

**MINUTES  
REDEVELOPMENT AGENCY AND CITY COUNCIL  
REGULAR MEETING  
JULY 13, 2010 - 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 6:03 p.m. by Mayor Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Sam Racadio and the Pledge of Allegiance was led by Matthew John Baker.

**ROLL CALL**

Present        Jones, Timmer, Scott, Mayor Lilburn  
Absent        McCallon

**SPECIAL PRESENTATIONS**

Mayor Lilburn presented Luigi Seno with a Certificate of Recognition for his outstanding performance on America's Got Talent television show.

Mr. Sam Racadio, Board of Directors, gave a presentation regarding the YMCA's Annual Report.

Mr. Robert Martin gave a presentation regarding the East Valley Water District Report

**COMMUNITY INPUT**

None

**CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR**

**A MOTION** was made by Mayor Pro Tem Jones, seconded by Councilman Timmer, to approve the consent calendar as submitted. Motion carried on a roll call vote, 4-0, with Councilwoman Scott abstaining from Item #2, Item #3, Item #4 and Item #5, with Mayor Lilburn abstaining from Item #6, and with Councilman 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. Minutes – June 8, 2010 City Council Regular Meeting  
Approved the Minutes as submitted.

3. Minutes – June 22, 2010 City Council Regular Meeting  
Approved the Minutes as submitted.
4. Minutes – June 8, 2010 RDA Regular Meeting  
Approved the Minutes as submitted
5. Minutes – June 22, 2010 RDA Regular Meeting  
Approved the Minutes as submitted.
6. Warrant Register  
Approved Warrant Register No. 507 for July 13, 2010, in the amount of \$1,216,643.74 and Payroll of \$157,258.53.
7. Easement Acceptance/Lankershim Avenue Sidewalk Project (Project str09002)
  1. Accepted the Grants of Easement for Road and Drainage purposes from property owners listed in the staff report, and
  2. Directed the City Clerk to record the Grants of Easement.

#### **CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING**

8. MCA 009-006 – City of Highland Municipal Code Section 16 32 070 M is Proposed to be Amended to Reduce the Maximum Time Limit Permitted to Complete a Certificate of Appropriateness

Mayor Lilburn opened the Public Hearing

Economic Development Specialist Stater stated this item has been brought forward at the request of the Historic and Cultural Preservation Board. As Council is aware, as the Board reviews projects almost any exterior modification to a commercial or residential structure in the district requires a Certificate of Appropriateness. Anywhere from new windows, doors, room additions, that type of thing. The Board reviews their approved projects every other month and as they look at that list and they see the projects lingering, for a lot of times years, years and years. The current time limits established in the code states that once a project is approved they have 12 months to commence construction. If they do not commence within the 12 months they can come back and ask for a 12 month extension. Should they start within the 12 months they have the full time period of a building permit. Once that expires they have an additional 36 months to complete their project. The Board feels a lot of times as years go by and they adopt new guidelines whether it is for painting and such that if a project gets built six or seven years from the time they approved it really might not be appropriate for when it's being built. The Board has requested a reduction in that time. A 12-month period to commence construction and then at the end of the building permit period if it still has not been constructed that it expire at that time. They would be required to come back to the Historic Board. The Board has recommended the language which Council can find on page 3 of the staff report. The Planning Commission has also reviewed it and is recommending approval by City Council.

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

Mayor Pro Tem Jones asked what are the reasons for stalling in most of the situations.

Economic Development Specialist Stater stated most of them are residential in nature. A lot of them, as an example, would be a room addition that at one time the property owner thought it would be a great idea. For one reason or another, the economy, they just haven't started it and years go by or they will start a project, let's say a new garage, and they'll frame it, put a roof on it and they never come back and do some of the more intricate design issues such as wainscoting or some of the smaller things. She does not know if there is one particular reason. Some just never start and some start and get half way through and never finish.

**A MOTION** was made by Councilman Timmer, seconded by Mayor Pro Tem Jones, to adopt a California Environmental Quality Act Notice of Exemption and instruct staff to file a Notice of Exemption with the County Clerk of the Board; and to Introduce Ordinance No. 351 to Amend Title 16, Section 16.32.070.M of Land Use and Development Code. Motion carried, 4-0, with Councilman McCallon being absent.

City Clerk Hughes introduced Ordinance No. 351:

ORDINANCE NO 351

AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA AMENDING THE CITY'S LAND USE AND DEVELOPMENT CODE, TITLE 16, SECTION 16.32.070 M, INCREASING THE TIME LIMIT TO COMPLETE WORK APPROVED UNDER A CERTIFICATE OF APPROPRIATENESS (MCA 009-006)

which title was read.

9. MCA-010-003 – Highland Municipal Code Amendment Related to Hours of Operation in the Industrial Zoning District

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated on June 8, 2010, the Council heard a presentation during the community input section of the agenda from one of the property owners in the industrial area, KCB Towers. They expressed some concerns with how the city's noise ordinance was affecting their business operations and their ability to do business at that location because the ordinance currently says that the business cannot start prior to 7:00 a.m. At that time the Council directed the matter to an Ad Hoc Committee. The Ad Hoc Committee met on June 14, 2010, and suggested that we consider amending the code to change the hours in the industrial district to be from 7:00 a.m. to 5:00 a.m. The ending time of 10:00 p.m. will still remain in place. That item is what is before you tonight.

Councilwoman Scott inquired how many single family residences are in the industrial area.

Community Development Director Jaquess stated by our count it's 12. Those are all non-conforming to the industrial zone

Mayor Lilburn stated applicant representation, would that be the people that proposed the noise ordinance

Community Development Director Jaquess stated the applicant in this case is the City but you can certainly invite people in favor of the ordinance.

Mr Jay Bogh stated he is representing KCB Towers. They have a business in the industrial zone and if you remember last time he was here, he was pretty emotional about their business. He had a couple hundred people behind him. What he had asked from the Council is that as a neighbor in the City of Highland and doing business in the City of Highland, that they be treated fairly. He would like to so far appreciate the Council for reconsidering the ordinance and the Ad Hoc Committee who got together and made the recommendation. He stands before the Council today in favor of the recommendation by the Ad Hoc Committee. KCB Towers has always looked to be a good neighbor and will continue to do so. The 5:00a m. to 10:00 p m. works for them and several of the other businesses that he has spoken to. They would appreciate a vote of yes on the amendment to the ordinance.

Ms. Molly Bogh stated she would like to concur with what Jay Bogh as said. They are very grateful to the Council and the staff for reconsidering the ordinance. They heard in Mr. Racadio's presentation earlier about the tough times that we are all in at this particular time in this economic downturn and they feel in this time of economic hardship for so many people, the need for local government to work with businesses to retain jobs and to generate revenue is even greater than before. They appreciate that the City listened to their concerns. Again, she supports the proposed ordinance and urges adoption.

Mr. Greg Bogh stated he has worked for KCB Towers for over 20 years. He wanted to name a couple of projects that they have done, that he has personally worked on. Arroyo Verde Elementary School, Cram Elementary School, City of Highland City Yard, Sam Racadio Environmental Center, Jerry Lewis Center and he is currently working on the Highland Police Station. He has personally worked on every one of these and he can remember working on these between the hours of 6 00 a m. and 3 00 p m. It would be a true disadvantage if we still couldn't work at this time. He urges the Council for the amendment related to the hours of changing the industrial zone.

Ms. Sandra Tirb stated her home is in the industrial zone. KCB Towers bought the two properties, are using the two properties to the west of her. She has semi trucks, she has steel, 30 feet from her bedroom window and it's not that she doesn't want to do business. She is glad they have a great business and is doing good but 30 feet from her bedroom window at 6.00 a.m. Steel, have you ever heard steel, on those petty bones it's like fingers on a chalkboard a 1,000 times over. You've got the fork lifts; you've got the back up alarms. They've got all that property but now she's going to listen to it at 5.00 a.m., probably 4:00 a.m. because they always start early. They have been starting at 6:00 a.m. when they're supposed to be starting at 7 00 a m so they'll probably start at 4 00 a.m. when they're supposed to start at 5:00 a m. It's just really nerve racking. They could load some steel or something and then be gone and then come back and load steel. She means at 6:00 in the morning are they kidding her and now it's going to be 5:00.

Mayor Lilburn closed the public hearing and opened the floor for Council discussion.

Councilwoman Scott inquired why was it made to 5.00 a m. and not 6:00 a.m.

Mayor Lilburn stated Councilman McCallon and herself were on the Noise Ordinance Ad Hoc and there were a couple of different reasons. Do we go earlier and keep in mind that this is an industrial zoning district. This is people doing business. This is a non-conforming residential area. It was a difficult decision but she has to look out for what is best for the City of Highland and what we do as a Council. So what they talked about and why they went with 5:00 a m. in the morning is because it's not unusual for a business to start business at 5:00 a m. in the morning. Sometimes and she's not a steel worker and she's not in industrial, she goes to work in an office but some people don't have that luxury and it's hot out there. So businesses like to get started early in the morning. We didn't want to cripple our businesses. There was some discussion of going earlier but it was industrial. It's down there and it was a number that they went with instead of making it 6:00 a m. and then they come back and start business early. They went 5:00 a.m. and that was the number they chose.

Councilwoman Scott stated she understands those reasons and she certainly understands the business and the need to keep the business but she was thinking on things like, she knows that Jay Bogh stated they wanted to be good neighbors, things like loading the trucks and so forth, why couldn't that be done in the evening so when the crew came to work the next morning it would be loaded and they would be ready to leave and they wouldn't be banging the steel.

Mayor Lilburn stated they didn't do this noise ordinance specifically for KCB Towers. They did the time zoning because it was an industrial zone. They didn't do it to fit around KCB. They didn't do it to conform to any specific person or business. They did it specifically for time zone and businesses down there. If they want to be a good neighbor that's something they can achieve and work with their neighbors and do that. That was solely a time ordinance for an industrial zone.

Councilwoman Scott stated she knows a lot of the residents in that area have a lot of land. They have an acre or more. Every one of them was there before we were a city.

Mayor Lilburn stated and she does know some that are down there as well and they bought after and it was non-conforming. They understand that they are non-conforming and they bought in a neighborhood that is non-conforming in an industrial. It's a business decision.

Councilwoman Scott stated she is up at 4:00 am so it wouldn't bother her but she does have to listen to boom boom boxes on her street and she knows it can be very frustrating.

Mayor Lilburn stated we as a Council zoned it industrial. Industrial is what it is, it's industrial.

**A MOTION** was made by Councilman Timmer, seconded by Mayor Pro Tem Jones, to adopt a California Environmental Quality Act Negative Declaration and Instruct staff to file Notice of Determination with the County Clerk of the Board; and Introduce Ordinance No. 352 to Amend Title 8, Chapter 8.50, Section 8.50.050, Controlled Hours of Operation. Motion carried, 4-0, with Councilman McCallon being absent.

City Clerk Hughes introduced Ordinance No. 352:

ORDINANCE NO 352

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, AMENDING SECTION 8.50.050 (CONTROLLED HOURS OF OPERATION) OF THE HIGHLAND MUNICIPAL CODE RELATING TO HOURS OF OPERATION IN THE INDUSTRIAL ZONE

which title was read

## CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

### 10: Proposed Landscape and Access Improvements at City Hall

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

Councilwoman Scott stated she would like to question the cost of these improvements, for all items listed. Are all these items included for the cost of \$20,000?

City Engineer Wong stated only the changes in front of City Hall are included in the \$20,000, not the whole project.

Councilwoman Scott stated that's only the handicapped ramp which leads to the front door.

City Engineer Wong stated as well as the existing sidewalk being replaced with new sidewalks along the street.

Councilwoman Scott inquired what is wrong with the existing sidewalk.

City Engineer Wong stated nothing is wrong. The Design Review Board would like to see the landscaping closer to the street. As it is now, the sidewalk is next to the curb and the landscaping is behind the sidewalk.

Councilwoman Scott stated that is just more to maintain.

City Engineer Wong stated it is the same amount of landscaping except the landscaping will be moved to the front, closer to the street.

Councilman Timmer asked is this going to impact the palm trees that we planted years ago. Will they have to move the palm trees or are we removing them entirely?

Assistant Public Works Director Barton stated yes, the existing palm trees will remain. There is no effect on the palm trees and to Councilwoman Scott's question the \$20,000 is inclusive for the landscaping and the sidewalk reconstruction.

Councilman Timmer stated so we are building this to federal standards. In theory based on this drawing and he understands why we are doing what we are doing, someone has to walk down next to the west end driveway for access to the handicapped sidewalk, then walk all the way over to the center and then down to the entry of City Hall. If they had just used the existing handicapped access, they would actually have a shorter walk. We are now going to make them walk further.

Assistant Public Works Director Barton stated this complies with the American Disabilities Act.

Mayor Pro Tem Jones stated what are we going to gain by this is this a handicapped individual who will be walking or using a wheelchair on a city sidewalk to gain entrance.

Assistant Public Works Director Barton stated yes, it is a direct access from a public sidewalk.

City Manager Hughes stated this will be an access entrance for someone who is using the sidewalk

Councilman Timmer stated we are making them walk further by using a lower slope sidewalk than if they were to use the existing driveway.

Councilwoman Scott stated any handicapped citizen coming to City Hall would most likely come by van and then move to a wheelchair and would then use the existing entrance How many citizens have actually used the sidewalk to gain entrance to City Hall?

City Attorney Steele stated regardless of how many people will be utilizing this access, there are two requirements under the ADA One is the accessible parking spaces on site with an accessible path of travel to the facility. The second requirement which we currently do not meet is the accessible path of travel from the major street where there is transit and opportunity There are two requirements of federal law in which we have to comply with.

City Manager Hughes stated City Hall at the time of the re-model met the requirements at that time. The ADA is consistently evolving and changing. This would bring the access up to the latest requirement.

**A MOTION** was made by Mayor Pro Tem Jones, seconded by Mayor Lilburn, to approve item to meet ADA Standards and to receive and file the report Motion carried, 2-2, with Councilwoman Scott and Councilman Timmer dissenting, and Councilman McCallon being absent.

Councilman Timmer stated he does not have a problem with putting a curb in so it will match the rest of the street. He has a hard time complying with federal standards which makes it worse than the existing access, making it more difficult for the handicapped Even though it meets the rules, it makes no logical sense to him.

City Attorney Steele stated the issue is if we then get an advocate to come in and sues to bring the City into compliance with the ADA, it will cost us much more than just doing it voluntarily.

Councilman Timmer stated the design meets the standards but the standard here makes no sense. He has been a big advocate for ADA improvements when there is a logical need to do so but this project creates a bigger hardship for those who we are trying to fix a problem for than if we just left it alone.

City Manager Hughes stated this will provide a safe path of travel. Even though we have an existing access to the entrance it intermixes with vehicles to get into City Hall. This will provide a safe path of travel on a sidewalk through a crosswalk into the building.

Councilman Timmer stated someone who is in a wheelchair will look at the entrances and see the distance from here and then the distance from the sidewalk and 99.9% of them will go the shortest distance.

City Manager Hughes stated and this will be their choice but at least we are providing a safe path.

Councilman Timmer stated he knows we need to do this and he does not have a problem voting positive on this item to move it forward.

**A MOTION** was made by Mayor Pro Tem Jones, seconded by Mayor Lilburn, to approve the item to meet ADA Standards and to receive and file the report. Motion carried, 3-1, with Councilwoman Scott dissenting and with Councilman McCallon being absent.

11. Arizona Senate Bill 1070

Mr. Virgil Cowen stated he is an American Indian and resided in the United States all his life. He believes the Council should support Arizona's bill. As a person of dark skin, it has been talked about it being discriminatory and he knows from experience it will not be discriminatory. We have laws in this nation which needs to be followed. If the federal government cannot do it, then the states and cities need to take it upon themselves to do this. He believes this bill should be supported and every city should support this bill.

Ms Misti Stephens stated she is a Highland resident and also works in Highland. She is pleased to see this item on the agenda. She hopes it can be brought to Highland. An illegal alien is just that, they are illegal. An illegal alien's presence in the United States is a crime. Anyone who commits a crime has to answer for their actions and this should not be any different. Enforcing this in Highland and in the United States will solve a lot of problems such as over-population, lower crime rates, and it will bring more job availabilities. She would like to see Highland take a stand.

Mr. Wayne Brown stated there is no profiling in this bill. The federal government, their lawsuit, has nothing to do with profiling. They did not name profiling as one of their claims. MSNBC did a survey and the question was do you support Arizona's new law on illegal immigration; 3.4 million were surveyed and 94% were in favor of the Arizona law. Arizona's bill is more lenient than the federal bill is. He thinks that we need to support Arizona.

Councilwoman Scott stated she thinks we should have done this when Arizona first did it but better late than never. She would move this item for approval.

Mayor Pro Tem Jones stated he would like to amend the motion by adding copies be sent to Senate, Congress and President Obama informing them Highland is in support of Arizona having to deal with this issue because the Federal Government refuses to do so

Councilwoman Scott stated to include Sacramento; we have border issues in California as well.

City Manager Hughes stated we will send copies to the Senate, Congress, President Obama and the Governor

Councilman Timmer stated he has mixed feelings on this item. He personally supports what is going on there. He has real concerns with City Councils becoming involved in federal issues. He read the bill several times today and federal laws were referenced over and over in there. He has a real hard time because of his background with what State's rights are and what City's rights are.

**A MOTION** was made by Councilwoman Scott, seconded by Mayor Pro Tem Jones, to send a letter of support to the State of Arizona with copies being sent to Senate, Congress, Governor and President Obama. Motion carried, 4-0, with Councilman McCallon being absent

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

City Engineer Wong stated staff is currently working with the San Manuel Band of Mission Indians' staff on an application for a Federal Grant which is being proposed to be used to convert the city's traffic signal safety lights to LED lights. LED lights are energy efficient and conversion of the lights would help to save energy which would reduce the city's costs.

City Manager Hughes stated the lights to be converted are the lights above the traffic signals, not the traffic signals themselves as they are already converted to LED lights. These are the lights over the tops of the signals which illuminate the intersection.

Mayor Lilburn stated Omnitrans had a ribbon cutting ceremony for the opening of the Yucaipa Transit Center.

13 San Bernardino International Airport Authority and IVDA

None

**REPORT FROM CLOSED SESSION**

Took no reportable action at the end of closed session.

## ANNOUNCEMENTS

August 10, 2010  
August 24, 2010

City Council Meeting has been canceled  
City Council Meeting has been canceled

## CLOSED SESSION

At 7:29 p.m., the City Council and Redevelopment Agency convened into closed session regarding the following

### CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956 9(b)(1).  
One case.

At 7:43 p.m., the City Council and Redevelopment Agency adjourned closed session making no announcements

## ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 7 45 p m in memory of David Lewis.

Submitted by:

  
Betty Hughes, CMC  
City Clerk

Approved by.

  
Penny Lilburn  
Mayor