

**MINUTES
CITY COUNCIL AND REDEVELOPMENT AGENCY
REGULAR MEETING
APRIL 12, 2011 - 6:00 p.m.**

CALL TO ORDER

The regular meeting of the City Council and Redevelopment Agency of the City of Highland was called to order at 6:00 p.m. by Mayor McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Reverend Jeff Bumgardner of Immanuel Baptist Church and the Pledge of Allegiance was led by Mayor McCallon.

ROLL CALL

Present: Lilburn, McCallon, Racadio, Timmer
Absent: Scott

REPORT FROM CLOSED SESSION

No Report from Closed Session

SPECIAL PRESENTATIONS

Mayor McCallon presented Julia Allen, Right Way, with a Community Spirit Award for their dedicated work to the community of the City of Highland.

Mayor McCallon presented Chris Mecate with a Certificate of Recognition for his outstanding sportsmanship and athleticism in the sport of Wrestling.

Ms. Jamie Anderson, 2nd Vice President of the City Clerks Association of California, presented Betty Hughes, MMC, Highland City Clerk, with a Certificate of Exceptional Professional Achievement for her outstanding accomplishment in attaining her Master Municipal Clerk designation.

Mayor McCallon presented, Doug McKain, Unit Chief, CAL FIRE, with a proclamation congratulating him on his retirement and the Council's appreciation for his dedicated work to the City of Highland.

Mr. Doug McKain, Unit Chief, CAL FIRE, introduced Battalion Chief Jeff Veik to the City Council as the current Battalion Chief to the City of Highland.

Lieutenant Bobby Guillen introduced himself as well as Sergeant Tim Branske and Deputy Mike Brand to the City Council as the newest members of the Highland Sherriff's Department.

Dr. Ray Wolfe, Caltrans, gave a presentation regarding the current status of State Route 330.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to add item # 18 to the agenda regarding Greenspot "S" Curve. Motion carried, 4-0, with Councilwoman Scott being absent.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to add an item #19 to the agenda regarding Tiger II Grant. Motion carried, 4-0, with Councilwoman Scott being absent.

COMMUNITY INPUT

None

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve the consent calendar as submitted with Mayor Pro Tem Lilburn abstaining from Item #8. Motion carried on a roll call vote, 4-0, with Councilwoman Scott being absent.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.
2. Minutes – March 8, 2011 City Council Regular Meeting
Approved the Minutes as submitted.
3. Minutes – March 22, 2011 City Council Special Meeting
Approved the Minutes as submitted.
4. Minutes – March 22, 2011 City Council Regular Meeting
Approved the Minutes as submitted.
5. Minutes – March 8, 2011 RDA Regular Meeting
Approved the Minutes as submitted.
6. Minutes – March 22, 2011 RDA Special Meeting
Approved the Minutes as submitted.
7. Minutes – March 22, 2011 RDA Regular Meeting
Approved the Minutes as submitted.
8. Warrant Register
Approved Warrant Register No. 520 for April 12, 2011, in the amount of \$5,502,509.88 and Payroll of \$78,195.58.

9. Preparation of Annual Engineer's Reports for 2011/2012 Assessments
 1. Adopted Resolution No. 2011-016 ordering the preparation of an Engineer's Report for Consolidated Landscape and Lighting District No. 96-1; and
 2. Adopted Resolution No. 2011-017 ordering the preparation of an Engineer's Report for Street and Drainage Maintenance District 96-1.

RESOLUTION NO. 2011-016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, ORDERING THE PREPARATION OF ENGINEER'S REPORT FOR CONSOLIDATED LANDSCAPE & LIGHTING DISTRICT NO. 96-1 FOR FISCAL YEAR 2011/2012

RESOLUTION NO. 2011-017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, ORDERING THE PREPARATION OF AN ENGINEER'S REPORT FOR STREET AND DRAINAGE MAINTENANCE DISTRICT 96-1 FOR FISCAL YEAR 2011/2012

10. Easement Acceptance/Olive Street Sidewalk Project (Project str09003)
 1. Accepted the Grant of Easement for Road and Drainage purposes from Miriam Williams; and
 2. Directed the City Clerk to record the Grant of Easement.
11. Notice of Completion – Bid No. 2010-06 "Pacific Street Rehabilitation Project"
 1. Accepted Bid No. 2010-06, "Pacific Street Rehabilitation Project," as complete;
 2. Approved reduction in the construction contract retention amount from 10% to 5%;
 3. Authorized the Mayor to sign the Notice of Completion; and
 4. Directed the City Clerk to file the Notice of Completion.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

No Public Hearing

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

12. Review the Need for Continuing the Local Emergency Pursuant to Highland Municipal Code 2.44.060(A)(2)

City Manager Hughes stated there are still a few projects left to bid on for clean up purposes. Staff would like to have the Council consider this item. Currently the sandbags are being removed; there were over 100,000 sandbags put into the community. We are also removing the K Rail that was put in place.

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Councilman Timmer, to receive and file the report. Motion carried, 4-0, with Councilwoman Scott being absent.

13. Acceptance of Donated 1.14 Acre Parcel Located at the Northeast Corner of Tippecanoe Avenue and Sixth Street – APN 0278-221-01 – Jankay Family Trust

Community Development Director Jaquess gave a brief review of the staff report.

Mayor McCallon inquired what the property is currently zoned as.

Community Development Director Jaquess stated it is zoned residential single family at this point; across the street to the south is commercial.

Councilman Timmer stated he has one comment on the executive summary from the environmental phase I; the last item is regarding some debris on the northwest corner. He drove by this property today and it will take some work from staff to clean up.

Community Development Director Jaquess stated staff was aware of the debris at this location.

A MOTION was made by Councilman Timmer, seconded by Mayor Pro Tem Lilburn, to:

1. Accept donation of a 1.14 acre parcel located on the northeast corner of Tippecanoe Avenue and Sixth Street – APN 0278-221-01 – Jankay Family Trust; and to
2. Direct staff to prepare and record deed. Motion carried, 4-0, with Councilwoman Scott being absent and as amended.

14. Amendment of Auditing Services Contract with Mayer Hoffman McCann P.C.

City Clerk Hughes stated there is a clarification on this item. The title is correct, however, under recommendation it should state “McCann” instead of McCallon.

Director of Administrative Services Dantuono gave a brief review of the staff report.

Mayor McCallon inquired how long Mayer Hoffman McCann had been the auditors for the City of Bell.

Mr. Matt Lenton, Mayer Hoffman McCann, stated for about nine years and the last audit they did was back in June of 2009.

Mayor McCallon inquired were they experienced auditors, senior people.

Mr. Lenton stated the audit team for the City of Bell was probably the most experienced team we could have. The shareholder, the partner, 35 years of experience, the senior manager had over 20 years experience. So, the collective team was probably the most experienced team that their firm could put together. In terms of the audit process, he thinks the procedures that they applied or any firm would apply to that particular audit or to the audit of this city, would not be any different. The difference in the City of Bell, which we don't have here in the City of Highland, is the fact that all the members of Council and staff were in cahoots in some regards and making transactions not appear in the financial records. In any properly planned audit, you will not be able to identify fraud and collusion. That is something, in terms of their internal peer review, they took that into consideration and realized that the way the audit was planned was done in accordance with the auditing standards.

Mayor McCallon stated his concern is that having been the auditor for so long, that they could become comfortable with each other.

Mr. Lenton stated with the client that would be a perception that you may be able to have. The thing we do in their firm is they have rotations. They have rotations of engagement teams whether it be the shareholder, managers, in charges, and each individual professional comes to that audit with a different perspective on how to look at transactions and so that is a fresh set of eyes that happens throughout all of their clients including the City of Highland. That is the rotation they choose to use in losing that perception of a cozy, comfy relationship as you suggest.

Mayor McCallon inquired who they chose to be their independent auditor.

Mr. Lenton stated we have a firm that was out of Florida. We chose to look for a firm that had expertise in this particular industry. In the report that Director of Administrative Services Dantuono put together, they have included not only the opinion of that firm which is Carl Riggs Ingram but they have also included the resumes of the individuals who ran this audit and all of them were at the partner level. The team leader, that is what they call for a peer review, they have one particular person that is charged as the team leader; this person was Harold Monk, Jr. He is nationally recognized in terms of the auditing industry, accounting industry as an expert. He is the former chairman of the ASPA accounting standards board so he is essentially the person that makes the auditing rules. In terms of the qualifications of the firm they went out and worked hard to find a particular firm who had the expertise that could give a critical evaluation. And so they had no reason to take this job, they took it because they wanted to do the right work and they had no reason to give them an unqualified opinion had they found something that was wrong with their audit work. They are very proud of that report and very pleased that they came back with the unqualified opinion.

Mayor McCallon stated he was told that they chose the auditor; you wanted the auditor to be someone east of the Mississippi because they did not want a competitor to do the audit.

Mr. Lenton stated they chose, that is a consideration, but the ultimate consideration is who is the most qualified firm to do it. Harold Monk, Jr., and his team by far, in terms of credentials, would be the best possible fit for doing this particular job. They thought it was that important, that they put themselves under a very detailed, thorough review and this was the firm that they chose to do that.

Mayor McCallon inquired did they review the audit of Bell.

Mr. Lenton stated they are not allowed to discuss what audits were included or not included. They did do an audit of every municipal audit done out of the State of California which includes three offices, not just the office that they are from, that had a total population of jobs that they could look at was 130, and from that they took a significant sample. Larger than a normal peer review sample would be but in terms of confidentiality agreements which we are not allowed to exactly say which engagements were included and which ones were not.

Mayor Pro Tem Lilburn inquired if it is a five year contract and what year are we in?

Director of Administrative Services Dantuono stated we just completed year one. It is three year contract with two one-year extensions.

Mayor Pro Tem Lilburn stated we've had this auditor for twenty years.

Director of Administrative Services Dantuono stated one of the things the Finance Subcommittee did about six or seven years ago we initiated our own auditor rotation program. Basically when they come out, there are three levels; there is a shareholder, there's the manager and basically the auditor, and then every few years we have to rotate every position within the firm so we get a fresh set of eyes. One of the things that it does, it maintains a continuity of the firm so we don't have to keep going back. For instance, Jeffrey Court, the new auditors come in and would need all the paperwork but if a new auditor comes in they can go to Matt and say what's this all about and he would have the history so we can maintain the continuity of staffing with that auditor rotation program.

Mayor Pro Tem Lilburn stated she will not be able to support going back with them because there were a number of other issues out there.

Mayor McCallon stated he is not very comfortable either. The reason he is not is because perception is reality sometimes. Even though the firm has no wrong doing in this matter at all, there is a perception out there. He is concerned, disturbed that senior auditors would not have picked up anything and the fact that they would choose an audit firm that's not a competitor. He would be more comfortable if a competitor did the audit because then if they said you did a great job that would be more proof to him. At this last meeting at SCAG they went through the same discussion and SCAG decided not to renew the contract. He cannot in good conscience support continuing the contract with the firm.

Councilman Racadio stated could you address one of the questions we are particularly concerned about was the issue of compensation in Bell and the question was didn't you see these \$100,000 year salaries to Council Members and City Manager.

Mr. Lenton stated in terms of compensation and what individuals get paid that is a public policy decision. That is not something subject to the audit whatsoever. If an individual is worth X amount of dollars, that's your decision to make and so from an audit perspective that's something where we never had a mechanism through the audit process to communicate those issues to those in governance. Obviously as you know back in October the State Controller, as a result of the Bell issues, made it a requirement that local governments have to report salaries annually and again the compensation and how that gets reported. There is still some work that can be done in terms of evaluating what cities are actually reporting to the State Controller but now there is a mechanism for doing that. Pre-Bell there wasn't a mechanism and so they thought about and talked about with the Finance Committee is going through and as you report annually what the salaries would be part of the audit process for them would be to make sure that what you are reporting to the State is accurate and correct. So now there is a mechanism for the auditors to have a process of validating that reporting process but again prior to Bell that was not something that we had an opportunity to do and it wasn't even subject to or part of the scope of an audit.

Mayor Pro Tem Lilburn stated because you didn't have a mechanism to disclose this, you just didn't disclose it.

Mr. Lenton stated it would be as if you made a decision to put a park on your new property that you just bought and if we thought, if he personally thought you shouldn't have a park there, is that something he should bring to your attention.

Mayor Pro Tem Lilburn stated if we're using tax payer dollars and through the audit it's not approved.

Mr. Lenton stated it was approved by Council, that's all they would need to know. All of the salaries and compensations at the City of Bell were signed by the City Manager, contracts drafted by the City Attorney; there was nothing else for them to do.

Mayor Pro Tem Lilburn stated if we spend a billion dollars on a park, you're going to find that okay because there is no mechanism to say well I think that park should only be putting a million as opposed to a billion on a park but there's no mechanism so we're just going to shine it on.

Mr. Lenton stated he thinks at some point, the Council and management have to take responsibility for the actions that they take and approve. The audit process is to validate the financial statements and the information reported by staff. It is not here to give you criticisms of the actions you have taken. That is not part of the audit process.

Councilman Racadio stated the existing guidelines for accounting, are you telling us back then it wasn't an issue but today post Bell, it's an issue that auditors will address but prior to that they did not.

Mr. Lenton stated absolutely. Post Bell there are a lot of new rules and the State Controller is still making changes to what things need to be done in terms of an audit process. This is one additional area that is a new tool that the auditors have to help evaluate or at least communicate back to governments, Council, what actions are happening and how things are being reported. Again, there will be a lot of changes in the audit process but at some point the audit process does not look at every transaction, it does not evaluate every decision made by Council and it wouldn't ever be the responsibility of the auditors to come here and question every decision you make. That's not what they get paid to do.

Councilman Timmer stated that is why the Finance Subcommittee added the new amendment to the agreement that if certain numbers were above or below what the budget amounts were that would be flagged for the committee to look at and the reasons why those things are occurring. The thing is, back to the park issue, if the Council hadn't taken action to authorize expenditure so the billion dollars for that park, it's not the auditor to question those decisions. They are just validating the authorization to spend those dollars and to validate those monies where they came from and so on.

Mr. Lenton stated you're not going to find another firm that's going to do anything different. They are not risking their opinion and signing a report saying you have unqualified financial statements. If you include in that, meaning they have evaluated every decision you made, that's not going to happen. That's a poor expectation.

Mayor Pro Tem Lilburn stated she is sure there were a number of issues that made the City of Bell go where it is. She believes that perception plays a major role and to make our community know that we have the best interest and that they are trying to do the best job, she believes the perception plays a bigger role.

Mayor McCallon stated based on the discussion he is hearing, maybe the best course of action is to table this item until we have a full Council.

City Manager Hughes stated timing is an issue here. We have an audit we need to get going on. If it's going to be the desire of the Council to terminate this agreement then we have to go out for an RFP for an audit. Typically the pre-audit work starts in May. We are under a tight time frame if that's the road you wan to take.

Councilman Timmer stated he has been on the Finance Subcommittee for a lot of years working with this organization and we've always provided the information they've asked for. The reports have always been exemplary. He thinks the whole issue boils down to who monitors and what information is given to the auditors. If they're given bogus information and the documents are there to support those numbers...He knows our relationship, as a City, working with this company has been very good over the years. He felt comfortable and that's why they added this additional item, a little extra safety valve.

Mayor Pro Tem Lilburn stated and she doesn't disagree and she knows the Finance Subcommittee does a great job. This is to protect everyone. It's to protect the staff, it's to protect the Council, it's to protect the residents, it's to protect our dollars and sometimes change is good.

Councilman Racadio stated he wasn't on the Finance Subcommittee before he got on the Council. He thinks the reason it was put off was so there would be a result of the audit on the auditors and the response from the other auditing firm. Because of this we are in a situation where it sounds like from staff time is of the essence. Could you talk to us about the process, what we would have to do and what the timing may be if we were to change at this point.

Director of Administrative Services Dantuono stated the RFP process would probably take, if he were to rush it, he could probably get it to the Council and the next meeting. The RFP may be 2-3 weeks to go out to bid and bring it back to the Finance Committee for recommendation. Maybe early June to the Council for recommendation and then we could start going.

City Manager Hughes stated it would put the audit back about a month to two months off of our typical schedule. What Councilman Racadio brought up was there is not set time frame but it's just good management. We always strive to have our audit done by December. It's usually done in November so the information is fresh. We don't want to push it off too much. That being said if we push it off, we get a two month lag this year. We're not breaking any rules by doing that, it's just good management.

Mr. Lenton stated he will say over the last week, they have had clients with the exact same discussion Council is having right now and have extended their contract and continue doing work with their firm and have avoided the public perception issue and realize the facts of what an audit is and what it isn't. Bell in itself is a completely different situation. It's an anomaly in this environment. They don't have a client base; City of Highland is not a client that has the same type of issues there. There is transparency here, there is communication here, and he thinks there is some creditability that you have with staff. In terms of their relationship, they work with the Finance Committee, they talk with the Finance Subcommittee and that's something the City of Bell was not interested in doing. He thinks when you look at the client base, that is something that is outside the spectrum of normal and again, what you have here is high quality staff, a dedicated Council that is intrigued and involved in the audit process and that's what gives good audit quality. Not necessarily the firm, it's not them doing a bad job, it's the staff doing a great job. He thinks when you look at the City of Bell audit, that's where they all fell down, is deception by staff. That is not an issue here. Highland is an important client. They have done a lot work for us, met our deadlines, given good quality product and in terms of financial statements there are no errors, no journal entries, and staff is capable and competent. They put together very detailed amount of work and support that allows them to do their job. He does understand the perception issue but they do have a handful of clients, just in this last week, which have made a different decision and chose to stay with them.

Councilman Timmer stated maybe an alternative is, we have two years left, since there are time constraints in meeting our normal management practices, let's do a one-year extension with the understanding we will go out to bid for request for proposals next year. This gives staff time to put together the paperwork and still meet our normal management constraints.

Mayor McCallon stated it bothers him and it has for awhile, that we have been with the same firm now for 20 years. It just gets to the point where you become comfortable with each other and not as critical necessarily as one ought to be. This is just a perception on his part.

Mr. Lenton stated from an audit standpoint, in terms of doing an audit, when new auditors come in they will have to evaluate the entire city process and in some cases that is absolutely a good thing to do but in other situations when you have new auditors come in they are focused on very particular things, they are worried about getting what they believe to be the significant issues addressed and in those cases it takes two to three years to understand the whole operation. Another thing he wants Council to recognize when you do get new auditors and this is no different for their firm, when they become the new auditors for a City, is you don't necessarily look at every single area that might be of a risk. You generally go through a risk assessment, figure out where the difficult areas are and then as you progress and get a relationship with the client, understand the operations, then you expand that audit so again if your expectation is new auditors are all of sudden going to mean a dynamic great audit, that's not necessarily a correlation. Maybe two to three years down the road that would be

the expectation and that's what hopefully you would get. That's why they are using the audit rotation process here, where every four years they have been rotating engagement teams so you're still getting that fresh look with a little bit of consistency and understanding of operations. So he thinks in that regard you're getting the best of both worlds in that process. It is clear that in this industry the changing of auditors is an opportunity where not everything will get looked at in that first year. That is just the facts of how the operation of an audit would go.

Mayor Pro Tem Lilburn stated she is agreement with Mayor McCallon, having an auditor for that long and when you bring in, again, she believes change is good. A new set of eyes, new philosophy, and an auditor is also good for a City to have new ideas and bring things. It isn't our staff and it isn't our Finance Subcommittee that she is worried about; it's also good to bring forth some great recommendations and some do's and don'ts, having an audit done yearly, herself. She still doesn't think she can support this.

Mayor McCallon stated he is willing to compromise and go for this one year and then go for RFP as a way to move this forward. He is not happy with this solution because he thinks perception is the problem. It's nothing against what has been done; perception is the whole issue.

Councilman Timmer stated on the Subcommittee level, they had the same discussion on many of these same issues but the theme of continuity and some other things, they felt going on, that is why he suggested the one-year extension with going through requests for proposals.

Mayor McCallon stated he thinks it's important we have a different auditor after so many years. He would support going for the one year.

A MOTION was made by Councilman Timmer, seconded by Mayor McCallon, to approve the proposed contract amendment to include a one-year extension with Mayer Hoffman McCann P.C. for auditing services and to direct staff to prepare Requests for Proposals. Motion carried, 3-1, with Mayor Pro Tem Lilburn dissenting and with Councilwoman Scott being absent.

15. Status Report on Senate Bill 375 – 2012 RTP/SCS Implementation

Community Development Director Jaquess gave a brief review of the staff report.

City Council received and filed the report.

16. Update on SANBAG, SCAG, Omnitrans, Work Program and Regional/Legislative Issues/Development Issues/Subcommittees/AB 1234 Updates

None

17. San Bernardino International Airport Authority and IVDA

None

18. Greenspot Road "S" Curve Realignment

City Manager Hughes gave a brief review of the staff report.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve the Air Deposited Lead Testing requirement to be conducted by DS Yourman and Associates and to authorize the City Engineer to sign the required contract agreement. Motion carried, 4-0, with Councilwoman Scott being absent.

19. Tiger II Grant Agreement with FHA and Caltrans

City Manager Hughes gave a brief review of the staff report.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve the Grant Agreement for the San Bernardino International Airport Ground Access Circulation Improvement Project subject to final approval by FHA and Caltrans, and to authorize the City Manager to sign the agreement. Motion carried, 4-0, with Councilwoman Scott being absent.

ANNOUNCEMENTS

Tuesday, May 31, 2011 at 10:00 a.m.

Budget Study Session

CLOSED SESSION

No Closed Session

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:37 p.m.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor