



**MINUTES**  
**REGULAR CITY COUNCIL**  
**TUESDAY, MAY 12, 2009, 7:00 P. M.**  
**COUNCIL CHAMBERS, 245 E. BONITA AVE.**

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**PRESENT:**

Mayor Curtis W. Morris  
Mayor Pro Tem Denis Bertone  
Councilmember Emmett G. Badar  
Councilmember John Ebner (arrived 7:24 p.m.)  
Councilmember Jeff Templeman  
City Manager Blaine Michaelis  
City Attorney J. Kenneth Brown  
Planning Secretary Jan Sutton  
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  
Building Official Eric Beilstein

**1. CALL TO ORDER AND FLAG SALUTE**

Mayor Morris called the meeting to order at 7:06 p.m. and led the flag salute.

**2. RECOGNITIONS**

- San Dimas Heroes - Proclamation in Honor of San Dimas Residents who have given their lives during service to their country.

Mayor Morris presented to Mr. and Mrs. Tom Logan a proclamation to honor their son Jim Logan who was killed off the coast of Pensacola on May 8, 2002; and read the proclamation in honor of Kyle Colnot who was killed in Baghdad on April 22, 2006, which would be forwarded to Mr. and Mrs. Colnot, who could not be present this evening.

- Thank and present banner to William Kisella, Specialist, U. S. Army, for six years of exemplary military service. He was honorably discharged March 29, 2009.

Mayor Morris presented the military banner that was flown on San Dimas Avenue to William Kisella, Specialist, U. S. Army, who completed six years of exemplary service and was honorably discharged on March 29, 2009.

- Declare April Muscular Dystrophy Association Fire Fighter Appreciation Month and recognize 35 consecutive years of providing fire protection services in San Dimas

**3. ANNOUNCEMENTS**

- Pui-Ching Ho, Librarian, San Dimas Library

**Pui-Ching Ho**, Library Manager, San Dimas Library, highlighted the special and regular programs at the Library, including a cartoon drawing workshop; free English practice sessions; Joy of Chinese Cooking Class, Book Party, Flamenco dance presentation and an art celebration featuring artist P.J. Lane. She

added that volunteers were needed for the Summer Reading Program. Ms. Ho said information could be found on their website at [www.colapublib.org/libs/sandimas/](http://www.colapublib.org/libs/sandimas/) or by calling the Library at 909/599-6738.

Councilman Templeman stated he has seen Ms. Ho at numerous community events and commended her on her involvement in San Dimas.

**4. 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. If you desire to address the City Council on an item on this agenda, other than a scheduled public hearing item you may do so at this time or asked to be heard when that agenda item is considered. Comments on public hearing items will be considered when that item is scheduled for discussion. The Public Comment period is limited to 30 minutes. Each speaker shall be limited to three (3) minutes.)

a. Members of the Audience

1) **Sam Acosta**, stated he and his wife Cathy have an antiques store in downtown and thanked the Council for the Western Art Show and Garden Affair. Moving it to the Walker House increased business in the downtown and brought them many first-time buyers. The banners, balloons and flags helped them greatly, and many new customers returned, bringing their friends with them.

Mayor Morris thanked him for his participation in the Bonita Avenue Corridor committee and that all the downtown merchants share in the success of the Garden Affair.

2) **Leah Dunbar**, Student Body President at San Dimas High School, reported on recognizing the academic achievements of student athletes, fundraisers for the Leukemia and Cancer Societies, upcoming events, and graduation night on June 6. She then introduced incoming ASB President Brianna Ceyla.

3) **Briana Ceyla** stated she was looking forward to representing the high school next year.

Councilmember Ebiner arrived 7:24 p.m.

4) **Ted Powl**, President/CEO, Chamber of Commerce, stated tomorrow they were recognizing community teachers and expected 120 people to attend from the various schools. He thanked the Mayor for being the emcee at the event. On May 16<sup>th</sup> the Chamber is hosting an e-waste event at San Dimas High School from 9 a.m. to 4 p.m. This will include both business as well as household items. He stated June 3<sup>rd</sup> will be the Chamber's annual business recognition and installation dinner.

#### **5. 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 Templeman, seconded by Councilmember Ebiner, and unanimously carried 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) **RESOLUTION NO. 09-22, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF APRIL AND MAY, 2009.**

- b. Approval of minutes for regular meeting of April 28, 2009.
- c. Declare April 2009 as Child Abuse Prevention Month.

END OF CONSENT CALENDAR

## 6. PUBLIC HEARINGS

- a. 2009-10 Annual City Budget

- 1) Presentation of preliminary budget highlights

City Manager Michaelis said the budget is scheduled for approval on June 9, 2009. They are presenting a balanced budget to the Council and are taking a conservative approach in their estimates to account for the current economic situation. The budget maintains current service levels with existing resources, and provides a cushion for any unexpected expenditures.

Assistant City Manager Duran presented a narrative and summary of the 2009-10 budget proposals and highlights, including an estimate of anticipated revenues and expenditures. He stated that staff is available to receive public comments, suggestions, or reports regarding the City's 2009-10 financial plan. He stated sales tax, property tax and vehicle license fees are projected to be the same as last year, while the transient occupancy tax and development fees are down.

- 2) Question and Answer Period/General Discussion

City Manager Michaelis stated after tonight's public hearing the budget will be presented in final form at the first Council meeting in June.

Mayor Morris opened the public hearing and asked if anyone wished to ask questions or make comments on the proposed 2009-10 budget. Addressing the Council Council was:

**Paul Looney**, 113 W. Commercial Street, asked for clarification on tax increments 31 and 36 and how they differ.

Assistant City Manager Duran stated the Redevelopment Agency receives its funding in the form of tax increments. Fund 31 is the Creative Growth Project Area, which is primarily the town core area and extends out to San Dimas Canyon Road, and Fund 36 is the Rancho Project area, which is primarily the Target Center.

There being no further comments, the public hearing was closed.

Mayor Morris stated they will incorporate the comments made tonight along with those from the study session held earlier.

Councilmember Templeman stated they had a detailed discussion about the budget at the open meeting prior to the regular Council meeting, which a few members of the public attended. He will not be in town the first meeting in June when they adopt the budget but was glad to see the City was providing a consistent level of service with a balanced budget and a substantial reserve.

Councilmember Ebiner felt the budget was well designed and appreciated the statement in it that the City prefers to receive the money before proposing expenditures. Because of this policy, they have a surplus every year and felt it was the right way to handle it.

Councilmember Templeman stated if the ballot measures do not pass on May 19<sup>th</sup>, the State will come after the cities for revenue. Staff has already considered what that could mean to San Dimas and it is identified in the proposed budget. He felt they are prepared for whatever the State does and will still have a sound budget.

3) Other Items of Community Interest.

There were no comments.

**7. PLANNING/DEVELOPMENT SERVICES**

a. Proposed revision of Membrane Structure Policy.

Councilmember Ebner wanted to confirm he could participate in the discussion.

City Attorney Brown stated this is a city-wide policy, not project specific, thus he was not restricted in participating.

Director Coleman stated Exhibit A was a one page handout that has been used for the past several years; five items are building or zoning codes, only one is policy, so the title of the handout is a misnomer. In discussion it was felt clarification was needed to define which are codes and which are policies. Codes have the force of law behind them; policies can be amended easily. Staff has provided examples in the staff report of a variety of membrane structures, and spoken with other cities regarding their policies. Covina and Glendora do not allow freestanding structures in commercial zones; La Verne would subject to design review, though currently they do not have any. Staff could not find an example of another business with a freestanding structure. There are some EZ-ups in San Dimas that have been put up without permits. Another area for aesthetic consideration is historic properties and the need to be reviewed per the Town Core Guidelines or Secretary of the Interior Standards. The question came up at the Planning Commission meeting about when is a building permit required, and Staff wanted to address that in the proposed revisions.

Director Coleman stated in 2007 the City of San Dimas adopted the California Building Code which requires a permit for a structure erected longer than 180 days regardless of size or use. If it is installed for less time but exceeds 120 sq. ft. and used by 10 or more people, it needs a permit. The 2007 CBC also added new language to deal with temporary structures and how the 120 sq. ft. is calculated. Building permits are required to protect the public's health and safety through inspections and review. The Planning Commission held three meetings on this topic, and at the conclusion the majority of the Commission recommended adoption of Exhibit E, as amended and distributed to the City Council today.

Councilmember Ebner asked about the process to obtain a building permit.

Building Official Beilstein stated Staff would need a site plan and details about the structure, such as specification sheets from the manufacturer.

Councilmember Ebner asked if they can determine from the manufacturer's information if the structure would be strong enough, etc.

Building Official Beilstein stated it would depend on the size, and explained when they may need Fire Department approval as well as City approval.

Councilmember Templeman asked if the City did not have a requirement for a permanently attached structure, could a business along San Dimas or Bonita Avenues have an EZ-Up in front of their business.

Director Coleman stated there are different regulations in the downtown area about dining in the public right-of-way area, which do not allow EZ-ups.

Councilmember Badar asked about the patio at Starbucks, could they have a temporary membrane structure.

Director Coleman stated if the proposed policy was adopted, they could only have one for special events approved with a TUP; beyond that they would need to have a permanent structure like a trellis or an awning.

Councilmember Bertone stated if they allowed temporary structures, you could place restrictions like getting a building permit or approval through DPRB. He felt that would be more logical than requiring a permanent structure.

Director Coleman stated Exhibit D was an alternate policy reviewed by the Planning Commission that presented options like that, but was not passed by the Commission.

In response to Council questions regarding temporary membrane structures used at special events, Staff responded that if a structure exceeded 120 sq. ft., it would need a building permit, and if over 200 sq. ft., such as the tent used for the recent Art Festival, it also needs a permit from the Fire Department. The fee could be reviewed by Staff and possibly waived, or set at a low cost for a single inspection. The City, pursuant to the Building Code, recently reviewed the EZ-ups used at the Family Festival and the Farmer's Market to make sure they were installed properly to prevent wind pick-up, which was done as a no-fee inspection.

Councilmember Ebner asked if membrane structures visible from the public right-of-way were prohibited.

Assistant City Manager Stevens stated the new policy is the same as the prior one in regards to residential zones in that placement is not based on visibility but on setback requirements.

Mayor Morris opened the meeting for public comment. Addressing the Council were:

**Paul Kirby**, 213 W. Bonita Avenue, was concerned about the annual car show and asked would each participant that used an EZ-up be required to get a building permit and pay a fee.

Assistant City Manager Stevens stated the intent is that individual EZ-ups used during an approved event would be covered under the Temporary Use Permit. The City may want to ensure that the EZ-ups are installed correctly to provide for wind conditions, depending on the size, but that could be determined on a case-by-case basis. Because this would be addressed under the TUP and is a community event, it is unlikely there will be a building permit fee. The sponsor of the event will be advised to provide the new information to the participants so that everyone is aware of the policy changes.

**Heidi Daniels**, 225 W. Bonita, hoped the Council would consider the alternative version that would allow a temporary structure with DPRB review. Her business was improved by having a temporary structure this winter and kept people warm where an umbrella would not. She leases her space, so she has a financial consideration for putting money into a building she does not own. She did not feel there would be a problem with temporary structures popping up all over town because there are only a few locations where they could be located outside of the public right-of-way.

**Paul Looney**, 113 W. Commercial, stated that the modern temporary structures are very strong and designed to pass wind and fire tests. The key element in their failure is that they are not anchored properly.

There being no further response, the public comments were closed.

Councilmember Templeman stated in his review of this topic, he became aware that the City has financial resources for business improvements available. He also asked about the requirement in Exhibit D that the applicant provide information as to why a permanent structure was not appropriate or desirable.

Assistant City Manager Stevens stated they have a façade improvement program where the City could provide a 50% match in funds up to \$10,000 per business. While normally the façade is found in the front, it could be argued that an end building has a side façade and could probably be covered in the same program. In reference to Exhibit D, the direction given by the Commission is that a permanent structure is the preferred choice but if someone wanted to submit an application for a temporary structure, there needed to be a rational basis in order to reject the preferred option. The information could be submitted as a preliminary sketch and a cost estimate in order to analyze the situation and arrive at a reasoned judgment.

Councilmember Templeman stated since there are financial resources available to assist businesses, he was inclined to support Staff's and the Commission's recommendation. There is some concern that they have continued to enforce this issue based on complaint only, which is one source of frustration for the community, but unfortunately the City does not have adequate staff to enforce on a pro-active basis.

Councilmember Bertone stated some businesses have limited space and a permanent structure may take space away from an outside area. He felt Exhibit D was a reasonable solution, and would allow them to encourage businesses offering food or entertainment. He felt they should have regulations to ensure safety and appearance, but did not feel a permanent structure was advantageous for all businesses. He would recommend approving Exhibit D to allow temporary structures in commercial zones with regulations.

Councilmember Ebner asked if Exhibit D would allow temporary membrane structures on the sidewalk in front of buildings on Bonita or in front of Grove Station, places like that.

Assistant City Manager Stevens stated there is a separate policy and regulations for dining in the public right-of-way in the downtown area and only umbrellas are allowed, so a temporary membrane structure could not be used in that situation. Even if they adopt Exhibit E, it does not change those regulations.

Mayor Morris and Councilmember Badar felt Exhibit D would create problems for the DPRB in trying to enforce and would be very subjective. Mayor Morris felt Exhibit D sets limited guidelines for the DPRB to make a determination on; an applicant may say a permanent structure costs too much, but how much is too much. He felt it would be difficult for the Board to meet the findings to allow a temporary structure over the preferred permanent structure.

Councilmember Ebner felt the DPRB made subjective decisions all the time based on the design of a project; their job was not just to implement policy.

Mayor Morris stated at DPRB if a project is presented that doesn't meet City standards, it can be referred back to staff to work on those issues until they can be resolved to the satisfaction of the Board. The Board does exercise a certain amount of judgment in those cases, but when they are given direction that something is a preference, in this case a permanently attached structure, he felt it would be difficult for the Board to defeat that preference.

Councilmember Ebner still felt DPRB should be making subjective decisions and feels they have the tools to judge based on the design, and that they could always deny an application.

Councilmember Badar stated since the original policy was adopted in 2001, this issue has come up several times to the Council, and each time was denied. He asked what has changed now that would make the Council change their mind about allowing temporary membrane structures in commercial zones.

Councilmember Ebner felt they wanted to see more activity in the downtown area, and allowing temporary structures might encourage more outdoor dining. If they had something like this on the side of Starbucks or similar places, and it is attractive, it might encourage more people to visit that establishment.

Councilmember Badar felt the Council has always wanted more activity in the downtown yet they still upheld the prohibition of temporary membrane structures in commercial zones several times. Starbucks has a fairly large patio and asked staff if there was a limit to the number of temporary structures they could install that were less than 120 sq. ft. in size if the Council were to approve Exhibit D.

Director Coleman stated there is no limit on the number; it would be reviewed during the DPRB process.

Councilmember Bertone felt if they adopted Exhibit D, it would allow places like the Italian restaurant in Via Verde, which is very successful, to possibly expand their business with outdoor dining. He felt there should be a process for review to help businesses remain successful and grow.

Councilmember Badar felt the Council's direction when they first heard this was to have the Planning Commission review the policy to allow another public body to discuss this issue and send an opinion to the Council. He attended all three hearings on this matter, and the discussion went back and forth, but finally they made a decision to their best ability.

It was moved by Councilmember Badar, seconded by Councilmember Templeman to adopt Exhibit E as recommended by Staff and the Planning Commission.

Councilmember Templeman supported this option not only because of the amount of work that went into developing it, but also because of the financial support programs available which allows them a way to keep businesses successful so they can remain in town.

Councilmember Ebner was opposed to the motion because he felt there was a better alternative, though he also appreciated the work that went into the report and the comparison of what other cities are doing.

Motion carried 3-2 (Bertone, Ebner voted no).

## **8. SAN DIMAS REDEVELOPMENT AGENCY**

Mayor Morris recessed the regular meeting at 8:39 p.m. and convened a meeting of the San Dimas Redevelopment Agency Board of Directors. The regular meeting reconvened at 8:46 p.m.

## **9. ORAL COMMUNICATIONS**

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

No communications were made.

- b. City Manager

No communications were made.

c. City Attorney

No communications were made.

d. Members of the City Council

1) Senior Citizen Commission Appointments.

Director of Parks Theresa Bruns stated that terms for four individuals on the Senior Citizen Commission will expire at the end of May and all individuals are eligible for, and have requested, reappointment.

It was moved by Councilmember Bertone, seconded by Councilmember Badar to reappoint Commissioners Helen (Bee) Dallas; Paul Hernandez; Alta Skinner; and Robbie Williams. The motion carried unanimously.

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

No reports were given.

3) Individual Members' comments and updates.

Councilmember Templeman stated on May 29<sup>th</sup> the Sheriff's Boosters will recognize the outstanding volunteers from the Sheriff's Station at a dinner at the Via Verde Country Club.

**10. ADJOURNMENT**

Mayor Morris adjourned the meeting at 8:50 p.m. The next meeting is Monday, May 18, 2009, 5:00 p.m. for a City Council/Staff Retreat in the City Council Conference Room.

Respectfully submitted,

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Jan Sutton, Planning Secretary