



MINUTES
REGULAR CITY COUNCIL
TUESDAY, JANUARY 26, 2010, 7:00 P. M.
COUNCIL CHAMBERS, 245 E. BONITA AVE.

PRESENT:

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

City Manager Blaine Michaelis
City Attorney J. Kenneth Brown
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
Associate Planner Marco Espinoza
Associate Planner Laura Lockett
Administrative Aide Kevin Frey

1. CALL TO ORDER AND FLAG SALUTE

Mayor Morris called the regular meeting to order at 7:04 p.m. and led the flag salute.

2. RECOGNITIONS

- Recognize San Dimas High School CIF Championship Football Team and Coaches

Mayor Morris congratulated and presented Certificates of Recognition to members of San Dimas Football Team and Coaches who won the 2009 CIF Championship for Southern Section with a score of 12-7.

Bill Zernickow, Head Coach, expressed his appreciation for the recognition.

3. ANNOUNCEMENTS

- a. 50th Anniversary Flashbacks

David Harbin, San Dimas Historical Society, recited brief flashbacks from San Dimas Eagle headlines: New business license law took effect in March, 1961; new city limit sign erected and the population was 7,128 in April 1961; action was launched to acquire San Dimas High School site January 1962; dedication of new city hall at 125 Exchange Place March 1962; New U. S. Post Office opens in San Dimas, at San Dimas Avenue/Third Street; and on January 26, 1966 the San Dimas Orange Packing House was destroyed by fire. Mr. Harbin reminded that the new museum is open first and third Saturdays from 10:00 a.m. to 2:00 p.m. in the Walker House. On Saturday, January 30, the Historical Society is hosting a mini-conference for the Associated Historical Societies of Los Angeles County and Mayor Morris is key note speaker regarding the City's involvement in the reconstruction of the Walker House.

b. Pui-Ching Ho, Librarian, San Dimas Library

1) **Pui-Ching Ho**, Library Manager, San Dimas Library, announced several activities offered at the Library: she encouraged parents to bring their children 5-under to sign up for a Library card and receive a canvas bag; free English conversation practice program for adults on Saturdays 11:00 a.m.-12:00 p.m.; the Book Party Discussion group meets February 1, 10:30 a.m. - the book of the month is "*The Story of Edgar Sawtelle*"; Magic Show Saturday February 6, 3:00 p.m.; Musical Arts Activity for Children, February 13, 2:30-4:00 p.m. For more information contact the Library at (909) 599-6738 or access their website www.co.la.publib.org.

2) Mayor Morris reported that tonight completes ten years of service by City Manager Michaelis.

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) **Ted Powl**, President/CEO, Chamber of Commerce, announced that on Thursday, January 28th, Mark Nelson will be honored as Citizen of the Year; e-Waste event will be held on February 5-6 at San Dimas High School; opportunity to participate in exchanging gold jewelry with Golden Girls on February 19, 11:00 a.m. - 2:00 p.m.; February 25, Toast of the Town, tickets are \$25, at the Plummer Building; reservations are being accepted for Civic Academy, starting March 20; Golf Tournament May 24, at Via Verde Country Club.

2) **Don Green** congratulated Bill Zernickow, Head Coach, all CIF Running Back.

3) **Al Wiscovitch**, representing San Dimas Stage Race, presented to Mayor Morris a few mementos from last year's event. Mayor Morris expressed his appreciation. Mr. Wiscovitch thanked the community for their support and he looks forward to the next race on March 19-21.

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.)

Mayor Morris removed item 5.d – Farmers Market proposal for separate consideration.

It was moved by Mayor Pro Tem Bertone, seconded by Councilmember Ebner, and carried unanimously to accept, approve and act upon the consent calendar, as follows.

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

(1) **No. 10-03**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF JANUARY AND FEBRUARY, 2010.

b. Approval of minutes for regular meeting of January 12, 2010.

- c. Approval of 11th Annual Pomona Valley Stage Bicycle Race, March 20-21, 2010, Restricted street closures of Puddingstone Drive (Cannon Avenue to east city limits) and Cannon Avenue and Walnut Avenue (off Puddingstone Drive) on Saturday, March 20, 2010 - 6:00 a.m. - 5:00 p.m.; Closure of certain streets within the downtown area on Sunday, March 21, 2010, 6:00 a.m. - 5:00 p.m.

END OF CONSENT CALENDAR

Item 5.d:

- d. Approve 2010 Farmers Market proposal submitted by Advocates For Healthy Living, for Wednesdays, April 7, 2010 through September 29, 2010, with street closure on Bonita Avenue from 4:00 p.m. to 10:00 p.m..

Mayor Morris said the closure of city hall may present a problem with the use of restrooms for the Farmers Market patrons and said portable toilets should be utilized. He mentioned that local businesses are already impacted with the street closure and in the past have complained about the excessive use of their restrooms. He suggested that staff monitor operators of the Farmers Market to ensure they take additional measures to prevent their patrons from using Albertson's or other local business restrooms.

In response to Council, Director Bruns replied that the use of restrooms in the Senior Citizens/Community Center will be impacted on Wednesdays by the Senior Dances and Music in the Park. She said pursuant to the Conditions of Approval Advocates for Healthy Living will be required to provide portable restrooms, to be delivered and picked up each week.

It was moved by Mayor Pro Tem Bertone, seconded by Councilmember Ebner, to approve item 5.d, a request for a Farmers Market as outlined in the staff report, subject to the Conditions of Approval as recommended by staff. The motion carried unanimously.

Maurice Cuellar, Advocates for Healthy Living, requested financial assistance with the portable toilets or permit the use of Senior Citizens/Community Building restrooms. He noted that Advocates for Healthy Living received the 501c3 status and said his is the only nonprofit organization that pays \$1,300 in business license fees. He added that the nonprofit organization started a salad bar program at, and donated equipment to, Gladstone Elementary School and Shull Elementary School, and he would like to expand that program district-wide. He also requested assistance with traffic control.

In response to Council, Director Patel said equipment and signs are provided and the streets are physically closed at 4:00 p.m. Director Bruns added that it costs the City approximately \$4,000 to provide services for the season. Ms. Bruns added that emails were exchanged with Mr. Cuellar and restrooms were discussed. She said there is no difference in services provided, with the exception that portable toilets are required this year.

In response to Mr. Cuellar, Councilmembers were not in favor of leaving portable toilets on the premises over a period of six months.

6. PUBLIC HEARING

(The following items have been advertised and/or posted. The meeting will be opened to receive public testimony.)

- a. Performance Report for FY 2008-09 and FY 2009-10 CDBG Program Years and Proposed FY 2010-11 Projected Use of funds.

Housing Coordinator Elisa Mitchell explained the subject grant program performance for fiscal years 2008-09 and 2009-10 as well as proposed use of 2010-11 funds. She recommended approval of the proposed FY 2010-11 CDBG Program as outlined in the staff report. Ms. Mitchell responded to Council's questions regarding carry-over funds in the amount of \$36,000 and she explained the loan and grant programs.

Mayor Morris opened the public hearing and asked if anyone wished to speak regarding the proposed CDBG program. There being no one, the public hearing was closed.

It was moved by Mayor Pro Tem Bertone, seconded by Councilmember Badar, to approve the Community Development Block Grant FY 2010-2011 projected use of funds and authorize the City Manager to execute any and all documents necessary to further the projects approved herein, including but not limited to amendments and modifications thereto for CDBG projects with the Los Angeles County Community Development Commission, as recommended by Housing Coordinator Mitchell in her staff report for the meeting of January 26, 2010. The motion carried unanimously

- b. Consider Municipal Code Text Amendment 09-04 - A Request to amend the City's Municipal Code as required by Senate Bill No. 2, to allow by right Emergency and Year-Round Emergency Shelters, as well as Transitional and Supportive Housing as conditional uses.

ORDINANCE NO. 1193, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS ADOPTING MUNICIPAL CODE TEXT AMENDMENT 09-04, TO ALLOW, AS REQUIRED BY SENATE BILL 2 (SB2) EMERGENCY AND YEAR-ROUND EMERGENCY SHELTERS BY RIGHT, AS WELL AS TRANSITIONAL AND SUPPORTIVE HOUSING AS CONDITIONAL USES.

Associate Planner Espinoza reported that Senate Bill 2 was approved on October 13, 2007 and said the City's 2008-2014 Housing Element addressed the requirements as part of its objectives to comply with the law. He said the Planning Commission reviewed the proposed code text amendments and recommended approval. Staff recommends the City Council adopt Municipal Code Text Amendment 09-04 to comply with SB2 as mandated by State law.

Planner Espinoza responded to Council that emergency shelters would be constructed as a permanent structure built to code; a referral program is available to bus homeless persons to shelters; the Housing Element addressed the requirements of SB2 and recommended the public-semi-public zone for emergency and year-round emergency shelters and the multi-family residential zone for transitional and supportive housing as conditional uses; and the State has jurisdiction over group homes while the city imposes regulations for emergency and year-round emergency shelters and transitional and supportive housing.

Mayor Morris opened the public hearing and asked if anyone wished to speak regarding the proposed Municipal Code Text Amendment. There being no one, the public hearing was closed.

After the title was read, it was moved by Councilmember Ebner, seconded by Mayor Pro Tem Bertone, to waive further reading and introduce **ORDINANCE NO. 1193**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS ADOPTING MUNICIPAL CODE TEXT AMENDMENT 09-04, TO ALLOW, AS REQUIRED BY SENATE BILL 2 (SB2) EMERGENCY AND YEAR-ROUND EMERGENCY SHELTERS BY RIGHT, AS WELL AS TRANSITIONAL AND SUPPORTIVE HOUSING AS CONDITIONAL USES. The motion carried unanimously.

- c. Consider Municipal Code Text Amendment 09-05 - A request to amend the City's Municipal Code as required by Senate Bill No. 1627, revising the Zoning Code pertaining to Co-location of Wireless Communication Facilities (18.150)

ORDINANCE NO. 1194, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING TITLE 18 CHAPTER 150 OF THE SAN DIMAS MUNICIPAL ZONING CODE REGARDING CO-LOCATION OF CELL PHONE TOWERS

Administrative Aide Frey summarized a request to amend Chapter 18.150 of the City's Zoning Code to streamline the local permitting process regarding co-location of cell phone towers, and to bring the City in compliance with Senate Bill 1627. Staff recommends approval of Ordinance No. 1194.

Mayor Morris opened the public hearing and asked if anyone wished to speak regarding the proposed Municipal Code Text Amendment. There being no one, the public hearing was closed.

After the title was read, it was moved by Councilmember Badar, seconded by Mayor Pro Tem Bertone, to waive further reading and introduce **ORDINANCE NO. 1194, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING TITLE 18 CHAPTER 150 OF THE SAN DIMAS MUNICIPAL ZONING CODE REGARDING CO-LOCATION OF CELL PHONE TOWERS**. The motion carried unanimously.

7. PLANNING/DEVELOPMENT SERVICES

- a. Update on DOE Energy Strategy Development.

Assistant City Manager of Community Development Stevens reported that the City received a \$150,200 grant from the Department of Energy and as a result of the study conducted by CTG Energy, five top goals were identified for emergency efficiency and conservation based on short-term and long-term objectives. Mr. Stevens highlighted various strategies for implementing a public educational outreach program and said the final strategy approval is required to submit the final Energy Strategy due at the Department of Energy on February 24th. He requested Council comments and preliminary support on energy strategy.

In response to Mayor Pro Tem Bertone, Mr. Stevens replied that staff has funds to stimulate implementation and residents who want an emergency audit can be referred to pre-qualified Energy Consultants paid for by the City.

Councilmember Templeman suggested considering CalSense-type irrigation controllers to achieve water savings throughout parks and rights-of-way.

Mayor Morris suggested that the San Dimas Canyon Golf Course be considered to benefit from this program. He added that a study on optimal lighting might be helpful in future development.

Councilmember Ebiner suggested subsidizing the cost on energy saving products.

Mr. Stevens appreciated the comments and said he would bring back a report in February, 2010.

- b. Review of existing policy regarding Cargo Storage Containers.

Associate Planner Lockett summarized the staff report and said Cargo/Sea Metal Storage containers used city-wide are unclassified in the zoning code. At the direction of City Council, staff provided additional information and analysis for further discussion to consider regulating the use of these containers. Staff recommends continuing with the existing policy limiting cargo storage containers to construction sites and limited (or seasonal) storage in some commercial and industrial zones. Staff does not support their use in the historic downtown.

In response to Council, Assistant City Manager Stevens replied that the existing zoning ordinance does not permit cargo storage and unless specifically authorized, the use is in violation of the zoning code. He said City Council direction is needed whether or not to allow cargo containers on a temporary or permanent basis, and in what zone should they be permitted.

Councilmember Templeman asked what options are available for historical buildings in the downtown area to add onto existing structures for storage. He said any new construction would trigger bringing the building up to current code which would then become cost prohibitive for the property owner.

Mr. Stevens replied that circumstances would vary from parcel to parcel and staff would need to review the requests individually. He said if space is needed for storage, a permanent structure is preferable to a storage container. However, permitting storage containers without time control seems detrimental in the long term.

In response to Council, Mr. Stevens said staff is proposing that cargo containers be allowed during construction in a commercial zone or light industrial zone on a temporary basis, which is defined as 30 days and not more than six months. He added that seasonable storage can be considered with an approved plan. He mentioned that staff is aware that youth groups are utilizing cargo containers as cost effective storage for equipment.

Mayor Pro Tem Bertone suggested that staff regulate cargo containers by conditional use permit and restrict visibility on the street.

Mayor Morris expressed concern that the existing policy is not being enforced. He suggested that property owners be given an amortization period for existing cargo containers. He invited audience members to comment.

- 1) **Cyndia Williams**, Old Towne Antiques, said the cargo container is essential to her business to provide storage on her property. She indicated that the container is painted to blend in with her existing building and is not visible from the street. She asked the City Council to reconsider her circumstance.
- 2) **Jim McCants** stated that Yucaipa enforces very strict regulations with the use of cargo containers and he felt Council's comment about being consistent with the treatment of recreation vehicles, trailers, and containers is an important point.
- 3) **Paul Kirby**, Train Stop, said the storage container in the rear of his property is essential to the operation of his business. He added that the container was not visible for many years until the fence he erected several years ago was torn down.

It was the consensus of the City Council to enforce the policy to restrict proliferation of new cargo containers, grandfather in existing storage containers with the caveat that if the property is sold, the containers must be removed; accommodate seasonal containers; and restrict the use in residential zones.

Mr. Stevens understood the consensus of the City Council and stated staff would put in writing a policy relative to new cargo containers and individually review long established cargo containers to provide amortization or a grace period. He said the policy will not be enforced during the interim period for existing cargo containers. He will bring back a report in approximately 60 days.

8. OTHER MATTERS

- a. Award of contract to S & M Moving Systems for relocation services to move from City Hall to the Temporary City Hall.

Assistant City Manager Duran summarized a request to award contract to S & M Moving Services in the amount of \$10,171 for the relocation of furniture, equipment and supplies from City Hall to the Temporary City Hall Building. Staff also requests approval of a moving budget of \$11,000 which includes the base contract for the moving company and contingency.

It was moved by Councilmember Ebiner, seconded by Councilmember Badar, to award contract to S & M Moving Services in the amount of \$10,171 for the relocation of furniture, equipment and supplies from City Hall to the Temporary City Hall Building and to allocate \$11,000 toward moving and contingency. The motion carried unanimously.

9. SAN DIMAS REDEVELOPMENT AGENCY

Mayor Morris recessed the regular meeting at 9:29 p.m. to convene a meeting of the San Dimas Redevelopment Agency Board of Directors. The regular meeting reconvened at 9:30 p.m..

10. ORAL COMMUNICATIONS

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

1) **Charles McCants** announced that the San Dimas Relay for Life will be held on May 15-16, 2010 and the Ride for Life will be held on April 3, 2010. The Kick-off Rally for both fundraisers will be held on February 19, 2010, at 5:30 p.m., in the Walker House. Additional information will be available at the city hall.

- b. City Manager

There was no report.

- c. City Attorney

- 1) Claim and Tolling Agreement in NRDC v. County of Los Angeles, Case No. 08-1467 AHM (PLAx); and subsequent claim against the City of San Dimas.

City Attorney Brown reported that when, through operation of law, the City denied a claim for money or damaged filed by the County of Los Angeles and Los Angeles County Flood District, it was anticipated that the original trial date would have been concluded before the March 2010 deadline. However, the trial date was moved to June 2010 and the County has now sent letters seeking a tolling agreement to delay the potentially adverse relationship between the cities and the County over liability for any exceedances of water quality standards in storm water. Mr. Brown outlined the advantages and disadvantages of signing the tolling agreement and said a sub-committee of six attorneys was created to review the options and report back to the groups of city representatives. It was concluded that a tolling agreement may be the most cost effective alternative and Mr. Brown recommends authorizing the City Manager to execute a tolling agreement as approved by his office.

It was moved by Mayor Pro Tem Bertone, seconded by Councilmember Badar, to authorize the City Manager to execute a tolling agreement with the County of Los Angeles and Los Angeles County Flood District. The motion carried unanimously.

2) Mr. Brown announced that on January 26, he completed 33 years of service with the City of San Dimas. He congratulated City Manager Michaelis on his completion of ten years.

d. Members of the City Council

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

No one attended any meetings at the expense of the City.

- 2) Individual Members' comments and updates.

- 1) Councilmember Templeman provided a brief update on the San Dimas Avenue property. He said Captain Hartshorne contacted the residents, ordered additional patrol, and filed charges against the homeowner for public safety services.

- 2) Mayor Pro Tem Bertone elaborated that Mark Nelson who will be recognized as Citizen of the Year on Thursday, January 28, is a former Reserve Deputy Sheriff and Mountain Rescue, and is qualified as an Emergency Medical Technician.

- 3) Mayor Pro Tem Bertone announced that the date for San Dimas Day at the Fair has been changed to Wednesday, September 8, 2010. He will announce any further changes.

11. CLOSED SESSION

Mayor Morris recessed at 9:43 p.m. to a City/Redevelopment Agency closed session pursuant to Government Code Section 54957:

- a. **PUBLIC EMPLOYEE PERFORMANCE EVALUATION.**
Title: City Manager

- b. Report on closed session items.

Pursuant to Section 54957.7(a), evaluation was completed.

12. ADJOURNMENT

Mayor Morris adjourned the meeting at 10:52 p.m. The City Council next meets on Tuesday, February 9, 2010, at 5:00 p.m. for Preliminary Budget Meeting and at 7:00 p.m. for the regular meeting.

Respectfully submitted,

Ina Rios, CMC, City Clerk