

**MINUTES
CITY COUNCIL REGULAR MEETING
AUGUST 23, 2016**

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 Pro Tem Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Jason Barker, Immanuel Baptist Church, and the Pledge of Allegiance was led by Councilman Timmer.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No reportable action to report regarding the one item of pending litigation which was listed on the agenda.

SPECIAL PRESENTATIONS

Mayor Pro Tem Lilburn presented Carlos Zamano with a 5-Year Employee Service Award recognizing his dedicated service to the City of Highland.

PUBLIC COMMENT

Mr. Anthony Serrano spoke regarding cost effective and indigenous landscaping within the city.

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Councilman Racadio, seconded by Councilwoman Scott, to approve the consent calendar as submitted. Motion carried on a roll call vote, 4-0, with Mayor McCallon being absent.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.
2. Minutes – August 9, 2016 City Council Regular Meeting
Approved the Minutes as submitted.
3. Minutes – August 11, 2016 City Council Special Meeting
Approved the Minutes as submitted.

4. Warrant Register
Approved Warrant Register No. 628 for August 23, 2016, in the amount of \$612,480.08 and Payroll of \$90,428.97.
5. Treasurer's Report for July 2016
Received and filed Treasurer's Report for July 2016.
6. Declare Two (2) Seats Vacant on the Community Trails Committee
 1. Declared two (2) seats vacant on the Community Trails Committee; and
 2. Directed the City Clerk to advertise the vacancies on the Community Trails Committee.
7. Declare One (1) Seat Vacant on the Historic and Cultural Preservation Board
 1. Declared one (1) seat vacant on the Historic and Cultural Preservation Board; and
 2. Directed the City Clerk to advertise the vacancy on the Historic and Cultural Preservation Board.

CITY COUNCIL PUBLIC HEARING

8. Application by Cal Disposal Company, Inc., and Burrtec Waste Industries, Inc., for an Adjustment in the Residential and Commercial Refuse Collection Rates in Accordance with the Current Franchise Agreements dated November 1, 2006

Mayor Pro Tem Lilburn opened the public hearing.

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

Mr. Mike Aragon, Vice President Burrtec Waste Industries, spoke regarding this item.

Mayor Pro Tem Lilburn 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 Councilman Racadio, seconded by Councilwoman Scott, to adopt Resolution No. 2016-050 establishing rates for residential and commercial/industrial refuse collection and rescinding Resolution No. 2014-037 effective September 1, 2016. Motion carried, 4-0, with Mayor McCallon being absent.

RESOLUTION NO. 2016-050
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ESTABLISHING RATES FOR RESIDENTIAL AND
COMMERCIAL/INDUSTRIAL REFUSE COLLECTION AND RESCINDING
RESOLUTION 2014-037, EFFECTIVE SEPTEMBER 1, 2016

9. Consideration of Resolution No. 2016-051 to Adjust the Business Tax on the Extraction and/or Processing of Rock, Sand and Gravel (Aggregate) pursuant to Section 5.17.040 (Rock, Sand and Gravel [Aggregate] Extraction and Processing Tax), Chapter 5.17 (Business License Tax on Extraction and/or Processing of Rock, Sand and Gravel [Aggregate]), Title 5 (Business Licenses and Regulations)

Mayor Pro Tem Lilburn opened the public hearing.

Director of Administrative Services Dantuono gave a brief review of the staff report.

Mayor Pro Tem Lilburn 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 Councilman Racadio, seconded by Councilwoman Scott, to adopt Resolution No. 2016-051 fixing the Highland Business License Tax on extraction and/or processing of rock, sand and gravel (aggregate) for Fiscal Year 2016-17. Motion carried, 4-0, with Mayor McCallon being absent.

RESOLUTION NO. 2016-051
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND
FIXING THE HIGHLAND BUSINESS LICENSE TAX ON THE
EXTRACTION AND/OR PROCESSING OF ROCK SAND AND GRAVEL
(AGGREGATE) FOR FISCAL YEAR 2016-2017

CITY COUNCIL LEGISLATIVE

10. Second Reading of Ordinance Numbers 408, 409 and 410 to Approve Zone Change ZC-011-003, Specific Plan SPR-011-001, and Development Agreement DA-012-002 Associated with Harmony Specific Plan

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

Mr. Stephen Rogers spoke in opposition of this item.

Mr. Anthony Serrano spoke regarding his concerns with this item.

Councilwoman Scott stated Orange County did respond to that eminent domain and condemnation. Would you please explain it again to me?

City Attorney Steele stated well, I can't explain the response because I don't have the letter in front of me. The Council received a letter from Orange County Council representing the owner of the property, and the letter from Orange County Council responded to the issues that Mr. Serrano raised, and I think another gentleman raised an issue regarding the use of eminent domain. It explained why the steps that Orange County had gone through in terms of the acquisition of the property, and it explained why the claims that had been made with regard to the disposition of the property were incorrect. I would, and that's in the record, that Mr. Loy I don't think raised the issue; it's not an issue for particularly for Lewis to respond to. It's an issue regarding the ownership of the property and whether the owner had the right to sell the property, so Orange County Council did provide a letter to the City and that's in the record. With regard to that issue, if people think Orange County didn't or doesn't have the right to sell the property, which is a perfectly reasonable, I guess, position to take; I haven't really looked into it. I would suggest those people raise the issue with Orange County. That's not an issue for the City of Highland to get into. We don't get into that issue with any private development as to what contractual rights are out there and what the different property owner rights are. If people believe that Orange County doesn't have the right to sell this property to Lewis they should raise that issue with the Orange County Board of Supervisors, but in terms of the record, the letter was submitted, it's in the record, and from my perspective responded completely to this issue. With regard to the other issue raised in the email from Mr. Rogers, the development agreement issue, I would note that Government Code 65865 as quoted in this email states that a City may enter into a development agreement with any person having a legal or equitable interest in the property. That means either the legal owner of the property or a person who has an equitable interest in the property which could be an option agreement as is the case here. Our understanding is that the Lewis Group has an option to purchase the property. It could be somebody who has a lease on the property there are a whole set of different equitable interests in real property that qualify a party to enter into a development agreement with the City. So 65865 is completely complied with in this case, because Lewis does have equitable interest in the property. They are subject to the development agreement statutes. I would note also that the development agreement specifically identifies number one, that Orange County is the owner of the property at this point in time, and number two, it provides for the assignment of the development agreement to somebody else if they ultimately become the owner of the property. So we provided for this idea that maybe Lewis won't be the owner of the property for some reason by including an assignment provision in the document itself. Finally, with regard to that issue, I would note that the Council received during the public hearing a letter from the Orange County Board of Supervisors delivered at one of the public hearing sessions adopted by the Board indicating that they consented to Lewis entering into this development agreement with the City, that they were aware of all the conditions, and that they intended to impose the obligations of the development agreement onto any purchaser of the property whether it is ultimately Lewis under the option or another developer. We insisted on receiving that assurance from the board of Supervisors in Orange County

prior to acting on the development agreement, and we did receive it in that letter which is also in the record of these proceedings. You also received a memo today from Wendy Rea making some statements regarding both the eminent domain issue as well as sort of restating CEQA objections. I would just note that the eminent domain process, the rights of parties under eminent domain, that's not a CEQA issue, it's not an issue that would be explored in the EIR; It's got nothing to do with the environmental consequences of the project. So it's not an issue that is discussed in the EIR or required to be discussed in the EIR. Again, from the City's perspective, if people believe that there's a problem with Orange County selling this property to a developer they should raise that issue with Orange County. Finally with regard to the sort of restated CEQA issues, your staff and your consultant told you that at the public hearing that they believe the CEQA issues have been addressed and that there was no information presented that required any revision or recirculation to the EIR, and we continue to believe that is true. There is nothing new in Ms. Rea's memo today.

Councilwoman Scott stated she is not clear on the one statement that Ms. Rea made regarding the fiscal contribution of the Army Corp of Engineers being subject to Federal procedures mandated in 1989.

City Attorney Steele stated again, it's not for the City to determine whether whatever conditions may exist in some agreements related to that property have been satisfied or not satisfied. That's for Orange County, the property owner, to determine in terms of their transaction with the developer that they sell the property to. Happens all the time in terms of there being conditions and additional parties interested as you know in real estate transactions, and we don't, as a City in any transaction get involved in whether somebody has some claim on the property that has been satisfied; is there a lien, is there an easement, the City has nothing to do with those aspects of the transaction. Those are between the parties. This is no different than any other real property transaction where there might be different issues on title. The parties have to work that out and that's not something for the City to get involved with, and we wouldn't get involved in a private transaction and it's not for us to get involved in a transaction involving a public entity that is not the City of Highland.

A MOTION was made by Councilman Racadio, seconded by Councilman Timmer, to conduct a second reading of:

1. Ordinance No. 408 to approve Zone Change ZC-011-003, amending the City's Official Zoning Map to change the existing zoning designation from Planned Development to "Harmony Specific Plan SPR-011-001";
2. Ordinance No. 409, approving the Harmony Specific Plan, establishing it as the legal document to implement the General Plan land use designation of Planned Development and the Harmony Specific Plan SPR-011-001 zoning district for the Specific Plan Area; and
3. Ordinance No. 410, approving Development Agreement DA-012-002. Motion carried, 3-0, with Mayor Pro Tem Lilburn abstaining and with Mayor McCallon being absent.

City Clerk Hughes introduced Ordinance No. 408:

ORDINANCE NO. 408
AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA, AMENDING
TITLE 16 (LAND USE AND DEVELOPMENT CODE) OF THE HIGHLAND
MUNICIPAL CODE, AND AMENDING THE CITY'S OFFICIAL ZONING MAP TO
CHANGE THE EXISTING ZONING DESIGNATION FROM "PLANNED
DEVELOPMENT" TO "HARMONY SPECIFIC PLAN SPR-011-011" (ZONE
CHANGE ZC-011-0030) FOR THE HARMONY SPECIFIC PLAN SITE

which title was read.

City Clerk Hughes introduced Ordinance No. 409:

ORDINANCE NO. 409
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND
APPROVING THE HARMONY SPECIFIC PLAN, ESTABLISHING IT AS THE
LEGAL DOCUMENT TO IMPLEMENT THE GENERAL PLAN LAND USE
DESIGNATION OF PLANNED DEVELOPMENT AND THE HARMONY
SPECIFIC PLAN SPR-011-001 ZONING DISTRICT FOR THE
SPECIFIC PLAN AREA

which title was read.

City Clerk Hughes introduced Ordinance No. 410:

ORDINANCE NO. 410
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND
APPROVING A DEVELOPMENT AGREEMENT BETWEEN LCD
GREENSPOT LLC AND THE CITY OF HIGHLAND

which title was read.

11. Speed Zones for Various Streets

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

A MOTION was made by Councilman Timmer, seconded by Councilman Racadio, to adopt Resolution No. 2016-052 establishing speed zones on Base Line, Boulder Avenue, Browning Road, Church Avenue, Club View Drive, Glenheather Drive, Highland Avenue, Santa Ana Canyon Road, Sterling Avenue, Streater Drive, Water Street, Webster Street and Ninth Street. Motion carried, 4-0, with Mayor McCallon being absent.

RESOLUTION NO. 2016-052

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, ESTABLISHING PRIMA FACIE SPEED LIMITS FOR BASE LINE, BOULDER AVENUE, BROWNING ROAD, CHURCH AVENUE, CLUB VIEW DRIVE, GLENHEATHER DRIVE, HIGHLAND AVENUE, SANTA ANA CANYON ROAD, STERLING AVENUE, STREATER DRIVE, WATER STREET, WEBSTER STREET AND NINTH STREET AND/OR PORTIONS THEREOF AND RESCINDING RESOLUTION NOS. 2009-003 AND 2016-018

12. City Clerk's Certification that There are Not More Candidates Than Offices (1) to be Elected in District 3

City Attorney Steele stated we are requesting this item be continued until a special meeting that is been noticed for this Thursday, August 25th at 9:00 a.m. here in Council Chambers.

13. League of California Cities (LOCC) Annual Conference – 2016 Resolutions Packet

Council consensus to support the resolution proposed by the League.

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

Mayor Pro Tem provided a brief update regrading Omnitrans.

15. San Bernardino International Airport Authority and IVDA

None

ANNOUNCEMENTS

None

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor Pro Tem Lilburn adjourned the meeting at 7:02 p.m. in memory of Ada Scott, Lorna Spargo and Howard W. Perry, Jr.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor