



**MINUTES  
SPECIAL MEETING OF  
CITY COUNCIL/SAN DIMAS  
REDEVELOPMENT AGENCY  
TUESDAY, JUNE 26, 2007, 6:00 P. M.  
CITY COUNCIL CONFERENCE ROOM  
245 E. BONITA AVE.**

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**PRESENT:**

Mayor Curtis W. Morris  
Mayor Pro Tem Jeff Templeman  
Councilmember Emmett Badar  
Councilmember Denis Bertone  
Councilmember John Ebner (arrived 6:05)

City Manager Michaelis  
City Clerk Rios  
Assistant City Manager of Development Services Stevens  
Assistant City Manager Duran  
Director of Development Services Coleman  
Public Works Director Patel  
Parks and Recreation Director Bruns  
Planning Manager Hensley

Bill Holt, Attorney at Law

**1. CALL TO ORDER**

Mayor Morris called the special meeting to order at 6:01 p.m.

**2. ORAL COMMUNICATIONS**

(For anyone wishing to address the City Council on an item on this agenda. Under the provisions of the Brown Act, the legislative body is prohibited from taking or engaging in discussion on any item not appearing on the posted agenda. Speakers are limited to three minutes.)

- a. Members of the Audience

No one spoke.

**3. STUDY SESSION**

- a. Study Session regarding William Holt Report - SP 4 issues raised by Richard Rauseo.

Assistant City Manager Stevens reported that Bill Holt was hired in February 2007 to prepare an impartial third-party review of certain complaints from Richard Rauseo and Claire Ostrand regarding staff's administration of SP-4. Staff reviewed Mr. Holt's report and generally agrees with the recommendations. After the report, staff will prepare a proposal to implement the recommendations for consideration on July 10, 2007. Staff distributed two emails from residents who could not attend the meeting.

**Bill Holt**, Attorney at Law, stated he has had conversations with Mr. Rauseo and Mr. Ostrand who have expressed concern about development in the scenic area of Specific Plan No. 4 (SP-4), and with several issues they felt are in violation of the Covenants, Conditions, and Restrictions (CC&Rs). He said he was the third party hired to investigate the issues, make a recommendation, and comment on the City's administration on SP-4. He interviewed the property owners and staff, and analyzed the issues in light of

the CC&Rs and the San Dimas Municipal Code. He concluded that under the terms of the CC&Rs, the City has no duty to enforce the CC&Rs; however, he acknowledged that the city allowed a retaining wall to be built in the scenic easement in violation of the code.

In response to Councilmember Ebner, Mr. Holt stated that the 300 feet notice requirement is not triggered, and the City is not required to notify owners of proposals in the scenic easement area.

Mr. Holt said concern was raised about malaria root disease because non-native plants were planted but were not in the scenic easement; materials stored in the rear yard were found not in violation of the municipal code because they have been removed and were not visible from the public right of way; and the property owner may plant vines without violating the code. He added that staff has the authority within the code to approve swimming pools and fences; however, in context of the San Dimas Municipal Code and the intent of the CC&Rs, he recommended that everything in SP-4 should be reviewed and approved by the Development Plan Review Board.

In response to Mayor Pro Tem Templeman, Mr. Holt replied that the distinction is that retaining walls under four feet do not require a building permit unless they would support a surcharge.

In response to Councilmember Ebner, Assistant City Manager Stevens said as it relates to the 76 gas station, there were specific CC&Rs, as well as the Specific Plan, that prohibited the addition of a convenience market. He stated that staff considers CC&Rs during a code amendment to consider whether or not the amendment would be contradictory to the CC&Rs. He said in the case of SP-4, staff was aware of the CC&Rs and used them as a guide, but did not specifically enforce them. He said the primary responsibility is to enforce the zoning provisions not the ancillary provisions that exist in the CC&Rs.

In response to Mayor Pro Tem Templeman, Mr. Stevens stated that the reference to the retaining wall is path, which is distinct from the swimming pool. He indicated that the pool was constructed approximately three years ago; the wall was installed in Fall of 2006. He said the wall along the edge of the swimming pool is in compliance with the approval, and part of the objection is that it should not have been built because a portion of the pool encroaches into the scenic easement. He further stated that the block wall materials are interlocking pavers; however, it has not been verified whether they would support the surcharge.

In response to Mayor Morris, Mr. Stevens stated that RKA reviewed the manufacturer specifications for the block to determine under what conditions the block would conceivably support the surcharge; however, they said the surcharge is not exempt from the size of under four feet. He further replied that the construction in the scenic easement is clearly permitted. However, there is the opinion that the design, size, scope and scale of the project is inconsistent with the intent of the Specific Plan CC&Rs.

In response to Councilmember Ebner, Mr. Stevens replied that staff makes the best effort of approximating where the scenic easement boundaries are on a case by case basis. He stated that there is no specific surveyable line; the judgment is made based on the topographic map to give a fair, reasonable determination where a particular improvement could be built. He said the scenic easement is a concept and could vary from property to property. It is not as precise as people would like to see it.

In response to Mayor Morris, Mr. Stevens stated that the City Council has a policy to notify everyone in SP-4 of development activity; however, due to staff reductions in 1994, there have been no notices provided to any property owners of the entire specific plans except when there is a code amendment. He reminded the Council that it was a policy, not an obligation to send out notices.

Mayor Morris invited comments from the audience.

1) **Michael Celeste** thanked staff and Mr. Holt for their fairness and commented that Mr. Holt found no violations. He provided a chronology of complaints made by Mr. Ostrand including a deck permit; construction materials that were removed upon completion of the deck; flowering vines planted in the garden; fencing; and feeding wild animals. Mr. Celeste complained that Mr. Ostrand has violated his privacy; defamed his character; planted non-native plants on the hillside that slid onto the neighbors below; soon after complaining about feeding his pets, four raccoons were found poisoned and Mr. Celeste's and his other neighbors' cats have been poisoned, injured and/or have died; Mr. Ostrand has filed complaints against neighbors; placed a letter in everyone's mailbox; and installed a roof without permits. Mr. Celeste wants an end to the frivolous actions.

In response to Mayor Pro Tem Templeman, Mr. Stevens stated that red apple did not end up on the final list, but was kept as a guideline. He said it was the reason it is not enforced.

#### 4. ADJOURNMENT

Mayor Morris adjourned the meeting at 6:59 p.m. and said the study session would be continued at 6:00 p.m. on July 10, 2007. The next City Council meeting is June 26, 2007, 7:00 p.m.

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Curtis W. Morris, Mayor of the City of San Dimas

ATTEST:

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Ina Rios, CMC, City Clerk