



UPLAND CITY COUNCIL

AGENDA

April 22, 2019

City Council Chamber

**DEBBIE STONE, MAYOR
JANICE ELLIOTT, MAYOR PRO TEM
RICKY FELIX, COUNCILMEMBER
RUDY ZUNIGA, COUNCILMEMBER
BILL VELTO, COUNCILMEMBER**

**JEANNETTE VAGNOZZI, CITY MANAGER
JAMES L. MARKMAN, CITY ATTORNEY**

DISRUPTION OF MEETINGS

Individuals who demonstrate disruptive conduct during City Council meetings that prevent the City Council from conducting its meeting in an orderly manner are guilty of a misdemeanor as stated in PC403, disrupting a public meeting, and are subject to removal from the chamber or arrest.

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6:00 PM - Closed Session

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

This is a time for any citizen to comment on item listed on the closed session agenda only. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. The use of visual aids will be included in the time limit.

- 4. CLOSED SESSION**

A. GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Legal Counsel Edward Zappia and City Manager Jeannette Vagnozzi

Employee organizations: Upland Mid-Management Association, Upland City Employees Association, Upland Police Officers Association, and Upland Police Management Association

7:00 PM

5. INVOCATION

Reverend Jan Chase, Unity Church of Pomona

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Presentation of a Certificate of Recognition to Beatrice Casegran, Upland 2019 Woman of Distinction Honoree by Assemblyman Chris Holden

Proclamation declaring April 26, 2019 as Arbor Day, accepted by Public Works Operations Manager Richard Smiderle and by Cal Fire Abigail Strader

Proclamation declaring May 2, 2019 as National Day of Prayer, accepted by Jim E. Thomas, President, Upland Interfaith Council

Proclamation declaring May 11, 2019 as Letter Carriers Food Drive Day, accepted by Paula Miller, V.P. NALC Br. 2168 & Luz Reyes, Postmaster Upland Post Office

8. CITY ATTORNEY

9. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item listed on the agenda only. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. Speakers will be given five (5) minutes during public hearings. The use of visual aids will be included in the time limit.

10. COUNCIL COMMUNICATIONS

11. CONSENT CALENDAR

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

A. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of April 8, 2019. (Staff Person: Keri Johnson)

- B. RESIGNATION OF BUILDING BOARD OF APPEALS MEMBER
Accept the resignation from Building Board of Appeals Member Norbert Anhaeuser and instruct the City Clerk to post the vacancy pursuant to Government Code Section 54974. (Staff Person: Keri Johnson)
- C. APPOINTMENT OF PLANNING COMMISSIONER
Ratify the Mayor's appointment of Alexander Novikov to the Planning Commission, term expiring June 2020. (Staff Person: Keri Johnson)
- D. CHINO BASIN PROGRAM MEMORANDUM OF UNDERSTANDING
Approve a Memorandum of Understanding (MOU) with the Inland Empire Utilities Agency and regional stakeholders to participate in the Chino Basin Project. (Staff Person: Rosemary Hoerning)

12. PUBLIC HEARINGS

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

- A. SAN ANTONIO WATER COMPANY STOCK ACQUISITION
Authorize the City Manager to acquire 2.25 shares of San Antonio Water Company Stock from Fred A. Gattas and Mary L. Gattas, trustees at \$14,000 per ¼ share, total amount \$126,000. (Staff Person: Rosemary Hoerning)
- B. SENATE BILL 1 (SB1) ROAD MAINTENANCE AND REHABILITATION ACCOUNT FUNDING AND PROJECT LIST
Approve a Resolution adopting a list of projects for Fiscal Year 2019-2020 funded by SB 1: the Road Repair and Accountability Act of 2017. (Staff Person: Rosemary Hoerning)
- C. CONSIDERATION OF A POLICY AND PLAN REGARDING PARKING AND BUSINESS IMPROVEMENT AREA (PBIA) FUNDS WITH THE MERCHANT BOARD, HISTORIC DOWNTOWN UPLAND, AND FISCAL YEAR 2019-2020 BUDGET, AND AN EXPENDITURE BUDGET FOR AVAILABLE PBIA FUNDS FOR FISCAL YEAR 2018-19
Approve a Policy and Plan with Historic Downtown Upland as it relates to the Parking and Business Improvement Area (PBIA) funds beginning July 1, 2019; and approval of a plan to spend the remaining PBIA funds available for Fiscal Year 2018-19 for downtown events and improvements; and authorize the City Manager or designee to execute the Policy and Plan and process the one-time reimbursement request. (Staff Person: Robert Dalquest)

15. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item not listed on the agenda. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. The use of visual aids will be included in the time limit. Public comments and questions for the purpose of hearing current matters of concern in our community and to provide citizens a method for the public to hear those concerns in an open venue is encouraged. However, under the provisions of the Brown Act, the City Council is prohibited from discussion of items not listed on the agenda, and therefore, the City Council, City Manager, or City Attorney will take communications under

advisement for consideration and appropriate response or discussion at a later time.

16. CITY MANAGER

17. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, May 13, 2019.

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

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

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

POSTING STATEMENT: On April 17, 2019 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall).

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
APRIL 8, 2019**

OPENING

The regular meeting of the Upland City Council was called to order by Mayor Debbie Stone at 7:00 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

Present: Mayor Debbie Stone, Council Members Janice Elliott, Ricky Felix, Bill Velto, and Rudy Zuniga

Staff: City Manager Jeannette Vagnozzi, City Attorney James L. Markman, and City Clerk Keri Johnson

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS None

4. CLOSED SESSION None

5. INVOCATION Pastor Wesley Menke, Grace Lutheran Church

6. PLEDGE OF ALLEGIANCE Councilmember Velto

7. PRESENTATIONS

Life Saving Awards were presented to Officer Alexander Monroy, Officer Gabriel Santana, Fire Captain Scott Fisher, Fire Engineer Andrew Weber, Firefighter Paramedic Austin Muro, and Civilian David Janusz.

Certificates of Completion were presented to the Upland Community Emergency Response Team (CERT).

8. CITY ATTORNEY None

9. ORAL COMMUNICATIONS None

10. COUNCIL COMMUNICATIONS

Councilmembers announced various activities throughout the community, including providing an update on the meetings they attended.

Councilmember Zuniga, along with Councilmember Elliott, requested that the discussion to review future water rate increases be added to a future Council agenda.

11. CONSENT CALENDAR

Councilmember Elliott removed Consent Calendar Item 11D for separate action. Motion by Councilmember Felix to approve the remainder of the Consent Calendar, seconded by Councilmember Velto, and carried unanimously.

A. APPROVAL OF WARRANT AND PAYROLL REGISTERS MARCH 2019

Approved the March Warrant Registers and Direct Disbursements (check numbers 24368-24800) totaling \$4,696,033.49 and Payroll Registers totaling \$1,172,015.86 (check Numbers 160544-160576 and EFTs 12067-12556).

B. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of March 25, 2019.

C. AMENDMENT NO. 4 TO PROFESSIONAL SERVICES AGREEMENT WITH URBAN GRAFFITI ENTERPRISE FOR CONTINUED GRAFFITI REMOVAL AND ABATEMENT SERVICES

Approved Amendment No. 4 to the Professional Services Agreement between the City of Upland and Urban Graffiti Enterprise, Inc. to continue uninterrupted graffiti removal and abatement services on a citywide basis; and authorized the City Manager or designee to execute said Amendment.

ITEMS REMOVED FOR SEPARATE ACTION

D. CONSIDERATION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND RECOGNIZING THE IMPORTANCE OF THE 2020 U.S. CENSUS

Development Services Director Dalquest presented the staff report which is on file in the City Clerk's office.

There was discussion on the importance of resident participation and collecting accurate data for the Census.

Motion by Councilmember Elliott to adopt Resolution No. 6483 recognizing the importance of the 2020 U.S. Census, seconded by Councilmember Felix, and carried unanimously.

12. PUBLIC HEARINGS None

13. COUNCIL COMMITTEE REPORTS None

14. BUSINESS ITEMS

A. RESOLUTION APPROVING AN AMENDED AND RESTATED DEPOSIT AND REIMBURSEMENT AGREEMENT AND APPROVING THE EMPLOYMENT OF CERTAIN FINANCING PROFESSIONALS IN CONNECTION WITH PROPOSED SPECIAL TAX BONDS FOR IMPROVEMENT AREA NO. 1 OF COMMUNITY FACILITIES DISTRICT NO. 2015-1 (SYCAMORE HILLS)

Development Services Director Dalquest presented the staff report, which is on file in the City Clerk's Office.

City Attorney Markman introduced Attorney Diana Chuang of Richards Watson and Gershon.

Special Counsel Chuang responded to Council's questions regarding whether there is any benefit to the City by having a mello roos tax on properties.

There was discussion on other financing options to avoid a mello roos tax on homes and questions regarding the fees involved with the formation of the community facilities district and bond financing.

Motion by Councilmember Zuniga to adopt Resolution No. 6484 approving and authorizing an Amended and Restated Deposit and Reimbursement Agreement and approving the employment of certain financing professionals in connection with proposed special tax bonds for Improvement Area No. 1 of the District, seconded by Councilmember Velto, and carried unanimously.

B. AGREEMENT WITH LIBRARY SYSTEMS & SERVICES, LLC FOR CONTINUED OPERATION OF THE UPLAND PUBLIC LIBRARY

City Manager Vagnozzi presented the staff report, which is on file in the City Clerk's Office.

Motion by Councilmember Felix to approve an agreement with Library Systems and Services, LLC (LS&S) for continued operation of the Upland Public Library, for a period of five (5) years, and direct the City Manager to sign the agreement, seconded by Councilmember Zuniga, and carried unanimously.

15. ORAL COMMUNICATION (items not on the agenda)

Ralph Cavallo, Upland, spoke in support of the sale of a portion of Memorial Park to San Antonio Regional Hospital; stating the benefits of an upgraded baseball field and a parking structure.

Robert Kamansky, Upland, spoke regarding the power of Upland pride and stated his appreciation for City services.

Natasha Walton, Upland, spoke in opposition of the sale of a portion of Memorial Park to San Antonio Regional Hospital and stated the ball fields at the park should be open for all of the community to use.

Lois Sicking Dieter, thanked the Planning Commission for denying the plans for installation of a cell tower in McCarthy Park and requested the Municipal Code be updated to include a requirement that residents be notified before existing cell towers are upgraded.

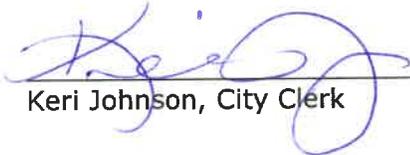
16. CITY MANAGER

City Manager Vagnozzi announced the next Open Government Workshop.

17. ADJOURNMENT

Mayor Stone adjourned the meeting at 8:02 p.m. The next regularly scheduled City Council meeting is Monday, April 22, 2019.

SUBMITTED BY


Keri Johnson, City Clerk

APPROVED

April 22, 2019



STAFF REPORT

ITEM NO. 11.B.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: LONDA BOCK-HELMS, ACTING ADMINISTRATIVE SERVICES DIRECTOR
KERI JOHNSON, CITY CLERK
SUBJECT: RESIGNATION OF BUILDING BOARD OF APPEALS MEMBER

RECOMMENDED ACTION

It is recommended that the City Council accept the resignation from Building Board of Appeals Member Norbert Anhaeuser and instruct the City Clerk to post the vacancy pursuant to Government Code Section 54974.

GOAL STATEMENT

The proposed action supports the City's goal to provide opportunities for the citizenry to participate in local government through service on various committees, commissions, and boards.

BACKGROUND

The Building Board of Appeals was established in 1977 pursuant to the Uniform Building Code. Board members are qualified by experience and training to determine the suitability of alternate materials and methods of construction, and to provide reasonable interpretations of the Uniform Building, Mechanical, Plumbing, Housing, and Abatement of Dangerous Buildings Codes, National Electrical Code and the Seismic Hazards Reduction Ordinance.

ISSUES/ANALYSIS

The City Clerk's Office received notification of Board Member Anhaeuser's resignation on April 4, 2019. Board Member Anaheuser has served on the board since January 2013 and was nominated by Mayor Stone. The term for this appointment will expire December 2020.

This resignation creates an unscheduled vacancy, and Government Code Section 54974 requires that vacancies be posted for 10 working days before new appointments can be made. Pursuant to Resolution 6397, the Mayor nominates a member subject to ratification by a majority of the Council.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.C.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: LONDA BOCK-HELMS, ACTING ADMINISTRATIVE SERVICES DIRECTOR
KERI JOHNSON, CITY CLERK
SUBJECT: APPOINTMENT OF PLANNING COMMISSIONER

RECOMMENDED ACTION

It is recommended that the City Council ratify the Mayor's appointment of Alexander Novikov to the Planning Commission, term expiring June 2020.

GOAL STATEMENT

The proposed action supports the City's goal to provide opportunities for the citizenry to participate in local government through service on various committees, commissions, and boards.

BACKGROUND

The Planning Commission was established in 1930 pursuant to the Planning Act of 1929. Changes to the Commission were later made in 1950 in accordance with the Conservation and Planning Act. The Planning Commission is comprised of seven members, appointed by the City Council, to review and act on matters related to planning and development. Resolution No. 6397 sets forth the process for appointment and states the Mayor shall appoint the Committee, Commission, Board, and Authority members subject to ratification by the majority of the Council.

ISSUES/ANALYSIS

On January 28, 2019, the City Council accepted the resignation of Planning Commissioner Bill Velto, and directed the City Clerk to post the notice of vacancy. The term of this appointment expires June 2020.

On April 4, 2019, interviews were conducted by a panel consisting of Mayor Stone, Mayor Pro Tem Elliott, Planning Commission Chair Schwary, and Development Services Director Dalquest. A total of 14 applicants were interviewed, and at the conclusion of the interviews, it was agreed that Mr. Novikov would be a positive addition to the Planning Commission.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Planning Commission application - Novikov



RECEIVED
UPLAND CITY
CLERK'S OFFICE

18 FEB 12 AM 10:57

City of Upland

RECEIVED

FEB 12 2018

CITY MANAGER'S OFFICE

Public Service Application for Boards, Committees, or Commissions

Name: Alexander Novikov

Date: 02/07/2018

- I want to generally apply for all committees
- I am applying specifically for the following:

When are you available for meeting? (Check all that apply)

Mornings

Afternoons

Evenings

General Information

INFORMATION REDACTED

Home Address: INFORMATION REDACTED

Home Phone: INFORMATION REDACTED

Email Address: INFORMATION REDACTED

Present Employer: Edelweiss Premier Ballroom
INFORMATION REDACTED

Business Address: INFORMATION REDACTED

Business Phone: INFORMATION REDACTED

Activities Information

Professional Activities: CEO / President of #1 Ballroom

Dance School in California, Property manager,

Dancesport Judicating, Social-Media Liaison for Atlas Daniel

Community Activities: _____

Education Information

Cal Poly Pomona, MBA Program, International Business

Saratov State Socio-Economic University, Foreign Economic

Activity - Bachelor Degree (2003), PhD Program

In 300 words or less, explain reasons for wanting to serve:

I have lived in Upland for the pas 10 years. I love the city and I want to give back to the community. I believe my experience that I gained working for the government (Ministry of International Links and Foreign Economic Activity, Russia) and running my own business (#1 Top Dance School in CA for the last 7 years) will be a good asset to the city of Upland and its community. One of the main reason for me to serve is that I do like helping people a lot. I came to the US as a winner of the US Department of State Fellowship Program (Young Leadership Program for Public Service). This 1 year Program covered my MBA at Cal Poly and allowed me to get profound volunteering experience (40 hour a month) while working for the Chamber of Commerce.

List three (3) community references:

1. Marilyn Olson, _____

INFORMATION REDACTED

2. Gino Filippi _____

3. Spencer Shelton, _____

INFORMATION REDACTED

INFORMATION REDACTED

Signature _____



STAFF REPORT

ITEM NO. 11.D.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
SUBJECT: CHINO BASIN PROGRAM MEMORANDUM OF UNDERSTANDING

RECOMMENDED ACTION

It is recommended that the City Council approve a Memorandum of Understanding (MOU) with the Inland Empire Utilities Agency (IEUA) and regional stakeholders to participate in the Chino Basin Project (CBP).

GOAL STATEMENT

The proposed action supports the the City's goal of participating in efforts to provide resilient and cost effective local water supply programs that provide benefit to the City of Upland and the region as a whole.

BACKGROUND

IEUA received a conditional grant funding approval of \$207 million through the California Proposition 1 Water Storage Investment Program. The grant would help fund projects that would create additional local water supplies, groundwater storage and extraction programs. It would also fund needed water facility improvements which are still being developed and would allow the region to produce local water in exchange for releasing water in the Feather River for environmental purposes. The total project cost is estimated at \$385 million.

IEUA has established the CBP Workgroup to facilitate a collaborative approach for the development of a regional program that best meets the current and future needs of the individual stakeholders in and around the Chino Groundwater Basin.

An informational item on the Chino Basin Project was presented by IEUA to the Public Works Committee on March 12, 2019.

ISSUES/ANALYSIS

An MOU was developed to align the various stakeholder parties to work toward a common goal of developing the CBP and securing the grant funding. The MOU is a non-binding agreement that commits the parties to initiate a process to work collaboratively, in good faith, to identify issues of common concern and solutions which provide common benefits to the stakeholders.

FISCAL IMPACTS

The MOU is non-binding and participating in this phase of the CBP has minimal financial impact (staff time) at this time.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Chino Basin Project MOU

Chino Basin Program
Memorandum of Understanding

This Memorandum of Understanding (“MOU”) is entered into effective _____, 2019, between various Chino Basin stakeholders (“Stakeholders”) and the Inland Empire Utilities Agency (“IEUA”) (collectively, the “Parties”).

Whereas, Parties have developed and approved various planning documents that have identified the need for investment in infrastructure within the Chino Basin. These investments would help address various sustainability objectives of the Chino Basin Optimum Basin Management Program (OBMP), such as, recycled water compliance, groundwater quality, storage and recovery programs, and subsidence mitigation. The Parties are currently in the process of updating the OBMP.

WHEREAS, IEUA received a conditional funding approval of \$207 million through the California Proposition 1 Water Storage Investment Program.

WHEREAS, IEUA has established the Chino Basin Program (“CBP”) Workgroup to help provide local input in the development of a regional program that best meets the current and future needs of the individual Stakeholders and the Chino Basin as a whole.

WHEREAS, formal funding approval of the CBP requires development of a refined project, including operations, finance, environmental permitting and all associated institutional agreements. A formal CBP Agreement amongst the Parties is essential for successful agreements with State Water Project Contractors and administering agencies.

WHEREAS, this MOU is substantively non-binding on the Parties, but expresses the agreement and commitment of the Parties to initiate the process to work collaboratively, in good faith, to identify issues of common concern, and goals and solutions which are of common benefit to the Parties, and which may ultimately be implemented through the CBP.

NOW, THEREFORE, the Parties hereby make the following mutual commitments:

1. Work together in good faith to cooperatively plan and evaluate a strategy for the successful development of the CBP and receipt of the \$207 million funding.
2. Collaborate to refine the CBP components, including, but not limited to, water supply sources, infrastructure requirements operations, performance obligations, program costs and Basin impacts to optimize the benefits for the Chino Basin and the individual Stakeholders.
3. Develop a CBP Agreement.
4. Support securing additional grants and other funding sources for the CBP.
5. All Parties will work together in good faith to ensure that the CBP Agreement is negotiated and ready for potential execution by Summer 2019, recognizing the urgency of completing the institutional agreements by 2020.

This MOU may be signed in identical counterparts, each of which shall be deemed to be an original and shall constitute one MOU.

Executed this 22nd day of April 2019 by:

City of Upland

Signature _____ Date

Name: Debbie Stone

Title: Mayor



STAFF REPORT

ITEM NO. 14.A.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
SUBJECT: SAN ANTONIO WATER COMPANY STOCK ACQUISITION

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to acquire 2.25 shares of San Antonio Water Company Stock from Fred A. Gattas and Mary L. Gattas, trustees at \$14,000 per ¼ share, total amount \$126,000.

GOAL STATEMENT

The proposed action will support the City's goal to increase water rights holdings to ensure cost effective water supply is available for the community's benefit.

BACKGROUND

On April 5, 2019, Dr. Fred Gattas contacted the City and offered (2.0 shares Certificate No.12158 & 1/4 Share Stock Certificate No. A8191) a total of 2.25 shares of San Antonio Water Company (SAW Co.) stock for purchase by the City of Upland for \$14,000 per ¼ share. This price is commensurate with the City's blind auction bid price offered at the October 2018 stock auction.

ISSUES/ANALYSIS

In October 2018, the City participated in San Antonio Water Company's Shareholder stock auction. The City was successful in securing 9 out of the 11 stock certificates which increased the City stock ownership by 2.5 shares. The purchase price offered by the City ranged from \$13,600 to \$14,000 per ¼ share. In February 2019, the City acquired ¼ share from James M. Casey, Trustee of the Sierra Group Trust for \$13,500 as offered.

It is desirable to secure additional shares of water stock to increase access to local water supplies. This will reduce the City's dependence on imported water and build operational

flexibility with rights to varied sources. Acquisition of additional SAW Co. shares provides a perpetual right to future company water supplies. At this time, the entitlement of 1 share = 1.73AF/share.

FISCAL IMPACTS

The purchase price offered is within the range of the previous purchases. The stock share purchase price of \$126,000 is to be made from the Water Fund (Fund 640).

The share entitlement right is in perpetuity under the company holdings. Therefore, the financial investment rate of return will be eventually realized and surpassed. These rights also increase the City's financial obligations associated with the company operations and infrastructure reinvestment and are indeterminable at this time.

SAW Co. is one of the City's cheapest sources of water supply. For FY 2017-18 SAW Co. water cost the City approximately \$350/AF. By contrast, imported Metropolitan Water District of Southern California (MWD) water cost the City \$908/AF for the same period.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Offer Letter

Rosemary Hoerning

From: Fred Gattas <INFORMATION
Sent: Friday, April 05, 2019 4:14 PM
To: Rosemary Hoerning
Subject: Water shares (sawco)

WARNING: External email. Please verify sender before opening attachments or clicking on links.

Dear Rosemary\

Sorry for the slow delay to your EMail but was unable to get a response from the water company (and haven't yet) regarding a non-significant shares issue..

I have two certificates from SAWCO one is two (2) shares and another of 1 1/4 shares that I'm sure can be split up anyway we wish

The shares are held in: Fred and Mary Gattas' names in a trust set up in 1977'

Mary and I wish to dispose of Two and a Quarter shares (2 1/4 shares) for the price of \$14,000 per quarter share, for all or any portion of these shares. This price is what most shares at the last auction was sold for. One quarter sold for \$15,000.

I have not publicized this sale and will not until I hear a response from the City of Upland. Any sale would proceed easily as has occurred with the past auctions of SAWCO stock.

I will appreciate hearing from the City as soon as any decision is made so that I may take any action on our part as needed.

Thank you for helping to proceed with this procedure.

Mary and Fred Gattas
INFORMATION REDACTED



STAFF REPORT

ITEM NO. 14.B.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: SENATE BILL 1 (SB1) ROAD MAINTENANCE AND REHABILITATION ACCOUNT FUNDING AND PROJECT LIST

RECOMMENDED ACTION

It is recommended that the City Council approve a Resolution adopting a list of projects for Fiscal Year 2019-2020 funded by SB 1: the Road Repair and Accountability Act of 2017.

GOAL STATEMENT

The proposed action supports the City's objective to continue to maintain and improve the City's public roadway facilities.

BACKGROUND

On April 18, 2017, the Governor signed Senate Bill (SB) 1, which is known as the Road Repair and Accountability Act of 2017, to address statewide transportation funding shortfalls. SB1 increased per gallon fuel and diesel excise taxes, registration fees, and provides for inflationary adjustments to tax rates in future years.

Beginning in January 2018, the State Controller deposited funds generated from the increased fuel taxes and vehicle registration fees in to the Road Maintenance and Rehabilitation Account (RMRA). A portion of the RMRA funds are distributed to the City on a monthly basis for road maintenance, rehabilitation, and safety projects on the City's local streets.

ISSUES/ANALYSIS

In order to receive an apportionment of RMRA funds in a fiscal year, the City must annually approve a list of projects (Exhibit 'A') to be constructed with RMRA funding and must submit the list to the California Transportation Commission. The list of projects must include a

description and location of each proposed project, a proposed schedule, and the estimated useful life of the improvement.

FISCAL IMPACTS

RMRA funds are subject to Maintenance of Effort (MOE) requirements in order to document that the SB 1 funds are increasing the City's expenditure on road maintenance, rather than supplanting City funds. The MOE requires the City to spend at least the annual average of its General Fund expenditures during the 2009-10, 2010-11, and 2011-12 fiscal years for street, road, and highway purposes from the City's General Fund. Upland's MOE requirement for FY 2019-20 is estimated to be \$2,280,631.

Upland's estimated RMRA funds for FY 2019-20 are \$1,274,757 and are included as revenue in the FY 2019-20 Gas Tax Fund budget.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

SB 1 Reso for FY 2019-20
Exhibit A list of projects

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2019-2020 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

Intent of the Parties and Findings

(i) Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

(ii) SB 1 includes accountability and transparency provisions that will ensure the residents of Upland are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

(iii) the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

(iv) the City will receive and estimated \$1,274,757 in RMRA funding in Fiscal Year 2019-20 from SB 1; and

(v) this is the third year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

(vi) the City conducts a review process to ensure public input into our community's transportation priorities/the project list; and

(vii) the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

(viii) the funding from SB 1 will help the City maintain and rehabilitate two streets in the City this year and several other similar projects into the future; and

(ix) the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City streets and roads are in an "good" condition and this revenue will help us maintain the overall quality of our road system and over the next decade will help to maintain our streets and roads in good condition; and

Resolution No.

Page

(x) the State requires the City create an SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE, the City Council hereby finds, determines and resolves as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. The City of Upland is adopting the fiscal year 2019-20 list of projects planned to be funded in-part or solely with Road Maintenance and Rehabilitation Account revenues provided in Attachment A.

Section 3. Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 22nd day of April, 2019.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 22nd day of April, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

EXHIBIT 'A'

**City of Upland, California
SB 1 - Road Maintenance and Rehabilitation
FY 2019-2020 Project List**

Project Description	Project Location	FY Project Originally Listed	Proposed Start Date	Proposed Completion Date	Estimated Useful Life	Estimated Project Cost
0.58 miles of water main and service laterals replacement, asphalt pavement rehabilitation, replacement of damaged curbs, gutters, sidewalks, handicap ramps, and re-striping.	3rd Avenue (A Street to 11th Street)	2017/2018	10/1/2018	6/30/2019	20 Years	\$2,757,620
0.38 miles of water main and service laterals replacement, asphalt pavement rehabilitation, replacement of damaged curbs, gutters, sidewalks, handicap ramps, and re-striping.	9th Street (3rd Avenue to Campus Avenue)	2017/2018	10/1/2018	6/30/2019	20 Years	\$2,578,595
1.13 miles of water main and service laterals replacement, asphalt pavement rehabilitation, replacement of damaged curbs, gutters, sidewalks, handicap ramps, and re-striping.	Arrow Highway (Benson Avenue to San Antonio Ave.)	2017/2018	8/1/2019	6/30/2020	20 Years	\$2,350,000
0.17 miles of water main and service laterals replacement, asphalt pavement rehabilitation, replacement of damaged curbs, gutters, sidewalks, handicap ramps, and re-striping.	Mulberry Avenue (Foothill Blvd. to Pine Street)	2017/2018	6/1/2019	6/30/2020	20 Years	\$676,450
0.70 miles of asphalt pavement rehabilitation, replacement of damaged curbs, gutters, sidewalks, handicap ramps, and re-striping.	14th Street (Campus Avenue to Grove Avenue)	2017/2018	4/1/2020	6/30/2021	20 Years	\$1,000,000



STAFF REPORT

ITEM NO. 14.C.

DATE: April 22, 2019
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER
MELECIO PICAZO, ECONOMIC DEVELOPMENT COORDINATOR
SUBJECT: CONSIDERATION OF A POLICY AND PLAN REGARDING PARKING AND BUSINESS IMPROVEMENT AREA (PBIA) FUNDS WITH THE MERCHANT BOARD, HISTORIC DOWNTOWN UPLAND, AND FISCAL YEAR 2019-2020 BUDGET, AND AN EXPENDITURE BUDGET FOR AVAILABLE PBIA FUNDS FOR FISCAL YEAR 2018-19

RECOMMENDED ACTION

It is recommended that the City Council:

- a) Approve a Policy and Plan with Historic Downtown Upland as it relates to the Parking and Business Improvement Area (PBIA) funds beginning July 1, 2019; and
- b) Approval of a plan to spend the remaining PBIA funds available for Fiscal Year 2018-19 for downtown events and improvements; and
- c) Authorize the City Manager or designee to execute the Policy and Plan and process the one-time reimbursement request.

GOAL STATEMENT

The proposed action supports the City's goals to encourage economic development, revitalization, orderly growth and development, and the elimination of blighting conditions within the Downtown area.

BACKGROUND

Pursuant to California State Law, Parking and Business Improvement Areas were established to generate funding to provide a variety of services and activities to keep downtowns

competitive in the marketplace. Since 1993, the City of Upland (City) and various non-profit business groups created programs to promote Downtown activities, and worked cooperatively to provide economic development activities in Downtown Upland, within the City's Parking and Business Improvement Area (PBIA) as depicted in Attachment "A". Economic activities in the past have included sponsorships of various promotional and special events; advertising and marketing efforts; and, maintenance of sidewalks and parking lots.

In 2013, the merchants in Downtown formed a 501(c)(4) non-profit business group named, Historic Downtown Upland, Inc. (Merchant Board) to market and promote activities/events in the Downtown area.

The City Council approved a Memorandum of Understanding (MOU) in March 2012 with the Merchant Board in regards to the PBIA funds for specific services from March 2012 to June 2013. However, thereafter, the City utilized PBIA funds for capital improvements, maintenance and one-time program expenses directly related to Downtown activities.

The Merchant Board has updated their website to include a calendar of events, a listing of over 80 Downtown merchants, and their Facebook page consists of over 2,300 followers.

ISSUES/ANALYSIS

Earlier this year, staff received direction to negotiate an operating agreement with the Merchant Board for Fiscal Year 2019-20 utilizing the PBIA funds.

The Merchant Board is requesting PBIA funding from the City to assist their efforts to enhance the economic viability of the Downtown area. Additionally, net income from their proposed downtown events, will assist in subsidizing the Merchant Board's operating budget.

City staff and the Merchant Board have agreed upon the draft Policy and Plan as attached to this report (reference Attachment "B"). As part of the Policy and Plan, the Merchant Board will be required to submit an annual budget along with Scope of Services, by June 1 of each fiscal year. The Merchant Board has agreed to receive 85% of the actual amount of PBIA revenue collected by the City in each fiscal year, up to \$60,000. Anything over \$60,000 will be allocated to the City to be utilized within the PBIA on replacement banners, landscape maintenance, tree lighting, etc. Installments will be paid to the Merchant Board at the end of each calendar quarter. The Merchant Board will provide the City with quarterly invoices, reflecting monies requested, and the basis for the demand.

The City averaged about \$46,000 per year of PBIA revenue during the last 5 years. The amount paid to the Merchant Board will typically constitute \$9,775 per quarter or \$39,100 per year. The City shall use the remaining 15% of PBIA funds (approximately \$6,900 per year) to pay administrative costs for general accounting and collection of the PBIA funds (HdL expense and staff time).

The Merchant Board's draft budget in the Policy and Plan for PBIA funds is summarized as follows:

- HDU estimates a net profit of \$1,200 (\$74,500 in total revenues and \$73,300 in total expenses).
- Proposed to sponsor an Irish Festival, October Fest, Taste of Downtown Upland, and Shop Till You Drop events in fiscal year 2019-2020.
- Hire a part-time assistant for social media and event coordination
- Cleaning of sidewalks
- Maintain music in downtown
- Promotion of the downtown through radio and mailings
- Maintain items in Downtown kiosks, including downtown map

The Merchant Board's draft Scope of Services as shown in the Policy and Plan are summarized here:

- Consultation on event application in Downtown
- Newsletter for Merchants/Businesses
- Flyers for events
- Website development and maintenance
- Promotion with Downtown Shopping Directory
- Events Vendor Guidelines

The purpose of this Policy and Plan is to clarify and illustrate specific responsibilities of the City and the Merchant Board. In addition, the Policy and Plan requests the Merchant Board consult with the Planning Division on all applications for downtown special events. It also requires coordination with the City in order to avoid conflict with any other events taking place in downtown. This will ensure coordination of all events through the Merchant Board, as well as regulate the number of events scheduled.

To provide the City with assurance that the Merchant Board will diligently work to fulfill its obligations, the proposed Policy and Plan outlines the responsibilities of the City, which include, but are not limited to:

- Promoting Downtown Upland;
- Providing general maintenance activities in the downtown within sidewalks, streets, parking lots, and landscaped planters on a daily, weekly, and monthly schedule;
- Empty all trash receptacles on a weekly basis;
- Clean up graffiti on a weekly basis;
- Processing special event permits for all downtown events;
- Facilitating and coordinating meetings upon request.

The Merchant Board responsibilities include, but are not limited to:

- Obtain a special event permit from the Planning Department for all Merchant Board events;
- Responsibility for all marketing and costs associated with advertising the Merchant Board events;
- Consult with Planning Department on all applications for downtown special events;
- Coordinate events with City to avoid conflict with other events taking place in downtown;
- Complying with banner and sign regulations;
- Complying with all special event conditions;
- Hosting family-type events that incorporates mature music and vendor selection;
- Pre-pay for City services five days prior to the Merchant Board event.

The Merchant Board has agreed to track and coordinate special events with other merchants or non-profits proposed in the Downtown area. This coordination will assist in avoiding scheduling conflicts with any events in Downtown.

In addition to the conditions outlined above, the following measures are included in the Policy and Plan to ensure the PBIA funds are being used for allowed purposes, as outlined in the Policy and Plan and Chapter 5 of the Upland Municipal Code:

- Provision of an approved Annual Budget (Exhibit "B", Policy and Plan);
- Submittal of an annual Scope of Services (Exhibit "C", Policy and Plan);
- Submittal of a quarterly and annual complete accounting report.

The proposed Policy and Plan also establishes performance standards that the Merchant Board shall meet in order to receive future PBIA funding, as follows:

- Develop quality events that will draw people to the Downtown area;
- Maintain a family atmosphere for all events;
- Create a quarterly newsletter to engage businesses and keep the public informed of the Merchant Board activities;
- Promote upcoming events;
- Comply with other performance measures as identified by the City from time to time.

APPROVAL OF A PLAN FOR REMAINING PBIA FUNDS FOR FISCAL YEAR 2018-19

Staff is requesting City Council approval for a plan to spend the remaining PBIA funds available for Fiscal Year 2018-19 for downtown events and improvements, as follows:

Improvement	Amount	Date Complete
Irish Festival (Sdwc cleaning/Police Costs)	\$10,252	March 2019
Repair mini lights in trees	\$5,000	October 2019
Spire Renovation	\$10,000	October 2019
Bike Racks	\$10,000	October 2019
Replace Christmas Decorations	\$3,000	October 2019
Total	\$38,252	

The above budget includes reimbursement of costs associated with the recently held Irish Festival by Historic Downtown Upland. The Historic Downtown Upland’s March 16th Irish Festival was a success with over 8,000 participants, 56 vendor booths, 4 breweries, 8 bands, and one Irish Dance Team. Historic Downtown Upland generated an estimated net total profit of \$3,148.

In addition to the request for PBIA funds through the Policy and Plan, HDU submitted a separate request for \$10,252 in PBIA funds to help offset current costs to produce the March 16th Irish Festival, specifically for Police Services and sidewalk power-washing. Staff informed HDU that this request would require City Council approval and that payment would be on a reimbursement basis.

City staff received HDU’s request letter for PBIA funds dated March 20, 2019, and attached to this report (reference Attachment “C”), which is summarized below:

Police Officer Services (Estimate)	\$7,452
Sidewalk Cleaning (Estimate)	\$2,800
Total	\$10,252

The Sidewalk Cleaning cost estimate includes power-washing services for the street segments of 2nd Avenue and 9th Street within the Irish Festival boundary. Staff is recommending that the power-washing services be conducted instead during the summer time, since the Lemon Festival will take place April 26th through April 28th. If approved by the City Council, we prefer that the Merchant Board reimburse the City for the sidewalk cleaning services during the summer, and the City will engage its contractor to do the work, with the cost for service to be paid utilizing the PBIA funds.

The cost for Police Services is an estimate as provided by the Police Department and as part of the conditions of approval for the event. If approved by the City Council, staff recommends the City process the invoice internally reimbursing the Police Department, utilizing the PBIA funds.

FISCAL IMPACTS

Funding for the PBIA is generated from a surcharge to business licenses issued for businesses located within the PBIA, in conformance with Chapter 5 of the Upland Municipal Code. The amount of the surcharge is determined on a sliding scale depending on business type and location, as defined in the Upland Municipal Code. The actual amount of PBIA revenue payable to the Merchant Board in any given fiscal year will equal 85% of the actual amount collected by the City, up to \$60,000 (City averaged about \$46,000 per year of PBIA revenue during the last 5 years), with installment payments paid at the end of each calendar quarter. This amount paid to the Merchant Board will typically constitute \$9,775 per quarter or \$39,100 per year. The City shall use the remaining 15% of PBIA funds (approximately \$6,900 per year) to pay for general accounting and collection of the PBIA funds (HdL expense and staff time). In addition, HDU is requesting \$10,252 in PBIA Funds to help offset costs in relation to the Irish Festival, specifically for Police Services and for Sidewalk Cleaning. Staff is requesting for approval of a plan to spend the remaining PBIA funds available for Fiscal Year 2018-19 for downtown improvements.

ALTERNATIVES

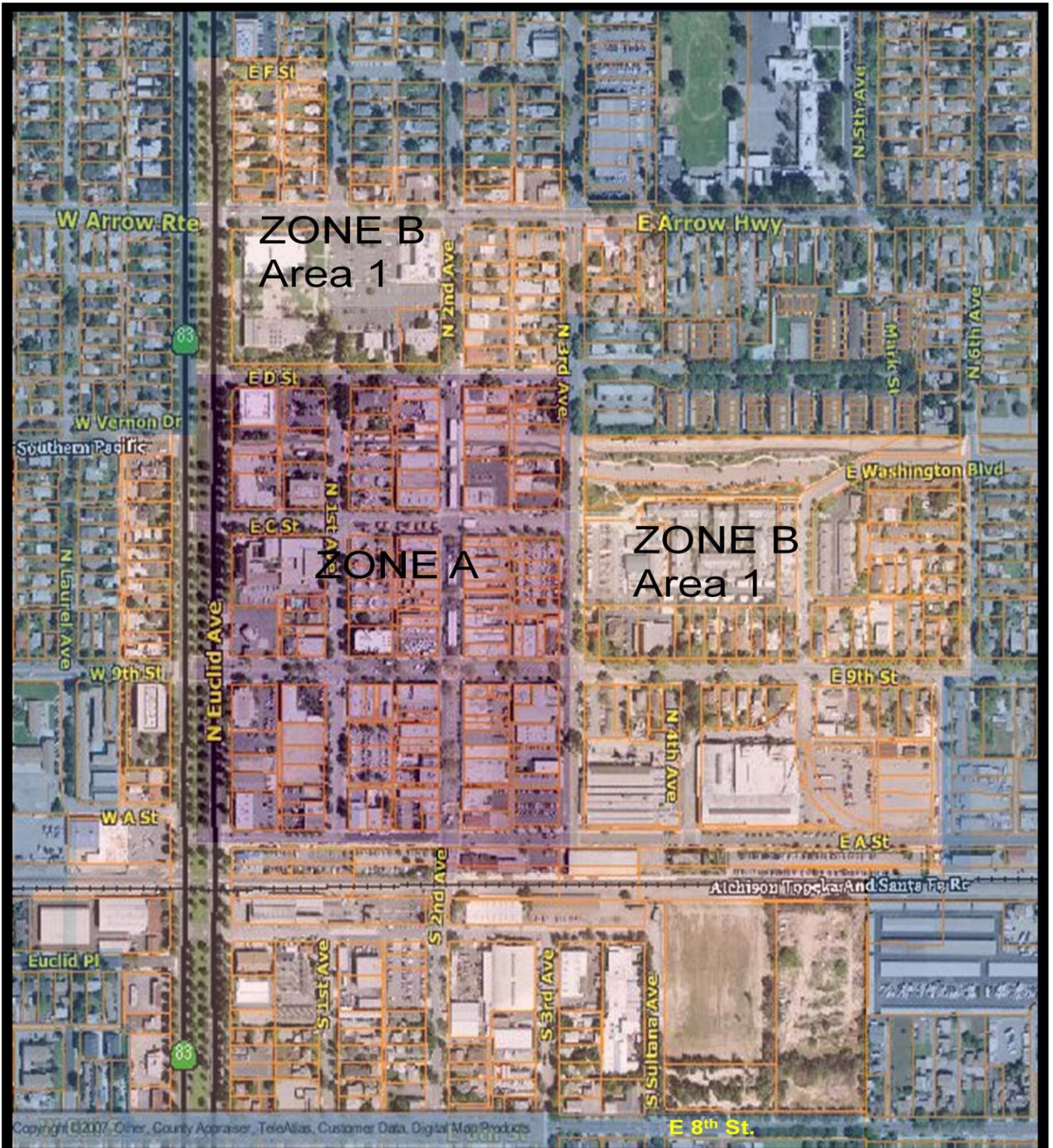
Provide alternative direction to staff.

ATTACHMENTS:

Attachment A - PBIA Map

Attachment B - Draft Policy and Plan

Attachment C - HDU Request Letter Irish Festival



Zones		City of Upland PARKING AND BUSINESS IMPROVEMENT AREA	
	Zone "A"		
	Zone "B"		

(Ord. No. 773, § 2; Ord. No. 1612, § 3, 12-20-94)

CITY OF UPLAND

Historic Downtown Parking and Business Improvement Area

Draft - POLICY AND PLAN

I. BACKGROUND

On November 1, 1966 the City Council established a parking and business improvement area within the Town Center Project Area, classifying various businesses for such purposes, the zones therein, the proposed uses for which the additional revenues shall be expended, the initial tax, and amending the Upland Municipal Code by adding Article IV thereof a new Part 3 of Chapter 4 entitled "Business License for Parking and Business Improvement Area".

On November 28, 1994, the City Council adopted Resolution No. 4579, amending Resolution No. 4560 and declaring its intention to: (1) Disestablish portions of the parking and business improvement area; (2) Change the rates of the additional levy imposed on businesses within the new boundaries of the parking and business improvement areas; and (3) Change the uses to which the proceeds from the additional levy shall be applied.

The state legislation related to Parking and Business Improvement Areas ("PBIA") is found at California Streets and Highways Code section 36000 et seq. and 36500 et seq. These statutes provide the mechanism by which a PBIA is established, assessments are established and/or modified, and the mechanism by which a PBIA is disestablished. [Note – Business Improvement Areas are different than Property-Based Parking and Business Improvement Districts.]

Upland Municipal Code sections 5.04.430 through 5.04.520 apply to the Historic Downtown Parking and Business Improvement Area ("Downtown Area").

Historically, a non-profit board of local Merchant within the Downtown Area has been responsible for using funds received annually from the City to better the Downtown area, pursuant to terms and conditions laid out by the City.

II. PURPOSE

This Policy and Plan sets forth the City's expectations, the performance measures to be followed, and the conditions for funding. The City's responsibilities, as set forth herein, and the continued funding of the Downtown Area are contingent upon the satisfactory adherence to this Policy and Plan by the non-profit board of local Merchant which has been approved by the City to carry out the expectations of the City for the betterment of the Downtown Area ("Merchant Board"). Nothing herein shall be construed as limiting the City's authority to disestablish the Downtown Area and/or eliminate/modify its responsibilities and/or discontinue funding at any time in its sole and absolute discretion.

III. CITY'S RESPONSIBILITIES

The City will provide the Merchant Board with PBIA funding so long as the performance measures of this Policy and Plan are upheld. The City also agrees to provide Merchant Board with guidance in obtaining the proper permits, and to facilitate meetings, as necessary, between City departments, and Merchant Board.

To assist in maintaining the Downtown area, the City will perform the following general maintenance duties in the Downtown area based on the following schedule:

(a) Daily:

- Repair any reported problems that may occur including broken sprinklers inoperative lights, raised sidewalks and/or severely cracked sidewalks, broken curb, trees or limbs which have fallen, potholes, repair and/or replace signage, and any other damage to City property.

(b) Weekly:

- Inspect electrical covers in planters and in tree wells, and repair or replace if needed;
- Empty all trash receptacles;
- Inspect and clean-up graffiti;
- Remove trash and debris on sidewalks, planters, alleys, and parking lots;
- Street sweeping on streets and parking lots bi-weekly.

(c) Monthly:

- Program all sprinkler clocks, and reset or repair if necessary;
- Clean catch basins on corners of 9th Street and 2nd Avenue and all other storm drains in Downtown area;
- Trim bushes, de-weed in planters and tree-wells;
- Trim and remove unwanted growth from trees/tree areas in and around Downtown and city parking lots;

(d) Semi-annually:

- Adjust time on clock to daylight savings/standard time;
- Adjust time on light timers when needed; Adjust time on sprinkler timers when needed.
- Inspect lights located in streets, alleys, kiosks, and trees.

(e) Additional City Responsibilities:

- Host a joint quarterly meeting between the Merchant Board and appropriate City staff, to discuss issues, concerns and priorities related to downtown area.
- Designated City representative shall attend at least one Merchant Board Monthly Membership Meeting per quarter.
- Provide the use of any City reader board signs upon approval pursuant to Merchant Board's request;

- Promote Downtown Upland on City social media sites;
- Provide, when available, use of water bill tag line - no more than twice per year;
- Provide Merchant Board with a quarterly report for PBIA funds collected.

IV. Minimum Qualifications to Serve as PBIA Merchant Board

- To qualify as Merchant Board designated as representing the interests of the PBIA for purposes of this Policy and Plan, the Merchant Board must meet the following standards to the satisfaction of the City;
- The Merchant Board shall consult with Planning Department on all applications for downtown special events.
- Maintain active status as a non-profit mutual benefit corporation, registered with the CA Secretary of State;
- Submit copy of By-Laws annually or sooner upon amendment;
- Must hold at least one regularly scheduled general meeting each quarter that is open to Merchant in the PBIA and representatives of the City;
- Must hold regular meetings of the Board pursuant to bylaws and applicable state law;
- Action of the Merchant's Board must meet all quorum requirements;
- Must maintain and produce any and all financial statements of the Merchant Board;
- Must submit an annual budget to the City for approval;
- Must maintain detailed minutes of each meeting of the Board and each regularly scheduled general meeting; and shall produce minutes to the City.

V. Merchant Board Responsibilities

(a) Advertising for Events

- Merchant Board will be responsible for all advertising and all costs associated with the advertising of Merchant Board events hosted in the Downtown area including:
- Paying Public Works for installation of any banner over the 9th Street archway.

(b) General Event Conditions

The following are general requirements/conditions that Merchant Board must adhere to for all events held in Downtown:

- Obtain a special event permit from the Planning Division for all Merchant Board events;
- Merchant Board shall obtain final approval from the City prior to scheduling any event in order to avoid scheduling conflicts;
- Coordinate with City to avoid conflict with any other event taking place in Downtown;
- All calls made to Public Works that requires an employee to be dispatched will incur a fee;
- Maintain current liability insurance listing the City of Upland as additionally insured in the amount of \$5,000,000 for Major Events and \$2,000,000 for Minor Events, in accordance with the special event application;
- Provide the City a 10 x 10 booth space, upon request;
- Storage of any kind is not allowed in the planters by Merchant Board or any other vendor;
- Person(s) are not allowed access under the gazebo;
- Storage of any kind will not be allowed under the gazebo;
- City will assess Merchant Board fees for damage, call-outs, and emergencies;
- All events should be family-type events that include:
 - Mature music selection;
 - Mature vendor selection;
 - Vendors selling or associated with the following items should be prohibited from participating.
 - Product(s) that portrays profanity;
 - Illegal substances;
 - Gang affiliation;
 - Adult themes;
- Each vendor must have a daily or annual business license.

(c) Payment for City services

Merchant Board will be required to pre-pay for City services five days prior to special event. If payment is not received, the City reserves the right to revoke the special event permit.

(d) Banner and Sign Regulations

The following banner regulations, consistent with Chapter 5 of the Historic Downtown Upland Specific Plan, apply for all banners in downtown proposed by the Merchant Board:

- Location must be approved by City;
- No more than 32 square feet in size;
- Maximum number of signs is limited to 5. Any other sign(s) must have City approval prior to installation.

VI. Performance Standards

The following performance standards shall be met by the Merchant Board

- Develop quality events that will draw people to the Downtown area;
- Maintain a family atmosphere for all events held;
- Create a quarterly Downtown newsletter to engage Merchant and keep the public informed on the Merchant Board activities and the promotion of upcoming events;
- Continue to facilitate regular Merchant Board meetings;
- Submit Minutes and Agendas from Merchant Board meetings;
- Maintain a quorum at Merchant Board meetings;
- Provide Copy of Bylaws annually and notify City of any changes;
- Other performance measures as identified by the City from time to time.

VII. Budget

On an annual basis, Merchant Board will be required to submit an annual budget (Exhibit "A") along with an annual Scope of Services (Exhibit "B") which the City should receive no later than June 1 of each business fiscal year. Submittal of the annual budget and scope of services will be approved by the City within 30 days from the date of receipt. The budget will be reviewed to ensure that the planned use of funds is distributed in a fiscally responsible manner and that the funds used are consistent with achieving the goals set forth in this Policy and Plan and all other goals identified (i.e., scope of services) and agreed upon by Merchant Board and the City. On an annual basis, Merchant Board will provide staff with a full accounting of how all the funds provided through the PBIAs were used. Staff will conduct an analysis to determine if the amount of revenues have been beneficial and that funds were used in a manner consistent with accomplishing the goals set forth in this Policy and Plan and other goals identified by both Merchant Board and the City.

VIII. PBIAs Funds & Distribution

PBIA funds will be disbursed on a quarterly basis. The amount of PBIA funding that is available will be dependent upon the revenues generated from business licenses within the designated Historic Downtown area. This amount is not fixed and will require Merchant Board to budget based upon historical averages that the City has provided. Moreover, the actual amount of PBIA revenue payable to Merchant Board in any given fiscal year is equal to 85% of the actual amount collected up to \$60,000 by the City, anything over \$60,000 will be allocated to the City to be utilized on replacement banners, landscape maintenance, tree lighting, etc., each installment payment paid at the end of each calendar quarter. Also, on a quarterly basis, Merchant Board will provide the City with a complete accounting for any PBIA funds that are disbursed. The accounting shall commence after the first quarterly disbursement and prior to the second quarterly disbursement.

Upon written request by the City, the Merchant Board will submit to the City any financial statements requested within thirty (30) days of the date of the request.

The City reserves the right after reviewing the quarterly accounting to withhold quarterly PBIA funds if the accounting demonstrates that Merchant Board is not maintaining fiscal responsibility, or expending funds on unauthorized events/activities which are not approved within the Scope of Services (Exhibit "B"). In addition, Merchant Board must demonstrate the ability to perform tasks, functions, duties and actions specified in this Policy and Plan. The City also reserves the right to limit or deny any event in Historic Downtown, including but not limited to, holding an event that is inconsistent with goals outlined in the Policy and Plan.

Merchant Board will provide City with quarterly invoices, reflecting monies requested, and the basis for the demand.

The City will review the quarterly invoices and expenditures information submitted, to see that expenditures are consistent with this Policy and Plan and its Exhibits.

Should the City determine that the Merchant Board has insufficient supporting information for expenditures, the City shall notify the Merchant board in writing of its determination, specifying the detail of the objections, which it has to the performance or expenses and the additional information needed to process the invoice, as applicable.

IX. Evidence of Authority

Merchant Board shall provide to the City evidence in the form of a certified copy of minutes of the governing body, or other adequate proof, that this Policy and Plan has been approved in all its detail by the governing body, that the person(s) executing it are authorized to act on behalf of the Merchant Board, and that this Policy and Plan is a binding obligation on the Merchant Board.

X. Insurance

(a) Public Liability and Property Damage

At all times, at Merchant Board's cost and expense, Merchant Board shall keep or cause to be kept, in full force and effect, for the mutual benefit of the City and the Merchant Board, comprehensive, broad form, and general public liability and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from Merchant Board activities, providing protection of at least Five Million Dollars (\$5,000,000) for Major Events and Two Million Dollars (\$2,000,000) for Minor Events in accordance with the Special Event

Application for property damage. A copy of the policy insurance named herein shall be given to the City at the inception of this Policy and Plan.

(b) General Insurance Requirements

All insurance required by express provision of this Policy and Plan shall be carried only in responsible insurance companies licensed to do business in the State of California and policies required above, shall show the City of Upland as a "Certificate Holder" and name as additionally insured the City of Upland, including its elected official, officers, employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that: (1) the insurer waives the right of subrogation against City and City's elected officials, officers, employees, and agents; (2) the policies are primary and non-contributing with any insurance that may be carried by City; (3) they cannot be canceled or materially changed except after thirty (30) day' notice by the insurer to City by certified mail. Merchant Board shall furnish City with copies of all such policies promptly upon receipt of them or certificate evidencing the insurance. Merchant Board may effect for its own account Insurance not required under the Policy and Plan.

XI. Independent Contractor

The Merchant Board is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Policy and Plan on behalf of the Merchant Board shall at all times be under board's exclusive direction and control. Neither the City nor any of its officer, employees, agents, or volunteers shall have control over the conduct of the Merchant Board or any of their officers, employees, or agents except as set forth in this Policy and Plan. The Merchant Board shall not at any time or in any manner represent that any of its officers, employees or agents are in any manner officers, employees or agents of the City. The Merchant Board shall not incur or have the power to incur any debt, obligation or liability whatever against the City, or bind the City in any manner.

XII. Addendums

The implementation of this Policy and Plan will require responding to changing circumstances that will arise, from time to time, as a result of Merchant Board's organizational and business activities required by this Policy and Plan. The City wishes to ensure that the intent and municipal goals are preserved and implemented by its administrative professionals. The City Manager is hereby authorized to approve addendums and/or make amendments to this Policy and Plan, without further action by the City Council, so long as the City Manager agrees that they are both consistent with this Policy and Plan and necessary to effectuate the City Council's goals relating to this Policy and Plan.

XIII. Indemnification

The Merchant Board shall defend, indemnify, and save harmless the City, it's elected and appointed officials, officers agents, and employees, from all liability including but not limited to any liability arising out of the use of funds paid under this Policy and Plan, and additionally, all liability from loss, damage, or injury to persons or property including the payment by Merchant Board of any and all legal costs and attorney's fees, in any manner arising out of or incidental to

the performance of the Policy and Plan, including, but not limited to, all consequential damages, to the maximum extent permitted by law.

XIV. Notices

In the event the Merchant Board is not in compliance with this Policy and Plan, the City shall notify Merchant Board and Merchant Board shall have thirty (30) days to cure any such defaults. Any notice, demand or request by the City to Merchant Board shall be in writing and shall be deemed to have been duly given or made if mailed by certified or registered mail addressed to Merchant Board at the respective address designated by the Merchant Board. The failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of the default.

XV. Successor and Assignment

The services as contained herein are to be rendered by Merchant Board, which shall be approved by the City, and said Merchant Board shall not assign nor transfer any of its duties, obligations, or interests under this Policy and Plan without the prior written consent of City.

XVI. Non-Discrimination

In the fulfillment of the program established under this Policy and Plan, either as to employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay or other terms of compensation, selection for training, including apprenticeship or participation in the program or the receiving of any benefits under the program, Merchant Board agrees not to discriminate nor to allow any subcontractor to discriminate on the basis of race, color, creed, religion, natural origin, ancestry, sex, age, marital status, or physical disability.

XVII. Severability

In the event that any provision herein contained is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Policy and Plan and shall in no way affect, impair, or invalidate any other provision contained herein. If any such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

XVIII. Compliance with Laws

The City and the Merchant Board agree to be bound by applicable federal, state and local laws, regulations and directives as they pertain to the performance of this Policy and Plan.

IN WITNESS WHEREOF, the parties hereto have caused the Policy and Plan to be executed effective the date first written below.

City of Upland

Historic Downtown Upland

By: _____
Jeannette Vagnozzi, City Manager

By:  _____
David R. Moore, President

Date: _____

Date: _____

By:  _____
Linda Trawnik, Vice President

Date: _____

EXHIBIT "A"

Estimated Financial Plan – July 1, 2019 to June 30 2020

Historic Downtown Upland

Revenue

PBIA Funds	\$45,000
Irish Festival	\$15,000
October Fest	\$5,000
Taste of Downtown Upland	\$5,000
Shop Till you Drop	\$4,000
Equipment Rental	\$500
Total Revenue	\$74,500

Expenses

Irish Festival	\$15,000
October Fest	\$10,000
Taste of Downtown Upland	\$7,000
Shop Till You Drop	\$5,000
Insurance	\$4,000
Bank Fees	\$300
Other Expenses	\$600
Storage Fees	\$1,200
Professional Fees and Website Management	\$1,200
Part Time Assistant – Social Media/Events	\$10,000
Clean Sidewalks	\$4,000
Maintain Music Downtown	\$1,500
Promotion of Downtown – Radio/Flyers	\$8,000
Obtain 501 C 3	\$4,000
Miscellaneous	\$500
Kiosk Maintenance	\$1,000
Total Expenses	\$73,300
Net Total	\$1,200

EXHIBIT "B"

HDU SCOPE OF SERVICES

Fiscal Year 2019

ORGANIZATION

Consultation on event application in Downtown Upland
HDU represents all downtown businesses
Consultation in resolution of parking issues in Downtown Upland
Consultation in future improvements and developments in Downtown Upland
Newsletter for Merchant/Businesses
Flyers for Events
E-mail Updates
Monthly Merchant Meetings
Website Development and Maintenance

PROMOTION

Downtown Shopping Directory
Research Potential Advertising
Group Advertising
Review Market Applications
Oversee Events
Put into place Events Vendor Guidelines
Coordinate Annual Events
HDU represents all downtown Merchants/Businesses



March 20, 2019

The City of Upland
Jeannette Vagnozzi
460 N. Euclid Avenue
Upland, CA 91786

RE: Funds for Irish Festival

Dear Jeannette Vagnozzi,

The Historical Downtown Upland Board is requesting funds from the PBIA Funds to pay for the Police Officers for The Irish and the Sidewalk Cleaning of the Downtown area. Please let us know what you can do for us.

Police Officers:	\$ 7,452.00
Sidewalk Cleaning:	\$ 2,800.00
TOTAL:	\$ 10,252.00

Sincerely,

David R. Moore
President
Historical Downtown Upland Board

File: Jeannette letter Funds for Irish 3.20.19