

**MINUTES
CITY COUNCIL AND REDEVELOPMENT AGENCY
REGULAR MEETING
SEPTEMBER 27, 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 6:04 p.m. by Mayor Pro Tem Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Reverend Al LeBrun of Immanuel Baptist Church and the Pledge of Allegiance was led by Councilwoman Scott.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No Report from Closed Session

SPECIAL PRESENTATIONS

Mr. Greg Blanco, Principal of St. Adelaide's Academy, gave a brief presentation regarding the Academy's building improvements and an enrollment update. He would also like to extend an invitation to the City Council to attend their annual Carnival.

COMMUNITY INPUT

Ms. Beverly Powell, Southern California Edison Representative, stated she would like to inform the City Council she will no longer be Highland's Representative. Linda Ortiz will be her replacement as the Southern California Edison Highland Representative. She also would like to present a plaque to the City of Highland in appreciation of City of Highland's partnership with Southern California Edison.

Mr. Tom Ogaz stated he has found a piece of property located in Highland and is currently in escrow for this property. This property does have a guest house in the back and it was recently discovered the guest house was not permitted as there were some fire codes which were not abided by. He has met with City Development and he has been given information regarding what needs to be taken care of. He is in the process of installing fire sprinklers and applying stucco to the outside of the building and replacing the glass. However, he has a request regarding the repair costs which are close to \$10,000, to reduce the permit fees which are over \$7,200.

Mayor Pro Tem Lilburn stated this item will be forwarded to Community Development Director Jaquess for further discussion.

Mr. Jim Trammell stated he purchased a piece of property which has view of a billboard. He is present tonight to discuss the Lone Star mobile billboard. He knows in the past the problem with the billboards is if they are moved a couple of feet they are fine but there has been a State law in place for a year. This law states the local vehicle code allows cities to pass an ordinance to regulate mobile billboards and there also is a current State law awaiting the Governor's signature. These are unhitched billboards on a trailer but the problem is the owners bring a bike, moped or a car and put it in front which means it goes back to the old code section. He is going to hand out a summary regarding AB 1298. This also would be a great time to outlaw sign twirlers in Highland. This is ridiculous to drive by and see this stuff. City of Riverside already has outlawed this type of advertisement.

Community Development Director Jaquess stated we are already involved with a Code Enforcement action on this issue as well as close coordination with the City Attorney's office.

City Attorney Steele stated we are aware of the Assembly Bill and we are awaiting the Governor's action or inaction on the Bill. We are aware of what could be added to the code if the Bill is signed and not vetoed. We are in process of active Code Enforcement against the particular sign and it should be noted that the sign is not showing up in the City Hall parking lot as a result of any action the City is doing and it is not leaving City Hall parking lot as a result of action the City is doing. Whoever has been depositing the signs in City Hall parking lot should not put them in the City Hall parking lot because we then have to treat them as abandoned property and give notice to the owner of the billboard and it tends to make less effective our enforcement efforts. The County did tow one of the billboards a year or so ago in response to Code Enforcement efforts. The owner of the trailer is a very bombastic individual and difficult to deal with. The County ended up giving the trailer back and refunding some towing fees as we understand it. It turned out not to be a very good enforcement mechanism to enforce the Vehicle Code. As soon as AB 1286 issue is resolved we plan to bring before you an ordinance to take advantage of that additional piece of enforcement which we believe will be helpful but we are not going to do anything until the Governor either acts or allows the Bill to become law without his signature.

Ms. Mell Hargo stated she wanted to piggyback off of Mr. Trammell's statement. She is glad Council is aware of this issue. She believes the frustration has been that there is a dentist and a chiropractor on Palm and she arrives to work very early and she gets to see the business owners come in and get frustrated because they have to move the sign. She waited for a month, 30 days, there was no tag on the signs, there was no anything. So finally she called Code Enforcement as well as coming into City Hall and she was informed Code Enforcement was not going to do anything initially because the Sheriff has better things to do. So the sign sat out there and gets tagged. Then the area neighbor's

houses get tagged and it just keeps escalating. We are asking for help and it just seems like the help is only going to come when other cities are doing something. Los Angeles has been very, very aggressive. These billboard owners found out they could work around City laws. A lot of times these billboards are attacking sleeper cities and they are working within the city's own laws in order to get away with what they are doing. She is looking forward to City Council's action on this issue.

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 #3 and Item #5. Motion carried on a roll call vote, 4-0, with Mayor McCallon being absent.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.
2. Claim Consideration – Deanna Anderson
Rejected claim.
3. Warrant Register
Approved Warrant Register No. 528 for September 27, 2011, in the amount of \$2,442,538.42 and Payroll of \$80,783.85.
4. Year-End Budget Adjustments for Fiscal Year 2010/2011
Approved budget adjustments for fiscal year 2010/2011.
5. Community Development Block Grant (CDBG) Subrecipient Contract between the City of Highland and Highland District Council on Aging, Inc., to Provide for Senior Services, Transportation Services and Senior Visitation to Low and Moderate-Income Seniors
Approved the contract and authorized execution by the Community Development Director.
6. Certificate of Acceptance for a .46 Acre Vacant Lot Located on Sycamore Drive (Assessor's Parcel Number 1201-261-01)
Accepted the Grant Deed transferring title for the parcel from Pamela Morse to the City of Highland.
7. A Request for a Special Event Permit (SEP011-020) by the Immanuel Baptist Church for Its Twentieth (20th) Annual Harvest Festival on Monday, October 31, 2011
Authorized the one-day annual festival at the Immanuel Baptist Church facilities.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

8. Base Line Town Center (Benefit Zone B-54) Annexation into Landscape Maintenance District

Mayor Pro Tem Lilburn opened the public hearing.

City Engineer Wong stated this is a city improvement project to beautify the Base Line Town Center area. This project includes the installation of a landscape median on Base Line from Cole Avenue to the freeway and partial landscaping in front of nine developed parcels including decorative streetlights and intersection pavers. Also some other safety related improvements such as lighted crosswalks on Base Line, one on Cole and one in front of Kay's restaurant, and also the traffic signal will countdown the time pedestrians will have to cross the street. All these improvements have been designed and the project is ready to go out to bid in a few weeks. The City received close to one million dollars of Federal Grant monies from two grant programs. The rest of the money in the construction phase around \$600,000 would be from initially RDA funds but at this time the RDA funds will most likely be replaced with something else that the City has possession of so we can move the project forward without being tied up with the RDA issues. As far as the maintenance of the completed landscaping is concerned, there will be landscaping in the median and also will have landscaping in front of nine developed parcels along the parkway. The City has decided that once the project is built the median landscaping will be paid for by the City initially for its upkeep until new development occurs in the private properties where it is currently not developed, and then the City can annex the redevelopment to also help out to maintain the median landscaping. Maintenance for the parkway landscaping in front of the nine parcels is being proposed to be paid for by the benefited property owners. The nine parcels and the total cost of maintenance are estimated to be \$9,100 and it will be spread over these nine parcels based on the area of landscaping in front of these parcels. It ranges from \$320 something dollars to \$2,400 due to some parcels being larger than others. The Council has approved the draft engineer's report and the Council has set today as a day for the Public Hearing and today is the last day that the property owner can submit a ballot to vote yes or no on this proposed assessment and proposed annexation of the property into the landscaping district. They have until the end of the public hearing to submit their votes so at this point we have not really gotten votes yet. He understands we only have five ballots at this time.

Councilman Timmer inquired if this is just for the landscaping on the frontage of the properties right?

City Engineer Wong responded correct.

Mayor Pro Tem Lilburn called for any speakers in favor or in opposition of this item.

Mr. Jim Davidson stated yes he has gone over this with City Engineer Wong on this and he is all for the beautification of the Base Line corridor. He would like to vote yes on this matter. We were talking at the restaurant from the smog station and right in front of the mobile home park.

City Engineer Wong inquired if Mr. Davidson has submitted his ballot yet.

Mr. Jim Davidson responded yes.

Councilwoman Scott stated identify the properties again because she only sees two of them.

Mayor Pro Tem Lilburn stated those two, the smog shop and the trailer park.

Councilwoman Scott stated she knows what he has but she cannot identify them here. There's only two with his name on it.

City Manager Hughes stated that is the two.

Councilwoman Scott stated she thought he said three.

City Engineer Wong stated only two of his three parcels will be assessed.

Councilwoman Scott inquired if one of his ballots was one that was turned in.

Mayor Pro Tem Lilburn responded right now he just turned it in. We now have seven out of nine.

City Engineer Wong stated we will need a little time for the assessment engineer to help us to calculate the percentage of approval or disapproval of the ballots.

City Attorney Steele stated he would suggest leaving the hearing open and go on to the next item on the agenda while the City Clerk and the engineer handle the calculations of the ballots.

Mayor Pro Tem Lilburn stated she will leave the public hearing open at this time and will move onto Item #9.

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

9. Appeal Application (APP-011-001) – An Appeal Application requesting Reconsideration of the August 2, 2011 Planning Commission’s Action to Uphold the Community Development Director’s Determination that the Appellant’s Actions are in Violation of the City’s Non-conforming Parcels, Uses and Structures Ordinance (Title 16, Chapter 16.08, Section 16.08.150) and therefore Prohibited from Reconstructing a Single Family Unit located at 8047 Marilyn Street Located with the City’s Business Park (BP) Zoning District.

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

Councilman Timmer asked if this would reflect all future projects or all future homes within the non-conforming areas would have to meet these same standards.

Community Development Director Jaquess stated it will become a new policy for staff to follow for all work within non-conforming residential uses in the industrial and business park area and this becomes the new definition of what qualifies for being considered maintenance of a non-conforming use.

Councilman Timmer stated if someone came in and had taken off the entire roof and taken down two walls they would not meet these new criteria.

Community Development Director Jaquess stated if they affected more than 25% of the floor area they would exceed those criteria.

Councilman Racadio stated in the staff report it states based on the Council’s action to approve the appeal the following will be the policy. Now does this have to be done by ordinance or just by Council action these four items now become policy.

Community Development Director Jaquess stated the definition of maintenance is a policy action on Council’s part. Staff has been implementing this based on informal non Council policy to date. This will be the first policy Council will have in writing so everyone on the staff level from the building technician at the counter to the planners will have the same definition.

Councilman Racadio stated if we amended the non-conforming use structure ordinance and returned to what was in place prior to 2006, how would this affect this.

Community Development Director Jaquess stated that would really supersede this resolution.

Councilwoman Scott stated it was her understanding this item was a one time finding that the Council wanted to do with this particular property but we did not want to change the ordinance. The action tonight on this appeal, it would only apply to the property we took action on and it would not apply to any other property.

Community Development Director Jaquess stated as written it becomes the policy in which staff follows for implementing this action in all of the industrial area.

Councilwoman Scott inquired why do we have to do that. At the last meeting it was stated it was to be on a case by case basis.

City Attorney Steele stated the only way to be consistent and still preserve a case by case kind of evaluation is to give staff a policy which helps to interpret a pretty restrictive code provision. The code is pretty plain and the reason this came to Council is because staff applied the code literally in this particular case. So if Council wants staff to have a little bit of discretion in applying the code as seems to be case given what you are acting on this particular application, there has to be a policy in place for staff to look at and say this is the way Council wants us to apply this. There is one of two other ways to go. Either go back to the old code, which does not seem to be what the Council wants to do, or say there are no exceptions, no interpretation; the code says what it says. That is not the way it was applied for this particular application. Staff is attempting to balance what it is the Council is telling us by having a policy in place which states here is how you interpret what the code says. Otherwise you will be here every time someone wants to do something to one of the houses in that area. You will have appeal after appeal and it would not be a very efficient way to operate.

Councilwoman Scott stated we have other areas which are designated Business Park besides the ones that are just the ones across from the airport and if this is a designation for all Business Park she does not think this is what we want.

Community Development Director Jaquess stated the way the code is written this would apply to all areas zoned Industrial and Business Park where there is a non-conforming single family residential use.

Councilman Timmer stated if someone was to tear off an entire roof and remodeling less than 25% of the floor area they do not have to bring up the remaining structure up to the current code.

Community Development Director Jaquess stated the new construction has to be up to code.

City Manager Hughes stated we are not changing the application. They would have to bring up to code whatever portion of the property or the home that was touched during the remodel. If they removed 25% of the structure, the 25% that was replaced would have to be brought up to code. This is no different in which would be applied to any home. We would not want to have a different set of rules for a rehab.

Councilman Timmer stated the staff report states the appellant will have to get an additional building permit. What will be added to the permit to ensure they do not convert this property back to the five unit complex?

City Manager Hughes stated we can only review the plans and the inspectors will inspect the work. Once we are done with the work that is as far as we go unless there is another complaint on the project or another fire where we could take a code enforcement action but we can only go so far.

Councilwoman Scott stated but if there is a conversion and we are aware of it.

City Manager Hughes stated that is a separate issue.

Councilman Racadio stated it would become a code enforcement issue.

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to adopt City Council Resolution No. 2011-049, approving the Appellant's Appeal to overturn the Planning Commission's action to uphold the Community Development Director's determination to deny a request to reconstruct a Non-conforming Single-family Detached Residential Unit in the City's Business Park (BP) Zoning District in accordance with the City's Land Use and Development Code Section 16.08.150 (D)(5) and (F),(1), Nonconforming Parcels, Uses and Structures. Motion carried, 3-1, with Councilman Timmer dissenting and with Mayor McCallon being absent.

RESOLUTION NO. 2011-049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, APPROVING AN APPEAL OF THE PLANNING COMMISSION'S ACTION TO UPHOLD THE COMMUNITY DEVELOPMENT DIRECTOR'S DETERMINATION TO DENY THE REQUEST FOR SUBSTANTIAL REHABILITATION AND CONSTRUCTION OF A NON-CONFORMING SINGLE FAMILY DETACHED RESIDENTIAL UNIT LOCATED AT 8047 MARILYN STREET IN ACCORDANCE WITH CHAPTER 16.08, SECTION 16.08.150(D)(5)&(F)(1) OF THE HIGHLAND LAND USE AND DEVELOPMENT CODE

8. Base Line Town Center (Benefit Zone B-54) Annexation into Landscape Maintenance District

Continued from earlier discussion.

Mayor Pro Tem Lilburn stated she has now closed the public hearing.

City Attorney Steele stated no further ballots have been received during the tally period. Council can now receive the report of the tally.

City Clerk Hughes stated there is a majority protest.

Administrative Analyst Morgan stated there is an Attachment A which is attached to the proposed resolution which gives tabulation. There are nine ballots distributed and there were seven ballots received. The assessment ballots received in favor of the proposed assessment, this is a dollar amount because the ballots are weighted by the value of the assessment, is \$3,832.42. This is the weighted value of assessment ballots in favor of the proposed assessment is 47.5%. The assessment ballot receive in opposition to the proposed assessment was \$4,241.06 which gives the weighted value of assessment ballots received in opposition to the proposed assessment 52.5% which represents over a 51% required majority protest.

City Attorney Steele stated he is requesting a short ten minute break to advise the Council on how to proceed.

Council convened into a brief ten minute recess at 6:59 p.m.

Mayor Pro Tem Lilburn reconvened the meeting at 7:05 p.m.

City Attorney Steele stated there was an irregularity in two of the ballots which were submitted in the process. We will need to go back to the property owner and discuss the irregularity in the balloting. It is being requested to continue this item to the next regularly scheduled Council meeting and will report back at that point.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to continue this item to the next regularly scheduled Council Meeting on October 11, 2011. Motion carried, 3-1, with Councilwoman Scott dissenting and with Mayor McCallon being absent.

10. MCA-011-004 – Second Reading of Ordinance No. 363, a Land Use and Development Code Amendment Related to Section 16.56.050 Temporary Signs in Residential Districts and Section 16.56.170 Kiosks, On-site Subdivision and On-site Commercial Real Estates Signs of Chapter 16.56 Sign Regulations

Councilman Racadio stated he voted against the initial reading due to he felt if we were doing this because of the downturned economy and that if the economy turned around we ought to reconsider it. He spoke with staff and they felt the changes were not that dramatic therefore he will support it.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to conduct a second reading of Ordinance No. 363, amending the City's Land Use and Development Code (Title 16), Chapter 16.56 Sign Regulations, Section 16.56.050 and Section 16.56.170. Motion carried, 4-0, with Mayor McCallon being absent.

City Clerk Hughes introduced Ordinance No. 363:

ORDINANCE NO. 363
AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA, AMENDING
SECTION 16.56.050 AND SECTION 16.56.170 OF CHAPTER 16.56
SIGN REGULATIONS OF TITLE 16 (LAND USE AND DEVELOPMENT)
OF THE HIGHLAND MUNICIPAL CODE
[MUNICIPAL CODE AMENDMENT-011-004]

which title was read.

11. Professional Services Agreement with D&W Consulting Services Storm Drain GIS Layer Data Conversion

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

Councilman Timmer stated once the consultant performs this work, will we have an ongoing contract to upgrade and update as we build new storm drains and other facilities or do we do this every so many years.

City Engineer Wong stated at this time we do not. Once we get the system built up, the storm drain layer could be like other infrastructure.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve Professional Services Agreement with D&W Consulting in the amount of \$13,740, inclusive of printing of two laminated atlas map books; and to Authorize the Public Works Director/City Engineer to approve contract change orders up to 25% of the contract amount. Motion carried, 4-0, with Mayor McCallon being absent.

12. EVWD Request for Time Extension for Operation of a Temporary Above-Ground Drain Line on 3rd Street and 5th Street

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

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve the request from EVWD to grant a time extension to operate a temporary above-ground drain line on 3rd Street and 5th Street until December 31, 2012, or until the completion of the storm drain. Motion carried, 4-0, with Mayor McCallon being absent.

13. Purchase of Conservation Credits for Boulder Avenue Bridge Project

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

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to authorize the Public Works Director/City Engineer to purchase conservation credits from Vulcan Materials Company to mitigate for impacts to critical habitat in the amount of \$1,500,000 for the Boulder Avenue Bridge Project. Motion carried, 4-0, with Mayor McCallon being absent.

14. Measure I Transportation Programs (2011/2012-2016/2017)

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve the following:

1. Resolution No. 2011-050 adopting the Five-Year Capital Improvement Program (2011/2012-2015/2016) and Capital Improvement Plan Expenditure Strategy for the Measure I Local Street Program; and
2. Resolution No. 2011-051 adopting the Five-Year Capital Needs Analysis (2012/2013-2016/2017) for the Measure I Major Street Program and the Freeway Interchange Program. Motion carried, 4-0, with Mayor McCallon being absent.

RESOLUTION NO. 2011-050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ADOPTING THE FIVE-YEAR CAPITAL IMPROVEMENT
PROGRAM FOR MEASURE I LOCAL STREET PROGRAM
(2011/2012 – 2015/2016)

RESOLUTION NO. 2011-051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ADOPTING THE FIVE-YEAR CAPITAL PROJECT NEEDS
ANALYSIS FOR MEASURE I VALLEY MAJOR STREET AND FREEWAY
INTERCHANGE PROGRAMS (2012/2013 – 2016/2017)

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

Mayor Pro Tem Lilburn stated she would like to extend an invitation to Council on Thursday, September 29, 2011, from 10:00 a.m. to 11:00 a.m., regarding the SBX Ground Breaking Ceremony at Court Street Square.

16. San Bernardino International Airport Authority and IVDA

Councilman Racadio stated he will be attending a meeting tomorrow and one of the discussion items will be to appoint Legal Counsel to investigate an issue. He would like read a statement from the Airport Authority: "The airport operations have not been compromised during the past two days since the warrants were executed at the facilities. All administrative functions will be substantiated and reinstated as of Monday, all contractual obligations will be honored and all pending payments requests will be processed in a timely manner. All Board Members, staff and consultants will cooperate fully with all law enforcement officials and all questions should be directed to Karen Feld, the Attorney on that."

ANNOUNCEMENTS

Tuesday, November 22, 2011

Council Meeting - Dark

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor Pro Tem Lilburn adjourned the meeting at 7:25 p.m. in memory of Vinzie Fontana.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor