

**MINUTES
CITY COUNCIL AND REDEVELOPMENT AGENCY
REGULAR MEETING
JANUARY 10, 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 Tim Evans of The Unforgettables Foundation and the Pledge of Allegiance was led by Councilman Timmer.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No Closed Session

SPECIAL PRESENTATIONS

Mr. James Ramos, Chairman for the San Manuel Band of Mission Indians, presented the City of Highland Sheriff Reserve Program with a donation.

COMMUNITY INPUT

Mr. Kip Sturgeon introduced Mr. Ben Coleman, the newest member to the East Valley Water District Board.

Ms. Lauren Loh thanked the City of Highland on behalf of Assemblyman Mike Morrell for the continued support. Assemblyman Morrell is asking for the support of City Council for the new legislative year which is approaching. Currently, Assemblyman Morrell is working on a Bill, AB 1437, which is very similar to last year's Bill. It would allow the public as well as Legislators three days, 72 hours, before the budget was to be voted on to be made more public. This would allow the public and Legislators to be more educated on the decisions to be made.

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, 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 – December 13, 2011 City Council Regular Meeting
Approved the Minutes as submitted.
3. Minutes – December 13, 2011 RDA Regular Meeting
Approved the Minutes as submitted.
4. Warrant Register
Approved Warrant Register No. 532 for January 10, 2012, in the amount of \$1,819,326.02 and Payroll of \$151,680.41.
5. Treasurer's Report for November
Received and filed the Treasurer's Report for November 2011.
6. Eighteenth (18th) Annual Highland Community Trails Day Event
Approved Saturday, April 21, 2012, as the date for the Eighteenth (18th) Annual Highland Community Trails Day Event and the utilization of the City of Highland Natural Parkland, located at the eastern terminus of Base Line and the Trails Day event location.
7. A Semi-Annual report of the Processing of Applications Per the City Council's "Come Home to Highland" Program and Policies for the Period of July 1, 2011, to December 31, 2011
Received and filed the report.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

8. Development Impact Fee Annual Adjustment

Mayor McCallon opened the public hearing.

Public Works Director/City Engineer Wong stated this is the annual adjustment of the City's Development Impact Fee. The City's Development Impact Fee consists of nine categories of infrastructures. This year all of the nine categories, eight of the categories are adjusted based on established cost index that Council had previously adopted. The only exception is the regional circulation system category which normally would be adjusted by SANBAG adopted cost index. However, this year SANBAG has asked each City to recalculate and to re-evaluate its project lists. Based on this exercise, the category results were an 11% reduction, downward adjustment. As a result of these adjustments to the nine categories, the residential unit will result to a 3.3% reduction and commercial projects will result to a 6.3% reduction. The results in individual Development Impact Fee for each category is shown in the attached resolutions.

Mayor McCallon called for any speakers in favor or in opposition of this item. Hearing none, the public hearing is now closed.

Councilman Racadio stated he thinks it is great they are going down by 3.3% for residential and 6.3% for commercial.

Councilwoman Scott stated its talking about a reduction of 3.3% for the single family and reduction of 6.3% for commercial and yet when you total up the categories you will only have one reduction which is regional circulation at 11% and the rest are all increases. How are we getting a reduction?

Councilman Timmer stated if you look at pages 4, 5 and 6. If you look at the different categories, category D, which is the regional one which is going down 11%, if you look at the amount, it's the biggest component. So, with 11% reduction of the biggest component it reflects on all the others as well as far as the total.

Councilwoman Scott stated on page 2, the very last paragraph, there it says in addition the proposed resolution includes language to clarify "habitable space that is subject to DIF includes guest rooms, game rooms, pool houses, hobby rooms, home office/studios or other uses as determined by the Community Development Director." Are garages already assumed to be part of the house?

Public Works Director/City Engineer Wong stated no, garages are not counted; it is not considered habitable.

Councilwoman Scott stated garages are usually more than 100 square feet and so if a garage is built we require them to put the sprinklers in. It's more than 10' by 10'.

Councilman Timmer stated no, it has to be 500 feet. Part of this resolution and action talks about a year or so ago we allowed or we changed when the fees had to be paid. It used to have to be paid at the time of permit approval and now we are extending it for another year.

Public Works Director/City Engineer Wong stated the resolution as presented to you assumes that Council would continue that practice for another year that the payment of the development impact fee would be made not at the building permit but at building occupancy. Council has allowed this to happen for the last few years. Staff assumed Council would continue this but if Council wants to change it back to the old way than we also need to change the resolution.

Councilman Racadio stated no, this is good. It's not a subsidy, it's not reducing.

Councilman Timmer stated when we did this, it talked about helping developers with cash flow issues a little bit and as long as the economy continues to be like it is he thinks this would be helpful to them.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve Resolution No. 2012-001 amending amount of development impact fees pursuant to Government Code Section 66000 (AB 1600); and to approve Resolution No. 2012-002 amending amount of park fee pursuant to Government Code Section 66477 (Quimby Act). Motion carried, 5-0.

RESOLUTION NO. 2012-001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, AMENDING DEVELOPMENT IMPACT FEES FOR ALL
DEVELOPMENTS WITHIN CITY OF HIGHLAND

RESOLUTION NO. 2012-002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HIGHLAND, CALIFORNIA, AMENDING A FEE APPLICABLE TO
RESIDENTIAL NEW DEVELOPMENT WITHIN THE CITY OF HIGHLAND ON
PARK LAND ACQUISITION AND PARK FACILITIES DEVELOPMENT,
PURSUANT TO SECTION 16.40.200 OF THE HIGHLAND MUNICIPAL CODE
AND THE QUIMBY ACT (GOVERNMENT CODE SECTION 66477)

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

9. Limited-time Development Impact Fee Credit Policy

Public Works Director/City Engineer Wong stated in the last two years when we adopted the new Development Impact Fee, Council also adopted a limited time credit policy which essentially provides a reduction of the regular Development Impact Fee to a lower amount. The policy only applied to once every twelve months. In other words, if a developer took advantage of this policy and pulled a building permit within that one year, then they got to pay a lower fee. If they didn't take advantage of it, when the fee credit policy expired then they would pay the regular fee. For this year, again, staff is asking the Council to see whether they would want to adopt such a limited time credit policy. The Finance/Personnel Subcommittee discussed this and they did not recommend extending it. However, we did receive a letter from the BIA requesting that the City have one more year of credit policy adopted so developers would pay a lower fee for this year.

Mr. Jeff Simonetti, Building Industry Association, stated they have appreciated for the last two years that Council has taken into consideration the Development Impact Fee credit. They are asking for an extension for one more year. Even though we have seen a very small amount of permit activity, every dollar in today's market makes a difference between the viability of project and whether it is going to move forward or not. At this time jobs and job creation is one of the most important things that we can do. He knows our builders right now, like he mentioned every dollar is counting towards whether they move forward with their project right now and it's going to make a significant impact on their business models and business decisions if we do not keep this credit back in place. They are urging Council to keep the credit in place with the impact fees at \$17,157 per unit.

Mayor McCallon stated what is being proposed from the letter is that Council maintain the same amount as last year, instead of 30% reduction, about at 22% reduction.

Mr. Jeff Simonetti, Building Industry Association, stated that is correct.

Mayor McCallon stated personally, he thinks the way the economy is that an extension of keeping the fees at the same level as last year for one more year is warranted and he certainly would favor this.

Councilwoman Scott stated this \$3,386 per resident is going to be tacked on to the homebuyer and that \$3,000 is going to be another \$10,000 for the homebuyer and in this economy she really thinks one more year is beneficial.

Councilman Timmer stated the Finance/Personnel Subcommittee made the recommendation not to do this. The committee pondered this and talked about this and the main reason under DIF fees, those fees are established based on the number of projects and the estimated costs for those projects. By us artificially reducing the fee that goes into paying for those projects we are going to have the same problem we had a few years ago when all of a sudden the Development Impact Fees had a spike cause we didn't adjust them for quite a few years. We still have the same number of projects and he is assuming the costs are probably going to stay about the same so really what this action would do is that it says, in the future, developers are going to have a higher impact fee to pay or the existing homeowners will have to pay the difference. He doesn't want to subsidize future development and/or the existing residents of Highland having to pay for the development at some point.

Councilman Racadio stated philosophically he would like to see more development. He personally does not think this will have one bit of influence. He wants to go back to 23 years ago when he came to Highland. The City was half the size it is now and there were people who were talking back then who wanted a moratorium on new houses because they were realizing there was going to be a need for parks, street signs, street lights and fire and police stations. Luckily at the time the City incorporated, AB 1600 was passed by the State. Prior to that you could only put the impact on subdivisions and all those individual houses weren't paying their fair share. We were the first City in the County, he thinks, to adopt a legitimate audited development impact fees which helped to defer the costs of these new developments. With the last two years with the reduction, he calculates we in essence have given to whoever builds houses, \$64,000 in tax money. It is even more important to him now because we don't have redevelopment agencies to build infrastructure.

Councilwoman Scott inquired how many developing permits have taken advantage of this last year.

City Manager Hughes stated in 2010, dollar amount wise for residential additions was about \$427.00 in savings. For commercial and office it was \$17,900. In 2011, the difference for detached dwellings and additions with a credit and without the credit was approximately \$23,000 and for commercial and office it was \$75,000.

Councilwoman Scott stated she feels we have a lot of empty homes right now and she really thinks we ought to do it again.

Councilman Timmer stated since we are already reducing it, why don't we drop it down to 25 so the deduction would be about the same.

Public Works Director/City Engineer Wong stated for residential, if you drop it 23%, then the reduced fee would be about the same as the fee last year.

Councilman Timmer stated this year it was 30%, is that what the Council is saying.

Mayor McCallon stated no, the dollar amount will be the same as last year, which is \$17,157 per unit.

Public Works Director/City Engineer Wong stated keep the same dollar amount for residential and then we will back calculate the percentage of reduction and then apply the same percentage of reduction to commercial.

Councilman Timmer stated then Public Works Director/City Engineer Wong is suggesting Council do the same for commercial because that is where most of the activity occurred.

Public Works Director/City Engineer Wong stated that is a question for Council. Does Council want to keep residential fee the same or also keep the commercial fees the same?

Mayor Pro Tem Lilburn stated she thinks Council is proposing to keep them the same, both of them.

Councilwoman Scott stated in 2010 it was 25% and it was 30% in 2011.

Mayor McCallon stated what he is proposing is we keep the same dollar amount as last year, whatever that percentage comes out to be.

Councilman Racadio stated for commercial also.

Public Works Director/City Engineer Wong stated if Council does that then you would have a difference percentage of reduction for each land use. He just calculated 23.3% percent but if Council wants to make it 23% reduction and apply it to the eight categories, categories 2 through 9. That would give a number pretty close to last year for residential. It would not give you the same number for commercial but you would apply the percentage and staff would use the percentage to calculate the fees for the different categories of land use. He would recommend Council adopt a 23% reduction for categories 2 through 9.

Councilwoman Scott stated 23% overall for both residential and commercial.

Councilman Racadio stated he wanted to reiterate he was wrong about the \$100,000. It is not going to be recouped; we are all going to have to end up paying for it.

Councilman Timmer stated if we focus on 2 through 9 and adding in the 11% for the regional, won't it go down a lot more then.

Public Works Director/City Engineer Wong stated the first category, regional circulation, cannot be reduced in order to be in compliance with Measure I Congestion Management Plan so we need to keep that the same.

A MOTION was made by Mayor McCallon, seconded by Councilwoman Scott, to extend the Limited-time Development Impact Fee Credit Policy for one year only to reflect a 23% reduction to both residential and commercial for categories 2 through 9. Motion carried, 3-2, with Councilman Timmer and Councilman Racadio dissenting.

10. Urgency Ordinance No. 366 of the City of Highland Declaring an Interim Moratorium on the Issuance of Any Land Use Approval or Permit for a Recycling Facility or Any Project Including a Recycling Facility During the Pendency of the City's Review and Adoption of Relevant Building and Zoning Regulations and Declaring the Urgency Thereof

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

Mr. Rick Martinez, owner of Amigos Recycling, stated he would like the Council to consider if a facility is going to be buying metals including brass, copper, aluminum and stainless steel, it would need to be located in the industrial area. When he came to the City of Highland it was a demand his facility be in the industrial area and he understood why but now there are facilities in the City and it is an eye sore. If the facility is buying cans, glass and plastics where they have just the containers, those if you can keep them from buying metals, those would be okay in other areas. He would like for the City to ensure the policies are intact to purchase non-ferrous metals. For example, when he purchases brass, copper or aluminum he has to photograph the person, photograph the material, thumbprint the person, write down their driver's license information and if the value is over \$20 it must be held for three days. This gives the Police Department an opportunity to start an investigation.

Mayor Pro Tem Lilburn stated she would like to thank Mr. Martinez for coming tonight and she did have an opportunity to visit Amigos Recycling Center. She also visited all the other facilities in the City of Highland as well. She was not aware of the laws regarding cameras and getting the person's information. Her concern is not so much the centers themselves but where they are located and how they are operating.

Councilman Timmer stated Mr. Martinez mentioned how he operates his business and follows the law regarding cameras and getting the persons information, is that required by State law or is this something you have done or did the City require you to do this.

Mr. Rick Martinez stated it was a State law passed in December 2008.

Councilman Timmer stated so if another facility is not following this then they are violating a State law.

Councilwoman Scott stated she was glad Mr. Martinez mentioned the law as she is aware of a facility in the City of Highland where copper has sold and it is not over \$20 and then person receives the \$20 in cash and does not have their photo taken or their information taken down. She too appreciates Mr. Martinez following State law.

Councilman Timmer asked are grocery stores exempt from this process?

Community Development Director Jaquess stated this ordinance would apply to all recycling facilities in the City, grocery stores are included.

Councilman Timmer stated State law allows for it to happen.

Community Development Director Jaquess stated we are not going to allow any more during the period of time with this ordinance until we bring back the ordinance updating our regulations.

Councilman Timmer stated we need to find out before we start adopting new legislations of what kinds of things.

City Attorney Steele stated that is the main reason to have a moratorium in place to allow us to do the research.

Councilwoman Scott stated she believes the shopping centers such as Albertson's and Food for Less are limited to the cans, glass and bottles but she would like to see the City include something about the portable recycling cans. These portables are for shoes and clothes are being used for a profit.

Councilman Timmer stated he believes that to be a different type of issue as those are donation bins.

Councilwoman Scott stated they are on the same type of order, can we include them.

City Attorney Steele stated we will take a look at it and report back.

Mayor Pro Tem Lilburn stated if they do not apply for a permit, they are not allowed to occupy the space.

Community Development Director Jaquess stated there are some in the City that have been approved but there are quite a few that are not approved.

Councilwoman Scott requested a copy of those sites that are approved to have the donation bins.

Councilman Timmer stated on Palm, south of Ninth Street, he does not consider that a shopping center or a grocery store. Do they come under the State law or do we give them a permit to be there. What criteria will we have? If he has a small store where he sells a couple grocery items is he now considered under State law where he can put up one of these types of facilities. A follow up question regarding the facility on Base Line and Hillview, they were permitted with the City, did they go through a CUP process?

Community Development Director Jaquess stated it is a permitted use by Code and goes through staff level review.

Councilman Timmer stated what criteria are listed for them to follow as far as fencing and screening.

Community Development Director Jaquess stated there are size limitations and operating conditions.

Mayor Pro Tem Lilburn stated what was this facility initially approved for, just bottles and cans as they clearly do have the metals stocked piled there.

Community Development Director Jaquess stated staff will need to look into that. It is his understanding they were limited to plastics, aluminum and glass.

Councilwoman Scott stated a question was raised at the Neighborhood Watch Committee regarding this property if there was an environmental report done for the gas tanks which are underground.

A MOTION was made by Councilman Timmer, seconded by Mayor Pro Tem Lilburn, to adopt Urgency Ordinance No. 366. Motion carried, 5-0.

ORDINANCE NO. 366

AN URGENCY ORDINANCE OF THE CITY OF HIGHLAND DECLARING AN INTERIM MORATORIUM ON THE ISSUANCE OF ANY LAND USE APPROVAL OR PERMIT FOR A RECYCLING FACILITY OR ANY PROJECT INCLUDING A RECYCLING FACILITY DURING THE PENDENCY OF THE CITY'S REVIEW AND ADOPTION OF RELEVANT BUILDING AND ZONING REGULATIONS AND DECLARING THE URGENCY THEREOF

11. Second Reading of Ordinance No. 365 for Zone Change 011-002 for Arnott Family Enterprises

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Councilman Timmer, to conduct a second reading of Ordinance No. 365 amending the City's Official Zoning Map to rezone the approximate 104 acre site to Open Space. Motion carried, 5-0.

ORDINANCE NO. 365

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, AMENDING THE OFFICIAL ZONING MAP AS ADOPTED BY THE CITY OF HIGHLAND (ZC 011-002)

12. Designation of the City Council of the City of Highland as the Successor Agency to the City of Highland Redevelopment Agency per the Provisions of AB X1 26

City Manager Hughes stated as the Council is aware there was an unfavorable Supreme Court ruling in regards to AB 26 and AB 27 dealing with Redevelopment. The Supreme Court held the State could in fact enact AB 26 but could not enact AB 27. At this point what has occurred, Redevelopment as we know it is over. There are a number of groups working on a fix to try to bring Redevelopment back. Effective February 1, 2012, Highland Redevelopment Agency ceases to exist as an Agency. Staff is recommending Council designate the City as the successor agency for Redevelopment. This will give the City control of the dissolution and disbursement of properties and revenues. There will be an oversight board created which will also have approval of all finances but staff feels the City needs to be in charge and not let it go to another agency.

Mayor McCallon stated when would the City be designated as the successor, when will this take effect.

City Manager Hughes stated February 1, 2012, unless the date is extended.

Mayor McCallon stated at this time we would take on the debt of the Redevelopment Agency.

City Manager Hughes stated that his correct as well as the assets, the successor agency would.

Mayor McCallon stated correct, the City.

City Attorney Steele stated it is in fact the City, however, the City's liability for debts of the agency is limited. So, that is the reason for the trust funds. The trust funds which will be created is the obligation fund and that is the source of payments for the agency's enforceable obligations going forward. This is how we will try to shield the City from liability for the debts of the agency. That is the other reason to use the City's housing authority for the transfer of the low to moderate housing funds. We again shield the City from liability for those funds and the activities of the housing funds. We are trying to insulate the City as much as possible but the City does have to supply the staff and the mechanics for wrapping this up.

Mayor McCallon stated in essence we will not be taking on the obligations of the debt.

City Attorney Steele stated that is correct. The fund which will be set up, the obligation retirement fund will take on those responsibilities for paying off the debt through a formula established by the law. The City would handle the mechanics of doing so.

Councilman Racadio stated the State will then take the bond proceeds and we will use the increments coming in. On the low to moderate housing they will take as much as they can and then the successor agency will make the payments. Does the successor agency also have to make sure they are in compliance with all the requirements?

City Attorney Steele stated all the Housing Authority would be responsible for would be enforcing affordability covenants and monitoring the programs in which are in effect now using the low to moderate funds to pay for it.

City Manager Hughes stated there is language in AB 26 dealing with LMI funds. One section states you can take over all the responsibilities but you have to give up all the assets. This is why we felt it was important to put it into the Housing Authority and not the City.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to adopt Resolution No. 2012-003 designating the City Council of the City of Highland as the Successor Agency to the City of Highland Redevelopment Agency per the provisions of AB X1 26. Motion carried, 5-0.

RESOLUTION NO. 2012-003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, MAKING AN ELECTION IN CONNECTION WITH SERVING
AS A SUCCESSOR AGENCY UNDER PART 1.85 OF DIVISION 24 OF THE
CALIFORNIA HEALTH AND SAFETY CODE AND TAKING CERTAIN ACTIONS
IN CONNECTION THEREWITH

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

Mayor McCallon stated SCAG released official the Regional Transportation Plan and the SCS for public comment. Schedule is to adopt it at the April 2012 meeting. SANBAG is finishing the process on the selection of new executive Director and also had interviews for general counsel.

Mayor Pro Tem Lilburn stated previously funds were allocated for the pilot program named Ride for Free for college students and the numbers have for exceeded the expectations.

14. San Bernardino International Airport Authority and IVDA

Councilman Racadio stated the new leadership has shown a sense of going very well.

ANNOUNCEMENTS

Councilman Racadio stated he would like to thank staff, Planning Commission and City Council as he did receive the copy of the letter to the Department of Housing and we are in compliance with the State Housing Element.

January 12, 2012
January 19, 2012

Chamber Installation Dinner
League Dinner Meeting

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:30 p.m.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor