

**MINUTES
CITY COUNCIL AND REDEVELOPMENT AGENCY
REGULAR MEETING
JANUARY 24, 2012 - 6:00 p.m.**

CALL TO ORDER

The regular meeting of the City Council and Redevelopment Agency 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 Tracy Johnson of Immanuel Baptist Church and the Pledge of Allegiance was led by Councilman Racadio.

ROLL CALL

Present: Lilburn, McCallon, Racadio, Scott, Timmer
Absent: None

REPORT FROM CLOSED SESSION

No meeting.

SPECIAL PRESENTATIONS

None

COMMUNITY INPUT

None

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

A MOTION was made by Councilwoman Scott, seconded by Councilman Racadio, to approve the consent calendar as submitted with the exception of Item #2 and Item #7 being pulled for further comment. Motion carried on a roll call vote, 5-0.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.
3. Minutes – January 10, 2012 RDA Regular Meeting
Approved the Minutes as submitted.
4. Warrant Register
Approved Warrant Register No. 534 for January 24, 2012, in the amount of \$631,090.33 and Payroll of \$105,907.49.

5. Treasurer's Report for December
Received and filed the Treasurer's Report for December 2011.
6. Easement Acceptance/County of San Bernardino
 1. Accept the Grant of Easement for Road and Drainage purposes from the County of San Bernardino; and
 2. Direct the City Clerk to record the Grant of Easement.
8. Pavement Restriping of Pacific Street
Execute a two-year, interest-free loan agreement with the property owner of the Gorgonian Apartments for restriping of Pacific Street between Rogers Lane and Guthrie Street.

ITEMS PULLED FROM CONSENT CALENDAR

2. Minutes – January 10, 2012 City Council Regular Meeting

City Clerk Hughes stated this item will be brought back at the February 14, 2012, regular City Council meeting.

7. Professional Services Agreement for Construction Management Services for Base Line Town Center Beautification (Cole Avenue to State Route 210)

Mayor Pro Tem Lilburn stated she asked for this item to be pulled in reference to the beautification of the Town Center. She has a concern, as we go through the project process, how is the selection of bidders done. She feels sometimes the lowest bidder may not always be the best to handle the job correctly.

City Manager Hughes stated the City did not contract for the project across the street. It is a private project. The City is not overseeing the project. When selecting consultants for Professional Services, it is based on qualification, not a fee.

Councilwoman Scott stated the total fiscal impact totals \$346,318.85, yet the item being brought to the Council is \$211,305 and that is for the median plus street lights and so forth and, because of what is included, she will be voting no.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve the Professional Services Agreement for construction management services with Willdan Engineering for the Base Line Town Center Beautification project. Motion carried, 4-1, with Councilwoman Scott dissenting.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

No Public Hearing

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

9. Creation of the Redevelopment Obligation Retirement Fund

City Manager Hughes stated this item will be brought back in a form of a resolution to the February 14, 2012 regular City Council meeting

10. Resolution No. RDA2012- 001, a Resolution of the Highland Redevelopment Agency Pursuant to Assembly Bill 936 Concerning Forgiveness of Loans, Advances or Other Indebtedness

Director of Administrative Services Dantuono stated AB 936 requires our Redevelopment Agency to adopt a Resolution stating whether or not they have forgiven partially or wholly any loan, advance or any form of indebtedness between the period of January 2010 and December 31, 2011, and the attached resolution states we have not.

Agency Member Scott stated and because we have not, then the County won't be involved with us correct?

Director of Administrative Services Dantuono asked how do you mean involved?

Agency Member Scott stated it states here that the purpose of the fund is to account for funds from the San Bernardino County Auditor Controller transferred to the Successor Agency to make the payments. Twice a year the Successor Agency will receive the payments.

City Manager Hughes stated that is Item #9 which was pulled from the Agenda.

Agency Member Scott stated she wants to ask a question anyway; she wants to know if the County is going to charge any administrative fees.

City Manager Hughes stated yes, the County will be charging Administrative fees with all the RDA related issues.

A MOTION was made by Agency Member Racadio, seconded by Vice Chairwoman Lilburn, to approve Resolution No. RDA 2012-001 a Resolution of the Highland Redevelopment Agency pursuant to Assembly Bill 936 concerning forgiveness of loans, advances or other indebtedness. Motion carried, 5-0.

RESOLUTION NO. RDA2012-001
A RESOLUTION OF THE HIGHLAND REDEVELOPMENT AGENCY
PURSUANT TO ASSEMBLY BILL 936 CONCERNING FORGIVENESS
OF LOANS, ADVANCES, OR OTHER INDEBTEDNESS

11. Resolution No. RDA2012-002, a Resolution of the Highland Redevelopment Agency Approving Amendments to the Enforceable Obligation Payment Schedule and Certain Related Actions

City Manager Hughes stated as the Council is aware there is proposed Legislation, AB 659, to extend the dissolution or the killing of the RDA's until April 15. That is supposed to be heard and voted on this week by the Legislator. Then of course it will go to the Governor who has already said that he is going to veto it. So unless he changes his mind, February 1, our RDA will cease to exist. This is extremely short sighted on part of the Governor. He is killing the one economic engine that we have in the State to create construction jobs, to create other jobs based on the construction in the retail sectors. He is eliminating numerous well paying jobs in the various agencies; all those people are going to be unemployed as well. It's killing jobs, it's a job killer. Director of Administrative Services Dantuono made a good comment when he said at the Federal level, President Obama has been trying to put as much money as he can into these construction jobs and then we have our Governor doing the exact opposite. We are so disjointed in this country, it sickens him, it really does. He can't state enough how unfortunate and just short sighted this is. The law is very poorly written; it's going to end up with law suits and he can't get over that the Governor is going to allow this to happen.

Chairman McCallon stated as Chris McKenzie, League of California Cities Executive Director indicated, the Governor doesn't care. His goal is to eliminate Redevelopment Agencies. From his experience in Oakland where he used redevelopment very successfully and did some of the bad things that he has accused redevelopment agencies of doing wrong and that's why he wants to get rid of them. When reminded of that, the Governor stated well that's the reason he wants to get rid of them. He just doesn't care. No matter what is being said, he just does not care.

Agency Member Racadio stated he remembers when Jerry Brown was Governor the first time and the speaker of the Assembly was Jesse Unruh. Jerry Brown was dating Linda Ronstadt and he took an official trip to Africa and it was a big thing because Linda Ronstadt went along with him. Everyone was up in arms about this and when Jesse Unruh was asked about this, he stated that is the first normal thing he has seen Jerry Brown do. So to see his reaction to this which is really contrary to logic, good government and everything else, it's typical of how he operates. Is there any chance there will be enough votes to override a veto and whether they would do that?

City Manager Hughes stated he can say that AB 659 is being led by Democrats in both Assembly and the Senate. It's sponsored and co-sponsored by Democrats only.

Chairman McCallon stated originally the Speaker was opposed to AB 659 until he got Moody's telling him that the bonds, and today, Fitch turned his thinking around when he saw what was happening to both jobs and to the bond ratings. Hopefully this passes with resounding vote and the Governor will see the writing on the wall and sign it.

City Manager Hughes stated when this was passed basically the Republicans voted no on it and it was passed by a majority of Democrats. With Democrats supporting this it may have a good chance of getting the override.

Chairman McCallon stated unfortunately Steinberg is not supporting it.

City Manager Hughes stated but he thinks they got their eyes open a little bit when Los Angeles chose not to be the Successor Agency. To be honest, we are really struggling as is every agency. No offense to Attorneys but if you ask three attorneys, you get three different answers on this because this Legislation is so poorly written and contradicts itself that, as Staff and Legal Counsel, is having a tough time.

Agency Member Scott stated they shrugged it through without even thinking about the consequences or no plan in place to take care of it.

Chairman McCallon stated as Chris McKenzie stated the Director of Finance is going to be issuing directives, Administrative Directives if you will, that have no basis involved at all. That is going to generate more law suits because there is no legal backing behind whatever is being done.

Agency Member Scott stated she doesn't think they understood the paperwork and the procedures that went along with this. All they saw was Redevelopment funds and they thought we want the funds.

City Manager Hughes stated they just wanted the money and the truth of the matter is they are not going to get the money that they think they are going to get.

Vice Chairwoman Lilburn stated and when they do get the money they are just going to do what they normally do.

City Manager Hughes stated you have a preliminary EOPS in your staff report. You have one that was handed out tonight. This has been kind of a moving target as we talk to other agencies and we sit in on all the conference calls that are going on, we hear different ideas so this is our best guess right now, the one that was just handed out. We have included the bonds on the EOPS. We are going to make the argument that we have a contract with the bond holders to deliver those projects and that is a contract. So we are going to make the argument that they can't touch the bonds.

Agency Member Racadio stated how will that work out?

City Manager Hughes stated we are going to find out because we are not going to give them the money.

Agency Member Racadio asked is that what most cities are doing.

City Manager Hughes stated he personally had a discussion with the County CAO and that was his recommendation. We have those on there and we also have the Housing bonds as well. There is some other Legislation that is going through right now as well dealing with the Housing money that would give the Housing money to the Successor Agency or the Housing Authority. Basically what these lists are, everything that we have to expend up until June well actually and beyond, but it has finishing off the Police Station project, finishing off the project across the street, the home improvement grants are listed.

Chairman McCallon stated what about the Greenspot Road project.

City Manager Hughes stated Greenspot Road is a bond so we will try to claim that we can do it but it's in the bond projects. That is the argument we are going to make. We think it is a contract with the bond holders.

Vice Chairwoman Lilburn stated she agrees.

Agency Member Timmer stated however we have already paid for a lot of engineering and design work.

City Manager Hughes stated correct; that has already been expended and paid and we have contracts to finish that work so that will continue. Whatever we have contracts for will continue that work.

City Attorney Steele stated we shouldn't appear to be at all of making light of that commitment. By making a smart remark over here he doesn't want to convey the impression that we are. Putting the Governor and Legislator aside for a minute, under Federal tax law the people who bought those bonds bought them with the assumption that interest on those bonds was exempt from Federal tax because of the purposes for which those bond proceeds were going to be spent. The IRS has not yet weighed in on the Governor's plan on this. The IRS is going to require that those bond proceeds be spent for tax exempt purposes and paying salaries of school district employees and community college district landscaping contracts is not a tax exempt purpose and so we as the successor entity to the Redevelopment Agency have the fiduciary responsibility to the bond holders to protect their investments. The Governor and the Legislator can't change Federal tax law and so he doesn't want anybody out there in the bond holder community to think we take this at all lightly because we all have a fiduciary obligation to fight any attempt to spend that money for taxable purposes. He does want to make it very clear that this is not some sort of theatrical thing or we're just digging in our heels, this is protecting the bond holders who made a tax exempt investment in this City and deserve to have those bond proceeds spent for tax exempt purposes and not have their tax liability increased.

Agency Member Timmer stated he has a question regarding the literature just received on Moody's reducing the interest rates on the Redevelopment bonds. Well since Redevelopment bonds are going away that doesn't impact our current fund, only future funds right.

City Attorney Steele stated it impacts our current bonds in the sense that one of the things we could do is refinance existing bonds and it would change those interest rates. That's the major impact. There are a whole lot of Redevelopment debt obligations that are coming due in the next 18 months that are going to require refinancing and that change is by Moody and the other by Fitch will potentially have a big impact across the State. Not necessarily on Highland but across the State.

Chairman McCallon asked do the successor agencies have the legal authority to....

City Attorney Steele state with the approval of the Oversight Board, there is a specific allowance in the law for required refinancing.

Chairman McCallon asked what legal entities can do that.

City Attorney Steele stated the successor entity. There are certain types of financings especially financings that are necessary to meet enforceable obligations. This doesn't really apply in our instance but there are certain kinds of financings that have to be refinanced over the next couple of years.

Chairman McCallon stated what about contracts.

City Attorney Steele stated well that is one of the obligations that would be affected by this, yes. That's one of the reasons why agencies may have to refinance debt to keep paying a long term contract.

Chairman McCallon stated or making new contracts.

City Attorney Steele stated we cannot make new contracts.

Chairman McCallon stated you just said we are going to honor the obligations of the...

City Attorney Steele stated right, we can't make new contracts that aren't on here or aren't needed to implement this.

Chairman McCallon stated but what is our legal authority to contract.

City Attorney Steele stated this document. The successor entity has the authority to contract to further enforceable obligations. For example, if we had to hire a consultant to carry out one of these enforceable obligations, the successor entity has the authority within the restrictions of this document to make new contracts.

City Manager Hughes stated this document will eventually be replaced by the recognized obligation payment schedule which is approved by the Oversight Board.

City Attorney Steele stated for example, he is not explaining this very well, one of these contracts need to be extended to get a project done. This document says this contract is over on say July 1, if the project wasn't finished and it was part of this obligation schedule and it needed to be extended by 90 days or a year to get something done, the successor entity has the authority in AB X1 26 to extend that contract in order to get something that is on this schedule done and that's why this schedule is so important to be thorough and accurate.

Agency Member Timmer stated we have already modified this and, it sounds like as we get information, we are making changes daily. However, the due date is February 1.

City Manager Hughes stated we have the ability to modify it. It will be the Successor Agency that will modify it.

Agency Member Timmer stated so after this date we can change and modify the current resolution we are adopting now.

City Attorney Steele stated the reason the Redevelopment Agency has to adopt this before February 1 is because you won't exist on February 2.

Vice Chairwoman Lilburn asked do we have a list of the projects that we were going to do through the RDA but aren't going to be able to do them.

City Engineer Wong stated we have a list in two documents. One is a two year budget document which specifies which project is to be funded by RDA funds and other funds. Also, we have a five year capital improvement program that tells us what other upcoming projects that will be funded by RDA.

Vice Chairwoman Lilburn stated but does it break it out? Like this one talks about the ones that are already in contract.

City Engineer Wong stated yes it is broken down into individual projects.

Agency Member Scott stated can Council get a copy of the list.

Director of Administrative Services Dantuono stated the CIP is in the back of the budget.

Agency Member Racadio stated he is intrigued by the discussion regarding the potential of the tax exempt status might be affected by some of the actions the State is taking because to him that is more important than Moody's and Fitch because they are probably looking at the short term we don't have to bond, it's there. This issue could throw a wrench in everything and he is wondering what kinds of efforts are being made to get that information up. He would suppose that the suit would have to come from a bond holder which wouldn't be hard to get but he is interested in what efforts are being made to get this theory discussed at the State level.

City Attorney Steele stated all of the municipal bond lawyers across the State have been furiously debating what this means and if you have never attended a debate of bond lawyers you're really missing something. This issue is a big ticket issue in terms of dollar amounts and the potential implications of it and it has been already presented to Legislators and the Department of Finance as potential problems. As we understand it, there are a few cities in the State that have huge amounts of bond proceeds on hand and have huge institutional investors that are holding those bonds who are sort of keeping their powder dry for the moment until something is done to jeopardize the tax exempt status of those bonds. If that were to occur then those bond holders would be looking at either bringing in the IRS to issue an opinion or litigating or perhaps both. So if the list of things that are bad that are occurring out of this thing in terms of bad for a larger community than just Redevelopment Agencies, this one is probably one or two on the list. So, you can look for a very large fight about this because one of the things that happened, he assumes, when this law was written the Governor said okay this piece fills a \$1.7 billion hole, well they got that \$1.7 billion by adding up financial statements of Redevelopment Agencies across the State, and 400 Redevelopment Agencies across the State file a financial statement that has a number, but no one ever looked to see what that number is made up of. They just said we need \$1.7 billion, there's \$1.7 billion and put it into a law. So, to the extent they don't know already, their Department of Finance is going to find out quickly that a big chunk of those \$1.7 billion dollars is in tax exempt bonds that can't be used for the things that they wrote a law to use them for.

Agency Member Racadio stated this is intriguing but also kind of like that old nuclear option because under this theory even the amount we were going to give, the \$3.7 million to the State under the voluntary contribution theory that would wipe this out and wipe that out too. Even a settlement type Legislation where they said okay we can go back and instead of Highland giving the \$3.7 million, you give \$4.7 million but you can still be in existence and keep the rest but this theory would shoot that down too.

City Attorney Steele stated well yes because the State would have to covenant to use the bond proceeds for tax exempt purposes and the State can't use all the bonds that they have been authorized to sell for various things already. They haven't even sold all the bonds that have been authorized by the voters and others for various purposes. So they are not going to want another billion dollars of, whatever the number is he is making that number up, tax exempt bonds to be spent for tax exempt purposes. They want to pay teachers and firemen salaries. They can't use this money.

Agency Member Scott stated she thinks that the cities, the counties and the bond people, she thinks we all ought to go up and occupy Sacramento.

A MOTION was made by Agency Member Racadio, seconded by Agency Member Scott, to approve Resolution No. RDA2012-002, a Resolution of the Highland Redevelopment Agency approving amendments made on January 24, 2012 to the Enforceable Obligation Payment Schedule and certain related actions. Motion carried, 5-0.

RESOLUTION NO. RDA2012-002
A RESOLUTION OF THE HIGHLAND REDEVELOPMENT AGENCY
APPROVING AMENDMENTS TO THE ENFORCEABLE OBLIGATION
PAYMENT SCHEDULE AND CERTAIN RELATED ACTIONS

12. AB 1437 (Morrell) – Budget Bill Transparency

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to support Assemblyman Morrell's request for the City's support on AB 1437. Motion carried, 5-0.

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

Mayor McCallon stated this issue about the Redevelopment Agencies going away is a topic at SANBAG because in the Nexus Study, a lot of jurisdictions are using redevelopment monies to come up with the match required for development impact fees. This is going to impact our local ability to deliver local projects too. We are beginning, at SANBAG, to take a look at this whole issue and what it means in terms of the Nexus Study and the 10 year delivery plan because it will have quite an impact there. Also, it was discussed at SCAG, the fact with business leaders was the fact the Redevelopment Agency going away, although it will not really affect the Regional Transportation Plan, and has a tremendous impact on the sustainable communities strategy which was put together for SB 375.

Mayor Pro Tem Lilburn stated an Ad Hoc was appointed by the Mayor to coordinate the City of Highland's 25th Anniversary. Our first meeting was held earlier this evening and included Councilman Timmer and members of the community. A great deal of progress was made. Budget numbers will be brought to the next meeting to determine the event's budget. November 17, 2012, was selected as the date of the event.

Mayor McCallon attended the League of California Cities Policy Committee Meeting in Sacramento this past week. Major item of discussion was the Redevelopment Agency issue and the budget.

14. San Bernardino International Airport Authority and IVDA

None

ANNOUNCEMENTS

January 29	Highland Family Run
January 29	Highland Improvement Team Litter Abatement Program
February 18	Highland Improvement Team Residential Clean Up
February 29	Walk to School Day at Cypress Elementary School
March 28-29	2012 City County Conference

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 6:51 p.m. in memory of Emma Simpkins.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor