rate. Based on Campbell's average cost, the projected cost for this tier is \$733,531 for an overall annual savings of \$7,409.

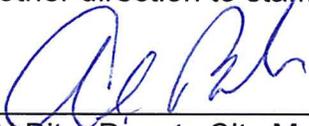
For SVCEA's GreenPrime which is 100% renewable energy, the projected premium cost is estimated to be between 5% to 15% more than GreenStart. Based on last year's usage, the premium cost estimate for this tier could cost the City an additional \$36,675 to \$110,030 per year.

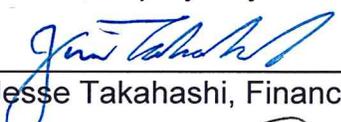
The table below summarizes the financial calculations and impacts to the City based on each of the pricing options for 2017:

	SCENARIOS		
	A	B	C
	FY 2015/16	2017 GreenStart – 50% Renewable	2017 GreenPrime – 100% Renewable
Projected Cost		1% less PG&E rates	GreenStart + 5% to 15%
Annual Campbell Operations Electricity Expense	\$740,940	\$733,531	\$770,206 to \$843,561
Projected Annual City Budget Impacts	N/A	(\$7,409)	\$36,675 to \$110,030

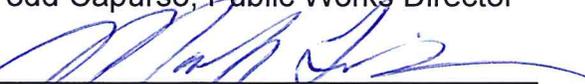
ALTERNATIVES

1. Authorize City staff to transfer existing municipal electrical services to GreenPrime, instead of GreenStart, when offered in 2017;
2. Continue with existing carbon based electrical power supply services; or
3. Provide other direction to staff.

Prepared by: 
 Al Bito, Deputy City Manager

Reviewed by: 
 Jesse Takahashi, Finance Director

Reviewed by: 
 Todd Capurso, Public Works Director

Approved by: 
 Mark Linder, City Manager

MEMORANDUM



City of Campbell
City Manager's Office

DATE: November 1, 2016
TO: Honorable Mayor and City Council
VIA: Mark Linder, City Manager
FROM: Al Bito, Deputy City Manager
SUBJECT: Desk Item: #19 2017 Silicon Valley Clean Energy Authority's 100% Renewable Energy

Based on new information received, staff would like to modify Item #19 as follows:

1) Recommendation:

That the City Council provide direction to staff on whether or not to opt up the City's municipal electrical accounts from GreenStart to GreenPrime in 2017 when the services become available.

2) Fiscal Impacts:

	SCENARIOS		
	A	B	C
	FY 2015/16	2017 GreenStart – 50% Renewable	2017 GreenPrime – 100% Renewable
Projected Cost		1% less than PG&E for Generation Costs (approx. savings of \$0.001/kWh)	\$0.009/kWh above GreenStart
Usage (Load)	4,000,000 kWh*		
Annual Campbell Operations Electricity Expense	\$741,000	\$737,000	\$773,000
Cost	\$0.18525/kWh	\$0.18425/kWh	\$0.19325/kWh
Projected Annual City Budget Impacts	N/A	(\$4,000)	\$36,000

*2014

3) Alternatives:

- a) Do not authorize City staff to transfer municipal electrical account services to GreenPrime and remain with GreenStart when offered in 2017;
- b) Provide other direction to staff.



City Council Report

Item: 20.
Category: **New Business**
Meeting Date: **November 1, 2016**

TITLE: Schedule Council Meeting on December 12, 2016

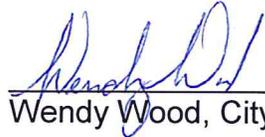
RECOMMENDATION

That the City Council schedule a Council Meeting on December 12, 2016 to declare the canvass return results of the General Municipal Election to be held on November 8, 2016 and conduct the City Council Reorganization.

DISCUSSION

A General Municipal Election will be held on November 8, 2016 to elect two City Councilmembers. The Office of the Registrar of Voters will certify the November 8, 2016 General Election on December 8, 2016. Due to the timing of the certification we cannot declare the canvass of returns and results of the General Municipal Election until after December 8, 2016. Staff has suggested that Council schedule a meeting on December 12, 2016 to adopt a resolution declaring the canvass of returns and results of the General Municipal Election, direct the City Clerk to administer the Oaths of Office, and conduct the reorganization of Council by electing a Mayor and Vice Mayor.

Prepared by:


Wendy Wood, City Clerk

Approved by:


Mark Linder, City Manager



City Council Report

Item: 21.

Category: Council Committee Reports

Meeting Date: November 1, 2016

DISCUSSION

This is the section of the City Council Agenda that allows the City Councilmembers to report on items of interest and the work of City Council Committees.

MAYOR BAKER

Cities Association of Santa Clara County:
Board of Directors
Selection Committee
City Atty. Performance/Comp. Subcommittee
City Clerk Performance/Comp. Subcommittee
City Mgr. Performance/Comp. Subcommittee
County Expressway Policy Advisory Board
County Library District JPA Board of Dir.
*Metropolitan Transportation Commission***
Bay Area Toll Authority
Santa Clara County Operational Area
*Council (Chair)***
*VTA Board of Directors***
West Valley Mayors and Managers

VICE MAYOR GIBBONS:

Advisory Commissioner Appointment Interview Subcommittee
Campbell Historical Museum & Ainsley House Foundation Liaison
City Atty. Performance/Comp. Subcommittee
City Clerk Performance/Comp. Subcommittee
City Mgr. Performance/Comp. Subcommittee
CDBG Program Committee (County) (Alt.)
Cities Association of Santa Clara County:
Board of Directors (Alt.)
Selection Committee (Alt.)
County Expressway Policy Adv. Board (Alt.)
County Library District JPA Board of Dir. (Alt.)
Downtown Subcommittee
Education Liaison Subcommittee
Finance Subcommittee
Friends of the Heritage Theatre Liaison (Alt.)
Housing Rehabilitation Loan Committee
Legislative Subcommittee
State Route (SR) 85 Corridor Policy Advisory Board (Alt.)
Silicon Valley Clean Energy Authority Board of Directors
Santa Clara Valley Water District:
County Water Commission (Alt.)
20% Housing Committee (Successor Agency)
West Valley Mayors and Managers (Alt.)

COUNCILMEMBER CRISTINA:

Assn. of Bay Area Governments
Cities Association of Santa Clara County:
ABAG Representative (Alternate)
Economic Development Subcommittee
Santa Clara Valley Water District:
County Water Commission
Silicon Valley Clean Energy Authority Board of Directors (Alt.)

COUNCILMEMBER KOTOWSKI:

Assn. of Bay Area Governments (Alt.)
CDBG Program Committee (County)
Education Liaison Subcommittee
Friends of the Heritage Theatre Liaison
Housing Rehab Loan Committee (Alt.)
*Recycling Waste Reduction Commission***
Legislative Subcommittee
Silicon Valley Animal Control Authority Board (SVACA) (Alt.)
Valley Transportation Authority Policy Advisory Committee (Alt.)
West Valley Sanitation District
West Valley Solid Waste Authority JPA (Alt.)

COUNCILMEMBER RESNIKOFF:

Advisory Commissioner Appointment Interview Subcommittee
Campbell Historical Museum & Ainsley House Foundation Liaison (Alt.)
Downtown Subcommittee
Economic Development Subcommittee
Education Subcommittee (Alt.)
Finance Subcommittee
State Route (SR) 85 Corridor Policy Advisory Board
Silicon Valley Animal Control Authority Board (SVACA)
20% Housing Committee (Successor Agency)
Valley Transportation Authority Policy Advisory Committee
West Valley Sanitation District (Alt.)
West Valley Solid Waste Authority JPA

****appointed by other agencies**

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COUNTY GOVERNMENT CENTER, EAST WING
70 WEST HEDDING STREET, 10TH FLOOR
SAN JOSE, CALIFORNIA 95110
(408)299-5040 FAX (408)299-2038 TDD 993-8272
WWW.SUPERVISORYEAGER.ORG



KEN YEAGER
SUPERVISOR, FOURTH DISTRICT

October 31, 2016

Dear Honorable Mayor and Councilmembers of the City of Campbell,

On behalf of Santa Clara County, I would like to invite you to the 2016 Healthy Cities Conference on **Friday, November 18, 2016, from 9:30am to 1:00pm** at the Tech Museum of Innovation in downtown San José.

We are hosting the Healthy Cities Conference to share information on policy strategies that promote public health and to acknowledge the amazing work that cities in Santa Clara County are doing to promote the health and well-being of both employees and residents. The conference is tailored to city elected officials and their key staff.

At the conference, we will also share the Healthy Cities Campaign Dashboard and overall initiative with attendees. The dashboard highlights chronic disease and injury prevention strategies and policies that have been adopted or achieved by each city to promote health via four broad categories: (1) Active & Safe Communities; (2) Healthy Food & Beverage Environments; (3) Tobacco-Free Communities; and (4) Cross-Cutting Strategies. Over the last year, the Public Health Department has consulted with the Cities Association and the Santa Clara County City Managers Association about this initiative. Public Health Department staff recently vetted the final Healthy Cities Campaign Dashboard concept with the Santa Clara County Cities Managers' Association and received a unanimous endorsement from the Cities Association of Santa Clara County.

At this very moment, city managers and their staff are reviewing and providing feedback on the findings of each individual city's dashboard. You should expect to receive your city's dashboard this week.

Many cities have already achieved a number of policy strategies included on the dashboard and will receive awards for their accomplishments at the conference. Cities will also receive recognition at the conference during a Healthy Cities Showcase for adopting innovative policies and strategies that promote health.

If you have any questions, please don't hesitate to contact Laura Jones from the Public Health Department at Laura.Jones@phd.sccgov.org or (408) 793-2774. **Please register for the Healthy Cities Conference no later than Friday, November 11 at <http://bit.ly/sccchcc2016>.** We hope to see you there!

Sincerely,

Supervisor Ken Yeager
Santa Clara County, Fourth District

DRAFT

Santa Clara County Healthy Cities Campaign

DRAFT

Friday, November 18
9:30 am - 1:00pm
Tech Museum
201 S. Market St., San Jose, CA 95113

Agenda

Registration Begins at 9:00 am
County staff available to provide 1:1 technical assistance to attendees from 1-2

1. Welcome and Healthy Cities Campaign Introduction

Supervisor Ken Yeager, PhD
Santa Clara County, Fourth District
Sara H. Cody, MD
Santa Clara County Health Officer and Public Health Director

2. Reducing the Impact of Sugar-Sweetened Beverages

Jim Krieger, MD, MPH
Executive Director, Healthy Food America

3. Panel: Policy Strategies for Reducing the Impact of Sugar-Sweetened Beverages

San Francisco Warning Label Policy

Christina Goette, MPH
Chronic Disease Prevention Programs Manager, San Francisco Department of Public Health

Yes on Measure D Campaign - Berkeley Soda Tax

Vicki Alexander, MD, MPH
Co-Chair, Berkeley vs Big Soda Campaign

Default Beverage Option Policy

Alfred Mata, Jr., MPA
Program Manager, Public Health Advocates

4. Healthy Cities Showcase and Awards Presentation

Supervisor Ken Yeager, PhD
Sara H. Cody, MD

5. Lunch

6. Panel: Strategies to Create Tobacco-Free and Active and Safe Communities

Don't Let Enforcement Stop You: Creative Solutions for Tobacco Policy Implementation

Vice Mayor Greg Scharff, JD
City of Palo Alto

Nicole Coxe, MPH

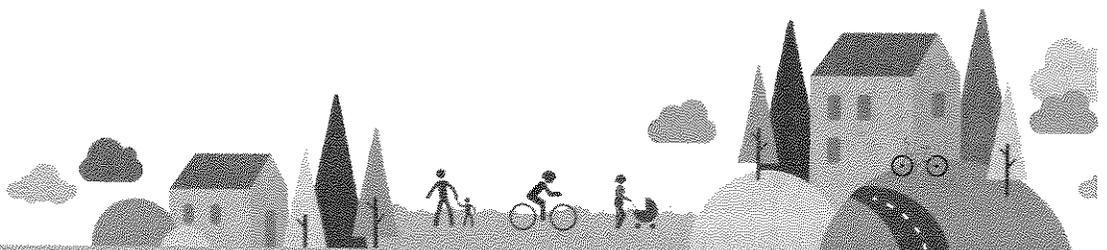
Tobacco-Free Communities Program Manager, Santa Clara County Public Health Department

Creative Traffic Strategies for Healthy Cities

Ria Hutabarat Lo, PhD
Transportation and Traffic Manager, City of Sunnyvale

7. Evaluation and Close

Santa Clara County
**PUBLIC
HEALTH**



Santa Clara County Healthy Cities Conference

Register by Friday, November 11

When:

Friday, November 18, 2016, 9:30 am to 1:00 pm

- Registration starts at 9:00 am
- Lunch will be provided

Where:

The Tech Museum of Innovation

201 S. Market St., San Jose, CA 95113

Why:

- Join us for the 2016 Healthy Cities Campaign award presentation
- Celebrate policy and practice changes that cities have adopted to create healthier environments for their employees and residents
- Learn more about what cities can do to promote health

Who:

Attendance by Invitation Only

- This event is tailored for local, state, and federal elected officials, city managers, and other key City and County staff

How:

Visit bit.ly/seehec2016 to register

Santa Clara County
**PUBLIC
HEALTH**



DRAFT

DRAFT

Dashboard FAQ

What is this?

To acknowledge and more easily communicate the great work cities within Santa Clara County are doing to promote health, the Santa Clara County Public Health Department (SCCPHD) has developed this Healthy Cities Campaign Dashboard.

What is in the "Dashboard"?

The Dashboard indicates policies and strategies that have been adopted or achieved in a given city within the County. Policies and strategies have been adopted from published resources, peer-reviewed research, and other promising or evidence-based best practices established by leading health experts like the Centers for Disease Control and Prevention, and reflect priority areas for the SCCPHD. The various policies and strategies included promote health via one of four broad themes or categories:

- 1) Active & Safe Communities
- 2) Healthy Food & Beverage Environments
- 3) Tobacco-Free Communities
- 4) Cross-Cutting Strategies

What do the symbols mean?

- ☐ An "empty box" indicates that a city has not yet adopted or achieved the policy or strategy
- ☑ A "check" indicates that a city has adopted or achieved the policy or strategy
- ★ A "star" indicates that a city has adopted or achieved a "model" policy or strategy
- * An "asterisk" indicates a "model" policy or strategy is possible
- NA "NA" indicates a strategy is not possible for a certain city

What is a "model" policy or strategy?

A "model" policy or strategy is one that goes above and beyond "checking the box" and demonstrates best practices in a given area. For example, a city may adopt a policy prohibiting the sale of some flavored tobacco products and achieve a "check," while another city may adopt a policy prohibiting all flavored tobacco products (including menthol cigarettes) and receive a "star" for having adopted a model policy.

Where can I find an example of a "model" policy or strategy?

The SCCPHD is in the process of creating a catalog of model policies/strategies from within and outside of Santa Clara County that will be featured on our website. Materials are also available upon request.

Will the policies or strategies listed on this Dashboard ever change?

We expect the list of policies and strategies on the Dashboard to remain fairly stable. With that said, we anticipate periodic revisions to the Dashboard in order to remain up-to-date with public health research and to reflect new and innovative best practices and policies. Changes will occur no more frequently than on an annual basis.

How does my city compare to other cities in Santa Clara County?

You can compare your city's Healthy Cities Campaign Dashboard to the dashboards of other cities in the County when they are released.

What if I want my city to earn more "checks" or "stars" next year?

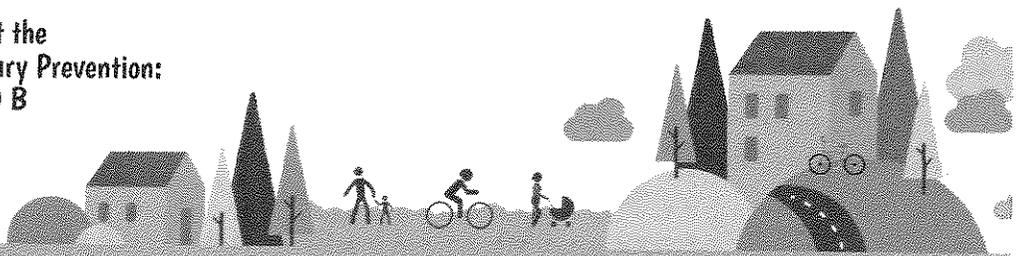
The SCCPHD can provide technical assistance and recommendations to help you begin or continue work in your city related to these areas. Specifically, we can provide: model policies, legal expertise, data, outreach support to affected groups, implementation strategies and, when possible, funding.

What is the "City Spotlight"?

The City Spotlight highlights strategies adopted by cities to promote the health and well-being of its residents. These strategies are typically different than those listed under the four broad categories in the Dashboard.

Santa Clara County
**PUBLIC
HEALTH**

For more information, contact us at the
Center for Chronic Disease and Injury Prevention:
1400 Parkmoor Avenue, Suite 120 B
San Jose, CA 95126
Phone: 408-793-2700



DRAFT

Santa Clara County Healthy Cities Campaign

DRAFT

Template

Active & Safe Communities

Total Strategies **15** Total Achieved **-**

Active Transportation & Recreation Initiatives

- Adopt Vision Zero Initiative
- Adopt Complete Streets Guidelines for Transportation and Land Use Planning
- Adopt Bicycle, Pedestrian, and/or Trails Master Plans
- Adopt Parks and Recreation Master Plans
- Bike-Friendly Designation by the League of American Bicyclists
- Walk-Friendly Designation from UNC Highway Safety Research Center
- Bike Parking Near Public Facilities

Workplace Commute Planning for Employees

- Incentives for Use of Public Transit and/or Ridesharing to Work
- Incentives for Walking and/or Biking to Work
- Shower Facilities for Employees who Walk or Bike to Work*
- Transportation Demand Management including Transit, Bike, and/or Parking (Including Fees) Policies

Safe Routes to Schools

- Safe Routes to Schools Resolution*
- Multi-Disciplinary Collaborative/Task Force*
- Dedicated Bike and Pedestrian Coordinator*

Healthy Food & Beverage Environments

Total Strategies **11** Total Achieved **-**

Healthy Food & Beverage Procurement Standards

- Standards for Meetings, Events, and Celebrations*
- Standards for Vending Machines*
- Standards for City-Run Adult and Youth-Based Programming*
- Standards for City-Run Cafes, Cafeterias, Snack Shacks, and Kiosks*

Water Access

- Water Access Policy
- Water-Filling Stations

Reduced Exposure to Sugar-Sweetened Beverages

- Eliminate Sugar-Sweetened Beverages as a Default Option for Kids' Meals in Restaurants
- Require Health Warnings on Advertisements for Sugar-Sweetened Beverages
- Resolution to Refuse Funds from Sugar-Sweetened Beverage Industry
- Propose Sugar-Sweetened Beverage Tax

Healthy Food Access

- Community Gardens on City Property/Parks

Tobacco-Free Communities

Total Strategies **14** Total Achieved **-**

Reduced Exposure to Secondhand Smoke

- Parks, Trails, and Recreation Areas
- Outdoor Dining Areas
- Entryways
- Service Lines and Areas (e.g. Ticket Lines, ATM lines, etc.)
- Multi-Unit Housing (Must Include Units)*
- Public Events

Reduced Youth Access through a Tobacco Retail License

- Tobacco Retail Permit*
- Reduce Density of Tobacco Outlets
- Limit Sales Near Schools
- Flavored Tobacco Restrictions*
- Prohibit Sale of Tobacco in Pharmacies
- Price-Discounting Restrictions
- Tobacco Products Sold Only in Adult Tobacco Stores
- Enforcement of Tobacco Sales to Minors in 2016

Cross-Cutting Strategies

Total Strategies **3** Total Achieved **-**

Inclusive & Comprehensive Health Planning & Programs

- Health Language in General Plan
- Age-Friendly City Designation by the World Health Organization
- Employee Wellness Program/Committee

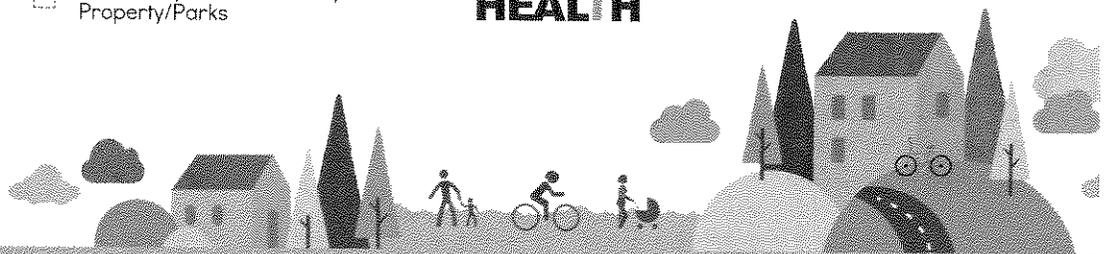
City Spotlight

In 2016, Example City conducted a Rethink Your Drink wellness campaign to encourage city employees to drink more water instead of sugary drinks.

Key

- Strategy Not Achieved
- Strategy Achieved (Not Model)
- ★ Model Strategy Achieved
- * Model Strategy Possible
- NA Strategy Not Applicable for Specific Jurisdiction

Santa Clara County
PUBLIC HEALTH





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November 1, 2016

Mayor Baker and Members of the City Council
City of Campbell
70 N. First Street
Campbell, CA 95008

VIA EMAIL & U.S. MAIL

Re: Appeal of the Planning Commission's Denial of Cardiff & Cocktails' Legal
Nonconforming Use Status - File No. PLN2016-293

Dear Mayor Baker and Members of the Council:

We represent Sam Ramirez and Vee Meharu, owners of Cardiff & Cocktails. They timely appealed the Campbell Planning Commission's denial of the legal nonconforming use status of their bar/liquor establishment. This letter is in addition to the October 6, 2016, letter to the City Council submitted by Ms. Escobar. On behalf of the owners, we respectfully request that this hearing be continued to provide the owners an opportunity to be present at the hearing. This request is reasonable in light of the serious legal implications of denying the current use of the property as a bar/liquor establishment¹ without the all of the business owners present to testify. In addition, we understand that the property owner was not notified of this hearing and has a right to be present as well.²

In the event that this hearing does not get continued, this letter will set forth our evidence and legal position regarding the Planning Commission's denial of the Cardiff & Cocktails' legal use as a bar/liquor establishment.

¹ By definition, "liquor establishments means a retail activity that is primarily devoted to the selling of alcoholic beverages as a stand-alone bar or tavern, or in conjunction with a restaurant or nightclub facility, for consumption on the premises." (Campbell Municipal Code ("CMC") 21.72.020.L)

² We further understand that the property owner was not notified of the Planning Commission hearing on September 27, 2016.

The Planning Commission's action resulted in an unlawful revocation of Cardiff & Cocktails' valid conditional use permit without notice, fair hearing and specific findings of fact that the business constituted a public nuisance.

BACKGROUND – EXISTING APPROVALS FOR 260 E. CAMPBELL

Cardiff & Cocktails (previously Cardiff Lounge) located at 260 E. Campbell Avenue (“260 E. Campbell”) has been in operation since the 1960s. The Planning Commission staff report dated September 27, 2016 (“Staff Report”) noted that between 1967 and 1968, 260 E. Campbell was “used as a bar (d.b.a. Busy Bee Lounge).” The Staff Report also refers to UP 79-16, which is described below.

UP 79-16 Approved a Use Permit for the *Existing Bar Use Located at 260 E. Campbell*

UP 79-16³ approved an “application of Mr. Raffanti for a use permit and the approval of plans to remodel an existing building located on property known as 260 & 266 E. Campbell Avenue.” In a July 18, 1979, Planning Commission Memorandum to the City Council, it is noted that UP 79-16 “site plan indicates that there are 28 parking spaces available for use by the portion of the building to be remodeled and the *adjoining Beehive Lounge*.” Further, “the Commission is of the opinion that the 28 spaces should provide adequate parking for the proposed offices and *existing cocktail lounge*.”

If UP 79-16 was only for the approval of the remodel, then there would be no need for the Planning Commission to review the adequacy of the parking for both uses. In addition, Resolution No. 1800 (UP 79-16) was based on the application filed with the Planning Department on June 18, 1979. That application was for a project at located 260 and 266 E. Campbell Avenue and had one APN (413-6-75). UP 79-16 clearly applied the whole property, which included the portion of the building to be remodeled *and* the Beehive Lounge. To date, UP 79-16 has not been revoked.

2004 CUP Findings and Conditions of Approval Confirmed the *Existing Bar Use*

UP 79-16 and the Conditional Use Permit adopted by Resolution No. 3618, December 14, 2004, (“2004 CUP”) have not been revoked, Cardiff & Cocktails is legally permitted to continue its bar/liquor establishment use at 260 E. Campbell.

The live entertainment and late night activities were *added* with 2004 CUP. The 2004 CUP findings and conditions of approval further confirmed the operation of the *existing bar/liquor establishment*. 2004 CUP had 15 conditions of approval. There are specific conditions that are solely for the bar/liquor establishment use. These conditions were made part of the approval of the 2004 CUP for the existing bar/liquor establishment after the C-3 zoning had changed, requiring a conditional use permit for a bar/liquor establishment use. This confirms that the existing bar/liquor

³ At a minimum UP 79-16 is evidence of the longstanding bar/liquor establishment use at 260 E. Campbell. Even if UP 79-16 is found not to apply, 2004 CUP remains a valid use permit for the existing bar/liquor establishment use at 260 E. Campbell.

establishment was part of the approval of 2004 CUP. If the bar/liquor establishment was being treated as an existing non-conforming use, then the specific bar-related conditions would not be necessary.

The relevant 2004 CUP findings include:

- “1. The proposed late night activities and live entertainment *in conjunction with the existing bar* are consistent with the Central Commercial General Plan Land Use Designation.”
- “2. The proposed late night activities, occurring between 11 p.m. and 6 a.m., and live entertainment *in conjunction with the existing bar* will be compatible with the C-3 (Central Business District) zoning designation with approval of a conditional use permit.”
- “8. The hours of operation [bar/liquor establishment] shall be restricted to 12 p.m. to 2 a.m. daily, and the hours for live entertainment shall be restricted to 9 p.m. to 1:30 a.m. daily.” [Emphasis added]

Finding 8 clearly established that the *existing bar use* had separate hours of operation that were different from the live entertainment. This finding would be unnecessary if the 2004 CUP did not apply to the existing bar use/liquor establishment use.

- “9. The types of entertainment offered at the establishment [bar/liquor establishment] would consist of live D.J.'s, three piece bands, and karaoke.”

Finding 9 specifically acknowledges that the entertainment activities are part of the operation of the existing bar. This finding would be unnecessary if the 2004 CUP did not apply to the existing bar use/liquor establishment use.⁴

The relevant 2004 Conditions of Approval include:

- “10. Noise – Trash & Clean Up:
 - d. Trash and clean up shall not be done in the evening or early morning hours. All trash and clean up shall be done between 12 p.m. and 6 p.m. daily.” *This condition clearly applies to controlling the noise of the bottle recycling done after hours.*
- “11. Business Operational Hours: The operational hours shall be limited to 12:00 p.m. to 2:00 a.m. seven days a week. The 2 a.m. closing shall mean that the business is closed and shuttered with no activity. **Hours of operation will include the**

⁴ Statutory interpretation is guided by the so-called “plain meaning” rule. An interpretation that renders related provision nugatory must be avoided; each sentence must be read not in isolation but in light of the statutory scheme; and if a statute is amendable to two alternative interpretations, the one that leads to the more reasonable result will be followed. *Burden v. Snowden* (1992) 2 Cal. 4th 556.

conclusion of liquor sales at 1:30 a.m.” [Emphasis added] *This clearly establishes the City’s approval of hours of liquor sales. If the bar/liquor establishment was considered an existing nonconforming use, then this condition would be unnecessary.*

CARDIFF & COCKTAILS HAS A VESTED RIGHT TO OPERATE AS A BAR/LIQUOR ESTABLISHMENT

We maintain that Cardiff & Cocktails has a fundamental vested right to continue the operation of its bar/liquor establishment use, which the owners have a substantial investment as a legal conforming (or legal non-conforming) use. *Malibu Mountains Recreation, Inc. v. County of Los Angeles*, (1998) 67 Cal.App.4th 359, 367; *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal. 4th 1519. The history of this property demonstrates that the past zoning interpretations from the City confirm Cardiff & Cocktails has full conforming use status by virtue of UP 79-16/2004 CUP, which run with the land and do not expire. *County of Imperial v. McDougal*, (1977) 19 Cal.3d 505, 510; *Community Dev. Comm’n. v. City of Fort Bragg*, (1988) 204 Cal.App.3d 1124. In addition, the City has not taken any action to revoke UP 79-16/2004 CUP; therefore, they run with the land and are valid permits governing *all* of the uses and occupations of 260 E. Campbell.

The Staff Report clearly acknowledges the prior and existing bar/liquor establishment use at 260 E. Campbell. The Staff Report confirms that there were two use permits on file for the property (UP 79-16 and 2004 CUP). However, the Staff Report incorrectly concludes that they only “serve to acknowledge the presence of the existing bar, neither serves to establish a use permit for the operation of a liquor establishment.” It is illogical to refer to UP 79-16/2004 CUP only to “acknowledge the presence of an existing bar.” Cardiff & Cocktails’ right to operate as an existing bar/liquor establishment is inextricably intertwined in 2004 CUP and denying its legal nonconforming use status is a de facto revocation of 2004 CUP and puts the bar/liquor establishment out of business.

There is evidence in the Staff Report that establishes the bar/liquor establishment use at 260 E. Campbell has continuously operated under UP 79-16/2004 CUP:

“Cardiff & Cocktails, under different ownership and name, had continuously operated as a bar since the 1960’s.”

The Cardiff Lounge “originally believed to have operated as the Busy Bee Lounge.”

“As the business [Cardiff Lounge] was not required to have a Conditional Use Permit when it was established, the liquor establishment has existed as a nonconforming use (due to the lack of a Conditional Use Permit) since that time.”

CARDIFF & COCKTAILS IS A CONFORMING USE

We maintain that the Cardiff & Cocktails is not a nonconforming use because it has been a lawful use through the application and approval of use permits (UP 79-16/2004 CUPs) that have not been revoked.

The Staff Report incorrectly concluded that the “business” remained closed for more than six months and its nonconforming use status was deemed lost. However, this conclusion is not supported by case law.

The definition of a legal nonconforming use is one which was valid when brought into existence, but by subsequent regulation it becomes no longer conforming. *City of Los Angeles v. Gage* (1954) 127 Cal.App.2d 442; *Hill v. City of Manhattan Beach* (1971) 6 Cal.3d 279. There is no such status as a nonconforming use that is in compliance with a valid conditional use permit. The law clearly distinguishes between nonconforming uses and permitted conditional uses. *Tenderloin Housing Clinic, Inc. v. Astoria Hotel, Inc.*, 83 Cal.App.4th 139, 145 (2000). Cardiff & Cocktails a conforming use because it complies with the current CMC by virtue of UP 79-16/2004 CUP.

Although the zoning may have changed for the C-3 District (Central Business District), those changes cannot retroactively invalidate the lawfully issued UP 179-16/2004 CUP. The fact that the current CMC may not allow certain uses in the C-3 District is not relevant to the validity of the UP 79-16/2004 CUP. The C-3 District zoning requirements would apply *if, and only if*, the Cardiff & Cocktails was applying for a *new* CUP for the bar/liquor establishment use. In addition, a new zoning ordinance may not operate constitutionally to compel immediate discontinuation of an otherwise lawfully established use or business. *City of Los Angeles v. Wolfe*, 6 Cal.3d 326, 337 (1971); *Livingston Rock and Gravel Co. v. County of Los Angeles*, 43 Cal.2d 121, 127 (1954).

EVEN IF CARDIFF & COCKTAILS IS A NONCONFORMING USE - THE BAR/LIQUOR ESTABLISHMENT HAS NOT BEEN ABANDONED

We maintain that the Cardiff & Cocktails is a conforming use since it has been a lawful use through the application and approval of use permits (UP 79-16/2004 CUP) that have not been revoked. It is clear that Cardiff & Cocktails had no intent to abandon the bar/liquor establishment use.

However, even if Cardiff & Cocktails is considered a nonconforming use, the Staff Report states that “whenever a nonconforming use has been ‘abandoned’ or ‘discontinued’ for a continuous period of six months, the ‘grandfathered status’ is lost and the business may not continue to operate until a Condition Use Permit is obtained.”⁵

Courts have held that the abandonment of a nonconforming use involves both an intent to abandon and an overt act, or failure to act, which carries the implication that the owner does not claim or retain any interest in the right to the nonconforming use. *Palco Enterprises, Inc. v. Beam* (2005) 132 Cal.App.4th 1482; *Hanson Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533.

⁵ CMC Section 21.10.060.L states: “Nonconforming uses and structures in the C-3 (Central Business District) zoning district. Nonconforming uses and structures shall be governed by the standards set forth in Chapter 21.58 (Nonconforming Uses and Structures) except that whenever a nonconforming use has been abandoned or discontinued for a continuous period of six months, the nonconforming use shall not be re-established; and the use of the structure and the site shall comply with the regulations for the C-3 zoning district.”

Mayor Baker and Members of the City Council
November 1, 2016

Although the term “discontinued” is used in zoning regulations dealing with nonconforming uses, it is often deemed to be synonymous with “abandoned.” However, cessation of use alone does not constitute abandonment. In *Hanson Brothers Enterprises, Inc. v. Board of Supervisors* (1996) 12 Cal.4th 533, the court explained the distinction:

Abandonment of a nonconforming use ordinarily depends upon a concurrence of two factors: (1) an intention to abandon, and (2) an overt act, or failure to act, which carries the implication the owner does not claim or retain any interest in the right to the nonconforming use. Mere cessation of use does not of itself amount to abandonment, although the duration of non-use may be a factor in determining whether the nonconforming use has been abandoned.

Here, the CMC is silent regarding the intent to resume the use after a voluntary discontinuance of a nonconforming use. The contrary is true and supported by strong evidence of the owners’ intent to resume the bar/liquor establishment use after remodeling 260 E. Campbell. Further, the application and processing of the ABC Liquor License is also strong evidence of an intent to resume the existing bar/liquor establishment use. The remodeling of the bar/liquor establishment is also strong evidence of the owners’ substantial investment in reliance on their current 79-16/2004 CUP.

We respectfully request that the City Council grant our appeal and allow Cardiff & Cocktails to continue operating its existing bar/liquor establishment.

Very truly yours,

BERLINER COHEN, LLP



JOLIE HOUSTON

E-Mail: jolie.houston@berliner.com

cc: Paul Kermoyan, Community Development Director
Wendy Wood, City Clerk
Clients



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November 1, 2016

Mayor Baker and Members of the City Council
City of Campbell
70 N. First Street
Campbell, CA 95008

VIA EMAIL & U.S. MAIL

Re: Appeal of the Planning Commission's Denial of Cardiff & Cocktails' Legal
Nonconforming Use Status - File No. PLN2016-293

Dear Mayor Baker and Members of the Council:

This letter is an addition to our letter previous letter, also dated November 1, 2016. The Campbell Municipal Code ("CMC"), Chapter 21.58 generally governs nonconforming uses and structures. CMC Section 21.10.060L governs nonconforming uses in structures in the C-3 (Central Business District) zoning district. Both Sections govern the interpretation of nonconforming uses in the C-3 Zoning District.

CMC Section 21.10.060.L [C-3 District]:

Nonconforming uses and structures shall be governed by the standards set forth in Chapter 21.58 (Nonconforming Uses and Structures) except that whenever a nonconforming use has been abandoned or discontinued for a continuous period of six months, the nonconforming use shall not be re-established; and the use of the structure and the site shall comply with the regulations for the C-3 zoning district."

CMC 21.58.040 – Restriction on nonconforming uses.

E. Discontinued use.

1. A nonconforming use that is abandoned, discontinued, or has ceased operations for a continuous period of 12 months shall not be reestablished on the site and further

use of the structure or parcel shall comply with all of the regulations of the applicable zoning district and all applicable provisions of this Zoning Code. [*Note- this section does not apply per CMC Section 21.1.060.L.*]

2. Evidence of abandonment shall include, but is not limited to, the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use, the turning off of the previously connected utilities, or where there are no business receipts/records available to provide evidence that the use is in continual operation.

We understand that at the Planning Commission meeting held on September 27, 2016, the City Attorney advised the Planning Commissioners that “on-going efforts” to keep the business operating could be considered during the hearing. Our letter dated November 1, 2016, outlines the legal and factual analysis of Cardiff & Cocktails’ intent not to abandon the bar/liquor establishment use.

As set forth in this letter, we are submitting evidence of Cardiff & Cocktails’ bar/liquor establishment use prior to the August 26, 2016, deadline.¹ We contest this August date since there is evidence (receipts) of actual bar/liquor establishment use as of March 11, 2016.

1. The Cardiff Lounge (Cardiff & Cocktails) sale receipts for bar/liquor establishment event as of March 11, 2016. This date is not the February 26, 2016 date used by staff. Therefore, the 180-day termination date would end on September 7, 2016.
2. Cardiff & Cocktails’ pay stubs for the pay period beginning 08/01/2016 through 08/15/2016. These are pay stubs for employees paid by Cardiff & Cocktails for bar/cocktail training. Cardiff and Cocktails specializes in “craft” cocktails and bar/cocktail service training is a routine practice for any bar/liquor establishment. This training is evidence of a bar/liquor establishment use prior to the 180-day termination date. (Under either time period: August 24, 2106 OR September 7, 2016)
3. Cardiff & Cocktails has not removed equipment, furniture, machinery, structures, or other components of the nonconforming use. In fact, the bar/liquor establishment has remained fully intact, with remodeling of the interior only.
4. The August 26 and 27 and September 2 were “soft openings” for friends and family and members of the public who came to Cardiff & Cocktails and purchased liquor. These receipts were previously submitted. These receipts establish bar/liquor establishment use.

In conclusion, we respectfully request that this hearing be continued to provide the owners an opportunity to be present and present evidence at the hearing. In the event that this hearing does not

¹ We understand that the August 26, 2016, deadline was established at the Planning Commission hearing.

Mayor Baker and Members of the City Council
November 1, 2016

get continued, this letter sets forth further evidence that Cardiff & Cocktails was being used as a bar/liquor establishment use prior to 180-day termination date of September 7, 2016.

Very truly yours,

BERLINER COHEN, LLP



JOLIE HOUSTON

E-Mail: jolie.houston@berliner.com

Enclosures

cc: Paul Kermoyan, Community Development Director
Wendy Wood, City Clerk
William Seligmann, City Attorney
Clients

 ----- Z1 -----

The Cardiff Lounge

TOTAL SALES

Date Range: 3/11/2016 to 3/11/2016
 Periods: 7:00:00 PM to 9:59:59 PM
 Report Time 03/11/2016 11:11:44 PM

Sale Received	:	\$380.50
Unpaid Total	:	\$0.00
Comp Total	:	\$100.00
Actual Total	:	\$480.50
Ticket Sub Total	:	\$350.50
Ticket Tax	:	\$480.50
Refund	:	\$0.00
Gift Card Total	:	\$0.00
House Acct Pymt	:	\$0.00

----- Cash For Drawer -----

+Cash Drawer 1A	:	\$200.00
+Cash Received	:	\$480.50
+ Paid In	:	\$0.00
- Paid Out	:	\$0.00
Staff Fees	:	\$0.00
- Cash Tip	:	\$0.00
- Non Cash Tips	:	\$0.00
- Credit Tips	:	\$0.00
- Delivery Charge	:	\$0.00

CASH DEPOSIT \$480.50

Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

Check No.: 107

Pay Stub Detail
 PAY DATE:08/20/2016
 NET PAY:\$196.87

Check No.: 107

EMPLOYER
 Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

PAY PERIOD
 Period Beginning 08/01/2016
 Period Ending: 08/15/2016
 Pay Date: 08/20/2016
 Total Hours: 26.00

EMPLOYEE

OTHER PAY:

	Current	Year To Date
Cash Tips	165.06	165.06

BENEFITS

	Used	Available
Sick	0.00	0.87

NET PAY: \$196.87

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Regular Pay	26.00	10.30	267.80	267.80

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
-------------------	----------------	------------

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	33.91	33.91
Social Security	26.84	26.84
Medicare	6.28	6.28
CA Income Tax	0.00	0.00
CA State Disability Ins	3.90	3.90

SUMMARY	Current	YTD
Total Pay	\$267.80	\$267.80
Taxes	\$70.93	\$70.93
Deductions	\$0.00	\$0.00

Net Pay \$196.87

Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

Check No.: 1063

Pay Stub Detail
 PAY DATE:08/20/2016
 NET PAY:\$181.16

Check No.: 1063

EMPLOYER
 Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

PAY PERIOD
 Period Beginning 08/01/2016
 Period Ending: 08/15/2016
 Pay Date: 08/20/2016
 Total Hours: 21.50

EMPLOYEE

OTHER PAY:

	Current	Year To Date
Cash Tips	249.84	249.84

BENEFITS

	Used	Available
Sick	0.00	0.72

NET PAY: \$181.16

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Regular Pay	21.50	10.30	221.45	221.45

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
-------------------	----------------	------------

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	0.00	0.00
Social Security	29.22	29.22
Medicare	6.83	6.83
CA Income Tax	0.00	0.00
CA State Disability Ins	4.24	4.24

SUMMARY	Current	YTD
Total Pay	\$221.45	\$221.45
Taxes	\$40.29	\$40.29
Deductions	\$0.00	\$0.00

Net Pay \$181.16

Cardiff & Cocktails
260 E Campbell
Campbell CA 95008

Check No.: 1064

Pay Stub Detail
PAY DATE:08/20/2016
NET PAY:\$1,499.60

Check No.: 1064

EMPLOYER
Cardiff & Cocktails
260 E Campbell
Campbell CA 95008

PAY PERIOD
Period Beginning 08/01/2016
Period Ending: 08/15/2016
Pay Date: 08/20/2016

EMPLOYEE

BENEFITS

	Used	Available
Sick	0.00	2.89

NET PAY: \$1,499.60

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Salary	-	-	2,000.00	2,000.00

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
-------------------	----------------	------------

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	258.18	258.18
Social Security	124.00	124.00
Medicare	29.00	29.00
CA Income Tax	71.22	71.22
CA State Disability Ins	18.00	18.00

<u>SUMMARY</u>	<u>Current</u>	<u>YTD</u>
Total Pay	\$2,000.00	\$2,000.00
Taxes	\$500.40	\$500.40
Deductions	\$0.00	\$0.00

Net Pay \$1,499.60

Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

Check No.: 1067

Pay Stub Detail
 PAY DATE:08/20/2016
 NET PAY:\$304.40

Check No.: 1067

EMPLOYER
 Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

PAY PERIOD
 Period Beginning 08/01/2016
 Period Ending: 08/15/2016
 Pay Date: 08/20/2016
 Total Hours: 25.00

EMPLOYEE

OTHER PAY:

	Current	Year To Date
Cash Tips	147.12	147.12

BENEFITS

	Used	Available
Sick	0.00	0.83

NET PAY: \$304.40

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Regular Pay	25.00	15.00	375.00	375.00

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
-------------------	----------------	------------

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	25.96	25.96
Social Security	32.37	32.37
Medicare	7.57	7.57
CA Income Tax	0.00	0.00
CA State Disability Ins	4.70	4.70

SUMMARY	Current	YTD
Total Pay	\$375.00	\$375.00
Taxes	\$70.60	\$70.60
Deductions	\$0.00	\$0.00

Net Pay \$304.40

Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

Check No.: 1069

Pay Stub Detail
 PAY DATE:08/20/2016
 NET PAY:\$84.92

Check No.: 1069

EMPLOYER
 Cardiff & Cocktails
 260 E Campbell
 Campbell CA 95008

PAY PERIOD
 Period Beginning 08/01/2016
 Period Ending: 08/15/2016
 Pay Date: 08/20/2016
 Total Hours: 11.00

EMPLOYEE

OTHER PAY:

	Current	Year To Date
Cash Tips	90.24	90.24

BENEFITS

	Used	Available
Sick	0.00	0.37

NET PAY: \$84.92

MEMO:

<u>PAY</u>	<u>Hours</u>	<u>Rate</u>	<u>Current</u>	<u>YTD</u>
Regular Pay	11.00	10.30	113.30	113.30

<u>DEDUCTIONS</u>	<u>Current</u>	<u>YTD</u>
-------------------	----------------	------------

<u>TAXES</u>	<u>Current</u>	<u>YTD</u>
Federal Income Tax	10.98	10.98
Social Security	12.62	12.62
Medicare	2.95	2.95
CA Income Tax	0.00	0.00
CA State Disability Ins	1.83	1.83

SUMMARY	Current	YTD
Total Pay	\$113.30	\$113.30
Taxes	\$28.38	\$28.38
Deductions	\$0.00	\$0.00

Net Pay \$84.92



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No:
Statement Date: 05/03/2016
Due Date: 05/20/2016

Service For:

MEHARU,VIRAMRINDER

Your Account Summary

Deposit (05/03/2016) \$1,056.00

Total Amount Due by 05/20/2016 \$1,056.00

Questions about your bill?

24 hours per day, 7 days per week
Phone: 1-800-743-5000
www.pge.com/MyEnergy

Please return this portion with your payment. No staples or paper clips. Do not fold. Thank you.

99901105962759300001056000000105600



Account Number:

Due Date:

05/20/2016

Total Amount Due:

\$1,056.00

Amount Enclosed:

\$

MEHARU.VIRAMRINDER

SAN JOSE, CA 95117-106

PG&E
BOX 997300
SACRAMENTO, CA 95899-7300



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No:
Statement Date: 05/31/2016
Due Date: 06/17/2016

Service For:

MEHARU, VIRAMRINDER
260 E CAMPBELL AVE
CAMPBELL, CA 95008

Your Account Summary

Amount Due on Previous Statement	\$1,056.00
Payment(s) Received Since Last Statement	0.00
Previous Unpaid Balance	\$1,056.00
Current Electric Charges	\$306.02

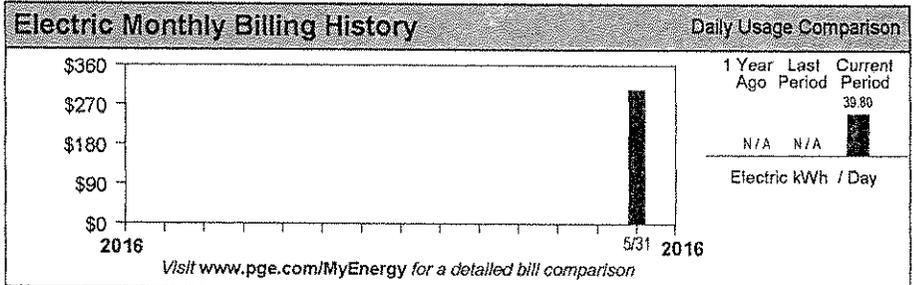
Questions about your bill?

24 hours, 7 days/wk 1-800-468-4743
Business Specialist available:
Mon-Sat: 7am to 9pm
www.pge.com/MyEnergy

Total Amount Due by 06/17/2016 \$1,362.02

Local Office Address

10900 N BLANEY AVE
CUPERTINO, CA 95014



Please return this portion with your payment. No staples or paper clips. Do not fold. Thank you.

99901105962759300000306020000136202



Account Number:	Due Date:	Total Amount Due:
	06/17/2016	\$1,362.02

Amount Enclosed:
\$

MEHARU, VIRAMRINDER
SAN JOSE, CA 95117-1060

PG&E
BOX 997300
SACRAMENTO, CA 95899-7300



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No:
Statement Date: 08/30/2016
Due Date: 09/16/2016

Service For:

MEHARU, VIRAMRINDER
260 E CAMPBELL AVE
CAMPBELL, CA 95008

Your Account Summary

Amount Due on Previous Statement	\$603.07
Payment(s) Received Since Last Statement	-603.07
Previous Unpaid Balance	\$0.00
Current Electric Charges	\$418.08
Electric Adjustments	24.50

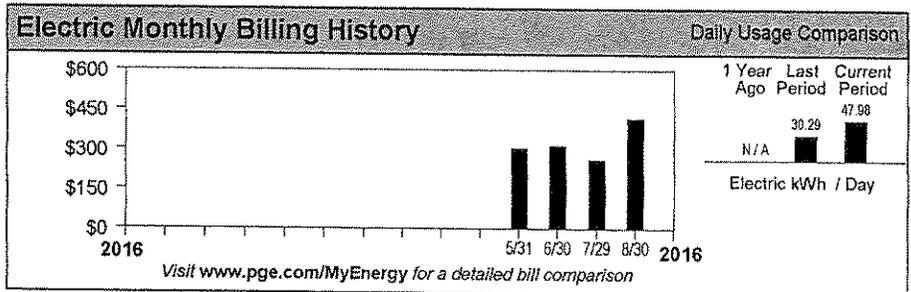
Questions about your bill?

24 hours, 7 days/wk 1-800-468-4743
Business Specialist available:
Mon-Sat: 7am to 9pm
www.pge.com/MyEnergy

Total Amount Due by 09/16/2016 \$442.58

Local Office Address

10900 N BLANEY AVE
CUPERTINO, CA 95014



Please return this portion with your payment. No staples or paper clips. Do not fold. Thank you.

99901105962759300000418080000044258



Account Number: Due Date: Total Amount Due:
09/16/2016 \$442.58

Amount Enclosed:



MEHARU, VIRAMRINDER

ATTN: SLADE & COMPANY - CARDIFF
SAN JOSE, CA 95117-1060

PG&E
BOX 997300
SACRAMENTO, CA 95899-7300



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No:
Statement Date: 09/29/2016
Due Date: 10/17/2016

Service For:

MEHARU, VIRAMRINDER
260 E CAMPBELL AVE
CAMPBELL, CA 95008

Your Account Summary

Amount Due on Previous Statement	\$442.58
Payment(s) Received Since Last Statement	-442.58
Previous Unpaid Balance	\$0.00
Current Electric Charges	\$508.74

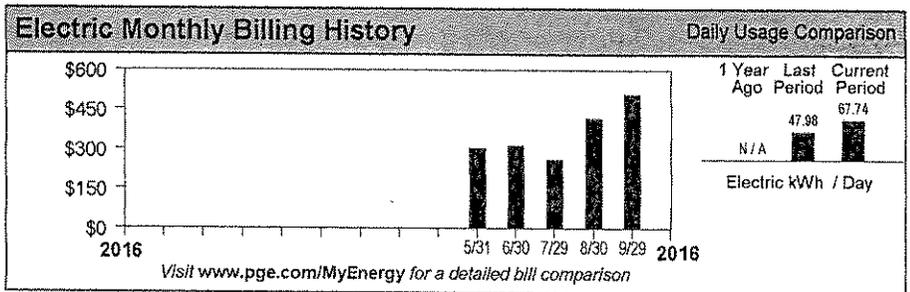
Questions about your bill?

24 hours, 7 days/wk 1-800-468-4743
Business Specialist available:
Mon-Sat: 7am to 9pm
www.pge.com/MyEnergy

Total Amount Due by 10/17/2016 **\$508.74**

Local Office Address

10900 N BLANEY AVE
CUPERTINO, CA 95014



Please return this portion with your payment. No staples or paper clips. Do not fold. Thank you.

99901105962759300000508740000050874



Account Number:	Due Date:	Total Amount Due:
3	10/17/2016	\$508.74

Amount Enclosed:
\$

MEHARU, VIRAMRINDER
ATTN: SLADE & COMPANY - CARDIFF
SAN JOSE, CA 95117-1060

PG&E
BOX 997300
SACRAMENTO, CA 95899-7300



ENERGY STATEMENT

www.pge.com/MyEnergy

Account No: 1105962759-3
Statement Date: 07/29/2016
Due Date: 08/15/2016

Details of Electric Charges

06/29/2016 - 07/28/2016 (30 billing days)

Service For: 260 E CAMPBELL AVE
Service Agreement ID: 1105962467
Rate Schedule: A6 Small General Time-of-Use Service

06/29/2016 - 07/28/2016

Customer Charge	30 days @ \$0.32854	\$9.86
Energy Charges		
Peak	208.404900 kWh @ \$0.54900	114.41
Part Peak	196.905300 kWh @ \$0.25217	49.65
Off Peak	503.407000 kWh @ \$0.18058	90.91
California Climate Credit		-2.53
Energy Commission Tax		0.26

Total Electric Charges \$262.56

Service Information

Meter # 1009397488
Total Usage 908.717200 kWh
Serial G
Rotating Outage Block 3J

Additional Messages

You received a **California Climate Credit** on your electric bill. Households receive the electric credit twice a year, and small businesses receive it monthly. Learn how you can use these savings to further reduce your energy costs and help fight climate change at EnergyUpgradeCA.org/credit.

