

**MINUTES
CITY COUNCIL REGULAR MEETING
AUGUST 25, 2020**

This meeting was conducted as a videoconference meeting in the Donahue Council Chambers, 27215 Base Line, Highland, California. All votes during the meeting were conducted by roll call.

CALL TO ORDER

The regular meeting of the City Council of the City of Highland was called to order at 6:00 p.m. by Mayor McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

ROLL CALL

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

SPECIAL PRESENTATIONS

Mayor McCallon presented a Proclamation Condemning Racism and Discrimination in the City of Highland.

COMMUNITY INPUT (ITEMS NOT ON THE AGENDA)

City Clerk Hughes read public comment received from Sierra Felt-Morales regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Jackie Osuna regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Ryan Fletes regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Douglas J. Ingmire regarding illegal fireworks within the City of Highland.

City Clerk Hughes read public comment received from Alexis Rogers regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Bryce Lawson regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Jenna Valencia regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Blake Westerberg regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Kendall Green regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Cameron Smith regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Samantha Ponce regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Ellis Stevens regarding Highland addressing the matter of racism being a public health crisis.

City Clerk Hughes read public comment received from Lauren Dean regarding Highland addressing the matter of racism being a public health crisis.

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Council Member Solano, 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 – August 11, 2020 City Council Regular Meeting
Approved the Minutes as submitted.
3. Warrant Register
Approved Warrant Register No. 708 for August 25, 2020, in the amount of \$1,804,397.57 and Payroll of \$100,672.62.
4. Treasurer’s Report for July 2020
Received and filed Treasurer’s Report for July 2020.
5. Notice of Completion – Bid No. 2019-06, “Fire Station No. 1 Sprayed Polyurethane Roof System”
 1. Accepted Bid No. 2019-06, “Fire Station No. 1 Sprayed Polyurethane Roof System,” as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.
6. Notice of Completion – Bid No. 2019-05, “Pavement Management Program - Sector D Pavement Rehabilitation” (Project No. str19001)
 1. Accepted Project No. str19001 (Bid No. 2019-05), “Pavement Management Program – Sector D Pavement Rehabilitation” as complete;
 2. Authorized the Mayor to sign the Notice of Completion; and
 3. Directed the City Clerk to file the Notice of Completion.

7. Easement Acceptance/Transition Properties L.P. (DRA 016-014; APN 1201-301-20; 27418 5th Street)
 1. Accepted the Grant of Easement for Landscape purposes from Transition Properties, L.P.; and
 2. Directed the City Clerk to record the Grant of Easement.
8. Traffic Signal Monitoring Services/AGA Engineering, Inc.
 1. Approved proposal from AGA Engineering, Inc. (AGA) to provide continued traffic signal monitoring services; and
 2. Authorized the City Manager to approve contract amendments up to 10% of the contract amount.
9. Professional Services Agreement/KOA Corporation for Local Roadway Safety Plan City Project No. LRS 19001-FPN LRSPL-5449(039)
 1. Approved the Professional Services Agreement with KOA Corporation (KOA) to develop a Local Safety Roadway Plan for the City of Highland;
 2. Authorized the City Manager to approve contract amendments up to 10% of the contract amount; and
 3. Approved the following budget adjustments: Transfer \$8,000 from 017-2100 (Measure I Fund Balance) to be expended from 017-8350-6550 (Traffic Improvements); Approve expending \$72,000 from 027-8490-6550 (Miscellaneous Grant Fund-Traffic Improvements) and approve \$72,000 to be reimbursed to 027-8490-3810 (State Grants).
10. Letter of Support – Active Transportation Program Grant Application for the Santa Ana River Trail Project

Approved request to provide a letter of support for a grant application to fund Phase III of the Santa Ana River Trail Project.

CITY COUNCIL PUBLIC HEARING

11. A Request for a One-Year Extension of Time (EOT) No. 20-001 for Tentative Tract Map No. 19916 (TTM No. 14-004) and Conditional Use Permit (CUP) No. 15-001, Facilitating Highland Park Planned Development (SPR No. 15-001) for a Residential Community Consisting of 46 Single-Family Lots, One Neighborhood Park/Water Quality Basin, and Two (2) Landscaped Letter Lots

Mayor McCallon opened the public hearing.

Associate Planner Quintanilla stated he is the Project Planner for the Extension of Time No. 20-001 for a one-year time extension for the Highland Park Development. The project site is located on the north side of Base Line between Club View Drive and Weaver Street. The original project was previously approved by the City Council in 2016 for the development of forty-six single family homes, a neighborhood park and two landscaped lettered lots. In 2019, before the project expired, the City Council approved a one-year time extension for this project. In an effort to finalize the conditions of approval the applicant is requesting the approval of a one-year time extension. If approved, this will be the second extension, out of the three possible extensions, for this project.

Council Member Timmer stated staff mentioned in the staff report that this is the second extension. Under the MAP act, they still have one extension to go, is that correct?

Associate Planner Quintanilla stated that is correct.

Council Member Timmer stated so that will be a total of six years then?

Associate Planner Quintanilla stated yes, a total of six years.

Council Member Timmer stated then after that there cannot legally be any further extensions, is that correct?

Associate Planner Quintanilla stated yes, that is correct.

Council Member Timmer stated okay, he just wants to make sure the extensions are in the works and there is only one left.

Mayor McCallon inquired if the applicant wishes to make any comments to City Council.

Ray Dorame, Mastercraft Homes Group, stated he would like to thank Council for standing by them through this extension. They hit a little bit of a road block last year with the downturn of the market and obviously with COVID. The good news is that the market has returned and we are in the process right now of resurrecting the plans, the map and the project itself. We are moving forward and we have had quite a few meetings with staff on the movement of this project. So it is most unfortunate that this is going through another extension. He never thought it would go this direction but here we are and again, we just ask for Council's support on this extension.

Mayor McCallon called for any public comments either in support or in opposition of this item.

City Clerk Hughes stated we have not received any public comments on this item.

Mayor McCallon stated with that, the public hearing is now closed.

A MOTION was made by Council Member Solano, seconded by Council Member Timmer, to adopt Resolution No. 2020-045 approving Extension of Time (EOT) No. 20-001. Motion carried on a roll call vote, 5-0.

RESOLUTION NO. 2020-045

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA, TO APPROVE EXTENSION OF TIME APPLICATION NO. 20-001, FOR A ONE (1) YEAR EXTENSION FOR TENTATIVE TRACT MAP NO. 19915 (TTM NO. 14-004) AND CONDITIONAL USE PERMIT NO. 15-001 WHICH ESTABLISHED THE HIGHLAND PARK PLANNED DEVELOPMENT (SPR NO. 15-001) FOR 46 MEDIUM DENSITY LOTS, TWO (2) LANDSCAPED LETTERED LOTS AND A PARK/WATER QUALITY BASIN

12. An Appeal (APP No. 20-001) of the Planning Commission's Denial of Conditional Use Permit (CUP) No. 20-004; a Request for an Expansion of an Existing State of California Department of Alcohol Beverage Control (ABC) Type 47 (On-Sale General – Eating Place) License for an Approximate 420 square-foot Outdoor Dining Area for an Existing Restaurant (JJ's Sports Bar and Grill) in the Carino Plaza. The Appeal is asking the City Council to overturn the Planning Commission's decision and permit the sale and consumption of alcohol within the existing outdoor dining area.

Mayor McCallon opened the public hearing.

Associate Planner Quintanilla stated he is the Project Planner for Appeal No. 20-001. This project is to appeal the Planning Commission's denial for the expansion of existing ABC license into the outdoor dining area for JJ's Sports Bar & Grill. JJ's Sports Bar & Grill is a sit down restaurant located at 7955 Boulder which is at the northwest corner of Greenspot Road and Boulder Avenue in the Carino Plaza Shopping Center. JJ's Sports Bar & Grill has been operating successfully in the City since 2017. The existing full service restaurant currently has a Type 47 ABC license for the inside of the restaurant which allows the applicant to serve beer, wine and distilled spirits. The applicant is allowed to serve food and non-alcoholic beverages in the existing outdoor dining area. Staff approved a staff review permit for the establishment of a 420 square-foot dining area for the restaurant. Planning Commission held two public hearing items and on July 21, 2020, the Planning Commission denied the ABC license expansion to the outdoor dining area. Following the denial, the applicant filed an appeal to overturn the Planning Commission's denial of the expansion of the ABC license into the outdoor dining area. Please note, which is not relevant to this project, the Governor has temporarily approved an executive order to allow restaurants to operate and serve food and alcohol beverages outside. The operation of this restaurant will continue until the executive order expires. If the City Council wishes to uphold the Planning Commission's denial, staff has attached a resolution for your consideration.

Mayor McCallon inquired if the applicants would like to make a presentation to the Council.

Darren McBay, JJ's Sports Bar & Grill, stated all they are asking is - they know it has been tough times for them with the COVID virus and it has slashed their revenue immensely. Additionally, they have had to cut payroll and in doing so, they have had to layoff many people. They are hoping, they know it is temporarily getting them back on track and they are still down probably seven staff members, they would like to get them back, going forward as they are way behind. So they are hoping this will benefit them in the long run and get back the \$70,000 they are behind already now from the COVID. It has nothing to do with the City, but from the COVID. This will be essential to keeping them open, viable and trying to make back that money.

Joe Swidan, JJ's Sports Bar & Grill, stated they already have the patio approval to serve food. They would just love to be able to serve their customers a beverage while they are sitting down eating their meal on the patio, on the 420 square-foot patio. As far as the staffing right now, they are up to fifteen staff members and hopefully after COVID they will go back to their twenty-five staff members that live in Highland. They just want the City Council to approve this project so they can move forward in the future to be able to serve alcohol on the patio while the customers are sitting down eating their food.

Mayor McCallon called for any public comments either in support or in opposition of this item.

City Clerk Hughes read public comment received from Fred Yauger in support of this project.

Mayor McCallon inquired if any additional public comments have been received during the public hearing.

City Clerk Hughes responded we have not.

Mayor McCallon stated with that, the public hearing is now closed.

City Attorney Marroquin stated because there was a public comment, and she knows it was in support of the project, Council should see if there are any further comments or a rebuttal that the applicants want to make before we close the public hearing.

Mayor McCallon asked does the applicant wish to make any rebuttal. Hearing no response, he will close the public hearing.

Council Member Timmer stated he has a question of staff, referencing the Governor's new position saying that outdoor food sales and alcohol are now permitted under the COVID restrictions; we know the Governor is changing his mind back and forth on occasion. If they rescind that agreement, if we go ahead and approve this, as a City, to allow food and alcohol sales outside, will the Governor then overrule that and kind of eliminate any action we take? Or are we doing this over and above what the Governor can do?

City Attorney Marroquin stated this is a CUP application in order to have the alcohol beverages to be served on the outdoor patio. So irrespective, that would be the approval. If the Governor, which right now the Governor is saying is allowed, if the Governor were to sign another executive order to take action that were to say that it is not permitted, then that would overrule whatever the decision the City takes tonight because State law or State orders typically trump City related action. However, whatever action the Governor would take would only be short term. Once COVID is over and those restrictions are lifted, if the City were to approve the CUP, then they would be able to continue to serve alcohol outdoors.

Council Member Timmer stated he figured that is what it was but he wanted to confirm that. He appreciates the clarification.

Mayor Pro Tem Lilburn stated as she read through the staff report it appears that there are other restaurants and bars that are currently doing the same thing. She was curious as to why, she was reading through the minutes, it looks like this came before the Planning Commission and two approved it and two denied it. So it looks like they just threw it back to the City Council for us to move forward or make a decision. She thinks through the Governor's orders that this is something that is being allowed so she is not sure why they did not approve it.

Council Member Timmer stated the first Planning Commission hearing was 2-2 and so it was continued. They had an additional meeting, and it was 3-2 to deny the claim. The Planning Commission took a position and as he read the minutes, the main reasons for concern were the prior criminal activity that occurred at that facility and also the parking issue. Those are the reasons the Planning Commission had concerns. He has concerns about the same thing. However, to add something to that, he thinks we all know that the business community is really struggling with all the restrictions that the Government has put on with COVID. There was a compromise talked about during the Planning Commission meeting and why they did not move forward with that kind of puzzled him. He would like to bring it up and discuss it again. One of the things was yes, there are concerns with parking and the criminal problems, however, one of the recommendations staff made was to give them a six-month approval with an understanding that after six months they would re-evaluate that to see if they would make the approval permanent. He would think that this is something we would want to seriously look at because of the parking and the criminal activity. Hopefully by then the COVID issue may resolve itself. Who knows, six months from now, the way things are changing. He would go ahead and have some discussion on going ahead and approving the request for overturning the Planning Commission and approving the applicant's request for alcohol sales, with the proviso that we add a six-month review period. After that we can either determine whether that's appropriate or continue with the permanent approval. That's just a point for discussion at this point.

City Attorney Marroquin stated she would like to say something on this point. She thinks a six-month review period, if that is what the Council desires; it is certainly something that can be added to the condition. However, a conditional use permit runs with the land. We cannot do a temporary conditional use permit. So once a conditional use permit is issued it is permanent in nature unless it is revoked. So you can do a six-month review and come back and determine if there is additional conditions that need to be imposed or if you know revocation may be warranted but you cannot issue a conditional use permit and have six-month expiration or some sort of sunset clause.

Council Member Timmer stated his point is that we would have some kind of review period to ensure that the concerns expressed by the Planning Commission were unfounded and then we could make a decision at that point.

City Attorney Marroquin stated a six-month period would be completely allowed. So that type of condition would work.

Council Member Solano stated it would not be unreasonable to approve this. She knows one of the concerns of the Planning Commission was the detrimental cause to the surrounding areas and the center. However, she does see that he will provide additional security inside the restaurant, at the outdoor dining area and in the parking lot as well. She did notice in the Planning Commission staff report that was provided, when they provided the crime report, they also did mention that based on the calls for service, the Sheriff's Department did not provide any comment and were actually in support of the expansion of the ABC license to the dining area. With that being said, she would be in favor, as well, of the expansion of the license.

Mayor Pro Tem Lilburn asked was there any opposition from the current tenants and do they have plentiful parking?

Associate Planner Quintanilla stated we have not received any opposition from the tenants that are around the shopping center. In regards to the parking, we did a parking review and analysis of the site and based on the location and the timing of the various uses that are there and there are some who open early and close later. This restaurant opens later and closes a lot later, so based on that we did the analysis and determined that we have a sufficient amount of parking.

Council Member Timmer stated as you may recall, quite a few months ago, we had one of the tenants in that complex address the City Council in public forum referencing his concerns of some of the activities that were there. So, we have had a complaint but not officially with this application.

Mayor Pro Tem Lilburn stated and new owners too, she believes.

Council Member Timmer stated yes. He would make a motion that we go ahead and approve the application and overturn the Planning Commissions denial with the proviso that we add a six-month review period in the appropriate language that would meet the City Attorney's issues that she brought up.

A MOTION was made by Council Member Timmer, seconded by Mayor Pro Tem Lilburn, to:

1. Approve the appeal of the Planning Commission's denial of Conditional Use Permit No. 20-004; a request for an extension of an existing State of California Department of Alcohol Beverage Control (ABC) Type 47 (On-Sale General – Eating Place) license for an approximate 420 square-foot outdoor dining area for an existing restaurant (JJ's Sports Bar and Grill) with a six-month review period in the appropriate language. Motion carried on a roll call vote, 5-0.

City Attorney Marroquin stated we do not have a resolution overturning the denial. What we had presented to the City Council was upholding the Planning Commission's decision. What she recommends, at this point, is that staff comes back and brings this item at the next City Council meeting with a resolution overturning the Planning Commission's decision on this. So that would come back at the next City Council meeting and could be a consent item, but we do not have an actual resolution for us tonight.

Mayor McCallon stated can it be a consent item or should the public hearing be continued?

City Attorney Marroquin stated we could also continue the public hearing if you like, if you want to have additional public comments, but because we have already closed the public hearing we could also just have the resolution considered without a public hearing. It depends on your discretion.

Mayor McCallon stated he was just asking for legal opinion.

Mayor Pro Tem Lilburn stated so that is in two weeks, is this business still able to go forward and conduct business?

Mayor McCallon stated under the Governor's order, yes they can.

Darren McBay stated if the Governor were to lift it tomorrow, where would we be? Would we be able to serve outside on the patio?

Mayor McCallon stated no, because don't you have to get your license changed?

City Attorney Marroquin stated she thinks we would have to come back with the resolution that formally makes the findings which we have gotten some information today that was flushed out by the Council. We would have to come back and present that resolution in order to actually overturn the Planning Commission's decision. So that's what is going to be presented. Again, all that you had before you tonight was a resolution upholding the Planning Commission's decision to not permit the ABC license expansion. What's going to come back at the next Council meeting is a resolution stating the denial was overturned and they can have the ABC license expansion.

Darren McBay stated so would that be perfunctory or rubber stamped from this point to that point? Is that correct?

City Attorney Marroquin stated you have a 5-0 motion, so presumably unless someone you know doesn't approve, any of the findings that are brought forth, then yes, you had the Council determine they want a resolution.

CITY COUNCIL LEGISLATIVE

13. Measure I 5-Year Capital Improvement Plan (2020/2021-2024/2025)

Public Works Director/City Engineer Zamano gave a brief review of the staff report.

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

1. Approve the Measure I Capital Improvement Plan Expenditure Strategy (2020/2021-2024/2025); and
2. Approve Resolution No. 2020-046 adopting the Measure I 5-Year Capital Improvement Plan (2020/2021-2024/2025). Motion carried on a roll call vote, 5-0.

RESOLUTION NO. 2020-046

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND, CALIFORNIA,
ADOPTING THE MEASURE I FIVE-YEAR CAPITAL IMPROVEMENT PLAN FOR
FY2020/2021 THROUGH FY2024/2025

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

City Manager Hughes stated he would like to update the City Council on three items. The first is COVID-19, county-wide there are 45,666 confirmed cases. The City of Highland has 1,298. County-wide there have been 344,536 residents tested and in the City of Highland there have been 9,093. There have been 15 deaths in the City of Highland and 695 county-wide related to COVID-19. City Hall lobby remains open with face coverings being required and we are limiting people to five residents at a time. As the Council is aware, the COVID numbers spiked about a month ago but we are starting to see the numbers coming down in the County. Hospitalization rates are trending down and now actually if you look at the County's website, there is a nice bell shaped curve with both hospitalizations and the ICU numbers going down. Parks are still open for passive use. The County of San Bernardino still has their funding for COVID Compliance Business Program for \$2,500 per business and we encourage all businesses in Highland to apply for that grant program. Please visit the City of Highland's website for links to the County, State and Federal guidelines and also follow the City on Facebook for updates. Any specific questions regarding COVID-19 residents can call the County hotline; it is still available at 909-367-3911. There are two other items he would like to bring the Council up to date on. The City Council approved a battery backup upgrade to all of our traffic signals in the City a few months back. That work has been completed, so now all City maintained traffic signals have a new battery backup installed. Also, the Planning Department worked on a grant application called the Leap Grant through the State of California. He is happy to report that the City did receive a grant and it will allow the City to purchase a stream lining permit process software for both housing and commercial projects.

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

There was discussion between Council Members regarding racism.

ANNOUNCEMENTS

None

CLOSED SESSION

At 7:16 p.m., the City Council convened into closed session regarding the following:

CITY COUNCIL CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8:

Property: Northwest corner of Victoria Avenue and 6th Street
(APN 1192-281-12-0000)

Agency Negotiator: Joseph Hughes

Negotiating Parties: Those entities designated in Govt. Code Section 54222.

Under Negotiation: Price and terms of payment.

At 7:27 p.m., the City Council adjourned closed session, making no announcements.

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:30 p.m. in memory of Dr. James Caley, Gary Huizenga, Tony "Butch" Dale Cerquettini, and Reymundo Ballesteros.

Submitted By:

Approved By:

Betty Hughes, MMC
City Clerk

Larry McCallon
Mayor