

**MINUTES
REDEVELOPMENT AGENCY AND CITY COUNCIL
REGULAR MEETING
OCTOBER 27, 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 Anthony Vines of Immanuel Baptist Church and the 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 add an item to Closed Session regarding the Settles Case. Motion carried, 5-0.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Government Code Section 54956.9(a) – Settles v. City of Highland - San Bernardino Superior Court Case No.: CIVDS910213

City Clerk Hughes stated there is a clarification of Item #2 and Item #3 on the agenda cover sheet. The minutes should be for the date of October 13, 2009. It is correct in the agenda.

A MOTION was made by Councilman McCallon, seconded by Mayor Pro Tem Jones, to approve the consent calendar as submitted. Motion carried on a roll call vote, 5-0.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.
2. Minutes – October 13, 2009 City Council Regular Meeting
Approved Minutes as submitted.
3. Minutes – October 13, 2009 RDA Regular Meeting
Approved Minutes as submitted.
4. Warrant Register
Approved Warrant Register No. 492 for October 27, 2009, in the amount of \$248,756.17 and Payroll of \$77,912.78.
5. Selection of an Event Date and Budget for the Fourteenth Annual Citrus Harvest Festival
 1. Selected March 27, 2010, as the Event Date for the Fourteenth Annual Citrus Harvest Festival with a rain date of April 3, 2010; and
 2. Approved the draft budget.
6. Pacific Street Rehabilitation Cooperative Agreement
Entered into a Cooperative Agreement with the County of San Bernardino and the City of San Bernardino contingent upon approval of the City Attorney of any modifications to the Agreement, and authorize the Mayor to sign the Cooperative Agreement.

CITY COUNCIL/REDEVELOPMENT AGENCY PUBLIC HEARING

7. Disposition and Development Agreement by and Between the Highland Redevelopment Agency and Young Shin for the Sale of Agency-owned property and the Development of Certain Improvements

Mayor Lilburn opened the public hearing.

Community Development Director Jaquess stated this is being brought subsequent to Mr. Shin approaching the city about buying the property at the southwest corner of Base Line and Central. Mr. Shin submitted a market appraisal by a qualified appraiser and that amount was \$94,000. The Council had previously indicated some acceptance of that price number and directed staff to prepare a Disposition and Development Agreement and bring it back to Council to document that action and to clarify the understanding between the city and Mr. Shin with regard to the future use of the property. Before you is the Disposition and Development Agreement. It requires that the property be used for commercial use for the life of the agreement which goes to 2031 and it requires that the minimum of the property initially be developed with a fast food, Dairy Queen Type restaurant which is certainly Mr. Shin's intent in any case. The escrow itself would be opened after the

Council approves the agreement but the close of escrow will not occur until the project has gone through the discretionary review permits that are required which Mr. Shin will be submitting. He has already had discussion with staff to do that and staff has been through this with him before on another site so he thinks a lot of the issues will be somewhat similar.

City Attorney Steele stated for the record this is a public hearing of the Redevelopment Agency and Council is acting in its Redevelopment Agency capacity when Council takes whatever action on this application.

Mr. Young Shin stated he is the owner of the current Dairy Queen and Highland has given him the opportunity to open a new Dairy Queen in Highland.

Mayor Lilburn called for any speaker slips in opposition or in favor of. Hearing none, the public hearing is now closed.

City Attorney Steele stated the Agency Board is required to do this, what is called the 33433 Report which is in the staff report. It indicates how the property was acquired by the Agency and the basis for the evaluation that has been given, what expenses have been made, and it would form the basis for Council's findings if Council makes that there is no subsidy being provided to the private property owner who is purchasing the property, if this is the direction the Board decides to go in.

Mayor Lilburn stated her question is in the staff report on page 2. It states it was defined as a fast food restaurant and she knows that Council specifically in closed session talked about that it would be a Dairy Queen.

Community Development Director Jaquess stated actually the way the language is in the DBA, it refers to a fast food restaurant in the form of a Dairy Queen.

City Attorney Steele stated on page 15 of the DBA states it refers to the construction typical of a Dairy Queen, DQ Grill and Chill facilities in California, constructed within the three years preceding the date of the agreement.

Councilman Timmer asked if this fails to happen for some unknown reason, does the city take back the property and reimburse the property owner or since its pretty specific on what the use is going to be, will it come back to us at that point or does he have the ability to sell it to another person that would want to do this?

City Attorney Steele stated we would have to approve the sale of the property to another developer.

Mayor Lilburn asked what if it was something we don't want, does it come back to us?

City Attorney Steele stated it has to come back to be built as anything other than what is provided for in the DBA. It can't be done without the approval of the Agency.

A MOTION was made by Agency Member Timmer, seconded by Agency Member McCallon, to adopt Resolution No. RDA2009-003 of the Highland Redevelopment Agency approving a Disposition and Development Agreement by and between the Agency and Young Shin and to adopt Resolution No. 2009-039 of the City Council of the City of Highland consenting to the approval by the Highland Redevelopment Agency of a Disposition and Development Agreement by and between the Agency and Young Shin. Motion carried, 5-0.

RESOLUTION NO. RDA2009-003
A RESOLUTION OF THE HIGHLAND REDEVELOPMENT AGENCY
APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND
BETWEEN THE AGENCY AND YOUNG SHIN

RESOLUTION NO. 2009-039
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, CONSENTING TO THE APPROVAL BY THE HIGHLAND
REDEVELOPMENT AGENCY OF A DISPOSITION AND
DEVELOPMENT AGREEMENT BY AND BETWEEN
THE AGENCY AND YOUNG SHIN

CITY COUNCIL/REDEVELOPMENT AGENCY LEGISLATIVE

8. Two (2) Appointments to the Community Trails Committee

City Clerk Hughes stated there are two applications for consideration and both applicants are currently serving on the committee and would like to be considered for reappointments.

A MOTION was made by Councilman Timmer, seconded by Councilwoman Scott, to appoint two (2) members of the public, Gerard Remiskey and Margaret Wright, to the Community Trails Committee. Motion carried, 5-0.

9. Resolution No. 2009-040 Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State, and Directing and Authorizing Certain Other Actions in Connection Therewith

Director of Administrative Services Dantuono gave a brief review of the staff report.

Councilman Timmer asked what kind of liability will the city have as we are a member organization of this league?

City Attorney Steele stated as long as we do not misrepresent any material fact about our financial condition or situation of the city, then we do not have any liability to the bond holder because the bonds are insured. It is not a membership organization. We are entitled to participate in the issue.

Councilman Timmer stated he is asking because these are General Fund monies. This would be considered a liability or debt that we could have some ties to but City Attorney Steele is stating this is not the case unless we have done something inappropriate during the issuance then there is no liability to the city.

A MOTION was made by Councilman Timmer, seconded by Councilwoman Scott, to approve Resolution No. 2009-040 and the participation in the Proposition 1A Securitization Program and adopting the proposed Proposition 1A Sale Resolution and Purchase and Sale Agreement. Motion carried, 5-0.

RESOLUTION NO. 2009-040

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

10. Voluntary Expenditure Limit for Local Elections

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

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to conduct its first reading of Ordinance No. 347 repealing its Voluntary Expenditure Limit since state law no longer authorizes it. Motion carried, 5-0.

City Clerk Hughes introduced Ordinance No. 347:

ORDINANCE NO. 347

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, REPEALING SECTION 2.12.020 OF TITLE 2 OF THE HIGHLAND MUNICIPAL CODE, RELATING TO VOLUNTARY EXPENDITURE LIMITS IN LOCAL ELECTIONS

which title was read.

11. Photo Voltaic System Installation at the Highland Athletic Center and City Hall Including Upgrades to Electrical Systems at City Hall

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

Councilwoman Scott stated she loves the idea of the solar panels but she has an issue with the library and the large electric bills still coming in even with the solar panels. Are we really going to be saving any money?

Councilman Timmer stated Edison is quoting a savings of \$8,300 yearly and \$14,000 at the Athletic Center.

A MOTION was made by Mayor Pro Tem/Vice Chairman Jones, seconded by Councilman/Agency Member Timmer, to authorize the City Manager/Executive Director to enter into an Agreement with STK Architecture for the Design of a Photo Voltaic System at the Highland Athletic Center and City Hall including upgrades to the electrical systems at City Hall. Motion carried, 4-1, with Councilwoman/Agency Member Scott dissenting.

12. Aquatic Center and Additional Parking at Community Park

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

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to delay the review of construction of an aquatic center and additional parking at Community Park. Motion carried, 5-0.

13. Project Submittal for 2009/10-2014/15 Regional Transportation Improvement Program (RTIP)

City Engineer Wong gave a brief review of the staff report.

A MOTION was made by Mayor Pro Tem Jones, seconded by Councilman McCallon, to authorize the submittal of 26 projects for inclusion in the 2009/10-2014/15 Regional Transportation Improvement Program as listed in Exhibit "A"; and to adopt Resolution No. 2009-041 certifying the City's commitment to fund and implement the projects. Motion carried, 5-0.

RESOLUTION NO. 2009 - 041
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
HIGHLAND, CALIFORNIA, CERTIFYING THAT THE CITY HAS
THE RESOURCES TO FUND THE PROJECTS SUBMITTED
FOR INCLUSION IN THE FY 2009/10-2014/15
REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP)
AND AFFIRMING ITS COMMITMENT TO IMPLEMENT
ALL OF THE PROJECTS SUBMITTED IN THE PROGRAM

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

Councilman McCallon stated SCAG sent him to the UCLA Conference Center for a symposium on Transportation and Land Use which featured experts in the field on transportation. SCAG will be hosting a joint meeting on December 3, 2009, with Industry Leaders in the community being invited to attend.

Mayor Lilburn stated Omnitrans is proposing to host a November meeting with the Board of Directors meeting with the Committee to discuss the dissolve of the JPA. Omnitrans is also hoping to find a replacement for the CEO position by December 30, 2009.

15. San Bernardino International Airport Authority and IVDA

None

ANNOUNCEMENTS

October 26 – November 13, 2009
November 6, 2009

Thanksgiving Food Drive
Senior Health and Wellness Fair,
Upland YMCA

December 17, 2009

Progressive Open House,
Assemblyman Emmerson, Assemblyman
Biane, Senator Dutton

CLOSED SESSION

At 6:57 p.m., the City Council and Redevelopment Agency convened into closed session regarding the following:

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Government Code Section 54956.9(a) – Settles v. City of Highland - San Bernardino Superior Court Case No.: CIVDS910213

At 7:04 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 7:06 p.m. in memory of Larry Scott.

Submitted by:

Approved by:

Betty Hughes, CMC
City Clerk

Penny Lilburn
Mayor