



MINUTES
REGULAR CITY COUNCIL
TUESDAY, NOVEMBER 27, 2007, 7:00 P. M.
COUNCIL CHAMBERS, 245 E. BONITA AVE.

PRESENT:

Mayor Curtis W. Morris
Mayor Pro Tem Jeff Templeman
Councilmember Emmett Badar
Councilmember Denis Bertone
Councilmember John Ebiner

City Manager Blaine Michaelis
Assistant City Attorney Mark Steres
City Clerk Ina Rios
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
Associate Planner Marco Espinoza

1. CALL TO ORDER

Mayor Morris called the meeting to order at 7:03 p.m.

2. PRESENTATION/RECOGNITION

- Bob Janecky, President, East San Gabriel Valley Unit, American Cancer Society, presentation to the City Council on recent tobacco control efforts.

Bob Janecky, President of the East San Gabriel Valley Unit, American Cancer Society Advisory Council presented to Mayor Morris, for the City of San Dimas and the City Council, a special recognition award for their efforts in protecting the health of the citizens of San Dimas from secondhand smoke by prohibiting smoking in all public parks and facilities owned and/or operated by the City of San Dimas. He introduced May Luzod, representing the Relay for Life, to be held on June 7-8, 2008 at Horsethief Canyon Park.

Mayor Morris thanked Mr. Janecky for the plaque and said limiting smoking outdoors is healthy.

- Bob Kuhn and Rick Hansen of Three Valleys Water - Presentation on water issues in our region.

This item was rescheduled for December 11, 2007.

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) **Claire Ostrand** felt surveys and recommendations were unnecessary to identify the scenic easement in Specific Plan No. 4. He said the easements have been on the public record since the houses were built and he thought stakes could be used to mark every other house.

Mayor Morris said the scenic easements within Specific Plan No. 4 will be brought before the City Council on December 11, 2007 for consideration and decision.

2) **Galen Gillotte**, Children's Librarian, San Dimas Library, outlined the activities for January, 2008 and encouraged attendance.

3) On behalf of Josephine Foslund, who recently lost her husband George to a heart attack, **Nancy Newman** reported that the Paramedic response was wonderful. She felt Paramedics should be recognized for comforting and taking care of Mrs. Foslund's needs during a time of sorrow and loss.

4) **Richard Rauseo** reported that a) street work done on Covina Blvd, Cypress, and Lonehill, is in violation of the Building Codes; b) the Sportsplex area has not been resurfaced or restriped to comply with ADA codes.

5) **Paul Kirby** said traffic has no respect for pedestrians at the intersection of Monte Vista/Bonita Avenue and requested this item be placed on the agenda for open discussion.

6) **Ted Powl**, President/CEO, Chamber of Commerce, invited citizens to the Christmas Tree Lighting ceremony on December 5, 2007, at 6:00 pm., in front of the San Dimas Depot, followed by the arrival of Santa and Mrs. Claus to hear children's Christmas wishes and provide candy canes.

7) **Ted Powl** also expressed concerns about the crossing at Monte Vista/Bonita Avenue.

8) **Sid Maksoudian** said two weeks ago he brought in a derogatory flier left at his store and now, a second flier was left by the dumpster area.

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 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. 07-69**, A Resolution of the City Council of the City of San Dimas, California, approving certain demands for the month of November, 2007.
- b. Approval of minutes for the regular City Council meeting of November 13, 2007 and special Closed Session meeting of December 12, 2006.
- c. Rejection of claim for damages from Steve Henry.

END OF CONSENT CALENDAR

5. PLANNING/DEVELOPMENT SERVICES

- a. Appeal of Tree Permit No. 07-26 - An appeal of the approval decision made by the Development Plan Review Board for the removal of seven (7) Canary Island Pine Trees and four (4) Ficus trees already removed without permits located at 2411 Via Mariposa. Appellants: Sid Maksoudian and Timothy Garcia.

Councilmember Bertone reported that he visited the subject property and has spoken to both parties involved. Mayor Pro Tem Templeman stated he spoke to Mr. Garcia on the telephone, but did not go on location.

Planning Associate Espinoza reported that Tree Permit No. 07-26 was approved by the Development Plan Review Board for the removal of seven Canary Island Pine Trees and four Ficus Trees previously removed without permits at 2411 Via Mariposa. The Tree Permit has been appealed by the applicant, who would like to plant twelve 15-gallon fruit trees, as replacement trees, and not the required 24" box Camphor, five crape myrtles, and six fruit trees. Additionally a neighbor appealed the case because the Board did not impose a greater tree replacement quantity as penalty. Staff recommends the City Council deny the two appeals and uphold the DPRB decision.

Planner Espinoza responded to Council's questions about the number and placement of trees to be planted as conditioned by the Development Plan Review Board. He stated that upon reviewing the code, it was realized that a 24" box was the minimum requirement for the penalty of removing trees without permits.

In response to Mayor Pro Tem Templeman, Mayor Morris stated that a landscape plan is required for custom lots. Planning Manager Hensley stated that there are rare cases where a standard subdivision would be required to have rear landscaping.

Mayor Pro Tem Templeman expressed concerns about the City regulating backyard trees.

In response to Council, Planner Espinoza clarified that the distinction between Tree Permit No. 07-23 was the requirement to plant 15 gallon trees and under Tree Permit No. 07-26 the requirement is 24" box trees, and all trees are covered in the hearing.

Mayor Morris stated that a signed letter dated October 10, 2007 was received from HLI Landscape and Tree Care and would be made a part of the record. He said the appellants would be heard in alphabetical order and invited Mr. Garcia to present his appeal.

1) Timothy Garcia said he attended several Development Plan Review Board meetings and has letters of approval for 15-gallon replacement trees. He requested clarification why he is now required to plant 24" box trees for the backyard. He intends to plant full-size fruit trees as well as semi-dwarf fruit trees in addition to the required replacements and does not oppose planting a 24" box camphor tree in the front yard.

In response to Mayor Morris, Planner Espinoza said that a 24" box would be the minimum requirement under Municipal Code Section 18.162.130(b).

In response to Councilmember Ebner, Planner Espinoza explained that a carrot wood tree was removed with a permit which allows replacement trees to be 15 gallons. He said staff inadvertently allowed replacement of a 15 gallon tree for an unpermitted removal.

In response to Councilmember Bertone, Assistant City Attorney Steres said when the belief is that a 24" box would create too much space, one solution would be to require fewer trees. He stated that the

Director of Development Services has the discretion to determine the number and size of replacement trees; however, if a penalty is applied, it would be fair to require a 24" box replacement.

Mr. Garcia stated he is also appealing the requirement to plant crape myrtle trees and said he would prefer to plant fruit trees. He inquired if there is a statute of limitations on trees removed three years ago.

2) **Sid Maksoudian** said he is appealing Mr. Garcia's removal of trees over the past two years without permits and felt the penalties imposed were not in accord with the Code requirement to replace at a 4:1 ratio. He said removal of the trees eliminated screening and caused privacy issues.

In response to Mayor Morris, Mr. Maksoudian replied that he is not opposed to additional fruit trees being planted; however, he would like to see a similar tree replacement at a minimum 1:1 ratio in the front yard.

In response to Mayor Pro Tem Templeman, Mr. Maksoudian replied that he has no trees in his yard adjacent to Mr. Garcia's property.

Mayor Morris closed the hearing and invited the Council's discussion and decision.

Councilmember Ebner thought the replacement ratio for five crape myrtle trees and six fruit trees was equitable. He suggested planting one camphor tree and six pine trees in the front to replace the trees removed.

Mayor Pro Tem Templeman expressed concerns with the regulation. He felt property owners should be able to remove or select type and size of trees for their backyard, and understood that when the ordinance was amended, it would be brought back for further discussion. However, pursuant to the regulation he would support the DPRB's decision.

Councilmember Bertone also felt the applicant should be allowed to plant 15 gallon trees; however, to provide privacy, a 24" box tree should be planted in the 13' area. He would like to hear from the City Attorney.

Councilmember Badar stated that the DPRB spent a lot of time discussing this issue at two separate hearings to consider the size, number of trees, penalties, and understood the limitations about changing a 24" box tree requirement to 15 gallons. He, too, would like a legal opinion.

Mayor Morris stated the ordinance was amended to provide staff additional discretion and staff has exercised discretion by limiting the number of trees; however, the DPRB had to follow the ordinance and the City Council is mandated to follow the ordinance as well. He would vote to uphold the DRPB decision.

Assistant City Attorney Steres said the remedy for this violation is set forth in Section 18.162.130 of the San Dimas Municipal Code, and what is before the Council is a situation where trees were removed without permits. He said the code allows some discretion in the number, size, location, and equivalent replacement trees should be determined by the Director of Development Services. He stated if the size is reduced, to get an equivalent replacement, the number of trees would have to be increased significantly, and short of that type of finding, the code specifically states replacement of up to four trees and removal without a permit requires a 24" box replacement.

In response to Councilmember Bertone, Mr. Steres said if a resident has many trees, and cut down one, staff may find the replacement is 0 in some areas where 0 could be a remedy.

Councilmember Ebiner moved to require one camphor tree and five crape myrtle trees, all 24" box, and based on exact findings outlined in the staff report, that 0 trees be required for trees removed in the past; and the property owner would have the option of planting fruit trees.

The motion failed due to lack of a second motion.

Councilmember Badar moved to deny the appeals and uphold the DPRB decision.

Councilmember Bertone inquired if it were possible to refer the matter to staff to find ways to require Mr. Garcia to plant 24" trees and ten 15 gallon trees.

Mayor Pro Tem Templeman expressed his opposition to the requirement; however, since the ordinance mandates the penalties, he would second the motion.

Assistant City Manager Stevens pointed out that it is difficult to get larger than 15 gallon citrus trees and it would be difficult to impose the requirement for 24" box citrus trees due to limited availability and significant cost per tree. He said the idea was to revisit the ordinance after 18 months. He suggested directing staff to investigate the points with the City Attorney, research the minutes, and bring back to the next meeting a resolution with specific findings and final conditions.

Councilmember Badar amended the motion to include direction to staff as stated by Mr. Stevens. Mayor Pro Tem Templeman upheld the second, and the motion carried 5.0.

b. Verbal update on Creek Development project.

Planning Manager Hensley reported that the Creek Development project is an 18-acre piece of property at the end of Valley Center, at Gainsborough. He said the project was approved, construction started, the property was improperly graded, work stopped, and the contractor has abandoned the site. He indicated that the lender has foreclosed on the property and staff is working with the lender to address fencing, erosion control, and rodent control. Mr. Hensley said progress is being made.

In response to Councilmember Bertone, Mr. Hensley said if erosion control is installed, the property could be left unimproved for the short term; however, the City has the right to call in bonds to complete the street grading, and necessary utilities. He said the developer went through the process of obtaining permits for the removal of trees, and some trees are required as part of the replacement requirement in the open space portion of the property and some in the development portion of the property that may be front yards when the houses are built.

It was the consensus of the City Council to direct staff to protect the property, particularly erosion into the Creek, and post notices prohibiting off-road vehicles.

Planner Hensley said the property has been secured and staff is in the process of properly posting notices. He said the goals are to request keys for access to the gate and obtain approval from the property owner to make it easier for Sheriff's to enforce illegal activity.

6. SAN DIMAS REDEVELOPMENT AGENCY

Mayor Morris recessed the regular meeting at 9:26 p.m. and convened a meeting of the San Dimas Redevelopment Agency Board of Directors. The regular meeting reconvened at 9:29 p.m.

7. ORAL COMMUNICATIONS

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

1) **Richard Rauseo** expressed concerns about the Creek project and suggested the City acquire the property. He asked if Queensborough is a private or public street.

Public Works Director Patel replied that Queensborough is a private street.

2) **Timothy Garcia** said he is willing to donate to the City 20 15-gallon crape myrtles in consideration for the Director of Development Services determining the number and size of trees on his project.

Mayor Morris stated that Mr. Stevens was going to investigate the level of discretion and bring back a resolution at the December 11, 2007 meeting.

3) In response to **Claire Ostrand**, Planner Hensley said chained link fencing would be installed around the entire property with the exception of the area along the County property, which is already fenced. He stated that the purpose of the green screen fence is to provide security and dust control.

In response to Mr. Ostrand, Mayor Morris believes it is within the City's authority to require that the property be secured. He said Mr. Hensley will contact the City Attorney to discuss enforcement ability.

4) **Greg Garonkosky** expressed concerns with construction materials and equipment sitting on the Creek property, and inquired whom he could call to report motorcyclists on the property.

Mayor Morris said Mr. Hensley will actively pursue enforcement on the grading permit and secure the property. Mr. Hensley is also working with the lender to permit Sheriff's Department to enforce the rules on private property, and notices will be adequately posted. He added that the property owner has the right to develop his property and permits were issued for removal of the trees.

In response to Mr. Garonkosky, Director Patel replied that the developer has 24 months from the time permits were issued in June, 2007 to complete street improvement, grading, paving, curb, drainage, and utilities, and if the work is not completed within the timeline, the city would complete it under the bonds.

5) **Sid Maksoudian** addressed the City Council on issues with the Development Plan Review Board.

6) **Chris Barbone** opposed regulations on property owners' front and back yards. He asked what it would take to amend the code.

Assistant City Manager Stevens replied it would take two public hearings and three votes of the City Council.

7) **Paul Kirby** said regardless of whether or not anyone like the rules, the City Council is bound to implement the rules.

- 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 had nothing to add from his last report.

- 2) Appointment of Youth Commissioner to Parks and Recreation Commission.

It was moved by Councilmember Bertone, seconded by Councilmember Ebner, to appoint Sam Tofan as Youth Commissioner to the Parks and Recreation Commission for a term expiring September 13, 2008. The motion carried 5.0.

- 3) Individual Members' comments and updates.

1) In response to Mr. Maksoudian, Councilmember Bertone said the City Manager is the appropriate person to handle staff's errors.

2) In response to Councilmember Badar, Assistant City Manager Stevens said it is not unusual to adopt and experience an ordinance for a period of time to determine if any additional revisions may be appropriate. He said staff will come back early next year with a possible revision to the Tree Ordinance based on experience and recommendations.

3) At his own expense, Mayor Morris attended a Mayor's meeting held by Congressman Schiff to determine funds for the Gold Line Extension. He said Congressman Schiff is working with Congressman David Dreier and Congresswoman Grace Napolitano to secure Federal funding and with local officials to determine local funding.

8. CLOSED SESSION

Mayor Morris recessed at 10:16 p.m. to a City/Redevelopment Agency closed session pursuant to Government Code Section 54956.8:

a. **CONFERENCE WITH REAL PROPERTY NEGOTIATION**

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. Property: Discussion regarding potential property acquisition involving Vista Verde. Ranch property generally located in the unincorporated county area adjacent to and north of the development in Via Verde.

Negotiating Parties:

For City: Blaine Michaelis, City Manager, Larry Stevens, Assistant Manager Development Services, and J. Kenneth Brown, City Attorney.

For Seller: Daniel Singh

Under Negotiation: Terms and conditions of sale of grant application involving potential acquisition of land and possible City participation.

- c. Report on closed session items.

Pursuant to Section 54957.7(a), the City Council announced that there was no action taken on closed session items.

9. ADJOURNMENT

Mayor Morris adjourned the meeting at 10:50 p.m. The City Council will next meet on Tuesday, December 11, 2007, 7:00 p.m.

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

ATTEST:

Ina Rios, CMC, City Clerk