

FILLMORE CITY COUNCIL
TUESDAY, SEPTEMBER 30, 2008

SPECIAL MEETING
CITY COUNCIL CHAMBERS
Immediately Following Joint School Board/City Council Meeting
(Approximately 8:00 P.M.)

FILLMORE CITY HALL
CENTRAL PARK PLAZA
250 CENTRAL AVENUE
FILLMORE, CALIFORNIA 93015-1907

AGENDA

IF YOU WISH TO SPEAK: Oral Communications is the time for citizen presentations or comments on items **not on the agenda**, but within the responsibility of the City Council. Please complete an Audience Participation Form prior to the beginning of oral communications and hand it to the clerk if you wish to speak. Please stay within the time limit indicated by the Mayor. If you wish to speak on an item **on this agenda**, please fill out an Audience Participation Form and hand it to the clerk prior to that item.

AUDIBLE DEVICES: Please ensure all audible devices (pagers, telephones, etc.) are off or otherwise not audible when the Council is in session. Thank you.

AGENDA TIMES: Please note the time listed for each agenda item is the **suggested/estimated time for that item to begin**. Items may be heard earlier or later than the listed time. The estimation includes providing an occasional 10-minute break. No new business will be considered by the City Council **after 11:30 p.m.** unless a majority of the Council determines to continue.

MEMORANDUMS: Memorandums relating to agenda items are on file in the Administrative Assistant's Office. If you have questions regarding the agenda you may call City Hall at (805) 524-3701 or come to City Hall for information. Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the Administrative Assistant's office at City Hall during normal business hours. Such documents are also available on the City of Fillmore's website at www.fillmoreca.com subject to staff's ability to post the documents before the meeting.

City Council and Redevelopment Agency Agendas are posted on the Web at: www.fillmoreca.com/cityhall/agendas

<u>ITEM</u>	<u>REFERENCE**</u>
1. CALL TO ORDER & PLEDGE OF ALLEGIANCE	Oral
2. APPROVAL OF AGENDA	Oral
3. ORAL COMMUNICATIONS Oral Communications is the time for citizen presentations or comments on items not on the agenda , but within the responsibility of the City Council. Please complete an Audience Participation Form prior to the beginning of oral communications and hand it to the clerk if you wish to speak. Please stay within the time limit indicated by the Mayor. If you wish to speak on an item on this agenda , please fill out an Audience Participation Form and hand it to the clerk prior to that item.	Oral
4. CITY COUNCIL CONSENT CALENDAR	(8:10p)
4A. Adopt <u>City Council Resolution No. 08-3162</u> : Authorizing the City Manager, Finance Director, Fire Chief, and Disaster Coordinator to Execute Actions Necessary for Obtaining Federal Assistance for the Purpose of Homeland Security.	Memo
5. PRESENTATIONS – None.	
6. CITY COUNCIL PUBLIC HEARINGS – None.	

7. JOINT CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARINGS – None.

8. CITY COUNCIL BUSINESS ITEMS

City Manager

8A. Request to Defer Development Impact Fees, Applicant – Zahid Shah.

**Memo
(8:15p)**

9. JOINT CITY COUNCIL/REDEVELOPMENT AGENCY BUSINESS ITEMS – None.

10. CITY COUNCIL REPORTS, DISCUSSION AND APPOINTMENTS

- 10A. Information/Direction to Staff on Legislative Matters and Emerging Issues. **Oral**
- 10B. City Council Member Travel / Travel Reports. **Oral**
- 10C. Other Discussion/Information from Mayor, City Council and City Staff. **Oral**
- 10D. Any Council Member may propose items for placement on a future agenda. **Oral**
 Members may discuss whether or not an item should be placed on a future agenda and the description of the agenda item. Any direction to the City Manager shall have discretion as to when the item will come back on the Agenda, unless the City Council identifies a specific meeting for the item's return.

11. CITY COUNCIL EXECUTIVE SESSION

11A. Executive Session: Conference with Legal Counsel – Anticipated Litigation
 (1) Potential Case [Government Code Section 54956.9 (b)].

12. ADJOURNMENT – City Council adjourns to a joint North Fillmore Neighborhood Committee meeting, set for Wednesday, October 1, 2008 at 7:00 p.m. at the Lemon Way Police Storefront, 642 Lemon Way, Fillmore, California. **(8:30p)**

PLEASE NOTE: If you challenge the actions of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in the public notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. (Calif. Gov't Code §65009).

Any legal action by an applicant seeking to obtain a judicial review of the City Council's decision on a Hearing listed on this Agenda may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure Section 1094.6

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administrative Assistant at (805) 524-3701. 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)



CITY OF FILLMORE
CENTRAL PARK PLAZA
250 Central Avenue
Fillmore, California 93015-1907
(805) 524-3701 • FAX (805) 524-5707

AGENDA ITEM # 4A

TO: Mayor and City Council
FROM: Patrick Maynard, Disaster Coordinator
SUBJECT: Resolution Naming Authorized Agent to Apply for Grant Funding
Date: September 30, 2008

RECOMMENDATION:

Adopt City Council Resolution No. 08-3162 naming specified individuals as "authorized agents" to execute for, and on behalf of the City of Fillmore, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the Federal Department of Homeland Security and sub granted through the State of California and Ventura County Sheriffs Department Office of Emergency Services.

BACKGROUND:

On September, 28th, 2004, the Fillmore City Council passed a resolution specifying authorized individuals who are permitted to apply for federal grant assistance on behalf of the City of Fillmore. This resolution is now approximately four years old and does not reflect current staffing.

New Department of Homeland Security grant preparation guidelines now require an annual update of resolutions of this nature, naming all new "authorized agents" who may be submitting federal funding requests.

FISCAL IMPACT:

None

CONCUR:

A handwritten signature in black ink, appearing to read "Tom Ristau".

Tom Ristau, City Manager

**CITY OF FILLMORE
COUNCIL RESOLUTION 08-3162**

**AUTHORIZE CITY MANAGER, FINANCE DIRECTOR, FIRE CHIEF AND
DISASTER COORDINATOR TO EXECUTE ACTIONS NECESSARY FOR
OBTAINING FEDERAL ASSISTANCE FOR PURPOSE HOMELAND
SECURITY**

WHEREAS, The City Council of the City of Fillmore can best serve its residents by being prepared for the threat to the security of the residents of the City of Fillmore; and

WHEREAS, Federal funding is available through the Federal Department of Homeland Security, for the purpose of providing security to the residents of the City of Fillmore.

NOW, THEREFORE, BE IT RESOLVED that the City council of the City of Fillmore resolves that City Manager Tom Ristau, Finance Director Barbara Smith, Interim Fire Chief Bill Herrera and Disaster Coordinator Patrick Maynard are hereby authorized to execute for and on behalf of the City of Fillmore, a public entity established under the laws of the State of California, any actions necessary for the purpose of obtaining federal financial assistance provided by the Federal Department of Homeland Security and sub granted through the state of California.

PASSED AND ADOPTED this 30th day of September, 2008

Steve Conaway, Mayor

Attest:

Steve McClary, Deputy City Clerk



CITY OF FILLMORE

CENTRAL PARK PLAZA

250 Central Avenue

Fillmore, California 93015-1907

(805) 524-3701 • FAX (805) 524-5707

AGENDA ITEM #

8A.

September 30, 2008

TO: MAYOR AND CITY COUNCIL
FROM: TOM RISTAU, CITY MANAGER *TR*
SUBJECT: REQUEST FOR DEFERMENT OF DEVELOPMENT IMPACT FEES
UNTIL CERTIFICATE OF OCCUPANCY – ZAHID SHAH – UNITED
SHAH PROJECT

RECOMMENDATION

It is recommended that the City Council approve the request of Zahid Shah to defer payment of Development Impact Fees (except for Ventura County Reciprocal Traffic Agreement) for the United Shah project until Certificate of Occupancy contingent upon the following:

1. Planning Commission and/or City Council approval of Mr. Shah's proposed modification to his CUP, which allows for a five year business use, requesting the issuance of a CUP for a permanent business; and
2. Preparation of an "Agreement Affecting Real Property Fee Development – Commercial Only" by the City Attorney, which would provide for payment of all remaining DIF's to be made by the developer to the City at the issuance of Certificate of Occupancy.

BACKGROUND

In October 2007 the Planning Commission heard and denied the request of applicant Zahid Shah to place his towing business on property located on the west end of the City. The applicant appealed the Planning Commission's decision to the City Council. The Planning Commission cited 11 issues for their denial of Mr. Shah's project: no gateway sign (designed and approved), more architectural treatment to building (applicant has provided architecture to match rest of building), butler building too close to existing residences (building has been moved west), unsightly and poorly maintained existing business (conditioned to keep site clear of abandoned vehicles), noise study not done (has since been provided), dust/use of dirt lot (applicant has placed asphalt and/or base material in rear of site), not enough landscaping near bikepath (design now shows new fencing, trees and vines along fence), driveway location in relation to Highway (has been adjusted), project is only for a five year use, garage was illegally converted (applicant will restore to a garage), dust attenuation on site (plans

have been revised to address this issue) and no environmental document was done (since completed).

The proposed project complied with the zoning ordinance and Ventura Street Design Guidelines. Conditional of Approval were prepared.

On January 22, 2008 the City Council unanimously (5-0 vote) adopted three resolutions which overturned the Planning Commission's denial of the project.

DISCUSSION

Mr. Zahid Shah approached city staff about the possibility of deferring his DIF's for his currently approved project until after the five year CUP has expired. In addition, Mr. Shah was proposing to pay only a percentage of the DIF's based upon the life span of his building. City staff informed Mr. Shah that they could not support his request but would take his request to the Finance Committee for discussion.

On September 9, 2008 the Finance Committee met with Mr. Shah and listened to his request concerning the payment of DIF's on his current project. The Finance Committee indicated that they could support his request to defer the DIF's until Certificate of Occupancy but only if the project were to be permanent.

Mr. Shah indicated he would like to have his current CUP, which allows for a five year business, modified to allow for a CUP for a permanent business. The Finance Committee recommended that he complete the necessary application(s) for modifying his existing CUP and take his request to the October 2008 Planning Commission meeting.

Mr. Shah has completed and turned in the application to the planning department and the issue will be placed on the October 22, 2008 Planning Commission agenda.

In the interim Mr. Shah would like to receive City Council approval on his request to defer DIF's until Certificate of Occupancy should the Planning Commission approve or should the City Council overturn a denial by the Planning Commission.

ANALYSIS

Government Code §66007 requires that a city not require payment of DIF's until the date of final inspection or the date of certificate of occupancy unless the city determines that the fees are already appropriated and the city has adopted a proposed construction schedule or plan for a public improvement or facility, or

unless the fees are needed to reimburse the city for expenditures previously made for a public improvement or facility.

The fees requested to be deferred include: 1) park land fees, 2) public facilities fees, 3) sewer improvements fees, 4) transportation improvement fees, 5) water improvement fees, 6) storm drain fees, and 7) County reciprocal traffic fees (cannot be deferred).

The FY 2008-09 preliminary budget adopted by the City Council projects that all of the Development Impact Fee (DIF) funds will have a positive cash balance as of June 30, 2009. This project was not included in the projections for the development impact fee funds. Therefore, Council could approve the DIF deferral.

FISCAL IMPACT

As stated above, all DIF funds are projected to have a positive year end cash balance.

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