

**MINUTES
CITY COUNCIL REGULAR MEETING
JANUARY 10, 2017**

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

The invocation was given by Jeff Novak, and the Pledge of Allegiance was led by Councilman Chavez.

ROLL CALL

Present: Chavez, Lilburn, McCallon, Solano, Timmer
Absent: None

REPORT FROM CLOSED SESSION

No reportable action to report

SPECIAL PRESENTATIONS

Mayor Lilburn presented Mayor Pro Tem Larry McCallon with a Plaque of Appreciation for his two years serving as Mayor.

Mayor Lilburn presented Trang Huynh with a proclamation for his service on the Planning Commission Board.

PUBLIC COMMENT

Mr. Mark Falcone spoke regarding the amendment of a City Ordinance in relation to Proposition 64 and marijuana odor.

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Councilman Timmer, seconded by Councilwoman Solano, 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 – December 13, 2016 City Council Regular Meeting
Approved the Minutes as submitted.

3. Warrant Register
Approved Warrant Register No. 637 for January 10, 2017, in the amount of \$868,771.39 and Payroll of \$154,742.08.
4. Claim Consideration – Sarkis Delakyan
Rejected claim.
5. Claim Consideration – Ingrid Johnson
Rejected claim.
6. Declare One Seat Vacant on the Planning Commission
 1. Declared one seat vacant on the Planning Commission; and
 2. Directed the City Clerk to advertise the vacancy on the Planning Commission.
7. Grant of Easement – Sycamore Drive Storm Drain (Project No. sdr06002)
 1. Accepted the Grant of Easement for Community Trail and Drainage Purposes from Teodor D. Trandafir; and
 2. Directed the City Clerk to record the Grant of Easement.
8. Notice of Completion – City Turf Reduction Project (Bid No. 2015-03)
 1. Accepted construction of City Turf Reduction Project (Bid No. 2015-03) as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.
9. The City Council is scheduled to consider an appeal of the Public Nuisance Hearing Board’s Resolution No. 16-007 on February 14, 2017. Therefore, pursuant to the Highland Municipal Code Section 8.32.210(e), records of the hearing and copies of all papers submitted, and orders given, as well as appellant’s written appeal and a written report from the City staff have been submitted to the City Council and are available in the City Clerk’s office [PNHB Case No. 16-007].
Received and filed the subject Appeal Application material that was transmitted separately and will be formally submitted at the February 14, 2017 City Council meeting.

CITY COUNCIL PUBLIC HEARING

10. Development Impact Fee Annual Adjustment for 2017

Mayor Lilburn opened the public hearing.

Mayor Lilburn called for any speakers either in favor or in opposition. Seeing none, the public hearing will remain open and will be continued to February 14, 2017.

A MOTION was made by Councilman Timmer, seconded by Mayor Pro Tem McCallon, to continue the public hearing to February 14, 2017. Motion carried, 5-0.

11. Appeal of the Planning Commission's Determination to Revoke Staff Review Permit No. SRP-011-003 for a Small Collection Recycling Facility (Ponce Recycling) Located at 26534 9th Street in Accordance with the Highland Municipal Code Section 16.08.220 (Revocation of Permits) [Appeal No. APP-16-001]

Mayor Lilburn opened the public hearing.

Community Development Director Mainez stated this is an appeal of a revocation that was an action by our Planning Commission. I also would like to advise you that the appellant Mr. Jose Ponce is in the audience and wishes to address the Council tonight. Back in March of 2011, the Planning Division at staff level, approved the permit for a small recycling entitlement for Jose Ponce Recycling. It's considered a small collection recycling only and it's located at the northeast corner of Victoria and Ninth Street. On January 5, 2012, the Planning Commission, at staff level, approved an amendment to that entitlement requiring that Ponce's Recycling be responsible for collecting abandoned carts and shopping carts as well as abandoned trash containers which usually you'll see at some of those facilities. He was to collect those up 500 feet from his facility, so that was an amendment added in January, 2012. As the Council may be aware or remember, we have two new Council members, but back in 2013 the City Council adopted Ordinance 373 creating new standards for small and large recycling facilities in the city and that was due to an influx of smaller recycling facilities in the past couple of years. In January, 2015, as part of the City Council work program, staff reviewed each recycling facility for compliance with their permit, and as a result of this effort staff was able to find that four of those recycling facilities were out of compliance and they were subsequently closed. In April of 2015, the shopping center that this facility is located had a grocery store, called Rio Ranch Market and that closed in April, 2015. At that time staff and the City received complaints from surrounding property owners and the shopping center itself, the tenants, concerning lack of maintenance of the shopping center. In December of that year, 2015, the new Save A Lot grocery store opened up and at that time staff received additional complaints from Save A Lot that the

recycling center was taking up parking and impacting circulation. So staff recommended that the facility move closer to the intersection where they currently are today. April of this year, I initiated the revocation process due to evidence that the recycling facility was taking up more room in the shopping center parking lot than was permitted in their staff review permit. I will point out that their popularity has created piles of recycling products around the facility. They in fact have outgrown their approved site restrictions, and at that time I suggested that they begin looking for a larger location. In September of that year, I met with Ponce Recycling to discuss the status of their relocation efforts and I was advised that they are no longer pursuing those efforts. So I gave them some time to vacate the site or demonstrate compliance. With that being said, I advised them that the revocation process would move forward, and on November 15, 2016, the Planning Commission adopted a Resolution revoking Staff Review Permit SRP-011-003. So in accordance with the Highland Municipal Code 16.06.220 entitled Revocation of Permits, the Planning Commission is authorized to revoke land use permits and approvals in order to protect the public health, safety and welfare of the community. The permit may be revoked by the Planning Commission if it made one of the following findings. In your staff report on page four I summarized four findings, but in fact the Planning Commission adopted three of those. The first one was that the permit or approval was obtained by misrepresentation. The second finding the Planning Commission made was that the conditions of the permit or approval have not been met or the permit or approval granted is being or has been exercised contrary to the terms or approval, were in violation of the state, statute, ordinance, law or regulation. Finally the Planning Commission adopted that the public health, safety, welfare can be served only by revocation. Staff is recommending that City Council uphold the Planning Commission's determination and adopt City Council Resolution revoking staff review Permit No. SRP-011-003 for a facility entitled Ponce Recycling located at 26534 Ninth Street in accordance with the Highland Municipal Code to revoke permits.

Mr. Jose Ponce stated we have been providing good and friendly service to the community of Highland for almost six years. Our team is composed of five staff members who are very hard working family individuals and are all residents of Highland. All of our customers are people within the community who are very happy and satisfied with our service. They always compliment us on our hard work and good service. Throughout these six years we have been dedicated in providing the best service to the community. I am here to appeal Planning Commission's decision in revoking my permit based on Community Development Director Larry Mainez' allegations. Larry states he estimates that my center is 735 square feet and that I have overgrown my permitted size, a violation of my staff review permit condition. This statement is not true. I have not exceeded the 500 square feet as you can see on my footprint. This is my footprint; this is what I have out there. This is container one, 168 square feet, container two, 168 square feet. My kiosk is 90 square feet and these entire three items container one, two and kiosk adds up to 426 square feet. We have a canopy, a removable canopy. We put this up at the beginning of the day and we remove this canopy at

the end of the day. We put it back in the containers. This canopy is just to provide shade for my employees to do our transactions because you know Highland is really hot. We need some shade. This canopy is 64 square feet and if we add the 64 feet plus the 426, it gives us 490 square feet. We have been the same small recycling facility ever since we first opened six years ago. I have not violated condition 2 from my staff review permit. I would like for Mr. Mainez to please show actual field measurements of my facility, to please provide actual evidence, not estimations, because this is a business that is going to be closed down on guess work not on facts. He cannot do his work when he's leaving five families without a job and a whole community with their recycling and nowhere to redeem their CRV. Mr. Mainez stated in his staff report that the increasing size of the facility and the increase in operations have impacted surrounding residents and businesses, that the increase in size has impacted vehicular and pedestrian circulation on the property; it has increased the amount of trash, litter being deposited on the subject property and it has impacted existing retail ability effectively maintained in the overall retail center. This statement is not true. We have not increased in size as I just proved with my footprint. We have obtained over 1,000 signatures from the surrounding residents who are in favor of the recycling to remain in their community. We have obtained all the tenants' signatures from the shopping center, all in favor for the recycling to remain on the property. We do not interfere with any vehicular circulation or pedestrian circulation. The parking lot never fills more than 20%. This is a site plan and it shows traffic flow circulation. This whole area here is the parking lot for Save A Lot. We do not interfere with them at all. This is their driveways; 1, 2, 3 driveways. The arrows indicate the flow of traffic. This part of retail which is a laundromat, water center, liquor store, they have their own parking lot and we do not interfere with them at all. This is how a customer accesses our recycling. They'll come through Ninth, the orange is the traffic flow for my recycling, so they'll come through Ninth Street from Victoria, they'll come through these two driveways. This is our parking stall where we park our cars for customers. Our customers will come and park and they'll approach our scale here and this is where we tend to our customers. So we do not interfere with anything, with any tenants in the shopping center. We have one employee just dedicated to clean the entire parking lot and that directs our customers and helps our customers. We always keep our area clean and for many months now we have been in charge of keeping the parking lot clean at all times during operational hours. We decided to be in charge of cleaning the entire parking lot so we don't get blamed for others. We have one staff member just dedicated to clean the entire parking lot, directing our customers and helping our customers. I have included Mr. Mainez' evidence, what he has on the staff report, the pictures he took. This is dated August 31, 2016, here we have some barrels and the reason we have the barrels is because the truck got there late that day. Now what we have done is that if my containers accommodate 20 hours of working hours we schedule the truck now three to two hours ahead so we don't get this problem which it was not an everyday thing. Just once in a while when the truck was late but that has changed. Here it's the same picture, different angle. I don't see anything wrong with this picture, the parking lot is clean. I have a customer here approaching the

scale. I have another guy here just waiting for the material being weighed. I have a woman here with her son and this gentleman is waiting for his wife and his son to get paid. His other evidence, his second picture of evidence, is taken September 15; here it's fine to me. I mean the area is clean, I don't see any impact on traffic, I mean it's clean. The picture, I don't see anything wrong with that. I have included some pictures, just examples, of other recycling centers here in Highland. This recycling is on Victoria and Highland Avenue as you can see here this is the nature of the business to have people lining up here in front. They have their barrels, their bags. This is how business is done, that's recycling so here this kiosk, and these containers are way bigger than mine, exceeding 500 square feet. I don't know if they've been cited or given citations or not. This is the other one on Boulder Avenue and Base Line same thing, just people in front of the kiosk getting their stuff recycled, turned in. This is another example, this one is a little more, this is Base Line and Sterling. This guy has two containers, kiosk and another container for glass so he has three containers and another kiosk. Has he been cited, I don't know. He has a lot of stuff in front of their containers and last recycling in Highland is this one. This is Osburn and Base Line, this one is a little different than ours because we have a shopping center, within a grocery store. This one is in a yard I guess. So he has two containers, people lining up here with their material to turn them in to the cashier so this operation is much bigger than ours. This picture is how my facility looks now. I have replaced my containers, I painted my kiosk, I replaced my signs and this is how my facility looks now. How are we different from other recycling centers? We have more staff. We have more staff to give faster service to our customers, to give good and friendly service to the customers. We have four people weekdays and weekends we have five people so we have enough staff to keep our recycling center clean and give out good service to the community. Community Development Director Larry is using Highland Municipal Code 16.08.220 to revoke my permit and reviews code section 16.08.220. I am assuming that all the steps in the code must be followed and enforced. Larry failed to follow Item D, Notification and Time Limits for Correction. Municipal Code section 16.08.220, Item D, Notification and Time Limits for Correction reads the Community Development Director should notify the holder of the permit or approval in writing of his decision to initiate pending revocation and should state specifically the reasons for the proposed revocation and provide a period of 30 calendar days for the holder to correct or show substantial progress to correct the defects which serve as a basis for the proposed revocation. In the event the defects are not corrected within 30 calendar days from the date notice is mailed or substantial progress is not made during the said 30 days period and diligently continued to fully correct, the public hearing date before the Planning Commission or City Council where applicable should be set to the provisions of highland Municipal Code 16.08.170. On September 27, 2016, Larry sent me a letter, Subject Revocation of Staff Report Permit No. 011-003, a small recycling collection facility located at 26534 Ninth Street. It says Highland Municipal Code section 16.08.220. In the letter, Larry states you have 30 calendar days and then parentheses October 27, 2016, to correct or show substantial progress in correcting the defects which serves as a basis of the subject revocation. He

refers to see revocation finding this attachment to the city's letter dated April 21, 2016. A public hearing date before the City Planning Commission should be set pursuant to the provisions of the City Municipal Code Section 16.08.220 should you fail to correct defects within the time limit above. The earliest date this matter can be presented to Planning Commission is November 15, 2016, at 6:00 p.m. or soon thereafter. When I received the letter I started seeing what I can do to make my business to look better. I was in compliance but somehow he didn't see it. So I decided to replace my containers with new containers, I painted my kiosk, I added new signs to my facility and I called Larry on October 20th to advise him of my improvements. On October 24, I called Larry and told him that I have replaced my containers with new containers, that I have painted my kiosk, if he could come and check. His response was do not worry, at this point there is nothing to do, and your hearing for Planning Commission is already being set for November 15. On October 27 compliance date, once again I called Larry and asked him what happens now? What do I do? What do I need to do today, today is compliance day? His answer was the same, do not worry, you're already scheduled for the hearing November 15 and once again I reminded him of my improvements. The 30 day compliance period was completely ignored by Community Development Director Larry Mainez. All my efforts in compliance were ignored. Since he did not send Code Enforcement or the Director himself to check my facility as of today, no Code Enforcement has come to my facility and has given me a citation for not being in compliance nor said you met compliance. The Director's job was to go out and prove that I have exceeded my 500 square feet before setting the hearing with Planning Commission. He had to give me a citation stating that I did not meet my deadline October 27 that I was violating condition 2. I would like for Mr. Mainez to please show his evidence that he went to my facility and measured my facility on October 27 or after. Can he please show his evidence that I was not in compliance on October 27 or after? I respectfully ask to please restart my permit due to all the evidence I just presented. We are open to suggestions on how I can make our facility better. I would like to work very closely with all of you in making my recycling a better business for all the good people in Highland. I would like for all of you to please give me the opportunity to remain in Highland and let us keep serving the community that has been very loyal for this past six years. Please do not leave our five staff members and their families without a job. This is a small recycling center which supports our families and by closing it down it's really going to harm our families. I encourage you, I invite you to visit our facility, come and see what we are about. Once again, I respectfully ask to please restate our permit and give us the opportunity to remain in Highland.

Mayor Pro Tem McCallon inquired if any of those other facilities that he showed are in the City of Highland?

Community Development Director Mainez responded they all are in the City of Highland.

Mayor Pro Tem McCallon asked and have we taken any action against them or are they in compliance?

Community Development Director Mainez stated we have been monitoring them over the course of the year now, couple of years and some of them do have code enforcement cases open on them.

Mayor Lilburn stated at this time we will move to speaker slips for those who are in favor of the proposal and then following we will do speaker slips in opposition of the proposal.

Mr. Dave Harkey stated he resides at 7502 Victoria Avenue. My family has lived in the same neighborhood for almost 74 years. For most of those 74 years we haven't had any real problems. Unfortunately, a short amount of time after the recycling went into business at Ninth and Victoria we began to get people coming on our property, my property, the property next door which belongs to my 99 year old father and a rental property next door to me that I own. Whenever I've had to confront these people was when they were in there to take recycling. I've gotten anything for responses from we're not stealing, we're just taking the recycling, to getting flipped off to being threatened with bodily harm. These are fenced yards with locked gates and they're climbing over to get the stuff. Prior to that we've not really had any problems down there and it brings in a considerable amount of their clientele or homeless type of people. There's a constant presence of people coming up the street, down the street towards the recycling with huge bags, shopping carts, strollers, etc. As far as that particular facility, personally, I haven't seen many that are that big on a parking lot that is that small. Some of the other ones on are on big parking lots, they have a lot of landscaping, and they're in an inconspicuous spot. That particular parking lot has minimal landscaping that isn't maintained most of the time, hasn't been since the Save A Lot went it. It takes up a considerable amount of additional space for them to bring the truck in, there's a lot of the parking lot that has to be left open because the truck comes and takes the two containers at least once and sometimes twice a day. So there's a considerable amount of area that has to be used for that facility to make it work. If they didn't have the area completely opened to use the trucks they wouldn't be able to do the operation. So given the fact that how it is impacting me personally whenever my safety, the safety of my family and my property comes into play, I take that very seriously and unfortunately I would like to see it moved somewhere else.

Ms. Jody Scott stated I encourage the Council to uphold the Planning Commissions denial of this permit. 2011, I have some numbers also, 2011 is when it was approved for a small recycling facility. Beginning, I went back through Neighborhood Watch minutes, beginning August of 2012 this is when we first started reporting problems at that site. Rio Ranch was the market that was there and we kept complaining; we got a response from staff that staff couldn't do anything about it because the agreement for the recycling on that site was with the store. It was not with the City, wasn't City property. Rio Ranch vacated their

property in, I think it was 14 or 15, and they were vacant, the store was vacant for over 180 days and at that time again Neighborhood Watch questioned the City, why haven't you gotten rid of the eye sore at that place because it's over 180 days and the agreement was with Rio Ranch and Rio Ranch is no longer there. So then Save A Lot came in and February, 2015, the report was given; it was smelly and was a magnet for homeless. They did move in April 2013, they did move over to the east wall and they were there a very, very short time. You have to understand this right on the corner of Victoria and Ninth Street. There's absolutely no screening, no shrubs, no care whatsoever there and Victoria and Ninth is a gateway from the airport to San Manuel. It's a main gateway in Highland. We have this right on that corner. At one time the Neighborhood Watch did turn in to the City that in a two mile radius there were seven recycling businesses, seven in a two mile radius. Now, granted two of those are the City of San Bernardino with these horrendous boundary lines that we have, but still it's the boundary of Highland and they were included in the two mile radius. I implore you to uphold the Planning Commission.

Mr. Juan Ponce stated I am an employee for Ponce Recycling. I handle payroll and computer processing for Ponce Recycling. Also as you might have guessed by my last name, I am related to Jose Ponce; he is my big brother. I am here today in opposition of the revocation of Ponce Recycling's license. There are moments in life in which one can distinctly remember a father's advice. Throughout this case I remember the time my Dad instilled in me his philosophy as to the meaning of life. I remember clearly when I was 14 he told me, Hijo, there are two things the good Lord put us on this world to do. One work, two work hard. If you apply to this to all aspects in life good things will come. Now this lesson was also carried down to my brother and in all honesty I can tell you he applies it to every facet of life. Overall Jose Ponce was attempting to demonstrate compliance throughout the 30 day period given to him. He was working hard, like he was raised to, yet throughout the month when attempting to demonstrate compliance and calling for evaluation of his business he was ignored. In not coming to check for compliance Director Mainez failed to follow Highland Municipal Code 16.08.220 section D, notification and time limits for corrections. As a result the hearing set for Ponce Recycling on November 15, 2016, should have never occurred in the first place. To quote section D, part two, in taking actions to revoke permit, the Planning Commission or City Council shall have the discretion to set the effective date of revocation in order to allow the permit holder adequate and appropriate time in which to make necessary corrections. Although Director Mainez stated he would give Mr. Ponce 30 days to demonstrate compliance, when compliance was shown it was ignored by Director Mainez and not documented. Nonetheless, rules are created for a reason and listening to the hearing itself, which I strongly urge City Council to do, one can hear Director Mainez' argument quickly fail to have relevance to the required findings of Municipal Code 16.08.220. In relation to Finding One, the permit approval was obtained by misrepresentation, Director Mainez states it has become evident that the subject small collection recycling facility has outgrown its permitted size which is 500 square feet. Planning Chairman Randall Hamerly

quickly dismissed this stating, and I quote, "it does not appear that the original approval was obtained through fraud" and as a result Finding Number One was quickly dismissed. Finding number three the conditions of the permit approval have not been met or the permit or approval granted is being or has exercised contrary to the terms or approval or in violation of the statute regulation. Director Mainez once again supplies the SRP2 violation stating that the facility was approved as a small recycling facility and is now over 735 feet. He had never come to verify within the 30 day period. Nonetheless Ponce Recycling demonstrated that the original approved site plan was still in effect. Mr. Ponce brought measurements of his current site plan, which demonstrated they were operating within the same footprint as 2011. Now as you might have noticed, there is clear distinction between each requirement needed for each finding. Yet, when reviewing all three of Director Mainez' processes, it is evident that Director Mainez applies the same idea of the 500 square foot violation for all three findings.

Mr. Eric Gumieney stated thank you for the opportunity, for letting us have a safety net where we can come to you and explain things. Maybe you don't know about something or maybe you do, but I just want to say so far everything they've said is true. They've even offered also to put up shrubbery and making the place look nicer, things like that. But they have kept it very, very clean. Listening to some of the comments though kind of makes me feel a little bit old because I remember when recycling was good. It was something that should be done and things like that for the ecology and things like that. I want to let you guys know these people are very good friends of mine first of all, but that developed over the six years that I've been recycling there. They are good, hard, honest working people. Their scales are the best in town. They always help people. I know there are some disabled people, I don't know if they actually live in the apartment complex or on Ninth Street, but there is one lady in particular about three, four months ago she rode up with her grandson hanging on the back of her little cart that she was driving. He was holding the bags and they weren't heavy bags, just little bags but she said that they do that twice a month. We come here and this is his allowance money. She goes I never recycled before they came to town here because it was too far away for her to go anywhere else. There are countless stories like that. I know there are too and it's probably legitimate complaints that these people have brought up here at this Council, but I want to let you know too. I live in San Bernardino, I myself, am nowhere near a recycling yard. I also had recyclables stolen from my back yard. It's a problem that going to happen just like copper is going to be stolen but it's not their fault. What I'm trying to say, if I thought for a minute closing down this recycling yard would make Highland a much safer place, there'd be no more robberies, I'd close it down. Safety is important. The thing I'm trying to let this Council know is that they're not the problem. They work hard every day to keep that place clean. I invite you, just like he did. First they say there is an impact on the parking, I invite you any day of the week, any time of the day, come check out that recycling and see if there's not empty spots where people can still park. They do not impact that. I don't even know how that came about, but I invite you and I would like the other side to

give you that same invitation. I have a feeling they probably won't but I don't want to speak for them. Finally at the beginning we opened up in prayer. To me, it's real simple; just let God guide you in your decision and make a righteous judgement.

Mr. Francisco Ramirez stated I started working at that recycling center like six months ago. Right now what they are talking about is that they are trying to close down the recycling center and that's going to affect me and my family. I'll lose my job and the other people working too. They're going to lose their jobs. They will not be able to provide for their families. The recycling center that I work with ever since I started working with them it's been good. Friendly services, we get people fast out, we keep everything clean and if we see any trash around we try to fix it as soon as possible. I like working there. I like to help people and I like to help out anybody that needs help. I even tell people when they need a recycling place or they ask for a recycling place I tell them where ours is at. They all go and get their stuff done. If you close down this recycling center a lot of people are going to lose business. Same thing with the store when people come and recycle once they get their money they go to the store. They go get their food and everything so we're providing services for people and for people at the store, the water place, the laundromat, liquor store, once they get their money they go to the stores. So basically we're helping other people too, not just us. Especially about the cleaning part, we keep everything clean. The parking lot, shopping carts, we get them together put them back where they're supposed to be. If they bring other things we call the City for them to come pick up. Hope you don't close the recycle business. That's my job right there and if I lose it, I can't find another job that's close to me.

Augustin stated he speaks very little English.

Mr. Martinez stated he will be translating for Augustin. Mr. Augustin is stating that he lives in Highland and that he recycles. This is his mode of living, by recycling. He is a client of Ponce Recycling and that one of his sons used to work at Ponce Recycling. He wants to know why they want to close them down because everything is clean and this is a mode of living for him. He just is wondering why because everything is so clean. He cares because he lives in Highland and lives around the area and he doesn't want the recycling to be closed down. So he can continue working and providing for his family.

Ms. Carolina Montavo stated she lives at 7502 McKinley Street in the City of Highland and I am here in favor of them keeping their permit. I just want to say that I worked for Rio Ranch when the Rio Ranch owned the property. Not only was he the owner of the market, but he was also the owner for the whole property. So every time they had to pay the rent or any kind of complaint, anything that had to do with the property was pretty much delivered through us, the staff from Rio Ranch Market. Most of the employees were Spanish speaking so I was the main English speaker. So any type of complaint that came in about the recycling I mostly, I knew about because I was the one sending the

complaints. A couple of points have been said or have been made about how they weren't cleaning. Well I don't know about now with the Save A Lot, but the cleaning, the gardening and all that, that's not for them. The cleaning their work area was because that was one of the main points when they were given their contract to use the property from the Rio Ranch. They had to keep their work area clean because we're a supermarket or we were a supermarket. They are on the outside so whatever the outside looks like pretty much affects us because people, if it's an eyesore they don't come in; they don't even bother to come into the store. So that was one of the main things that had to be up kept, the cleaning. Another thing, another speaker made a comment about the transients. Well I don't think shutting down a recycling is going to get rid of the transients. Transients are all over the place. I live on McKinley Street which is about maybe two to three blocks away from where the recycling center is at, and every Monday, which is my trash pick-up day, there are people, not one but maybe two or three maybe four. Three o'clock in the morning, eleven o'clock at night they're always digging through our trash. So closing down the recycling is not going to get rid of it. There's also, they called it an eye sore, it was an eye sore. The transition period when Rio Ranch closed to when Save A Lot opened it was bad. It was abandoned. Nobody was there to take care of it. Like I said it wasn't their obligation to keep everybody away from loitering. I mean they did because it affects their business too, but it's not an eye sore. They are good hard working people. I can vouch for that because I knew them for about four to six years that I worked for the Rio Ranch. I worked for the Rio Ranch for like maybe ten years but six of those years were where they were at, so I got to know them pretty well. Some came; some are still there, good people. Not only do they offer you a drink, they'll offer to help you separate your material which most places don't. You got to take your material stand to the stand and pick through plastic CRV this and that.

Mayor Lilburn stated that is all the speaker slips I have in favor as well as in opposition. We will move on. The applicant has an opportunity to provide a rebuttal at this time.

Mr. Jose Ponce stated for David Harkey, I have spoken to David when I was out there collecting signatures, talking to neighbors. I want to build a relationship with him. If anybody that comes to his yard, I'm open for him to come and let us know the description so if these people come to us we can talk to them. So we can keep our neighbors, work together, me and him. About Ms. Scott, I want to work with you guys. I presented this before our site plan, screening redevelopment, the whole parking lot. I didn't bring it tonight because when I brought it before it was turned down because they said it was irrelevant, but I have presented this site plan way back to Larry. He did not give me the opportunity to do that. So I would like to work with you and if you guys want me to screen the recycling center I'm open. I want to do it and I want to redevelop the entire parking lot so it can be a good view for the center and my recycling will be screened. Also I want to mention that if I leave within 60 days, if I cancel my RC Cal Recycle is going to send the letter to Save A Lot because there's no

recycling center within a mile radius. So they're going to be on serve zone so eventually Save A Lot has to bring another recycling center or they're going to be cited for not having a recycling center within the center. So why not just give me the opportunity to remain in the center? I want to work with you guys. I want to screen the recycling. I want to redevelop that parking lot. If you guys have any suggestions, please let me know.

Mayor Lilburn stated she will now close the public hearing and open it up for Council comments.

Councilman Timmer stated the last photograph there is not quite what we have in our book. It's a little different. It was indicated this is a new upgraded facility. To me looking at, it looks like the same thing with a fresh coat of paint. The schematic you showed if the numbers are correct indicates less than 500, but obviously the ancillary activities going on are outside that 500 square foot. Is that the gist of what we're saying here?

Community Development Director Mainez stated that is correct. In fact you're referring to schematic on page 11 as well as the schematic that the appellant had presented. Although his measurements do reflect the facilities individually measured certainly that his math is correct. We are talking about an area of use and so the area that we are talking about takes up four parking spaces, four parking stalls. So that equates to almost 700 square feet. If you look at it as a 9 X 19 foot parking stall times 4 you're going to get close to 680 something. So then you include the additional area in front of the kiosk. You know they're showing a little canopy here for shade but that area is extensively used for the collection. They are very popular. So that's what we are referring to as exceeding their square footage of area.

Councilman Timmer asked is that 500 square feet, if customers come up and park their car or their bicycle or their push carts, is that included in the 500 or excluded from the 500?

Community Development Director Mainez stated that is excluded from the 500. That is treated as just normal operation, coming to the site, leaving.

Councilman Timmer asked we are talking about activities done by the facility that is greater than 500 feet?

Community Development Director Mainez stated correct, the space needed to collect and process.

Councilman Timmer stated now there was some discussion on Rio Ranch and the relationship or the agreements since they own the property and it has changed hands and so forth. We still have a City permit through all that process. It wasn't like there was no permit even though they had an agreement with Rio Ranch Market. There were still City permits involved, correct?

Community Development Director Mainez stated correct.

Councilman Timmer asked what do they need to do to get under the 500 square feet in your mind? Eliminate all those ancillary activities? The trash cans and the bags of bottles and all those other things or is there something other than that?

Community Development Director Mainez stated well that's a question we've been asking them from the start. You can look at their schematic and say eliminate one of the containers and the offer more frequent pickups but that doesn't fit their model and it wouldn't be acceptable to them. So they need to find a bigger site.

Councilman Timmer asked so if we upheld the Planning Commission motion to ask them to remove, can they come back with a different plan meeting with 500 square feet? Would that be a process or they, I guess I'm looking at some, what are their alternatives once they have to move as far as the city permitting process is involved? I know he mentioned himself about the State law saying you have to have so many recycling facilities in certain areas and so forth. Do we run into a problem or can they still move to other locations and get a permit for it? Now I guess it would be called a large recycling center rather than a small recycling center and still keep their same business plan.

Community Development Director Mainez stated so basically tonight is the discussion of the revocation of the permit, so the questions that you asked, several were also asked by the Planning Commission in a roundabout way, and so if they wanted to reapply and resubmit under our new ordinance which allows a larger facility. I think up to five parking spaces which would be closer to 800 square feet. The Council was a little generous, but again we are looking at larger sites, having these centers just in shopping centers, shopping centers with trees, landscaping, and other amenities so that they don't stand out. Unfortunately this is a small site, and I think keeping it to 500 square feet gets it somewhat proportionally to the site. Although one could argue, according the Planning Commission it is too large for the site. So they would reapply and we would look at their site plan, location and most likely and again this is for the Planning Department to evaluate. They talked about landscaping. There is no landscaping on this site. The current code requires that to be a major design review. That would go before the Planning Commission and the Planning Commission is going to probably require the property owner to make extensive improvements. The property owner is not here to chime in, but I don't suspect he's going to landscape the entire parking lot for a recycling center.

Councilman Timmer stated just to cut through all those words, a large recycling center regardless of what amenities, this site based on the Planning Commission's review is too small anyway. Is that right? They'd have to relocate to some other site?

Community Development Director Mainez stated correct. That was one of their thought processes.

Mayor Pro Tem McCallon stated he would like the attorney to address some of the issues that the applicant or appellant had brought up regarding noticing and all that issue about 30 days.

City Attorney Steele stated as I understood the question regarding the noticing, I think the business owner is questioning staff's decision to set a public hearing a couple of months out prior to the end of that 30 days compliance period. I don't think the code requires that there be an evaluation at the end of the 30 day compliance period and then be set. The code requires that the business owners have 30 days to bring the property into compliance before the permit is revoked. So I think in my view there's the fact that the hearing was set a substantial number of days larger than 30 out from the notice of revocation meets the intent and the substance of the code. I don't think there's a requirement that we wait 30 days to take a look and then set a public hearing at that point. I do just want to address one issue with regards to the grounds that are stated in the staff report in the proposed revocation that I think may have represented a potentially misinterpretation on part of the Planning Commission, and we weren't in attendance at that hearing so I didn't have the opportunity to advise them. I'm not making a recommendation to the Council at all in terms of what to do with the application. I would urge you to not look at Finding A, which is the fraud and misrepresentation finding. I don't think there's any evidence at all that's been presented this evening that there was either fraud or misrepresentation. So I would encourage you to absent that evidence to not rely on that finding.

Councilman Timmer asked didn't the Planning Commission exclude that one anyway?

Community Development Director Mainez stated they discussed it and took out the word fraud but they kept the rest of it. So I didn't reflect correctly on here but for the City Attorney I would be happy to strike that.

City Attorney Steele stated I think misrepresentation has an intent factor normally in the legal definition and I don't think there's been any evidence presented that there was intent to misrepresent the size of the business.

Councilwoman Solano asked in the permit itself, did it state that the 500 square feet couldn't exceed including the clientele or just solely the business itself?

Community Development Director Mainez stated let me refer to that page so we can read it.

Mayor Lilburn stated in our staff report.

Community Development Director Mainez stated correct. So Condition Number Two states the small collection facility shall take up no more than 500 square feet of proposed site. Page 86, Number Two, Condition Number Two. So it's all-encompassing and we would interpret it a little bit loosely to include the facility and the collection operation. Not the parking that's required, you know people coming and dropping off their stuff.

Councilman Timmer asked so if we recommend upholding the Planning Commission recommendation we would then now, based on your recommendation, exclude the Finding One so we would have to modify that?

City Attorney Steele stated if the Council intends to uphold the Planning Commission recommendation really the code only requires that any one of those four findings be true. So you don't have to evaluate all four of them to the extent that they're not applicable. It just requires one. So staff I think has presented information with regard to all four but the Council could and the Planning Commission could have revoked the permit if only one of those four was true. I would suggest if this is the way, again, not making a recommendation, but if this is the way the Council was going I would suggest that "A" be deleted entirely from the resolution because to me it just doesn't appear to be supported by the evidence.

Mayor Lilburn stated I just have a couple of comments and we are in a very peculiar situation now that we've gone to the Districts and I want to really want to respect Anaeli as this is her District. A lot of times I think that we would look to that Council Member for direction, but since we're so new and I've worked with the Neighborhood Watch in that community for all these years, I will tell you, and this is my findings and I have been to your facility many a times. I live in your neighborhood; I live on the western territory. I didn't see your name, your signature on the petition; perhaps you signed it and I missed it, but those that live in the neighborhood have more concerns than don't live in the neighborhood. We've gone there on several occasions and have taken pictures because periodically as Council Members we like to go through our neighborhoods, see what are the complaints from the Neighborhood Watch, and we've often gone to your facility because we've had several complaints with the Neighborhood Watch groups. The Neighborhood Watch groups are made up, and that particular one, of several communities and blocks. So the pictures that you're showing me today are different than the ones that we have taken and the ones that I have seen. I appreciate you cleaning it up. The additional space around there, we're missing all the shopping carts, we're missing all the area that you have all the shopping carts, all the people, all the cars. We have a new store there that is looking to do business and we want to be mindful of that store and having a recycling center in the middle of the parking lot. Kind of takes away from the beautification of that area. The traffic, we have to remember that when people are going through our trash cans and taking the recyclables those aren't actually up for taking. They are actually taking recyclables that belong to somebody else.

They don't belong to them. Once they are in the street they belong to the recycle trash people that pick them up. My thing is there is really not a lot of room for landscaping, and I can't speak for the property owner to say if we put something like that in. Have you been looking for a larger facility?

Mr. Jose Ponce stated this is not a large facility. This is set up for every recycling center within in a convenience zone. When Larry says that I'm overgrown, I don't know. Can he come and explain here on my site plan because I . . .

City Attorney Steele stated the public hearing is closed, we can't.

Mayor Lilburn stated so I guess those are my concerns. Being a part of the community and being out there in the community those are my concerns and I share those of those in the community. So that's where I'm going with that and speaking with the new store and what their concerns are as well. I did want to share that with you on why I would support this event or this decision. So at this time if we have no further Council discussion I'm going to call for a vote.

City Attorney Steele stated before you take the vote, please note that in B1 of the proposed Resolution is a reference to the Planning Commission making findings and that should be the City Council making these findings, and pursuant to Councilman Timmer's Motion, the Council would not be including 4A, and 4B has already been excluded so those changes would be made to the Resolution.

A MOTION was made by Councilman Timmer, seconded by Mayor Lilburn, to uphold the Planning Commission's determination by taking the following action:

1. Adopt City Council Resolution No. 2017-001, as amended, upholding the Planning Commission's determination to revoke Staff Review Permit No. SRP-011-003 initially approved by the City's Planning Division on March 11, 2011, for Ponce Recycling, a Small Collection Recycling Facility located at 26534 9th Street in accordance with the Highland Municipal Code Section 16.08.220 (Revocation of Permits). Motion carried 3-2, with Councilman Chavez and Councilwoman Solano dissenting.

RESOLUTION NO. 2017-001
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND
UPHOLDING THE PLANNING COMMISSION'S DETERMINATION TO
REVOKE STAFF REVIEW PERMIT NO. SRP-011-003 INITIALLY APPROVED
BY THE CITY'S PLANNING DIVISION ON MARCH 11, 2011 (PONCE
RECYCLING) – A SMALL COLLECTION RECYCLING FACILITY LOCATED AT
26534 9TH STREET IN ACCORDANCE WITH THE HIGHLAND MUNICIPAL
CODE SECTION 16.08.220
(REVOCAION OF PERMITS) APP-016-001

CITY COUNCIL LEGISLATIVE

12. Construction Management Services Proposal/Willdan Engineering – Base Line/5th Street/Greenspot Road Corridors and Five Corridors Traffic Signal Coordination Improvements (Project No. sig14001)

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

A MOTION was made by Mayor Pro Tem McCallon, seconded by Councilwoman Solano, to:

1. Approve proposal from Willdan Engineering to provide construction management services for the Base Line/5th Street/Greenspot Road Corridors and Five Corridors Traffic Signal Coordination Improvements Project; and to
 2. Authorize the City Manager to approve contract amendments up to 10% of the proposal amount. Motion carried, 5-0.
13. Development Impact Fee Credit/Valero Gas Station

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

A MOTION was made by Councilwoman Solano, seconded by Mayor Pro Tem McCallon, to approve Development Impact Fee credit for the Valero Gas Station in the amount of \$25,863.32. Motion carried, 5-0.

14. Updates on LAFCO, Omnitrans, SBCOG, SBCTA, SBIAA, SBVMWD, SCAG, SCAQMD, Work Program, Regional/Legislative Issues, Development Issues, Subcommittees and AB 1234

City Council Members provided definitions for each acronym as well as a brief summary of each organization.

ANNOUNCEMENTS

City Clerk Hughes announced the SBCTA, SCAG District 7, is holding an election on March 1, 2017.

Assistant Public Works Director Zamano gave a brief update regarding the Base Line Safety Improvement Project, Trail Improvements on the north side of Base Line between Palomino and Church Street and the West Highland Bikeway Infrastructure and Pavement Rehabilitation on Base Line.

March 16-17
January 11

City County Conference, Lake Arrowhead
City Council Study Session – Work Program

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 7:54 p.m. in memory of David Schmitt.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Penny Lilburn
Mayor