

**MINUTES
CITY COUNCIL REGULAR MEETING
NOVEMBER 22, 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 McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Reverend Jason Barker, Immanuel Baptist Church, and the Pledge of Allegiance was led by Councilwoman Scott.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No meeting

SPECIAL PRESENTATIONS

None

PUBLIC COMMENT

None

CITY COUNCIL CONSENT CALENDAR

Mr. Mark Falcone spoke in opposition of Item #6 and Item #7.

Mr. Fred Yauger spoke in opposition of Item #6 and Item #7.

A MOTION was made by Councilman Timmer, seconded by Councilman Scott, to approve the consent calendar as submitted with Item #2 being pulled for further discussion. Motion carried on a roll call vote, 3-0, with Councilwoman Scott dissenting on Item #7 and with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

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

3. Warrant Register
Approved Warrant Register No. 635 for November 22, 2016, in the amount of \$2,878,616.18 and Payroll of \$75,168.73.
4. AB 1600 Development Impact Fee Annual Report for Fiscal Year 2015-2016 per Government Code Section 66006
Received and filed the AB 1600 Development Impact Fee Annual Report for Fiscal Year 2015-2016.
5. Developer In-Lieu Fee Annual Report for Fiscal Year 2015-2016
Received and filed the Developer In-Lieu Fee Annual Report for Fiscal Year 2015-2016.
6. Resolution No. 2016-060 Establishing Employee Salaries
Approved Resolution No. 2016-060 establishing employee salaries.

RESOLUTION NO. 2016-060
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF HIGHLAND, CALIFORNIA,
ESTABLISHING EMPLOYEE SALARIES

7. Resolution No. 2016-061 Amending Resolution No. 2006-022 Establishing Personnel System Rules
Approved Resolution No. 2016-061 amending Resolution No. 2006-022 establishing personnel system rules.

RESOLUTION NO. 2016-061
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, AMENDING RESOLUTION NO. 2006-022 ESTABLISHING
PERSONNEL SYSTEM RULES

8. Resolution No. 2016-062 Amending the Agreement for Legal Services of the City Attorney (Richards, Watson & Gershon)
Approved Resolution No. 2016-062 amending the agreement for legal services of the City Attorney (Richards, Watson & Gershon).

RESOLUTION NO. 2016-062
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, AMENDING THE AGREEMENT FOR
LEGAL SERVICES OF THE CITY ATTORNEY

9. The Comprehensive Annual Financial Report (CAFR), the Single Audit Report on Federal Awards, the GAS (Internal Controls) Letter, the Gann Limit (Appropriations Limit) Letter and the SAS 114 (Audit Committee) Letter. All Reports are for Fiscal Year Ended June 30, 2016
Received and filed the Comprehensive Annual Financial Report (CAFR), the Single Audit Report on Federal Awards, the GAS (Internal Controls) letter, the Gann Limit (Appropriations Limit) letter and the SAS 114 (Audit Committee) letter. All Reports are for Fiscal Year ended June 30, 2016.
10. Easement Acceptance/Gary J. Edwards and Felicia M. Edwards (7467 Via Deldene)
 1. Accepted the Grant of Easement for community trail and sidewalk purposes from Gary J. Edwards and Felicia M. Edwards; and
 2. Directed the City Clerk to record the Grant of Easement.

ITEMS PULLED FROM CONSENT CALENDAR

2. Minutes – November 8, 2016 City Council Regular Meeting

A MOTION was made by Councilwoman Scott, seconded by Councilman Timmer, to approve the minutes as amended. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

CITY COUNCIL PUBLIC HEARING

No public hearing.

CITY COUNCIL LEGISLATIVE

11. Harmony Development Agreement Execution Extension to December 1, 2016

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

A MOTION was made by Councilwoman Scott, seconded by Councilman Timmer, to extend the extension of the execution of the Harmony Development Agreement (as approved under Ordinance No. 410) to December 1, 2016. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

12. November 6, 2018 General Municipal Election – Submitting a Referendum Measure to the Voters

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

A MOTION was made by Councilwoman Scott, seconded by Councilman Timmer, to adopt Resolution No. 2016-063 ordering that a Referendum Measure be submitted to the voters at the regular General Municipal Election to be held on November 6, 2018. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

RESOLUTION NO. 2016-063

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, ORDERING A QUALIFIED REFERENDUM MEASURE TO BE SUBMITTED TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018

13. Proposed City of Highland Community Development Block Grant (CDBG) Applications for Fiscal Year 2017-2018

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

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

1. Approve the City's application for Enhanced Code Enforcement that supports thirty percent (30%) of the salary and benefits of the Assistant Community Development Director position, seventy-five percent (75%) of a Code Compliance Officer position and forty percent (40%) of an Administrative Assistant position; and to
2. Approve the City's application to construct pavement rehabilitation on Fairfax Lane, Michael Drive, Court Street, Elm Street and Bertie Lane. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

14. Bid Award – Bid No. 2016-04, "Traffic Striping and Pavement Marking"

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

A MOTION was made by Councilwoman Scott, seconded by Councilman Timmer, to award Bid No. 2016-04, "Traffic Striping and Pavement Marking," to Safe USA, Inc. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

15. Second Reading of Ordinance No. 412 Amending the Residential Rental Enhancement Program and Business License Regulations (MCA-16-002)

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

A MOTION was made by Councilman Timmer, seconded by Mayor McCallon, to conduct a second reading of Ordinance No. 412 amending Chapter 15.52 (Residential Rental Enhancement Program) of Title 15 (Building and Construction) of the City of Highland Municipal Code to include a provision for property owner self-certification along with other amendments designed to streamline the program process, and to amend Chapter 5.04 (Business License General) of Title 5 (Business Licenses and Regulations) of the Highland Municipal Code to include a revocation and appeals process for the residential rental properties (MCA-16-002). Motion failed 2-1, with Councilwoman Scott dissenting and with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

City Attorney Steele stated 2-1 does not pass. It takes three votes to adopt an ordinance.

Mayor McCallon stated we will have to hold this item over to the next meeting.

16. Status of City Ordinances Regarding Marijuana Following Passage of Proposition 64 – The Control, Regulate and Tax Adult Use of Marijuana Act

City Attorney Steele stated as you are aware Proposition 64 passed at the most recent election and that makes it legal statewide for individuals to possess and consume a small amount of marijuana. It also creates a system whereby commercial marijuana businesses would be legal and subject to certain licensing and taxation schemes unless cities take action to prohibit those businesses in the city. We've received at the staff level a number of inquiries about the status of the city's marijuana laws and whether such businesses would be permitted here, and currently under the municipal code all medical marijuana businesses are prohibited; but we did not under the code have the need to prohibit non-medical marijuana businesses, because those were not legal until Proposition 64 passed. So if the Council intends to sort of carry forward what your current policy has been, which is to ban all the businesses that are allowed by State law, we would need to amend the municipal code to now prohibit commercial marijuana businesses in all zones of the city along with the medical marijuana businesses. As well, you have the option to regulate or prohibit outdoor cultivation of marijuana which would be permitted under Prop 64. As you may know, cultivation of marijuana has some particularly objectionable impacts on neighboring properties such as odor and those kinds of impacts, so a number of cities are finding it necessary to also regulate the growing of marijuana. Right now we regulate the growing of marijuana for medical purposes; we prohibit it in

the city, and we would need to go ahead and adjust the ordinance to prohibit what was permitted again by Prop 64 if that's the Council's direction. Your other option is to legalize these uses and go through the Prop 64 process to turn the businesses into a taxable operation with some sort of, I guess, unpredictable amount of revenue, sales tax revenue essentially to the city if you were to permit those uses. Staff's assumption is the Council will want to continue the current prohibition. We are prepared to bring forward an Ordinance, but we did want to bring this update to the Council and get direction as to what you would like us to do.

Mr. Mark Falcone spoke in favor of this item.

City Attorney Steele stated just to clarify what we are able to prohibit. We are not able to prohibit use. We are able to prohibit commercial businesses selling, and I think business owners can always try to challenge those kinds of bans and we've seen that with the medical marijuana cases that have been litigated. The language in Prop 64 is fairly simple and so if we just say we are not permitting this kind of business in Highland, it doesn't really seem like it's something that should be the subject of litigation. As you say, anybody can challenge anything, so I don't know that it'll be the same as medical marijuana cases were, because so many cities tried so many different things to control medical marijuana and we're not going to recommend obviously that the city push the envelope at all. We're just going to recommend that the city take what's available to it under the law that the voters adopted. We can't prohibit growth in somebody's residence, but we can prohibit outdoor growth so we're not going to have marijuana fields growing in the city, and you can prohibit the businesses outright so you don't need to have some are prohibited here...you could have a zoning approach to it, but you don't need to if you're going to prohibit all of them. If it's just going to be all sales are prohibited we don't need to worry about where they're allowed.

17. Appoint One Member of the Public to the Building Code Appeals Board

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

A MOTION was made by Councilman Timmer, seconded by Councilwoman Scott, to appoint one member of the public, Jeff Hinkley, to the Building Code Appeals Board. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

18. Appoint Three Members of the Public to the Historic and Cultural Preservation Board

A MOTION was made by Councilman Timmer, seconded by Councilwoman Scott, to appoint three members of the public, Colin Childs, Tony Mauricio, and Patrick Sandford to the Historic and Cultural Preservation Board. Motion carried, 3-0, with Mayor Pro Tem Lilburn and Councilman Racadio being absent.

19. Code of Ethics

City Council reviewed the current Code of Ethics, and it was the Council's consensus to not make any changes.

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

None

21. San Bernardino International Airport Authority and IVDA

None

ANNOUNCEMENTS

None

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:26 p.m. in memory of Jack Brown, Jack Jennings and Ray William Snell.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Penny Lilburn
Mayor