



MINUTES
REGULAR CITY COUNCIL
TUESDAY, OCTOBER 23, 2007, 7:00 P. M.
COUNCIL CHAMBERS, 245 E. BONITA AVE.

PRESENT:

Mayor Pro Tem Jeff Templeman
Councilmember Emmett Badar
Councilmember Denis Bertone
Councilmember John Ebiner

City Manager Blaine Michaelis
City Attorney J. Kenneth Brown
Assistant City Manager of Community Development Larry Stevens
Assistant City Manager Ken Duran
Director of Development Services Dan Coleman
Director of Public Works Krishna Patel
Director of Parks and Recreation Theresa Bruns
Planning Manager Craig Hensley
Senior Engineer Shari Garwick
Superintendent of Building and Safety Eric Beilstein

ABSENT:

Mayor Curtis W. Morris
City Clerk Ina Rios

1. CALL TO ORDER AND FLAG SALUTE

Mayor Pro Tem Templeman called the meeting to order at 7:00 p.m. and led the flag salute.

2. INTRODUCTION AND PRESENTATION

- John Nixon, President, Mount San Antonio College

John Nixon, President, Mount San Antonio College, introduced himself and provided a brief update on Mount San Antonio College's partnership within the District, and the sense of identity with the San Dimas community. He distributed the annual report, newsletter, and fact sheet, and mentioned he had offered to Mayor Morris the idea of a city sponsored scholarship for high school graduates. He introduced Trustee David Hall.

David Hall, Trustee, MSAC, said the college is the third largest institution of higher education in Los Angeles County and is currently undergoing a renovation process to better serve the community. He reminded citizens of the extraordinary resources and the tremendous range of programs available at modest costs. He introduced student, Isaac Powell.

Isaac Powell, student at MSAC and a resident of San Dimas, found MSAC to have an excellent array of extracurricular programs and services for students which are equivalent to a four-year university.

- Asian Youth Center and the L.A. County Department of Public Health presentation to the City Council on recent tobacco control efforts.

Dr. Mely Silverio, Asian Youth Center, Alhambra, praised the City Council for establishing a smoke free policy to help create a more pristine and healthy community, and on behalf of the Asian Youth Center and L. A. County Department of Public Health presented to Mayor Pro Tem Templeman an Award of Recognition.

3. ORAL COMMUNICATIONS

(Members of the audience are invited to address the City Council on any item not on the 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. However, your concerns may be referred to staff or set for discussion at a later date. The Public Comment period is limited to 30 minutes. Each speaker shall be limited to three (3) minutes.)

a. Members of the Audience

1) **Galen Gillotte**, Children's Librarian, San Dimas Library, highlighted the remaining activities for October and outlined the events scheduled for November. A list of activities is available at their website through a link on the city's website at www.cityofsandimas.com.

2) **Dick Rauseo** reported that there has been no development activity at Gainsborough Road and the equipment is gone. He stated there is no fence at Valley Center and the private road is open.

3) **Virginia Carrillo** expressed concern about lighting and the potential for storm drain water coming into her property from the new improvements at Faith Lutheran Church.

4) **Sid Maksoudian** said he had reported an issue regarding banners and names of the complainant should be protected. He asked that the rule be enforced diligently.

4. CONSENT CALENDAR

(All items on the Consent Calendar are considered to be routine and will be enacted by one motion unless a member of the City Council or audience requests separate discussion.)

It was moved by Councilmember Ebner, seconded by Councilmember Bertone, and carried unanimously by those present to accept, approve, and act upon the consent calendar, as presented, as follows:

a. Resolutions read by title, further reading waived, passage and adoption recommended as follows:

(1) **No. 07-62**, A Resolution of the City Council of the City of San Dimas, California, approving certain demands for the month of October, 2007.

b. Approval of minutes for regular City Council meeting of October 9, 2007 and study session of May 22, 2007.

c. Rejection of two claims for damages from Richard Rauseo.

d. Rejection of claim for damages from Raymond Rayas.

e. Rejection of claim for damages from Charles Burkhart.

f. Installation of Vinyl Equestrian/Multi-Purpose Trail Fencing on San Dimas Avenue between Via Verde and Equestrian Trail Crosswalk.

(1) Appropriation of \$100,000 from General Fund for installation of vinyl fencing.

(2) Waiver of formal bid process for the purchase of vinyl fencing and retaining a contractor for the completion of improvements.

END OF CONSENT CALENDAR

5. PLANNING/DEVELOPMENT SERVICES

- a. **APPEAL OF DPRB 07-49** – An appeal of the approval decision made by the Development Plan Review Board for a retaining wall and walking path constructed within scenic easement in Specific Plan 4, Area 1, at 1172 Edinburgh Road. (APN: 8448-038-047).

Director of Development Services Coleman provided a brief background on the retaining wall and walking path constructed within the scenic easement at 1172 Edinburgh Road. Mr. Coleman reported on the applicable regulations and said the issue was considered and approved with conditions by the Development Plan Review Board at their meeting on September 13, 2007. He said the decision was timely appealed by Councilmember Bertone pursuant to San Dimas Municipal Code Section 18.212.050. Staff recommends denial of the appeal, upholding the DRPB approval and conditions.

Staff responded to Council's questions regarding grading in the scenic easement; walkway specifications; width and height of the wall and the Building Department's recommendation based on discussion with the manufacturer of the particular block; staff said the pathway existed, but cubic yards of cut and fill have not been determined; staff presented the sequence of the code enforcement process currently in place; and said the width of the pathway exceeds four feet and needs to be addressed.

Mayor Pro Tem Templeman invited Mrs. DeLeon to speak.

Dawn DeLeon stated her family has been compliant and is willing to make any adjustment needed to comply with the city's regulations.

Mayor Pro Tem Templeman invited testimony in opposition to the path.

Dick Rauseo stated that the intent of the CC&Rs requires that the scenic easement be left in its natural state and that sections of the wall have been constructed in a way to destroy the entire scenic easement. He stated that the CC&Rs allow any resident to enforce their easement rights and that is what he has been attempting to do. He added that the DPRB's approval constitutes enforcement of the CC&Rs by allowing the wall.

In response to City Attorney Brown, Mr. Rauseo replied that the City Council can change the zoning code; however, they cannot change the CC&Rs, which are in effect until 2019 and are automatically renewed for ten year increments until 100% vote of the property owners approve changes or termination.

Mr. Rauseo stated that he was originally told that the engineering issues to do with the wall were not going to be addressed by the DPRB however; they were discussed extensively by Mr. Beilstein which was prejudicial.

Mr. Rauseo stated the Development Plan Review Board met to consider whether or not the wall would be allowed and the Board was instructed to consider the City Council's position that they do not enforce CC&Rs. He said the whole purpose of the DRPB is to review plans to ensure the proposed work complies with the zoning ordinance and if it is allowed under the CC&Rs.

Dawn DeLeon said there was a pathway that previously existed and their only intent was to build a safe walkway following the prior path.

Sid Maksoudian addressed the City Council on Mr. Rauseo's comments.

In response to Council, Director Coleman replied that the City had previously made the decision that they do not enforce CC&Rs.

In response to Council, Director Coleman replied that the DPRB was reviewing the retaining wall and landscaping and confirmed that no plans were submitted by the DeLeons but added that the DPRB was not dealing with a concept of the path since they had photographs of what the wall looks like.

Councilman Bertone stated that if the City is not enforcing the CC&Rs the applicant is allowed to build a path.

In response to Council, City Attorney Brown stated that the ordinance allows a path with a process for review.

Councilmember Ebner agreed the ordinance was changed to specifically allow some kind of path; however, the language of the zoning ordinance states the land should stay the way it is with minor alterations. He did not feel the path was a minor alteration.

Councilman Bertone commented that before the wall was built there was an existing path.

Councilman Templeman commented that the pictures appear to be during construction prior to any landscaping that will be added.

It was moved by Councilmember Bertone, seconded by Councilmember Badar, to deny the appeal and uphold the decision of the Development Plan Review Board. The motion carried by the following vote:

AYES: Councilmembers Badar, Bertone, Templeman
NOES: Councilmember Ebner
ABSENT: Mayor Morris
ABSTAIN: None

6. OTHER BUSINESS

- a. Introduction and first reading of Uniform Building Codes and set November 13, 2007 as date for public hearing and adoption.

ORDINANCE NO. 1173, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING SPECIFIED CHAPTERS OF TITLE 15 OF THE SAN DIMAS MUNICIPAL CODE AND ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA BUILDING CODE VOLUMES 1 AND 2, THE 2007 EDITION OF THE CALIFORNIA PLUMBING CODE, THE 2007 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2007 EDITION OF THE CALIFORNIA ELECTRICAL CODE, TOGETHER WITH CERTAIN AMENDMENTS, ADDITIONS, DELETIONS, AND EXCEPTIONS. FIRST READING AND INTRODUCTION

City Manager Michaelis stated the ordinance is on for first reading by title only and to schedule a public hearing on November 13, 2007 for second reading and adoption.

After the title was read, it was moved by Councilmember Bertone, seconded by Councilmember Badar, to waive further reading and introduce **ORDINANCE NO. 1173, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING SPECIFIED CHAPTERS OF TITLE 15 OF THE SAN DIMAS MUNICIPAL CODE AND ADOPT BY REFERENCE THE 2007 EDITION OF THE CALIFORNIA BUILDING CODE VOLUMES 1 AND 2, THE 2007 EDITION OF THE CALIFORNIA PLUMBING CODE, THE 2007 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2007 EDITION OF THE CALIFORNIA ELECTRICAL CODE, TOGETHER WITH CERTAIN AMENDMENTS, ADDITIONS, DELETIONS, AND EXCEPTIONS.** The motion carried unanimously by those present.

City Attorney Brown requested that the minutes reflect amendment in the language that the caption provides penalties for violations.

It was moved by Councilmember Bertone, seconded by Councilmember Badar, to schedule a public hearing on this matter for Tuesday, November 13, 2007. The motion carried unanimously by those present.

b. Approval of the City's 2006-07 Annual Audited Financial Statements.

City Manager Michaelis presented the City's annual Independent Financial Audit Report that gives an unqualified opinion on the financial statements of the City which present the results of the operations and financial position of the city for fiscal year 2006-07. Staff recommended adoption by minute action.

It was moved by Councilmember Badar, seconded by Councilmember Ebner, to approve and adopt the City's 2006-07 annual Audited Financial Statements. The motion carried unanimously by those present. Mayor Morris was absent.

7. SAN DIMAS REDEVELOPMENT AGENCY

Mayor Pro Tem Templeman recessed the regular meeting at 8:44 p.m. to convene a meeting of the San Dimas Redevelopment Agency Board of Directors. The regular meeting reconvened at 8:48 p.m.

8. ORAL COMMUNICATIONS

a. Members of the Audience (*Speakers are limited to five (5) minutes or as may be determined by the Chair.*)

1) **Sid Maksoudian** commended Councilmember Ebner for looking deeper into the foot path. He indicated he originally had requested that Mr. Bertone appeal the DPRB decision concerning 14 trees that were cut in the Via Verde area on his behalf but now he will make the his own appeal.

b. City Manager

There were no comments.

c. City Attorney

There were no comments.

d. Members of the City Council

1) Councilmembers' report on meetings attended at the expense of the local agency.

Mayor Pro Tem Templeman stated he attended a leadership meeting of the Association of Water Agencies at the Fairplex and would like to invite Mr. Bob Kuhn, San Gabriel Basin Water Quality Board, to give a presentation at a future City Council meeting about the need to find water resources. He mentioned that the City must comply with the HCD mandate to construct over 600 homes by 2014 and there are serious water shortage issues. He anticipates requesting that letters be sent to the Housing Authority asking them to fix the infrastructure and put a hold on housing mandates.

2) Councilmember Ebner said Mr. Maksoudian made a reference to the trees being cut down in Mr. Bertone's backyard and clarified that Mr. Bertone did not cut down any trees.

3) Councilmember Ebner mentioned that during the past week filming took place on Second Street for Clint Eastwood's movie entitled *the Changeling*, based on a true story during the 1920's.

Mayor Pro Tem Templeman said if anyone took pictures, they could send them to the Historical Society for their files.

4) Councilmember Bertone said one constituent made a good recommendation to read consent calendar items for the TV audience.

9. CLOSED SESSION

The meeting was recessed at 9:05 p.m. to a City/Redevelopment Agency closed session pursuant to Government Code Section 54956.8:

a. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: Agency owned property at the southeast corner of Bonita Avenue and Eucla.

Negotiating Parties:

For Agency: Blaine Michaelis, City Manager/Executive Director, and J. Kenneth Brown, City/Agency Attorney.

For Buyer: Mike Patel, Chaparral Lanes

Under Negotiation: Terms and conditions of sale of land and City/Agency possible participation.

b. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION (SUBDIVISION (a) OF GOVERNMENT CODE SECTION 54956.9)

Name of Case: Dennis Phillips et al v. City of San Dimas, United States District Court Case No. CV-07-4977 GHK (PLAx)

c. CONFERENCE WITH LABOR NEGOTIATOR – G.C. Section 54957.6

City Representative: Blaine Michaelis, City Manager

Employee Group: San Dimas Employees' Association

d. Report on closed session.

Pursuant to Section 54957.7(a), the City Council announced that the City Council approved an increase in the employees' health benefits package of \$50 per month for full time employees and \$25 per month for part time employees. There was no reportable action on items (a) and (b).

10. ADJOURNMENT

Mayor Pro Tem Templeman adjourned the meeting at 9:30 p.m. On Saturday, November 3, 2007, at 8:00 a.m. a special meeting Retreat of the City Council/Staff will be conducted.

Jeffrey Templeman, Mayor Pro Tem
City of San Dimas

ATTEST:

Ina Rios, CMC, City Clerk