

**MINUTES
CITY COUNCIL AND REDEVELOPMENT AGENCY
SPECIAL MEETING
AUGUST 2, 2011 - 10:45 a.m.**

CALL TO ORDER

The special meeting of the City Council and Redevelopment Agency of the City of Highland was called to order at 10:45 a.m. by Mayor McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

ROLL CALL

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

COMMUNITY INPUT

None

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Mayor McCallon, to approve the Consent Calendar as submitted. Motion carried on a roll call vote, 4-0, with Councilman Timmer being absent.

1. Claim Consideration – Malle Koci
Rejected claim

2. Application of State-Local Partnership Program Competitive Grant
 1. Adopted Resolution No. 2011-43 authorizing application of State-Local Partnership Competitive Grant and committing local match funds for Greenspot Road widening between SR 210 and Boulder Avenue; and
 2. Adopted Resolution No. 2011-44 authorizing application of State-Local Partnership Competitive Grant and committing local match funds for Boulder Avenue Bridge over City Creek and street widening between Base Line and Eucalyptus Avenue.

RESOLUTION NO. 2011-043

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, APPROVING APPLICATION FOR CALIFORNIA
TRANSPORTATION COMMISSION (CTC) STATE-LOCAL PARTNERSHIP
PROGRAM (SLPP) COMPETITIVE GRANT AND MATCHING FUNDS
COMMITMENT FOR CONSTRUCTION OF GREENSPOT ROAD
IMPROVEMENTS (SR 210 to Boulder Avenue)

RESOLUTION NO. 2011-044
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, APPROVING APPLICATION FOR CALIFORNIA
TRANSPORTATION COMMISSION (CTC) STATE-LOCAL PARTNERSHIP
PROGRAM (SLPP) COMPETITIVE GRANT AND MATCHING FUNDS
COMMITMENT FOR CONSTRUCTION OF BOULDER AVENUE BRIDGE
ACROSS CITY CREEK AND STREET WIDENING BETWEEN
BASE LINE AND EUCALYPTUS AVENUE

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

3. Sheriff's Department Schedule A Contract for FY 2011-2012

City Manager Hughes gave a brief description of the staff report. Staff feels next year's budget will be adequate to cover the cost of the Sheriff's contract. Staff presented two alternatives to the Public Safety Subcommittee. The first alternative was regarding a vacant Deputy position which has been held vacant due to our knowledge of the contract issue impending. Option one is to leave this position vacant for the remainder of the contract year and adjust the vehicle maintenance line item by \$19,000. Option two would be to leave the Deputy position vacant for one more month and then pay for the Gang Detective which currently a portion of the Gang Detective is paid for out of the Mining Tax funds, approximately \$63,000. Instead of paying the \$63,000 out of the Mining Tax, to pay the entire amount of the Gang Detective position out of the Mining Tax funds, as well as do the transfer from vehicle maintenance to make up the shortfall. There would also need to be a transfer of \$10,000 from overtime to Schedule A as well. This would be an option to make up the \$161,000 shortfall. The recommendation of the Public Safety Subcommittee is to go with Option Two which would be to leave the position vacant for one more month and pay for the Gang Detective out of the Mining Tax fund.

Mayor McCallon stated the staff report states to charge the entire cost of the gang detective to the reserves. Are the mining taxes in reserves?

City Manager Hughes responded it is a reserve fund. What is being generated is estimated to be about \$90,000 from the Mining Tax. The cost of the Gang Detective position is \$155,000. Right now we are in the budget and hitting the reserve for \$63,000. This recommendation would actually hit the reserve amount for the full \$155,000.

Councilman Racadio apologized to Mayor Pro Tem Lilburn and staff for missing the Public Safety Committee meeting. He then inquired if we were already allocating the amount of \$63,000, would it require an additional \$90,000 under Option 2.

City Manager Hughes answered yes.

Councilman Racadio stated Option 2 would require us to move \$10,000 out of overtime into the Gang Detective position.

City Manager Hughes answered into Schedule A.

Councilman Racadio asked what if we need the \$10,000 for overtime.

City Manager Hughes stated historically we have been able to keep overtime under control. There are also a number of grants that we have received which we have used for special projects which require overtime and do not meet the \$100,000 of general overtime in which we have budgeted for. A lot of the DUI checkpoints and sweeps are paid for by grant funding; not necessarily hitting the regular overtime account budgeted at \$110,000.

Councilman Racadio asked if this would possibly include court time.

City Manager Hughes answered correct; it would be included in the general overtime.

Director of Administrative Services Dantuono stated the increase of overtime by \$10,000 was just done this year so we are bringing it back to what it was.

Councilman Racadio stated regarding Option 1, this is the current Deputy position which is vacant and the only other things that need to be transferred is the money for vehicle maintenance, but is less than what is being transferred under Option 2. Councilman Racadio asked about considering Option 1 since this would only be for one year because we anticipate next year having full funding. He also inquired how long the position had been vacant.

City Manager Hughes answered since April he believes.

Councilman Racadio inquired if this is for a fiscal year.

City Manager Hughes answered yes, it would be vacant until next June.

Director of Administrative Services Dantuono stated the savings from the last two months do not carry over into the current fiscal year.

Councilman Racadio clarified that the July and August savings are accrued already.

Director of Administrative Services Dantuono stated July and August will be included in the savings but for Option 2 it would have to be vacant until September as well.

Councilman Racadio stated since it would take a while to fill the position, if we would only be losing that position for nine months this current year, if we were to fill it next year.

City Manager Hughes stated that it would be until June.

Councilman Racadio stated that it would be vacant in June, July, and even if we went with Option 2, it would be vacant through August.

Mayor Pro Tem Lilburn stated we would have deputies to fill that position right away.

City Manager Hughes stated we would not be hiring a new position, they would transfer.

Councilman Racadio asked if it would be filled in the middle of August.

City Manager Hughes stated yes, they would transfer someone fairly quickly.

Councilman Racadio asked if we would lose that position for approximately 9 ½ to 10 months.

City Manager Hughes stated yes until June.

Councilman Racadio stated that it would not be a full year of not having that position.

City Manager Hughes stated it would be a full fiscal year.

Councilman Racadio stated we would still have \$90,000 in the reserve for future contingencies, if we went with Option 1.

City Manager Hughes stated Option 1 does not touch a reserve account.

Mayor Pro Tem Lilburn stated she was not willing to give up an officer in our City for another year; we are already short handed.

Mayor McCallon stated he is conflicted on this issue. He understands the need for the officer but is opposed to using reserves to fund ongoing operations.

Mayor Pro Tem Lilburn stated this was not an ongoing operation, it is a temporary fix to make sure we have an officer.

Mayor McCallon stated we are funding a position out of reserves, which philosophically, he is against.

Mayor Pro Tem Lilburn stated technically it is from sand and gravel, the Mining Tax, and that is what it was initially set up to do.

Mayor McCallon stated he understands but the Mining Tax was set up to provide for street and road maintenance due to the travel companies damaging our roads.

Councilwoman Scott stated that was going to be one of her comments on the Mining Tax. The Mining Tax was presented to the public as a way to take care of the streets and roads that the heavy trucks damaged. She is disappointed in the rank and file of the Deputy Sheriffs that in these tough times, they would not agree to stay any cost of living, it would be an understatement, and she is disappointed. She would like to have the Law Enforcement Subcommittee check the figures with the Board of Supervisors, to see if we are paying 100% of their retirement benefits. She knows we have to have the officers, we are understaffed, and at this rate she does not see how we are ever going to be able to get the full complement of officers we need in this city if we are being held hostage to these prices.

Mayor Pro Tem Lilburn inquired to Councilwoman Scott if she heard Greg Devereaux speak about at a public safety event where they went in and negotiated with the Sheriff's Department regarding the deputies decision to vote for their increase and while it was an option for them to do so, he encouraged them not to and assured us that things would change in upcoming years. The way it sounded to her was this is not an ongoing fee. We will see things will level out in the upcoming year.

Councilwoman Scott asked Mayor Pro Tem Lilburn if she believed that.

Mayor Pro Tem responded Councilwoman Scott was just as happy with his presentation regarding the grand jury speaking that they tell us this stuff and we have to go by it, but we always have an option.

Councilwoman Scott stated the deputies have shot the cities in the foot by taking away the reserve officers.

Mayor Pro Tem Lilburn stated we still have a lot more reserve officers than all the other cities. We have nine reserve officers, Yucaipa has three. The issue is putting forth a gang unit that has made a substantial impact on the community and then we want to back away with an officer. She thought with a reserve account, sometimes this is what you have to do and that is why she went forward with this item.

Councilwoman Scott stated she agrees with Mayor Pro Tem Lilburn. She does not want to put the City and the citizens in jeopardy; we need our officers but she is disappointed in our officers.

Mayor Pro Tem Lilburn stated it was not our officers or deputies in Highland, none of our officers voted yes for it.

Councilwoman Scott stated if they wanted to do the right thing, they could refuse it.

Mayor Pro Tem Lilburn stated that is not what is on the plate here.

Councilwoman Scott stated she is not willing to sacrifice the City for something that we need but she does want some hard questions asked and the contract to be looked at.

Councilman Racadio asked if this position was held vacant for the next ten months, would it affect the gang detail.

City Manager Hughes stated he did not believe so but Captain Williams could respond to it better. The position that is vacant was not part of the gang unit.

Captain Williams stated the position which is vacant is due in part to some issues which occurred in Highland with an officer who is no longer with us. The position was left vacant knowing there were some budget issues coming up. That position was a traffic position. The City of Highland currently has one Traffic Officer for the entire city. Ever since this position was vacated, we have been running without a traffic officer and trying to do the best we can from our patrol staff to handle traffic accidents and other special projects that come up relating to traffic, therefore, it really is a traffic position. Not having exact figures, traffic officers are the primary person who writes the citations and there is revenue generated as a result of the traffic officer position too which will slightly offset the cost of this position, as well. Not having him for a year is a difficult thing to manage for the police station. The Deputies in Highland, from his understanding, 100% of them voted not to accept their raise. There are two different departments within the station; the custody aspect and the patrol aspect. The patrol deputies are very in tune with the community and knowing what is going on because they work out there with the public. Pretty much all the patrol stations throughout the County voted significantly in favor of foregoing their raises. The custody aspect of the department does not work in the community and do not have they same community-vested mindset that the patrol deputies do. It is our position, from looking at everything that has occurred, Highland deputies voted 100% to give up their raises so they are not responsible for what has occurred. He is confident, looking at the political landscape that next year, the deputy's contracted raises, which was contracted three years back and expires in March and the contracts will be renegotiated before March. If the deputies cannot come to terms with the CAO's office, what they're asking for is unlikely, the CAO will be in a position to legally enforce his will on the deputies, regardless of their union positions. By next June, the deputies will forego the same raises and pay for a bigger portion of their retirement. By next year the ship will correct its course automatically, he's very confident about this. What we are talking about here is a one-time hit against the reserves to get us thorough this year. Once the contract is changed next year, the contract will be less money next year than it was this year. By the Captain, Lieutenant, and Sergeant positions not taking their raises is a \$35,000 difference on the contract this year. They gave this back willingly and happily to do it to be a part of the community and do the right thing. When the deputies give back their raises, their 22 positions, it will be significant and will clearly make up any difference in what we are pulling out of the reserves this year.

Councilman Racadio asked what will happen in March when the contract terminates, if there is no new contract, will the salaries or benefits be reduced or will they have to wait until June or July.

Police Chief Williams stated we will probably have to wait until June or July. If there is no new contract, what is in place up at that point will continue until the end pass is resolved. The result of the CAO and the County Board of Supervisors will impart their will. They want the deputies to pay 7% of their employee contributions. For years, the County has picked up 10%-11%, depending on when you started, the employee contribution is about 10%-11% of the salary. The County has always agreed to pick up the employee's share, 7%. The employees are really only paying 4%. The County now wants the employees to pay the full 10%-11% and then the County will no longer be paying the 7%. In addition, the County would like to take back the raises they just granted through this process. We are talking about a 10%-11% difference for the deputies starting next July.

Councilman Racadio stated if an agreement is reached in March this would be for the salaries to go into effect July 1 and not March 1.

Police Chief Williams stated is not sure. The contract ends does end in March, therefore, it could go in effect in March if they came to terms prior to.

Councilwoman Scott stated the staff report, on Option 2, stated the position for the three months, so the three months would be July, August and then September. So basically if Council went with Option 2 it would only be for two more months.

City Manager Hughes agreed. They were talking about fiscal year budget in the staff report.

Councilman Racadio asked do we have an estimate of how much revenue we generate and how much would be lost.

Director of Administrative Services Dantuono stated the County lump sums all of our fines. We get one check every month for all of the fines put together.

Councilwoman Scott asked do they have a code representing the different fines.

Director of Administrative Services Dantuono answered no. The County labels it as general and CVC fines.

Councilman Racadio asked would it be mostly vehicle code fines.

Director of Administrative Services Dantuono stated vehicle fines are listed but they do not indicate what kind of vehicle code nor can you tell what the violation was.

City Manager Hughes stated it could be intermixed with the red light camera fines as well.

Mayor Pro Tem Lilburn stated this is also the traffic car that handles the DUI traffic stops as well.

Police Chief Williams stated that is correct.

Councilman Racadio stated he is viewing this item as a quandary because of the funding issue and also we are looking at ten months and we have gone in essence six months without the position already. He asked what has been the impact thus far.

Police Chief Williams stated the impact has been the deputies relying on the traffic officer and not only for traffic duties but the reality is this officer position is available to us when necessary. Being in the day-to-day operation of the law enforcement, the Highland Police Department is at the best it has ever been.

Councilman Racadio asked how critical is this position to maintaining the impetus that we have.

Police Chief Williams stated with low staffing and the amount of crime we deal with, every position is critical to him. Could we do without it? Yes, we probably could but it is important to have this position, yes in his mind it is. We will make due regardless of what the decision is.

Mayor McCallon stated it is important to keep as many deputies on the street as possible and because this is only a one time hit to reserves, he is inclined to support the motion.

Mayor Pro Tem Lilburn stated she is on the Public Safety Subcommittee and some of us have fire as their best interest, some have community parks and community centers, and her interest is with the Police Department. She maintains a regular relationship with staff and deputies. She sees how busy they are and she does ride-along and feels she is entrenched with the public safety department. She knows we are already understaffed with the deputies and knows the city deserves everything that we can give them and that is why she wants to support this.

Councilman Racadio stated he was going to support it but is concerned about \$90,000 coming out of the reserves and where this will put us in the future and if the contracts are amended, a year from now we may be in a whole different position of funding and our ability to fund public safety. He is persuaded by the comments regarding how well the department is functioning and how this is a key component. He is supporting it but feels we are treading very dangerous waters using reserves to fund the \$90,000 and hopes that there will be changes in the contracts and the cost will be reduced.

Police Chief Williams stated the Captains are in an exempt class as we do not have a union and we do not negotiate any contracts. The CAO sets their salaries and benefits. The Deputies, Sergeants and Lieutenants are in one classification of union and then Deputies and Detectives are in another. The Sergeants and Lieutenants just signed their contract and it is through 2015. There are no raises involved in that contract though 2015. For the next three years as we get through this economic crisis their contract is sealed and we can count on steady law enforcement costs for a ways going forward. Plus a lot of this deals with the pension issues going on throughout the State and the 2008/2009 crisis where everyone lost so much money. Those hits are spread out over a five-year period. Last year we made over \$1.1 billion, a 22% return on the render retirement board investments, that great year will be spread out over five years also. Over the next couple years we will feel the pain from 2008 on the retirement board but then this great year we just had will be factored in to offset those tough years and the retirement costs will start going down eventually.

A MOTION was made by Councilwoman Scott, seconded by Mayor Pro Tem Lilburn, to authorize the Mayor to execute the Schedule A contract for Law Enforcement Services with the San Bernardino County Sheriff's Department and implement Option 2 as recommended by the Public Safety Subcommittee. Option 2 would require the following budget adjustment: Transfer \$92,885 from 001-2516 Unreserved, designated-Service Enhancements (Extraction Tax) to 001-2000-4560 Contracted Services-Sheriff Services. Motion carried, 4-0, with Councilman Timmer being absent.

4. Award of a Professional Services Contract to Albert A. Webb Associates to Prepare the Required Environmental Impact Report (EIR) for the Proposed 1,657 Acre "Harmony Specific Plan" Located within the City's Seven Oaks Policy Area (SPR-011-001)

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

Councilwoman Scott inquired about cost overruns and what percentage is there.

Community Development Director Jaquess stated there is no percentage. If there is a need to amend the contract, it will have to come back to the Council.

City Manager Hughes stated it would have to be reimbursed by Orange County.

Councilwoman Scott inquired if the amount does go over, how we would handle this with Orange County.

Community Development Director Jaquess stated they are going to be an integral part of the process. If it does come to that, it will not be a surprise to anyone as the amounts will be well known and agreed to.

Councilwoman Scott asked who will be paying for it.

Community Development Director Jaquess stated Orange County will cover the costs of the Environmental Impact Report and if the cost does increase, the cost will be subject to Orange County paying for it.

Councilwoman Scott inquired if Orange County has agreed to this.

Community Development Director Jaquess stated yes.

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to:

1. Award a Professional Service Contract to Albert A. Webb Associates to prepare a required EIR for the proposed "Harmony Specific Plan" (Lewis Group of Companies and Orange County) in an amount not to exceed \$213,080.00) upon review and approval by the City Attorney; and
 2. Approve the following budget adjustments: Expenditure; 01-4100-4554 (Planning Contract Services – Consultant) in the amount of \$213,080.00 and Revenue; 001-1450-9517 (Planning Fees – Other) in the amount of \$213,080.00. Motion carried, 4-0, with Councilman Timmer being absent.
5. Base Line Town Center (Benefit Zone B-54) Annexation into Landscape Maintenance District

City Engineer Wong gave a brief description of the staff report.

Mayor Pro Tem Lilburn inquired if this item will have a Public Hearing.

City Engineer Wong stated yes, it will go to Public Hearing on September 27.

A MOTION was made by Councilman Racadio, seconded by Mayor McCallon, to:

1. Adopt Resolution No. 2011-045 giving preliminary approval of the Annexation Report; and to
2. Adopt Resolution No. 2011-046 setting September 27, 2011, as the date of the protest hearing. Motion carried, 3-1, with Councilwoman Scott dissenting and Councilman Timmer being absent.

RESOLUTION NO. 2011-045

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, FOR PRELIMINARY APPROVAL OF THE ENGINEER'S REPORT REGARDING THE PROPOSED ANNEXATION OF TERRITORY (BENEFIT ZONE B-54) INTO CONSOLIDATED LANDSCAPE AND LIGHTING DISTRICT NO. 96-1 AND THE LEVY AND COLLECTION OF ASSESSMENTS FOR SAID ANNEXATION FOR FISCAL YEAR 2012/13

RESOLUTION NO. 2011-046

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, DECLARING ITS INTENTION TO ANNEX TERRITORY (BENEFIT ZONE B-54) INTO CONSOLIDATED LANDSCAPE AND LIGHTING DISTRICT NO. 96-1 AND TO PROVIDE FOR THE LEVY AND COLLECTION OF ASSESSMENTS IN SUCH ANNEXATION, SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES

6. Professional Services Agreement for Right-of-Way Services for San Bernardino International Airport Ground Access Circulation Improvement Project (TIGER II Project)

City Engineer Wong gave a brief description of the staff report.

A MOTION was made by Councilman Racadio, seconded by Councilwoman Lilburn, to:

1. Approve the Professional Services Agreement with Overland, Pacific and Cutler, Inc., to provide right-of-way services for the San Bernardino International Airport Ground Access Circulation Improvement Project, contingent upon a pre-award audit approval by Caltrans; and to
2. Authorize the Mayor to sign the agreement. Motion carried, 4-0, with Councilman Timmer being absent.

CLOSED SESSION

At 11:30 a.m., the City Council and Redevelopment Agency convened into closed session, regarding the following:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of Litigation pursuant to subdivision (c) of Government Code Section 54956.9:

Number of potential cases: One

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a):

Name of case: CIVDS 1104209, Fernando Quiroz vs. Old Republic Title Company; Mara Escrow Company; Fannie Mae aka Federal National Mortgage Association; City of Highland et al.

At 11:49 a.m., City Attorney Steele announced in reference to the Anticipated Litigation that the City Council voted to extend the Tolling Agreement with Highlands Orchards Associates to September 13, 2011. Motion carried, 4-0, with Councilman Timmer absent.

City Attorney Steele announced in reference to the Existing Litigation that no reportable action was taken.

At 11:55 a.m., closed session was adjourned.

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 11:56 a.m.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor