

**MINUTES
REDEVELOPMENT AGENCY AND CITY COUNCIL
REGULAR MEETING
APRIL 28, 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 Jeff Bumgardner of Immanuel Baptist Church and Pledge of Allegiance was led by Councilman McCallon.

ROLL CALL

Present: Jones, McCallon, Scott, Timmer, Mayor Lilburn
Absent: None

SPECIAL PRESENTATIONS

None

COMMUNITY INPUT

None

CITY COUNCIL/REDEVELOPMENT AGENCY CONSENT CALENDAR

A MOTION was made by Councilman McCallon, seconded by Councilman Timmer, 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. Warrant Register
Approved Warrant Register No. 482 for April 28, 2009, in the amount of \$2,293,967.24 and Payroll of \$77,045.27.
3. Treasurer's Report for March 2009
Received and filed Treasurer's Report for March 2009.
4. Notice of Completion – Bid No. 2008-12 "Metal Beam Guard Rail Repair Project"
 1. Accepted Bid No. 2008-12 "Metal Guard Rail Repair Project" as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.

5. Easement Acceptance/9th Street Sidewalk Improvements
 1. Accepted the Grant of Easement for Road and Drainage purposes from Juan and Lilian Cartagena; and
 2. Directed the City Clerk to record the Grant of Easement.

6. Easement Acceptance/Bruce Street Sidewalk Project
 1. Accepted the Grant of Easement for Road and Drainage purposes from Cathy F. Smith; and
 2. Directed the City Clerk to record the Grant of Easement.

7. Proposed Community Development Block Grant City-County Delegate Agency Agreement for Fiscal Years 2009-2010, 2010-2011 and 2011-2012

Approved the Delegate Agency Agreement and authorized the Mayor and City Clerk to sign the agreement subject to approval of the City Attorney.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

8. Proposed Municipal Code Amendments to the City of Highland's Title 16, Land Use and Development Code to establish the East Highland Village Zoning District (EHV) (MCA 008-004).

Mayor Lilburn opened the public hearing.

City Planner Mainez stated this project is identified as a goal in our General Plan. It requires the city to evaluate the desirability of adopting and applying design guidelines for special zoning to the small East Highland's Village Historic Neighborhood. As indicated in the staff report, it also is a City Council work program item for 2007-2008. To initiate this project, staff conducted a couple of neighborhood meetings with approximately 25 residents of the 170 parcels that will be impacted by the zone change. We also conducted a survey, we conducted a joint study session and we had one Planning Commission hearing. All this information was used to facilitate this action and work program. Based on the summary, the project involves an amendment to the city's development code to create a new residential district called East Highlands Village District or EHV. There is a map showing the boundaries of the District and also as part of the amendment, staff is recommending that City Council adopt new standards that include lot coverage, setbacks, zoning height and permitted uses. As part of this directive by the City Council, staff is also recommending to adopt design standards for this district. In addition to the development code amendments Planning Commission has directed staff to propose to City Council an amendment to the zoning map which is indicated on the map. A few things that come about as part of our study sessions and public hearings were a number of items that we are directed to look at that were of concern, particularly lot size. Lot sizes in this district range from 730 square feet to 18,700 square feet. There

is a median size of about 8,000 square feet. As a result of this discussion with the neighborhood as well as the Planning Commission, it was determined that 5,000 square feet would be appropriate. Again, this is a minimum lot size so there is an opportunity for parcels to consolidate or lot line adjustments to be conducted to increase that size and buildable area. Lot coverage, as well, was an issue. The units in that neighborhood are fairly small. So you are looking at an existing average of about 13.5% lot coverage. The highest out there is about 27% lot coverage. To give you a comparison, in our R1 zoning district, there is maximum lot coverage of 40%. Given this fact, Planning Commission has asked that Council consider 30% lot coverage so this will be keeping in the character of the neighborhood. Front yard setbacks is another item. Just driving around you might have noticed there is quite a range in setbacks. Some are pretty close to the front gate and some are setback far. Basically the concern here was the property owners are allowed to park cars on the property in the front yard. They are looking at recommending at least 19 feet for a front yard setback. The other issue was side yard setbacks. Again you may have noticed driving around or looking at your exhibits that some of the units cross property lines on the side or they are right up to the property line. To correct this problem, in the long term, the solution was to come up with a percentage rather than a definitive setback. We are looking at a 10% formula. For example, if you have a 50 feet wide property, 10% of this would be 5 feet on your side yard setbacks. There are some other factors which are not included in the staff report that might dictate what those side yard setbacks are. For example, fire codes, building and safety codes, they might restrict how small of a setback you can have. If you get smaller than 5% you are going to have no windows and things like that. Another significant issue was the character in the architecture. It was determined that there are three types of architecture that the design guidelines will promote. The first one is craftsman bungalow, the second is California bungalows and the third is mission. If the design of the new units or remodels keeps in character, then it will meet the intent of this ordinance. Two-story units were also discussed by the neighborhood as well as Planning Commission. The neighborhood was split on this issue as well as the Planning Commission. There is only one two-story unit in the neighborhood and it is unit that is over a detached garage. The thought was if we allow a second story, we can do it case by case and see what the impact is for surrounding neighbors. Also to set it back from the front yard so that there is step effect. In a sense you get a streetscape that looks like a single story as you drive by.

Mayor Lilburn stated there are no speaker slips in favor or in opposition, therefore, she will close the public hearing.

Councilman McCallon asked how many of the existing lots are less than 5,000 square feet?

City Planner Mainez stated close to 20.

Councilman McCallon asked if we will encourage the lots to consolidate?

City Planner Mainez stated we would definitely encourage them to consolidate and do lot line adjustments; lot mergers, if it is a legally established lot. However, if someone wanted to build a house, we would allow it. The house would have to be proportioned to the lot.

Councilman Timmer stated we have to remember most of these lots are developed but there are a few vacant ones in there. It's just a matter of addressing the infill projects. Even though a lot of them may be less than 5,000, they are existing dwellings working unless they want to expand. The green section, what is the designation there because there is a house on the south side of Merris?

City Planner Mainez stated agriculture/equestrian residential so there is a minimum 20,000 square feet.

Councilman Timmer asked was there any comment from the individual who owns this property that he would like to be included or excluded?

City Planner Mainez stated there were no comments from this homeowner.

Mayor Lilburn asked if there was very much input from the community?

City Planner Mainez stated 25 residents showed up for the study session and very family oriented neighborhood. They wanted to convey their appreciation to City Council for recognizing how important their neighborhood is. A lot of positive feedback. They also appreciate Code Enforcement for patrolling the neighborhood.

Councilwoman Scott stated she did not see any letters either pro or con which surprised her because she knows the community is very close.

Ms. Velma stated the neighborhood was a unit at the meeting. She felt encouraged with what was said and what was discussed and what was being decided on.

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

1. Adopt a Negative Declaration for the subject Project and instruct the City Clerk to file a Notice of Determination with the County Clerk of the Board;
2. Adopt Ordinance No. 339 Amending Title 16 Chapter 16.16, Sections 16.16.020, 16.16.030, and 16.16.040; and,
3. Adopt Ordinance No. 340 Amending the City's Zoning Map consistent with the East Highland Village Policy Area (EHV). Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 339:

ORDINANCE NO. 339
AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA,
AMENDING SECTION 16.16.020 RESIDENTIAL DEVELOPMENT
DISTRICTS; SECTION 16.16.030 USE REGULATIONS FOR
RESIDENTIAL DISTRICTS; AND SECTION 16.16.040 RESIDENTIAL
SITE DEVELOPMENT STANDARDS OF TITLE 16 (LAND USE AND
DEVELOPMENT) OF THE HIGHLAND MUNICIPAL CODE MUNICIPAL
CODE AMENDMENT (MCA 008-004)]

which title was read.

City Clerk Hughes introduced Ordinance No. 340:

ORDINANCE NO. 340
AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA,
AMENDING THE OFFICIAL ZONING MAP AS ADOPTED BY
THE CITY OF HIGHLAND

which title was read.

9. Consideration of an Appeal (APP-009-001) of the Planning Commission's Determination to Approve Conditional Use Permit (CUP-008-008) (Planning Commission Resolution 09-002); to allow a Wireless Telecommunication Facility on the Subject Site. (Applicant – T-Mobile USA, Represented by Monica Moretta of Omnipoint Communications).
The Appellant is Requesting Reconsideration of the Planning Commission's Approval of the Wireless Telecommunication Facility and the Adoption of a Negative Declaration for the Conditional Use Permit (CUP-008-008).

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated the appeal is for an item that was heard at the Planning Commission on March 3, 2009. At that time the Planning Commission acted to approve a request by T Mobile for a cell tower located behind the shopping center, actually behind Mi Cocina Restaurant at the northeast corner of Church and Base Line. The applicant is essentially asking the City Council to rescind the Planning Commission's approval and deny the use. The primary issue of the appeal was potential decrease in property values of the residential neighborhood and health issues associated with radio frequency emissions. You have the letter in the staff report from the appellant. She indicates that studies indicate property values within 656 feet of cell towers may decline anywhere from 2% to 27%. The applicant, T Mobile, has prepared a response, which is attached to the staff report. They note past review of the impacts of wireless telecommunication facilities have found no direct correlation between the installation of a wireless telecommunication facility and a drop in

property values. This is documented in the report that is attached to the staff report. The issue of electromagnetic radiation being hazardous is one the city is unable to address because the issue is covered under federal law which states no State or local government or instrumentality thereof may regulate the placement construction and modification of personal wireless service facilities on the basis of radio frequency emissions as long as they comply with federal communication commission laws. Based upon the information provided to staff since the appeal was filed, staff still believes the Planning Commission's action was appropriate and recommends Council uphold the Planning Commission approval.

City Attorney Steele stated he recognizes the land use regulation of wireless telecommunication facilities such as the one before you this evening, is really one of the most frustrating areas of local land use law because neighbors and decision makers want to have more control over the issue and arguably should have more control over the issue than the federal government is allowing. It is a very rare instance where the federal government takes away land use, however, we have cases where the state government has taken away local land use power. This is one of the rare instances where the federal government has stepped in and said it's more important that the country have a seamless network of wireless telecommunications than it is for local communities to have control over their own land use. You can argue policy one way or the other whatever you think of the decision but that is the decision that Congress has made in adopting a telecommunication act. As relevant to Council decision this evening, federal law basically states three things; one is that local community cannot regulate cell phone facilities or antennas on the basis of frequency emissions. If the facility meets federal standards for radio frequency emissions, then the local community cannot use those emissions as a basis either for regulating, conditioning or denying an application. So we are completely pre-empted on that ground and cannot regulate on that ground under federal law. Second, federal law says that we cannot impose regulations that have the effect of excluding wireless telecommunications from facilities from an entire city. So we can't zone in a way that says they aren't allowed, we can't apply as the appellant here perhaps is suggesting, some kind of dispersion requirement that states they have to be a certain distance from either each other or from sensitive uses. Third, we can't regulate in a way that would prevent the cell phone company from filling gaps in its coverage. If the intent is needed to fill a gap in the cell phone providers' coverage area, the city is not able to regulate in a way that would prevent the operator from filling that gap. Again, Congress established this policy of having a seamless network. So, that leaves us at the local level with basically the only option being is to regulate in a way that ensures that the antenna complies with those federal standards for emissions in a way making sure the antenna is constructed according to local building codes and where possible we have applied the aesthetic conditions to have as little impact on the neighborhood as possible. That is the way the city has conditioned the application when it went to the Planning Commission. This was the intent of the

city to require the CUP to make sure that the three conditions were met but also recognizing under federal law there isn't a whole lot more that a city can do. He would point out and is not meant to be argument, the position of the appeal is really based on what the appellant would argue what the law should be. There is an argument that the city should have a distance requirement, there is an argument that the city should be able to regulate based on commissions. He would just remind the Council and members of the public that Council is forced to make a decision based on what the law is today. The law today is we cannot regulate based on these emissions and the effects they might cause and the city does not have a distance requirement that would regulate the locations of this type of use. So we are making a decision based on the conditional use permit standards that are in effect today as you sit here.

Councilman Timmer stated technology is changing relatively quickly in some of these areas. What is the length of this agreement? The reason he is asking is due to a concern he has regarding if technology changes and they have gone to satellite or some other type, what mechanism is in the agreement that are being adopted to have these removed after they are no longer being used? To include words in the conditions of approval if technology changes and the site is abandoned, they are required to move the item.

City Attorney Steele stated how it would be treated for the city perspective, if technology changed and the antenna was no longer being used for antenna purposes and this went on for a period of 180 days, this would be considered abandonment use. We would then declare it a public nuisance and, if necessary, have it removed as an abandoned use.

Ms. Monica Moretta, Omnipoint Communications, stated she wanted to quickly answer the question in regards to the removal of the facility in the event of changes in technology. There is also a stipulation in the lease with the property owner, if that is the case, T Mobile will have to be responsible to remove the equipment. That will be taken care of through the conditions of approval as well as the lease of the property.

Councilman Timmer stated part of his question was what is the length of the lease at this point?

Someone stated a total of 30 years.

Ms. Monica Moretta, Omnipoint Communications, stated her main point of discussion will cover the T Mobile process of location selection. She will talk about the correlation of property values and wireless facilities and move on to discuss health related effects and finally she will cover the overall review of the research presented by the appellant. What T Mobile considers when they are selecting telecommunication wireless facility locations is they take into consideration multiple variables. Network performance data, customer

satisfaction survey feedback, whether or not there is a demand for the facility, whether or not the facility will be in a residential/commercial area. The variables they take into account are zoning and permitted real estate and construction site access. In this case based on the radio frequency engineering certificate analysis, the data presented reveals that a facility is needed at the intersection of Base Line and Church Street to correct a hole in the network coverage created by the local demand and existing network. The area being primarily residential, any other location that is not at this shopping center will require the facility to be closer to residential and also will require getting higher. The proposed facility will not only reduce the number of dropped calls in residential area but will also take care of the amount of traffic calls that comes from the base line. Basically people are using their cell phones while they are driving; people are using cell phones while they are conducting business. The next point she would like to discuss is the correlation of property values in wireless facilities. In response to the appellant, T Mobile presents an affidavit by Tarentello and Associates. Tarentello and Associates used studies conducted in the southern California market. They used a study that was done in the City of Thousand Oaks where basically the consultants compiled data from the same market area within the existing wireless facility. They also compiled data from single family residential cell data from seven wireless facilities that were already on air. The comparison over the rate of change in a median price per square foot of single family homes located within ½ a mile of the antenna to the same index of the median price change outside of the ½ mile radius. Hundreds of data compiled in the sample of study lead to the following findings. Not a single sample was found to support the hypothesis that property values decline after the installation of telecommunication wireless facilities. Homes located within the proximity of some site experience a greater price appreciation. Similar findings were found in communities as diverse as Pomona and Newport Beach. Tarentello and Associates stated that their conclusion is that the sites for wireless facilities are not only insignificant on the eyes of homebuyers but it is possible that cellular reception is considered a community asset. She has reviewed all the information presented by the appellant and some of the articles presented the author admits and readily offers that aesthetics is the main opposition target in residential zone. She wanted to point out that the proposed T Mobile facility is located in a commercial zone and is located more than 400 feet away from the nearest residential structure. T Mobile is also providing a facility that is not designed as a bare metal pole. They are using aesthetic treatment to actually blend the facility in with the existing landscaping on the property. The proposed facility is only 50 feet tall and the antenna is located at 55 feet. There are also comments in the article stating that no available time data for wireless facility were used. They compared wireless facilities with power lines and transmission corridors; therefore, the arguments presented in the articles are inadequate due to lack of similarities to the features of the proposed project.

Councilwoman Scott stated we currently have 15 sites either towers or proposed towers in the City of Highland. Verizon has 3, Pac Bell has 1, Nextel has 2, Sprint has 3, Cingular has 1, Clear Talk has 2 and then there are 3 unknowns and then this applicant here would be T Mobile for 1. Are we going to end up being surrounded by nothing by towers?

Mayor Lilburn stated we all use our cell phones, we all want coverage and one company is entitled to coverage as the next is.

Mr. Darryl Magnuson stated he is opposed to the cell phone tower at the proposed location for two main reasons. One is health, two is property values. T Mobile representative is saying that health wasn't a variable. Numerous studies show cell phone towers cause many ailments; cancer is one of them and cardiovascular problems. As for property values, Thousand Oaks is a very poor example. We are talking about Highland not Thousand Oaks. Studies show at least 33% decrease in property values for houses with close proximity to cell phone towers. He resides across from the street from the proposed cell phone tower. He is asking City Council if they would like to live next door to a cell phone tower or would they rather not. He knows the answer to the question. He would rather not live next door to a cell phone tower.

Councilman McCallon asked does Mr. Manguson own a cell phone?

Mr. Darryl Magnuson stated he does.

Ms. Maryanne Perlmutter stated she is not against cell towers, she is against cell towers in close proximity to residential areas. Unable to hear the rest of her statement.

Councilman McCallon stated he appreciates Ms. Perlmutter's passion and concern and also the fact she received her degree from the University of Michigan. As the City Attorney stated, the City Council does not have much discretion as to concerns of radiation aspects and the health aspects. Those types of things need to be directed more to the federal government. However, your argument on property values he finds interesting because he could turn it completely around. For instance where he lives, he can't get coverage from T Mobile, therefore, he chose another carrier for his cell phone and if he could not get it at his house from any cell phone provider, that would discourage him from buying that house which might lower property values. So the argument on property values can be sort of both ways.

Mayor Lilburn stated there are no further speaker slips in favor of or in opposition, she will now close the public hearing.

Councilwoman Scott stated she is concerned about the concentration and she also is concerned about whether its radiation or what it is. Certainly if a panel has been proposed as early as January, she has to go along with the argument that at one time we were told that cigarettes are okay and we know now it's not okay. If the federal government thinks they are so safe why aren't they putting them in the National Forest area because they are higher and there is plenty of room with no residents or families near to worry about.

City Attorney Steele stated he can certainly respect the research and certainly respect the concern about the data that is out there and again can only say that the Council has to regulate based on what the law is today and not what some may or may not think the law ought to be. At the moment the law is as quoted in the staff report which "cannot regulate based on the environmental effects, not just health effects of emissions from these towers." It is difficult for him to distinguish between the actual effects of emissions from these towers and the perceived stigma that would could from the perception of emissions from these towers. It seems to be that both of these revolve around the environmental effects of wireless telecommunication facilities and the federal government is telling us we can't regulate on this basis. Also note that there was a concern expressed about children being in close proximity, the schools being in close proximity to this proposed location, and this seems to him is entirely a health related argument and on the federal government has stated you are not supposed to take into account. Again we can argue and have personal opinions about what the law ought to be but it is what it is.

Councilwoman Scott stated if it came out say in five years that yes, there was a very high risk of cancer or something else then what liability does the city have because we allowed something that had such a questionable track record.

City Attorney Steele stated without acknowledging the questionable track record as he does not have any evidence to argue with, the city is absolutely immune from any liability that arises out of granting or denying land use permit. The city has no liability whatsoever especially in this case when you are essentially forced to grant the permit by federal law.

Councilman Timmer stated he feels it is pretty clear based on what the City Attorney has stated. He thinks we all agree that there is certain state and federal laws that we do not agree with but we have to administer.

A MOTION was made by Councilman Timmer, seconded by Councilman McCallon, to deny the appeal and uphold the Planning Commission's determination for Approval of Conditional Use Permit (CUP-008-008) and adopt Resolution No. 2009-007. Motion carried, 4-1, with Councilwoman Scott dissenting.

RESOLUTION NO. 2009-007
A RESOLUTION OF THE CITY COUNCIL TO UPHOLD THE
PLANNING COMMISSION'S DETERMINATION, APPROVING A
CONDITIONAL USE PERMIT APPLICATION (CUP-008-008) FOR
THE CONSTRUCTION AND OPERATION OF A SIXTY FOOT (60')
TALL, MONO-EUCALYPTUS DESIGNED, CO-LOCATABLE
UNMANNED FREE STANDING WIRELESS TELECOMMUNICATION
FACILITY WITH ASSOCIATED EQUIPMENT DENYING APPEAL
APPLICATION (APP-009-001).

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

10. Perchlorate Fee Litigation – Release and Settlement Agreement

City Attorney Steele stated for the record Council and staff has had a lengthy discussion regarding this item in closed session and is aware of the settlement and provisions.

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilwoman Scott, to approve and authorize the Mayor to execute the Release and Settlement Agreement, pertaining to the Perchlorate Fee, between the County of San Bernardino and the City of Highland. Motion carried, 5-0.

11. Redevelopment Loan with Claywest, Inc. (Denny's Restaurant) on Property Located on the North Side of Base Line Between I-210 Freeway and Buckeye Street

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

Councilwoman Scott stated the five year period for payback starts when the loan is signed. Is that not being realistic, due to the fact it will take a year or less to get the land graded and the building constructed? Also, what is the credit rating of the applicant?

Community Development Director Jaquess stated he does not have this information at this time. We have not reached the point of negotiating and preparation of an agreement with the applicant. Those are types of issues we would have to address as part of the formal agreement.

City Attorney Steele stated in terms of Councilwoman Scott's first statement regarding their cash flow and their ability to repay, essentially what is being done is making a loan to advance the development impact fees that would always be payable at the beginning of the project.

Mayor Lilburn stated she requested this item be brought to City Council for discussion due to the Finance Subcommittee members had different outlooks on the project. She is in favor of the project for the fact it will bring jobs to the community and it is a development project to enhance our community.

Councilman Timmer stated this city has not made any loans for this type of project. The city just had three businesses open in the same general area and we did not assist them in their projects. Why is this project any different?

Councilman McCallon stated this is going to be a second mortgage. Will we have full recourse on the second mortgage?

City Attorney Steele stated part of this process is going through the process to ensure we have full recourse with possible additional security outside of the property if necessary.

A MOTION was made by Vice Chairman Jones, seconded by Agency Member Scott, to authorize the Redevelopment Agency to prepare an agreement between the Agency and Claywest, Inc., (Denny's Restaurant) to provide for a \$449,000 loan to pay for project Development Impact Fees. Said loan would be a market rate loan amortized over a five-year period beginning when the loan is signed. Motion carried, 4-1, with Agency Member Timmer dissenting.

12. City Council's Consideration of the Conceptual Landscape Master Plan for the City's Base Line Beautification Project (DRB 008-003)

Community Development Director Jaquess stated this project has been one that has been underway off and on for a couple of years. It involves implementation of a policy of a General Plan that deals with the Town Center area of Highland. That Town Center is defined in the General Plan and is between Cole and the 210 Freeway. This is something that originally went to the Finance Subcommittee and actually some redevelopment funding was originally authorized for this project, however, we have not expended that money in any way because we have been working on plans and design concepts. What is before you tonight is a conceptual landscape plan for the area in the Town Center. The conceptual landscape plan covers the whole area between Cole and the freeway. It identifies though that when we do the final construction drawings which will immediately follow the action you take tonight. If you improve this we will only be doing improvements on properties that are already developed and as well as the median on Base Line. We will not be doing improvements or landscaping on vacant properties as that property will be required to be consistent with the concept plan that staff is asking Council to approve tonight when that property develops. Same is to be said for the Denny's property that was just talked about which is the property between Buckeye and Church. We had a property owner and business owner meeting on March 23. We went over the project that is being proposed with design, the fact that we are planning on considering some potential assessment for maintenance of landscaping in the parkway and the median. The design for landscaping and the design for the median were discussed. The comments at the meeting were primarily focused on the design of the median and, in fact, there was some

agreement to make some revision in the median design at that time. When it went to the Design Review Board on April 7, 2009, those changes had been made and there was general concurrence that was acceptable. There has been some discussion agreed to by Public Works that the median between Palm and Bonita would be delayed until the property, the Fresh n Easy project, was built because there was an issue of access and left turn movements into the Baker's/CVS project. He believes the action of timing was satisfactory to the Baker's representative. The project itself consists of constructing some sections of missing sidewalk, removing the pavement and constructing the median, installing the landscaping and irrigation in the median and the parkways where this is existing development. There was a proposal to have decorative pavers installed which would be basically at the crosswalk areas at Base Line and Church and Base Line and Palm. There would be crosswalks made of pavers at Reedy and Cole as well as a decorate entry feature at Base Line just west of the freeway as kind of an entry statement into the Town Center. There is a proposal for a decorative street lights within the median and the parkways plus up lighting of trees that will be planted in the median. These streetlights will be the same streetlights that are already approved for the Greenspot Road median. An element of the project also involves linking the three parking lots on the north side of Base Line between Cole and Palm so they can actually cross over and access driveways where they can make left turn movements. As far as the landscaping is concerned, the plant pallet includes California Fan Palms along the parkway areas which will be about 40 feet on center and at the entrance to the project on the east side, it would be Date Palms installed as accent trees for the Town Center area. In the median the tree would be a Sunburst Honey Locust Tree. This would be planted about 30 feet apart and would ultimately become a shade tree and would provide a canopy effect for downtown but it's very accommodating to the climate of Highland and hopefully a low water maintenance tree which was a concern for the landscaping plan overall. There would be a decorate rock cobble scale in the median, groupings of low growing flowering, shrubs and ground covers. These same planting will also be in the right-of-way parkway between the palms. The last issue he hasn't talked about is the monument entry sign at the east end coming off the freeway. The plan showed a couple of alternatives. One was a metal framed sign and the other was a concrete monument sign but the Design Review Board actually recommended the concrete sign as their preferred sign.

Councilman Timmer asked will this be located in the median?

Community Development Director Jaquess stated yes in the median.

Councilman Timmer asked was there any consideration given to the banner system we have now. A lot of cities use those across the street banners. It certainly would be far more visible and a lot more expensive to use the banner system we have there.

Community Development Director Jaquess stated the banner is generally used for special events.

Councilman Timmer stated not a banner but a sign structure like you see in some cities that is physically built out of steel or whatever. The reason he brings this up is that the banners we put get torn apart and if we design something that is a little better, more solid rather than a cable swing, it would fix two problems at once.

Community Development Director Jaquess stated it wasn't considered but it doesn't mean it can't be considered. We were looking at something less elaborate but if Council wants to go that way then we can.

Councilman Timmer stated he would like to look at that as an option. He would like to see something discussed as it would be a permanent structure and it would certainly provide a better structure for us to do the banners.

Community Development Director Jaquess stated the next step in this process is construction plans.

Councilman Timmer asked if it is okay with the Council if we move forward with this item? He would think the Council would like to look at that as an alternative. It would make a pretty dramatic statement as people get off the freeway.

Community Development Director Jaquess stated the DRB had a number of recommendations and they are not incorporated in the plan but he thinks they can be without a lot of trouble.

Mayor Pro Tem Jones asked if the Honey Locust is an evergreen or a citrus?

Community Development Director Jaquess stated he is going to return that question to our landscape architect who is in the audience and prepared the plans.

Mr. Scott Wright, Community Works Design Group, stated the Honey Locust is actually citrus.

Mayor Pro Tem Jones asked is there another tree as an alternative? He is concerned we are going to create a canopy. We are going to create an appearance but a certain portion of the year the leaves are going to be off of that and so it's going to create a totally different appearance and we could replace it with an evergreen.

Mr. Scott Wright, Community Works Design Group, stated we have gone through a number of options and evergreens need a great deal of watering and they are slower growing. We were looking for a tree with a rapid growth rate and relatively low maintenance.

Mayor Pro Tem Jones stated a Ficus Benjamin is a commonly used tree in medians of that type and is used in many, many cities and is an evergreen, fast growing, and would create the very same type of canopy that this particular tree would.

Mr. Scott Wright, Community Works Design Group, stated we did not look at different types of ficus trees, not necessarily the Benjamin, and there was a problem with the pop up roots and also the water use is moderate to heavy.

Mayor Pro Tem Jones stated of course those things can be addressed by the original irrigation set up if in fact you water them deep and drip irrigation was set up for this purpose.

Mr. Scott Wright, Community Works Design Group, stated you would still have the root problems.

Mayor Pro Tem Jones stated if you irrigate them deep the roots will not come up, they will go down.

Councilman Timmer stated he thinks rather than us talk about trees, the Design Review Board will be looking at all those issues. Is this going to be the final design? Is this going to be engineered now?

Community Development Director Jaquess stated we are down to engineering. It was not intended that this would go back to Design Review Board at this point. They have taken their final recommendations.

Mayor Lilburn asked why would we only have one monument sign that says welcome to the Town Center when we actually have two entries into the Town Center. We have one on Cole and one in the other direction. Which entry would get the welcome to the Town Center?

Community Development Director Jaquess stated we have been looking at the area adjacent to the freeway. If the Council wants to have more than one sign, we would be more than happy to do that.

City Manager Hughes stated on page 13 of the staff report there are engineering drawings that show the median and the proposed curb cuts. They are different than what are in the colored plan. The engineering drawings are actually the median design that is being proposed. The landscaping and the design on the big plan are correct but the cuts are incorrect in the staff report.

Councilman McCallon stated the other thing we need to point out is that this is going to be done in phases. It is not indicated anywhere.

Councilwoman Scott stated of course Council knows how she feels about medians. If you want to kill your business put a median down the middle of the street. She is really concerned especially about the area where the former library and the former post office are with the placement of the median there.

City Manager Hughes stated we are talking about doing that in a second phase. In doing that when we do the other median there between Bonita and Palm. We are going to phase the medians in because we do not know what is going to happen yet on the properties to the west of us. So we don't want to put that median in if we don't know what's going to happen.

Councilwoman Scott stated like she said before if you want to kill businesses put a median down the street.

Mayor Pro Tem Jones stated or increase business because you are going to slow the traffic down and you're going to invite them to a Town Center, the whole purpose of this particular design.

Reverend Cynthia Huskey stated they have one concern about this project and that would be going west on Base Line and being able to turn left into their church parking lot. It appears from the drawings it would be legal to turn into Starbucks but illegal to turn into the church parking lot. They are very concerned about that.

Councilman McCallon asked there is another entrance to the parking lot off of Church Avenue?

Mayor Lilburn stated wasn't it discussed that the other entrance would be the major entrance.

Reverend Cynthia Huskey stated yes, there is access on Church Avenue, however, you do have a left hand turn lane going into St. Adelaide's across the street. We don't have left hand turn access going west on Base Line. They would ask that perhaps the median be shorter to allow access into the church parking lot. Their church as been part of the Highland community since 1891.

Mayor Lilburn asked is it just shy of the parking lot because it looks like their driveway and Starbucks driveway are very close?

Reverend Cynthia Huskey stated they are very close. She can see the wall that separates Starbucks and the church. There are two separate driveway entrances. So the left hand turn goes into Starbucks, however, the median starts before their entrance into the parking lot.

Mayor Lilburn asked is it possible to look at something like that?

Councilman Timmer stated when we talked about this, when you have two driveways that close together it creates some safety issues. That's why we kind of looked at it. They still maintain two entrances, you just can't turn off of Base Line, you have to go down to Church and turn into their parking lot which is a lot safer than trying to have going across three lanes of traffic.

Reverend Cynthia Huskey stated they are not asking for another left hand turn lane, only for the median to be a little shorter so you can still access their driveway.

Councilwoman Scott stated they have two driveways close together now and you know the church driveway was there long before Starbucks was.

Councilman Timmer stated as we redesign streets, we try to make them safer not maintain an ongoing safety issue.

Councilwoman Scott stated it is not fair what is being done to this church.

Councilman McCallon stated the issue is safety and if we shorten the median we are just causing a safety hazard there.

Councilwoman Scott stated how many accidents have there been so far with no median. Don't put a median there at all.

Councilman McCallon stated it is a congestion issue. The median will provide a safer environment if you need to make a left turn into the church.

Mayor Lilburn stated she understands the purpose for the medians and the cause and then she looks at it from the business side and she also understands their concerns but Council is trying to do what is best for the traffic flow and the Town Center. We have a church here that has been there far longer than anyone and we are going to cut access to them.

Councilwoman Scott stated Mayor Lilburn is talking about traffic flow and Mayor Pro Tem Jones stated the medians were to slow people down so they could go into the shopping. Now we can't have it both ways. If you want traffic to flow and you want access for people to be able to go into the business on either side of the street without having to go clear down to the end to another street and make several u-turns and so forth, then take the medians out and make a wider street.

Mayor Pro Tem Jones stated it isn't any less safe to make a left turn into Starbucks than it is to make a left turn into the church. If you simply shorten the median to allow that to occur we haven't increased or decreased the safety of making that turn. All you've done is extended the alternative to make a left turn into Starbucks or left turn into the church.

Assistant Public Works Director Barton stated traffic is going to increase on Base Line too. It's not just going to be today but there is going to be increased traffic and eventually Base Line will be six lanes of traffic. It will increase dramatically going back to the General Plan traffic model. The proximity of the driveways is the issue and of the things we did look at and also at a couple of other locations and including here at City Hall, was there alternative access routes to these properties that provide good circulation and increase safety. That's really what the focus is and sometimes as traffic grows, limited access is better. Can we look at shortening that? Yes, we can. Is it the best thing to do looking at the future? That can be argued and one might argue that the layout here in the long term is the better layout because now you're not going to get the stacking.

Mayor Pro Tem Jones asked are we still going to allow the left hand turn out of the Starbucks driveway onto Base Line?

Assistant Public Works Director Barton stated under this model, yes.

Mayor Pro Tem Jones stated so we still have that problem that is going to exist.

Reverend Cynthia Huskey stated most of what is being talked about is for Sunday morning. They have a gate there that is usually locked during the week because some people will use the church parking lot for a thoroughfare to get to Thompson Elementary. The gate is only unlocked during Sunday morning.

Councilman McCallon asked is the gate unlocked for the day school?

Reverend Cynthia Huskey stated no it is not unlocked for the preschool. Parents use the Church Avenue access.

Councilman Timmer stated it looks like staff needs to look at that alternative to see how we can make that least unsafe.

Councilman McCallon asked is the concern just making a left turn off of Base Line into the property? You're not asking for a left turn out of that driveway.

Reverend Cynthia Huskey stated yes.

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman Timmer, to approve the Conceptual Landscape Master Plan for the City's Base Line Beautification Project (DRB 008-003) with consideration in the final drawings to a permanent overhead entrance sign in lieu of the monument signs, tree alternatives, providing entrance alternatives for First United Methodist Church and for the project to be phased regarding the median installation per the development between Palm and Bonita, and also between City Hall and Cole. Motion carried, 4-1, with Councilwoman Scott dissenting.

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

Councilman McCallon stated he attended the League of California Cities Legislative Action Days May 16-18, 2009. The Inland Empire Division dinner meeting was also held during the conference as well as the League Board Meeting.

14. San Bernardino International Airport Authority and IVDA

City Manager Hughes stated a request was received from IVDA for a support letter for funding for the federal transportation grant program. It is in regards to the 3rd and 5th Street improvement project which we are currently working with them on. This directly impacts Highland. They are asking for a letter of support for the Mountain Avenue Bridge and Roadway improvements. From staff's perspective, it is viewed as a competitive project to the 3rd Street and 5th Street improvement project, therefore, staff's recommendation would be just to draft a support letter for the 3rd and 5th Street improvement project.

A MOTION was made by Councilwoman Scott, seconded by Councilman McCallon, to draft a letter of support for the 3rd Street and 5th Street Improvement Project. Motion carried, 5-0.

ANNOUNCEMENTS

Councilman Timmer stated he will be absent during the month of September. The way we have a dark meeting and the way the meetings are scheduled, he will be absent for more than 60 days. He will only miss two meetings, but the way the schedule is, he needs an excused absence for that period of time.

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to grant Councilman Timmer an extended absence from City Council. Motion carried, 5-0.

Councilman McCallon stated Council is going to be "dark" for the second meeting in August with the first monthly meeting on the calendar as August 11, 2009. He would like to suggest Council go "dark" the entire month of August.

City Manager Hughes stated staff will look at the schedule and report back at the next meeting.

Thursday, May 7, 2009

League of California Cities Meeting

CLOSED SESSION

At 8:07 p.m., the City Council and Redevelopment Agency convened into closed session regarding the following:

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(b)(1):

One case.

CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6 regarding the following:

Agency Negotiator: Joseph Hughes

Employee Organization: Unrepresented employees.

At 8:25 p.m., the City Council and Redevelopment Agency convened into open session, with all members present, making no announcements.

ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 8:27 p.m.

Submitted by:

Approved by:

Betty Hughes, CMC
City Clerk

Penny Lilburn
Mayor