

**MINUTES
REDEVELOPMENT AGENCY AND CITY COUNCIL
REGULAR MEETING
SEPTEMBER 22, 2009 - 6:00 p.m.**

CALL TO ORDER

The regular meeting of the City Council and Redevelopment Agency of the City of Highland was called to order at 6:02 p.m. by Mayor Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Reverend Todd Barnett of Immanuel Baptist Church and the Pledge of Allegiance was led by Craig Huff.

ROLL CALL

Present: Jones, McCallon, Scott, Mayor Lilburn
Absent: Timmer

SPECIAL PRESENTATIONS

Mr. Craig Huff presented the Semi-Annual report for the Highland Area Chamber of Commerce.

Mayor Lilburn presented Angel Chenault with a 5-year Employee Award for her dedicated service to the City of Highland.

COMMUNITY INPUT

None

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

City Manager Hughes stated he has received a request to remove Item #7.

City Clerk Hughes stated she would like to make a clarification regarding Item #2 and Item #3. Throughout the motion statements indicating, 3-2, with Mayor Pro Tem Jones and Councilman Timmer absent. It should state, 3-0, as the 3-2 indicates there were 2 dissenting votes.

A MOTION was made by Councilman McCallon, seconded by Mayor Pro Tem Jones, to approve the consent calendar as amended. Motion carried on a roll call vote, 4-0, with Councilman Timmer absent, Councilwoman Scott abstaining from Item #4, and Mayor Pro Tem Jones abstaining from Item #2 and Item #3.

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

2. Minutes – September 8, 2009 City Council Regular Meeting
Approved Minutes as submitted.
3. Minutes – September 8, 2009 RDA Regular Meeting
Approved Minutes as submitted.
4. Warrant Register
Approved Warrant Register No. 490 for September 22, 2009, in the amount of \$267,918.76 and Payroll of \$76,985.87.
5. Treasurers Report for July
Received and filed Treasurers Report for July 2009.
6. Notice of Completion – Bid No. 2009-04 “Miscellaneous 2009 Concrete Construction
 1. Accepted Bid No. 2009-04 “Miscellaneous 2009 Concrete Construction” as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.

ITEMS PULLED FROM THE CONSENT CALENDAR

7. Proposal to Remove and Dispose of Asbestos Containing Materials from City-owned Buildings at 27157 and 27169 Base Line (former Library and Post Office)

Councilwoman Scott stated the front page of the staff report, the address should state 27167 instead 27157.

Economic Development Specialist Stater stated it might be 27159. The issue is when the original asbestos inspector did his report it was different from what staff had on record.

Councilwoman Scott stated it is 27157 for the library and 27169 for the post office.

Economic Development Specialist Stater stated staff will verify the correct addresses.

Councilwoman Scott stated she had noticed in the staff report there were no asbestos detected, however, there might have been some in the library as stated in the report along the floor or along the baseboards. Are the intentions to demolish both buildings?

Mayor Lilburn stated Council had approved the removal of the asbestos and the demolition of both buildings.

Councilwoman Scott stated she would like to have the Council reconsider; demolish the post office because it is an eyesore but the library is a decent building and she thinks it would be an excellent space for the Highland Historic Society to display historic items.

Community Development Director Jaquess stated one of the reasons the county was willing to sell us the building was due to the problems the county was experiencing with the air conditioning system not being operable and the roof was leaking. There are some detail issues that would require a great deal of funding to make the building usable.

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to approve the proposal and contract by Brickley Environmental. Motion carried, 3-1, with Councilwoman Scott dissenting and with Councilman Timmer absent.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

8. An Appeal (Appeal 009-006) Submitted by Regency Centers of the Planning Commission's Denial of an Amendment to Conditional Use Permit 007-009 to add a Freeway-oriented Community Business Sign to the Previously Approved Entitlement for the "Highland Crossroads" Commercial Project

Mayor Lilburn stated the public hearing will remain open until the item is discussed and an action is taken.

City Manager Hughes stated we have received a request from Regency for a continuation of the item. Regency feels they are getting close to a negotiation on the issue and would like a few more weeks to resolve it.

City Attorney Steele stated for the record Council did receive a letter regarding the item and will continue the letter into the record for the next hearing.

A MOTION was made by Councilman McCallon, seconded by Mayor Pro Tem Jones, to continue this item to the next regularly scheduled meeting to take place on October 13, 2009. Motion carried, 4-0, with Councilman Timmer absent.

9. Consideration of an Appeal (APP-009-005) of the Planning Commission's Determination to Deny Conditional Use Permit (CUP-009-003) (Planning Commission Resolution 09-018); To Upgrade an Off-Site Sale Beer and Wine License (Type 20) for "M and G Market" to a General Sale License (Type 21) State Department of Alcohol and Beverage Control ABC. (CUP-009-003)

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated this item is before you on appeal. The Planning Commission heard the request for the amendment to the liquor license to add distilled spirits to their license. The Planning Commission denied their request and the applicant appealed to the City Council. They currently have an active beer and wine license which would remain even if we do not approve the request. A couple of issues are the key points for the item tonight are the areas of undue concentration of alcoholic beverage licenses, based on the

formula we have operated under in the city, that census track would be eligible for six businesses with alcoholic beverage licenses. Currently there are 13 businesses as identified in your staff report. The other issue is the fact that the use itself, the business there today, is a non-conforming commercial business in a residential zone. The proposal to add another provision for a liquor license is really an alteration of the use and based on our code, alterations of non-conforming uses would not be allowed. The Planning Commission, based on those two points, recommended denial of the request.

Mr. Dick Evitt stated he is a real estate broker working for his client. He would like to give some details about this store. There are 12 active licenses in the area, six or seven of them are gas stations. This is a convenience market operating for years at this location. They have beer and wine and if Council were to approve the liquor license as it stands, the type 20 would be canceled and replaced with a type 21 which does not require a public convenience necessity letter. Mainly he has a letter from a gentleman that is disabled, which uses the store all the time. He will leave the letter for Council review. He also has 90 signatures from people who would like to have the support of the City Council to approve the liquor license. They have spent a lot of time fixing the place up and he hopes many have been around to see what kind of condition it is in. By adding the distilled spirits it does not add the complex of this store. There is approximately 20 feet of liquor behind the cash register which is controlled by the workers on duty. There will be no walk-ins where people can grab a bottle of booze and take off. It will be strictly behind the counter.

Councilman McCallon stated Mr. Evitt has indicated all these 13 were gas stations. He believes this is incorrect. The list shows only three gas stations. Regardless if they are gas stations or not, there are seven more than what there should be allowed in this census bracket.

Mr. Dick Evitt stated with replacing the beer and wine, there will be some change. It is like adding a different type of corn or another variety of food in the store. All they are doing is trying to supply what the customers are asking for. They have almost 250 signatures of people who wish to support this appeal.

Councilwoman Scott stated recently she took a tour of this neighborhood and as for the beer and wine, she would like to cancel this license if she could. She cannot support any hard liquor here.

Mr. Dick Evitt stated there are no stores within walking distance of any of the many customers in the area. This is a family store. It is not being classified as a liquor store as they are going to have a limited supply of liquor.

Mayor Lilburn called for any speakers in favor or in opposition of this item. Hearing none, she closed the public hearing.

A MOTION was made by Councilwoman Scott, seconded by Councilman McCallon, to adopt Resolution No. 2009-034 denying the appeal and upholding the Planning Commission's determination for Denial of Conditional Use Permit 009-003 to upgrade a Type 20 ABC License to a Type 21 ABC License. Motion carried, 4-0, with Councilman Timmer absent.

RESOLUTION NO. 2009-034

A RESOLUTION OF THE CITY COUNCIL TO UPHOLD THE PLANNING COMMISSION'S DETERMINATION, DENYING A CONDITIONAL USE PERMIT APPLICATION (CUP 009-003) FOR THE OFF-SITE SALE OF BEER, WINE, AND DISTILLED SPIRITS (ABC LICENSE TYPE 21) FOR M & G MINI-MARKET LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF FIFTH STREET AND CUNNINGHAM STREET.
THE ADDRESS IS 26710 FIFTH STREET APN: 1192-542-38
APPLICANT: RAM S. MANN

10. Maintenance of Abandoned and Foreclosed Properties

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated the item before Council is one that was reviewed by the Public Safety Subcommittee and was recommended to the City Council to come forward. One of the reasons it did not come forward right away is we were coming up with a recommended fee resolution and a fee which is part of the package before Council tonight. The ordinance itself is patterned after existing ordinances in other jurisdictions and we took what we thought were the best parts and brought them all together which was subsequently reviewed by the City Attorney. Basically the ordinance has several parts. We identify the foreclosed houses and want to establish a means to require them to register with the city so we can track them and know where they are and how many there are. One of the things we will be doing is working closely with the Citizens on Patrol as well as voluntary compliance and with our own Code Enforcement. We will have the ability to either do a notice of violation with a follow on misdemeanor or in very serious cases where that might not work. We could actually go to the degree of imposing a fine of \$1,000. We don't believe this would happen often as we think most people will comply if we just bring it to their attention. Many lenders are already calling us asking if we have an ordinance like this in the city. There also is a provision in the ordinance for maintenance requirements. Unique to this ordinance there is actually a requirement that they maintain the yards and water them. This is not something that exists in the city currently. Elsewhere we do not have a green lawn ordinance in the City of Highland. They are required to be maintained secure and to keep vandals and unwanted people off the property. We will be requiring the applicants to sign a form authorizing the Sheriff's Department to go onsite to actually arrest people if they are on the property and shouldn't be.

City Manager Hughes stated on the \$1,000 a day fine, that will be used very judiciously. It is really a double edged sword because we could end up very quickly having the house worth less than what it is in fines. This is something we will use very, very cautiously.

Mayor Lilburn called for any speakers in favor or in opposition of this item. Hearing none, she closed the public hearing.

Councilwoman Scott stated first off the Neighborhood Watch Program participants will be thrilled about this ordinance. However, on the owner of record that means the person who currently has the recorded title, if a property is in the process of being foreclosed. When you go to the title search you not only find the listed owner but you find the lien holder so you know what bank or lender has an interest in the property.

City Attorney Steele stated we should also add we also require if a loan is acquired by another property or a loan is packaged and sold to a different lender we are requiring that the assignment of rent document be recorded so that when the change is made the title is updated within 30 days.

Councilwoman Scott stated you have a piece of property that is empty, vacant and you notify the owner of record and also the lien holder that they must take care of this. Now 30 days pass and all of sudden the place is in shambles, so they haven't done anything, you are going to start with an administrative fine of \$100 that is not going to pay for the code enforcement service.

Community Development Director Jaquess stated it is out intent in most cases we will be finding most lenders will be agreeable to work with us but if necessary in most cases we will use this fee structure, which is a misdemeanor fee structure and it is \$100. If they don't comply within a few days it will go up to \$200 and up to \$500 if they don't comply.

Councilwoman Scott stated it goes from \$100 to \$200 within the first week and \$200 to \$500 within the next week. So we're talking maybe three weeks and actually getting something done. This sounds great. She is for it.

Councilman McCallon stated he thinks it is a great ordinance.

Mayor Pro Tem Jones stated how does this apply towards houses like the ones at the corner of Olive and Base Line which are in a state of construction and then it stops.

Community Development Director Jaquess stated it doesn't really apply to those situations because they haven't been foreclosed because they still have a valid building permit. Although staff understands separately that the bank is going to step in now and finish those houses for the original builder.

Mayor Pro Tem Jones stated this doesn't really come into affect until such a time as we actually declare a foreclosure.

Community Development Director Jaquess stated or abandoned house, either one.

Mayor Pro Tem Jones stated what is the definition of abandonment.

Community Development Director Jaquess stated we will need to work on an administrative definition but usually is based on observation.

City Attorney Steele stated the ordinance currently defines it as vacant or distressed. With those properties that are under construction or have been delayed in construction, there is a separate definition under the building code that relates to the status of the building permit to determine whether or not the building has been abandoned. He thinks when we have a circumstance where there is still an active or semi-active developer or owner in the process at that point, we still have the nuisance abatement process that already exists in the code. You have remedies under the building code which are pretty strict as well.

A MOTION was made by Councilman McCallon, seconded by Councilwoman Scott, to hold the first reading of Ordinance No. 345, Adopting Regulations Pertaining to the Maintenance and Security of Vacant and Abandoned Residential Commercial and Industrial Properties, and Schedule the Ordinance for Second Reading and Adoption at the Regular Council Meeting of October 13, 2009. Motion carried, 4-0, with Councilman Timmer absent.

City Clerk Hughes introduced Ordinance No. 345:

ORDINANCE NO. 345
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ADOPTING REGULATIONS PERTAINING TO THE
MAINTENANCE AND SECURITY OF VACANT AND ABANDONED
RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTIES, AND
AMENDING TITLE 8 OF THE HIGHLAND MUNICIPAL CODE

which title was read.

11. Ordinance No. 346 mending Chapter 2.36 "Fees and Service Charges" of the Highland Municipal Code to Provide Additional Categories of Fees and Charges

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated this is the follow up for the ordinance which was just approved. This actually sets the position in the fee ordinance for these fees for us to get a permit, if you will, or registration form. All this does is set the structure within the ordinance for that. It will be called registration monitoring of foreclosed residential, commercial or industrial properties.

Mayor Lilburn called for any speakers in favor or in opposition of this item. Hearing none, she closed the public hearing.

A MOTION was made by Councilman McCallon, seconded by Councilwoman Scott, to hold the first reading of Ordinance No. 346, and schedule the ordinance for second reading and adoption at the Regular Council Meeting of October 13, 2009. Motion carried, 4-0, with Councilman Timmer absent.

City Clerk Hughes introduced Ordinance No. 346:

ORDINANCE NO. 346
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, AMENDING CHAPTER 2.36 ("FEES AND SERVICE CHARGES")
OF THE HIGHLAND MUNICIPAL CODE TO PROVIDE ADDITIONAL
CATEGORIES OF FEES AND CHARGES

which title was read.

12. Resolution No. 2009-035 for the Addition of Fees for Services by City Staff

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated our fees are based upon our best estimates on the time required to do a task. In this case we have estimated based on reviewing work that will need to be done and the people involved, one hour of time for mainly our administrative assistant staff. That hour of time by fully burdened rate is \$109.00. We are recommending \$110.00 fee for the registration.

Mayor Lilburn called for any speakers in favor or in opposition of this item. Hearing none, she closed the public hearing.

A MOTION was made by Councilwoman Scott, seconded by Councilman McCallon, to approve Resolution No. 2009-035, establishing the addition of fees and charges for city services. Motion carried, 4-0, with Councilman Timmer absent.

RESOLUTION NO. 2009-035
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, ESTABLISHING THE ADDITION OF FEES AND
CHARGES FOR CITY SERVICES

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

13. Dog License Canvassing Program Report

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

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to:

1. Receive and file this report; and
2. Direct staff to bring back a contract amendment to the City Animal Control Services Agreement to initiate a dog license canvassing effort for the second half of the city for the 2009/10 fiscal year.

Motion carried, 4-0, with Councilman Timmer absent.

14. Participation in a SANBAG Led Effort to Prepare a Regional Greenhouse Gas Inventory and Reduction Plan and Related Environmental Impact Report

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

A MOTION was made by Councilwoman Scott, seconded by Councilman McCallon, to tentatively approve the City of Highland's participation in the preparation of a Regional Greenhouse Gas Inventory and Reduction Plan and related Environmental Impact Report subject to preparation and formal approval of a Memorandum of Understanding with SANBAG and all participating cities. Motion carried, 4-0, with Councilman Timmer absent.

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

Councilman McCallon stated he attended the 8th Annual Southern California Transportation Summit. It was an opportunity to get business leaders and civic leaders together and speak about transportation issues and funding issues and how we can work together to solve some of the transportation problems in the five county region. He also had the opportunity to attend the League of California Annual Conference and represent the City of Highland on current issues.

16. San Bernardino International Airport Authority and IVDA

None

ANNOUNCEMENTS

September 26, 2009
October 9, 2009

Discover Highland Day
Volunteer Recognition Dinner

CLOSED SESSION

At 7:04 p.m., the City Council and Redevelopment Agency convened into closed session regarding the following:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to Government Code Section 54956.8 regarding the following property:

Property: APN 1201-331-01 & 1201-341-01, 08, 09

Negotiating parties: Joseph Hughes, City of Highland
Kevin Blakeslee, San Bernardino County Flood Control District

Under negotiation: Instruction to City's negotiator concerning price and terms of payment.

At 7:29 p.m., the City Council and Redevelopment Agency convened into open session, with all members present, with the exception of Councilman Timmer being absent, making no announcements. There was no reportable action taken during the closed session.

ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 7:31 p.m. in memory of Elizabeth Kiel.

Submitted by:

Approved by:

Betty Hughes, CMC
City Clerk

Penny Lilburn
Mayor