



**MINUTES**  
**REGULAR CITY COUNCIL**  
**SUCCESSOR AGENCY METING**  
**TUESDAY, JUNE 25, 2013, 7:00 P. M.**  
**SAN DIMAS COUNCIL CHAMBERS**  
**245 E. BONITA AVE., SAN DIMAS, CA**

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**PRESENT:**

Mayor Curtis W. Morris  
Mayor Pro Tem Denis Bertone  
Councilmember Emmett Badar  
Councilmember John Ebner  
Councilmember Jeff Templeman  
City Manager Blaine Michaelis  
City Attorney Ken Brown  
Assistant City Manager of Community Development Larry Stevens  
Director of Parks and Recreation Theresa Bruns  
Director of Public Works Krishna Patel  
Deputy City Clerk Debra Black  
Senior Planner Marco Espinoza  
Environmental Coordinator Latoya Cyrus

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

**2. RECOGNITIONS**

- a. Recognize Los Angeles County Fire Department Firefighter of the Year
- b. Recognize Los Angeles County Sheriff's Department Public Safety Employee of the Year
- c. Recognize Los Angeles County San Dimas Branch Library – 100 Years

Battalion Chief Fred Bland with the Los Angeles County Fire Department presented Dave Niedzalek with Firefighter of the Year Award for 2013.

Captain Don Slawson with the Los Angeles County Sheriff's Department presented the Public Safety Employee of the Year Award to Dave Baltzahar.

Mayor Morris presented Amy Crow Acting Library Manager at San Dimas Library with a 100<sup>th</sup> Birthday Celebratory Proclamation.

**3. ORAL COMMUNICATIONS** (Members of the audience are invited to address the City Council on any item not on the agenda. Under the provisions of the Brown Act, the legislative body is prohibited from taking or engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. If you desire to address the City Council on an item on this agenda, other than a scheduled public hearing item you may do so at this time or asked to be heard when that agenda item is considered. Comments on public hearing items will be considered when that item is scheduled for discussion. The Public Comment period is limited to 30 minutes. Each speaker shall be limited to three (3) minutes.)

- a. Members of the Audience

Jannise Wilkins and Stacey Waissman addressed council regarding the ongoing skunk habitat in the city and their experiences with trying to deal with them. They feel this should be a community effort along with the Humane Society in trying to find remedies.

Council directed staff to contact the Humane Society to look for solutions. Councilmember Bertone added that he would like to sit in on meeting with Humane Society.

Amy Crow Acting Library Manager announced upcoming events and activities at the library this month.

Rick Williams resident thanked staff and council for the work completed on the Grey Oaks Sign.

#### 4. CONSENT CALENDAR

(All items on the Consent Calendar are considered to be routine and will be enacted by one motion unless a member of the City Council requests separate discussion.)

Mayor Morris announced that Councilmember Templeman would like to have separate discussion on items G and I.

Councilmember Templeman spoke briefly on the Gold Line Measure R Projects and some misrepresentations discovered by the Gold Line JPA and they are encouraging membership cities to send comments to the MTA.

Councilmember Templeman explained that he was familiar with California's policies and regulations on the purchasing of the products provided by HGAC, but because they were out of Houston asked staff and the City Attorney to be sure that our purchasing policies were in line with this particular agreement. He was pleased to see the report that says this company has been active in California, including our local school district. We will be purchasing products for some of our park sites.

Councilmember Ebner added this project will be ADA compliant, encouraging for kid to play on and a great project and one of the most noticeable Capital Improvements of this fiscal year.

**MOTION:** It was moved by Councilmember Bertone, seconded by Councilmember Templeman and carried to move approval and accepted the consent calendar with the separate discussions on items G and I.

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

**RESOLUTION NO. 2013-41, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CERTAIN DEMANDS FOR THE MONTH OF JUNE, 2013.**

- b. Approval of minutes for special meeting of May 28, 2013 and regular City Council meeting of June 11, 2013.
- c. Reject claim from Southern California Edison
- d. Renewal of Cash Contract No. 2011-04, Concrete Maintenance Project – Various Citywide Locations – Grigolla & Sons Concrete, \$81,000
- e. Renewal of Cash Contract No.2011-05, Asphalt Maintenance Project – Various Citywide Locations – Paveco Construction, Inc. \$117,000
- f. Renewal of Cash Contract 2011-07, Annual Striping Maintenance to Superior Pavement Markings, Inc. in the amount of \$50,000
- g. Proposed Amendment to the Measure R Expenditure Plan
- h. San Gabriel Valley Council of Government Report
- i. Request for Authorization to enter into a Cooperative Purchasing Contract with HGAC

END OF CONSENT CALENDAR

#### 5. PUBLIC HEARINGS

- a. Consideration of Municipal Code Text Amendment 12-03, a request to amend Section 18.542.250, and other sections as deemed appropriate, of the San Dimas Municipal Code, to allow an up to 950 square foot second story architectural element on lots with a one-story height limit and other associated revisions, as deemed appropriate. (Applicant: NJD, Ltd.)

**ORDINANCE 1221**, An Ordinance of the City Council of the City of San Dimas approving a Municipal Code Text Amendment 12-03, amending building height and pad coverage standards in Specific Plan No 25, Planning Area One – **FIRST READING**

Councilmember Ebner left the dais at 7:36 p.m. and returned at 7:36 p.m.

City Attorney Ken Brown explained that the applicant requested an amendment to the Specific Plan to allow certain architectural elements. The development agreement approved by the city has provisions that restrict the ability of the city to change the requirements that were in place when the agreement was approved without the consent of the developer. He said that the agreement doesn't say there can't be changes, just that the city can't impose changes unless they are approved by the developer. However if the developer requests changes in the ordinance that doesn't prohibit the city from imposing conditions required because of the developer's requested changes. In addition he explained that what the developer is asking for in this request is that the architectural element space be habitable. Mr. Brown stated that because of this request discussion was had by staff as well as the Planning Commission about the city imposing a condition involving changes in the size of the building pad coverage. Mr. Brown said that it was his opinion the the city cannot impose a pad size restriction. He said that the Planning Commission when it reconsidered this matter recommended that if the City cannot add a pad size restriction because of the development agreement, Planning Commission recommends that the ordinance remain as it is at the present time. It would permit an architectural element but it would not be habitable.

Councilmember Ebner asked if the developer has to agree to any change and if they could negotiate or agree to a change other then what they are asking for in the first place.

Mr. Brown answered that they could. The regulations that were in place when the specific plan was approved are those that are going to guide the development. If something else comes up and the developer requests a change to the ordinance, the city could reopen discussions.

Councilmember Templeman asked if the developer asked for a change to the habitable space as an example, will that open the discussions of other conditions governing the development.

Mr. Brown responded that if the developer requests something different from what the Specific Plan presently provides and that sets in motion another set of considerations that are reasonably related to the request; it becomes a bigger discussion. He further stated that in this specific case the existing ordinance allows the developer to have an architectural element but it cannot be habitable.

Councilmember Badar asked what happens when someone buys a home and decides they want to turn the space into a small room, will the city say no because of the development agreement or is it looked at as a room addition?

Mayor Morris suggested hearing questions related to City Attorney Brown's legal opinion, receiving staff's report and then bring it back for further questions from council.

Assistant City Manager of Community Development Larry Stevens presented staff's report on the item. Staff and the Planning Commission recommend not approving the applicant's request and the only matter before the council is the exception to the one story height limit.

Mayor Morris asked if the Planning Commission was contesting whether the developer has the right to build the architectural element or whether it can be habitable.

Assistant City Manager Stevens responded yes, the distinction is that you cannot create usable second floor area within the created architectural element.

Mayor Morris opened the public hearing for comments. (7:55 p.m.)

Stan Stringfellow expressed his appreciation to staff and council for the work done on this project and the opportunity to be heard. He stated that NJD's requested change is to the definition to the existing code regarding the architectural code or projection when their team looked at this they considered an architectural projection to be a chimney or a cupola. He continued to say that was the reason they brought forth the amendment; in working with staff they feel that their understanding of the code has been broadened. He made the following points to Council: (1) the code does not allow for a habitable upstairs loft or room and this would not change the exterior masking of the house; (2) does not define the size or height of the architectural elements or projects; (3) it is difficult for owners, design professional, Architectural review Committee or DPRB to determine what is allowed. Mr. Stringfellow used a Power Point presentation to show example of the various types of architectural elements that could be considered. Mr. Stringfellow summarized with these points: (1) the habitable area is limited to a maximum of 950 square feet or 10% of the livable area, whichever is less; (2) limits to 30 feet in height; (3) there are no quantifiable adverse impacts in allowing an upstairs component within the architectural element; (4) it better defines the scale and impact of architectural projections or elements. The developer feels that this request would provide some guidance to all involved with the project.

Councilmember Ebner asked if there were multiple elements that go over 25 feet of the habitable area, is 950 square feet the sum of all the elements that goes over the 25 feet or can you have a 950 square foot room and a chimney.

Mayor Morris answered that he thought the 950 square feet was limited to the habitable projection.

Councilmember Ebner stated that he thought there was a 950 square feet maximum on the architectural projection.

Mr. Stringfellow stated that that was their understanding too.

Assistant City Manager Stevens shared that the way he interpreted the recommended Ordinance 1221 as it was written, if approved, is that you may have one habitable architectural element not to exceed 950 square feet.

Discussion continued on clarifying the matter of habitable space, the 950 square foot limitation and architectural elements of the project.

**MOTION:** A motion was made by Councilmember Bertone, seconded by Councilmember Badar to waive further reading and introduce Ordinance 1221 with the deletion of section two and re-numbering of section three to section two. Motion carried by vote of four to one with Councilmember Ebner voting no.

Councilmember Ebner stated that he will be voting against the motion on principal and expressed his concerns with the evolving changes to this project and the stance council has taken in approving the request because all the other requests brought forward have been approved.

- b. Consideration of Municipal Code Text Amendment 12-02 - A request to amend Specific Plan No. 20, Areas 2 and 3, (Code Section 18.532) to allow for expanded uses not currently allowed,

located at 802-888 W. Arrow Highway, San Dimas Marketplace/Target Center. (APN: 8383-024-027,-028, -029,-030,-031,-035,-036,-037)

**ORDINANCE 1222, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING MUNICIPAL CODE TEXT AMENDMENT 12-02, AMENDING ALLOWABLE USES WITHIN AREA 2 AND DELETING AREA 3 WITHIN SPECIFIC PLAN NO. 20 – FIRST READING**

Assistant City Manager Stevens announced the representative from KIMCO would not be in attendance and request no continuance of the matter.

Senior Planner Marco Espinoza presented staff's report and recommended approval.

Councilmember Ebner asked if tutoring business, art or music lessons that aren't a component of a music store or gallery, etc. allowed.

Senior Planner Espinoza responded that they are seen as educational service and would not be allowed; he added that their parking ratios are one for every five seats and when analysis was done it found that it intensifies parking demand beyond what is provided.

Councilmember Ebner then asked about uses such as Chuck E. Cheese's, an Art Gallery and Arcade.

Senior Planner Espinoza answered that Chuck E. Cheese's could be allowed as long as it did not exceed the 20%, of the restaurant uses; an Art Gallery was considered but staff did not feel it could be considered as a service based business and not really a retail business; Game Arcades are prohibited.

Mayor Morris opened the public hearing for comment. (8:49)

Dr. Marvin Ersher asked what the total amount of sales tax generated by this center, how much the amendment would reduce that and what is the city trying to solve.

Senior Planner Espinoza answered the amount of sales tax is \$600,000 and because we don't know what business would be lost it would be difficult to give an exact amount.

Assistant City Manager Stevens added that it would probably be a modest drop and why staff wanted to put caps in place so that there isn't a significant decline in sales tax. He also shared that the applicant has requested the amendment to give them flexibility in marketing and future leasing opportunities particularly for office use. He continued with staff was interested in removing all of the items related to the auto uses and the industrial piece of property that was part of the property acquisition.

Some discussion continued on the purpose of this proposal.

Dr. Ersher asked what was the problem with a successful project and why are we speculating on the future.

Assistant City Manager Stevens answered that Planners should look ahead as well as marketers. The nature of shopping centers has changed over the last 25 years. This adds some flexibility and preserves the city's interest.

Discussion continued on shopping center issues.

Mayor Morris closed the public hearing at 9:05 and brought the matter back to Council for discussion and decision.

**MOTION:** A motion was made by Councilmember Bertone, seconded by Councilmember Badar to waive further reading and introduce Ordinance 1222. Motion passed unanimously.

Councilmember Ebner shared that some of the changes were very good but feels that there are two areas of concern: one is the loss of 20% of sales tax revenue and secondly the lack of patronage in these types of centers. He stated that he is in favor of this as long as it is limited to 20% of the square footage of the center minus Target and 20% of the number of stores minus Target.

- c. Consideration of Municipal Code Text Amendment 13-03 – A Request to Modify Chapter 18.40 of the San Dimas Municipal code to increase the acreage in AHO-1 by an additional 1.33 acres; and delete various references to the non-existing Senior Housing Chapter.

**ORDINANCE 1223, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING MUNICIPAL CODE TEXT AMENDMENT 13-03, AMENDING THE HOUSING GOAL FOR AFFORDABLE HOUSING OVERLAY ZONE NO. 1 (AHO-1) AND DELETING VARIOUS OBSOLETE REFERENCES TO CHAPTER 18.151 –  
FIRST READING**

Assistant City Manager of Community Development presented staff's report and recommended adoption of the ordinance.

Mayor Morris opened the public hearing for discussion.

No one came forward.

Councilmember Bertone asked if this is a way of correcting a situation that the State has put upon the City.

Assistant City Manager Stevens replied it is the best way and it also makes the 2014 Housing Element simplified.

Councilmember Badar asked if this required any dialog with the school district.

Assistant City Manager Stevens answered yes that he has had that dialog.

**MOTION:** A motion was made by Councilmember Ebner, seconded by Councilmember Templeman to waive further reading and introduce Ordinance 1223. The motion passed unanimously.

## **6. OTHER MATTERS**

- a. Update regarding adopted waste discharge requirements for Municipal Separate Storm Sewer Systems (MS4) – National Pollutant Discharge Elimination system (NPDES)

1. Authorization to join the Cities of Claremont, La Verne and Pomona relating to the administration and Development of a Watershed Management Program (“WMP”)
2. Principal approval of the draft Memorandum of Understanding Program (“MOU”) by and among Cities for Costs Sharing in the Development of Watershed Management Program and Monitoring Plans
3. Approval to file a Notice of Intent (“NOI”) to develop a WMP with the Los Angeles Regional Water Quality Control Board (LARWQCB)

Director of Public Works Krishna Patel provided some background on the required documentation of the permit program. He then introduced Environmental Coordinator Latoya Cyrus who presented staff's report.

Councilmember Templeman asked if there were a third party lawsuit it would be to the Eastern Watershed Area and we would be participating in that.

Mayor Morris answered that by participating in this enhanced plan postpones lawsuits until the time of implementation of this plan.

Councilmember Ebner asked what the due date was for the \$210,000 for the draft plan; and was it in the budget.

Environmental Coordinator Cyrus answered the date was June 28, 2013 and City Manager Michaelis explained that because it is a plan involving four cities the fee will be shared between the cities and staff will bring it back to Council at a later date what that process will be.

Mayor Morris asked that as staff becomes aware of the implementation costs keep management informed so that they may start to consider reserving funds.

**MOTION:** A motion was made by Councilmember Ebner, seconded by Councilmember Bertone to accept the recommendation from staff. The motion carried unanimously.

## 7. SUCCESSOR AGENCY

### A. Verbal Update

City Manager Michaelis explained that we are moving into the part of the dissolution process that involves dealing with the cities properties. He identified the eight properties that were reviewed by the Oversight Board and agreed that they are designated to be used as government use properties. He stated that the next step will be to give notice and to convene the Oversight Board to adopt by resolution the findings that necessary to have the properties conveyed to the City. He shared that the meeting is to be held on July 8<sup>th</sup>, 2013 at 4:00 p.m., after which the approval process will be transferred over to the state Department of Finance concurrently with letters of support from our local State Legislatures. Mr. Michaelis continued with the Oversight Board's decision is not final; the Department of Finance must sign off and certify the Oversight Board's determination of the eight properties. He concluded with the State has five to sixty days to review; however our local legislators are encouraging the Department of Finance to give a quick and summary approval within the five days.

Councilmember Bertone asked if that was final.

City Manager Michaelis answered it is final and the next day the City can complete the real estate process to transfer the title of the properties to the City of San Dimas.

Councilmember Bertone asked if staff would be recommending selling these properties.

City Manager Michaelis explained that this process only deals with the properties designated for government use; there are other properties that can be held for future development or sold as Redevelopment Properties. What staff is doing is separating the government use properties now so that we may get an immediate determination and by October prepare a disposition plan for the other properties.

Councilmember Bertone asked if the properties are sold will we receive any money and is the city able to purchase them.

City Manager Michaelis answered the property is sold and distributed according to the tax benefit to all the agencies sometimes 7 to 10% for San Dimas under those conditions. He stated that we could purchase the properties according to the provisions that are approved in our property plan.

## 8. ORAL COMMUNICATIONS

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

Donna Lee with Southern California Edison shared resources and topics provided by Edison Company.

- b. City Manager

“Ask the Mayor Show: June 27<sup>th</sup>, Channel 3 at 7:00p.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 “New Councilmembers Academy”

- 2) Individual Members' comments and updates.

Councilmember Badar asked if staff could provide weekly reports of new business opening in the city.

Councilmember Bertone requested an appeal of decision made by the Planning Commission for Consideration of Classification of use 13-01, Medical Rehabilitation Facility.

## 9. ADJOURNMENT

The meeting adjourned at 9:59, the next meeting is July 9, 2013, 7:00 p.m.

Respectfully submitted,



Debra Black  
Deputy City Clerk