

**MINUTES
CITY COUNCIL REGULAR MEETING
OCTOBER 9, 2012 - 6:00 p.m.**

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 McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Mayor McCallon and the Pledge of Allegiance was led by Mayor McCallon.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No reportable action

SPECIAL PRESENTATIONS

None

PUBLIC COMMENT

None

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, 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 – September 25, 2012 City Council Special Meeting
Approved the Minutes as submitted.
3. Minutes – September 25, 2012 City Council Regular Meeting
Approved the Minutes as submitted.

4. Warrant Register
Approved Warrant Register No. 549 for October 9, 2012, in the amount of \$304,216.51 and Payroll of \$72,725.51.
5. Treasurer's Report for August
Received and filed the Treasurer's Report for August 2012.
6. Request for a Special Event Permit (SEP-012-017) by Immanuel Baptist Church for its Annual Harvest Festival on Wednesday, October 31, 2012
Approved a Special Event Permit for the Annual Harvest Festival at the Immanuel Baptist Church facilities.

CITY COUNCIL PUBLIC HEARING

7. Appeal Application (APP-012-002) A Request to Overturn the Planning Commission's Determination and Allow for the Elimination of a Landscaped Median along Base Line Required by Conditional Use Permit (CUP-007-014) and Design Review Application (DRA-012-004) "Brightwater Senior Living" Project

Mayor McCallon opened the public hearing.

Community Development Director Jaquess stated the item before you tonight is an appeal of an action of the Planning Commission where they were considering a request to reconsider conditions of approval relating to a requirement for a median on Base Line in front of the project. This project itself is an assisted living and memory care facility with 68 beds of assisted living and 18 beds of memory care. It sits on a 5.2 acre site and is about 400 feet west of Church Street on the south side of Base Line. In its request asking the Council to reconsider, the appellant indentified a couple of main concerns. The first concern deals with the concern over potential impact to safety for guests and residents of their facility as they pull out and turn onto Base Line. Second point of concern is the issue of cost for the construction of the median and related landscaping. In the staff report to the Council, we summarized the Planning Commission's comments and they felt the left turn movements would be safe. They felt the landscaping would be a desirable enhancement. The General Plan did require a policy to require a median on Base Line, although the General Plan does provide some options for reconsideration under certain circumstances as well. They also recognize this might be the only median being built on Base Line, as the other medians up and down Base Line in the future might not ever be built unless they are city funded, because all the other property in this particular stretch of Base Line is already developed.

Councilwoman Scott stated when you say the only median on Base Line, you are saying from Church to Boulder.

Community Development Director Jaquess stated yes. There was a discussion about the in-lieu fee being an alternative, however, Commission had concerns that there was no guarantee that if the in-lieu fee was paid it would be spent specifically on this property, and it might be spent for a median someplace else in the City. Ultimately, the Commission responded to the applicant's request to have a clear answer, should a median be required or not, and it was a split vote on the Commission, a 4-3 vote.

Councilman Timmer stated one of the comments was made that we will probably never build it. Are we not collecting developer impact fees for medians on Base Line and in this particular area?

Public Works Director/City Engineer Wong stated yes.

Community Development Director Jaquess stated his comment was unless it was a City project; there would be no developer funded projects.

Councilman Timmer stated it implied there was no money available; we are collecting money for that purpose.

Public Works Director/City Engineer Wong stated the developer impact fee for medians are for medians at various locations which include Base Line. It would be up to the City Council to designate in the future where they would want to use the developer impact fees to build the median. This location is an eligible location too.

Councilman Racadio stated so the developer impact fee is collecting for a median from Church Street west to Boulder.

Public Works Director/City Engineer Wong stated the entire Base Line.

Councilwoman Scott stated on page 34 you have a diagram of what the median is going to look like, and she can't put two and two together with that and the map.

Community Development Director Jaquess stated we can project the image on the screen.

Councilwoman Scott stated yes, which would help as she wants to see the ingress and egress from both eastbound traffic and westbound traffic that anyone wanting to go in to see someone or come out.

Community Development Director Jaquess stated the driveway that would be used for access is the one on the east side of that picture. The other driveway would be mostly for emergency access because it's a little steeper.

Mayor Pro Tem Lilburn stated the purpose of the median is for what.

Councilman Timmer stated so the median doesn't extend all the way to the east driveway.

Councilwoman Scott stated no, it doesn't even cover the entire project property.

Community Development Director Jaquess stated it was pulled back as a result of some negotiation actually with engineering but to provide better left turn movement out of the property.

Public Works Director/City Engineer Wong stated the existing condition of approval, unless it is amended, requires the median to be extended all the way from Marigold to east project driveway. It actually is longer than what is shown out there. However, the applicant has raised a concern that left turn vehicles is better to have a place for each vehicle to accelerate or maybe even to wait until west bound traffic has gone down. With that concern, staff has agreed to pull back the limit of median so that there is some space there for a vehicle to pull out of this project.

Councilwoman Scott stated so the vehicle will come out of the driveway, going west, and get into that supposed lane. How long is that? Say they have a Christmas event and you've got several cars coming out; how many cars can actually come out at one time and get in that little lane before they get into the main traffic, because they are going to be getting into the main traffic in the fast lane.

Public Works Director/City Engineer Wong stated first, you don't have to use that center area, you can just go into the through traffic if you feel comfortable enough to merge and there is adequate distance to allow you to do that.

Mayor McCallon stated he would like to have the applicant make a presentation.

Mr. Steve Yates stated he is present with his partner Mr. Randall Corwin and they are the owners of Brightwater Senior Living. Really quickly he would like to tell the story as to where the attention to the median came to play. Randall and he purchased the property about a year and half ago and they were walking around the property and standing out on the curb and he also is in the heavy civil construction business. His family has been in road construction for 30 odd years and they work in municipalities and situations much like this and highways so he has spent a good portion of his career specifically dealing with traffic and traffic flow so he thinks he has a unique way of understanding of this in addition to the senior housing. So standing out there out on the sidewalk, and understanding the dynamics that happen in senior housing with resident population that is frail, and understanding also being a CDL class A driver and having driven all sorts of vehicles from vans to semis, he really thinks he has an acute understanding of egress and ingress, both on the design side and the application side. They began looking at the situation and address what they felt would be some issues and he would love it if you could go back to the drawing. Mechanically what they are concerned about here is this driveway is at a super elevation pointing downward.

Once you enter the roadway, roadway is at a reverse slope elevation going upward, so you have a downward and then upward motion getting out into traffic. This road has a unique topography. As you come up the road, from the time the vehicles become visible you have approximately five to seven seconds and he understands there have been traffic studies done, but looking at the types of vehicles we are going to use and the clientele, we are taking into consideration that one needs to rush into the turning lane. This turning lane is 12 feet wide, which is typical for a road with 11½ to 12 feet wide. So if you take a longer vehicle, you're taking it across the road and now you need to straighten that vehicle out and get it into position to then accelerate with the traffic going downhill. So let's talk about the downhill traffic. Base Line speed limit is 45 or 50. He spoke with a few people that live up there, and he is pretty sure that most people go down that a little faster than that. It is quite a grade and tends to pull you down the hill as downhill slope tends to do. So we can safely assume most people are going 50 or more down that hill. So now we are taking a van full of elderly to get into position to then accelerate into traffic going downhill, and by the time they get into position, there isn't much acceleration left. From the senior housing aspect, you are very careful in handling your clientele while loading them into the van, which is a 16 person van with four spots for wheelchairs. So then to add to the challenge of merging onto traffic in this, we began to see that this was not appropriate for our particular application. Currently from our experience exposure, his specifically, in the road construction business and in the senior housing business, it is their professional opinion that this is not something that they don't want to deal with for their clientele and their families. He is not sure if Council has read the notes from the meeting but the engineering staff had also recommended that the Planning Commission delete the requirement based on their unique topography and clientele. They are asking for that consideration.

Councilman Racadio stated who asked that it be deleted.

Mr. Steve Yates stated yes according to the notes from the Planning Commission meeting, City Engineer Wong had discussed further, in light of the applicant's consideration, and has reconsidered the need for this median. It is going beyond to have a median on Base Line. It's a unique feature in Highland and he believes it refers to the fact that it would be the only one kind of out there. This is referring to City Planner Mainez who stated he doesn't want to make it more difficult in getting in or out, not only for clients who can still drive but family members who have come to visit, and if there is nothing the City can do to restrict the hours specifically to egress and ingress. Staff's recommendation to the Planning Commission was staff anticipated this discussion and how the Commission and the City Council may credit the General Plan, that there is not a typical street section and aside from safety, there is no need to have a median there and this is why staff is supporting the applicant's recommendation that the Commission delete this requirement.

Councilman Racadio stated in the minutes Chairman Hamerly raises the issue, if safety is a concern why don't just have right in and right out. He would like to hear that discussion.

Councilman Timmer asked when did staff recommend reducing the length of the median because initially he recalls the median going. Did the Planning Commission review what is shown here or did they review what was longer, all across the frontage of the property?

Public Works Director/City Engineer Wong stated they understand the original condition required a longer median, they were also shown the shortened median so that decision was made based on the shortened median.

Councilman Timmer stated in the progression of the design of the median, when was it pulled back to the shorter distance. The Planning Commission was still under the impression that it was the full frontage of the property.

Public Works Director/City Engineer Wong stated when they first approved the project, the Planning Commission considered this project in two instances. The first time was when they approved the project with a longer median. During this meeting the applicant made some statements asking the Commission to maybe in the future to allow staff to work with them and provide some flexibility on the design of the length of the median. After the first Planning Commission meeting, staff worked with the applicant and staff came up with this shorter version of the median but the applicant, for other reasons, would rather see the entire median be eliminated so they came back to the Planning Commission a second time. The second time the Planning Commission looked at this shorter version and they still, with a 4-3 vote, think the median should be built.

Councilman Timmer stated he had seen there was discussion on leaving it the full length instead of modifying it to a shorter length by the Planning Commission.

Public Works Director/City Engineer Wong stated they didn't take any action on whether or not the median should be kept as the original condition or shortened. They just denied the request to remove the median entirely from the condition.

Councilwoman Scott stated the median on the east end to the driveway where everyone is going to ingress and egress out of that one driveway, how many feet are we from the point of the median to the driveway.

Public Works Director/City Engineer Wong stated from the clearest point to the west edge of the driveway is about 50 feet.

Mr. Steve Yates stated the median length was never the full length of the property. There was always room to pull out and turn. When you first addressed the acceleration lane, we talked about shortening it and they came back with a shorter version of the median which we went out on site and laid out. More acceleration lane is better; it allows for more room to get into the middle lane and speed up and merge with traffic.

Mayor McCallon stated what is wrong with right in/right out with a median going completely across the property.

Mr. Steve Yates stated there were some comments from Planning and he has to be honest, he can't remember exactly what the reasoning was for that.

Mayor McCallon stated it seems to him it would resolve the whole issue, if we just had right in/right out.

Mr. Steve Yates stated we would be asking clientele to go down, take a right and goes down to find a place to u-turn and come back. He just wonders if the median doesn't exist then one would simply do what one does at the other areas of ingress and egress and merge into the median.

Mayor McCallon stated it seems to him if safety is the primary issue that right in/right out would be the safest approach.

Mr. Steve Yates stated he can't argue that there aren't certainly times for that but he does not know if it is absolute. Whereas he thinks one could argue that a left hand acceleration option is a better option.

Councilwoman Scott stated you have 68 in house plus 18. How many staff do you have that will be there 24/7 with their vehicles at work.

Mr. Steve Yates stated we have 58 full time employees and those will be broken up into shifts. We have day shift and night shift and he would have to look to see exactly what those ratios are, approximately 20 per shift. It is a 99 unit building and we anticipate occupancy being around 120 residents.

Mr. Randall Corwin stated he is with Brightwater Senior Living. He was reading through and something caught his attention. He didn't have an opportunity to ask staff this question. He found a reference from a staff member and it indicated that the location of the west entrance has been shut down. Originally we intended to have two locations for residents and staff to go in and out of but one of the issues that was even apparent to us is that regular ingress and egress is so close to the crest that there is a bit of visibility issue as you look to the west. As a result that access point was deemed for emergency personnel and fire personnel. He found the notes this morning for access Station #2 and he is assuming Station #2 is east and will be traveling westbound to access this entrance. Now, of course the east entrance is accessible to them but only they have access to the west and Assistant Planner Kelleher commented and indicated that a median would not allow for any break for this type of access and the Fire Department would not be comfortable with this. This goes along the same lines as this question about right in and right out and the comments from the Engineering Department. He would like to also make a note of that because he thinks it goes along this same point that the Planning Department and the Engineering Department have made comments that not having a median provides more flexibility, it gives you more options. One of the questions posed is why don't you just put the median up and everyone do right in/right out. His question is, is that necessary because without a median it gives more flexibility and from that, more flexibility because we brought this issue up as a safety issue is that when you pull out and you're essentially making three moves, you're going down, you're going up and then squaring off and then final move is to move into traffic. Without a median, as the Engineering Department has pointed out, it provides a lot more flexibility. Therefore, his opinion and view of right in/right out is sure, that's the safest way to go. But to give the people coming and going the best option and also considering safety and balancing those two issues, eliminating the median accomplishes that. Taking a right and another right on Church isn't necessary. It is very clear and he has reread all the comments that Engineering and Planning have made and they see the median as not necessary. He didn't know this and he didn't have a chance to follow up with Planner Kelleher but it states the Fire Department doesn't think it's a good idea to block the west entrance.

Mayor McCallon stated he assumes when they bought the property, they looked at our General Plan which called for a median down there and that you were aware of it.

Mr. Randall Corwin stated he is sorry to say that he did not know that and when it came to their attention and they were physically standing on the property the first thing they said was this is odd. How is this going to work? They looked at the crest of the hill, they looked at topography and considered the egress, the ingress, the angles, and they put a car out there and videotaped themselves and timed it. They are not engineers, they are just citizens and they know their group. He has been present for the building of over 100 of these communities and has never contested a median.

Mayor McCallon stated so when you buy a piece of property you don't look at the General Plan or the conditions of approval for the project.

Mr. Randall Corwin stated we did, and he doesn't know how he missed it, but he took pause and said they can do this but he doesn't think it's safe. Cost is a consideration. This has been a very challenging project, not so much in the City of Highland but in California in particular there are a lot of fees. He recognizes this certainly can be a discussion but he doesn't think it's the discussion here, he thinks this discussion is about safety.

Mayor McCallon called for any speakers in favor of or in opposition to this item.

Ms. Joanne Smith stated she resides on Marigold and her back fence is right next to their project. She has to ingress and egress onto Marigold at all times. When the westbound traffic is coming it's rarely at 45 miles an hour and it's up. So as she looks to her right, she doesn't see the traffic at the stop lights, she sees it after it gets to almost their driveway. She doesn't always have a safe exit. The same thing, the hill coming up is steep and there is a dip and you miss many cars and that median is more of danger than a safety in her estimation because it is too crowded with fast traffic going west. She thinks it would behoove the Council to take a look at that area and watch that traffic flow. She does not feel it's safe and also if it has any vegetation on it then what have we got more vision problems.

Mayor McCallon stated the nice thing about being on Marigold is you can come out on Church Street and then come out to the light and make a left to go down Base Line.

Ms. Joanne Smith stated yes, she can but she lives three houses in, why should she drive another mile. She is not in favor of it at all.

Councilman Racadio stated is Ms. Smith's concern that the median would further hinder her view or that the cars stacking there.

Ms. Joanne Smith stated the cars stacking.

Councilman Racadio stated the median would cause the cars to stack there whereas if it wasn't there they could spread out more.

Ms. Joanne Smith stated she sees no reason for a median there.

Ms. Deborah Tarver-Waters stated she resides in Hidden Creek community and a lot of time she does not take Church and Base Line to go west. She will go down Marigold way and there is a lot of traffic and sometimes it's coming so fast. She thinks if there was a median there it would just cause more problems. She wouldn't be able to go west, the west she understands it, anymore she would have to go around. She is not in favor of it for safety and the traffic is getting more congested and with a median it would be more difficult.

Mayor McCallon stated we have a letter from Ms. Maryanne Perlmutter who would also like to speak in opposition to the appeal.

Ms. Maryanne Perlmutter stated she resides on Fletcher View Drive. Her house, the backyard, faces Base Line by Church Street and Marigold. She has to say in the 8 years they have lived here, there have been numerous accidents. We have been woken late at night and all hours during the day with horrible sounds of crashing metal and glass. It has been a problem and now we are talking about increasing volume and traffic. The volume will increase dramatically when you have an institution of that size with staff and visitors. People do speed on that road and going down at 45, people do go 60. Now she disagrees with people in that the median would make it worse. She believes it would make it much better. The purpose of medians is to control traffic and to control speed. For these reasons she thinks it would be advantageous to have a median there. There is a median in East Highland Ranch and she understands there will be more down the road.

Mr. Randall Corwin stated speed seems to be an interesting topic here and they were just out there this afternoon. People do speed and he thinks people do everywhere but particularly here with the hill. He is not sure how a median can help control speed, because whether a median exists or not cars that are not using the median are going to be flying by on either side.

Mayor McCallon stated one of the traffic calming things to do is to put in a median. It slows traffic down. The public hearing is now closed.

Councilman Timmer stated when he first read it and talked about medians, it seems like we talk about medians quite often anymore. This one however is a little different; he knows we all drive that road many times. When staff was talking about putting a median there he is assuming the median would go all the way from Marigold up to Church Street so it would eliminate that problem. Now we have additional driveways coming out below the crest of the hill where you can't see coming traffic from the east or really with the dip you can't see it coming from the west as well. He would think we would want to, and he can't understand why

staff backed off on the median, but he thinks we are creating potentially a contact point with traffic coming off that hill and going up the hill. He would think we would want to have the median go all the way to the end of the property to eliminate people making that left hand turn across traffic, and to address the Fire Department issue of access we can do the same thing we were going to do on Base Line for St. Adelaide's. We are going to have a left hand turn lane so the fire engine coming from Station #2 could still turn into the eastbound exit but you couldn't have people making a left across traffic going down the hill. He thinks we are creating a major contact point and he knows there have been accidents there in the past. He has a real hard concern with, not with what the Planning Commission did, but with what we did to shorten the length of that. He thinks it should go all the way to the end of the property.

Mayor McCallon stated he agrees with Councilman Timmer. He thinks with the intensity of the employees and those that will be visiting the residents we are going to create a nightmare if we don't have the median go all the way to Church Street and have a right in/right out only.

Councilman Racadio stated this would eliminate left turns out, that's what we would do.

Councilwoman Scott stated going all the way to Church with the median, it's the same kind of engineering the City of San Bernardino does. You've got two other large properties to the east, so you're going to force those people to always come out and make right hand turns. Now, if they make a right hand turn, then they are going to have turn right on Church. That's going to take them down to school before they can turn around or go down to Greenspot. We have to do better than that. Regarding the landscaping on the median, one of the concerns that one of the speakers had was the visibility, she has the same concerns. You have hardly any visibility now and you're going to put a median in and then you're going to put landscaping on the median. She thinks this is not acceptable.

Mayor Pro Tem Lilburn stated during the planning of our General Plan and putting the medians up, she is a median person, she likes them. She thinks it helps with the traffic control and the beautification but when she looks at this project not as a planner or an engineer but as a regular every day person. She kind of thought this median is pointless. It wasn't controlling traffic and she was trying to think if we put a longer one and was going right in and right out only, when people get out, where are they going to be going. She's not really sure what the answer is but she just knows that she is not really crazy about this median right here because it doesn't help with the traffic control nor does she think it's big enough to help with the beautification.

Mayor McCallon stated we have a real problem with that area and he thinks putting the median in, with this project going in, it's going to get even worse. The traffic, the visibility and with left turn coming out of there plus the existing traffic.

Mayor Pro Tem Lilburn stated it sounds like we're not really going to build anytime in our lifetime are we going to see medians there because there aren't other projects being developed so we don't have the DIF funds to build.

Mayor McCallon stated he is all for putting the median all the way down but he thinks the critical part is from Marigold to Church Street because of the visibility issue.

Councilman Racadio stated the people coming west on Base Line aren't necessarily stopped at the intersection at Church and Base Line, some are going into that intersection already at 45 to 50 miles an hour so when they get on the west side of Church Street going downhill they are really picking up speed. The potential of accidents there seems to be pretty substantial and enhanced by this project. He would like to ask a question to the City Attorney, what are our options here. Is our option only to approve the median as it's proposed now or deny that median? He would like to see more medians, but is that an option for us?

City Attorney Steele stated because this is here on an appeal you have sort of an up or down option on the appeal which has been filed. As he understands it, the existing condition does not consider a full length median, so to amend that condition we would have to send it back to the Planning Commission with some direction and to give notice obviously that this amendment is being considered.

Mayor McCallon stated what is being said is if it is the Council's desire we can deny the appeal and then ask the Planning Commission to reconsider the length of the median.

City Attorney Steele stated your options under the code are to grant, deny or to refer back to the Planning Commission. So in this case you wouldn't actually deny, you would refer back to the Planning Commission with direction as to what Council wants to occur with this condition and give them the option to rewrite the condition.

Mayor McCallon stated we wouldn't take action on the appeal we would just send it back to the Planning Commission.

Councilwoman Scott stated most of the concern has been the speed of the traffic going west and she doesn't see where the median is going to help, enhance or make any safer the westbound traffic but she does see where it is going to impact the eastbound traffic. Now, if you send it back to the Planning Commission and staff tells them the Council wants it to go all the way to Church Street, are we going to notify the people on the eastside of this property up to Church Street that they are going to be affected when they want to come out of their driveways?

Mayor McCallon stated if the Council wants to send this back to the Planning Commission there would be another public notice and then the property owners affected would be notified.

Councilman Timmer stated the General Plan already calls for the median to go all the way to Church. All we would be asking the Planning Commission to do is to extend it to the very east of this particular property of this project so they wouldn't be able to make a left hand turn out. He thinks if we send it back to the Planning Commission we would ask them to look at extending the median to the extreme east end of this project which would then eliminate the ability to turn left in there. He's not sure how to answer the fire truck issue.

Councilwoman Scott stated as long as you're on safety, will you tell her how the landscaping is going to make that median safer.

Councilman Timmer stated normally on medians the first 100 feet is where you put the cobblestones and the landscaping is further down in the system but he is sure staff will be looking at sight distances and what kind and how much landscaping would be approved

Councilwoman Scott stated since it will be Station #2 and Station #2 is east of this property, Station #2 will come west on Base Line and then how are they going to get into this emergency only because the median goes down past there.

Councilman Timmer stated they would use the east entrance which is a main entrance.

Councilman Racadio stated he sees the challenge here is the left out. That creates a real potential danger. He thinks it ought to be referred back to the Planning Commission and let staff work on this. However that is best done that will allow left in, right in, right out but no left out. That's the only issue there as a concern and he sees a concern that we have to have some way of letting public safety in on a left in but it's the left out that causes a problem.

Mayor Pro Tem Lilburn stated she doesn't think if the median is extended all the way at that point she doesn't think landscaping is an issue because there is no left turn out. We need to get these guys in business and so if it's going to be referred back to the Planning Commission she would recommend we really get this going so they can start their business.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to refer this item back to the Planning Commission with the concern of extending the median to the east end of the project property which will eliminate the ability to turn left and with the direction of a right in, right out including the ability to turn left coming westbound. Motion carried, 4-1, with Councilwoman Scott dissenting.

CITY COUNCIL LEGISLATIVE

8. Amendment No. 5 to the Waste Disposal Agreement with the County of San Bernardino

Public Services Manager Morgan gave a brief review of the staff report.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve and authorize the Mayor and City Clerk to execute Amendment No. 5 to the Waste Disposal Agreement between the City of Highland and the County of San Bernardino. Motion carried, 5-0.

9. Ordinance No. 371 Establishing a Fee and Service Charge Revenue/Cost Comparison System and Resolution No. 2012-037 Establishing a Schedule of Fees and Charges for City Services and Resolution No. 2012-037 a Resolution of the City Council of the City of Highland Establishing a Revised Schedule of Fees and Charges for City Services

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

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to:

1. Adopt Ordinance No. 371 establishing a fee and service charge revenue/cost comparison system; and
2. Adopt Resolution No. 2012-037 establishing a schedule of fees and charges for city services. Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 371:

ORDINANCE NO. 371

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, AMENDING CHAPTER 2.36 ("FEES AND SERVICE CHARGES") OF THE HIGHLAND MUNICIPAL CODE TO PROVIDE ADDITIONAL CATEGORIES OF FEES AND CHARGES, AND TO UPDATE AND AMEND OTHER PROVISIONS AS APPROPRIATE

which title was read.

RESOLUTION NO. 2012-037

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, ESTABLISHING A REVISED SCHEDULE OF FEES AND CHARGES FOR CITY SERVICES

10. Request for Financial Assistance from the City of Highland to Secure Delinquent and Current Development Application Fees Related to the "Greenspot Village and Marketplace Specific Plan" Application and Environmental Impact Report Professional Service Agreement in the Estimated Amount of \$100,000 (SPR-006-001) (APN: 1201-341-10)

Mayor Pro Tem Lilburn stated she would like to excuse herself from this item as she is in the middle of a business transaction with one of the silent partners.

Mayor Pro Tem Lilburn left the dais.

City Council took a brief recess at 7:10 p.m.

City Council reconvened at 7:12 p.m.

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

City Attorney Steele stated we will take Council's direction on this but will note the one thing that is not provided in the staff report but is a fairly obvious point is the proposal is to pay on the pulling of the permit. The question is, what happens if the permit is not pulled, when does the City get paid back. So we will have to provide in the agreement for that eventuality if the project is denied or the project does not go forward. We will have to put in a reasonable time limit to have the City reimbursed if for some reason a permit is not pulled in a reasonable time.

Councilwoman Scott stated she wants this project and this development to go. However, the past due balance owed to the City of \$51,340 since 2009 so she would like to inquire if there is any interest or late fees attached to this amount. This \$101,000, she would like to make certain that the term of the loan would either be a milestone on the project or an 18 month to 24 month which ever comes first. She does need to know if the City is going to get interest because that money is from taxpayers and it is not right that it goes to someone tax free and interest free.

Councilman Timmer stated the recommendation from the Finance Subcommittee was to be included in this agreement would be interest on the money that is loaned at the LAIF rates.

Councilwoman Scott stated yes but she is referring to the \$51,340 from 2009.

City Manager Hughes stated there is no retroactive. If the Council were to go this direction, City Attorney Steel will draft an agreement and the appropriate documentation to place the lien on the property and then come back to the Council for approval. This is for Council's approval of the concept.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to consider Greenspot Village and Marketplace, LLC's request, contingent on City Attorney review of a current Title Report and preparing a Loan Agreement and related documents (such as a Deed of Trust). Motion carried, 4-0, with Mayor Pro Tem Lilburn abstaining.

11. Impacts to Local Funding as a Result of the Federal Budget Control Act and Budget Sequestration

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

Mayor McCallon stated he thinks in addition to the funding issues is the significance of the jobs that will be lost if sequestration occurs. It is wider spread than just the CDBG and the funding issue.

A MOTION was made by Councilwoman Scott, seconded by Mayor Pro Tem Lilburn, to:

1. Adopt Resolution No. 2012-038 opposing further cuts to discretionary spending that further impact core local government programs; and
2. Authorize the Mayor to send a letter to Congressman Jerry Lewis, Senator Barbara Boxer and Senator Diane Feinstein requesting reform to the pending federal sequestration and to include job issues in the letter. Motion carried, 5-0.

RESOLUTION NO. 2012-038

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, OPPOSING FURTHER CUTS TO DISCRETIONARY SPENDING OF CDBG, HOME, COPS AND BYRNE/JAG PROGRAMS THAT FURTHER IMPACT CORE LOCAL GOVERNMENT PROGRAMS

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

Mayor McCallon stated at SCAG's last meeting they had the Sheriffs, the DA's and the Probation staff from each of the six counties come and speak about the impact of 109, the realignment and the impact it is having on Southern California.

13. San Bernardino International Airport Authority and IVDA

Councilman Racadio stated the Airport is accepting a grant from IVDA, not to exceed \$16 million, for the constructing of the facilities.

ANNOUNCEMENTS

November 8, 2012
November 17, 2012

League of California Cities Thalman Dinner
Silver Jubilee – 25th Anniversary Celebration

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:29 p.m. in memory of Truman Sinclair, Sandra Lynn Breault and Dan Stephens.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor