MINUTES REGULAR CITY COUNCIL MEETING
SAN DIMAS HOUSING AUTHORITY AND
SAN DIMAS PUBLIC FACILITIES
FINANCING CORPORATION
TUESDAY, DECEMBER 8, 2015, 7:00 P. M.
SAN DIMAS COUNCIL CHAMBERS
245 E. BONITA AVE.

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

STAFF:
City Manager Blaine Michaelis
Assistant City Manager Development Services Larry Stevens
Assistant City Manager Administrative Services Ken Duran
City Attorney Mark Steres
Director of Parks and Recreation
Director of Public Works Krishna Patel
Senior Planner Marco Espinoza
Associate Planner Luis Torrico
Assistant City Clerk Debra Black

1. CALL TO ORDER AND FLAG SALUTE

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

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

1) Evan Celaya San Dimas High School ASB President activities and events announcements.

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:

RESOLUTION NO. 2015-53, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF NOVEMBER AND DECEMBER, 2015.

b. Approval of minutes from November 9, Special Council Retreat meeting.

c. Engineering and Right of Way Services for Realignment of Golden Hills Road thru County Flood Control Facility. Approval of Change Orders for Land Design Consultants, Inc. in the amount not to exceed $60,000 for additional services for engineering designs and right of way services required to meet County approval

d. Approval of a Resolution authorizing the filing of an application for a Department of Resources Recycling and Recovery (CalRecycle) Rubberized Pavement (Pavement) Grant.

RESOLUTION 2015-55, A RESOLUTION OF THE CITY OS SAN DIMAS, CALIFORNIA AUTHORIZING SUBMITAL OF APPLICATION(S) FOR ALL CALRECYCLE GRANTS FOR WHICH THE CITY OF SAN DIMAS IS ELIGIBLE

e. Approval of Administrative Services Agreement between the City of San Dimas and San Dimas Housing Authority.

MOTION: A motion was made by Councilmember Bertone seconded by Councilmember Ebiner to approve the consent calendar as presented. The motion carried by a vote of five to zero. **(5-0)**

Yes: **Badar, Bertone, Ebiner, Templeman, Morris**
Noes: **None**
Absent: **None**
Abstain: **None**

END OF CONSENT CALENDAR

4. PUBLIC HEARING

a) **CONSIDERATION OF MUNICIPAL CODE TEXT AMENDMENT 15-08** – A request to allow expanded retail and service business uses currently not allowed within Specific Plan No. 24 (SP-24) Area 1, located at Citrus Station (Costco) Shopping Center. (APNs: 8383-009-061 thru -064, -077 thru -080, -082, 085, -088 thru -090, and -093 thru -098) The Planning Commission recommended approval at their regular meeting of November 19, 2015 by a 4-0-1 vote.

ORDINANCE 1237, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS ADOPTING MUNICIPAL CODE TEXT AMENDMENT 15-08 TO AMEND SECTION 18.540 SPECIFIC PLAN NO. 24, UPDATING THE PERMITTED AND CONDITIONALLY PERMITTED USES IN AREA 1. (FIRST READING AND INTRODUCTION)

RECOMMENDED ACTION: Approve Municipal Code Text Amendment 15-08 and introduce Ordinance 1237

Associate Planer Luis Torrico presented staff's report on this item.

Mayor Morris opened the public hearing and invited those in favor of the project to come forward and speak.

Applicant Alex Gonzalez with Evergeen Development stated this amendment would benefit any landlord of the center by allowing a more adequate mix of tenants, and that the uses are typical of any grocery anchor center.

Mayor Morris invited those in opposition of the project to come forward and speak.

Seeing no one come forward Mayor Morris closed public hearing and brought the item back to council for a vote.

MOTION: A motion was made by Councilmember Templeman, seconded by Councilmember Bertone to waive further reading and introduce Ordinance 1237. The motion carried by vote of five to zero. **(5-0)**

b 1) **CONSIDERATION OF MUNICIPAL CODE TEXT AMENDMENT 15-06** – A request to amend the uses in Specific Plan No. 17, Area 1 (Code Sec. 18.528), to allow for the off-site sale of beer and wine in conjunction with a conditionally permitted service station with convenience store. (APN: 8396-017-025)

ORDINANCE 1238, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING MUNICIPAL CODE TEXT AMENDMENT 15-06 TO AMEND THE USES IN SPECIFIC PLAN NO. 17 AREA 1 (CODE SEC. 18.528), TO ALLOW FOR THE OFF-SITE SALE OF BEER AND WINE IN CONJUNCTION WITH A CONDITIONALLY PERMITTED SERVICE STATION WITH A CONVENIENCE STORE.

RECOMMENDED ACTION: Approve Municipal Code Text Amendment 15-06 and introduce Ordinance 1238.

Senior Planner Marco Espinoza presented staff's report on this item.

Councilmember Templeman asked if staff would be relying on ABC regulations to determine the age of the clerk selling the alcohol and if they would be selling single bottles or cans.

Mr. Espinoza responded yes it is part of ABC's program that the employees are required to take, but staff could add that as a condition if council would be more comfortable with it. He added that there was some discussion at Planning Commission meeting regarding this but it was not added as a condition.

Councilmember Templeman asked if the station stopped selling gas would the beer and wine sales stop as well.

Mr. Espinoza replied yes.

Mayor Morris explained that there would be two matters subject to the public hearing and voted on, the consideration of the M.C.T.A. and the C.U.P. If M.C.T.A. is not successful then the C.U.P. is eliminated. The public hearing testimony will be on both items.

Mayor Morris opened the public hearing at 7:30 p.m. by inviting those in favor of the project to speak.

Applicant Sam Ghosn presented council with written material to support his request as well as explaining the marketing development strategies convenience stores use to increase sales in today's market.

Mayor Morris invited those opposed to the project to speak.

Resident Alan Nash asked what the percentage of shelf space is for the sale of beer and wine.

City Attorney Mark Steres clarified that the conditions of approval state that sale of beer and wine as an accessory use shall not exceed 10% of the total floor area of an accessory convenience store; at this location of 1,000 sq. ft., only 100 sq. ft. could be dedicated to beer and wine.

Mr. Espinoza replied that the language should have been removed from the document because no other beer and wine licenses had this condition since it is already limited to less than 40% of the floor area.

Mr. Steres stated that the condition was not in the Planning Commission recommendation and it would be at the purview of the council to strike the sentence, change to another standard or leave as is when considering adoption of the ordinance tonight. He also added that the change would not be significant enough to have to send back to the Planning Commission.

Discussion and clarification on the language in the ordinance vs. staff report continued.

Mr. Nash continued his testimony by adding that he would not like to see this location turn into a liquor store and asked if a customer could buy a single can or bottle.

Assistant City Manager of Development Services Larry Stevens replied they may unless staff imposes a restriction as part of the conditional use permit. He then asked Mr. Espinoza if staff had imposed on any other licenses.

Mr. Espinoza responded staff had not, it was considered for one other but it was removed by council.

Mr. Stevens shared that council has the ability in the use permit to impose the restriction on the sale of single cans; this is not part of the current use permit.

In response to questions from council Mr. Stevens shared that most restrictions on single sales are found in areas that have different economic standards than those commonly found in San Dimas and that this is the most common circumstance where other cities have imposed this standard. He added that there are four convenience stores accessory to gas stations that have a beer and wine license; and continued by saying if staff finds a problem they have the ability to bring back the use permit and impose additional operational conditions.

Responding to a question regarding ABC notification, Mr. Stevens shared that when violations occur ABC will work with location to correct, provide education and lastly pull license if no compliance. The city would typically find out from the Sheriff's Department if problems exist.

Mr. Espinoza added that ABC will post onsite the hearing notice when there have been violations.

Mr. Nash asked what the zoning on the stations that do have a license is and for staff to explain the differences between those and this location.

Mr. Stevens responded CG Zone Area 1, Specific Plan 2, 18, 19; they are all specific plans and have unique requirements.

Mr. Nash shared an additional concern that the transferred license was coming from a smaller establishment with little foot traffic to a location near a major intersection and near a park.

Resident Dr. Marvin Ersher asked for clarification as to how to prevent the location from becoming a liquor store, on square footage and will C.U.P. only apply to present owner. He recommended no more than 10% usage.

Mr. Steres replied that the C.U.P. does run with the use and the land.

Resident Patrick Jones responded to statements made concerning liquor sales and Bonelli Park by saying that no liquor is allowed Bonelli Park. He further added that none of the concerns voiced over the expansion of this business came to fruition, the owners operate a clean store and saw no reason they would jeopardize their business by selling to minors. It is a good business in the city and should be supported.

Resident Ryan Vienna stated he is not against this motion but thinks the reality is there will be beer runs and asked council to be mindful of this issue.

Mayor Morris asked the applicant to speak on the how much space would be used.

Mr. Bill Ghosn shared that they have no set percentage but it would not be 40% or 49%, and pointed out that no one else has a 10% limitation. He added that they had not studied the coverage area yet.

Responding to Councilmember Ebiner's question on shelf space Mr. Stevens stated that the determination is made on the footprint and the coolers, signs, etc. are all part of the calculations. He added that it is within council's purview to impose a maximum percentage in either the code or conditional use permit.

Staff and council discussed the options of imposing various percentage amounts and the direction to take in considering the introduction of Ordinance 1238 and adoption of Resolution 2015-54.

Closed public hearing at 8:23 p.m. and brought the item back for discussion.

Councilmember Ebiner suggested changing the language on prohibited uses to prohibit the sale of alcohol other than beer and wine; he is willing to go along with the restrictions and thought that the 10% should be left in the ordinance. He also suggested that the C.U.P. prohibit the individual sales of cans and bottles of beer.

Councilmember Bertone stated he would go along with adopting the ordinance, take out 10% and not vote on the resolution.

The consensus was to introduce the Ordinance 1238 and bring Resolution 2015-54 back at the January 12, 2016 meeting.

Mr. Stevens outlined for council the suggested motion for this item as read by title only and introduce Ordinance 1238 with the deletion of section one, item B2 second sentence.

Mayor Morris called for Ordinance 1238 to be read by title.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Badar to waive further reading and introduce Ordinance 1238 with the deletion of section one, item B2 second sentence. The motion carried by vote of three to two. **(3-2)**

Yes: Badar, Bertone, Morris
Noes: Ebiner, Templeman
Absent: None
Abstain: None

Councilmember Templeman expressed his concern for 24 hour businesses near freeways, as well as beer and wine sales with a single employee. He went on to say that if ownership were to change or stop selling gas it could turn into something else. He added that this is the wrong thing to do and would be voting against.

Councilmember Ebiner shared that he thought he could finally vote for the item, but after listening to the comments and the unwillingness to keep the 10% in, he would vote against it.

Councilmember Badar stated that based on the facts that the Sheriff's Department is not opposed; ABC has approved the license as well as the Planning Commission approval he could not let his personal opinion weigh in and would support motion.

Mayor Morris felt that the limitation issue would be more appropriate listed in the C.U.P. and he would be supporting the motion.

b 2) **CONSIDERATION OF CONDITIONAL USE PERMIT 15-10** – A request to allow for the off-site sale of beer and wine (Type 20) in conjunction with a conditionally permitted service station with convenience store located at 1790 S. San Dimas Avenue (Via Verde 76). (APN: 8396-017-025). The Planning Commission recommended approval at their regular meeting of November 19, 2015 by a 4-0-1 vote.

RESOLUTION 2015-54, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CONDITIONAL USE PERMIT 15-10, A REQUEST TO ALLOW OFF-SITE SALES OF BEER AND WINE (TYPE 20 LICENSE) IN ASSOCIATION WITH A SERVICE STATION CONVENIENCE STORE (VIA VERDE 76) LOCATED AT 1790 SOUTH SAN DIMAS AVENUE (APN: 8396-017-025)

RECOMMENDED ACTION: Approve Conditional Use Permit 15-10 and Resolution 2015-54.

Mr. Stevens recommended council make a motion on the C.U.P. to continue the public hearing to the January 12, 2016 meeting, direct staff to evaluate potential limitation on maximum area to be devoted to alcohol sales and if there is a consensus to look at the single can sales include as a condition.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Ebiner to approve the suggestion of Mr. Stevens directing staff to continue the public hearing to the January 12, 2106 meeting and to evaluate the potential limitation on the maximum area to be devoted to alcohol sales. The motion carried by vote of five to zero. **(5-0)**

c) **CONSIDERATION OF MUNICIPAL CODE TEXT AMENDMENT 15-09** – A request to amend Chapter 18.194 Medical Marijuana to prohibit cultivation of marijuana and to prohibit mobile marijuana dispensaries citywide, and other miscellaneous edits. The Planning Commission recommended approval at their regular meeting of November 19, 2015 by a 4-0-1 vote.

ORDINANCE 1239, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING MUNUCIPAL CODE TEXT AMENDMENT 15-09 TO AMEND CHAPTER 18.194 MEDICAL MARIJUANA TO PROHIBIT CULTIVATION OF MARIJUANA AND THE ESTABLISHMENT OR OPERATION OF MOBILE MARIJUANA DISPENSARIES CITYWIDE, AND OTHER MISCELLANEOUS EDITS. (FIRST READING AND INTRODUCTION)

RECOMMENDED ACTION: Approve MCTA 15-09, request to amend Chapter 18-194.

Senior Planner Marco Espinoza presented staff's report.

Mayor Morris opened the public hearing at 8:41 p.m. for comment.

The following individuals spoke in favor:

1) Dr. Ersher
2) Ryan Vienna
3) Mr. McCants

No one came forward in opposition.

Mayor Morris closed the hearing at 8:43 p.m.

MOTION: A motion was made by Councilmember Templeman to waive further reading and introduce Ordinance 1239, seconded by Councilmember Badar. The motion carried by vote of five to zero. **(5-0)**

Yes: Badar, Bertone, Ebiner, Templeman, Morris
Noes: None
Absent: None
Abstain: None

Mayor Morris recessed the City Council meeting at 8:46 to convene a meeting of the San Dimas Public Finance Corporation

5. MEETING OF SAN DIMAS PUBLIC FACILITIES FINANCING CORPORATION

a. Public Comments *(This is the time set aside for members of the audience to address the Board. Speakers are limited to three minutes.)*

No one came forward.

b. Approval of Minutes for meeting of December 9, 2014.

MOTION: A motion was made by Councilmember Ebiner, seconded by Councilmember Templeman to approve the minutes of December 9, 2014.

c. Election of Officers

For the public's benefit Mayor Morris asked City Manager Blaine Michaelis to explain the function of the San Dimas Public Facilities Finance Corporation.

Mr. Michaelis provided the explanation and recommended that Curtis Morris be appointed President, Jeff Templeman Vice-President and Blaine Michaelis Secretary.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Ebiner to appoint Curtis Morris as President, Jeff Templeman as Vice-President and Blaine Michaelis as Secretary.

d. Members of the Corporation

No comments.

Mayor Morris adjourned at 8:48 p.m. to the meeting of the San Dimas Housing Authority Corporation.

6. MEETING OF SAN DIMAS HOUSING AUTHORITY CORPORATION

a. Public Comments *(This is the time set aside for members of the audience to address the Board. Speakers are limited to three minutes.)*

No one came forward

b. Approval of Minutes for meeting of December 9, 2014.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Ebiner to approve the minutes of December 9, 2014. The motion carried unanimously. **(5-0)**

c. Submittal of the San Dimas Housing Authority Annual Audit and Annual Report for FY 14-15

RECOMMENDATION: Receive and file both reports.

Assistant City Manager Ken Duran presented staff's report on these items.

MOTION: A motion was made by Councilmember Badar, seconded by Councilmember Templeman receive and file the Annual Audit and Annual Report for FY 14-15. The motion carried by five to zero vote. **(5-0)**

d. Approval of Administrative Services Agreement between the City of San Dimas and the Housing Authority.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Ebiner to approve the Administrative Agreement with estimated cost of reimbursement of $65,500 for this current fiscal year.

Mayor Morris adjourned the meeting at 8:52 p.m. and reconvened the City Council meeting.

7. ORAL COMMUNICATIONS

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

1) Dr. Ersher reiterated the previous statements made concerning the conditions for liquor licenses tying into the land use and asked the City Manager to comment on the Via Verde Shopping Center progress.

b. City Manager

In response to Dr. Ersher, Mr. Michaelis shared that paint colors and monument sign designs have been turned into staff, no word on zoning changes. December 10, 7:00 p.m. would be the last Mayor's Call in Show for the year.

c. City Attorney

Comments on his first year as City Attorney.

d. Members of the City Council

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

Nothing to report.

2) Individual members' comments and updates.

Councilmember Templeman Extravaganza went well... BUSD Ad HOC meeting...broke ground for middle school gym...Goldline work at Cataract Bonita add a safe zone. Clean-up at Arrow and 57 Freeway needed.

Councilmember Ebiner Merry XMAS and Happy Holidays.

Councilmember Badar spoke with Deputy White about area at Cataract Bonita who also suggested some type of safety barrier. Wished everyone Merry Christmas.

Councilmember Bertone wished everyone a healthy New Year.

Mayor Morris extended happy holidays to everyone.

The meeting adjourned at 9:04 p.m. The next meeting will be on January 12, 2016, 7:00 p.m.

Respectfully submitted,

Debra Black, Assistant City Clerk