

**MINUTES  
CITY COUNCIL REGULAR MEETING  
NOVEMBER 14, 2017**

**CALL TO ORDER**

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

The invocation was given by Tracy Johnson, Immanuel Baptist Church, and the Pledge of Allegiance was led by Mayor Pro Tem McCallon.

**ROLL CALL**

Present: Chavez, Lilburn, McCallon, Solano, Timmer  
Absent: None

**REPORT FROM CLOSED SESSION**

No meeting.

**SPECIAL PRESENTATIONS**

Ms. Andrea De Leon introduced herself to the City Council as the new Executive Director of the Highland Area Chamber of Commerce.

**PUBLIC COMMENT**

None

**CITY COUNCIL CONSENT CALENDAR**

**A MOTION** was made by Mayor Pro Tem McCallon, seconded by Councilman Chavez, to approve the consent calendar as submitted. 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.
2. Minutes – October 10, 2017 City Council Regular Meeting  
Approved the Minutes as submitted.
3. Warrant Register  
Approved Warrant Register No. 654 for November 14, 2017, in the amount of \$1,928,937.07 and Payroll of \$166,041.56.

4. Treasurer's Report for September 2017  
Received and filed Treasurer's Report for September 2017.
5. Claim Consideration – Taylor Garcia and Kevin Tolley  
Rejected claim.
6. Extension of Tree Trimming and Arborist Services Contract  
Extended the Tree Trimming and Arborist Service Contract with United Pacific Services, Inc., for one year.
7. Notice of Completion – Project No. str12003, "5th Street/Greenspot Road Bikeway Improvements" (Bid No. 2016-02)
  1. Accepted Project No. str12003, "5th Street/Greenspot Road Bikeway Improvements" (Bid No. 2016-02) as complete;
  2. Authorized the Mayor to sign the Notice of Completion; and
  3. Directed the City Clerk to file the Notice of Completion.

#### **CITY COUNCIL PUBLIC HEARING**

8. An Ordinance of the City of Highland Amending Title 8, Chapter 8.24 (Fire Sprinkler Systems) and Title 15, Chapter 15.42 (Barriers for Swimming Pools, Spas and Hot Tubs) and Title 15, Chapter 15.48 (Hours of Operation for Construction Activities) of the Highland Municipal Code

Mayor Lilburn opened the public hearing.

Community Development Director Mainez introduced Building Official Gates and Fire Marshal Sanchez.

Building Official Gates stated there are three topics tonight on the ordinance and each one of these are currently part of the municipal code. First, we have the fire sprinkler ordinance, second, the barriers for swimming pools, spas and hot tubs, and the third one is the hours of operation for construction activities. What we are looking at doing here tonight is repealing the first two items because they have become redundant. When they were originally adopted back in 1996, and no revisions since, and then for barriers it was 1995, and it not has been revised since then. These items have been now addressed within our building codes and so we're looking at just getting rid of them so we don't have to do redundancy on the municipal code between what's been adopted through building codes in January, and therefore we just don't want to get into the issues of whether they are redundant or discrepancies. The third item is operation of construction activities. Currently what we have for major projects, we have planning which puts into conditions for our hours. Their hours are typically 7 a.m. to 7 p.m. and then we have separate hours for public works. Now we don't have anything that controls two of the same time periods as for small projects such as room additions, patio covers or anything like that, other than half hour before sunrise, half hour after sunset. During certain times of the year that can be pretty

disruptive to people in their neighborhoods, that sort of thing, so we want to stipulate some time frames and be consistent between small contractors, developers, and residents. If you have any questions, I'll be happy to answer them at this point.

Councilman Timmer asked with the repeal of the old one and this new, what's the difference? As I remember, we had some real specific issues back in the 90's when we led the charge in the State for fire sprinklers in residential stuff. We had several issues that were predominating and the cost of the system versus no systems, and we looked at several ways to mitigate that. One of them was to only require one meter. East Valley Water bought off into that rather than having different separate meters, which then allowed hooking into the domestic system which saved a lot of money, and then we also had a copper pipe pinhole problem with lots and lots of leaks if we all remember that. We allowed the fire sprinkler system to use plastic pipes, there was a special kind of plastic pipe, I don't remember the specific type, PVC, and we created special findings to allow us to do that. Of course the main issue why we did it was for life safety. It wasn't necessarily to reduce fire damage. It was strictly for life safety. So I need to know the proposed ordinances we are adopting and how that impacts those particular issues. If they are all addressed now under the new state requirements, because the rest of the state is kind of caught up with the City of Highland on what we did back then as I understand.

Building Official Gates responded there were a lot of issues nationally and involved in that also. So you know it was a good thing at that point, but it was just a few years after that that the state incorporated pretty much the same regulations that we have within the municipal code at this time.

Councilman Timmer asked so essentially this new ordinance mirrors what we've done in the past and allows us to continue to do what we've done?

Building Official Gates responded yes, to a certain extent. There are very subtle differences. We did outline those in one of our exhibits. So it did the breakdown of what our fire code has and what our municipal code currently says.

Mayor Pro Tem McCallon asked it doesn't include the meter issue? Can you answer that question?

Fire Marshal Sanchez responded your domestic fire system, both the ordinance and the fire code, require the installation standard NFPA13B and that dictates the installation from the tap to main to the two remote sprinkler systems whether it's one meter or a "y" or a split or whatever. It's all calculated.

Councilman Timmer asked so you can still use one meter?

Fire Marshal Sanchez responded yes, sir.

Councilman Timmer stated I think you'd still have to go to a bigger pipe.

Fire Marshal Sanchez responded you may have to go to a bigger pipe, you may have to have a bigger meter as well, but it's all hydrologically calculated.

Councilman Timmer stated the main issue was to maintain a lower cost on the sprinkler system to ensure it wouldn't drive up the price of homes.

Building Official Gates stated yes, the CPVC which you're talking about, that is allowed under the standard fire code now.

Councilman Timmer asked we also use that on domestic systems and water systems too, right?

Fire Marshal Sanchez responded it's a different type of PVC. The fire sprinkler, it's orange and it's made to be a little more resistant to heat.

Building Official Gates stated and water lines in your home can be utilized in that too. They don't have to be galvanized.

Councilman Timmer stated and the reason I asked that question is I just want to make sure we're not reducing what we've done in the past. We've still got a comparable system to what we've done in the past, so that's okay. I just wanted to make sure.

Building Official Gates stated a little bit of give and take here and there but it's basically the same.

Mayor Lilburn asked and then in our ordinance is it still 500 feet or more that we have to put in the sprinklers in room additions?

Fire Marshal Sanchez responded that's one of the things that are going to change. For the fire code, if a building is not sprinklered it's not automatically required to add sprinklers to it when you're doing an addition to it. If it's a new home, yes, you'll need to add fire sprinklers. On an addition on an older home, it's kind of dependent on where the hydrant is located and how much water is coming out of that hydrant, if it's sufficient or not.

Councilman Timmer stated in the past there was threshold of 500 square feet and anything less than that on an addition you didn't have to, but anything above that you'd have to put sprinklers in the addition. So everyone came in at 499.

Building Official Gates stated I looked at two major things on this. I actually talked around a little bit to find out what information I could for the determination of where they came out with that 500 square feet. I couldn't find anything specific on that and part of our, even looking back at past staff reports and based on our California regulations when we adopt something of those types were

supposed to have specific findings, which means we have to justify that 500 square feet rather than 400 square feet or rather than 600 square feet. So it does come into one of those things where I'm going where did we get that? How did we justify it? How do we justify it now when we have to update those codes? I was not able to determine reasoning on that. There is some economic issue on that too. We have a lot of homes on our west side where the whole home is only 800 square feet, so whether you look at that 50% increase or whether that 500 square feet is for a small room addition. What's happening now since I've been here only a year, I'm actually seeing that its stifling people that are purchasing these properties and are just reselling them once they find out that they can't enlarge that home without that major cost. They're almost at a point where they need to tear down that home and just rebuild it.

Councilman Timmer stated based on that comment, if there's sufficient fire flow we talked about they can still do the addition without putting sprinklers in regardless of square footage. What if there is insufficient fire flow? Then they would have to put sprinklers in, correct? And that's in the ordinance, it says that?

Fire Marshal Sanchez stated yes, as part of the fire code.

Mayor Lilburn asked can you do me a favor? And I know this is just for the hours of operation on the construction with the pools and spas, but can you get me a copy of the ordinance on the built-in, on the pools that we have? I just want to go through it and see, because I know walking our neighborhoods, and not built-in pools but we have the doughboy pools in the front yard, and I kind of want to see if that addresses stuff like that. It's kind of unpleasant looking when somebody has their pool in their front yard. I think maybe we should look at something like that.

Community Development Director Mainez stated I'll follow up on that question.

Building Official Gates stated it does refer more to zoning. As far as the building code goes on those, anything above-ground that would require a ladder to get into it over I think it's 48 inches above ground level does not, is not regulated by the building code. So these portable units don't have the same regulation on the building code.

Councilman Timmer stated but in design review, our planning standard, we could say no pool in the front yard.

Community Development Director Mainez stated I believe that is the case. I don't think you can put a pool in your front yard.

Mayor Lilburn stated okay and I don't get away from this item. I understand that.

Mayor Lilburn called for any speakers either in favor or in opposition. Seeing none, the public hearing is now closed.

**A MOTION** was made by Councilman Timmer, seconded by Councilwoman Solano, to introduce Ordinance No. 420 to repeal both Chapter 8.24 of Title 8 (Fire Sprinkler Systems) and Chapter 15.42 of Title 15 (Barriers for Swimming Pools, Spas and Hot Tubs) of the Highland Municipal Code, returning guidelines to current provisions of the California Fire, Building and other sections of the California Code of Regulations, Title 24; and amending Chapter 15.48 of Title 15 (Hours of Operation for Construction Activities) to establish 7 a.m. to 7 p.m., Monday through Saturday, no holidays, as hours of construction activities. Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 420:

ORDINANCE NO. 420  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
HIGHLAND, CALIFORNIA, REPEALING CHAPTER 8.24 (FIRE SPRINKLER  
SYSTEMS) OF TITLE 8, AND CHAPTER 15.42 (BARRIERS FOR SWIMMING  
POOLS, SPAS AND HOT TUBS) OF TITLE 15; AND CHAPTER 15.48  
(HOURS OF OPERATION FOR CONSTRUCTION ACTIVITIES) OF TITLE 15,  
OF THE HIGHLAND MUNICIPAL CODE

which title was read.

**CITY COUNCIL LEGISLATIVE**

9. Professional Services Contract with iWorQ for City-wide Traffic Sign Inventory Services

Public Works Director/City Engineer Wong gave a brief review of the staff report.

**A MOTION** was made by Councilman Timmer, seconded by Councilman Chavez, to:

1. Approve professional services contract from iWorQ in the amount of \$49,400 for city-wide traffic sign inventory services; and
2. Authorize the City Manager to approve amendments up to 10% of the contract amount. Motion carried, 5-0.

10. Engineering Resources of Southern California – Professional Services Contract Addendum No. 9

Public Works Director/City Engineer Wong gave a brief review of the staff report.

**A MOTION** was made by Mayor Pro Tem McCallon, seconded by Councilwoman Solano, to:

1. Approve Addendum No. 9 to Professional Services Contract with Engineering Resources of Southern California to reflect a change in the billing rate schedule; and
2. Authorize the Mayor to sign the Addendum. Motion carried, 5-0.

11. Repeal of Chapter 9.24 of Title 9 of the Highland Municipal Code Pertaining to Registered Sex Offenders Residency Restrictions and Approving an Environmental Exemption Therefore

City Attorney Steele stated it seems over the past few years to have been an increasing and unpleasant part of my job to be put into a position of having to explain things and present things that either the courts or the state legislature are imposing on cities, and this is another one of those incidences. Going back to 2006, the voters of California passed a couple of initiatives that allowed the state and also municipalities to regulate certain activities and living arrangements with regard to registered sex offenders in order to prohibit them from congregating and living together in areas that were close to child sensitive uses like schools and parks. Almost immediately after those laws were adopted and the cities' adoption of some restrictions in 2010, the California Department of Corrections as well as some advocates for sex offenders started to challenge the validity of those laws and challenge the validity of actions that the state and cities had taken in response. So you'll recall, those of you who were on the Council at the time, that in 2014 the City had to repeal, like all cities in California, had to repeal parts of our sex offender ordinance which related to where registered sex offenders could congregate around schools and parks. That was in response to a court case in 2014. That left us with the current ordinance which prohibits registered sex offenders from living within 2000 feet of certain identified uses such as schools. As I said, the Department of Corrections, almost immediately after these initiatives were passed started really trying to find ways to, in my opinion, avoid some of the provisions of those restrictions. So one of the things that they did was they convened an academic study to determine what the effect of these residency restrictions would be. It was an extensive study and the finding of that study was, as is quoted on page 2 of the staff report, was that basically they found that these residency restrictions didn't have any additional impact on public safety because in the opinion of the people doing the study, the residency restrictions caused sex offenders, some of them, to become homeless and that led to a situation where the Department of Corrections couldn't keep track of sex offenders who were on parole. So they concluded these residency restrictions made communities ultimately less safe. So in 2015 and 2016 as noted in the staff report there were two cases, court cases, one out of the court appeal People vs. Lynch which held that the residency restrictions that were allowed by the old Jessica's law could only be applied to people on parole for sex offenses not to registered sex offenders who are no longer on parole. The second case out of the California Supreme Court in 2016 actually held that these residency restrictions that were imposed by the State not by any particular City were unconstitutional and violated the rights of the sex offenders. Given that those residency restrictions that were struck down by the California Supreme Court that are applied by the State are virtually identical to residency restrictions that Highland and dozens and dozens of other cities adopted. We believe that a court if asked to do so would also strike down these residency restrictions in cities. They are identical to what the California Supreme Court has already struck down.

Mr. Mark Falcone spoke in opposition of this item.

Mr. Fred Yauger spoke in opposition of this item.

**A MOTION** was made by Councilman Chavez, seconded by Councilman Timmer, to introduce, read by title only and waive further reading of Ordinance No. 421, an Ordinance of the City Council of the City of Highland repealing Chapter 9.24 of Title 9 of the Highland Municipal Code regarding sex offender residency restrictions. Motion carried, 3-2, with Mayor Lilburn and Councilman Timmer dissenting.

City Clerk Hughes introduced Ordinance No. 421:

ORDINANCE NO. 421  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,  
CALIFORNIA, REPEALING CHAPTER 9.24 OF TITLE 9 OF THE  
HIGHLAND MUNICIPAL CODE AND APPROVING AN ENVIRONMENTAL  
EXEMPTION THEREFORE

which title was read.

12. Authorization to Approve Agreements with Caltrans Relative to Federal and State Funded Projects

Public Works Director/City Engineer Wong gave a brief review of the staff report.

**A MOTION** was made by Councilman Timmer, seconded by Councilwoman Solano to adopt Resolution No. 2017-048 authorizing the Public Works Director/City Engineer to execute all funding agreements with Caltrans relative to Federal and State funded transportation projects. Motion carried, 5-0.

RESOLUTION NO. 2017-048  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,  
CALIFORNIA, AUTHORIZING THE PUBLIC WORKS DIRECTOR/CITY  
ENGINEER TO EXECUTE ALL FUNDING AGREEMENTS WITH CALIFORNIA  
DEPARTMENT OF TRANSPORTATION RELATIVE TO FEDERAL AND/OR  
STATE FUNDED TRANSPORTATION PROJECTS

13. Appoint Two Members of the Public to the Community Trails Committee

City Clerk Hughes gave a brief review of the staff report and opened the floor for nominations.

Councilman Timmer nominated the current member, Joseph Ellis.

Councilwoman Solano nominated Jeff Novak.

Mayor Lilburn called for any other nominations. Seeing none, the floor is now closed for nominations.

Council unanimously appointed both Joseph Ellis and Jeff Novak to the Community Trails Committee.

14. Code of Ethics

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

**A MOTION** was made by Mayor Lilburn, seconded by Mayor Pro Tem McCallon, to receive and file the Code of Ethics as submitted. Motion carried, 5-0.

15. League of California Cities – Inland Empire Executive Board

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

Councilwoman Solano volunteered to be the representative.

City Council unanimously appointed Councilwoman Solano as the representative to the Executive Board of the Inland Empire Division.

16. Updates on LAFCO, Omnitrans, SBCOG, SBCTA, SBIAA, SBVMWD, SCAG, SCAQMD, Work Program, Regional/Legislative Issues, Development Issues, Subcommittees and AB 1234/Council Member District Updates

Mayor Pro Tem McCallon stated SCAG held their annual economic summit this past week with the main subject being the shortage of housing.

**ANNOUNCEMENTS**

None

**CLOSED SESSION**

None

**ADJOURN**

There being no further business, Mayor Lilburn adjourned the meeting at 7:22 p.m. in memory of Alvern "Bud" Hultman.

Submitted By:

Approved By:

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Betty Hughes, MMC  
City Clerk

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Penny Lilburn  
Mayor