

**MINUTES
CITY COUNCIL REGULAR MEETING
JANUARY 22, 2013 - 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 Paul Reed of Immanuel Baptist Church 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 Reportable Action

SPECIAL PRESENTATIONS

None

PUBLIC COMMENT

None

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Councilman Racadio, to approve the consent calendar as amended with Councilman Timmer abstaining from Item #2. Motion carried on a roll call vote, 5-0.

City Clerk Hughes stated for clarification, Councilman Racadio made a Motion regarding Item #11 from the January 8, 2013 minutes and it died. This Motion was not included in the minutes, therefore, the Minutes will be amended.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.

2. Minutes – January 8, 2013 City Council Regular Meeting
Approved the Minutes as submitted.
3. Warrant Register
Approved Warrant Register No. 555 for January 22, 2013, in the amount of \$1,282,572.42 and Payroll of \$93,229.68.

CITY COUNCIL PUBLIC HEARING

4. MCA-011-006 – Land Use and Development Code Amendment related to the Density Bonus and Reasonable Accommodations Ordinance

City Manager Hughes stated staff would like to request this item be moved to February 12, 2013.

Mayor McCallon opened the public hearing and continued it to February 12, 2013.

A MOTION was made by Councilman Timmer, seconded by Mayor Pro Tem Lilburn, to continue this item to the February 12, 2013 meeting. Motion carried, 5-0.

5. Development Impact Fee Annual Adjustment

Public Works Director/City Engineer Wong stated this item deals with two resolutions. One resolution is the annual adjustment of Development Impact Fee except the Quimby Act Fee and the other resolution deals with the annual adjustment of the Quimby Act Development Impact Fees. Staff is asking that Council consider both resolutions. In general, the nine categories of Development Impact Fees have a factor that would be applied to each of them to come up with the new amounts and this has been done every year. These adjustment indexes have been building into the Development Impact Fee resolutions and we are just simply applying these indexes to come up with the new amount. For example, the single family venues will have a slight reduction after these indexes have been applied. The amount would have come down from \$19,867 to \$19,791 which is about a .4% reduction in general. The Finance/Personnel Subcommittee discussed this and because this is kind of a mechanical adjustment, the subcommittee simply recommends the Council approve these adjustments. Later on, as a separate staff report, you will be considering a further reduction of these amounts that you did in the past three years. This item is just simply approving the mechanical adjustments based on indexes.

Mr. John Heimann, Director of Government Affairs for the Building Industry Association, stated regarding the impact fee adjustment the BIA is obviously supportive of 0.4% decrease for single family detached homes as noted in the staff report. Needless to say concerning today's economic climate, they would like to encourage the City Council to adopt the proposed DIF schedule as noted in the staff report. With regards to the DIF credit policy, the BIA not only supports an extension of the policy through 2013 but would like to encourage the City Council to enact this policy through 2014 as well, keeping the DIF at \$17,157.55 per unit for a single family detached home. This additional time extension provides a good level of confidence to existing and prospective builders that the City of Highland will not continue to revise DIF rates in the middle of a typical on-time process and/or during construction.

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

Councilman Timmer stated this is pretty much an automatic process to go through and he would move the Finance Subcommittee's approval.

City Manager Hughes stated while these are going down this time, they will also eventually go back up again. As the economy goes up and down and the CPI ebbs and flows, the potential is next year this may actually flip and be a positive number. So he just wants to make sure the Council is aware of that and we do adjust these based on indexes that do fluctuate.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to approve the Finance Subcommittee's recommendation to adopt Resolution 2013-002 and Resolution 2013-003. Motion carried, 5-0.

RESOLUTION NO. 2013-002
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. 2013-003
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 LEGISLATIVE

6. Limited-time Development Impact Fee Credit Policy

Public Works Director/City Engineer Wong stated for the last three years the City Council also considered a special policy called a Limited Time Development Impact Fee Credit Policy which basically says that if a project pays a Development Impact Fee within that year they would get a further reduction of the fee payment. The intent of that policy is to stimulate development activities so that projects can hurry up and move forward so that they can have some cost savings. So in the past three years the Council always gives a one-year policy which is applicable to the particular year only for projects that pulled permits within that year. For 2010 the reduction was 25%, for the year 2011 the reduction was 30%, and for 2012 there was a reduction of 23% further from the amount after being adjusted by the indexes. These reduction percentages apply to eight out of the nine categories of infrastructures. The only category that you did not give further reduction is the regional category because according to Measure I Development Nexus study we have no authority to reduce that amount. Otherwise, we would not be in compliance with Measure I Nexus study. This percentage, 25%, 30% and the 23%, applies to eight out of the nine categories. What the Council did last year, was the Council didn't just pick a number for further reduction. What the Council said was, okay you want to make last year's amount similar to the year before that, so we back-calculated that amount and it became 23.3%. If the City Council wants to do the same thing this year and say okay, let's just keep the fee the same as last year, which is the same as the year before, then you would be basically providing like a 22% reduction applicable for one more year. Now the City Council does not have to provide this further reduction. It is totally in their discretion, and you did it for the last three years to stimulate construction activities. You may choose to do that, or you may choose not to do that, or you may choose a different percentage for further reduction. One thing that staff needs to bring to your attention is that Development Impact Fees are the major source of funding for infrastructure improvements, and as you know, we have several major infrastructure projects that have pretty much obligated all the local circulation and regional circulation development impact fees. We really don't have anymore of these kinds of impact fees for future projects, and we relied on development impact fees a lot to provide local matching funds for grant applications. So if you don't have the ability to provide matching funds you don't even qualify to apply for grants. So there are critical needs for development impact fees. But on the other hand, collecting a small amount of fees does have some effect of helping out private projects that could help the overall development industry. It has its good and bad and is strictly a Council decision for this year.

City Manager Hughes stated he would like to point out that when the City Council started this policy of reducing the Development Impact Fee we had this tool that was called a Redevelopment Agency. We could use the Redevelopment Agency to help bridge the gap between reducing the development impact fee and we could infuse the projects with RDA funds. We no longer have that tool. With the loss of Redevelopment Agencies, we have lost that ability to help offset these costs to help stimulate these projects, so Public Works Director/City Engineer Wong is absolutely correct. We have a very aggressive capital improvement program going right now, and the majority of our Regional and local circulation funds will be used and we don't have RDA anymore to backfill that money.

Mr. Matt Livingston, Glenrose Ranch, stated it is a tough decision because on one hand you're going to be out X amount of dollars and on the other hand you could help stimulate some development activity. From their perspective, they spoke about this at the Finance Subcommittee, it helps set a margin. The market is a much more powerful force, but it certainly, as things get better it could push them over the hump to start developing sooner than later. The tricky part is with one year extensions, which you have been considering each year, it doesn't really help them because even if they started pushing as fast as they could, they would probably pull 12 building permits this year. So next year they would be right back where they were. So they wouldn't start the project till they could cover those future increases. So if the Council were to do something, and he thinks the market is the big reason that these reductions have been done much over the last couple of years, but a part of it is it is just too short of a time. There is so much lead time needed to build a house. Doing it one year at a time is a great gesture and they all appreciate it, but to really get some economic activity it probably needs to be two years or longer. It is a tough trade-off. There is a real need for these funds but he would say that there has been very little activity, so there has been basically nothing generated from them. So if it kind of helps that the margins, there will be more houses being built and more to charge a lower fee against. This is off the topic, but the in-lieu fee is kind of why it's been a higher priority for himself and the development community because that is affordable housing fee. Those funds have a purpose, but it's not the City's infrastructure and other items that the citizens of Highland will have to fund one way or another.

Mr. Camille Bahri, Sunland Communities, stated he is here in support of the reduction of the DIF, if you could extend it at least one more year. This give a little bit of a boost very much needed for the residential industry to come back and invest in the community. For the past three or four years you have done this he has never spoken on this item because he understands the dilemma of where the replacement funds would come from, so it is a tough argument. They understand funds have to come from somewhere for the infrastructure that you really need to provide for the community. So for that if the vote is no, he will be sad but will still be friends.

Mayor McCallon inquired as to how many permits were pulled this past year?

Community Development Director Jaquess replied he does not have an exact number but it's probably in the 15 to 20 range.

Councilman Racadio stated he hopes that staff will bear with him. Matt, John and Camille probably heard him talk about this in the Finance/Personnel Subcommittee. He voted for this the last two years, but he's always had a concern about it. His concern is really basic and that is, if you believe in Kings in Economics, that the Government will create jobs and help the economy which we've been working on for the last four years, then this works. He doesn't believe in it but he's going along with it to help out. But now that we don't have redevelopment, we don't have any way to backfill those projects that aren't going to be built. In fact, what we are going to do is we are going to ask the residents to make up the difference with their property taxes and we had a discussion about the \$2,700 per unit. It's still going to bring in the other \$15,000. He doesn't think that is going to make the difference. He thinks the difference is going to be when jobs are created and the economy starts to grow and people will want to be moving. He doesn't think what Council does will create jobs, he thinks the private sector will create jobs and create an economy that will be one that will be conducive to building houses and selling houses. His position on this is that he appreciates talking about this item and they had a full discussion at the subcommittee meeting. There were arguments, and he appreciates the arguments against what he is saying, but his position is that he thinks we ought to give a future credit even though one unit is about \$2,700. This will still mount up and the principal is, he doesn't think it will make a difference. He is opposed to the credits this year.

Mayor Pro Tem Lilburn stated she sees under the recommendation that the Finance/Personnel Subcommittee will be providing its recommendation and they spoke about it. Was this the consensus of the subcommittee?

Councilman Timmer stated the recommendation of the subcommittee was to deny the credit process or we discontinue the credit process.

Mayor McCallon stated the recommendation before the Council is whether we would like to continue.

Councilwoman Scott stated this thing she turned into was to encourage timely construction. If you have timely construction, then you have employment. You have employment with the contractors and the people they hire. It certainly gives staff more employment with the permits and checks and so forth. In these economic times she knows we don't have our RDA funds but she also knows that several meetings ago they put another \$11 million of funds on infrastructure on Greenspot. So when you have development it's not just houses and families that will require services, and that is a concern, but is also development of businesses which are jobs. She doesn't think it will hurt one more year.

Councilman Timmer stated back to Councilwoman Scott's point regarding the \$11 million. That was bonded money that we had through redevelopment and it was earmarked specifically and we can't spend it somewhere else. The other issue is of the \$17 million or the \$19 million, nearly 40% of that is a regional stuff which we have absolutely no control over at all, and SANBAG controls that formula. So we are only talking about half that amount we are impacting. The rest of it is school fees, sewer fees and all the other fees that we have absolutely no control over. He has concern also that by having a credit, the existing residents are going to have to pay for this infrastructure to make up the difference in the loss of revenue and that is a big concern to him.

Councilwoman Scott stated she knows someone mentioned raising property taxes.

Councilman Racadio stated no, it will come out of property taxes. We are going to have to pay it one way or another.

Councilwoman Scott stated alright, she misunderstood.

Mayor Pro Tem Lilburn stated if we lower these, eventually we are going to have to bring them back up in alignment. So when we do see the construction that those coming to pull their permits, they don't do it in a timely manner, they will have a false sense that's its going to be this amount when we aren't going to be able to keep it at that.

Mayor McCallon stated the last couple of years he has supported this decrease because he thought it was important we stimulate the economy, but as City Manager Hughes pointed out we did have the Redevelopment Agency monies to be able to backfill our efforts and that has gone away. We are severely impacted by that and our efforts to be able to provide infrastructure, to be able to generate jobs, that was the one job-creating tool local cities had which was the Redevelopment Agencies. The State Government decided they needed to take it away. That was one of the only ways other than the enterprise zones that we would have to generate jobs and those have been frozen. He wishes there was a way that we could stimulate the economy. He is concerned that if we go ahead and do this again that we are going to eventually have the citizens pay for the items we've deferred if you will. He is going to have to oppose it this year.

Councilwoman Scott inquired if anyone has the statistics on the price of housing and how it's coming up the last six months?

Mayor McCallon replied the indication are that the housing prices are going up and maybe the sales are going down a little, but that's what he reads in the newspaper. He's sure the industry has a better handle on that but he thinks that's pretty much what is going on.

Councilman Timmer stated that is existing housing though.

Mayor Pro Tem Lilburn asked even if we didn't oppose this, do we see anything in the next year that even is promising for this kind of development?

Community Development Director Jaquess stated only listening to people talk he thinks the project that Mr. Livingston is representing is a possible project in the next year. It's all approved, it's just a matter of them moving forward to implement the approval but he can't guarantee that nor can he, he suspects. The other project is a project over on Greenspot and Orange across from Village Lakes. That project could go forward in the next year as well, but he doesn't know any other big projects ready to start construction.

Mayor Pro Tem Lilburn inquired how long are our current fees good for?

Public Works Director/City Engineer Wong replied the credit expired last year, at the end of last year, unless you adopt a new policy for another year.

Councilwoman Scott inquired do we still have the program where the developer doesn't have to put all the money up front?

Public Works Director/City Engineer Wong replied yes, that one is still there. The resolution allows them to pay the Development Impact Fee at occupancy.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to discontinue the credit for the Development Impact Fee Policy. Motion carried, 4-1, with Councilwoman Scott dissenting.

7. Ethics Training and Form 700 Filings

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

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Councilman Racadio, to adopt Ordinance No. 374 adding Section 2.15.035 to Chapter 2.15 of Title 2 (Membership – Commissioner Responsibilities) of the Highland Municipal Code. Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 374:

ORDINANCE NO. 374
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ADDING SECTION 2.15.035 TO CHAPTER 2.15 OF TITLE 2, OF
THE MUNICIPAL CODE ENTITLED "MEMBERSHIP – COMMISSIONER
RESPONSIBILITIES"

which title was read.

8. Second Reading of Ordinance No. 373, Amending the City's Land Use and Development Code Related to Recycling Facilities (MCA-011-007)

A MOTION was made by Councilman Timmer, seconded by Mayor Pro Tem Lilburn, to conduct a second reading of Ordinance No. 373 amending the City's Land Use and Development Code (Title 16) Chapter 16.06, Chapter 16.20, Chapter 16.24 and Chapter 16.44 regarding Recycling Facilities (MCA-011-007). Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 373:

ORDINANCE NO. 373

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, AMENDING TITLE 16 OF THE HIGHLAND MUNICIPAL CODE
REGARDING RECYCLING FACILITIES [MUNICIPAL CODE AMENDMENT
MCA-011-007]

which title was read.

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

Councilwoman Scott inquired what was the outcome regarding Omnitrans and the construction of Base Line?

Public Works Director/City Engineer Wong stated he spoke with Omnitrans' staff and they asked whether or not staff needs to relocate the bus stops to another site or just remove them. Staff informed them it would not be feasible to relocate the site outside of the construction project because it would be too far away. Staff feels it is better to keep the bus stops where they are and will try to create more room around the bus stop to accommodate passing vehicles.

City Manager Hughes stated we had our first work program study session which was very successful. Staff is working diligently on putting together additional information which the Council requested on cost and funding sources. He will be handing out the score sheets to Council this week.

Mayor McCallon stated he did attend the League of California Cities Policy Committee Meeting on January 18, 2013 in Sacramento. They also had an update on the Governor's Budget Proposals and a discussion of the Budget.

10. San Bernardino International Airport Authority and IVDA

Councilman Racadio stated they are meeting once a month as an Airport and meet once a month as IVDA. They are not combined anymore and they are getting separate legal counsel for each.

ANNOUNCEMENTS

January 24 at 6:00 p.m.	League of California Cities Meeting
January 24 at 5:00 p.m.	Captain Dave Williams Promotion Celebration
January 27 at 7:30 a.m.	30th Annual Highland Family Run
February 2 at 1:00 p.m.	Bridging Our Community Fundraising Event
February 4 at 2:00 p.m.	Work Program Study Session
March 2	Dr. Seuss Reading Day – Highland Library
March 5	Neighborhood Watch Meeting Anniversary

CLOSED SESSION

At 6:50 p.m., the City Council convened into closed session regarding the following:

Closed session in order to receive, discuss, and take action concerning information received by the City of Highland's representative in a closed session meeting of the San Bernardino Association of Governments, a joint powers agency ("SANBAG"), pursuant to Government Code section 54956.96(b), regarding pending litigation to which SANBAG is a party:

San Bernardino County Flood District, and the County of San Bernardino v. San Bernardino Associated Governments, San Bernardino County Transportation Authority, City of Upland, et al. – San Diego Superior Court Case No. 37-2008-00079230-CU-CO-CTL.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Government Code Section 54956.9(a) – Deborah J. Armstrong Davis v. Brittany Eilene Stewart; City of Highland, et al. – San Bernardino Superior Court Case No.: CIVDS 911725

At 7:09 p.m., the City Council adjourned closed session and made the following announcement:

Mayor McCallon stated as a result of Closed Session there is no reportable action on either item. City Attorney Steele abstained from item dealing with SANBAG litigation due to a conflict of interest.

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:11 p.m. in memory of Marie Valdez.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Penny Lilburn
Mayor Pro Tem