MINUTES

REGULAR CITY COUNCIL MEETING
TUESDAY, JANUARY 12, 2016, 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 Community Development Larry Stevens
Assistant City Manager Administrative Services Ken Duran
City Attorney Mark Steres
Director of Parks & Recreation Theresa Bruns
Director of Public Works Krishna Patel
Planning Manager Fabiola Wong
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. He announced that item 4(f) of the consent calendar would be removed and discussed as part of the public hearing on item 5(a).

2. ANNOUNCEMENT

- The Parks and Recreation Commission will host a Community Meeting on January 19, 2016 at 6:30 pm in the Community Building for the countywide Park Needs Assessment project being conducted by the Los Angeles County Parks and Recreation Department.

Director of Parks & Recreation Theresa Bruns announced the January 19, 2016, Parks & Recreation Commission Community Outreach meeting for the countywide Parks Needs Assessment project.

2. RECOGNITIONS

- Recognize the members of the San Dimas High School Boy's Water Polo Team and Cross Country 2015 CIF Finalists

Mayor Morris presented certificates to the athletes and coaches.

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 and ask 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 – ASB President San Dimas High School announcement of activities events for the high school
   2) Angela B. resident – Voiced concerns over the potholes located on San Dimas Avenue

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.)

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

      RESOLUTION 2016-01, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, CALIFORNIA, APPROVING CERTAIN DEMANDS FOR THE MONTHS OF DECEMBER 2015 AND JANUARY 2016.

   b. Approval of minutes for the City Council meetings of November 24, 2015 and December 12th, 2015.

   c. **ORDINANCE 1237,** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, COUNTY OF LOS ANGELES ADOPTING MUNICIPAL CODE TEXT AMENDMENT 15-08 TO AMEND SECTION 18.540, SPECIFIC PLAN NO. 24, UPDATING THE PERMITTED AND CONDITIONALALLY PERMITTED USES IN AREA I. ***(SECOND READING AND ADOPTION)***

   d. **ORDINANCE 1239,** AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING MUNICIPAL CODE TEXT AMENDMENT 15-09 TO AMEND CHAPTER 18.194 MEDICAL MARIJUANA TO PROHIBIT THE CULTIVATION OF MARIJUANA AND THE ESTABLISHMENT OR OPERATION OF MOBILE MARIJUANA DISPENSARIES CITYWIDE, AND OTHER MISCELLANOUS EDITS ***(SECOND READING AND ADOPTION)***

   e. Approval of Pre-Qualified Concrete Flatwork Specialty Contractor(s) for Bonita Avenue Boardwalk Streetscape Replacement and Renovation Project

f. **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. ***(SECOND READING AND ADOPTION)***

g. Approval of Budget, Waiver of Formal Bid Process & Authorization to Pre-Purchase Certain Specialty Items for the Bonita Ave Boardwalk Streetscape Replacement and Renovation Project

RECOMMENDED ACTION: Approve consent calendar as presented.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Badar to approve consent calendar with removal of item 4f.

END OF CONSENT CALENDAR

5. PUBLIC HEARING

a. **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. ***Item continued from December 8, 2016 council meeting.***

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 adopt Resolution 2015-54, 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)

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

Councilmember Ebiner asked how the square footage of the sales area is calculated and if the display cases were different from the refrigeration cooler.

Responding to Councilmember Ebiner's question City Manager of Community Development Larry Stevens replied that the refrigeration coolers are walk in coolers, not display coolers that customers have access to and are viewed as distinct and separate and not included in the square footage.

Councilmember Ebiner asked if the restrictions on the single containers were written in any ordinance or only in the C.U.P.s; and then asked how the language was placed in the text amendment originally.

Mr. Espinoza replied that the restrictions were only in the C.U.P., placing it there is more restrictive to the site and that the language was never intended to be in the code.

Councilmember Badar asked for an explanation of the process for to bringing violations back to council and if there was something in place to make it more restrictive or revoking the C.U.P.

Mr. Espinoza responded that typical staff will try to work with applicant, if that does not work it would then go back to the Planning Commission for review of the C.U.P. depending on what needs to be accomplished.

Mr. Stevens read condition 21 of the C.U.P. that specifically address alcohol related crimes that could be reason for possible modifications; and explained that additionally the conditional use section of the code does allow staff the ability to revoke or modify the use permit.

Councilmember Badar asked what happened if staff doesn't hear from the Sheriff's Department or ABC, if the city has anything in place for annual reviews.

Mr. Stevens answered that typically ABC posts on site when restrictions have been placed and that's when we would hear from the Sheriff's Department.

Councilmember Badar asked if the city has restrictions on any of the other facilities that sell single cans.

Mr. Stevens replied that staff has not felt a need for citywide restrictions and that this type of restriction is most commonly imposed in areas with a different economic climate than what exists in San Dimas.

City Attorney Mark Steres confirmed that the current resolution's conditions 10 and 11 does address the 10% limitation and the review and approval of council for any increases.

Mayor Morris opened the public hearing at 7:47 p.m. for applicants to address council.

1) Sam Ghosn stated that the review of the other stations showed none had more than 10% floor usage and that they agreed to the 10% as well. He added that all of the stations sell single bottles, all employees are well trained and no one would want to jeopardize the business.

2) Resident Gary Enderle stated that drunk drivers will get alcohol from anywhere, anyone can buy a six pack and remove one and it becomes single bottle and that this is not a legitimate issue. He added that the beer in the coolers will be locked after 2:00 a.m., and it was his understanding that the Sheriff's Department does get the majority of the ABC violation reports that can be reported to council. He concluded by saying he saw no problem with supporting the business.

3) Resident Dr. Marvin Ersher stated he was in favor of the C.U.P. and thought that staff did a good job on the staff report. He added that it would be incumbent upon council to have the different standards included in the resolution because it would add more scrutiny and be more restrictive. He also felt that the service aspect of the business is going away and things should stop here.

4) Resident Ryan Vienna stated that he was in favor of the fair and equitable treat of a small business owner and it is important for them to protect their business and have an opportunity to compete on the same small market within the community. He added that since the single can restriction is not in place anywhere else, it should not be applied here.

Mayor Morris invited those in opposition forward to speak.

1) Resident Lori Terry explained that because of a personal experience of a family member walking to a convenience store near his assisted living facility the sale of alcohol would not be a good idea at this location.

2) Resident Marilyn R. shared that there are already too many burglaries in the area, and that Von's already sells liquor so this station doesn't need to sell it too. She added the other stations in the city that sell alcohol are not in residential neighborhoods.

3) Resident Alan Nash expressed his concern over public safety, and felt that this is a way of promoting the convenience of drinking and driving.

4) Pastor Bob Harmon opposed to the request, doesn't feel it is a good location.

Resident Patrick Jones stated he was not in opposition and felt the information presented by prior speakers was not factual and not a fair representation. He added that testimony presented has been based on innuendo and what might or might not happen. He wouldn't want any legislative body to decide where he can or can't buy something. Von's sells a lot of single can alcohol so why would the city restrict this business. He added that it took applicants three years to get approval for their last request because of some emotions and concerns that were voiced and never happened. He addressed the concerns of drinking in Bonelli Park by stating that if caught citations are issued by law enforcement and it is not this body's issue to address.

Resident and business owner Angela? originally opposed the request, and agreed with Mr. Nash that this will become a source of illegal drinking. She asked about the potential for the location to become a liquor store.

Mr. Stevens explained that this particular location is limited to 1,000 sq. ft. and they couldn't expand beyond that without an amendment to the code. Beer and wine sales are limited to 10% or 100 sq. ft. of the 1,000 sq. ft. of floor area, additionally they must continue to operate a gas station to have the convenience store as an accessory to the station.

Bill Ghosn applicant shared that these same discussions were had six years ago none of the concerns voiced have occurred. He explained that theirs is a good project; they take of the business and have had no violations.

Councilmember Templeman asked the applicant if six years ago they said they would not sell beer and alcohol.

Mr. Bill Ghosn replied no and at the time it was a realtor speaking for the project who stated that.

Mayor Morris invited applicant to speak in rebuttal.

Mr. Sam Ghosn shared that they would not jeopardize the business or neighborhood.

Mayor Morris closed public hearing at 8:24 p.m. and brought the item back to council for discussion.

City Attorney Steres reviewed the procedural actions needed of council as second reading and adoption of the resolution or if interested in an amendment it would need to be reintroduced and brought back for second reading at the next meeting.

Councilmember Ebiner asked Mayor Morris if it would be unreasonable to put it in the limitations in the C.U.P.

Mayor Morris responded as long as it was not an unreasonable limitation.

Mr. Steres answered that the staff report provided reasonable evidence to support the 10%.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Badar to waive further reading and adopt Ordinance 1238 by title.

Mayor Morris called for any further discussion.

Councilmember Ebiner stated he would stay with his original decision and did not feel the time Was right to change this specific plan.

Mayor Morris stated he originally voted in favor for two reasons, one because of a change in the Business climate, and because the city has not done this with other locations it would be difficult to prohibited it here.

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

The motion carried by a vote of three to two. **(3-2)**

Mayor Morris called for discussions of the C.U.P.

Councilmember Ebiner expressed his appreciation of staff's work on the report. He added that 10% of the floor area of 1,000 sq. ft. shop is generous and he could live with 10% and could go down to 5%.

Councilmember Templeman asked the Mayor to acknowledged the email council received from The Executive Director at Brookside San Dimas facility. He stated that it should be remembered that the C.U.P. goes with the property and a good operation now provides for a better opportunity for others later on with and an entitlement to sell beer and wine. He went on to say that he worries about locations open all night, near freeway off ramps selling alcohol with young employees on duty; some other stations in town have outside windows that are used to keep customers from entering. He ended by saying this is a bad plan and had he understood the request from the Shell Station would have had the same concerns and comments.

Mayor Morris discussed the email from the Director of Brookdale San Dimas. He stated that the C.U.P. has gone through the process, staff and the Planning Commission has approved it, it is consistent with the other businesses with liquor licenses and could see no reason not to grant the request.

Councilmember Badar shared that he agreed with Councilmember Templeman's comments but in the end legally could see no reason not to grant the request.

Councilmember Ebiner stated he believes the city is setting a precedent with the 10%; no one else has it and hopes that it carries on if other stations come forward. He added he could vote for the C.U.P. if it had the single can condition prohibition.

Councilmember Badar responded to Councilmember Ebiner by saying that at the beginning of meeting he asked staff what council's options were if a problem occurred and the response was that staff could review and pull the permit and bring it back to council. He then asked what the procedure would be for him to be able to ask that applicant a question at this point of the meeting.

City Attorney Steres announced that the public hearing would have to be reopened.

Mayor Morris reopened the public hearing for Councilmember Badar to ask the applicant if the sliding door at the location was functional and could it be made functional.

Mr. Ghosen answered that it was not functional and that the liquor would be locked up by 2:00 a.m.

Mayor Morris closed the public hearing at 8:49 p.m.

MOTION: A motion was made by Councilmember Badar, seconded by Councilmember Bertone to waive further reading and adopt Resolution 2015-54. The motion carried by vote of three to two. **(3-2)**

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

b. **MUNICIPAL CODE TEXT AMENDMENT 15-07** – A City initiated request to amend Municipal Zoning Code Chapter 18.14, Water Efficient Landscapes to bring the City into compliance with Governor Brown's Drought Executive Order B-19-25.

ORDINANCE 1240, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS, COUNTY OF LOS ANGELES ADOPTING MUNICIPAL CODE TEXT AMENDMENT 15-07 TO AMEND SECTION 18.14, WATER-EFFICIENT LANDSCAPES. ***(FIRST READING AND INTRODUCTION)***

RECOMMENDED ACTION: Read by title and introduce Ordinance 1240.

Associate Planner Luis Torrico presented staff's report on this item and responded to questions from council on the specific requirements of the order and ordinance.

Mayor Morris opened the public hearing at 9:10 p.m.

1) Resident Gil Gonzales asked if the city reviewed how this order would affect the design of new 7500 sq. ft. lot size homes, will they all be drought resistant design and if the ordinance needed to be adopted tonight.

In response Mr. Stevens stated that virtually every new residence will be subject to the new requirements and will be drought resistant and have up to 25% turf.

2) Resident Bob G. expressed concern over the Foothill Blvd. Median Project and trees being cut down.

Mayor Morris and Director of Parks and Recreation explained that the tress were cut down after an evaluation done by the City Arborist that indicated they were compromised and they will be replaced with other species.

3) Resident Jim Mc Cants asked if the services of the city arborist were only for the city projects.

Ms. Bruns responded that the municipal arborist position applies to the municipal forest and public property. The arborist typically does not get involved in or make decisions about removal on private property.

Councilmember Templeman asked if someone files a permit to remove a tree will the arborist go out to look at the tree.

Ms. Bruns responded that the Planning Department handles those situations.

Mr. Stevens added that there are circumstances where Planning will seek the assistance from the city arborist to review material from another arborist the property owner engaged.

4) Resident Patrick Jones shared that remodeling his front yard may not make a difference based on the method being used by the water company to measure residential usage and asked the city to use their voice in asking the water district to come up with a better way of measuring usage.

Closed at 9:30 pm brought back for discussion

MOTION: A motion was made by Councilmember Badar, seconded by Councilmember Bertone to waive further reading and introduce Ordinance 1240, Adopting Municipal Code Text Amendment 15-07 to amend Section 18.14, Water-efficient Landscapes. The motion carried by vote of five to zero. **(5-0)**

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

6. ORAL COMMUNICATIONS

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

1) Resident Gil Gonzales objected to the vehicles driven by the Code Compliance staff identifying as Code Compliance. He felt that it looked mean and Code Compliance is a community based service and should be viewed as positive. He expressed concern that the graffiti behind Red Roof Inn still has not been removed and the manner in which it is being handled.

2) Vice Chair Chamber of Commerce Rick Hartman announced upcoming events for the Chamber.

3) Ryan Vienna resident and President of the HOA San Dimas Village Walk provided an update on the legal issues involving the two associations of Village Walk and Grove Station.

b. City Manager

Introduced new staff member Fabiola Wong Planning Manager for the city.

Call in Show – Thursday 7:00 pm

c. City Attorney

Nothing to report

d. Members of the City Council

1) Appointment to the Parks and Recreation Commission

Councilmember Ebiner recommended appointment of Paolo Kesparidit to fill the vacancy on the Parks & Recreation Commission.

MOTION: A motion was made by Councilmember Ebiner, seconded by Councilmember Bertone to appoint Paolo Kesparidit to the commission. The motion carried by vote of five to zero. **(5-0)**

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

2) Appointment to the Focus groups for the Downtown Study

Assistant City Manager Community Development Larry Stevens presented and asked council to accept the appointments as listed.

MOTION: A motion was made by Councilmember Templeman, seconded by Councilmember Ebiner to accept listing of Focus Group Nominees. The motion carried by vote of five to zero. **(5-0)**

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

3) Appoint 2 members of the City Council to work with staff regarding potential changes to the Memorandum of Understanding with the San Dimas chamber of Commerce.

City Manager Blaine Michaelis presented staff's report and requested candidates for appointment.

Councilmember Templeman nominated Mayor Morris and Councilmember Badar.

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

Nothing to report.

5) Individual Members' comments and updates.

Debra Black, Assistant City Clerk

Curtis W. Morris, Mayor City of San Dimas