



AGENDA
REGULAR CITY COUNCIL MEETING
TUESDAY, NOVEMBER 27, 2012, 7:00 P. M.
SAN DIMAS COUNCIL CHAMBERS
245 E. BONITA AVENUE

CITY COUNCIL:

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

1. CALL TO ORDER AND FLAG SALUTE

2. 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

3. 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.)

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

(1) **RESOLUTION NO. 2012-65**, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTH OF

b. Approval of minutes for regular City Council meeting of November 13, 2012.

c. Adopt Resolution **2012-66** Health Care Flexible Spending Account Amendment

d. Award of Cash Contract 2012-06, "Street Light Conduit Installation on Third Street from San Dimas Ave to Walnut Ave. to Steiny & Company, Inc. for the amount of \$30,770.00

END OF CONSENT CALENDAR

4. PLANNING/DEVELOPMENT SERVICES

a. Request from Bill and Sam Ghosn to initiate Zoning Code Amendment to allow off-sale alcoholic beverages in conjunction with existing convenience store and gas station located at 1790 S. San Dimas Ave (Via Verde 76) in Specific Plan No. 17

b. Request from Kimco Realty to initiate Zoning Code Amendment to allow various additional uses for the existing shopping center located at 802-888 West Arrow Highway (San Dimas Marketplace/target) in Specific Plan No. 20

- c. Budget adjustments for the Housing Element update. Increase the appropriation by an additional \$25, 000 to a total of \$50,000.

5. OTHER BUSINESS

- a. Request from Waste Management for a rate increase of 1.35% for residential and commercial refuse services
- b. San Dimas Avenue Bicycle Traffic Safety between Avenida Loma Vista to Avenida Domingo
- c. Update Regarding Adopted Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges – National Pollutant Discharge Elimination System (NPDES) Permit

6. ORAL COMMUNICATIONS

- a. Members of the Audience (*Speakers are limited to five (5) minutes or as may be determined by the Chair.*)
- b. City Manager
- c. City Attorney
- d. Members of the City Council
 - 1) Councilmembers' report on meetings attended at the expense of the local agency.
 - 2) Individual Members' comments and updates.

7. ADJOURNMENT

The next meeting will be a Council/staff Retreat on December 10, 2012 at 5:00 p.m. The next regular City Council meeting will be on Tuesday, December 11, 2012 at 7:00 p.m.

AGENDA STAFF REPORTS: COPIES OF STAFF REPORTS AND/OR OTHER WRITTEN DOCUMENTATION PERTAINING TO THE ITEMS ON THE AGENDA ARE ON FILE IN THE OFFICE OF THE CITY CLERK AND ARE AVAILABLE FOR PUBLIC INSPECTION DURING THE HOURS OF 8:00 A.M. TO 5:00 P.M. MONDAY THROUGH FRIDAY. INFORMATION MAY BE OBTAINED BY CALLING (909) 394-6216. CITY COUNCIL MINUTES AND AGENDAS ARE ALSO AVAILABLE ON THE CITY'S HOME PAGE ON THE INTERNET:

<http://www.cityofsandimas.com/minutes.cfm>

SUPPLEMENTAL REPORTS: AGENDA RELATED WRITINGS OR DOCUMENTS PROVIDED TO A MAJORITY OF THE SUBJECT BODY AFTER DISTRIBUTION OF THE AGENDA PACKET SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT THE CITY CLERK'S OFFICE DURING NORMAL BUSINESS HOURS. [PRIVILEGED AND CONFIDENTIAL DOCUMENTS EXEMPTED]

POSTING STATEMENT: ON NOVEMBER 21, 2012, A TRUE AND CORRECT COPY OF THIS AGENDA WAS POSTED ON THE BULLETIN BOARDS AT 245 EAST BONITA AVENUE (SAN DIMAS CITY HALL); 145 NORTH WALNUT AVENUE (LOS ANGELES COUNTY PUBLIC LIBRARY, SAN DIMAS BRANCH); AND 300 EAST BONITA AVENUE (UNITED STATES POST OFFICE); AT THE VONS SHOPPING CENTER (PUENTE/VIA VERDE) AND THE CITY'S WEBSITE AT WWW.CITYOFSANDIMAS.COM/MINUTES.CFM.

RESOLUTION NO. 2012-65

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SAN DIMAS, CALIFORNIA, APPROVING
CERTAIN DEMANDS FOR THE MONTH OF
NOVEMBER 2012**

WHEREAS, the following listed demands have been audited by the Director of Finance;
and

WHEREAS, the Director of Finance has certified as to the availability of funds for
payment thereto; and

WHEREAS, the register of audited demands have been submitted to the City Council for
approval.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Dimas
does hereby approve Warrant Register: 11/30/2012; 142283 through 142403 in the amount of
\$706,680.77.

PASSED, APPROVED AND ADOPTED THIS 27th DAY OF NOVEMBER 2012.

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

ATTEST:

Deputy City Clerk

I HEREBY CERTIFY that the foregoing Resolution was adopted by vote of the City
Council of the City of San Dimas at its regular meeting of November 27, 2012, by the following
vote:

AYES: Councilmembers Badar, Bertone, Ebiner, Templeman, Morris
NOES: None
ABSTAIN: None
ABSENT: None

Deputy City Clerk



***THE WARRANT DISBURSEMENT
JOURNAL IS NOT AVAILABLE TO
VIEW THROUGH LASERFICHE***

***A PAPER COPY IS AVAILABLE IN THE
FINANCE DEPARTMENT***

SORRY FOR ANY INCONVENIENCES.

DOCUMENT IMAGING DEPT.



MINUTES
REGULAR CITY COUNCIL MEETING
TUESDAY, NOVEMBER 13, 2012, 7:00 P. M.
SAN DIMAS COUNCIL CHAMBERS
245 E. BONITA AVENUE

CITY COUNCIL:

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

City Manager Blaine Michaelis
Assistant City Attorney Mark Steres
Assistant City Manager Community Development Larry Stevens
Assistant City Manager Ken Duran
Director of Parks and Recreation Theresa Bruns
Director of Public Works Krishna Patel

1. CALL TO ORDER AND FLAG SALUTE

Mayor Morris called the City Council meeting to order at 7:00 p.m. and led the flag salute.

- 2. 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

Pui Ching Ho, Librarian announced the monthly events and activities happening at the San Dimas Library.

Heba Morrie, ASB President, gave updates on recent school activities and announced upcoming events planned.

Karen Gaffney, Chamber of Commerce announced upcoming events the Chamber has planned.

3. 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.)

MOTION: It was moved by Councilmember Badar, seconded by Councilmember Ebner and carried 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:

RESOLUTION NO. 2012-64, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF OCTOBER AND NOVEMBER, 2012.

- b. Approval of minutes for regular City Council meeting of October 23, 2012.
- c. Approve updated Community Facility Rental Policies and Fee Schedules

END OF CONSENT CALENDAR

4. OTHER BUSINESS

- a. Authorize the adoption of Amendment No. 3 of the Gold Line Joint Powers Agency to add the Cities of Pasadena and Montclair.

City Manager Blaine Michaelis outlined the proposal for adding the cities of Pasadena and Montclair to the Gold Line Joint Powers Agency.

Councilmember Templeman asked if Pasadena has been paying dues and in response City Manager Michaels stated that they are similar to San Dimas in that payments were suspended a few years back, but they were paying prior to that and will continue payments when we all are required to do so.

Motion: Councilmember Bertone moved approval, and Councilmember Ebner seconded, motion passed unanimously.

- b. Report regarding the San Gabriel Valley Energy Wise Partnership Recognition

Assistant City Manager Larry Stevens gave presentation of the program in which the city participates and received recognition at the Silver Level status at an awards luncheon in December. We receive this recognition by developing a curtailment plan to reduce energy during peak usage and enrolling City Hall in the demand response program. The city is close to completing an energy conservation plan funded by an Edison Grant. We have also recently done an energy audit at some of our other facilities and identified some energy savings at those locations as well as part of a continuing partnership. A program available at the upcoming Holiday Extravaganza in December will be for residents to exchange old clandestine style lighting for energy efficient lighting.

- c. Approve Walker House Interim Use Plan, Policies and Fee Schedule

City Manager Michaelis gave brief background on the concept behind the presentation from Director Bruns.

Director of Parks & Recreation Theresa Bruns outlined the rental uses, policies and fees to be associated with the use of the Walker House. These policies have been developed based on policies in use for each community facility space that we reserve. Operations and use of the first floor will not affect the current use of the second floor. Notification will be given to the Historical Society and the Festival of Arts when the building will be reserved. Marketing and advertising will be done to announce the uses for meetings, lunches, dinners, parties and special events. Staff has prepared options for setup in each room. Each user of the patio and veranda will be required to provide their own furniture. The kitchen will be available for use to serve as a prep kitchen, catering service or cooking kitchen. There will be strict policies in place for the use of the kitchen, along with restricting the use of some of the appliances due to the complex operations of those appliances. Staff will be on site throughout the entire event, will assist when necessary and will have oversight over the event function. Cleaning and maintenance will be handled as it is with all other city facilities under the Parks & Recreation Department. The fee schedule was determined with consideration given to

maintenance costs as well as staffing costs. Because this is an interim plan until a decision is made regarding the Redevelopment Agency assests, staff is suggesting that reservations will only be booked through June 2013.

Councilmember Templeman stated he was in favor of making the house available but was concerned with making it affordable and still protecting it as an asset.

Motion: Councilmember Bertone moved to approve and accept the policy of the rental schedule, Councilmember Ebiner seconded.

Councilmember Templeman asked if the current users would be charged to use the facility.

Director Bruns replied the intent of the policy would be yes.

Councilmember Templeman stated that we have waived those fees in the past, because we get help through their efforts. He would like the council to consider waiving the fee for the partners that are there to help promote the house.

Director Bruns asked for clarification on how that should work, would there be there parameters set.

Councilmember Templeman suggested talking to the user groups and discuss scheduling with them.

MOTION: Councilmember Bertone moved to approve and accept the fee schedule; but directed staff to discuss among themselves and with the two groups what their scheduling needs would be and come back with a recommendation.

Mayor Morris stated that this is an amended motion and asked if the second agreed. Councilmember Ebiner seconded, motion carried unanimously.

5. ORAL COMMUNICATIONS

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

Dr. Esher asked if there were provisions for the existing bonds connected with the Walker House and is there a plan from the League of California Cities to handle or address these Redevelopment issues.

Councilmember Bertone responded that the Housing and Community Economic Committee of the COG is proposing legislature that would exclude historical buildings that were paid for by Redevelopment funds from being taken over by the State. Assemblyman Chris Holden has taken a tour of the Walker House and is concerned. Senator Liu said she would be happy to intervene with the Finance Department, but not sure if it would do any good.

Mayor Morris shared that the League of California Cities is looked at as the enemy and all that they have tried to do has pretty much failed. Assemblyman Holden is support of a private bill to exclude buildings like the Walker House that have no real commercial value.

Assistant City Manager Ken Duran outlined the timeframe and direction of the process to evaluate the Redevelopment property.

Discussion continued on the possibilities of how cities and agencies may proceed in the future in trying to save some of the properties the County is proposing to sell.

Carolyn Anderson with Waste Management shared updates of programs provided by Waste Management and reminded everyone of the 6 bulky item collections per year, as well as services and policies on the disposal of Christmas Trees.

Councilmember Templeman shared that Carolyn is currently working with the Equestrian Commission on programs that will remove horse manure waste.

b. City Manager

City Manager Michaelis announced the Mayor's call in show scheduled November 15, 2013 at 7:00 p.m.

c. City Attorney

Nothing to report.

d. Members of the City Council

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

Mayor Morris attended the California Joint Powers Insurance Authority Risk Management Conference in San Francisco, expense partially the city and partially the Joint Powers Authority. These are worthwhile educational programs and if you're ever able to attend should do so.

2) Individual Members' comments and updates.

Councilmember Templeman will be delivering 24 frozen turkeys to the food bank at the community church. This was made possible by the efforts of our legislative offices and local water company.

6. ADJOURNMENT

The meeting adjourned at 8:06 p.m. The next meeting will be Tuesday, November 27, 2012 at 7:00 p.m.

Respectfully submitted,

Debra Black, Deputy City Clerk



Agenda Item Staff Report

TO: Honorable Mayor and Members of City Council
November 27, 2012

FROM: Blaine Michaelis, City Manager

INITIATED BY: Ken Duran, Assistant City Manager

SUBJECT: Adopt Resolution 2012-66 Health Care Flexible Spending Account Amendment

SUMMARY

Adopt Resolution 2012-66 Amendment to the Aflac plan for Health Care Flexible Spending Account for changes per Internal Revenue Code (IRC) Section 125 i

BACKGROUND

The City of San of San Dimas offers a flexible spending account through Aflac. The maximum annual contribution amount that may be allocated to the Health Care Flexible Spending Account may not exceed \$2,500.00 per year beginning January 1, 2013 per IRC Section 125i. Our current contract has a maximum of \$3,000.00 per year; therefore we need to adopt a resolution to amend our contract to reflect the change to the annual contribution amount.

RECOMMENDATION

It is recommended that the City Council adopt **Resolution 2012-66** Health Care Flexible Spending Account Amendment.

Respectfully Submitted,

Barbara Bishop
Finance/IS Manager

RESOLUTION NO. 2012-66

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, FOR THE AMENDMENT TO THE AFLAC PLAN FOR HEALTH CARE FLEXIBLE SPENDING ACCOUNT PER INTERNAL REVENUE CODE (IRC) SECTION 125 i

WHEREAS, Internal Revenue Code (IRC) Section 125i allows for a Health Care Flexible Spending Account; and

WHEREAS, the City of San Dimas offers to the employees said plan through AFLAC; and

WHEREAS, per (IRC) Section 125i states that the maximum annual contribution amount that may be allocated by employees to their Health Care Flexible Spending Account may not exceed \$2,500.00 per year beginning January 1, 2013;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Dimas, California, amends our current contract with AFLAC to reflect the amount allowable to be allocated by employees to their Health Care Flexible Spending Account may not exceed \$2,500.00 per year beginning January 1, 2013;

PASSED, APPROVED AND ADOPTED this 27TH day of November, 2012.

Curtis W. Morris, Mayor

ATTEST:

Debra Black, Deputy City Clerk



Agenda Item Staff Report

To: Honorable Mayor and Members of the City Council
For the Meeting of November 27, 2012

From: Blaine Michaelis, City Manager

Initiated By: Public Works Department *MP*

Subject: Award of Cash Contract No. 2012-06, "Street Light Conduit Installation on Third Street from San Dimas Avenue to Walnut Avenue" to Steiny & Company, Inc. for the amount of \$30,770.00

Summary

The request is for the City Council to award Cash Contract No. 2012-06, "Street Light Conduit Installation on Third Street from San Dimas Avenue to Walnut Avenue" to Steiny & Company, Inc. for the contract amount of \$30,770.00.

BACKGROUND

Sealed bids were received by the City Clerk on Tuesday, November 13, 2012 and publicly opened for Cash Contract No. 2012-06, "Street Light Conduit Installation on Third Street from San Dimas Avenue to Walnut Avenue." The project consists of installing street light conduit for Southern California Edison (SCE). SCE will then install ten (10) "Nostalgia Series" street light fixtures and remove the previously existing street lights within the project limits. SCE has billed the City approximately \$35,000.00 to complete their portion of the project. In addition, this project also includes the installation of two (2) underground conduit street crossings on Bonita Avenue at Exchange and Monte Vista for the future cross walk lighting project. Work for this project, Cash Contract No. 2012-06 is scheduled to begin in December.

The bid results are as follows:

1. Steiny & Company, Inc.	\$ 30,770.00
2. Pro Tech Engineering Corp.	\$ 34,900.00
3. New West Signal, Inc.	\$ 39,317.50
4. Unique Performance	\$ 41,500.00
5. California Professional Eng.	\$ 46,130.00
6. VT Electric	\$ 49,140.00
7. Dynalectric Transportation	\$ 52,120.00
8. PTM General Engineering	\$ 56,060.00
9. HAC Construction	\$ 58,505.00
10. Perry C Thomas	\$ 94,980.00

DISCUSSION

For the adopted 2012/2013 fiscal year budget, there is a total of \$120,000.00 funded to convert two blocks of existing Southern California Edison Company maintained street lights to decorative "Nostalgia Series" street light fixtures.

Incorporating the lowest bid, the project budget would be as follows:

SCE Construction Cost	\$ 34,309.88*
Steiny & Company Cost	\$ 30,770.00**
Contingency	<u>\$ 10,000.00***</u>
Project Budget	\$ 75,079.88

*The construction cost for the work to be performed by SCE is significantly less than usual (typically ranging from \$50,000 to \$70,000) because the existing wood utility poles for these street blocks serve other utilities other than just the electrical wiring for street lights and hence cannot be removed.

**Based on previous costs for similar blocks and by experience, the estimated construction cost for the street light conduit work is closer to \$55,000

***The contingency for this project has been increased due to the low amount of the contract.

Staff has reviewed the bid proposal and bid bond provided by the lowest responsible bidder, Steiny and Company, Inc. The contractor's bid bond is issued by an admitted surety, as required by Public Contract Code 20170. Staff confirmed through the State Contractor's License Board that the contractor's license number 161273, Class C-10 & A expires on 05/31/2013. Based on the contractor's history and the references reviewed, the contractor is competent in this type of work.

RECOMMENDATION

Staff recommends the City Council consider awarding Cash Contract No. 2012-06, "Street Light Conduit Installation on Third Street from San Dimas Avenue to Walnut Avenue" to Steiny and Company, Inc. for the contract amount of \$30,770.00.

Respectfully submitted,


Steven Barragan
Associate Engineer

sb/11-12-08



Agenda Item Staff Report

TO: Honorable Mayor and Members of City Council
For the Meeting of November 27, 2012

FROM: Blaine Michaelis, City Manager

INITIATED BY: Community Development Department

SUBJECT: Request from Bill and Sam Ghosn to initiate Zoning Code Amendment to allow off-sale alcoholic beverages in conjunction with existing convenience store and gas station located at 1790 S. San Dimas Avenue (Via Verde 76) in Specific Plan No. 17.

BACKGROUND

1. *Current Request:* A letter dated October 12, 2012 is attached. It indicates that the owners are requesting a Code Amendment to allow off-sale beer and wine at the convenience store/gas station site at 1790 S. San Dimas Avenue. Stated reasons are the need to expand product offerings to increase revenue and profitability and to respond to customer requests.
2. *Previously Approved Request:* In July 2008 the City Council considered MCTA 08-02 and approved eliminating the prohibition against food markets including convenience stores in SP-17 and allowing, with a conditional use permit, the following:

"Convenience stores, with up to 1,000 square feet of sales area, when accessory to a gasoline or service station use. Sales floor shall be defined as the floor area allotted for food and convenience sales and shall not include cashier counter area, refrigeration coolers, storage area, restrooms or similar facilities."

As part of that review the Planning Commission had recommended allowing, with a conditional use permit, off sale of beer and wine. The City Council determined NOT to include that portion of the amendment. See attached City Council minutes.

At the same meeting the City Council approved Conditional Use Permit No. 08-01 allowing the convenience store, not to exceed 1000 square feet in sales area, at 1790 S. San Dimas Avenue (Via Verde 76). The applicant subsequently established this approved use. Note that the existing building is 3300 square feet in gross floor area so portions of the building still contain service bays.

3. *Previously Denied Requests:* Prior to the 2008 approval there had been multiple requests to allow convenience stores at the subject property. Requests in 2003 by George Dershotian (then owner) and in 2007 and 2008 by Sam Ghosn did

not result in a determination to initiate a Code Amendment but the 2008 request was reconsidered with a direction to focus any revision on the SP-17 site only.

4. *Accessory Snack Shop*: Prior to consideration of the convenience store requests the City had approved DPRB Case No. 94-56 at the subject site allowing a 300 square foot “accessory snack shop” consistent with a City-wide policy limiting food and beverage sales at gasoline service stations.

Existing policy, established in 1989, allows limited food and beverage sales (300 square feet of floor area) at gasoline service stations. This policy is applied city-wide with several exceptions including the subject property (1000 square foot convenience store with no alcohol – SP-17 only); Arco on Arrow Highway (full convenience store with beer and wine – SP-2 only); and, gas stations at the northeast and southeast corners of Arrow Highway and San Dimas Avenue (may have full convenience stores with alcohol with a substantial site renovation – CG-3 only).

ANALYSIS

Pursuant to Section 18.208.020.D consideration of a request to initiate a Code Amendment should evaluate the following:

- Will the amendment further the health, safety and welfare?
- Will the amendment adversely affect other property?
- Are there changed conditions to warrant the amendment?

This evaluation can be preliminary and need only pass a standard of having some merit (rather than a conclusive determination) to allow the hearing process to go forward. In most cases the focus has been to establish if there are changed conditions identified adequately in the request.

In this case, the proponent indicates that the convenience store does not have sufficient profitability due to fluctuating gas prices and high operating expenses making it necessary to add more products. The product most requested by customers is beer and wine. In 2008 both the Planning Commission and Staff supported amending SP-17 to allow alcohol based on the perception that such a request would eventually come forward even though the applicant was not seeking it at the time. The City Council determined to defer any consideration of alcohol at that time.

Staff would suggest there may be a larger context on this topic meriting some discussion. There are twelve existing gasoline service stations in the City located in a variety of zones. The attached chart summarizes the circumstances of each but most are limited to accessory snack shops and no alcohol. Many service stations in the State have moved on from providing automobile repairs and related services to a variety of other accessory uses with convenience stores and alcohol among the most common. Most of the service stations in San Dimas have approached Staff at one time to allow convenience stores or at least accessory food (or alcohol) sales on their sites. Under these circumstances Staff would like to determine whether the scope of this amendment should be expanded to consider all or most of these service stations for such uses.

There is also some concern that the existing regulations may in part conflict with Business & Professions Code Section 23790.5 which limits the ability of cities to prohibit concurrent sales of gasoline and alcohol. This was however discussed with the 2008 Code Amendment and the City Attorney concluded that the SP-17 regulations were not in conflict. See attached 2008 City Attorney memorandum.

In part some concerns are associated with additional criminal activity associated with mixing vehicles and alcohol. Captain Slawson has reviewed area statistics (see attached letter) and does not view this as a significant concern.

If this is determined to be an appropriate consideration, a number of factors need to be analyzed further to better define an approach. These factors include:

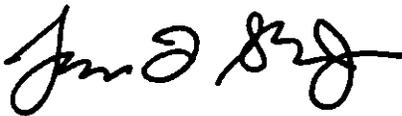
- Size of site and ability to provide parking
- Renovation of site vs. conversion of existing service building
- Appropriateness of alcohol sales
- Impacts on surrounding properties particularly if near residential uses

Consideration of these factors may vary from site to site.

RECOMMENDATION

Direct Staff as deemed appropriate regarding alcohol sales in SP-17 and regarding the scope of any other consideration regarding convenience stores and alcohol affecting other service stations in the City.

Respectfully Submitted,



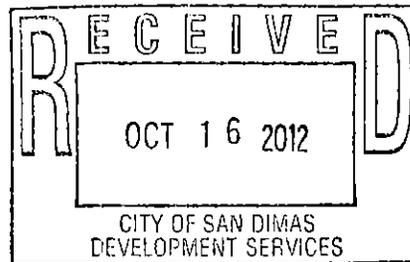
Larry Stevens,
Assistant City Manager for Community Development

Attachments:

1. Letter from Via Verde 76 dated October 12, 2012
2. Minutes of City Council meeting of July 8, 2008
3. Chart Summary of Gas Station Uses within City
4. 2008 City Attorney Memorandum
5. Letter from Capt. Slawson dated November 16, 2012 regarding alcohol thefts

Via Verde 76

1790 S. San Dimas Ave.
San Dimas, CA 91773
Phone: (909) 592-2010



October 12, 2012

Mr. Curtis W. Morris, Mayor
Mr. Emmett Badar, Mayor Pro Tem
Mr. Denis Bertone, City Council Member
Mr. John Ebiner, City Council Member
Mr. Jeff Templeman, City Council Member
Mr. Blaine Michaelis, City Manager
Mr. Larry Stevens, Assistant City Manager
City of San Dimas
245 East Bonit Avenue
San Dimas, CA 91773

Ref: Beer and Wine License

Dear Sirs,

It has been 2 years since the completion of enlarging the retail space at our gas station. We would like to take this opportunity to thank the Mayor and the City Council Members and staff that worked hard for the approval of the new zoning ordinance. We are very proud of the project and we believe it was a tremendous improvement from the way the gas station looked and we know most of you think the same way too....

The store is more convenient for our customers in Via Verde since we can carry now more products that they have been asking for. This project sure has us going in the right direction as far as the "health" of the operation and its profitability. However, we are still in the red for most of the months of the year but in a better situation then before the project and we thank you all for that.

We need another "push" from you again. As we are getting better, we are not there yet as far as being profitable due to the economical situation, the fluctuating gas price and the high operation expenses such as credit card fees, tests, and maintenance, etc... And to do that we need your help, your compassion, and your understanding. As a final piece of the puzzle in our way to profitability, we need to add more products to our store. The most item customers are asking for is, yes, beer. By adding beer and wine to our inventory, we believe that our sales will be enough to cover our

ATTACHMENT #1

Via Verde 76

expenses, a plus for us and especially for the city of San Dimas. We have projects to improve the look of our site at the intersection of Via Verde and San Dimas Ave. All this needs money and this is why we need your help. We are working way too hard putting in over 65 hours a week each with no vacations for 7 years to loose money at the end of the month... This is an impossible, unsustainable, and unacceptable situation, and we know you Gentlemen are not happy about it either. We are promising you today that if you Gentlemen approve our beer and wine license, you will love what we have in store as far as improving the whole corner (which must be very important to the city since it is its entrance from the freeway).

We understand that this is a very touchy subject.... We know there are a lot of rules, regulations, and common sense that go along with it.... But since the business is directly operated by us owners and since we are present 7 days a week for over 10-12 hours a day, and because we are investing all our money in this business, we can assure you that we will abide by all the rules (local, county, state and federal) and have full control. As you have already noticed, we run a tight ship. We will never let things get out of hand and we will make you proud again.

Sincerely,

Bill and Sam Ghosh

A handwritten signature in black ink, appearing to read "Bill", written over the printed name "Bill and Sam Ghosh".

- b. Approval of minutes for regular City Council meeting of June 24, 2008 and Special City Council meeting of June 24, 2008.
- c. Traffic Signal Maintenance Contract – Contract Extension & Annual Cost of Living Adjustment.

END OF CONSENT CALENDAR

6. PUBLIC HEARINGS

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

- a. Municipal Code Text Amendment 08-02; Conditional Use Permit 08-01; DPRB Case No. 08-25 Request to amend Specific Plan No. 17 to permit convenience stores as accessory uses to a service station; operate an accessory convenience store with shared parking on an adjacent property; and a 200 square foot addition to an existing service station. Applicant: Sam Ghosn

ORDINANCE NO. 1181, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING THE SAN DIMAS MUNICIPAL CODE (MCTA 08-02) BY AMENDING CHAPTER 18.528 (SPECIFIC PLAN NO. 17) TO CONDITIONALLY PERMIT ACCESSORY CONVENIENCE STORES UP TO 1,000 SQUARE FEET AND SALES OF BEER AND WINE.

RESOLUTION NO. 08-43, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CONDITIONAL USE PERMIT 08-01, A REQUEST BY SAM GHOSN (VIA VERDE 76) FOR AN ACCESSORY CONVENIENCE STORE AND SHARED PARKING ON THE PROPERTY LOCATED AT 1790 SOUTH SAN DIMAS AVENUE.

Mayor and Council Members disclosed having conversations about the project with the City Attorney, staff, owners of the 76 Station, and interested residents.

Planning Manager Hensley presented the staff report and stated that on March 11, 2008 the City Council requested this item be reconsidered. He outlined the proposed code amendment and conditional use permit that would amend Specific Plan No. 17 to remove the prohibition of convenience stores and allow accessory convenience stores with up to 1,000 square feet of sales floor area with a conditional use permit. He said this proposal also includes a conditional use permit request for an accessory convenience store. Mr. Hensley stated that the City Attorney submitted a memo regarding State regulations as it relates to the sale of beer and wine at a convenience store attached to a gasoline station. The Planning Commission recommended approval of the code amendment and conditional use permit. Staff recommends introduction of Ordinance 1181 and approval of Resolution No. 08-43.

Councilmember Bertone stated he spoke with City Attorney Brown who agreed that because this property is in Specific Plan No. 17, the City has the ability to outright disallow beer and wine, although challenges may be raised to that restricted zoning.

In response to Councilmember Ebiner, Planning Manager Hensley replied that the City Council could decide to keep language allowing the sale of beer and wine as part of a conditional use permit, or that language could be deleted from the proposed ordinance.

In response to Mayor Pro Tem Badar, Mayor Morris stated that the conditional use permit operation cannot be used to deny the use, and only reasonable standards can be placed on that conditional use.

ATTACHMENT #2

City Attorney Brown stated that the staff report was written based on discussions he had with Mr. Hensley. He said even though the applicant was not requesting the sale of beer and wine, they decided to address it and provide for it in the event someone would request the use. However, the applicant will still have to apply for a conditional use permit. He agreed with Mayor Morris that it would be difficult to deny the use unless official findings were made to support that denial. He said it is his opinion that if the City Council wants to prohibit the sale of beer and wine, the City Council can change the ordinance to prohibit the use. If someone in the future requests the sale of beer and wine, they have the option of filing another application for a change in the zoning code.

Councilmember Bertone explained that the City Council cannot deny the sale of beer and wine if the zone allows it to be sold anywhere else in that zone. He said beer and wine are not allowed to be sold in Specific Plan 17; and since this is an accessory use, if the gas station closes, the accessory use closes as well.

Manager Hensley pointed out there's a limitation of available parking with the property layout. He said staff decided that it was reasonable to provide two parking spaces offsite. He mentioned that in 2007, the applicant requested the removal of all bays and withdrew the request due to inadequate parking.

Mayor Morris opened the public hearing and invited testimony first from the proponent, followed by those in opposition.

1) Sam Ghosn, Applicant, distributed a document on how difficult gas sales has become for gas stations to make a profit. He said he is just trying to survive, and he is requesting only what other gas stations have to generate more income. He indicated that his customers and the assisted living facility have no objections to the project. He said he is adding less than 200 square feet to the reverse design building and, therefore, there will be no negative impact from the street. He stated that most of his customers are local residents and his target is to attract Raging Waters/Bonelli Park visitors, which he felt would not cause any negative traffic impact or parking issue. He mentioned that he is not able to compete with any business and intends to sell items related to boats, fishing, and picnics. He added that for the fundraising car wash, there has never been a circulation problem.

2) John Margis, Calle Liseta, said he lives nearby and occasionally stops at the station to buy gas and drinks. He thought it was a great idea that the applicants are trying to increase the selection to better address the needs of their customers and said if they are successful, the City would benefit with increased sales tax revenue. He urged the City Council to adopt Ordinance No. 1181 and Resolution No. 08-43.

3) Susan Crawford, Paseo Teresa, said she is very much in support of this project and indicated that there might be less traffic noise because there will not be as many people driving to and from Von's.

4) Gary Enderele, Via Esperanza, said he watched traffic flow and does not feel the expansion would contribute to additional traffic. He said the majority of gas stations have convenience stores and gas stations must offer something other than gas to survive. He requested the City Council to consider approval.

5) Richard Lukas, Calle Catalina, said his street access is closest to the station. He encouraged the City Council to approve the request.

6) Maher Albouz, Dentist in San Dimas, did not see a reason to deny the project. He frequents the station and has never seen a traffic problem.

7) Bill Ghosn, part owner, said the reason for this project is a matter of survival and fulfilling the needs of their existing customers.

Mayor Morris invited members in opposition to the project to speak:

1) Marvin Ersher provided a brief history of the gas station/service station with an accessory convenience store which he felt would become a full convenience store that sells gas. He indicated that it is not the City's regulatory power to enhance or diminish a financial aspect of a property; it is the City Council's obligation to provide for the common good and public welfare. He strongly recommends a prohibition of beer and wine sales in the zoning ordinance not the conditional use permit as he felt it would have a negative impact on Von's, that has exclusive sale of beer and wine in that center. He addressed the parking requirements and stated that no one would park at the Sunrise property to make a purchase at the convenience market. He thought areas in close proximity to pumps should be marked "no parking" for safety. He stated that the expansion was not an aspiration in 1985 and he didn't think it was an aspiration today.

2) Jim McComb, Calle Solana, President of The Villas at Rancho Via Verde Homeowners Association, said he surveyed the 122 homeowners and did not find a single person in favor of the project because they believed as the customer base increases, traffic congestion would get worse. He indicated that the crime rate has risen significantly in their section of Via Verde and expressed concern that a convenience store in close proximity to the freeway would be a magnet for crime and teens. He said the 122 homeowners feel it is not good policy for their neighborhood and request the City Council to deny this request.

Mayor Morris asked if proponents wished to respond to the opposition.

1) Marlene, Calle Solana, stated neighbors never asked the Via Verde Homeowners Association to represent them to oppose expansion of the store. In fact, residents are in favor of the project and never objected to the expansion of that store.

Mayor Morris said this is an opportunity to comment about the opposition.

2) Sid Maksoudian, Camino del Sur, said business individuals are the heart and soul of this town and he requested the City Council give these gentlemen a chance to expand their business.

There being no one else wishing to speak, Mayor Morris closed the public hearing.

Councilmember Bertone stated he is willing to support this project with a prohibition against beer and wine. He added that he is not in favor of a full convenience store without the gas station.

Councilmember Templeman said he met with the owners, went inside, looked at the bays, and observed the activity. He said Sunday is visitor day for Brighton Gardens and the only available parking was behind Brighton Gardens, not visible to the gas station. He said if shared parking is not dedicated to the convenience store, there is no convenience and parking could be problematic. Also, he received emails from people in opposition who say when the season is heavy, towable vehicles create a circulation problem. He agreed with Mr. Bertone regarding the issue of alcohol and said the decision made tonight will impact gas stations in other parts of the community.

Mayor Pro Tem Badar said it is not unusual for a business to continuously figure out how to bring business in, and in reality, customers already go to the convenience store asking to buy products that are not available there. He stated that only a few persons have expressed a concern with the project, but overwhelmingly, people are not concerned with the expansion of the gas station. He would like to see the project go forward and if beer and wine become problematic, he would agree with Mr. Bertone.

Councilmember Ebner thought the design of the addition would make the gas station look better and he felt it would be beneficial to have goods and services available throughout the community. However, he expressed concern with the 24-hour operation and thought existing parking problems would be exacerbated by the layout and design of the site. He stated he would probably vote against the project.

Mayor Morris stated that the service station was intentionally designed to enhance that corner by having a reverse design, which creates a problem with circulation. He said the world has changed in 25 years and the need for bays is not as great. He indicated that if parking spaces are not available, it is unlikely that customers would stop to shop in the convenience market. He added that this is a municipal code text amendment that amends only Specific Plan No. 17, which consists of two properties and nothing else. He felt that any reference to beer and wine being permitted should be deleted.

Councilmember Bertone stated that after discussion, and reading of the ordinance, he would like to make a motion to have beer and wine prohibited in the ordinance.

Mayor Morris stated he would interpret this to be a not sufficient change that would be required to refer this item to the Planning Commission.

After the title was read, it was moved by Councilmember Bertone, seconded by Mayor pro Tem Badar, to waive further reading and introduce **ORDINANCE NO. 1181, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS AMENDING THE SAN DIMAS MUNICIPAL CODE (MCTA 08-02) BY AMENDING CHAPTER 18.528 (SPECIFIC PLAN NO. 17) TO CONDITIONALLY PERMIT ACCESSORY CONVENIENCE STORES UP TO 1,000 SQUARE FEET.**

The motion carried by the following vote:

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

After the title was read, it was moved by Mayor Pro Tem Badar, seconded by Councilmember Bertone, to waive further reading and adopt **RESOLUTION NO. 08-43, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CONDITIONAL USE PERMIT 08-01, A REQUEST BY SAM GHOSN (VIA VERDE 76) FOR AN ACCESSORY CONVENIENCE STORE AND SHARED PARKING ON THE PROPERTY LOCATED AT 1790 SOUTH SAN DIMAS AVENUE.** The motion carried by the following vote:

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

7. PLANNING/DEVELOPMENT SERVICES

- a. Discussion of temporary banner regulations and consideration of possible amendment.

Director of Development Services Coleman reported that Christ's Church of the Valley has requested that the City amend the San Dimas Municipal Code to allow more than four temporary banner permits in one year. At their June 24, 2008 meeting the City Council considered the request and directed staff to place the matter on the agenda for discussion. Mr. Coleman presented an analysis of current regulations and possible amendments, and said if the City Council wishes to initiate a Municipal Code Text Amendment, staff would recommend increasing the number from four to six banners per year, retaining the maximum display period of 60 days per year, applicable to all businesses and churches.

Mayor Morris invited the applicant to speak on this matter.

Richard Lukas, Administrator, Christ's Church of the Valley, said six banners would cover all their events and he would support staff's recommendation. He appreciates being made aware of that part of the Temporary Use Permit for some outdoor activities held in the parking lot. He also intends to explore the new type of sign that is permitted.

Service Station & Location	Existing Zone	Existing Use	Comments
<i>Arco (formerly Valero) n/w Foothill & San Dimas Canyon</i>	C-H with Scenic Highway Overlay	Gas station with service bays and accessory snack shop	Minor site renovation with change to Arco; scenic highway setback encroachment
<i>Mobil s/w Gladstone & Lone Hill</i>	C-H	Gas station with service bays and accessory snack shop	Site reconstructed with turnaround design; separate building on site; parking/site limited
<i>Costco s/e Gladstone & Lone Hill</i>	SP-24	Gas station	Part of Costco center
<i>Arco n/w Arrow & Lone Hill</i>	SP-2 (allows with CUP convenience store & alcohol)	Convenience store with alcohol and gas station	MCTA in 1992
<i>Mobil North of Arrow @ 57 Freeway</i>	SP-18	Gas station with service bays and accessory snack shop	Part of Ralph's shopping center
<i>Shell s/e Bonita & Arrow</i>	CG-1	Gas station with accessory snack shop	Wants car wash
<i>Bonita Country car wash North of Bonita</i>	CG-2	Gas station, car wash, accessory snack shop	Additional buildings in rear
<i>Chevron n/w Bonita & San Dimas</i>	CG-2	Gas station with service bays and accessory snack shop	Downtown; adjacent to Walker House
<i>Gas Station n/e Arrow & San Dimas</i>	CG-3 (allows with CUP convenience store & alcohol with complete site renovation)	Gas station with oversized snack shop (pre-existing) & alcohol (no CUP)	Proposed code amendment re required design standards; setbacks; parking
<i>Valero s/e Arrow & San Dimas</i>	CG-3 (allows with CUP convenience store & alcohol with complete site renovation)	Gas station with service bays and accessory snack shop	
<i>76 n/e Via Verde & San Dimas</i>	SP-17	Gas station with service bays and accessory snack shop	

ATTACHMENT #3

BROWN
WINFIELD
CANZONERI
ABRAM
INC.

J. KENNETH BROWN

E-MAIL: jkbrown@bwcalaw.com

DIRECT DIAL: 213.687.2101
DIRECT FAX: 213.687.1701

MEMORANDUM

TO: Honorable Mayor and Members of the San Dimas City Council
FROM: J. Kenneth Brown, City Attorney
DATE: June 30, 2008
SUBJECT: Regulation of Sale of Alcoholic Beverages
FILE NO.: 119-9000

At the last City Council meeting, councilman Bertone asked whether the City could prohibit the sale of alcoholic beverages at a convenient store attached to a gasoline service station. The answer is that the City can not, but that it can adopt an ordinance requiring a conditional use permit.

The sale of alcoholic beverages is regulated by state legislation. California Business & Professions Code Section 23790.5 provides that:

"(a) It is the intent of the Legislature in enacting this section to ensure that local government shall not be preempted in the valid exercise of its land use authority pursuant to Section 23790, including, but not limited to, enacting an ordinance requiring a conditional use permit. It is also the intent of the Legislature to prevent the legislated prohibition of the concurrent retailing of beer and wine for off-premises consumption and motor vehicle fuel where the retailing of each is otherwise allowable.

(b)(1) No city, county, or city and county shall, by ordinance or resolution adopted on or after January 1, 1988, legislatively prohibit the concurrent retailing of motor vehicle fuel and beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows motor vehicle fuel and off-sale beer and wine to be retailed on separate sites."

ATTORNEYS AT LAW TELEPHONE: 213.687.2100 FACSIMILE: 213.687.2149 WWW.BWCALAW.COM

ONE CALIFORNIA PLAZA 300 SOUTH GRAND AVENUE, 14TH FLOOR, LOS ANGELES, CALIFORNIA 90071-3124

ATTACHMENT #4

Memorandum to Honorable Mayor and Members of the San Dimas City Council
June 30, 2008
Page 2

Attached is a copy of this complete section of the state law.

Respectfully submitted,



J. Kenneth Brown

City Attorney

JKB/cd

maintained, constituted a nuisance. Further, the ordinance was not a forward-looking zoning ordinance; instead it looked to the past and operated only in response to a specific business with a documented history of nuisance problems. There is no legal impediment to retroactive application of a nuisance abatement ordinance based on the difference between the object and scope of nuisance ordinances and the compelling public necessity to abate nuisances wherever found. *Suzuki v. City of Los Angeles* (1996, 2nd Dist) 44 Cal App 4th 263, 51 Cal Rptr 2d 880, 1996 Cal App LEXIS 306, review denied, (1996) 1996 Cal. LEXIS 3879.

B & P C § 23790 (issuance of retail license contrary to zoning ordinance), did not preempt a city's imposition, pursuant to its nuisance abatement ordinance, of restrictions and conditions on the owners of a licensed liquor store in response to nuisance activity around the store. Although § 23790 protects licensed retail liquor store owners from later enacted ordinances, the plain language of the statute only exempts existing nonconforming uses from compliance with later enacted zoning ordinances, and then only when the business has continuously operated without substantial change in either mode or character of operation. Neither the purpose nor the effect of the city's nuisance abatement ordinance was that of a zoning ordinance. Also, neither the language of § 23790 nor anything in the legislative history of amendments thereto indicates this statute was intended to operate to exempt a nonconforming licensee from compliance with nuisance abatement ordinances whenever enacted. In the absence of a clear legislative mandate to the contrary, there was no valid reason why business owners, such as the own-

ers in the present case, should be exempted from the valid exercise of the city's police power to eradicate an existing nuisance. Thus, § 23790 does not exempt a licensee who allows his or her business to be maintained as a nuisance from a city's administrative procedures to abate what has been found, after proper notice and a hearing, to constitute a nuisance. *Suzuki v. City of Los Angeles* (1996, 2nd Dist) 44 Cal App 4th 263, 51 Cal Rptr 2d 880, 1996 Cal App LEXIS 306, review denied, (1996) 1996 Cal. LEXIS 3879.

B & P C § 23790, which permits alcoholic beverage licensees operating in an area before the enactment of restrictive zoning ordinances to remain in business, did not preempt or otherwise preclude enforcement of a city's ordinance addressing nuisance problems associated with alcoholic beverage sale establishments. A city may properly enact a local ordinance to control and abate nuisance activities, despite the fact that the business that would be regulated by the ordinance possessed grandfather rights that might ordinarily render it immune from compliance with local ordinances. The ordinance did not create any new authority empowering the city to halt operation of an alcoholic beverage sales establishment. It merely created an administrative mechanism that might have resulted in a third party taking action against the alcoholic beverage seller—abatement by a court or license revocation by the State Department of Alcoholic Beverage Control. The conduct that is regulated by the ordinance, the control and abatement of nuisances and criminal activities, did not fall within the ambit of § 23790. *City of Oakland v. Superior Court* (1996, 1st Dist) 45 Cal App 4th 740, 53 Cal Rptr 2d 120, 1996 Cal App LEXIS 446.

§ 23790.5. Sale of beer and wine in conjunction with sale of motor vehicle fuel

(a) It is the intent of the Legislature in enacting this section to ensure that local government shall not be preempted in the valid exercise of its land use authority pursuant to Section 23790, including, but not limited to, enacting an ordinance requiring a conditional use permit. It is also the intent of the Legislature to prevent the legislated prohibition of the concurrent retailing of beer and wine for off-premises consumption and motor vehicle fuel where the retailing of each is otherwise allowable.

(b)(1) No city, county, or city and county shall, by ordinance or resolution adopted on or after January 1, 1988, legislatively prohibit the concurrent retailing of motor vehicle fuel and beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows motor vehicle fuel and off-sale beer and wine to be retailed on separate sites.

(2) On and after January 1, 1989, no city, county, or city and county ordinance or resolution adopted prior to May 5, 1987, shall have legal effect if it legislatively prohibits the concurrent retailing of motor vehicle fuel with beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows beer and wine and motor vehicle fuel to be retailed on separate sites.

(3) On and after July 1, 1988, no city, county, or city and county ordinance or resolution adopted on or after May 5, 1987, shall have legal effect if it legislatively prohibits the concurrent retailing of motor vehicle fuel with beer and wine for off-sale consumption in zoning districts where the zoning ordinance allows beer and wine and motor vehicle fuel to be retailed on separate sites.

(4) This section shall not apply to a prohibition by a city, county, or city and county of the sale of beer and wine in conjunction with the sale of motor vehicle fuel if that prohibition occurs as a result of the prohibition of the combining of the sale of motor vehicle fuel with a broader class of products or uses which includes alcoholic beverages or beer and wine as a named or unnamed part of that larger class, if that prohibition was enacted before August 1, 1985.

(c) Subject to the restrictions and limitations of subdivision (b), this section shall not prevent a city, county, or city and county from denying permission, or granting conditional permission, to an individual applicant to engage in the concurrent retailing of motor vehicle fuel with beer and wine for off-premises consumption pursuant to a valid conditional use permit ordinance based on appropriate health, safety, or general welfare standards contained in the ordinance if that conditional use permit ordinance contains all of the following:

- (1) A requirement for written findings.
- (2) A provision for an administrative appeal if the governing body has delegated its power to issue or deny a conditional use permit.
- (3) Procedures for notice of a hearing, conduct of a hearing, and an opportunity for all parties to present testimony.
- (4) A requirement that the findings be based on substantial evidence in view of the whole record to justify the ultimate decision.

(d) Notwithstanding any other provision of law, establishments engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption shall abide by the following conditions:

- (1) No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler as of January 1, 1988.
- (2) No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
- (3) No sale of alcoholic beverages shall be made from a drive-in window.
- (4) No display or sale of beer or wine shall be made from an ice tub.
- (5) No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.
- (6) Employees on duty between the hours of 10 p.m. and 2 a.m. who sell beer or wine shall be at least 21 years of age.

The standards contained in this subdivision are minimum state standards which do not limit local regulation otherwise permitted under this section.

(e) If there is a finding that a licensee or his or her employee has sold any alcoholic beverages to a minor at an establishment engaged in the concurrent sale of motor vehicle fuel with beer and wine for off-premises consumption, the alcoholic beverage license at the establishment shall be suspended for a minimum period of 72 hours. For purposes of Section 23790, the effect of such a license suspension shall not constitute a break in the continuous operation of the establishment nor a substantial change in the mode or character of operation.

(f) The provisions of this section apply to charter cities.

Added Stats 1987 ch 176 § 1. Amended Stats 1991 ch 108 § 1 (AB 140), effective July 10, 1991; Stats 1994 ch 627 § 3 (AB 463).

Amendments:

1991 Amendment: Substituted "January 1, 1994" for "January 1, 1990" wherever it appears in subds (d) and (e).

1994 Amendment: (1) Deleted "until January 1, 1994," after "consumption shall" in the introductory clause of subd (d); (2) amended subd (d)(6) by (a) adding "who sell beer or

wine"; and (b) deleting "to sell beer and wine" at the end; and (3) deleted "Until January 1, 1994," in the beginning of subd (e).

Law Review Articles:

Review of Selected 1987 Legislation. 19 Pacific LJ 473.

§ 23791. Powers of cities conferred by zoning regulations

Nothing in this division interferes with the powers of cities conferred upon them by Sections 65850 to 65861, inclusive, of the Government Code.

Added Stats 1953 ch 152 § 1. Amended Stats 1961 ch 252 § 1; Stats 1967 ch 232 § 1.

Amendments:

1961 Amendment: (1) Substituted "65800 to 65808" for "38690 to 38706"; and (2) deleted "the "Zoning Law of 1917" at the end of the section.

1967 Amendment: Substituted "65850 to 65861" for "65800 to 65808".

Collateral References:

8 Witkin Summary (10th ed) Constitutional Law § 989.

Annotations:

Zoning regulation of intoxicating liquor as pre-empted by state law. 65 ALR4th 555.

Historical Derivation:

Stats 1935 ch 330 § 15.

NOTES OF DECISIONS

1. Generally

1. Generally

Legislature has expressly negated its intent to extend state control to zoning matters through exercise of its liquor license authority

under § 23790 and this section; local zoning ordinance may validly prohibit use of property for business of selling liquor. *Jon-Mar Co. v. Anaheim* (1962, 4th Dist.) 201 Cal App 2d 832, 20 Cal Rptr 350, 1962 Cal App LEXIS 2664.

§ 23792. Licenses for rural premises near construction work

No license, other than an on-sale beer license, shall be issued to any applicant for any premises situated more than one mile outside the limits of an incorporated city and within two miles of any camp or establishment of men,



Erroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters

*4700 Ramona Boulevard
Monterey Park, California 91754-2169*



November 16, 2012

Blaine Michaelis, City Manager
245 E. Bonita Ave.
San Dimas, California 91773

Dear Mr. Michaelis:

Recently San Dimas Sheriff's Station was to provide statistics regarding alcohol thefts from gas stations that sell beer or wine in the city of San Dimas. Currently, there are only two gas stations in the city that sell beer or wine. They are the "Arco" located at Lone Hill Avenue and Arrow Highway and the "Gas and Go" located at Arrow Highway and San Dimas Avenue.

In addition to these two locations, staff from San Dimas Sheriff's Station researched crime statistics for several other locations in the city that sell beer or wine. These included the major markets and retail stores in the city. The time frame used to obtain these statics was from January 1, 2012 to November 13, 2012.

I would like to point out that, in reviewing the reports, the strong arm robberies were all committed when a petty theft occurred in the store and a clerk followed the suspect out the door and confronted him. There was then either a struggle to regain the stolen alcohol or the clerk was threatened. In either case, the petty theft was then elevated to a strong arm robbery.

Additionally, we reviewed all the locations for other alcohol related offenses which may have occurred at the premises during that same time frame and noted the following:

There were two drunk driving arrests made, one was in the Stater Brother's shopping center parking lot and the other was made in the Ralph's shopping center parking lot. Also, there was one drunk in public arrest made at the Target shopping center.

ATTACHMENT #5

A Tradition of Service Since 1850

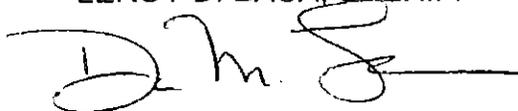
Below you will find a graph listing the business and the thefts of alcohol from the location during the noted time frame.

BUSINESS	STRONG ARM ROBBERY	PETTY THEFT	TOTAL
Arco (Lone Hill & Arrow)	0	0	0
Gas & Go (Arrow & San Dimas)	0	0	0
Albertson's (Bonita Ave.)	1	7	8
Fresh & Easy (Bonita Ave.)	1	0	1
Von's (Via Verde)	0	1	1
Ralph's (Arrow Hwy.)	0	1	1
Trader Joe's (Arrow Hwy.)	1	0	1
Stater Brother's (Arrow Hwy.)	0	1	1
Costco (Lone Hill Ave.)	0	2	2
Target (Arrow Hwy.)	0	1	1
TOTAL THEFTS	3	13	16

If you should have any questions, please feel free to contact me at (909) 450-2701.

Sincerely,

LERROY D. BACA, SHERIFF



Don M. Slawson, Captain
San Dimas Sheriff's Station



Agenda Item Staff Report

TO: Honorable Mayor and Members of City Council
For the Meeting of November 27, 2012

FROM: Blaine Michaelis, City Manager

INITIATED BY: Community Development Department

SUBJECT: Request from Kimco Realty to initiate Zoning Code Amendment to allow various additional uses for the existing shopping center located at 802-888 West Arrow Highway (San Dimas Marketplace/Target) in Specific Plan No. 20.

BACKGROUND

1. *Current Request:* The attached summary outlines additional uses and related modifications being requested for Specific Plan No. 20 (San Dimas Marketplace/Target). These are briefly summarized as follows:
 - Professional business (medical, dental, veterinary, etc.) and service (travel, insurance, etc.) offices up to 15% of total floor area
 - Gym/fitness/health clubs
 - Entertainment/sports/recreation (trampoline, internet gaming)
 - Instructional physical activity (dance studio, karate, taekwondo)
 - Instructional education (sylvan, beauty schools)
 - Second hand stores
 - Eliminate 20,000 square foot minimum for home furnishings, appliance, and hardware
- A separate email states the following reasons for the requested changes:
- Increased opportunities for marketing for new uses not in the market
 - Need to accommodate increased demand for commercial service providers
 - Stay updated with current tenant standards
2. *Uses Permitted in SP-20 Area II:* SP 20 was initially developed in 1987 with a desire to encourage auto dealerships and big box retail users. It developed several years later as a retail center anchored by Target. While not what the zoning may have initially envisioned, the center and its uses generally fit within the zoning limitations and no changes were made at the time of initial development. There have been a number of use determinations over the years to address specific requests on a case-by-case basis. These included veterinary services/overnight boarding (Petco) and specialty market (Trader Joe's).

SP-20 currently provides for the following uses:

18.532.240 Permitted uses. *Uses permitted in area II shall include those businesses listed in this section which operate in compliance with the intent and standards of this district. Each business shall be evaluated in terms of its operational characteristics and specific site location. All uses in area II shall required approval of a conditional use permit pursuant to Section 18.532.250.*

- A. *Sales agencies for new automobiles, recreational vehicles, trucks, trailers, boats and motorcycles and service in connection therewith;*
- B. *Automobile repair garages, fender and body repair and paint shops, operated as an accessory use with a permitted sales agency;*
- C. *Hotels and motels, including retail establishments as part of a hotel or motel complex;*
- D. *Automobile, truck and recreational vehicle part and accessory sales, operated as an accessory use with a permitted sales agency;*
- E. *Hardware and home improvement centers, occupying a minimum floor area of twenty thousand square feet;*
- F. *Home furnishing and appliance outlets, occupying a minimum floor area of twenty thousand square feet;*
- G. *Financial institutions, including banks, savings and loan associations, finance companies and credit unions;*
- H. *Restaurants, provided that they not contain drive-in or drive-through service;*
- I. *Specialty retail, wholesale and catalog stores occupying a minimum floor area of twenty thousand square feet;*
- J. *Specialty retail stores with less than twenty thousand square feet in floor area developed in conjunction within a shopping center incorporating retail, wholesale, home appliance, hardware, and similar stores, outlets and centers with floor area greater than twenty thousand square feet per store;*
- K. *Accessory billiard use, up to a maximum of four tables, which is secondary and incidental to a use permitted or permitted with a conditional use permit, in this zone which is also defined by Section 18.08.007 of this title.*
- L. *Accessory massage permitted with the following primary businesses: day spa, beauty salon, barbershop and similar uses.*

18.532.250 Conditional uses. *Conditional uses in area II of Specific Plan No. 20 are as follows:*

- A. *All uses listed in Section 18.532.240, which because of operational characteristics specific to that particular business is found by the director of community*

development to have the potential to negatively impact adjoining properties, businesses or residents and therefor, requires additional approval and consideration. The impacts may be related to, but not necessarily limited to, impacts of traffic, hours of operation, assemblages of people, noise, or site location;

B. Eating establishments, with drive-through service and/or which serve alcoholic beverages;

C. Sales agencies for used automobiles, recreational vehicles, trucks, trailers, boats and motorcycles and service in connection therewith, operated as an accessory use with a permitted new vehicle sales agency;

D. Cinemas and movie theater facilities in conjunction with a shopping center incorporating retail, wholesale and similar uses with a minimum floor area of twenty thousand square feet per store;

E. Specialty automobile parts and accessory sales, including automobile repair and service facilities as an accessory use;

F. Agricultural and similar uses subject to the provisions of the A-L 20,000 zone.

ANALYSIS

Pursuant to Section 18.208.020.D consideration of a request to initiate a Code Amendments should evaluate the following:

- Will the amendment further the health, safety and welfare?
- Will the amendment adversely affect other property?
- Are there changed conditions to warrant the amendment?

This evaluation can be preliminary and need only pass a standard of having some merit (rather than a conclusive determination) to allow the hearing process to go forward. In most cases the focus has been to establish if there are changed conditions identified adequately in the request.

It is evident that SP-20 requires modification and updating to address a number of standards and uses although that doesn't mean that all uses requested should be permitted or that the requested limitations on those uses are appropriate. With this center, as with others notably San Dimas Station, there has been a growing trend away from uses that are primarily retail in nature. These trends include various types of offices, fitness centers, second hand businesses, sports activities and the like. In the past the City has largely addressed these uses through various interpretations and through uses determinations. For example, the City has established a policy to guide the appropriate amount of offices in shopping centers – generally 10% of the gross floor area not to exceed 3000 square feet.

Staff would desire some discussion regarding the changing nature of shopping centers and uses prior to considering the modifications to SP-20.

- Should they maintain a primarily retail focus?
- What is the appropriate amount of non-retail or service type businesses?

- What about specialty businesses such as fitness centers or sports activities?
- What about uses that can impact other businesses by having differing hours of operation, higher parking demands, etc.?

In considering changes there should probably be some consideration of appropriate entitlement procedures and addressing increased parking demand associated with at least some of the identified uses. It should be noted that there can be a wide variety of differing impacts within the same business category such as massage businesses and secondhand stores. It is certainly not necessary at this stage to direct in detail exactly what changes should be considered in the subsequent hearings but it is beneficial to provide some direction on the scope of any changes and the issues that should be addressed.

Above and beyond the particular request at hand for SP-20, some consideration might be given to looking more broadly at how the City regulates uses within existing major shopping centers. This could include Via Verde Shopping Center (C-N Zone), Stater's Shopping Center (SP-2), San Dimas Plaza/Ralph's (SP-18), San Dimas Station (CG-1), Lowe's (CG-1), and Albertson's (CG-2). This approach covers a wide variety of zones and could add complexity to the procedure of considering revisions. In addition, some of these centers have differing anchors such as market/drug which can distinguish them from centers like Target.

Changing the focus of retail centers away from retail businesses has other impacts especially with the demise of redevelopment. It may be more important to retain uses which are sales tax generators over businesses that primarily provide services. The difficulty is in trying to define the right mix. It is not necessarily the responsibility of the City through its zoning to ensure that any use be accommodated to assist in keeping a center "full." The City should, when considering changes in types of uses, look at a broader picture to balance community interests and its own fiscal needs.

It is evident that some retail centers have more significant tenanting issues than others and a variety of factors contribute to those conditions including location, age and condition, antiquated designs, management, maintenance and the general economic times.

RECOMMENDATION

Direct Staff as deemed appropriate regarding alcohol sales in SP-17 and regarding the scope of any other consideration regarding convenience stores and alcohol affecting other service stations in the City.

Respectfully Submitted,



Larry Stevens,
Community Development Director

Attachments:

Summary of requested changes prepared by Kimco Realty



MUNICIPAL CODE TEXT AMENDMENT APPLICATION

San Dimas Marketplace
844 W. Arrow Highway
San Dimas, CA
Specific Plan 20 Area 2

Additional Permitted Uses at San Dimas Marketplace to include:

- Professional Business Office to include but not limited to; Medical, Dental, Veterinary, Optometry etc. (The maximum allowed S.F. of this permitted use will not exceed 15% of total building area);
- Professional Service Office to include but not limited to Travel, Insurance, etc. (The maximum allowed S.F. of this permitted use will not exceed 15% of total building area);
- Gym / Fitness / Health Club to include but not limited to Pilates, Yoga etc...
- Entertainment / Sports / Recreational (Permitted uses to include but not limited to uses such as; Skyzone trampoline; Howie's Game Shack Internet Gaming);
- Instructional Physical Activity (Permitted uses to include but not limited to Dance Studio, Karate, TKD etc);
- Instructional Education (Permitted uses to include but not limited to Kimon or Sylvan, Beauty and professional school);
- General Merchandise / Second Hand Stores. (Permitted uses to include but not limited to; Savers, Goodwill / Threads, Salvation Army etc.).

In addition to the request for additional Permitted Uses above, the following additional Text Amendments, within Specific Plan 20 Area 2, to be considered are as follows;

- Remove the minimum 20,000 S.F. requirement for Home Furnishings and Appliances
- Remove the minimum 20,000 S.F. requirement for Hardware and Home Improvement Centers

San Dimas Marketplace Tenant Roster

October 23, 2012

Tenant Name	Address	Square Feet	Required Parking Ratio	Required Parking Stalls
Target	888 West Arrow Highway, San Dimas, CA 91773	117,000		
Stein Mart	826 West Arrow Highway, San Dimas, CA 91773	30,000		
Ross Dress for Less	818 West Arrow Highway, San Dimas, CA 91773	27,200		
Petco	822 West Arrow Highway, San Dimas, CA 91773	15,000		
Dress Barn	810 West Arrow Highway, San Dimas, CA 91773	13,000		
Party City	852 West Arrow Highway, San Dimas, CA 91773	10,000		
Trader Joe's	856 West Arrow Highway, San Dimas, CA 91773	8,500		
Anna's Linens	802 West Arrow Highway, San Dimas, CA 91773	7,500		
Vacant	848 West Arrow Highway, San Dimas, CA 91773	7,000		
Hallmark Creations	870 West Arrow Highway, San Dimas, CA 91773	6,500		
Aaron Brothers	840 West Arrow Highway, San Dimas, CA 91773	6,480		
AT&T Wireless	830 C West Arrow Highway, San Dimas, CA 91773	2,570		
Inland Beauty & Supply	860 A West Arrow Highway, San Dimas, CA 91773	2,500		
Vacant	842 West Arrow Highway, San Dimas, CA 91773	2,300		
Foot Solutions	844 West Arrow Highway, San Dimas, CA 91773	2,000		
Chopsticks House	860 B West Arrow Highway, San Dimas, CA 91773	1,950		
Little Caesar's	806 B West Arrow Highway, San Dimas, CA 91773	1,850		
Kaich Coffee	806 A West Arrow Highway, San Dimas, CA 91773	1,600		
Philly's Best	806 C West Arrow Highway, San Dimas, CA 91773	1,600		
Scotttrade	866 West Arrow Highway, San Dimas, CA 91773	1,500		
GNC	830 B West Arrow Highway, San Dimas, CA 91773	1,350		
AUM Threading & Beauty	814 West Arrow Highway, San Dimas, CA 91773	1,200		
D.C. Nails	830 A West Arrow Highway, San Dimas, CA 91773	1,200		
Vacant	844 A West Arrow Highway, San Dimas, CA 91773	1,200		

Total Existing Building Square Footage 271,000

Parking Provided	Required Parking Stalls
Handicap Parking Stalls	32
Regular Parking Stalls	1258
Total Parking Spaces:	1290

Parking Ratio Provided 4.75
Stalls / 1000 SF



MEMORANDUM

DATE: November 27, 2012

TO: Mayor and City Council

FROM: Community Development Department

SUBJECT: Budget Adjustment for Housing Element to increase funding from \$25,000 to \$50,000

The FY12-13 budget allocates \$25,000 to prepare an update to the 2008 Housing Element. It is required to update the Housing Element to address the revised RHNA (Regional Housing Needs Assessment) for 2014-2022. Changes in the Housing Element cycle were included in SB 375 to align the RHNA and RTP (Regional Transportation Plan) processes. It is critical to secure timely State HCD (Housing & Community Development) certification by October 2014 to ensure the opportunity to be eligible for an eight year review (versus a four year review).

For this cycle SCAG has assigned the following RHNA projections:

Income Category	Households
<i>Very Low</i>	121
<i>Low</i>	72
<i>Moderate</i>	77
<i>Above Moderate</i>	193
TOTAL	463

Staff was not successful in appealing these projections.

Staff secured a proposal of \$49,332 from KWA (Karen Warner Associates). KWA prepared the 2008 Housing Element for San Dimas and is completely familiar with the City and the issues we will need to address. The proposal is more than cost effective in comparison to similar proposals from other firms made to cities in the surrounding area.

We are hopeful that we will be able to use the new "stream-lined" process outlined in recent memoranda and workshops by HCD. The proposed schedule is as follows:

1. Kick-off November 2012
2. Public Outreach Including

Joint Planning Commission/ City Council Study Session)	December – February 2013
3. Screen Check	March 2013
4. Public & HCD Review	April-May 2013
5. CEQA	April-June 2013
6. Public Hearings/HCD Submittal	July-September 2013

Staff intends to bring several matters related to the Housing Element to the December 10, 2012 Retreat for preliminary discussion and guidance.

RECOMMENDATION:

Transfer \$25,000 from General Fund Reserves to Account 01-4308-020-015 for preparation of 2014-21 Housing Element.



Agenda Item Staff Report

TO: Honorable Mayor and Members of City Council
For the Meeting of November 27, 2012

FROM: Blaine Michaelis, City Manager

INITIATED BY: Ken Duran, Assistant City Manager

SUBJECT: Request from Waste Management for refuse service rate increase

SUMMARY

The City's franchise agreement with Waste Management allows for an annual rate adjustment based upon a formula factoring in changes to the Consumer Price Index (CPI), fuel cost index and landfill and disposal costs. Based upon the formula Waste Management is requesting an increase of 1.35% for all services effective January 1, 2013. It is recommended that the Council approve Waste Management's request for the rate increase pursuant to the terms of the agreement.

BACKGROUND

The existing solid waste franchise agreement with Waste Management went into effect in February 2008. The adoption of the Agreement at that time included an 8% increase to rates for all services.

The Agreement also included a second automatic increase that was scheduled to become effective January 2009. As Council will recall when Council discussed the January increase there was also a discrepancy over the elimination of the commercial additional container discount. The action taken by the Council in November 2008 was to approve the 8% increase effective January 2009 and revisit an additional 4% increase upon Waste Management's completion of a commercial recycling audit. Waste Management completed the audit in April 2009 and the Council approved the additional 4% increase effective June 2009.

The Agreement also has a rate adjustment formula for annual rate adjustments beginning January 2010. The formula is based upon three weighted

components; a service component based upon the annual Consumer Price Index (CPI), fuel component based upon a fuel cost index and disposal component based upon landfill and disposal costs. Each component is weighted and makes up a percentage of the overall rate adjustment formula.

In 2010 the formula calculation resulted in a rate increase of less than 1%, at which time Waste Management decided to forgo requesting an increase for that year. In 2011 the increase was 1.33% and in 2012 the increase was 3.4%, all based upon the formula.

The formula for this year's adjustment request is as follows:

Rate Component Annual Change Assumptions:

	Sep-11	Sep-12	Index Change	Percent o Change
CPI - Service Component	233.02	238.10	5.08	2.18%
DOE On Highway Diesel - Fuel Component	4.06	4.46	0.40	9.83%
Disposal				-0.70%

Rate Component	Adjustment due to change in indices/change in disposal fees	Relative Weight of Rate	Weighted Rate Adjustment Percentage
Service Component (75% of CPI)	1.64%	65%	1.06%
Fuel Component	9.83%	5%	0.49%
Disposal Component	-0.70%	30%	-0.21%
Total		100%	1.35%

Using Current Rate of \$25.41

Current Rate	\$26.27
Rate Increase%	1.35%
Rate \$ Increase	\$0.35
Adjusted Rate	\$26.62

Based on 64-gallon

As is illustrated in the chart the Service Component change is 2.18% which is the September year to year Cost of Living Index increase. The Fuel component

increase is 9.83% based upon the year to year changes in the California No 2 Diesel Retail Sales Index. The Disposal Component is based upon the actual increase or decrease in disposal costs for each of the disposal or transfer facilities used and weighted based upon the percentage of waste disposed at each facility. The combined result factoring the various facilities used resulted in a -0.70 percent change for the disposal component.

Factoring in all three of those weighted components results in the requested 1.35% increase for all services. As is illustrated in the example above the actual amount of the increase for an average residential customer with a 64 gallon container would be \$0.35 per month. A commercial customer with a 3 yd. container serviced once per week would experience a \$0.98 per month increase.

This past year the City and Waste Management began the implementation of the State mandated mandatory commercial recycling. There are several recycling options that are available for commercial businesses. One of them is the utilization of residential type 64 gallon containers. This service has been utilized by some customers for several years. It has come to Waste Management's attention that even though this service has been utilized by businesses they have not been paying extra for the service, nor is there an established rate for the service. Waste Management is requesting that the City approve a rate for the service and add it to the rate schedule for commercial services. They are proposing a rate of \$26.62 per month for up to two 64 gallon containers picked up once a week. This rate is consistent with the residential rate for 64 gallon container service. Staff feels that this is a reasonable and equitable rate. Waste Management will not charge existing customers who already have this service but will charge new customers adding this service or existing customers who change service.

ANALYSIS

Staff has reviewed the indices data and formula methodology and finds them in compliance with the Agreement. The weighted formula appears to be a fair methodology to allow the rates to reflect the actual increases and decreases in the cost for providing the solid waste services. The Consumer Price Index did increase by 2.18% from September 2011 to 2012. We are all aware that fuel prices increased in portions of 2012 resulting in the increase in the fuel index. The disposal component is based upon the actual increase or decrease in the disposal costs for each of the disposal or transfer facilities used and weighted based upon the percentage of waste disposed at each facility. Two of the facilities used, Athens and Puente Hills for green waste as alternative daily cover, had no rate change. Puente Hills, for general refuse, had a 0.4% increase while Valley Vista had a 0.6% decrease. 82% of all waste went to the Valley Vista transfer station. When factoring in the weighted percentages the overall adjustment for the disposal component is 0.7% decrease. Therefore, the resulting 1.35% increase appears to meet the requirements of the rate increase formula identified in the Franchise Agreement.

The rate increase formula is not performance based but based upon the cost factors as prescribed in the Franchise Agreement. However, staff finds that Waste Management is in compliance with the terms and conditions of the Franchise Agreement. The Agreement does allow for a periodic public hearing performance review of Waste Management services. In March 2011 the City Council did conduct a public hearing performance review with no significant performances issues raised. This past year the City and Waste Management worked closely together to develop and begin to implement the new State Legislative requirement for mandatory commercial and multi-family residential recycling which became effective in July 2012.

RECOMMENDATION

Since the requested increase of 1.35% conforms to the formula allowed for in the franchise agreement, staff recommends that the City Council approve the rate increase for residential and commercial services requested by Waste Management effective January 1, 2013. Staff also recommends added the rate of \$26.62 for commercial 64 gallon recycling container service.

Attachments: Waste Management Request Letter, Rate Adjustment Formula,
Proposed rate sheets



WASTE MANAGEMENT
San Gabriel / Pomona Valley District
13940 E. Live Oak Avenue
Baldwin Park, CA 91706
(626) 960-7551

October 31, 2012

Mr. Ken Duran
Assistant City Manager
City of San Dimas
245 W. Bonita Avenue
San Dimas, CA 91750

RE: Annual Price Increase Request

Dear Mr. Duran:

Pursuant to our franchise agreement, Section 22.6, Waste Management respectfully requests an adjustment of the service rates to be effective January 1, 2013.

The rate increase formula and calculations based on service at 65%, fuel at 5% and disposal at 30% is attached. You will see that the two of the three weighted components of the rate have risen and will increase the San Dimas 2013 rates by 1.35%.

Moving towards the New Year, 2013, we look forward to the challenges of new legislation and the mandates expected therein. Working with your excellent staff we will develop and implement programs that will enhance existing recycling services in the San Dimas commercial/industrial, multi-family sectors and work toward finding beneficial uses for horse manure in the equestrian community, and resolving the challenges of third party billing.

Sincerely,

Carolyn Anderson Corrao
Representative to City of San Dimas
Waste Management San Gabriel/Pomona Valley

Cc: Blaine Michaelis, City of San Dimas
Mark Stackle, Waste Management
Cheryl Lautman, Waste Management

Attachment: Rate component work sheet

2012 - 2013 Rate Adjustment
San Dimas

Rate Component Annual Change Assumptions:

	Sep-11	Sep-12	Index Change	Percent of Change
CPI - Service Component	233.02	238.10	5.08	2.18%
DOE On Highway Deisel - Fuel Component	4.06	4.46	0.40	9.83%
Disposal				-0.70%

Rate Component	Adjustment due to change in indices/change in disposal fees	Relative Weight of Rate	Weighted Rate Adjustment Percentage
Service Component (75% of CPI)	1.64%	65%	1.06%
Fuel Component	9.83%	5%	0.49%
Disposal Component	-0.70%	30%	-0.21%
Total		100%	1.35%

Using Current Rate of \$25.41

Current Rate	\$26.27
Rate Increase%	1.35%
Rate \$ Increase	\$0.35
Adjusted Rate	\$26.62

Based on 64-gallon

City of San Dimas Residential 2013 Rates
Effective January 1, 2013

1.35%

	2013 Rate	Unit
Mechanized Curbside Collection – Minimum Service (35 gallon Solid Waste, 64 gallon Recycling, 96 gallon Green Waste)	\$ 22.81	Per month
Mechanized Curbside Collection – Standard Service (64 gallon Solid Waste, 64 gallon Recycling, 96 gallon Green Waste)	\$ 26.62	Per month
Mechanized Curbside Collection – Oversize Service (96 gallon Solid Waste, 64 gallon Recycling, 96 gallon Green Waste)	\$ 30.44	Per month
Additional 35 gallon Mechanized Solid Waste Container	\$ 8.49	Per month
Additional 64 gallon Mechanized Solid Waste Container	\$ 9.82	Per month
Additional 96 gallon Mechanized Solid Waste Container (Additional Solid Waste Containers available only to residences using the 96-gallon size for Solid Waste.)	\$ 11.15	Per month
Additional 64 gallon Recycle Containers (in excess of two)	\$ 1.93	Per month
Additional 96 gallon Green Waste Containers (in excess of two)	\$ 3.08	Per month
Mechanized Container Size Exchange (after first 60 days)	\$ 23.13	Per Container
Bulky Goods Collection (Over 3 cubic yards or in excess of six no-charge collections)	\$ 38.53	Per cubic yard
Residential Extra Pick Up	\$ 30.83	Per Trip
Replacement of damaged or lost Mechanized Container (After one free replacement per customer)	\$ 77.08	Each
Back yard Service - in addition to standard rate	\$ 11.93	

City of San Dimas

COMMERCIAL and INDUSTRIAL RATES EFFECTIVE JANUARY 1, 2013

1.35%

Bin Size	1X	2x	3X	4X	5X	6X
1.5 Yard Bin	\$120.06	\$201.92	\$272.96	\$359.74	\$428.46	\$529.69
Each Addl Bin	\$80.14	\$127.29	\$156.97	\$205.92	\$253.06	\$300.22
Extra Pick Up	\$72.04					
2 Yard Bin	\$132.87	\$224.03	\$291.01	\$382.21	\$475.17	\$566.39
Each Addl Bin	\$92.96	\$149.46	\$186.44	\$241.62	\$296.34	\$354.56
Extra Pick Up	\$79.74					
3 Yard Bin	\$160.96	\$270.16	\$347.08	\$456.99	\$566.88	\$676.60
Each Addl Bin	\$122.07	\$195.54	\$241.19	\$318.11	\$391.54	\$466.72
Extra Pick Up	\$96.57					
4 Yard Bin	\$189.37	\$316.24	\$401.44	\$514.57	\$658.64	\$787.24
Each Addl Bin	\$147.72	\$241.62	\$297.25	\$373.96	\$483.28	\$577.15
Extra Pick Up	\$113.62					
6 Yard Bin	\$249.32	\$411.88	\$518.81	\$684.80	\$849.06	\$1,013.31
Each Addl Bin	\$209.39	\$337.21	\$411.12	\$543.41	\$671.96	\$801.50
Extra Pick Up	\$149.60					

Commercial Recycling Rates 2013

Bin Size	1X	2X	3X	4X	5X
1.5 Yard Bin	\$69.12	\$121.43	\$176.82	\$229.13	\$281.43
2 Yard Bin	\$71.87	\$123.65	\$184.67	\$236.45	\$288.23
3 Yard Bin	\$73.74	\$135.05	\$196.38	\$257.68	\$318.99
4 Yard Bin	\$80.22	\$143.37	\$208.10	\$271.25	\$334.40
6 Yard Bin	\$91.46	\$164.71	\$234.64	\$307.89	\$381.14
64 Gal Cart (up to)	\$26.62				

Roll off (includes delivery and 5 tons)	\$ 574.21
Price per ton above 5 tons	\$ 36.69
Insta Bin	\$ 151.98
Compactor Rate - includes 5 tons / roll off rate +	\$ 153.30
Front Load Compactor - Bin Rate X 2.5	
Roll off disposal rate for C & D (per ton)	\$ 61.84

* based on disposal sites rates



Agenda Item Staff Report

To: Honorable Mayor and Members of the City Council
For the Meeting of November 27, 2012

From: Krishna Patel, Director of Public Works 

Subject: **San Dimas Avenue Bicycle Traffic Safety between Avenida Loma Vista to Avenida Domingo**

- (1) Appropriation of \$15,500 from the Infrastructure Fund for minor pavement repairs and modification of existing roadway striping to accommodate relocated westerly bike lane
- (2) Waiver of formal bid process in retaining a contractor for minor pavement repairs and to remove and re-stripe San Dimas Avenue

BACKGROUND

San Dimas Avenue between Via Verde and Puddingstone Drive is classified as a major arterial street and is carrying approximately 7,000 vehicles per day. The speed limit is 50 miles per hour south of Avenida Loma Vista and 55 miles per hour north thereof until Puddingstone Drive.

In 2007, after a series of accidents on San Dimas Avenue between Via Verde to Puddingstone and after extensive Civil and Traffic Engineering Traffic studies, Council approved the implementation of several Traffic Safety Committee's recommendations. One of them was to restripe San Dimas Avenue in the following manner and as per Attachment A:

- Center striped median varying in from 9 to 10 feet with 12 foot travel lane south of Avenida Loma Vista to Avenida Domingo.
- North of Loma Vista the median width varies from 6 to 10 feet.
- Striping alignment followed or is close to street curb alignment to guide the northbound drivers away from the raised medians and concrete bridge columns that support the SR57 over crossing.
- Overall the center striped median provides a separation between the two north and south bound travel lanes.
- On the east side, in addition to the existing bike lane, from south of Loma Vista to approximately 1,500 feet further south allows for a 4 foot wide striped buffer area.
- On the west side, the existing bike lane was to remain as is.

DISCUSSION

As we can all attest Via Verde, south of San Dimas Avenue is an extremely popular regional bicycle route of the bike lane which was installed several years ago. It also provides a vital connection to the popular bicycle trail within Bonelli Park.

In December 2011, it was brought to the City's attention that approximately 1500 linear feet of the existing westerly bike lane north of Avenida Domingo has experienced severe street pavement distress caused by underlying bedrock heave. This undulated heaving has caused the segments of the existing bike lane to be out of compliance and in need of major repairs. The heaving has caused severe damage to existing curbs, gutters, and pavement. San Dimas Avenue is the only alternative available for a Class II Bike Lane (a striped minimum 5 feet lane).

In addition, in May 2011, Traffic Safety Committee reviewed concerns from several residents that the speed of vehicle traffic and bicyclists made apparent dangerous situation for residents and visitors entering or existing Avenida Domingo at San Dimas Avenue. To improve and enhance traffic and safety at this location, the Traffic Engineer and Traffic Safety Committee recommended a complete re-design of the striping and signage in this area that provided a dual benefit of creating safety for cyclist while at the same time improving the overall safety at this location. A review of the street design and lane widths by the Traffic Engineer determined a safer option can be implemented, which provides for a safe uninterrupted travel way for the cyclist, as well as serve the twofold purpose of slowing down vehicles with reduced lane widths and pavement markings (as per Attachment C). The proposed restriping recommendations were to be incorporated when this segment of San Dimas Avenue is slurried in fiscal 2012-2013.

ANALYSIS

In recognizing the popularity of San Dimas Avenue portion of the bike lane to the cycling community as well as it's provides a link from the southern half of the City that is split physically, separated by the 57 Freeway.

In April 2012, the City filed for a grant application funding in the amount of approximately \$100,000 with the State for the necessary repairs of the bike lane. Unfortunately, in October the State informed us that our application was not successful. Due to the ongoing, potential traffic safety issues being caused by the rough pavement to the westerly bike lane. Two options are provided for council consideration:

Option 1:

1. To close down the existing bike lane until funds become available
2. Change this section of the bike lane to a bike route

In doing this we would likely create more serious confrontations between the vehicle and cyclist as they jostle each other for space. In addition, it's likely that a cyclist may wander out into the vehicle lane as he struggles to climb the steep hill. Secondly, due to popularity of the route, it's likely there will be numerous complaints from the bicycle advocates.

Option 2:

- Reduce center striped median in varying width from existing 9 or 10 feet down to a minimum 4 feet with 12 foot travel lane areas of bike lane experiencing rough street pavement distress between Loma Vista to Avenida Domingo (Attachment B).
- Abandon existing westerly bike lane in areas experiencing rough street pavement distress between Loma Vista to Avenida Domingo and stripe it with chevron markings.
- Restripe a 7 feet bike lane 3 feet from westerly curb face just outside the fringes of the rough pavement instead of standard 5 feet bike lane.
- Realign bike lane at Avenida Domingo to accommodate a dedicated right turning to the gated community per Traffic Committee recommendations upon completion of slurry project.

The proposed wider bike lane provides two advantages:

- I) Two Cyclists can ride side by side
- II) Faster rider can pass the slower ones. This is particular advantages given the steeper uphill ride which cause the less experienced cyclists to travel at a slower pace, than the experienced ones.

San Dimas Avenue Rehabilitation-Since San Dimas Avenue was constructed in 1967 by the State as part of a freeway local street improvement project and due to ongoing uncontrollable underlying soil expansion that's causing the pavement to heave, undulate and crack, it should be noted the street is also in need of reconstruction. Depending on funding availability and priority with other street projects, our plan is to reconstruct the roadway in fiscal year 2013-2014. However, as an interim measure, Staff

recommends that we implement Option 2 as approved by the Traffic Safety Committee at its November 21st meeting. Plans that have been prepared by RKA Civil Engineering and reviewed by the City Traffic Engineer.

Funding-To implement the recommendations of the Traffic Safety Committee to restripe San Dimas Avenue on an interim basis as per Option 2, Staff requests City Council authorize the appropriation of \$15,500 from the Infrastructure Fund.

Waiver of Formal Bid Process-Staff is requesting that the City Council consider waiving the formal bid process and authorize approval to:

1. Obtain informal bids from qualified contractors or the City contractor if he is able to complete in a timely manner.

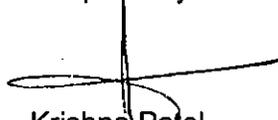
Waiver of the formal bid process will expedite the striping work referenced herein.

RECOMMENDATIONS

Staff recommends that the City Council approve the following:

- 1) Implementation of November 21st Traffic Safety Committee's recommendation to restripe San Dimas Avenue as per Option 2 as described above.
- 2) Appropriation of \$15,500 from the Infrastructure Fund for minor pavement repairs and modification of existing roadway striping to accommodate relocated westerly bike lane
- 3) Waiver of formal bid process in retaining a contractor to remove and re-stripe San Dimas Avenue and complete minor pavement repairs

Respectfully submitted,



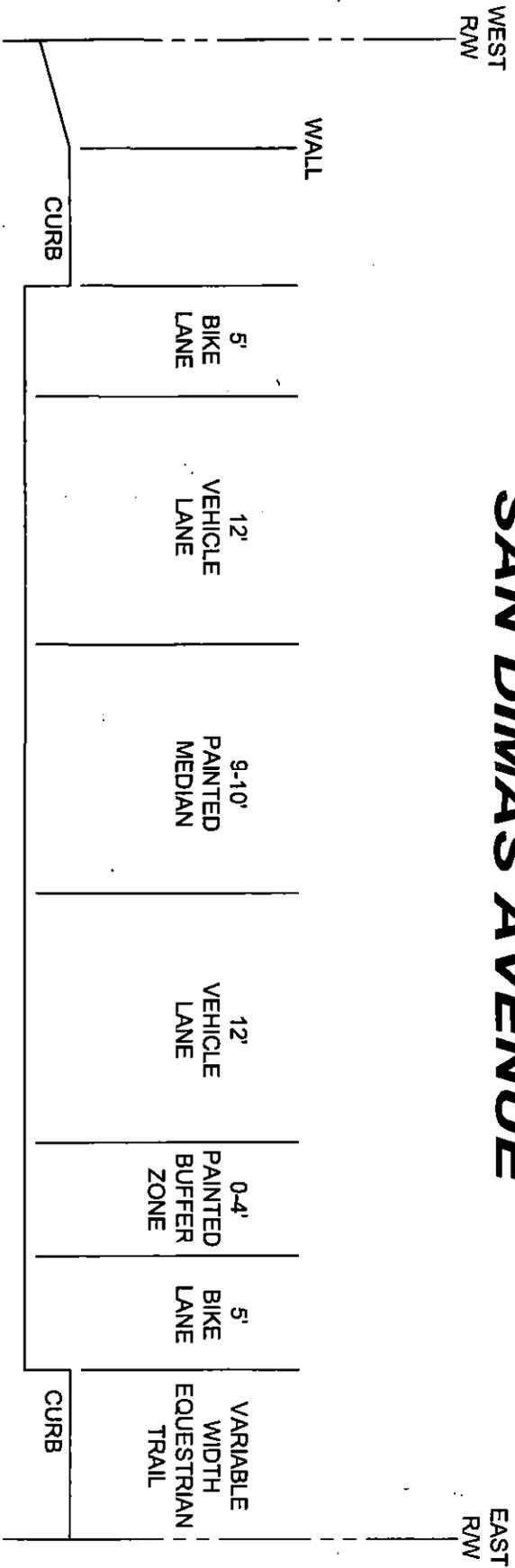
Krishna Patel
Director of Public Works

11-12-10/kp

Attachments:

- Attachment A – Existing Striping Layout
- Attachment B – Proposed Striping Layout (Option 2)
- Attachment C – Proposed Re-Stripe of Avenida Domingo

SAN DIMAS AVENUE



TYPICAL SECTION (N.T.S.)

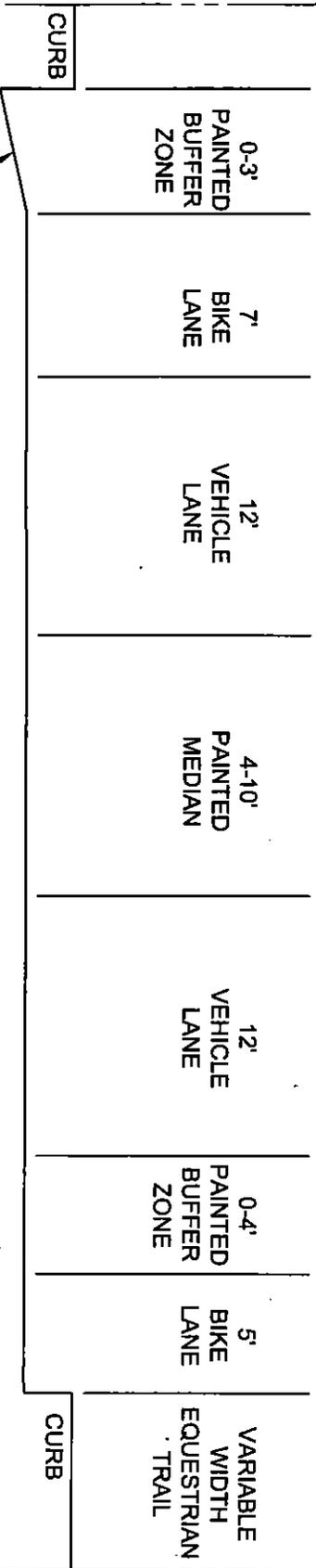
AVENIDA LOMA VISTA TO 1500' SOUTH

ATTACHMENT "A" EXISTING STRIPING LAYOUT

SAN DIMAS AVENUE

WEST
RM

EAST
RM



AREA OF
ROUGH
PAVEMENT

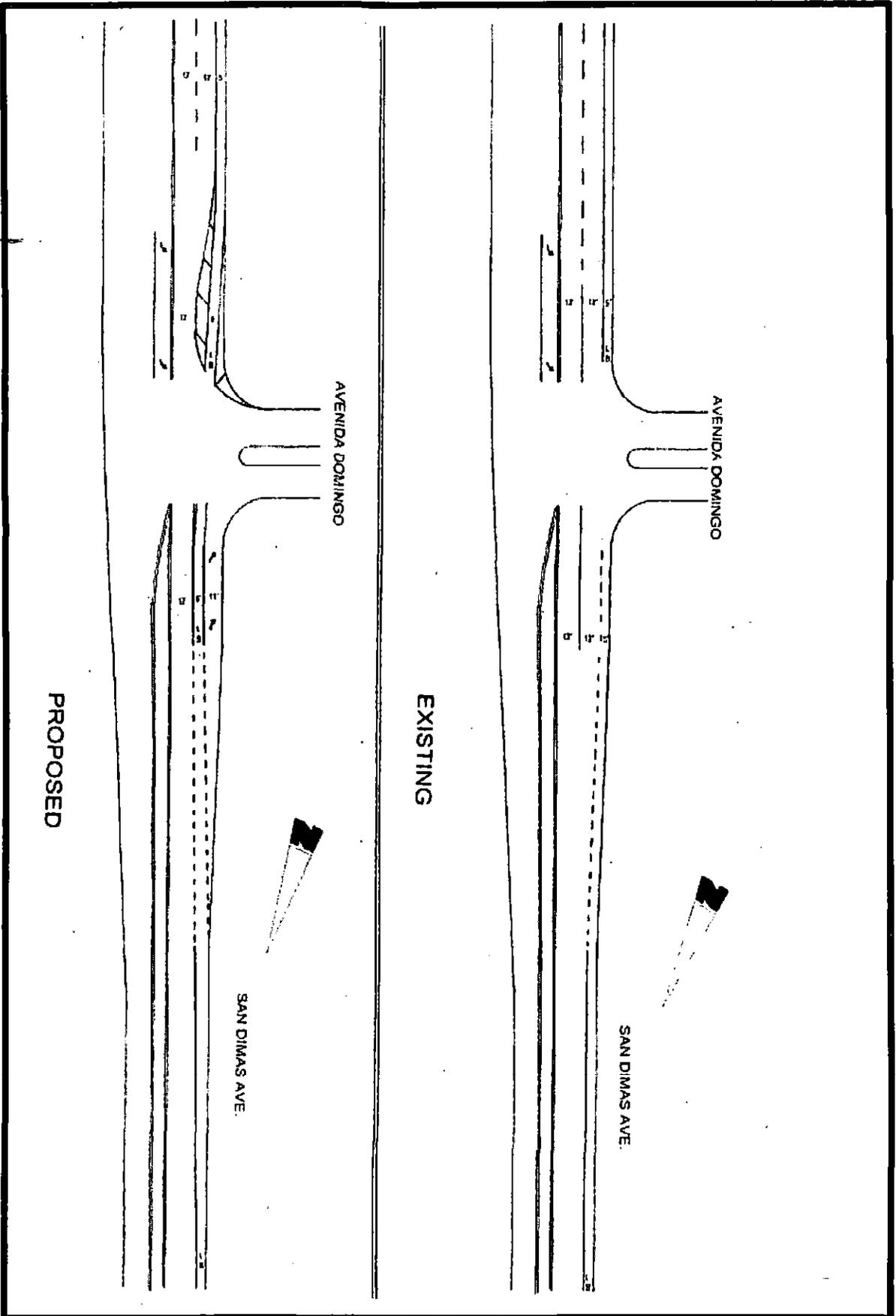
TYPICAL SECTION (N.T.S.)

AVENIDA LOMA VISTA TO 1500' SOUTH

ATTACHMENT "B"
PROPOSED STRIPING LAYOUT
(OPTION 2)

ATTACHMENT "C"

PROPOSED RE-STRIPE AT AVENIDA DOMINGO





Agenda Item Staff Report

To: Honorable Mayor and Members of the City Council
*For the meeting of **November 27, 2012***

From: Blaine Michaelis, City Manager

Initiated By: Public Works Department *MP*

Subject: **Update Regarding Adopted Waste Discharge Requirements For Municipal Separate Storm Sewer System (MS4) Discharges - National Pollutant Discharge Elimination System (NPDES) Permit**

1. Authorization to file a joint Administrative Petition with other cities to place the newly adopted NPDES Permit on hold.
2. Appropriation of \$3,000 from the General Fund to file a joint Administrative Petition with the State of California.

Summary

On November 8, 2012 the Los Angeles Regional Board Members (Board) adopted the National Pollutant Discharge Elimination System (NPDES) Permit with minor changes to be reflected in the draft released on November 5, 2012. This Permit and its requirements will become effective on **December 28, 2012**. Unless the City joins a watershed group or files an Administrative Petition. The administrative petition must be filed no later than December 8, 2012 and may postpone Permit implementation/compliance until a decision is determined.

BACKGROUND

The Los Angeles County Municipal Separate Storm Sewer System (MS4) Permit is a federal National Pollutant Discharge Elimination System (NPDES) Permit (mandated by the Clean Water Act) that regulates discharges of stormwater and urban runoff. The current NPDES Permit was last reissued by the Los Angeles Regional Water Quality Control Board (Regional Board) in 2001. The permit expired in 2006, but was administratively extended pursuant to federal regulations. Permittees, including the City of San Dimas are to continue compliance with the current LA MS4 Permit until the new Permit becomes effective.

DISCUSSION

In June 2012, the Board released a new draft permit for comments with a proposed adoption date of early September. Since this draft Permit release date Staff has prepared comment letters to the Board Staff, Board Members, the Board Executive Officer, as well as Governor Jerry Brown. In these comment letters Staff requested an extension of the proposed Permit adoption date, timeline extension for program implementation not given a compliance deadline, as well as providing an explanation of the financial burden this Permit imposes on the City's budget. Staff also noted support for comment letters submitted by the Los Angeles Permit Group.¹

¹ The Los Angeles Permit Group is a consortium of 62 municipalities that was formed to ensure the proper management of Los Angeles' stormwater, both for flood control and water quality protection.

On August 1, 2012 Staff received a "Response to Comments" letter from the Board, denying our request for an extension of the proposed Permit adoption date. On August 7, 2012, the Board Staff issued a "Notice of Change to Date of Board Hearing..." extending the public hearing from September 6-7, 2012 to October 4-5, 2012 in response to a scheduling conflict with the Annual League of Cities Conference and Expo.

On October 4, 2012 the Los Angeles Regional Board Members (Board) heard testimonies from numerous city managers, directors, staff, and elected officials, including our own Council Member Denis Bertone, expressing the importance of adopting a reasonable and practical NPDES Permit. City representatives expressed financial struggles that have led to reduction of library hours, staffing, public programs, and in one case - elimination of their Fire Department. Smaller cities have expressed concern with the NPDES Permit forcing them into bankruptcy because there is no protection from third party lawsuits should a Permittee be considered out of compliance. Permittees in attendance felt that with the Board raising questions regarding the cities testimonies and financial struggles, it seemed that the Board may delay adoption of the Permit and allow LA Regional Board Staff and Permittees to work through the process more amicably. However, the MS4 Permit was still scheduled for adoption on November 8, 2012.

On November 8, 2012 the Los Angeles Regional Board Members (Board) unanimously adopted the National Pollutant Discharge Elimination System (NPDES) Permit with minor changes to be reflected in the draft released on November 5, 2012. This Permit and its requirements will become effective on **December 28, 2012**.

New NPDES Permit Requirements:

Under this adopted Permit Permittees including the City of San Dimas have three (3) options:

1. Comply with the Permit as it is written;
2. Develop a Watershed Management Program (WMP); or
3. Develop an Enhanced Watershed Management Program (EWMP).

Comply with the Permit as it is written:

Complying with the Permit as written does not provide Permittees with protection from third party litigations, as compliance measures can be assessed from day one of the Permit adoption. Compliance measures in the New NPDES Permit include (but are not limited to) the following:

- Implementation of a Residential Outreach and Business Assistance Program
- Inspect industrial and commercial facilities that have not been inspected by the Regional Board
- Implementation of a Progressive Enforcement Policy
- End of pipe (outfall) monitoring
- Enhanced tracking and inspection of storm water pollution prevention efforts will have to be initiated by the City for all projects.
- More stringent construction requirements for builders

These issues are of a concern to us for the following reasons.

- Unknown liability because of the threat of litigation from environmental groups and/or fines from the Board.
- The permit does not provide protection even if we are trying to comply.
- The new requirements do not provide funding and compliance costs appear to be extensive for all cities covered under the permit.

Watershed Management Program (WMP):

The Regional Board encourages Permittees to collaborate and develop a Watershed Management Program. Development of a Watershed Management Program provides Permittees with the flexibility to implement the requirements of the Permit on a watershed scale through customized strategies, control measures, and best management practices (BMPs).

Participation in a Watershed Management Program is voluntary and allows Permittees to address the highest watershed priorities, including complying with the requirements of the following sections of the Permit: (1) Receiving Water Limitations, (2) Total Maximum Daily Load Provisions by customizing the control measures in Parts III.A.4 (Prohibitions – Non-Storm Water Discharges) and VI.D (Minimum Control Measures).

Permittees are required to notify the Regional Board no later than June 26, 2013 of the intent to develop a WMP and a draft WMP must be submitted to the Regional Board 18-months after the Permit effective date. However, in the interim of preparing such a plan Permittees must continue implementation of current NPDES Permit Programs in addition to the following:

- Implementation of a Low Impact Development (LID) Ordinance that require new, larger construction projects to use parking lot and landscape designs that would retain a certain amount of runoff on site; and
- Draft green streets policy that promotes the use of vegetation (green belts, trees along a median) to integrate a system of stormwater management within the right of way and reduce the amount of water that is piped directly to storm drains.

LID and green streets policies can be implemented via:

- Parking lots at public buildings such as schools could be converted to permeable paving.
- Street curbs could be altered to send road runoff to plant beds rather than storm drains.
- Small pocket parks could be created with plantings to hold and filter rainwater.

Enhanced Watershed Management Program (EWMP)

This concept of an enhanced Watershed Management Program was introduced to the Regional Board by the County. Permittees were informed of this program option three (3) days prior to the Permit adoption hearing. Although its specific benefits to the Cities are still not clear the revised NPDES Permit issued on November 5, 2012 provided some insight.

An enhanced Watershed Management Program (EWMP) comprehensively evaluates opportunities, within the participating Watershed Management Area, for collaboration among Permittees and other partners on multi-benefit regional projects that wherever feasible, retain (i) all non-storm water runoff and (ii) all storm water runoff from the 85th percentile, 24-hour storm event for the drainage areas tributary to the projects, while also achieving other benefits including flood control and water supply.

In drainage areas within the EWMP area where retention of the 85th percentile, 24-hour storm event is not feasible, the EWMP shall include a Reasonable Assurance Analysis to demonstrate that applicable water quality based effluent limitations and receiving water limitations shall be achieved through implementation of other watershed control measures.

Permittees who chose to join and implement a EWMP must continue implementation of current NPDES Permit Programs in addition to implementing LID and green streets policies as indicated above in the WMP.

Administrative Petition

To date approximately 11 cities have agreed to collaboratively submit an Administrative Petition against the Permit. The administrative petition is said to cost a total of \$25,000, which will be split among the participating cities. The Administrative Petition will be filed due to the following:

1. Requirement to monitor non-stormwater discharges through the MS4 **and** to the MS4²
2. The Time Scheduled Order (TSO) requirement for the LA River Watershed
3. Monitoring requirements exceed federal requirements, such as inclusion of wet-weather monitoring.

The administrative petition must be filed no later than December 8, 2012 and may postpone Permit implementation/compliance until a decision is determined. Staff will closely review and research the grounds of the petition and determine if this is the best option for the City. In the event that Staff, upon full digestion of the Permit, deems it to be in our best interest, Staff request City Council to appropriate an additional \$3,000 and approval to join other cities in filing a joint Administrative Petition.

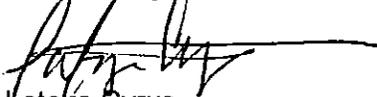
Staff will make a formal detailed presentation before Council when we are able to digest the Permit.

RECOMMENDATION

In the event that Staff, upon full digestion of the Permit, deems it to be in our best interest to file and Administrative Petition; Staff provides the Council with the following recommendations:

1. Authorization to file a joint Administrative Petition with other cities to place the newly adopted NPDES Permit on hold.
2. Appropriation of \$3,000 from the General Fund to file a joint Administrative Petition with the State of California.

Respectfully Submitted,



Latoya Cyrus
Environmental Services Coordinator

lc: 11-12-09

² Discharges through the MS4 refer to discharges at the end of our pipes before they enter the receiving water. These discharges can pick up bird droppings and other pollutants out of our control. Discharges to the MS4 (currently enforced) refer to discharges the City can control before they enter the storm drain.