



MINUTES
REGULAR CITY COUNCIL
TUESDAY, AUGUST 9, 2011, 7:00 P.M.
SAN DIMAS COUNCIL CHAMBERS
245 E. BONITA AVENUE

PRESENT:

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

City Manager Blaine Michaelis
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

ABSENT:

Councilmember John Ebner
City Attorney J. Kenneth Brown

1. CALL TO ORDER AND FLAG SALUTE

Mayor Morris called the meeting of the City Council to order at 7:01 p.m. and led the flag salute. He called on Assistant Fire Chief Vince Pena to introduce himself.

Assistant Fire Chief Vince Pena said recently he was appointed to Acting Assistant Fire Chief for San Dimas and eight other cities. He said Assistant Fire Chief Ron Watson was reassigned to a special assignment at Headquarters. Mr. Pena said he has been Battalion Chief for the last four years at Station 64 in San Dimas and is familiar with the area and the issues. He is looking forward to the new assignment and being able to serve as needed.

Mayor Morris said the City Council, staff and the community have a great relationship with the Fire Department and he congratulated Acting Assistant Fire Chief Pena on his appointment

2. ANNOUNCEMENTS

- Pui-Ching Ho, Librarian, San Dimas Library

Pui-Ching Ho, Library Manager, said the summer reading program will continue with prizes and programs until the end of August; classical guitar music concert will be held on August 10; create colorful prints at the Japanese Block Art Printing Workshop on August 11; attend a balloon sculpting workshop on August 13; play musical instruments at the Celtic music program on August 20; the adult summer book club will meet on August 25 to discuss the book for August *The Lincoln Lawyer*; and on August 27 make a basket at the basket weaving workshop. For detailed information, contact the Library at 909/599-6738.

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. 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

Mayor Morris said comments will be taken at this time on the two items: 1) Ordinance No. 1205 related to the urgency ordinance for a temporary amendment to the Sign Ordinance of the City of San Dimas and 2) Ordinance No. 1206 related to the Alternative Redevelopment Program. He said these are not public hearing items and comments will be limited to this public comment period for a three minute time frame.

1) Sid Maksoudian, 120 W. Bonita Avenue, expressed his grievance over the limited time frame for the window sign ordinance. He inquired how the new ordinance would be enforced and recommended that the public be notified of the changes.

2) Rick, Ranch Town Market & Deli, 1112 No. San Dimas Avenue, expressed his appreciation for the changes and requested they be permitted to display banners for up to five months per year.

3) Niam Younan, San Dimas Liquor, appreciates the changes and requested an adjustment to the banners for more than two months per annum.

4) Craig Johnson San Dimas Hardware, 201 W. Bonita, requested that businesses be allowed input for the final writing of the ordinance.

Mayor Morris stated that this is an urgency temporary ordinance in effect for 45 days if adopted. He said this is being done to give staff an opportunity to present the full ordinance, as revised, to the Planning Commission and City Council for public hearings. He said business members will be notified of the meetings and encouraged to provide input to assist in the crafting of the ordinance.

Mayor Pro Tem Templeman noted that the City Council received a copy of Mr. Johnson's letter dated August 8, 2011.

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 citizen requests removal for separate discussion.)

It was moved by Councilmember Badar, seconded by Councilmember Bertone, and carried by those present (Councilmember Ebner was not present) 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) **RESOLUTION NO. 2011-37, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF JULY AND AUGUST, 2011.**

b. Approval of minutes for the regular City Council meeting of July 26, 2011.

END OF CONSENT CALENDAR

5. PLANNING/DEVELOPMENT SERVICES

- a. Consideration of an Interim Urgency Ordinance establishing temporary standards concerning window signs.

- 1) **ORDINANCE NO. 1205, AN ORDINANCE OF THE CITY OF SAN DIMAS AMENDING PROVISIONS OF THE CITY'S SIGN CODE REGARDING THE STANDARDS FOR WINDOW SIGNS AND PROVIDING FOR ITS ADOPTION AS AN URGENCY MEASURE. URGENCY ORDINANCE**

Assistant City Manager of Community Development Stevens provided a brief background report on areas of concern targeted for possible amendment in the existing Sign Code that were identified in a public forum. Staff reviewed the completed comparative study of surrounding cities on all the identified issue areas and said a recommendation will be submitted at a public hearing before the Planning Commission in September or October.

Assistant City Manager Stevens said that as a result of complaints received regarding window sign standards associated with pending code enforcement, staff was directed to prepare an interim urgency ordinance establishing temporary standards and implement a stay of enforcement pending Council decision. He said an urgency ordinance requires a 4/5 vote and becomes effective immediately upon adoption for 45 days. The urgency ordinance may be extended up to an additional ten months and fifteen days after a public hearing is conducted.

Mr. Stevens reviewed the proposed amendments for window signs, offering definitions and pointing out differences between permanent and temporary window signs. He stated that the existing temporary sign regulations restrict the time frame to 30 days in any calendar year but did not limit the percentage of window coverage. Mr. Stevens said there are additional design standards in the Creative Growth Zone (CG) that do not apply to other commercial zones and staff recommends that the 5% standard be retained with minor additional language. He stated that since the ordinance has been in effect, there have been no permits issued for a temporary window sign, and recent complaints brought forward these issues and concerns that were raised at the community sign forum. Mr. Stevens summarized the proposed adjustments that include eliminating the permit requirement to allow temporary signs continuously all year long, with the caveat that the signs change every 30 days, and that the business owner maintain a record of changes, and be limited to 20% square foot coverage. He highlighted an optional requirement to pre-approve a designated window sign area; and two new standards 1) limiting accessory window signs to a total of 12 square feet, no greater than four square feet each, and 2) restricting the advertisement of liquor products for equity purposes.

In response to Councilmember Badar, Mr. Stevens replied that there are multiple conditional use permits that restrict the advertisement of liquor products, and if the City Council wanted to change that restriction, there has to be specific language written into the Sign Code that supersedes the restriction on pre-existing conditional use permits.

In response to Councilmember Bertone, Mr. Stevens replied that neon signs would not be allowed under that restriction. He said conditions under the conditional use permit are enforceable under the existing code until amended.

In response to Council, Mr. Stevens stated that over the course of time, code enforcement required the removal of illuminated signs pursuant to their conditional use permit, as part of other enforcement activities or a complaint.

Mayor Pro Tem Templeman felt it was unreasonable to prohibit advertisement for liquor within the standards as set forth and could not support Section 5, Subsection D. He also did not object to merchants hanging white twinkle lights in trees or around windows.

Mr. Stevens suggested rather than prohibition, he can write a replacement standard that basically overrides prior conditional use permit restrictions.

Assistant City Manager Stevens clarified the proposed changes under three primary categories: time limit; permit requirements, and a general description of the type and style of sign and materials. He added that a requirement that applies to any business includes that windows cannot be obscured from public safety or law enforcement. Mr. Stevens reviewed the standards from each surrounding city surveyed and said he is not opposed to changing the window coverage requirement to 10%.

Councilmember Badar requested that prior to voting on the final Sign Code, a joint study session be held with the City Council and Planning Commission to discuss this matter at length, and the public would be invited. He would also like a field trip to view the signs. He would like to increase temporary window signs coverage to 25% and permanent window signs to 10%.

Councilmember Bertone stated he would vote to adopt the ordinance as presented. He is opposed to increasing temporary window signs to more than 20% coverage because they can be up all year.

In response to Mayor Morris, Mr. Stevens replied that even if Section 5D is deleted, the conditional use permit would apply. He will figure out a way to address this issue by the time the urgency ordinance is brought back for extension. He added that if the 5% is increased to 10% now, the maximum number would also have to be addressed.

After the title was read, it was moved by Councilmember Bertone, seconded by Mayor Pro Tem Templeman, to waive further reading and adopt **ORDINANCE NO. 1205, AN ORDINANCE OF THE CITY OF SAN DIMAS AMENDING PROVISIONS OF THE CITY'S SIGN CODE REGARDING THE STANDARDS FOR WINDOW SIGNS AND PROVIDING FOR ITS ADOPTION AS AN URGENCY MEASURE. URGENCY ORDINANCE.** The motion carried by those present; Councilmember Ebner was absent.

6. OTHER MATTERS

- a. Adoption of an Ordinance Voluntarily Complying with the Alternative Redevelopment Program to Permit the Continued Existence and Operation of the Redevelopment Agency of the City of San Dimas

- 1) **ORDINANCE NO. 1206, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS. FIRST READING AND INTRODUCTION**

Assistant City Manager Duran summarized key elements of State legislation AB 26 which eliminates Redevelopment Agencies and AB 27 that allows the continuation of Redevelopment Agencies if they voluntarily agree to pay its pro rata share of \$1.7 billion statewide. He reported that Governor Brown signed both pieces of legislation, which prohibit Agencies from incurring new debt or expending monetary obligations, with the exception of enforceable obligations; modify terms and conditions of existing agreements; enter into new agreements; accelerate debt payments or obligations; and a number of other restrictions retroactive to January 1, 2011.

Mr. Duran said that on August 1, the Department of Finance released the calculations for each Agency's pro rata share of the current year's payment and San Dimas was notified that its proportionate share is \$1,753,485 for the current year and \$400,000 in subsequent years. He said there is a provision that allows limited reasons that Agencies can file an appeal, which is due by August 15. He outlined several benefits of retaining the Agency status and said there is a provision in the legislation that would allow an Agency to forego making its 20% set-aside obligation this year to apply those funds towards this year's payment obligation. He said the set-aside housing funds are estimated at \$1.4 million that can be applied, leaving a balance of \$353,000. He said the League of California Cities and the California Redevelopment Agency have filed a lawsuit against the State challenging the constitutionality of AB 26 and AB 27. An element of the lawsuit requested the Court to implement a stay of the two bills by August 15. City staff retained the services of a consultant to evaluate the merits of filing an appeal of the Department of Finance calculations. Staff recommended the introduction of Ordinance No. 1206 and authorizing the City Manager to file an appeal with the Department of Finance on the payment calculation, if staff feels that it is in the best interest of the City.

In response to Councilmember Badar, Mr. Duran said the Agency pays to the City interest and principal in approximately \$700,000 toward the \$12 million loan, and \$678,000 for two loans for the Walker House, in addition to an annual debt service obligation on bonds.

In response to Councilmember Bertone, Mr. Duran replied that if the Agency is dissolved, the City runs a risk in not having the loans repaid. He added that if the Agency is kept in existence, as tax increment grows, the Agency is able to repay outstanding bond debt or sell property to provide revenue to do more projects.

In response to Mayor Pro Tem Templeman, Mr. Duran said there is approximately \$8 million in reserves, which is sufficient for a couple of projects.

In response to Mayor Morris, Mr. Duran replied that four units were purchased at the Grove Station and funds were budgeted for contribution to Bonita Gateway residential project.

In response to Mayor Pro Tem Templeman, Mayor Morris replied that a commitment for housing set aside funds was not made on Phase II of the Grove Station project and under the existing terms of commitment, it had to have been made before January 2011.

After the title was read, it was moved by Councilmember Badar, seconded by Councilmember Bertone, to waive further reading and introduce **ORDINANCE NO. 1206**, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT THE CONTINUED EXISTENCE AND OPERATION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIMAS. The motion carried by those present; Councilmember Ebner was absent.

It was moved by Councilmember Bertone, seconded by Mayor Pro Tem Templeman to authorize the City Manager to file an appeal with the Department of Finance if it is determined in the best interest to appeal the calculation. The motion carried by those present; Councilmember Ebner was absent.

7. SAN DIMAS REDEVELOPMENT AGENCY

Mayor Morris recessed the regular meeting at 8:35 p.m. to convene a meeting of the San Dimas Redevelopment Agency Board of Directors. The regular City Council meeting reconvened at 8:36 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) In response to Niam Younan, San Dimas Liquor, Assistant City Manager Stevens replied that the City has had a Sign Code since incorporation in 1960. He said the Code was amended in 1999 to the current version, and has undergone minor changes since then. He said the Zone Code was codified in the 1980's and underwent a comprehensive code amendment prior to the 1999 version currently in existence.

Mr. Younan said advertising was not an issue in the 1970's and 1980's because there was no other place to buy liquor. Now that supermarkets and warehouse stores sell liquor, advertisement has become necessary in order for liquor stores to survive.

Mayor Morris said staff is in the process of doing a comprehensive Sign Ordinance revision and it is important to get input. He encouraged Mr. Younan and other merchants to attend the study session and public hearings.

2) Sid Maksoudian said he is not against anyone advertising, however, if rules are implemented, code enforcement should proactively enforce those rules, not by complaints.

3) Jim McCants complimented the Chamber of Commerce for the best run Birthday Festival.

4) David Harbin expressed concern for the safety of persons walking in the streets during events, as there are no sidewalks around the north, east, and west side of the Civic Center Park.

Secondly, Mr. Harbin mentioned that the audience monitors were non-operational and it was difficult to read the components of the proposed Sign Ordinance on the screen.

- b. City Manager

- 1) Verbal report and update of Gladstone Street repair project – Lone Hill east to Amelia.

Director of Public Works Patel stated that a project of this size and scale is typically designed over a two-year cycle - one year for the design; the second year to build the project. He said that due to various challenges and hurdles that came across during the planning process and severe rains in December 2010, the project was accelerated this last year. Director Patel provided a Powerpoint presentation and gave an overview of Gladstone Street; the status of the project; pavement thickness design; existing street conditions; ADA access; Railroad Crossing, and reviewed the pavement conditions. He highlighted the timeframe for the project with the commencement of the project in May 2012 and completion in July 2012.

2) City Manager Michaelis said the City has an Agreement for food services at the Walker House, which expires at the end of August 2011. He said he met with representatives of the Restaurant on Monday, August 8, 2011, which occurred after preparation of the agenda for tonight's meeting, to recommend changes to the provisions of the Agreement. Those changes require City Council review and direction in order for staff to have an agreement before the City Council to consider at their next meeting. Staff is requesting to add a Closed Session to this agenda to allow staff to review the financial terms of the Agreement with the City Council to allow staff to bring back an Agreement for the City Council's consideration at their next meeting.

It was moved by Councilmember Bertone, seconded by Mayor Pro Tem Templeman, to add a Closed Session to the Agenda for contract discussion.

At the request of Mayor Morris, City Attorney Mark Steres explained that to be able to add an item to the agenda, there has to be a unanimous vote of four Councilmembers present, making two (2) findings: 1) that there is a need to take action; 2) that need to take action came up within the last 72 hours, so it could not be posted on this current agenda. Mr. Steres stated that as explained, this matter came up yesterday, and there is a need to give direction to the negotiator so staff can return at the next meeting with the Agreement as it expires at the end of the month. He said what will be added is a closed session under Government Code Section 54956.8, a Conference with Real Property Negotiators.

The motion carried unanimously by the four Councilmembers present and the item was added to the agenda as a closed session item at the adjournment of the regular meeting; Councilmember Ebner was absent.

c. City Attorney

There was no comment.

d. Members of the City Council

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

There were no meetings attended at the expense of the local agency.

- 2) Individual Members' comments and updates.

a) Mayor Pro Tem Templeman stated that every applicant is asked at the public hearing if he accepts the conditions. Mr. Templeman stated that he spent several hours with Mr. Maksoudian when he was going through the process of getting his license and Mr. Maksoudian approved his conditions. Mr. Templeman said he voted for Mr. Maksoudian's project against many objections. He added that Mr. Maksoudian will get the same level of review and consideration on the new Sign Ordinance as others with conditional use permits.

b) Mayor Pro Tem Templeman thanked all the volunteers who helped make the barbecue a success.

c) Mayor Pro Tem Templeman reported that West Nile Virus is of higher concern in the San Gabriel Valley this year, and there have been reports of infected birds as well as humans. Because horses can be impacted by WNV, he asked the equestrian community and the community at large to eliminate any standing water. He requested that this item be publicized in the e-newsletter to notify the community of this serious issue.

d) Councilmember Badar said he attended the Second Annual Bowser Bash, which turned out to be a huge festival. He complimented Caryol Smith and her volunteers, and the Parks and Recreation staff.

e) Councilmember Badar praised City staff, Chamber staff, and the volunteers for the great job on the Birthday Barbecue.

f) Councilmember Badar said he received a notice that the HEROES program was issued their building permits and they are moving forward with their project. He said a lot of people should be excited that we will see some activity there soon.

- g) Councilmember Badar stated that if someone calls him about a project, he will talk with them. He stated he has had conversations with the three Liquor Store owners and has responded to their calls, as well as several other business owners. He mentioned that when he was a Planning Commissioner, he conversed with Mr. Maksudian and voted for his liquor store, against several objections.
- h) Councilmember Bertone thanked City staff for two successful events and said the Bowser Bash and Birthday Barbecue could not have happened without volunteers and without City Staff. He thanked City staff, volunteers, and the Chamber for an excellent job.
- i) Mayor Morris congratulated everyone involved with the Birthday Barbecue, which worked out well. He thanked volunteers from Golden State Water Company who have traditionally built the fire, helped prepare the meat for the deep pit cooking, and helped cut up the meat for serving. He said all the volunteers made a big difference.
- j) Mayor Morris said the Sign Ordinance review was not a result of one person's activities. He said this process was initiated by Planning staff and the Planning Commission held forums. He commended staff for getting input and putting a great deal of effort into the process.

9. CLOSED SESSION

Mayor Morris recessed at 9:13 p.m. to a City/Redevelopment Agency closed session pursuant to Government Code Section 54956.8:

a. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: 121 North San Dimas Avenue

Negotiating Parties:

For Agency: Blaine Michaelis, Executive Director, Ken Duran, Assistant City Manager ,
and Mark Steres, Agency Attorney.

For Property: Arlene Anaya, General Manager

Under Negotiation: Discuss price and terms for Food Service Concessionaire Agreement

b. Report on closed session items

There was no reportable action.

10. ADJOURNMENT

Mayor Morris adjourned the regular meeting of the City Council at 9:45 p.m. The next meeting is August 23, 2011, at 7:00 p.m.

Respectfully submitted,

Ina Rios, CMC, City Clerk