

**MINUTES
CITY COUNCIL REGULAR MEETING
AUGUST 10, 2021**

CALL TO ORDER

The regular meeting of the City Council of the City of Highland was called to order at 6:03 p.m. by Mayor Lilburn at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Pastor Willie Hicks, Harvest Care Church, and the Pledge of Allegiance was led by Mayor Lilburn.

ROLL CALL

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

REPORT FROM CLOSED SESSION

No meeting.

SPECIAL PRESENTATIONS

Senator Rosilicie Ochoa Bogh introduced herself.

PUBLIC COMMENT (ITEMS NOT ON THE AGENDA)

Scott Ward, Representative for San Bernardino County's Third District Supervisor Dawn Rowe, spoke regarding the upcoming County of San Bernardino's redistricting process and extending an invitation to all county residents to attend the upcoming meetings.

City Clerk Hughes stated there were no public comments received via email for items not listed on the agenda nor items on the agenda.

CITY COUNCIL CONSENT CALENDAR

City Manager Hughes stated Item 6 will need to be pulled for clarification.

Associate Planner Syed presented the clarification for Item 6.

A MOTION was made by Council Member Timmer, seconded by Council Member Solano, to approve the consent calendar with Item 6 being amended. 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 – June 22, 2021 City Council Regular Meeting
Approved the Minutes as submitted.
3. Warrant Register
Approved Warrant Register No. 727 for August 10, 2021, in the amount of \$3,920,509.29 and Payroll of \$421,894.75.
4. Treasurer's Report for June 2021
Received and filed Treasurer's Report for June 2021.
5. Contract Renewal – 2020-01 Facilities and Parks Landscape Maintenance Contract
Extended the Facilities and Parks Landscape Maintenance agreement with RP Landscape & Irrigation, Inc., (RP) for one year.
6. An Appeal (APP 21-001) of the Historic and Cultural Preservation Board's Partial Denial of Certificate of Appropriateness (COA 21-002); Installation of a Six Foot (6') Tall White Vinyl Fence at a Single-Family Home in the Highland Historic District. The Appeal is requesting the City Council overturn the Historic and Cultural Preservation Board's denial and permit the white vinyl fence. (Continued from June 22, 2021.)
Adopted Resolution No. 2021-036 to approve Appeal (APP 21-001) and approve the Certificate of Appropriateness (COA 21-002).

RESOLUTION NO. 2021-036

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, TO APPROVE APPEAL (APP 21-001), OVERTURNING THE HISTORIC AND CULTURAL PRESERVATION BOARD'S DENIAL OF CERTIFICATE OF APPROPRIATENESS (COA 21-002) TO INSTALL A SIX (6) FOOT TALL WHITE VINYL FENCE ON THE WEST SIDE OF A SINGLE-FAMILY HOME IN THE HIGHLAND HISTORIC DISTRICT LOCATED AT 27259 NONA AVENUE

7. Final Map Approval/Tract 18013 (MV 18013, LLC)
Adopted Resolution No. 2021-037 to:
 1. Approve the Final Map of Tract No. 18013;
 2. Accept the Subdivision Bonds; and
 3. Authorize the Mayor to sign the standard subdivision agreement.

RESOLUTION NO. 2021-037

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 TRACT NO. 18013 (MV 18013, LLC)

8. Multi-Use Trail Common Use Agreement – Amendment No. 1
Approved revised Amendment No. 1 to the Multi-Use Trail Common Use Agreement between the City and San Bernardino County Flood Control District.

CITY COUNCIL PUBLIC HEARING

9. An Ordinance Amending Title 16 (Land Use and Development Code) of the Highland Municipal Code, Chapter 16.06 (Definitions), Chapter 16.16 (Residential Districts), Chapter 16.22 (Mixed Use Districts), Chapter 16.12 (Special Districts), and Chapter 16.44 (Specific Development Standards) Regarding Accessory Dwelling Units (“ADUs”) and Junior Accessory Dwelling Units (“JADUs”) and Making Findings Under CEQA

Mayor Lilburn opened the public hearing.

Community Development Director Mainez stated the City Council has addressed previous amendments to the City's existing ADU regulations and this latest ordinance before you is a result of a series of housing bills signed by the Governor in 2019. Through the hard work by staff, the City Attorney and the input from the Planning Commission, the City now has a draft that is as restrictive as possible. The State's intent of these housing bills was to reduce regulatory barriers in costs associated with ADUs in a further streamline to the ADUs approval process. In response to this legislation, the Council adopted two interim ordinances, as you may recall, regulating ADUs while staff studied how ADUs should be regulated in Highland. As part of this adoption, the two interim ordinances, the Council voiced concerns about allowing the construction of ADUs in areas designated as high fire severity zones. With that in mind, staff worked closely with our Fire Marshall and our Battalion Chief to study the potential public safety and traffic impacts of allowing ADUs in high fire severity zones. These areas are prone, as you know, to fire fueled by strong winds and an increase in population from additional ADUs in these areas, can increase the risk of people not being able to evacuate quickly in the event of a fire emergency. So, there is a map in your staff report that includes boundaries of the high fire severity zones. Also, through the proposed ordinance, the City is prohibiting the construction of ADUs in areas located within a high fire severity zone. It is important to note in the record that pursuant to government code, the City does not have discretion to outright prohibit the construction of ADUs that could be approved by the building permit only process, which we will talk about in a few minutes. He is going to have City Attorney Marroquin get into that detail. In addition, the State's ADU legislation allows local agencies to evaluate the adequacy of water and sewer service as a factor in drafting the ADU ordinance. Also, a map was included in your staff report to show those locations of parcels with septic systems. The approval process for all proposed and modified septic systems in Highland will require State Water Board evaluation. During our research on this topic, it was made clear by the State Water Board staff that it would be highly unlikely that permits will be issued for new or modified septic systems. The reason given by the State Board staff was due to the conflicts related to minimum lot size and setbacks for septic tanks and leech fields, also setbacks for existing

structures. The setbacks from existing water lines to protect water quality public safety was another factor. Through this proposed ordinance the City is prohibiting the construction of ADUs in areas without proper sewer connection. As mentioned, in the fire overlay zones and similar to that, it is important to note that pursuant to government code, the City does not have discretion to outright prohibit the construction of ADUs that could be approved by building permit only process and so with that brief overview, he will turn it over to the City Attorney who should give you the synopses of the permit process.

City Attorney Marroquin stated as was indicated by Community Development Director Mainez state law dictates that there are two different types of approval process. You have your building permit only process, which if you comply with the state standards, you come in and the City has zero discretion in terms of denying those types of applications. Then there is a different process which we will call the planning review process and that process is where the City has discretion and the types of regulations that it can adopt and so that is where Community Development Director Mainez has indicated that the City has imposed as restrictive standards as it possibly can. Starting first with the building permit only ADU processes, they are addressed in Section 16.44180(e) of the ordinance that is before you tonight. So, under the building permit ADU process an applicant would be allowed to have one detached ADU and one JADU as long as it is located within the same space as the single-family residence and you are allowed to expand it by 150 feet for a passageway but as long as it is within the existing space, they would be allowed to do that as a building permit only ADU. One detached new construction ADU, as long as the ADU maintains at least a four-foot rear and side yard setbacks and it cannot be bigger than 800 square feet in size. So that is kind of the largest parameter under the building permit ADU, 800 is the max. The legislation also allows multifamily residences to convert spaces not used as livable space. So that would be kind of your storage rooms, boiler rooms, basements, attics, and garages. All of those can be converted up to 25% of the existing units, so if you are talking about an 8-unit apartment they would be able to convert two of those type of spaces into ADUs. In addition, two detached ADUs can also be constructed on a lot with a multifamily dwelling. So again, under this building permit ADU process there is zero discretion. That is dictated by state law. If they come in and they meet these standards, which is you know, no more than 800 feet, the 4-foot rear and side yard setbacks, they can come in and obtain the ADU over the counter. All staff is reviewing essentially is, you know, do they check off the boxes? Then we turn over to the planning review ADU, so here is where we can have a little bit more. Now she is not going to pretend it is like, you know, we can do what we want but we have a little bit more discretion in this regard. So, the State law does allow the City to adopt an ordinance for those ADUs that do not qualify under building permit ADU. So, if someone came in, for example, to construct let's say a 950 square foot ADU, they are past 800 feet, so we are no longer a building permit only, we are now in the planning review, and this is dictated by Section 16.44180(d) of the ordinance that is before you. What we have done here are the location restrictions that Community Development Director Mainez talked about so

no ADUs in the high fire severity zones, and they have to have appropriate sewer systems. Otherwise, they are prohibited from constructing those type of ADUs. Did you have a question Mayor Pro Tem McCallon?

Mayor Pro Tem McCallon stated well, he just thinks it is stupid that in one instance allow them to be built in fire zones, without sewer hookups, etc., and then the other instance, restrict them, it is asinine.

City Attorney Marroquin stated she does not disagree with Mayor Pro Tem McCallon. That is the way the state law was drafted unfortunately.

Council Member Timmer stated he thinks this is a good point. He hopes the Senator is listening. One of the big concerns that we have as city officials is the State keeps taking more and more of the discretion the cities have on how we plan our cities on density and sizes. Every time we turn around there is new legislation coming down, which restricts us more and more. So, I guess that's it. He hopes you are listening. Thank you.

City Attorney Marroquin stated she thinks that the point you are making, both of you, is excellent, in the sense that the State clearly says with respect to the building permit that has to be approved and there is not the kind of the public health safety welfare considerations that they allow for the local ordinance portion of it. That is not within the building permit only and so generally both state laws will make at least some allowance for public health safety reasons, but the way this legislation was drafted the building permit only says if you meet these requirements, you get a permit. Now again if there is, there are size restrictions, they have to meet every single thing on that box otherwise they go into the planning review ADU component.

Mayor Lilburn stated a box is a joke.

City Attorney Marroquin stated she does not disagree that there are concerns, but at least, there are, you know, it cannot be more than 800 square feet, so if we are at 801, they are doing planning review.

Mayor Lilburn inquired who is going to enforce that?

City Attorney Marroquin responded well that would be our planning staff. So, they have to come in and pull a building permit and we are going to be checking the sizes.

Mayor Lilburn stated like that is going to happen.

City Attorney Marroquin stated Community Development Director Mainez would be able to further address how many have come in and we can, do you want to do that now or do you want me to finish?

Mayor Lilburn stated yes, go ahead, and finish please.

City Attorney Marroquin stated so we talked about location, now talking about minimum and maximum unit size. If there is an existing primary dwelling, the total floor area of the attached ADU cannot exceed 50% of the existing dwelling, so you know it can only be half as large as your existing dwelling. For detached ADUs it cannot be larger than 1,200 square feet, so that is something that is allowed. We have discretion, we could go higher if we wanted, but what is before you where state law said we cannot dictate anything smaller than 1,200 so that was the number that was chosen by staff. For studio or one bedroom, the total floor area shall not exceed 850 square feet in size and a two or more-bedroom ADU cannot be greater than the again, the 1,200 square feet. There are, and she knows this is going to be a point of contention, no setbacks can be required for an ADU that is going into a location where there is an existing structure. So, let's say someone has an existing storage shed and they are going to now replace that with an ADU, as long as it is within the same parameters, assuming it is a really big shed that they have, we cannot require additional setbacks. So, if they are already two feet from the property line, they would be able to construct there.

Mayor Lilburn stated that is crazy.

City Attorney Marroquin stated if however, there is not an existing structure there that is being replaced, then the City can require up to four feet of a rear yard and side setbacks, and so that is what is in the ordinance. Again, to the extent we could be as restrictive as possible, that is what was done. One parking space is required per ADU, except under certain circumstances.

Mayor Lilburn stated if there is a bus stop within so many feet.

City Attorney Marroquin stated one half of a mile, exactly. Then you cannot require it. If a garage or carport is demolished or converted to an ADU, the City cannot require replacement parking. The City cannot impose an impact fee on ADUs that are less than 750 square feet in size. If it is greater than 750, then the impact fee is charged proportionally based on the square footage of the primary dwelling unit. So, if the primary dwelling unit, for example, is 1,600 square feet and the proposed ADU is 800 square feet, the applicant would be charged an impact fee of 50% because it is proportional to the existing unit. The one area that the City does have some discretion is with respect to architectural features. The ordinance requires that the ADU have the same design, architectural features, color, and materials of the primary dwelling unit so that it can try to match, you know, the primary dwelling unit as much as possible and we are allowed to impose any objective standards we have. If there are objective design standards within the specific plan area, those can be imposed on the ADU. The City does require that a deed restriction be recorded that ensures that the ADU will not be sold separately from the primary dwelling unit and that also it not be used for short term rentals. The reason that is being done is to ensure that the city can at least count these units towards its RHNA allocation because at least we will get credit that way in terms of the number of units that are being constructed within the City. Now is a good time to turn it over to Community Development Director Mainez to talk about how many of these have actually been constructed.

Mayor Pro Tem McCallon stated well before you do that, if he might Mayor, the junior ADUs or whatever, you cannot rent them out for longer than, whatever, the 31 days.

City Attorney Marroquin stated 30 days, yes.

Mayor Pro Tem McCallon inquired it requires that the owner occupy either the residence or the other, but that does not apply to other ADUs?

City Attorney Marroquin responded no, it is only for the JADUs that it has to be owner occupied and she thinks the reason and that was a change in state law before you could have an owner occupancy requirement for both. Now it is just for the JADUs.

Mayor Lilburn inquired is that more for like an extended family member moving in or?

City Attorney Marroquin responded she think that is the idea, because the JADU is constructed within the existing space of the single-family residence. So, she thinks the idea is that generally it is like an in-law suite, or you know, as one family member or, you know, one of the kids has a family and they need to move into the JADU.

Mayor Pro Tem McCallon stated you can build the ADU, and you can rent the primary residence and the ADU out, as long as it is not a JADU.

City Attorney Marroquin stated correct.

Mayor Pro Tem McCallon stated and there is no requirement for the owner to occupy either one.

City Attorney Marroquin stated for ADU, no, there is no requirement.

Mayor Lilburn inquired if Community Development Director Mainez would like to pick up from here?

Community Development Director Mainez responded yes, he will pick up the discussion. He wanted to let the Council know that as a result of this new legislation there was a mention of the 550 square feet exemption for development impact fees and that is not in the ordinance, but it is in the legislation and a lot of the applicants are uneducated on that when they come to the City. So, he does want to point out that over the last couple of years, we have had up to thirty applications for accessory dwelling units. At least 95% of these are detached and they are all under 750 square feet with the intention that they do not want to pay DIFs. He just wanted to make this clear. So that is a trend. Until the legislation eliminates DIF's altogether, we will probably start getting these larger accessory structures. Of course, you add the impacts of COVID and the impacts of rental housing and people not paying their rent. It really has slowed down dramatically the

construction of these thirty applications. Over the last two years we probably only have had one of these applications that has even started construction because of the impacts. He wanted to throw that out there just for your information on how people are coming in and building smaller attachments. Some of these, out of the thirty, six of these are garage conversions. That seems to be a trend and he knows that was a concern.

Mayor Lilburn inquired if this counts for a RHNA number?

Community Development Director Mainez responded only if we can determine the income restrictions. If they want to record a deed restriction, we can probably get that in a category of lower income.

Mayor Lilburn inquired can you not determine that by the location of where it is?

Community Development Director Mainez responded we can determine most of these would probably be moderate to upper income until we can at least narrow it down to a deed restriction. Okay, does that makes sense?

Mayor Lilburn stated it does.

Council Member Timmer stated normal housing permits that we issue have a time frame that if you do not build, they expire. Does that also apply to these ADUs or do these go on forever?

City Attorney Marroquin stated no, the same building permit process would apply to these as well.

Council Member Timmer stated at least the State did not change that.

Community Development Director Mainez stated the State did a few years ago, it was six months, now it is a year when these building permits will expire.

Mayor Lilburn inquired if that was the end of staff presentation?

Community Development Director Mainez responded it is, thank you Mayor.

Mayor Lilburn stated thank you. So right now, we have only one speaker slip. We have no speaker slips in favor of the proposal. We do have a speaker slip in opposition of the proposal.

Fred Yauger spoke in opposition of the item.

Mayor Lilburn stated so we have no applicant rebuttal. Any additional comments? Okay, so right now, she is going to go ahead and close the public hearing. She is going to open it up for staff discussion, questions, for Council discussion and any questions of staff. This is a lot to take in.

City Clerk Hughes stated for the record we did not receive any emails regarding the public hearing.

Mayor Lilburn inquired for public comment?

City Clerk Hughes responded for public comment, correct.

Mayor Lilburn stated thank you. We have worked so hard for so many years on our garage conversions. That they were not allowed, and we have charged people so much money to make sure that they have turned their garage back into a garage once they were identified as turning their garage into now what is classified as ADU, a JADU, so it is kind of sad. She has so many questions, but she is going to open it up to the Council for any comments that they may have.

Council Member Chavez stated he just wants to say this is one of those California laws that they try to make a one size fits all kind of situation. He does not think it fits here in Highland. He hears the struggle and everything that is going on and so he is ready to approve but he knows we have more.

Council Member Timmer stated he would like to thank the staff. He knows the last time we talked about this we had; his big concern was the fire safety zone that we could not put these units in there. Obviously, what is happening in northern California and central California makes it paramount that we do not allow this kind of ADUs be added into to the fire interface or the fire defense zone or whatever you want to call it. So, at the point when we talked about this we did not know if we could exclude that and and this is good news. As bad as all this other stuff is in the ordinance, at least we are able to exclude the fire overlay zones, that they could not do that. It is kind of interesting to hear the water quality board will not support these kinds of units in areas where there are septic systems which he guesses is another good thing he supposes. So, he thinks we have cut some of the properties that we had concern about. He thinks the fuel loads and stuff in the fire defense areas are now going to stay where they are at. The other concern we have is obviously the parking and then the ordinance talks about parking issues. The infrastructure design on these projects years ago, did not include all these higher densities and stuff, so he is not sure what the water companies and sewer companies and all that are going to do on addressing upgrading these systems, whether it will ever happen or not, but this has been a painful process for us. Again, as the Senator talked about the State coming down with these rules that are so impractical and so limiting on what a city can and cannot do. He is just happy we were able to exclude the fire zones and stuff in the water area. So, he guesses that is some benefit to what we are doing here, but this is such a distasteful thing we have to deal with mandated by the State of California. He knows we need to do this to be in compliance, so we do not jeopardize our housing element in the general plan that gets challenged and all kinds of other stuff. He thinks this is a good place that we are headed, but boy it is painful going to adopt some of this stuff.

Mayor Pro Tem McCallon stated that fire zone and sewer stuff only apply to a limited portion, otherwise any ADU can be built anywhere.

Council Member Timmer stated yes, any other excluded zones.

Mayor Pro Tem McCallon stated no, they can build both there.

City Attorney Marroquin stated so to clarify that there are two different processes. The building permit only ADUs. Mayor Pro Tem McCallon is correct, if they come in and they meet the requirements of a building permit only where they just have to pull a building permit, essentially, if they meet those minimum requirements, even if they are in a high fire severity zone, they would be able to construct. If, however, they do not meet those requirements and they have to go through the planning review process, then we have prohibited any construction within a high fire severity.

Council Member Timmer stated Community Development Director Mainez is saying they are all coming in the threshold.

Mayor Lilburn stated right now.

City Attorney Marroquin stated right now, right, if they are less than 800 square feet and they meet all the other requirements then the statute says they are under what is called, there is two different sections of the government code. There is Section A which is the building permit only and that one says the City cannot apply any other standards other than what is specifically listed in that section and then there is a different section which is our Subsection E and that is where the City has discretion to apply different standards. Unfortunately, that is just where it lands.

Council Member Timmer stated so it just goes to confirm that the State of California is in a total position of taking all planning responsibility away from cities. Overall, we have no rule and if this keeps going the way it is going, we may not even have a City. They are going to rule and make the decision about everything related to planning within our City.

Mayor Lilburn stated they are killing our cities.

Council Member Timmer stated its almost criminal what they are doing.

Mayor Lilburn stated yes, it is. It is. It is disgusting. She is sorry, she does not mean to take it out on the staff because she knows staff is only doing their jobs. Now they are getting more put on you with no additional fees, no impact fees, no permit fees, and we have to bite the bullet and take it away from our taxpayers. Take you away from our taxpayers on the enforcing of so much that needs to be done out there for these. In many parts of the City, we do not have an Association, so we cannot mandate it, which you are lucky Mr. Yauger, at least you live in the Ranch and there is still some enforcement with your cars. Here they add additional living and so they pack them in these houses, there is nowhere to park, so then

they park on their lawns, and it makes it look like pure ghetto. It is just blunt, that is the way it is, and she is sad to see that our State continues to mandate these, and she hopes in the Senate, and she hopes as you do, as a realtor as well. This is ridiculous. This is killing property values. People that are homeowners, people that live in apartments who want to become homeowners, they want their property just as nice. It is sad. You say we have about thirty right now and will those be applied towards the RHNA numbers?

Community Development Director Mainez stated yes, they will. We just have not determined the income category, but we will get credit for this. Absolutely.

Mayor Lilburn stated she has some questions, when we build a house, if somebody comes in to pull permits to build the house, what is their setbacks? 10 feet?

Community Development Director Mainez stated well, it depends on the zoning but generally you have your front yard, 25, your side yards, 5 and 10, depending on what side and then generally in the rear it is about 20.

Mayor Lilburn stated what is the logic for not having a setback?

Community Development Director Mainez stated for this legislation, he thinks logic probably does not play a key.

Mayor Lilburn stated she is going to be [upset] when somebody builds one next to my backyard. She means literally. She thinks it is disgusting. They are exempt from environmental reviews, and she does not want to get the audience all worked up, but they should be worked up over this because this is going to affect your neighborhood and not in a good way and unfortunately the State mandates to us and we have to sit here and just take it. She is sick of taking it from the State. She can go on with all the things that it has and how it is going to affect our neighborhoods, but she thinks you get the drift. She has so many comments, but she is so mad right now that she cannot even do it in a halfway decent way, so she appreciates your presentation. You kind of laid it out. I missed a couple of things in reading this. All I can say is at this time this is one of these times that you wish you had an Association. At least they could help you stay on top of it, but we do not have the enforcement with our Code Enforcement, with our Police Department. With the police, she means, we are too busy trying to keep our City streets with the homeless and with the quality of life. This is going to be a real hit to our communities. She just wants you to know and we are sorry that we have to impose this. She apologizes in advance because she has to support it because if we do not, the State is going to come in and take over and then we will not have any way to mandate anything at all. So, she will stop with that. At this time is there any more discussion?

Council Member Timmer stated this is soapbox night, so he is going back on his soapbox. If we do not pass this ordinance or turn it down, what will the State do on our housing element? He is sure there are all kinds of threats that they are talking about. Do we know, have they postured this at all?

City Attorney Marroquin stated she can answer that. If you do not have a compliant ordinance or you have not adopted an ordinance, then it reverts to state standards. So then, essentially, we are just stuck with what the State, yeah, so at least we have a little bit of discretion in being able to at least prevent some of it, and so she would recommend that we move forward with the ordinance. She did want to note for you Mayor that and she did not note this in the presentation, but there was also an additional bill that prohibits HOAs from prohibiting ADUs. So even if you are within...

Mayor Lilburn stated no, she gets that, but at least they can enforce the parking on the lawns, the parking in the street, the colors of the house because come on, let's face it, they can paint it whatever color they want. There is nothing really, we are going to do about it. The trash, you know people, they do not water their lawns, they park on them, the trash. It is just tough right now, keeping up a City. We, still on the first, second, and third district, a lot of our neighborhoods are still relatively preservable. We can preserve the integrity of those. Here, she does not foresee that coming. She hates to be a pessimist, but it is just sad. She knows staff work hard and when we call you, you are all over it, but we have to constantly stay on as Council Members, and we miss a lot. So, once you turn your head for a second, gone, it is gone, it is taken over. Then you get it back into order or you know our police go into a neighborhood and they clean it up, they turn their backs for a second and it is just mayhem, so this is sad. She does not want to support it. She does not like it at all, can you tell. Let us take a vote.

Council Member Timmer stated he is still on his soapbox. If you watch the national news the word you hear about all the time is infrastructure, infrastructure. We are going to do all these wonderful things and this legislation that we are talking about here, this ordinance is going to impact our infrastructure. Sewer and water and all those things that were not designed and engineered to support these additional densities. So, they are talking out of one side of the mouth, we are going to give you all this money to improve your infrastructure and the other hand, they are saying we want you to do this ordinance which impacts your infrastructure. It makes absolutely no sense. He knows the answer to this, but he just wants us all to be aware. If he builds an ADU on his property, does he have to have different trash service? Probably not, he knows not. So, we are going to increase our impacts on the trash facilities then.

City Attorney Marroquin stated she thinks that is more of a question for public works.

Community Development Director Mainez asked for Public Services Manager Morgan to address that question.

Public Services Manager Morgan stated good evening Mayor and Council Members. To answer that question, any additional unit would have to have service. The way the State has classified these additional units and whether it is a residential additional unit or a multifamily, is anything four units or less is

considered residential. So, when we start talking about food waste, organic recycling, and all of that, we classify those multifamily additional units whether they are residential additional or multifamily. Four or less is residential in our books and on our mandates, five or more would be considered multifamily commercial. With these ADU's we would still consider it. Staff has started looking at this issue because some of them are not their traditional additional unit on a parcel, but it would still be considered an additional unit and our solid waste rates, we do have a one price for one unit, and then a discounted second unit price, but they would still receive the three additional carts.

Council Member Timmer stated so bottom line is that these additional units would then have some responsibility to have trash picked up and that kind of stuff.

Public Services Manager Morgan stated yes, and so, she already has been working with Building and Safety staff to get notification of when those are being approved so her staff can go out and ensure that service has been added. Any other questions?

Mayor Lilburn stated what about the school impacts? Have we notified schools because this is greatly going to impact schools?

Public Services Manager Morgan stated she does everything but schools. She will give the discussion back to Community Development Director Mainez.

Community Development Director Mainez stated Mayor, if the unit is less than 750 square feet, they are not paying any development impact fees.

Mayor Lilburn stated that is correct. So, they are not paying any development impact fees so our schools get impacted and they are going to have children, she gets these that people want to build. She means if her mom was still with her, she would build on to put her in there. She gets that and she gets extending our houses, but this is just opening pandora's box for mayhem. So, our schools are going to get hit with the additional people in the household. No impact fees, no school fees, no police fees, no infrastructure road improvement fees.

Mayor Pro Tem McCallon stated what is the impact, if any, on property values, property evaluation, property taxes?

Community Development Director Mainez stated he has not studied that issue and he does not know the answer to that. He assumes they would go up.

Mayor Pro Tem McCallon stated well, with the ADU, a separate ADU does that increase, or would there be a property tax put on that separate unit or?

Mayor Lilburn stated she does not think so because they do not have to pull the permit. So how would they know?

Community Development Director Mainez stated it is a building permit so it would have to be evaluated.

City Manager Hughes stated they would have to get a permit, and it would be based on the valuation of the building permit, like any other building permit that is done to a home. The County comes in and looks at all of our building permits that are issued, and then they make an adjustment on the property tax value of the house based on the on the value of that permit.

Mayor Pro Tem McCallon stated so there would be an increase in property taxes.

Council Member Timmer stated if they get a permit.

City Manager Hughes stated if they go through the process and get a permit, then yes, there would be an increase in property taxes.

Mayor Lilburn stated so if we pass this tonight, and let's say she does not know, we see changes in our government. Can we rescind? If this becomes a non-issue.

City Manager Hughes stated Council would not want to rescind this because then it would go to the state level. We would lose all of our ability to have any type of restriction on that.

Mayor Lilburn stated what she is saying is, maybe the State might reconsider this kind of.

City Manager Hughes stated well, if the State reconsiders we can bring it back at any time.

City Attorney Marroquin stated the Council can repeal any of its ordinances at any point in time that they would like to but there are specific provisions.

Mayor Lilburn stated she is just hoping in September, we see it turn around. So, she does not know.

Council Member Timmer stated he will move the motion, he guesses.

Council Member Solano stated she will second.

A MOTION was made by Council Member Timmer, seconded by Council Member Solano, to:

1. Introduce and conduct first reading of Ordinance No. 448, an ordinance of the City of Highland regarding ADUs and JADUs, and making the findings of exemption under Section 15282(h) of the California Environmental Quality Act Guidelines and Public Resources Code Section 21070.17; and
2. Direct staff to file a Notice of Exemption with the County Clerk of the Board. Motion carried, 4-1, with Mayor Lilburn dissenting.

City Clerk Hughes introduced Ordinance No. 448:

ORDINANCE NO. 448
AN ORDINANCE OF THE CITY OF HIGHLAND, CALIFORNIA AMENDING
TITLE 16 (ZONING) OF THE HIGHLAND MUNICIPAL CODE TO AMEND
REGULATIONS PERTAINING TO ACCESSORY DWELLING UNITS AND
JUNIOR ACCESSORY DWELLING UNITS AND MAKING A FINDING OF
EXEMPTION UNDER SECTION 15282(H) OF THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT GUIDELINES AND PUBLIC RESOURCES
CODE SECTION 21070.17

which title was read.

10. Consideration of a Resolution to Adjust the Business Tax on the Extraction and/or Processing of Rock, Sand and Gravel (Aggregate) Pursuant to Section 5.17.040 (Rock, Sand and Gravel [Aggregate] Extraction and Processing Tax), Chapter 5.17 (Business License Tax on Extraction and/or Processing of Rock, Sand and Gravel [Aggregate], Title 5 (Business Licenses and Regulations)

Mayor Lilburn opened the public hearing.

Director of Administrative Services Dantuono stated thank you, Mayor. This is the annual adjustment of the mining tax and for this we use the CPI Riverside, San Bernardino, and Ontario area. From May 2020 to May 2021, the CPI did increase by 5.92%, so we are asking that you increase the mining tax by the 5.92%. Community Development Director Mainez did prepare the resolution that is attached to the staff report and he also did notify the miners of this.

Mayor Lilburn stated thank you. At this time, she has no speaker slips in opposition of the proposal and none in favor of the proposal. City Clerk Hughes do you have any comments?

City Clerk Hughes stated we did not receive any public comments via email.

Mayor Lilburn stated at this time she will go ahead and close the public hearing.

A MOTION was made by Council Member Solano, seconded by Mayor Pro Tem McCallon, to adopt Resolution No. 2021-038 fixing the Highland Business License Tax on the extraction and/or processing of rock, sand, and gravel [aggregate] for Fiscal Year 2021-2022. Motion carried, 5-0.

RESOLUTION NO. 2021-038
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, FIXING THE HIGHLAND BUSINESS LICENSE TAX ON THE
EXTRACTION AND/OR PROCESSING OF ROCK, SAND AND GRAVEL
(AGGREGATE) FOR FISCAL YEAR 2021-2022

CITY COUNCIL LEGISLATIVE

11. Discussion of the Status of Fueling Service Stations in Highland and Consideration of a Moratorium on the Approval of Building Permits or Land Use Entitlements for New Fueling Service Station Uses or the Expansion of Existing Fueling Service Station Uses

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

City Attorney Marroquin stated and just to clarify, a moratorium, under state law is 45 days. Unless you extend it and if you do a first extension then you get another ten months and fifteen days, but 45 days would be the initial moratorium period.

A MOTION was made by Council Member Solano, seconded by Mayor Pro Tem McCallon, to direct staff to conduct an analysis to determine if a moratorium is necessary due to the proliferation and negative impacts. Motion carried, 5-0.

12. Purchase of New 2022 Ford F250 4x4 Truck for Battalion Chief

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

1. Approve the purchase (using the State Contract) and equipping of a new 2022 Ford F250 4x4 truck for the Battalion Chief; and
2. Approve the following budget adjustment: Transfer \$100,000 from 029-2512 (Vehicle Replacement Reserves) to be expended from 029-2100-6060 (Vehicles). Motion carried, 5-0.

13. State of the Community Event

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

A MOTION was made by Council Member Timmer, seconded by Mayor Lilburn, to approve the rescheduling of the State of the Community Event to 2022. Motion carried, 5-0.

14. City Manager Report and Comments (Work Program, Regional/Legislative/Development Issues, Subcommittees, etc.)

City Manager Hughes stated before he gives you all the COVID numbers, he just wanted to bring Council up to up to date on a few things. On August 3, the Planning Commission approved D.R. Horton's architectural elevations, landscape plans, and unit plotting for phases one and two, the Mediterra development and that will be out on Greenspot Road. Also, on August 3 the Planning Commission reviewed and approved a proposed reuse of a vacant building at the northeast corner of Sterling Avenue and Seventh Street, at 7761 Sterling Avenue. It will be used as a non-retail party supply office and storage facility only.

Mayor Lilburn asked where is that at?

City Manager Hughes stated 7761 Sterling Avenue. It is the corner of Sterling Avenue and Seventh Street. The Planning Commission also took action on August 3, related to an appeal of an administrative citation for the illegal discharge of fireworks. The Appeals Board, which is the Planning Commission, upheld the \$1,000 citation and approved a payment plan as authorized in the Highland Municipal Code. That was the only appeal of the firework citations. Staff recently completed an administrative review of the draft goals and policies for the Sixth Cycle Housing Element. The corresponding set of policies for the Draft Environmental Justice Element should be ready for review in the coming weeks, so staff is still working diligently on that. He just wanted to make Council aware that City staff met with the City of San Bernardino and San Manuel Band of Mission Indians regarding a number of issues within the various jurisdictions and we agreed to continue a joint effort. We want to get the Council, of course, involved to try to tackle some of the homeless issues that are impacting both the Tribe, the City of San Bernardino, and the City of Highland. We also want to get the County involved and so try to work as a team to try to deal with some of the code, homeless issues rather than just constantly just squeezing the balloon. You know, we squeeze them, and they go over San Bernardino, they squeeze, they come back to Highland, and then we squeeze, and they go over to Redlands, you know. So, we are we are going to start working on that together and we will keep you briefed on that and where that goes. Safe Route to School construction update, construction improvements on McKinley Street between 9th and Base Line was delayed due to relocation of twenty-four power poles by SCE Spectrum and AT&T. All the facilities have now been transferred onto new poles, and the conflicting poles have been removed, so construction is moving forward. It is going to start this week. The focus will be first to complete the sidewalk improvements on the west side of McKinley Street and the contractor will begin clearing, grubbing, and excavation for the sidewalk improvements on the east side of McKinley Street. Construction is underway on a new in-pavement lighted crosswalk on Base Line and Valaria Drive, and it is projected that will be completed September, 2021, and will benefit the students of Lankershim Elementary School. Some stats from the Police Department, from July 26 to August 8, there were 1,710 calls for service, 162 reports, and made 57 arrests. The Fire Department for the month of July. They responded to a total of 607 calls for service, 440 medical aids, 54 traffic collisions, 2 false alarms, 6 hazardous materials, 11 structure fires, 10 vegetation fires, 6 vehicle fires and other fires 20. He is not sure what another fire is. Then we have a Blood Drive coming up on September 27 from 11:00 to 4:00 at the Highland Police Station and in June, Burrtec picked up 187 illegal dumping orders in the public right-of-way. He had stopped doing this because COVID had really kind of started to come down. Everyone was feeling better about it, the numbers are really down back in June, so he stopped kind of giving the Council COVID updates but with the numbers really swinging he thinks it is important to point out some of these statistics, so we all understand where we are going. Right now, there has been 313,000 confirmed cases in the County of San Bernardino. Since February 1, this is a new stat that they are now putting on the County website which is very interesting. Since February 1, not fully vaccinated individuals account for 93% of

the new cases. So, if you are fully vaccinated, it is only 4.8% of the new cases. Deaths are now up to 4,800. In the last 14 days there has been 3 deaths. Since February 1, people that were fully vaccinated since February 1 there were 5 people that passed away during that time. The non fully vaccinated individuals were 216. So, it really does show that the vaccination does have an impact. He knows there is a lot of you know back and forth on the vaccine, but when you look at these numbers it really is telling, and he encourages you all to go to that County website. It is the SB COVID-19 website and take a look at these. Hospitalizations, they have doubled in the last two weeks alone. Right now, we have 416 confirmed new cases, they are confirmed cases now in in the hospital. Back in June there were only 41. So, it has gone from 41 to 416 since June. We are back basically at the hospitalization rate, back to where we were in November, the mid November of last year. Remember when things started spiking really bad? We are right back there again. So, in the ICU we were down back in June, down to only 11 people in the ICU. Now we are back up to 93. People on ventilators back in June, we were down to 7, now we are back up to 56. Now this is very telling. If the tier system was still in place. Remember the old tier system, where purple was widespread, then you had, you know, red, orange, and yellow. We would be right back in purple again, the highest tier. We would be widespread, and the State would be essentially locked down right now if the tiers were back in place. So that is where these numbers are going. On the positive side of things over a million people in the County have received at least one shot at this point, so that is a great milestone. Just so the Council is aware and as you can tell we have reestablished the face covering policy at City facilities regardless of vaccination status for all City employees. So, he thinks, and he is going to put his Nostradamus hat back on again. He knows he has already predicted the future of vehicles, but he thinks the next two to three weeks are really going to tell kind of where things are going to go and the lock down. If the hospital is at potential lockdown, now, if hospitalizations redouble again in two weeks, he thinks you are going to start seeing some measures taken at the state level and potentially at the county level. You know LA County is already starting to take some measures. They have already required masks. It is not a maybe, it is a shall, you know if you are going inside facilities, he can see some of those things starting. A number of the counties in northern California, central California, are reimplementing the mask mandates. LA is even talking, and he is not sure how he feels about this, but they are kicking around requiring a proof of vaccine before you can go inside an enclosed facility in LA County. If these numbers keep going the way they are, be prepared, there may be some changes coming down the line. He touched on it before, he hopes when and if the FDA does approve the vaccine as a regular vaccine, as a non-emergency case, he is hoping that will get folks to get vaccinated and we can, you know, get the numbers down and get this under control. So that is pretty much where we are at right now.

Council Member Timmer asked if the next meeting will be held in person.

City Manager Hughes responded yes, he wanted to talk about that. That is something he failed to mention. The state law that allowed us to do the Zoom meetings, that expires in September. So, unless the Governor or the state legislature extends that, we would have to come back to Council meetings anyways at the end of September. The next meeting, he is proposing we go ahead and have it here. If things change dramatically and there is some type of order, then you know we will get with you and let Council know but he is expecting to have the meeting here.

15. Council Member Comments (Agency/Committee/AB 1234 Reports, District Updates, etc.)

Council Member Solano stated she does want to acknowledge the 4th of July parade. She knows we were not here, but to staff it was amazing. It was beautiful, my son is not here, or he would be clapping too. It was a very, very well coordinated event. She knows it is very hard especially with a lot, a lot, of people, so she just wants to give staff kudos. Everything involved was very beautiful.

Council Member Timmer stated he just wanted to say congratulations to Director of Administrative Services Dantuono and his staff. He saw that they got another award again. We just had email notification a couple days a week or so ago. Finance staff always does a good job, and we pay the fee to get that award. Congratulations to the staff.

Mayor Lilburn stated she just has a couple of things. She attended Warm Springs back to school. They had a back to school and asked me to come and join all the kids along with all of our law enforcement to encourage them and they were awesome. They have an awesome principal over there. He loves life. He loves teaching. He had everyone come back to school so it was really nice. Nice to see the parents, nice to see the kids and they were happy to be there. National Night Out, thanks to the City for putting it together. Our law enforcement was there, and our City staff was there in force; thanks for putting that on. She is meeting with Johnny Hernandez the Vice Chair of San Manuel, to talk about City issues and stuff that is going on. At National Night Out, she met, well she did not meet her, but there is Lauren, who is Pastor Zinn's daughter. She makes cupcakes, so she ordered a lot of dozens of cupcakes for City and Police. They are maple bacon, so she just wanted to tease you with that tonight, because staff is going to get those delivered tomorrow, so that is all.

ANNOUNCEMENTS

None

CLOSED SESSION

None

ADJOURN

There being no further business, Mayor Lilburn adjourned the meeting at 7:33 p.m. in memory of Jerry Lewis, Hal Charles Nock, and Lieutenant Colonel Charles R. Templin.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Penny Lilburn
Mayor