

**California City**  
**\_X\_ City Council,     RDA,     Planning Commission**  
**Staff Report**  
**City Manager**  
December 11, 2006

**Status:** \_X\_ Routine     Closed Session

**Meeting Date:** December 19, 2006

**Item:** Request for Council review of Business Transaction

**Background:** Mr. John Fischer requested in a public forum that the City Council review a proposal for a business transaction with the City. Mr. Fischer asserted non-response by staff.

Attached is staff's brief summary of salient historical points regarding the matter. Mr. Fischer's submittal of information is insufficient for staff to provide a definitive decision regarding the matter.

Under **Sec. 1-4.01. Right of Appeal** (attached hereto) in the California City Municipal Code certain procedures should be followed for a person to appeal administrative decisions to the City Council. Staff believes these procedures ought to be followed prior to issues being brought before the Council for appeal, thus protecting the appellant's due process and avoiding bias.

**Critical Timelines:** Subject to appeal

**Recommendation:** Staff recommends this matter follow the proper due process.

**Council motion:** No action

**Fiscal Impact:** None at present

**Environmental Action:** None at present

NB2.

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INTEROFFICE MEMORANDUM

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**TO:** WILLIAM WAY, CITY MANAGER  
**FROM:** TERRY G. HICKS, DIRECTOR OF FINANCE/ASSIST. CITY MGR.  
**SUBJECT:** FLEET PARTS & INSTRUMENTS LEASE  
**DATE:** 10/7/05  
**CC:** FILE

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During the latter part of September 2006, the City Manager, Finance Director and Police Chief met with John Fischer. The subject of said meeting was to discuss Mr. Fischer's proposal to assume the Fleet Parts & Instrument's land lease at the Airport.

At this point, a number of facts are relevant concerning the details of the Fleet Parts & Instruments lease. Originally, the lease term was 30 years, however, approximately 12 years now remain. The land consists of approximately 304,920 square feet, or 7 acres. The consideration is \$487.87 monthly or only \$69.70 per acre (\$0.16 cents per square foot).

The lessee may assign the lease or sublease with the City's written consent. Staff believes Mr. Fischer desires to assume the lease at the current rental of \$487.87 monthly.

During the aforementioned meeting, Mr. Fischer presented a business plan. City staff present, did not believe the plan was either financially viable, or provided for any return to the Airport. Mr. Fischer was asked for an alternate business plan that would allow for a fair return to the Airport. Mr. Fischer stated he would do so in approximately two or three weeks.

To date, Mr. Fischer has not supplied an alternative business plan.

## **CHAPTER 4. APPEALS**

### **Sec. 1-4.01. Right of Appeal.**

A person objecting to a decision made by an officer or employee involving the exercise of discretion may request the council to review such decision by filing a written appeal with the City Clerk setting forth the specific grounds thereof.

### **Sec. 1-4.02. Time Limit for Filing.**

The appellant shall file a notice of appeal with the City Clerk within fourteen days after the administrative decision.

### **Sec. 1-4.03. Hearings: Notices.**

Upon the filing of the notice of appeal in proper form, the City Clerk shall place the matter on the Council agenda for the next regular meeting of the Council held at least five days after the filing of the notice of appeal. Except in cases of emergency when the Council may determine the matter immediately, the Council shall set the matter for hearing at a subsequent meeting, within thirty days after the date of the filing of the notice of appeal. The City Clerk shall cause a written notice of the hearing to be given to the appellant not less than five days prior to such hearing, unless such notice is waived in writing by the appellant.

### **Sec. 1-4.04. Hearings.**

At the hearing the appellant shall show why the action appealed from should not be approved. The Council may continue the hearing. The Council's findings on the appeal shall be final and conclusive in the matter.

### **Sec 1-4.05. Conduct of Hearing: Subpoena.**

The Council may subpoena witnesses to testify under oath and require production of evidence. Subpoenas shall be issued in the name of the City and attested by the City Clerk.

### **Sec. 1-4.06. Evidence.**

The hearings shall be formal, but need not be conducted according to technical rules of evidence relevant evidence shall be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common

law or statutory rule which might prevent admission of such evidence over objection in civil action.

Hearsay evidence may be admitted for any purpose but shall not be sufficient alone to support a finding unless it would be admissible over objections in civil actions. The rules of privilege and official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant or repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation. Council members may administer oaths to witnesses.

**Sec. 1-4.07. Findings and Decisions.**

The Council shall announce its intended decision within fourteen days after the date of the hearing. The Council shall order the preparation of proposed findings and facts and conclusions of law setting forth the grounds upon which it acted. The findings and conclusions shall be prepared within ten days after the Council announces its intended decision.

The intended decision and the proposed findings and conclusions shall be mailed to the petitioner and interested parties. The petitioner and interested parties shall have ten days after the council mails the findings and conclusions to object.

If objections to the findings are filed, and the Council believes the objections are valid, the Council shall amend the findings and take such further action it deems appropriate within fifteen days after receipt of the objections.

**Sec. 1-4.08. Final Decisions.**

If no objections to the proposed findings of fact and conclusions of law are received by the Council within ten business days after the findings and conclusions are mailed, the findings, conclusions, and decisions shall be deemed final and conclusive.

**Sec. 1-4.09. Judicial Review.**

The provisions of Code of Civil Procedure Section 1094.6 shall be applicable to the judicial review of the decisions of the City Council or any board, body, commission or officers of the City empowered to render final decision.