

**MINUTES
CITY COUNCIL REGULAR MEETING
NOVEMBER 26, 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 6:05 p.m. by Mayor McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Al Lebrun, Immanuel Baptist Church and the Pledge of Allegiance was led by Councilwoman Scott.

ROLL CALL

Present: McCallon, Racadio, Scott, Timmer
Absent: Lilburn

REPORT FROM CLOSED SESSION

No Reportable Action

SPECIAL PRESENTATIONS

None

PUBLIC COMMENT

Mr. Kip Sturgeon, Board Member EVWD, stated would he would like to invite the City Council to an event on December 6, 2013.

CITY COUNCIL 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, 4-0 with Councilwoman Scott abstaining from Item #2 and with Mayor Pro Tem Lilburn 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 – November 12, 2013 City Council Regular Meeting
Approved the Minutes as submitted.
3. Warrant Register
Approved Warrant Register No. 573 for November 26, 2013, in the amount of \$1,039,248.39 and Payroll of \$78,422.45.

4. Claim Consideration – Daniel Sanchez
Rejected claim.

7. Notice of Completion – Bid No. 2013-02, “City-Wide Concrete Repair Project” (Project No. swk11001)
 1. Accepted Bid No. 2013-02, “City-Wide Concrete Repair Project” (Project No. swk11001) as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.

ITEMS PULLED FROM CONSENT CALENDAR

5. Extension of Janitorial Contract with Merchants Building Maintenance

Councilwoman Scott stated she has been concerned for some time about the contracts we have for maintenance because our figures here do not include the supplies. We furnish all the supplies for City Hall and the two parks as well as the Police Station. There is a 5.3% increase and on the back is the cost index which is by City and of course it's says Los Angeles, and yes we are close to Los Angeles, however there is Atlanta, Georgia at 1%, Boston at 3.2% and Chicago at 0%. She just thinks the 5.3% increase is too much, especially since we furnish the supplies.

City Manager Hughes stated the increase is based on the chart, and if we did not provide the supplies and we paid the contractor to provide the supplies they would charge an overhead charge. It is cheaper for us to purchase the supplies and provide them to the contractor.

Councilwoman Scott asked why are we using Los Angeles as a comparison?

Mayor McCallon responded that is the way the original contract was written.

Councilwoman Scott stated she feels we should use cities that are more like Highland.

City Attorney Steele stated we do not have an index which relates to labor costs for things such as janitorial services. The reason CPI is not frequently used in something like this is because this is a contract for basically labor and CPI is not an accurate reflection of labor costs, it is a reflection of consumer price cost. So if we were to buy goods, we would relate it to CPI index. At the time the contractors negotiated, the closest index they could find which is more reflective of labor costs is the construction cost index.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve an extension of the janitorial contract with Merchants Building Maintenance for one year. Motion carried, 3-1, with Councilwoman Scott dissenting and with Mayor Pro Tem Lilburn being absent.

6. Extension of City Street Striping Contract with Ranch Rock Corporation

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve an extension of the Street Striping contract with Ranch Rock Corporation for one year. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

8. Resolution No. 2013-036 Ordering the Sale of Three (3) Excess City Vehicles

Councilwoman Scott stated she would like the vehicle numbers, because when we have costs on the Warrant Register it is by vehicle numbers. She would like to identify the vehicle numbers for the cars.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to adopt Resolution No. 2013-036 ordering the sale of three (3) excess city vehicles. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

RESOLUTION NO. 2013-036
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF HIGHLAND, CALIFORNIA,
ORDERING THE SALE OF THREE (3) EXCESS CITY VEHICLES

CITY COUNCIL PUBLIC HEARING

9. Proposed City of Highland Community Development Block Grant (CDBG) Applications for Fiscal Year 2014-2015 to be submitted to San Bernardino County for a Determination of Eligibility

Mayor McCallon opened the public hearing.

City Planner Stater stated this is the time of year in which the Council considers City applications to be forwarded to the County for determination of eligibility by HUD standards. These are returned back to the Council in February. Last year the City was allocated \$406,165 of which \$345,240 was allocated to non-public service projects; those are the projects that do not include the Little League, the Library, YMCA, etc. The City applications last year were for Neighborhood Revitalization, which is a portion of staff costs in Community Development, and also it is standard to have a Public Works project. Staff took these recommendations to the Finance Subcommittee who recommended similar projects for this year. So the applications you have before you tonight are the Neighborhood Revitalization and the second for pavement rehabilitation in the amount of \$239,000 for rehabilitation on Eucalyptus, Cypress and McKinley.

Mayor McCallon asked any indication of what our funds will be this year?

City Planner Stater stated they have indicated they think it will be about the same.

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

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

1. Approve the City's Application for Neighborhood Revitalization that supports thirty percent (30%) of the salary and benefits of the City Planner position, seventy-five percent (75%) of a Code Compliance Officer position, and forty percent (40%) of an Administrative Assistant position, a total of \$123,997;
2. Approve the City's Application to construct pavement rehabilitation on Eucalyptus Drive, Cypress Avenue and McKinley Street in the amount of \$239,000; and
3. Authorize the City Manager to sign and submit the Applications to the San Bernardino County Economic Development Agency for consideration. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

10. Municipal Code Amendment (MCA) 2013-005, an Ordinance of the City of Highland Temporarily Suspending the Application of the City's Inclusionary Housing Requirements Described in Ordinance No. 306

Mayor McCallon opened the public hearing.

Community Development Director Mainez stated this is a City Council goal and he would like to introduce City Planner Stater who has put a great deal of time and effort into this.

City Planner Stater stated in 2006 the City Council adopted an inclusionary housing ordinance and the requirement stood that any development throughout the City, whether or not it was in a redevelopment project area when they were to develop, they were to set aside 15% of the housing whether it be for rent or for sale for families of very low, low and moderate income, or they could instead pay an in-lieu fee of \$3,750. Since 2006 the City has collected \$562,000 which is in our inclusionary housing fund set aside for future use for low and moderate income housing. Several things have happened since the adoption of that ordinance which has brought this back to the Council's attention. One is the economic crisis at a Federal, State and local level that has virtually brought our housing to a standstill, the second being the dissolution of Redevelopment Agencies and those properties going back to the City's Housing Authority. There have been numerous items that have gone before the State Legislature to clear up the City's and the Housing Authority's responsibility with respect to the production of affordable housing. However, there has been no resolution. The City has a Work Program item to discuss this and also a housing element to discuss what should be done with the policy. It is Staff's recommendation and also the Finance Subcommittee's recommendation to suspend the fee for a year time period. The question also arose as to how this would apply to substandard projects in the city. What you see in the Ordinance, in section three and section four, is if a developer today had a final map during the one year suspension, they

could come in and pull permits and not pay the fee or not provide those affordable housing set asides. If they have a tentative tract map, currently approved, they have one year to have a final map recorded and then two years to pull permits. If they have no project to date, they get a tentative tract map approved during the suspension, they then have one year to pull a final and then two years to pull permits.

Mr. Matt Livingston, Glenrose Ranch, stated Mr. Bahri asked him to say he was sorry he could not be here tonight. He has been working hard with staff on this issue and he couldn't get back in time. He supports this as well and insisted he say this on his behalf. He supports the Ordinance, staff has been wonderful to work with and the Finance Subcommittee has been great. He probably works with 20 jurisdictions in Southern California and really this is probably the best experience he has had as far as having open discussion and dialogue and coming up with something that everyone could live with. Great job and he really appreciates working with everyone.

Mr. John Heimann, Director of Government Affairs BIA, stated this has been a very long but very pleasant experience working with everyone down the line. Finance Subcommittee members, Larry Mainez and Kim Stater as well. Any little problems that have come up we can take it to the drawing board and figure it out and they were very open to suggestions and it was a great process. They are very happy with the way this went. Obviously the BIA is in support of this issue and again they appreciate the time and effort on this.

Mayor McCallon called for any speakers in opposition of this item. Seeing none, the Public Hearing is now closed.

Councilwoman Scott stated she is for suspending this, but she is wondering in three years, that's the longest one for someone who does not have a project right now and then they have the one year plus the two years. In three years what is the City going to be hit with because we are mandated by the State to have so much low, low, low housing?

Mayor McCallon stated the mandate is not there anymore.

Councilwoman Scott asked the State's mandate is not there?

Councilman Racadio stated Redevelopment.

Councilwoman Scott stated well that was redevelopment yes, but it was tied strictly to Redevelopment then.

Councilman Timmer stated we, at the Committee, working with Staff and some of the folks that are here, we talked about why one year and why not longer and because of the instability of the State we did not want to commit. Even though this Ordinance is only for one year nothing says that we cannot extend this more years and things go by. If the State stays the way it is, he would think we would continue to extend this. He supports going forward with this as well.

Councilman Racadio stated at one time we were discussing elimination and we agreed suspension was the correct way to go because we don't know what is going to happen in the future. This is the best way to go, and as Councilman Timmer stated if the State does not impose this on us, he would envision this situation, it could but it would be unlikely it would reinstated as long as there is no push from the State to make us do something. He supports this as well.

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

1. Adopt a Notice of Exemption and instruct staff to file a Notice of Exemption with the County Clerk of the Board; and
2. Introduce Ordinance No. 385 suspending the application of Highland Municipal Code Sections 16.50.030, 16.50.040, 16.50.050 and 16.50.080 (Inclusionary Housing Provisions) for a period of one year. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

City Clerk Hughes introduced Ordinance No. 385:

ORDINANCE NO. 385
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HIGHLAND TEMPORARILY SUSPENDING THE APPLICABILITY
OF THE CITY'S INCLUSIONARY HOUSING REQUIREMENTS
DESCRIBED IN ORDINANCE NO. 306

which title was read.

11. Adoption of the 2013 California Building Code Series

Mayor McCallon opened the public hearing.

Director of Community Development Mainez stated every three years the State revises its model Ordinances for Building and Safety. There is also another item for Fire but it is a similar situation. Building Official Everman is present to answer any questions. Staff is asking Council to adopt this Ordinance as a first reading. He would also like to note we are also adopting procedural policies that have become very unique to our community over the years.

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

Councilwoman Scott asked what are the major changes?

Director of Community Development Mainez stated there are really no significant changes.

Building Official Everman stated we are not making any changes to the Code for local conditions. Changes, the whole disabled access chapter has been rewritten, there are more changes in the green code and there's changing in the plumbing code. One major item is after the first of the year if you do a remodel or an addition, you are going to have to upgrade all your plumbing fixtures to more energy efficient. So the State is really cracking down on energy efficiency and water conservation.

Councilwoman Scott asked now people coming in to do something, they will have the new code in their hands?

Building Official Everman stated anyone who submits plans for permits after the first of the year will have to be under the new code.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to:

1. Adopt a Notice of Exemption and instruct staff to file a Notice of Exemption with the County Clerk of the Board; and
2. Hold the First Reading of Ordinance No.386 by title only and schedule the ordinance for second reading and adoption at the regular Council meeting of December 10, 2013. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

City Clerk Hughes introduced Ordinance No. 386:

ORDINANCE NO. 386

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, REPEALING ORDINANCE NO. 357 AND AMENDING TITLE 15 OF THE MUNICIPAL CODE OF THE CITY OF HIGHLAND ADOPTING THE 2013 CALIFORNIA BUILDING CODE; VOLUMES I AND II; THE 2013 CALIFORNIA RESIDENTIAL CODE; THE 2013 CALIFORNIA ELECTRICAL CODE; THE 2013 CALIFORNIA PLUMBING CODE; THE 2013 CALIFORNIA MECHANICAL CODE; THE 2013 CALIFORNIA GREEN BUILDING STANDARDS CODE; THE 1997 UNIFORM HOUSING CODE; AND THE 1997 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, IMPOSING PENALTIES FOR THE VIOLATION OF SAID CODES, AUTHORIZING THE BUILDING OFFICIAL TO ENFORCE SPECIFIED POLICIES AND MAKING FINDINGS AS REQUIRED BY LAW RELATING TO THE AMENDMENT OF SPECIFIED CODES

which title was read.

12. Adoption of the 2013 California Fire Code with Amendments

Mayor McCallon opened the public hearing.

Director of Community Development Mainez stated this is very similar to the previous item but it is related to fire safety, and again every three years the code is updated.

Building Official Everman stated again, we have not made any changes. The only thing we changed is a definition because of the high severity fire zone and correlating that with our fire zone #1.

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

Councilman Timmer stated as he read through this, it refers to other ordinances that have been adopted through the process. He did not specifically see anything on the residential fire sprinklers; is that still included. He knows we modified this years ago to allow certain things to occur.

Building Official Everman stated that is a code requirement now.

Councilman Timmer stated in our high fire zones, one of the things we required in our planning concepts is that the perimeter roads were required that faced the wild lands. Is that addressed in this Ordinance or does that go back to planning design codes?

Building Official Everman stated he believes that is in planning design codes. He does not think it is in the fire code.

City Attorney Steele stated the only thing he knows that is in the fire code are provisions related to turn arounds and street widths. We are not changing anything that is elsewhere in the code that is related to fire protection. Those are planning and zoning requirements.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to:

1. Adopt a Notice of Exemption and instruct staff to file a Notice of Exemption with the County Clerk of the Board; and
2. Hold the First Reading of Ordinance No. 387 by title only and schedule the ordinance for second reading and adoption at the regular Council meeting of December 10, 2013. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

City Clerk Hughes introduced Ordinance No. 387:

ORDINANCE NO. 387
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ADOPTING AND AMENDING THE 2013 EDITION OF THE
CALIFORNIA FIRE CODE, REPEALING ORDINANCE NO. 333

which title was read.

CITY COUNCIL LEGISLATIVE

13. Bid Award – Bid No. 2013-08, “Greenspot Road Bridge at Santa Ana River and Street Improvements” (Project No. brg04005)

Director of Public Works/City Engineer Wong gave a brief review of the staff report. As you can see under the fiscal impact section of the Staff Report, you can see a range of various types of funding sources and the City’s share for this project is \$2.4 million out of the \$8.8 million construction costs. He would like to point out that out of the City’s share of the \$2.4 million, \$1 million must be development impact fees because it needs to be a match to State grant. The other \$1.4 million of City money was intended to be RDA bond proceeds. We waited until the State, we thought, authorized us to use the bond monies to spend on this project. As you know, very recently, there has been some change in the State’s position on this and we thought that since they are changing this they are not allowing us to use RDA bond monies. At the time the Staff Report was prepared we indicated that the \$1.4 million we recommended using, Measure I Local Pass Through funds, and then when the City can work out with the State Department of Finance that we can go back and actually use the RDA bond money. Then at that time we switch the \$1.4 million back from Measure I Local Pass Through back to RDA bonds.

Mayor McCallon asked this has been taken care of, correct?

Director of Administrative Services Dantuono stated not taken care of; we did have a pretty good meet and confirm with the Department of Finance but we have not received their final determination.

Director of Public Works/City Engineer Wong he would like Dennis Barton to give a little more information regarding this project as the lowest bidder’s bid is being protested by another bidder.

Mayor McCallon stated for the record, each Council Member has a copy of the letter protesting the bid.

City Attorney Steele stated as well as a memo from Staff analyzing that protest as well as the apparent low bidder’s response.

Mr. Dennis Barton stated the bids were received, and as Director of Public Works/City Engineer Wong indicated, there were two bids received and were analyzed by looking at the local procedures manual that guides us for Federal projects. It was discovered that the Contractor did indeed err in listing his subcontractors on a wrong form. However, the crux is that subcontractors were listed as required by the public contract code. That was subsequently verified with more submission as required by the Federal guidelines for submitting for disadvantaged business enterprises. All that information has to come forward too, so again it was submitted even subsequently. Also, one of the indications in the letter from MCM, and by the way MCM did attempt to submit a bid and unfortunately it was after the bid due time. MCM indicated perhaps because of that discrepancy or error if you will, or irregularity, that the contract should go back out to bid again. That really is not the case. The City has a couple of options. One is that we could find that it could be awarded to the second low bidder which is a \$4 million dollar spread so that is not likely. Conversely, the City can find that the error is indeed an irregularity that can be waived and still award the contract, and that is Staff's recommendation.

Councilwoman Scott asked with all of these different subcontractors that are listed here and then the almost \$9 million price tag on cost overruns, is it going to be a cost overrun certain percentage of the total contract or can each one of these have a cost overrun?

City Manager Hughes stated the contract is with one contractor. Those are subcontractors to the main contractor so it is on the \$8.8 million dollar construction costs.

Councilman Racadio asked does City Attorney Steele agree with the memo submitted by Staff's analysis of this?

City Attorney Steele stated he does and he thinks we should just note for more of the public's benefit, the error that was made by the apparent low bidder does not impact the price of the contract, doesn't change the price of the contract, doesn't provide any advantage to this bidder over the other bidders. It simply was a form over substance error, the wrong form was submitted twice so he does concur with Staff's recommendation and would just note for the record that those issues are analyzed and those are the issues that allows the Council to waive the irregularity if you so choose.

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

1. Approve the project design plans and specifications; and
2. Award the contract for Bid No. 2013-08, "Greenspot Road Bridge at Santa Ana River and Street Improvements" to KEC Engineering in the amount of \$8,829,967.12 and to waive the minor irregularities. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

14. Bid Award – Bid No. 2013-05, “Facilities and Parks Landscape Maintenance Contract”

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

Mayor McCallon asked is this going to be a responsible contractor if the bid is so much lower than others?

Public Works Manager Richardson stated he has contracted the references and they checked out. One was the County of San Bernardino and the other was City of Yucaipa. They had no negative comments regarding the contractor. We obviously have some reservations because the contract is so low, and we have met with them a couple of times and some of the explanations that were provided were they actually observed the current contractor working and claimed the type of equipment being used, which we can confirm, they are using a mower that is about a six foot wide cut path and this new contractor claims they have a mower that has an 18 foot wide cut path. They are on several other larger turf areas and the biggest scope we have here is turf because one of the big parks is Community Park.

Councilman Racadio stated he is confident with the outcome of the reference check and is impressed with the reduction of price.

Councilwoman Scott stated she noticed that we are only doing schedule “A” and because we do have another rodent control company, correct?

Director of Public Works/City Engineer Wong stated schedule “A” includes the rodent control work but it will be done by the same company.

Councilwoman Scott stated she thought schedule “A” was without it and then schedule “B” was what you had to add to it. Why are we doing the extra rodent control, because we have a rodent control contract?

Public Works Manager Richardson stated one of the reasons we decided to put this in the bid documents is because we currently are running into some issues on certain areas where we have rodent infestations and we find out two to three weeks later. The way the contract is written the City is responsible for replacing all plant material so we end up basically losing plant material and if we don't have funds available to replace that then we start seeing our landscape getting sparse. By doing it this way it will basically put the burden on the contractor as they are doing their work and when they see the infestations they can immediately react and address it. In the previous contract it was mentioned there were irregularities that need to be mentioned and there were a couple on this bid as well.

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to award Schedule “A” of the contract for Bid No. 2013-05, “Facilities and Parks Landscape Maintenance Contract,” to DLS Landscape, Inc., in the amount of \$106,920 and to waive the minor irregularities. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

15. Bid Award – Bid No. 2013-10, “5th Street Storm Drain and Water Pipeline Project” (Project No. str07002)

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

Councilman Timmer stated he spoke with Staff regarding two issues. The next item is the road construction bid for 5th Street and he was concerned about two contractors working on the same piece of property at the same time. He was informed one would be completed and then the other one will start. He also asked how it would be addressed with Alabama Street being closed regarding the detours and Staff has stated this also has been addressed. He would like to also ask which way is the storm drain draining?

Director of Public Works/City Engineer Wong stated to the west, to the City Creek bypass.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to award the bid to the low bidder, DDH Apple Valley Construction, Inc., in the amount of \$4,979,604.76 for Bid No. 2013-10, “5th Street Storm Drain and Water Pipeline Project.” Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

16. Bid Award – Bid No. 2013-11, “5th Street Improvement Project” (Project No. str07002)

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

City Attorney Steele stated we ask that the motion include the rejection of Match’s bid as being non-responsive to the materials.

Councilwoman Scott asked with the material, are we using eco-friendly materials?

Director of Public Works/City Engineer Wong stated yes, because we are also claiming additional grant from the State because we are using rubberized asphalt.

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio to award the bid to the responsive low bidder, Mamco, Inc., dba Alabbasi, in the amount of \$2,110,110.00 for Bid No. 2013-11, "5th Street Improvement Project" and to include the rejection of Matich's bid as being non-responsive. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

17. Sister City – Berdzor City, Kashatagh Region of The Karabagh Republic

Mayor McCallon gave a brief review of the Staff Report.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to approve the request from the Head of Administration in establishing a relationship with Berdzor City as a Sister City. Motion carried, 4-0, with Mayor Pro Tem Lilburn being absent.

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

None

19. San Bernardino International Airport Authority and IVDA

Councilman Racadio stated an item was continued which was putting a café where the previous Burger King was located on the Base. A revision in the contract was approved for Parsons Brinckerhoff who will be doing the engineering work at the General Aviation area which is where the new Sheriff's office will be located.

ANOUNCEMENTS

December 24

City Council – Dark

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:22 p.m. in memory of James Weber.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor