

**MINUTES
CITY COUNCIL REGULAR MEETING
MARCH 28, 2017**

CALL TO ORDER

The regular meeting of the City Council of the City of Highland was called to order at 6:01 p.m. by Mayor Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

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

ROLL CALL

Present: Chavez, Lilburn, Solano, Timmer
Absent: McCallon

REPORT FROM CLOSED SESSION

No reportable action to report

SPECIAL PRESENTATIONS

Mayor Lilburn presented Kim Stater with a 20-Year Employee Service Award recognizing her dedicated service to the City of Highland.

Mr. Samuel Sukaton gave a brief presentation regarding the Golden State Opportunity Foundation.

PUBLIC COMMENT

None

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Councilwoman Solano, seconded by Councilman Chavez, to approve the consent calendar as submitted. Motion carried on a roll call vote, 4-0, with Mayor Pro Tem 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 – March 14, 2017 City Council Regular Meeting
Approved the Minutes as submitted.
3. Warrant Register
Approved Warrant Register No. 642 for March 28, 2017, in the amount of \$429,575.77 and Payroll of \$81,258.21.
4. Treasurer’s Report for February 2017
Received and filed Treasurer’s Report for February 2017.
5. Final Map Approval/Tract 16448 (Greenspot 13, Inc.)
Adopted Resolution No. 2017-011 to:
 1. Approve the Final Map of Tract No 16448;
 2. Accept the subdivision bonds; and
 3. Authorize the Mayor to sign the standard subdivision agreement.

RESOLUTION NO. 2017-011
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, APPROVING THE FINAL MAP AND SUBDIVISION
AGREEMENT, AND ACCEPTING THE SUBDIVISION BONDS FOR THE
TRACT NO. 16448 (Greenspot 13, Inc.)

6. AB 1147 Recycling Theft
Authorized the Mayor to sign a letter supporting the passage of AB 1147 Solid Waste pertaining to recycling thefts.
7. Declare Two Seats Vacant on the Planning Commission
 1. Declared two seats vacant on the Planning Commission; and
 2. Directed the City Clerk to advertise these vacancies on the Planning Commission.

CITY COUNCIL PUBLIC HEARING

8. Public Hearing before the City Council to Consider the Appeal of Administrative Citation No. 13217, for Violation of the Site Approval at 7957 Church Avenue, Highland, California, in Accordance with Chapter 2.56 of Title 2 of the Highland Municipal Code. Appellant: Mr. James Karas. PHNB Case No. 16-002 [Continued from the March 14, 2017 City Council Hearing].

Mayor Lilburn opened the public hearing.

Community Development Director Mainez stated the City Attorney's office has assisted staff at Public Nuisance Hearing Board level regarding the appeal that is before you tonight related to the Administrative Citation. Therefore to ensure compliance with due process principles and to ensure that the applicant is providing a fair hearing on Appellant's appeal of the Public Nuisance Hearing Board decision, the City has retained Attorney David Palmer who is sitting next to our City Manager from the Law Offices of Stradling, Yocca to provide legal advice as needed to the City Council. The City Attorney will not be participating in providing legal advice to the City Council on this matter. Kyle Brochard, who is sitting next to me, is from our City Attorney's office and he will be assisting staff with the presentation tonight.

Attorney David Palmer stated just to clarify the City Attorney's office is going to act, is going to be the prosecutor for this one on behalf of the City presenting the City's position. I understand the Appellant is represented by counsel and his counsel will be presenting the Appellant's position. I'm here to advise on procedural matters on what needs to be done through this hearing to ensure that it is a fair hearing that meets all requirements of the Municipal Code and State law.

Attorney Kyle Brochard stated we are here today in appeal of the Administrative Citation No. 13217. The property at issue is located at 7957 Church Avenue. It's located in the industrial zoning district. In 1998 the City approved the establishment of a commercial recreational vehicle storage yard on the property. We refer to this approval in the staff report as DRB 98-006. It's located at Exhibit E in your packet. As a condition of this approval it required any revisions or modifications of the approved plan use to be submitted to the City before any changes could be made. Eight years later, in 2006, a different applicant submitted a minor design review application for the construction of recreational vehicle covers as part of the approved recreation vehicle storage yard. That application was also approved, as referred in the staff report as DRB 006-011 and it's located as Exhibit F. In December of 2015, City staff was notified that Appellant Secure Storage which is located on the property was renting out storage containers. Staff determined that use was not permitted under the prior approvals and issued a notice of violation. The notice of violation is Exhibit G. The notice advised Secure Storage and the property owner Mr. Karas that the storage containers were being rented without City approval. On February 5,

2016, Mr. Karas did not remove the containers or file an application to modify the site approval. Administrative Citation No. 13217 was issued. Just like the previous notice the citation was for a violation of the site approval which itself is a violation of municipal code. Mr. Karas appealed that citation. The first hearing was held before the Public Nuisance Hearing Board on June 1, 2016, the minutes for that hearing are Exhibit B. The hearing was continued to allow Mr. Karas to submit an application to modify his site approval. Mr. Karas later withdrew that application. On February 1, 2017, the hearing on the appeal citation resumed before the Public Nuisance Hearing Board, and at the conclusion of which the citation was upheld. Mr. Karas has now appealed to the City Council. The condition of the property is not in dispute. Sometime prior to December, 2015, Mr. Karas designed thirty 160 square foot storage containers and thirty 320 square foot storage containers, had these containers constructed and installed on the property, and has been renting them out to customers. In the initial appeal he described the use of the property as "operating a mini storage facility". Staff does not believe that the site approval for the property permitted Mr. Karas to place these storage containers on the property or operate a mini storage facility on the property without prior authorization from the City. Appellant has made two main arguments in opposition to this which I will address now. Mr. Karas' first argument is that Condition 3 in DRB 98-006 authorizes him to operate a mini storage facility on the property. The condition is located in Exhibit E on page 37. It states "all uses shall be restricted to those allowed in the industrial zoning district". This condition prohibits any use that is not otherwise permitted in the industrial zoning district. It does not, however, authorize the property owner to change or modify the use of the property without the City's authorization. This property is authorized for a recreational vehicle storage yard only. Mini storage is a separate authorization under municipal code which would require a separate permit. Appellant's argument, if extended, would allow him to change the use of the property without City approval from a recreational vehicle storage yard to mini storage or bakery or recycling facility, all of which are permitted in industrial zones, but require a permit from the City. The permit was not requested and was not approved; the mini storage is not allowed on the property. Secured Storage's next argument focuses on Condition #23, which can be found on page 41. It reads in pertinent, in part, all outdoor storage of materials, wares, crates, bottles or similar items necessary to or part of a permitted use within an industrial district shall be screened from view on at least three sides by a solid opaque fence not less than five feet in height and on the fourth side by a solid opaque gate not less than five feet in height or alternatively such other material or design approved by the Design Review Board. Condition #23 contemplates storage of "materials, wares, crates, bottles, or similar" but it does not authorize Secure Storage to install storage containers without prior authorization and it does permit the operation of a mini storage facility. The storage containers themselves are not the materials, wares, crates, bottles or similar contemplated by this condition. The containers are separate structures used to house such items and much larger items. According to Mr. Karas, and the record, there were 287 total spaces for recreational vehicle storage on the property as initially permitted. Sixty of those spaces have been replaced by

these storage containers. In other words, Mr. Karas has replaced approximately 21% of the available RV storage space with these containers. This is obviously a very significant modification to the original plan. Mr. Karas was required to get approval from the City before making this change and he failed to do so. That is a violation of his site approval. In 2006, when the then property owner wanted to install recreational vehicle covers on the property, he filed a minor design review application and got approval from the City before doing so. Mr. Karas was required to do the exact same thing before placing 60 storage units totaling 14,400 square feet on the property. Lastly, these storage containers are quite large. According to the record they are either 160 square feet or 320 square feet. They measure 8x20 or 8x40. The building code requires property owners to get approval from the City building official prior to placing any structure larger than 120 square feet on a property. No such approvals were gotten for these storage containers. City Staff would ask the Council to consider the proposed Resolution before you and uphold the citation.

Community Development Director Mainez stated I do want to point out that staff took current pictures of the site this morning and there are extra copies up here on the dais. It shows an angle from Church Street as well as a photograph from Fifth Street.

Ms. GERALYN Skapik, representative for Appellant, Mr. James Karas and Secure Storage stated we do have a presentation that I would like to present to you all. I will be presenting the procedural violations that have occurred here. My partner, Mr. Allen, who is also legal counsel for Mr. Karas will be presenting the legal violations that have occurred here and Mr. Karas would like to present as well and explain to you all what he is actually doing. So with that I'll have Mr. Karas start the presentation and then I will go forward with the procedural violations.

Mr. James "Jim" Karas stated he is one of the owners of Secure Storage, Highland. I've been in this business for about 15 years and I believe I know this business very well. Storage is storage. In this case I have a permit for outside storage. Recreational vehicle storage is one of the items the permit says. However, in almost any storage facility you can find in Southern California or nationwide, which I can provide pictures as many as you'd like, it's a combined item. Self-storage facilities have RV parking or RV storage. RV storage facilities have self-storage. It's usually an ancillary product. They complement each other. So in our case we have RV storage out there, 287 units. However, we have approximately 101,000 square feet of storage, RV storage. We've replaced that with those storage containers and actually only have 14% of the facility now being utilized for self-storage. It's not 21%. So we were able to maximize that area just by setting the storage containers in a way in the parking spaces that would maximize the area. So, the self-storage is an ancillary part of RV storage. We have people that put in their recreational vehicles in these containers. They put in quads, motorcycles, jet skis, and yes people sometimes put their personal items as well but it is part of the recreational vehicle storage business. Self-storage, outside storage is outside storage. We've put in a substantial

investment in this project. We have a lot to lose here. It's obviously costing us a lot of money to have legal counsel represent us now three times. I have long term leases with these people. The containers are pretty much full. I believe I only have four vacancies at this time. I'm a good business citizen. I've moved into the area, I've fixed the place up, the landscape is immaculate, the place is clean, and we take good care of our customers. I believe we are an asset to the community. Another thing, I just don't understand why the City is picking on me or coming after me where I can take you all through the City and there are storage containers everywhere. I'm sure the elementary school on Church Street that has six of them doesn't have a permit for that. I have a permit. The church next door to the elementary school has storage containers and they probably don't have a permit but I'm a storage facility and I have storage containers. Another thing I'd like to bring up is, as far as a building code, these aren't buildings. These are personal property. They are 8x20 and 8x40 specialized storage containers. They put them on a ship to get over here, stack 40 high, they are personal property. They are not buildings so I do not see where a building permit issue would even come up in this. Again, storage is storage. In fact you have in your City, I brought pictures, you have a place called International Self-Storage in the City limits of Highland and that's an aerial that I'm passing out. I can count, I visited the place, I can count 11 storage units that don't have building permits because again they are personal property in the City of Highland. Additionally you have another storage facility at 1717 Palm Avenue which has RV's and self-storage.

Mayor Lilburn stated could you stay on the topic with your property? That property isn't in the City of Highland so if you just address your issue.

Mr. Jim Karas stated okay, sure. Anyway I just wanted to give you an example that this is the normal part of self-storage where you're going to have both product types because they complement each other. It was brought up that an industrial zone you could have a bakery and a cycle shop, those are completely unrelated items. What we have here is a storage facility that caters to RV customers and we also have storage containers for our RV customers to store their belongings for their trips or for what have you. That's what I have and I can answer any questions or have counsel take over.

Mayor Lilburn inquired have you had an opportunity to read the minutes from the past hearings from the public hearings that you've had with the Planning Commission?

Mr. Jim Karas responded yes ma'am.

Mayor Lilburn stated I drive your street on Church regularly and I often see a number of U-Haul rental trucks. Do you also run a rental, U-Haul rental as well?

Mr. Jim Karas responded we are a U-Haul dealer, yes.

Mayor Lilburn stated so you do run that as well.

Mr. Jim Karas stated yes.

Ms. GERALYN Skapik stated I sat there and I listened to counsel's presentation as to why we are all here and it appears we are all here today because my client is operating a mini storage facility which I think is incredibly important because we should not be here for that. I actually presented a packet to Council members tonight because procedurally not everything was in your packet. These documents that I presented to you all should have been in your packet but they were not. The first one is for the citation and I think you should all look at that very, very carefully because we are here for one reason. You're not here because my client is operating a mini storage. We are here because we have violation of site approval, cargo containers, remove all cargo containers from the property or obtain a City approval. We are not here for a mini storage. This has been the whack-a-mole game. Every time we show up at a Public Nuisance Hearing they change the issue. We came back twice, they change the issue. Now in their staff report, interestingly enough on page 7, they say that we do not have cargo containers and so that's no longer an issue. Well if it's no longer an issue then why are we here? You cannot change the violation midstream and then expect us to catch up when we walk into a hearing and that's what we've been doing for the past three hearings. Walking in and catching up. The first two Planning Commission hearings were spent going through definitions of cargo containers. That is what we did and now I'm very happy to see that the staff report, again on page 7, says these are not cargo containers. So if they are not, again I repeat myself, why are we here? Procedurally this is a complete due process violation, very much so is this a due process violation. When you have counsel sitting here telling the Council members that we are here for a mini storage, that's not why we are here counsel, and you know it. I think it's also very telling and another thing I've presented to you as the resolution that was attached to the very first public nuisance hearing and that's my Exhibit 2. If you look at the Resolution you can see what we were there for, which was the very first public nuisance hearing and it was for cargo containers. Again, we spent an hour going through the definition and that resolution addresses the storage containers. The resolution that you have now is a completely different resolution. It doesn't address the storage containers. It addressed the mini storage, another procedural violation. The next thing, I think what is very telling is and counsel made a point in saying the notice of violation was issued in November, I mean in December, well yeah, a notice of violation was issued in December, 2015, and the citation, which is a different citation than the notice, was issued in February 2016. The citation was different than the NOV that was issued, and the reason it was different is because between December and February if you look at your staff report it doesn't identify all the conversations that occurred between Mr. Karas and staff, but if you look at the June 1 staff report it goes through in detail what Mr. Karas did, what staff prior to the February, notice of violation, the NOV that was issued in December was very different than the citation that was issued in February. If in fact they wanted to cite Mr. Karas for mini storage, they should

have and could have right then and there. They did not. So that's very, very, very telling but I think the reason is, is the Planning Commission, we went to the Planning Commission and the Planning Commission said well you're right Ms. Skapik, you can have cargo containers. The issue is, the ordinance that we are presenting addresses residential properties and I did attach, as Exhibit 3, which wasn't attached to your packet which should have been, is the staff report for the Planning Commission and in it, if you look at that, it's Exhibit 3, if you look on page 4 of Exhibit 3 it talks about per charter 8.32.20 and it talks about the fact that you can't have storage containers in residential property and then next paragraph by the way the City is going to enact an ordinance that addresses industrial, cargo containers industrial uses. It hasn't occurred and they presented the draft language that has not been adopted, so what the City is doing is prospectively prohibiting a use for an ordinance that doesn't even exist but what is even more telling is that the conclusion says that the Highland City code permits self-storage in the industrial zone where the site is located. Staff is not opposed to this land use, but what we want is you to go and build structures. Where in the ordinance, where in the code does it say I have to build a structure? Or my client needs to build a structure in order to have this use? Nowhere. In fact my client can have this use because it's permitted for outdoor storage. He has that use but you cannot bring me here again for notice of violation or a citation for cargo and then have your City Council sit here and tell me the violation is for mini storage. That's completely inappropriate. The last is I wanted to show you that the City is well aware of what my client is doing, and has been well aware about it, because they issued them a business permit and that's Exhibit 4. It's a business license that's for a storage facility so it's not for RV storage; it's for a storage facility. So I think that it is very telling that all of sudden after a complaint came out which we found out was from a competitor that all of sudden Mr. Karas is being under this scrutiny and again, the violation, the citation that was issued has to be what this Council is for. The resolution that is attached specifically the last page of your resolution says 9, both the operation of a mini storage facility and the construction of the storage containers on the property without City approval violates the site approval. We are not here because of a mini storage facility. We are not here because of construction of storage containers. We are here because there are cargo containers, that was the citation and again, as evidenced on page 7 of your staff report, while Appellant may be correct but the storage containers located on the property do not meet those definitions at this point is irrelevant. How is it irrelevant? Have you guys rescinded the citation now? This is again the whack-a-mole game. Every time we appear at a hearing the violations change. With that I'll have Mr. Allen discuss the legal issues associated with this unless you have questions of me.

Mr. Mark Allen, Partner Skapik Law, stated to him always faults the job of telling City Council why I'm going to sue them. So I apologize ahead of time but that's what I need to talk about here. So I'm going to start kind of back a little ways. I'm going to start in 1215 AD. It has not been the case ever since 1215 AD that you can deprive someone of life, liberty or property without due process of law. That was when the Magna Carta was signed. In the California Constitution, it's in the

Federal Constitution there is no question that my client has a vested right to continue in connection with this permit. Now, what the City's position is near as I can tell, is that they are citing my client under the public nuisance law. Back up a little bit so I can explain this. As a city, general law city, charter city, even without the statute which specifically allows you to abate public nuisances, you have a right to abate a public nuisance. What's a public nuisance? A public nuisance is defined in your code, in chapter 8.32, and the one being cited here is subsection B which I'm going to read to you. It says a public nuisance is created by any condition or use of building or structure property which is detrimental to the property of others. Now has there been any proof that what my client is doing is detrimental to the property of others? The answer is no. No proof has been given. Second question isn't there a list here on section B1 that says violation of any condition site approval. Okay now I'm going to throw some Latin at you. There's a legal principle. It's called Eiusdem Genaris and what it means is of the same kind. Now you have list here, so it's a violation of site approval. It says clothes lines or clothes in front yards, trash, overgrown vegetation, noxious smells, dangerous nuisances to children, those are all the things that are listed in there. Now what this legal principle of the same kind means is you have to interpret this code section as being of the same kind as the rest of the list. So does that mean even though there is no proof that the violation is detrimental to the property of others? There's no proof. No one even has suggested there's proof. That nonetheless it violates this section. The answer I'm pretty confident is no. The answer is that under that section my client has not violated anything. Now, I will say to you if you would have been my client I would have cited someone under the right section. I would have brought an action about the code section and I wouldn't have tried to pretend that this was a public nuisance, but I don't make those decisions. The staff report says, admits, that what is being cited and what you're asking to do in a resolution do not exactly match. The citation as you can see says storage containers, and it's clear that the notice to my client and through hours and hours of hearings was about whether or not he had storage containers. Of course he didn't have storage containers. The storage containers are defined in your code as a specific thing that is defined by international shipping conventions and by the US Department of Transportation. So he clearly didn't have those. So the question is, does that matter? The answer is yes it does. Once again ever since 1215 you can't deprive someone of life, liberty or property without due process of law. My client is a property owner. He is a responsible property owner. He can't comprise with you on this. He's got other people who are relying on him and he's not acting. The other issue is, is the mini storage facility different somehow from some other type of review. Well this is an interesting question. Let's look at what your code says. Your code allows any type of storage facility in an industrial zone with a design review. Is there a separate design review for mini storage that is different from outside storage? I've looked, looked, don't find it. It looks to me that under 16.08, of your code which is where you'll find it, that the only design review that would be applicable here is for outside storage. Now, has my client violated that condition? Well is the storage outside? Well duh, yeah. Is it storage? Yeah. Has any of the design changed? Everything's screened; it's just as screened as a metal box as it is a

metal box with wheels. So whether it is a metal box or a metal box with wheels the fact of the matter is your code does not distinguish between those two items. Now, it would be helpful if we could get to talking about actual things that matter and not have things that are huge amount of resources being spent on I don't know what. You have the opportunity to decide to change, deny or modify this. You don't have to tell the staff that they're wrong. You just have to tell the staff that they should go back and do this correctly. If you don't go back and tell them to do it correctly, and here's where I get mean, then my client's civil rights have been violated and he really doesn't have a choice but to fight. You've really shoved his back against a wall so he really has no other choice but except to fight you. He doesn't want to fight you. What he wants to do is cooperate with you but you won't give him that chance. Let me finish up with one final thing which is about the relevance. I noticed there were some comments about what's the relevance of what all these other facilities that are doing that are outside the City or the other businesses are inside the City. The relevance is this – a property owner is entitled to rely on what the normal business practices are, so if you say outside storage and outside storage means you put RV's, you have storage containers, you have boxes for motorcycles, you know you have an ice machine, unless the City tells you specifically that you can't do it then you do it and it's legal. Now in the staff report there is an uncited statement in there. That because the mini storage thing which is not defined here near as I can tell in the design review, is not specifically addressed, it's therefore denied, but this is exactly the opposite of the law. This is not the law, there's a case, County of Imperial vs. McDougal which specifically says the opposite of what this staff report says. If I knew what citation they were talking about I would address it and I will also since, will I get a chance for rebuttal?

Mayor Lilburn responded you will.

Mr. Mark Allen stated okay, well then I won't anticipate other things. Thank you for giving me this time.

Mayor Lilburn inquired if there was any other representation? Seeing none, we will move on. This is an opportunity for the speakers in favor of or in opposition to the project, and right now I have no speaker slips in favor of the proposal. I do have some in opposition. I'd like to call up Ryan Evans.

Mr. Ryan Evans stated I don't understand why you guys are messing with this facility. It's a storage facility that offers RV storage, offers somewhere to store other items in those containers. They are parked in parking spaces. You know a storage facility is a storage facility. I just don't understand why you guys are attacking this specific facility when other facilities in the City have the same exact same thing, containers on their property. Overall since Mr. James Karas has taken over the property there have been several different items that have made the property better for the consumer. They've added items where you can buy boxes to move your items, they've added the U-Hauls, as you've noticed that are parked out front. So that way people are able to move as well as store items in those containers. I'm completely in favor of keeping him there.

Mr. Rick Winn stated I don't, like they said, I don't understand the opposition to the storage shed, the storage units they have there. I live in Highland and I drive around here and I see people with, in their driveways, in the churches, in the parking lots, they are scattered throughout. I don't really like them in the driveways in my neighborhoods but they are there. You drive by Mr. Karas' facility and his are tucked back there. They are nowhere visible. The facility is properly landscaped. It's not an eye sore. I drive by other storage facilities in the area, the one adjacent to In-N-Out and I see a big weed patch in front of it. Where as in front of Mr. Karas' I notice it's landscaped, it's got green and it looks nice. It's not an eye sore. The storage pods or whatever, they serve a purpose like most storage places need. They need somebody to store that in front of a safe area rather than out in front of their house or in the driveway or on their front lawn. They are serving a purpose. Like I said you see those pods throughout the neighborhoods, I don't like them in the neighborhoods. Where they are now, they are out of sight and serve a purpose where I don't see them. I don't want to see them in my driveway, in front of the churches, in front of the schools, which is what I do know. I just would rather see them in a storage facility where they serve a purpose that they are designed for and they are out of my view.

Ms. Annette Winn stated I'm just here to testify on behalf of, I'm actually the President of Childhelp which is a charity for abused kids, and I contacted all the local storage facilities to ask them if they would give us some type of a break financially so we could store our items there. So the majority of our funds would go directly to the kids, and these are for kids that are taken away by the courts and placed at the village in Beaumont. Out of all the local facilities including Redlands, Mr. Karas was the only one to donate a free unit. I thought that was very, very kind and generous of him. I basically just feel he has kind of been a selectively singled out. I think he's been very, very competitive with offering better prices and just being more cooperative with the community.

Mr. Tom Hannemann stated I'm coming up to speak in opposition. So much was discussed and items that I was going to speak to have already been alluded to by both counsels, but something I did pick up on was something the City attorney alluded to earlier. That was residential municipal code has been changed to not allow residential or residences to have these pods or storage containers stored in their front yard or on their premises. So if that's the case, and if somebody were to go out and purchase one, where are they going to put those storage units? So here's a perfect use of that, it's in a storage yard, behind a screened fence. It's secure with cameras systems and everything. I think this should be a permitted use for these storage containers.

Mayor Lilburn stated okay, we've heard speaker slips in opposition. This is your opportunity for your rebuttal if you have additional remarks you'd like to make. Okay, great, any questions of the Appellant or the attorney? Okay, hearing none, I will go ahead and close the public hearing and turn it over to the Council for additional discussion.

Councilman Timmer stated I would like staff, I'm not sure of what the procedure is.

Attorney David Palmer stated we've closed the public hearing. So at this point, no more evidence or testimony can be taken.

Councilman Timmer inquired so I can't ask a question?

Attorney David Palmer stated I would, if you would like to, if you feel it's important, the best procedure would be to reopen the public hearing and allow a chance for the Appellant to rebut any questions or new information that is presented as a result of the questions.

Mayor Lilburn inquired would you like me to reopen the public hearing?

Councilman Timmer stated I just wanted to ask a question on, as I interpret, really the issue...

Mayor Lilburn stated I'm going to take this opportunity to reopen the public hearing. At this time we are going to reopen the public hearing.

Councilman Timmer stated I think I understand what is going on. I just wanted to clarify that my understanding is correct.

Mayor Lilburn stated okay, I'm going to close this public hearing and leave it closed. Within Council discussion, and I know we've all probably had the opportunity to read our minutes from the prior public nuisance hearing, it's interesting how we read one thing and then other things are interpreted I guess on both parties, but I've read our minutes in length. I don't believe I have a lot of questions or confusion, I just try to interpret the law is law. Any discussion?

Councilwoman Solano inquired what effort has been within to correct this? That is one thing I didn't get.

Mayor Lilburn responded as far as I can read we've been working on this since December, 2015. With the citing and the inspections and from what I've interpreted and read there's been nothing.

Councilman Timmer stated as I've read the staff report an opportunity was given by staff to correct the problem. They put in an application in to do that and they withdrew that request. So an opportunity was there, they chose probably for whatever reasons not to continue that process. I think that process is still available I would think as my feeling is that and I'm not sure I'm getting into the area now. Initially they were given a permit, approval by the City, to have a RV storage facility. We all can define what that means in our own different ways. They now have what I think is, in my mind, a mini storage which was not permitted under the initial permit. Staff issued the citation, gave them an opportunity to correct that problem and they have chosen not to do that by all these interpretations of what all these words mean. To me, the words are pretty clear in my mind what an RV storage site is and what a mini storage is. Whether we call it containers, whether they call it conic boxes, whatever you want to call them. We are arguing how many angels can stand on a head of a pin that's meaningless. It doesn't mean anything. The point is, as I see it, they did not get a permit which is required by the City to put in a storage facility. It sounds like they don't have a permit to put in for RV's either. I mean for U-Hauls either which they're doing. So I see that the basic issue is they were asked to get a permit, they refused to do it and now we're talking about it.

Attorney David Palmer stated I would caution the Council that the issue of any U-Haul rental whether that is within the permit is not currently before us. Please do not take that into consideration when you are making your decision on this issue.

Mayor Lilburn stated we understand that.

Councilman Timmer stated well he testified himself that they are doing that.

Attorney David Palmer stated correct but the issue before the Council is currently the citation based upon the containers, not U-Haul.

Mayor Lilburn stated I think we are all clear on that.

Councilman Timmer stated I would like to say the opportunity, at least in my mind, if they want to correct the problem they have the opportunity to do that. If they came back and said they would do that I don't see that as an issue. I don't have a problem with what I define as mini-storage and RV storage on the same property. To me that's an ideal property to do that, but they don't have the permit to do that second use. That's, to me, is the basis for the whole issue as I see it.

Councilwoman Solano inquired at this point they still have the chance to correct that?

Councilman Timmer responded they were given the chance, they put a permit in, they withdrew the permit and now we're being asked to consider that. I would think, prudently, as a Council that would still be an option on the table, if they in the future wanted to correct that.

Mayor Lilburn stated I think we put these ordinances into place so we don't see such businesses pop up and I would definitely appreciate it. I think there are reasons we approve and disapprove for different storages versus U-Haul or recreational vehicles versus cargo storage versus storage containers, whatever you want to call it. I think there are reasons we have permits and that we go through the due process as a City. Not to harm you but to protect our City and our residents to make sure that we follow our own ordinances on how we do business. I'm sorry we are in this position and that this is as far. I think it could have been easily fixed through the process. I closed the public hearing, I'm sorry.

A member of the audience is speaking inaudibly.

Attorney David Palmer stated the public hearing has been closed. There is no more evidence or testimony. The Council is into their discussion and voicing their individual opinions on the matter before taking formal action.

Mayor Lilburn inquired if there is any more discussion? What is the pleasure of the Council?

Councilman Timmer stated I will go ahead and move the recommendation of staff and Public Nuisance Board to uphold the citation. With the understanding I think is, I think the property owner has the opportunity to fix the problem very simply.

A MOTION was made by Councilman Timmer, seconded by Councilwoman Solano, to adopt Resolution No. 2017-012 upholding Administrative Citation No. 13217. Motion carried, 3-1, with Councilman Chavez dissenting and with Mayor Pro Tem McCallon being absent.

RESOLUTION NO. 2017-012
A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF HIGHLAND, CALIFORNIA, DECLARING A VIOLATION
EXISTED ON THE PROPERTY LOCATED AT 7957 CHURCH AVENUE,
HIGHLAND, CALIFORNIA ON FEBRUARY 5, 2016, THEREBY UPHOLDING
ADMINISTRATIVE CITATION NO. 13217 (PNHB CASE NO. 16-002)

CITY COUNCIL LEGISLATIVE

9. Professional Services Agreement for Environmental and Engineering Services for the Orange Street Bridge at Plunge Creek Overflow Project (Project No. brg12001)

Principal Project Manager Barton gave a brief review of the staff report.

A MOTION was made by Mayor Lilburn, seconded by Councilman Chavez, to:

1. Approve the Professional Services Agreement with IDC Consulting Engineers, Inc., to provide environmental and engineering services for the Orange Street Bridge at Plunge Creek Overflow Project;
2. Authorize the City Manager to approve contract amendments up to 10% of the contract amount; and
3. Authorize the Mayor to sign the Agreement.

Motion carried, 4-0, with Mayor Pro Tem McCallon being absent.

10. Letter of Support to Use San Manuel Community Credit Funds

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

A MOTION was made by Mayor Lilburn, seconded by Councilwoman Solano, to authorize the City Manager to prepare and submit a letter to the State of California supporting the intent of San Manuel Band of Mission Indians to use its Community Credit Funds to fund the City's proposed purchase of fire engine, equipment, and apparatus, and proposed improvements of Victoria Avenue. Motion carried, 4-0, with Mayor Pro Tem McCallon being absent.

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

Mayor Lilburn gave a brief update regarding Omnitrans and SBIAA.

Councilman Timmer gave a brief update regarding Finance Subcommittee meeting working on the current City budget.

Mayor Lilburn, Councilman Chavez and Councilwoman Solano attended the 2017 City/County Conference in Lake Arrowhead on March 16-17.

Councilman Chavez also attended the Water Education for Latino Leaders (WELL) in San Diego on March 23, 2017.

ANNOUNCEMENTS

April 3-6
April 8

Public Safety Appreciation Week
23rd Annual Community Trails Day

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 7:11 p.m.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Penny Lilburn
Mayor