



MINUTES
REGULAR CITY COUNCIL
TUESDAY, JULY 26, 2005, 7:00 P. M.
COUNCIL CHAMBERS, 245 E. BONITA AVE.

CITY COUNCIL:

Mayor Curtis W. Morris
Mayor Pro Tem John Ebiner
Councilmember Denis Bertone
Councilmember Sandy McHenry
Councilmember Jeff Templeman

City Manager Michaelis
City Clerk Rios
City Attorney Brown
Assistant City Manager Duran
Community Development Director Stevens
Parks and Recreation Bruns
Superintendent of Building/Safety Beilstein
Associate Planner Lockett

1. CALL TO ORDER

Mayor Morris called the meeting to order 7:03 p.m.

2. ORAL COMMUNICATIONS

(For anyone wishing to address the City Council on an 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.)

a. Members of the Audience

1) **Janie Graef**, as the daughter of a WWII Veteran and sister of a Vietnam Veteran, is working with Vietnam Veteran **Gary Enderle** to build a memorial in town that would honor all San Dimas service men and women. They invite the entire community to form a committee for a fund raising effort for an interim and a permanent monument. They will provide a report to the Council for their approval. For anyone interested, she could be contacted at 909/599-9836.

2) **Alan Nash**, representing the San Dimas Sheriff's Booster Club, invited citizens to the 12th annual Car Show on Sunday July 31, 2005, from 10:00 a.m. to 3:00 p.m. in the downtown Bonita Avenue, The event is co-sponsored with the Chamber of Commerce and will feature over 200 classic cars. There will be music, trophies, and lots of fun for the whole family. Proceeds help support volunteers in the Sheriff's, Mounted Posse, Mountain Rescue Team, and Disaster Communications.

At the request of Mayor Pro Tem Templeman, Mr. Nash said he restored a cool '65 Plymouth Fury Patrol Car to be the Sheriff's Booster's mascot.

3) **Dennis Phillips**, 525 N. Amelia Ave. addressed the City Council on various issues discussed at the July 12, 2005 meeting: 1) he at no time suggested changing any codes or lessening the standards, only following the existing codes; 2) projects are not approved in a timely manner due to favoritism; 3) Bob Miars ran on the last election to implement a more user friendly city; 4) phone calls are not returned.

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.)

It was moved by Councilmember McHenry, seconded by Councilmember Bertone, and carried unanimously to accept, approve and act upon the consent calendar, as presented, as follows:

- a. Resolutions read by title, further reading waived, passage and adoption recommended as follows:
 - (1) RESOLUTION NO. 05-51, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CERTAIN DEMANDS FOR THE MONTH OF JULY 2005
- b. Approval of minutes for the regular City Council meeting of May 24, 2005 and the regular City Council meeting of July 12, 2005.
- c. Rejection of claim for damages from Hanke.
- d. 2005-06 Budget adjustment number 1– appropriate up to \$13,000 from the General Fund Balance to purchase an Evaporator Coil for Air Conditioning System at Senior Citizen/Community Center.

END OF CONSENT CALENDAR

4. PLANNING

- a. Update on Sycamore Canyon Trail.

Councilmember McHenry excused himself since he owns property within 1,000 feet. He left the dais at 7:17 p.m.

Associate Planner Lockett reported that on June 20, 2005, City staff met with Los Angeles County staff to discuss the status of the Sycamore Canyon Trail. The City has a Streambed Alteration Agreement with the Department of Fish and Game for specific work within the streambed for the first part of the trail. The County does not have funds to assist financially; however, they are willing to provide labor to clear out Poison Oak Trail. Staff has split the trail into two phases: Phase I will cost approximately \$175,000 and include the hiring of a mitigation monitor as well as clearing and mitigation planting; Phase II will cost approximately \$85,000, for a combined total of \$260,000 minus Proposition A grant funds of \$150,000. It is staff's intent to bid out the entire project. Council could authorize staff to do Phase I now and secure permits from the County for Phase II to be done at a later date.

In response to Councilmember Bertone, Planner Lockett said this is currently a hiking and equestrian trail and will be widened for safety.

In response to Councilmember Bertone, Director Stevens stated there is a mix of private property, county property, and further up the motorway, public National Forest property. The gate is controlled by the Division of Forestry that allows entry to Johnstone Peak Towers.

Director Stevens pointed out that although a budget breakdown was provided, a budget adjustment would not be made until the project is bid out and approved by the City Council. Council has the option when bids come in, to pursue Phase I and Poison Oak Trail or Phase II. He said with the County's cooperation, everything will be done to get the project completed before the rainy season to address a long standing problem of trail safety.

Mayor Pro Tem Templeman stated that the Phase trail is not in great condition and, although he appreciates staging for economic purposes, he is interested in completing this project quickly.

Director Stevens said it took quite a long time to get the permit from Fish and Game, and said they have an extensive mitigation program proposed that requires removal of most non-native plants, however, he felt the project could be completed within the time frame outlined.

Mayor Morris disagreed with the \$25,000 expenditure required by the Fish and Game to hire their designated monitor for the project.

Councilmember McHenry returned to the dais at 7:29 p.m.

- b. Consideration of Work Program to address additional Open Space preservation and acquisition opportunities.

Community Development Director Stevens reported that recent opportunities indicate it may be appropriate to add to the open space strategies currently identified in the Open Space Element of the General Plan. It is also beneficial to update park land and scenic resource inventory as part of updating the strategies for open space acquisition and/or preservation. At the request of Councilmember Bertone, staff prepared and recommended a work program to address updated open space needs and opportunities.

In response to Councilmember Bertone, Director Stevens said most general plans are updated every ten to twenty years, however, state law requires the update of the housing element. He stated that due to a lawsuit in Northern California, a recent letter from the State Attorney General's office determined that general plans not updated every eight years were in danger of being determined inadequate as it related to several provisions of government code related to development review and subdivision review.

It was moved by Councilmember Bertone, seconded by Councilmember McHenry, to approve the proposal to proceed with the recommended work program. The motion carried unanimously.

- c. Appeal of Community Development Director's decision denying nonconforming use – Randy Argo, 213 West First Street.

Mayor Morris mentioned that the staff report was made available Monday, July 25, and inquired if the appellant needed additional time to review the materials presented.

Randy Argo, AZ, indicated that this issue has been postponed several meetings and he would prefer to proceed with the appeal.

Community Development Director Stevens presented a detailed staff report and stated that a review of records and other available information submitted by the appellant regarding the existing second kitchen at 213 W. First Street does not provide conclusive proof that the second kitchen was constructed in compliance with regulations in effect at the time of construction. As a result, the rehabilitation of the property should include removal of the illegal second kitchen. He said if additional information provided by the County Assessor provides documentation to demonstrate that the kitchen was established prior to 1934, staff should be authorized to reconsider the decision.

In response to Councilmember Ebner, Director Stevens advised that when the plan came to plan check; Craig Hensley was the planner. Since then, Director Stevens said he has done most of the review and delegated staff to acquire documents. Director Stevens indicated he has had conversations with City Attorney Brown and has relied heavily on Superintendent Beilstein to understand what Building and Safety was doing and how the County records were kept. Reasonable and appropriate due diligence has been done to arrive at a decision and recommendation.

In response to Councilmember Ebner, Superintendent Beilstein said staff has done an exhaustive research on this project and he agrees with Mr. Steven's conclusion that records at this point do not indicate there was approval prior to the County requiring permits.

In response to Councilmember McHenry, Director Stevens stated that if the assessor advises that the kitchen existed prior to 1934, Mr. Argo is entitled to have the second kitchen and whatever other opportunities for expansion or alteration available within the parameters of the existing code to nonconforming use in the SF downtown residential zone. He said in the early 1990's, special nonconforming provisions for duplex uses were created.

He further responded that there is not a clear definition of what a duplex is. In most cases, the main component of establishing a second residential unit is to have a second kitchen; however, it is highly unusual to only have one bathroom. The historic consultant commented that based on the way the original floor plan was laid out, it would have been very impractical to separate the house into two units.

Randy Argo, AZ, indicated that he presented clear evidence from an architect, a plumber, and a former resident that state both kitchens were built before 1930. The plumber lived in a house with a similar kitchen and he has submitted his professional opinion. He said the Mayor stated that no houses were built after the war. Mayor Morris refuted the statement that he said houses were not built after the war.

Mr. Argo was upset he was being called a liar and Mr. Trimm unlawful. He said city records are flawed and he inquired why the city would put weight on Hartman Baldwin's report and not two local professionals who submitted written testimony that the kitchens were built prior to 1930.

Mayor Morris stated their testimony is part of the record that will be considered.

In response to City Attorney Brown, Mr. Argo stated that on June 14, 2005, he provided testimony that he did not think Mr. Trimm's information was reliable. He felt staff was not weighing evidence he provided which he believes outweighs what staff has presented in the agenda report.

In response to Councilmember Ebner, Director Stevens stated that letters from Mr. Diaz and Mr. Merrill were mentioned to the same extent as Hartman Baldwin.

Mr. Argo stated that the staff report, Hartman Baldwin report, a letter from City Attorney Brown, and comments from the City Council have a negative opinion and are against this use. He stated that never has he heard staff say he has a point or that evidence shows Mr. Trimm pulled every permit. Mr. Argo said that on June 15, he received a second letter from Mr. Trimm attesting that he recalled a small room addition done about the same time as the kitchen. Mr. Argo stated that city records were incomplete and an additional permit has surfaced, which was not previously presented. Mr. Argo distributed photographs illustrating the building to the City Council and discussed each picture in detail.

In response to Councilmember Ebner, Mr. Argo said the permit that surfaced shows the 3'x12' addition in 1937, not the 3'x8' referred to in the Hartman Baldwin report. Mr. Argo stated that during the inspection, Mr. Pruitt replied to him that he did not have abstracts. He stated that Director Stevens would not permit him to record the meeting with Hudson Pruitt, which is standard procedure when on a job site.

Mr. Argo inquired if Mr. Brown based his report on factual knowledge concerning the one-half value assessment of the porch.

In response to Mr. Argo, City Attorney Brown said that he reviewed the assessor's 1926 document and the drawings that were part of the document, and as indicated in his memorandum, believes that his interpretation is more reasonable than that which Mr. Argo asserts. He also said that he would talk with the same person with whom Mr. Argo spoke in the assessor's office if Mr. Argo would provide the name of that person.

RECESS

Mayor Morris called a recess at 8:59 p.m. The meeting reconvened at 9:06 p.m. with all Councilmembers present.

Mr. Argo brought up issues with the Third Street property which were similar to the duplex property and he said that Planning staff approved the uses for the shed roof and loft. He stated that the Hartman Baldwin report on observations of the kitchen supports Mr. Diaz's and Mr. Merrill's eye witness reports. Mr. Argo contends that there are dual manifolds and two complete separate gas services tied to one meter proving that two families lived at that location. He plans to secure a letter from Verizon to verify two separate phone lines with two demarcation points that would service two families.

In response to Councilmember Ebner, Mr. Argo brought up that what Mr. Pruitt said to him at the site was not included in his report and he would like that conversation included because in the report Mr. Pruitt refers to the subsequent length of the addition referred to as 3' x 8' done after the 1937 permit was issued. Mr. Argo contends that the 1937 permit allowed the addition of rafters as illustrated in the photographs he provided.

He further responded that at the first meeting, he was unable to complete his presentation. He stated that a permit he was unable to locate was found by Mr. Beilstein that he thought substantiated the information provided in Mr. Trimm's letter.

In response to Councilmember Ebner, Director Stevens felt that Hudson Pruitt could not reach the conclusion that both kitchens were built at the same time or prior to the point in time that permits were not required. He stated that his direction to Hudson Pruitt was to provide an honest view of what he saw at the site.

Mr. Argo apologized to Mayor Morris and City Attorney Brown for the personality conflict and indicated he would not take the disagreement personally.

Director Stevens clarified that he has a tendency to rely on records more so than other aspects, but he certainly did not want anyone to think he ignored the letters from Mr. Merrill and Mr. Diaz. He indicated he would have allowed Mr. Argo to tape the meeting if he could have had a city representative present during the inspection. His effort has been to be completely fair and would have given considerable weight if Mr. Pruitt had concluded that the kitchens were built prior to permit requirements.

Mayor Morris said this is not a public hearing, but asked if anyone would like to offer any opinions in this matter.

Dennis Phillips, 525 North Amelia Avenue, stated that when he walked through the house and saw the first and second kitchens, he said the original kitchen was built in the 1920's, and the second kitchen was clearly built one or two years later with all hardware, and not in 1937. He indicated that all Mr. Argo wants to do is restore the house to its original state and move his sister in. He asked Council to make a fair decision for Mr. Argo.

Mayor Pro Tem Templeman found it interesting that the property owners were very responsible in securing governmental documents. He believed that the kitchens were built in close proximity based on the consultant's comments about the details and construction elements, however, he did not like the idea of a duplex in the historical section of town.

In response to Councilmember McHenry, Director Stevens stated that in conformance with Building and Safety codes, if the kitchen was built prior to code, such existing improvements in a single family residence may be repaired, maintained, repainted, remodeled, or landscaping upgraded. There is no subsection that relates to improvements that are destroyed. He said there are parameters about an increase in lot coverage and square foot limitations related to setbacks and not allowing expansion beyond the existing required side yard or front yard setback. If the applicant proposed to enlarge parking, staff would make a judgment how much is appropriate and come to a conclusion based upon plan submittal.

Councilmember McHenry stated the intent of the zone is not to have duplexes, but to allow property damage to be rebuilt. He pondered if a second kitchen triggers a duplex or if one bathroom triggers a single family residence. He felt it was more of a communal living arrangement than a duplex. He did not think the records conclusively proved the kitchens were permitted. However, he did not deny that they may have been permitted or done prior to permits. He praised Mr. Argo's rebuilding skills and said he has a wonderful opportunity to build a wonderful single family home with amenities. Trying to convert the building into a duplex is contrary to zoning codes.

Councilmember Bertone thanked Mr. Argo and staff for the information. He felt that one bathroom did not make sense for a duplex. As far as getting old materials, he indicated that Lamar in Glendora provided vintage materials and hardware. He felt it was not logical that the property was a duplex.

Mayor Morris stated that the first knowledge of a different configuration is an Assessor's building description blank that shows the construction of two screen porches, which proves the kitchen was not built before 1926. Additionally, two 1937 Building Description Blanks describe a 3' x 8' addition to the east end of the northeast porch and the 3' x 12' extension. 1937 records reflect one family living in a single family residence. There were other significant issues that included access to the bathroom; and two rooms in front connected by a bi-fold style of door, rather than a solid wall. He felt the applicant would have to bear the burden of proof to show evidence of permits. He thought the appeal was not proven and he was prepared to sustain the Community Development Director's decision.

Councilmember Ebiner offered the theory that free standing sinks were built in 1898 and at some point the owners may have decided to remodel the kitchen. He said it was suggested that the intent of the owner was to establish a second dwelling unit. Intent does not mean it was permitted. He agreed with the conclusion that circling 1/2 area refers to 1/2 total area of two screen porches. He disputed that Mr. Trimm, as a three or four year old in 1926 would recall the second kitchen being built, and more likely the kitchen was built in 1937 when permits were required.

In response to Mayor Pro Tem Templeman, Director Stevens replied that current plans show the intent to remodel and the kitchen locations are accurately depicted.

It was moved by Councilmember Bertone, seconded by Councilmember McHenry, to deny the appeal without prejudice and approve removal of the illegal second kitchen at 213 W. First Street. If additional information provides documentation to demonstrate that the kitchen was established prior to 1934, staff is authorized to reconsider the matter if the County assessor revises or clarified its records to verify that the kitchen was established prior to 1934. The motion carried unanimously.

5. SAN DIMAS REDEVELOPMENT AGENCY

Mayor Morris recessed the regular City Council meeting at 10:13 p.m. to convene the meeting of the San Dimas Redevelopment Board of Directors. The meeting reconvened at 10:14 p.m.

6. ORAL COMMUNICATIONS

a. Members of the Audience

Dennis Phillips said he put in a request for information on 1800 Sycamore Canyon Road property and was sent copies of permits for 1989. He stated he has not received documents requested for the DPRB review of September, 2004 or anything on record.

Director Stevens replied that the request was for all permits and staff provided that information. He said Mr. Phillips did not ask for additional records related to the DPRB application, which resulted in use determination and approval. If they would like that information, he would be happy to oblige. He said the use determination made by the DPRB in December, 2004 provided the opportunity to correctly convert the barn to a residence and secure permits to do so. Property representatives are in the process of submitting plans and securing permits pursuant to approval consistent with time frames.

b. City Manager

- 1) Report of staff and city activity regarding the proposed Diamond Ridge Development in Glendora – Northeast corner of Gladstone Street and Valley Center Avenue.

City Manager Michaelis conveyed that the City of Glendora has scheduled hearings regarding the Diamond Ridge Development to consider certification of an Environmental Impact Report and adoption of a Statement of Overriding Considerations, a Zone Amendment; a request for the adoption of a Specific Plan and approval of a Development Agreement. Staff has prepared comments regarding the EIR document and process and presented comments at the Glendora Planning Commission hearing on July 19, 2005. Staff has also prepared comments to be included in the Glendora City Council July 26, 2005 hearing.

Director Stevens pointed out that in their appearance at the Glendora Planning Commission meeting they presented a letter outlining concerns of some environmental analysis specifically as it relates to traffic.

In response to Councilmember Bertone, Director Stevens said tonight Glendora Council is voting on the entire project. The Planning Commission requested that the site and architectural approval come back to the Planning Commission. It was previously intended to be approved over the counter by staff.

Director Stevens further responded that San Dimas is not taking a position.

In response to Councilmember McHenry, Director Stevens said he has seen five different site plans. He indicated there is no commitment from the theatre and an alternate site plan is available. He added that there are variations in the square footage. Two or three major developments are shown on the site plan and the combined square footage adds up to approximately the same as a super Wal-Mart.

In response to Councilmember Ebiner, Director Stevens said the project provides two points of access: 1) proposing a signal intersection created at Shirlmar; 2) the second access is through the existing marketplace. They are proposing that a private driveway be converted to a public street.

c. City Attorney

No report.

d. Members of the City Council

1) Mayor Pro Tem Templeman stated he did not appreciate Mr. Bertone challenging his efforts. He thought courtesy should be extended to everyone and Council should treat each other with respect. He said he makes a decision on what he believes in and he may not always agree with staff.

Councilmember Bertone supports staff and thought it unseemly to have Mr. Argo criticize the City Manager and Community Development Director.

2) Councilmember Bertone praised Director Bruns on the opening of the Dog Park. He discussed some problems with the equestrian community, but from comments received, everyone enjoyed the great event.

7. CLOSED SESSION

Adjourned 10:34 p.m. to a City/Redevelopment Agency closed session pursuant to Government Code Section 54956.9 Subdivision (a):

a. **CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
(SUBDIVISION (a) OF GOVERNMENT CODE SECTION 54956.9)**

Name of Case: Bradley and Rebecca Secreto v. City of San Dimas, LASC Case No. BC298567

No reportable action.

b. **CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION
(SUBDIVISION (a) OF GOVERNMENT CODE SECTION 54956.9)**

Name of Case: Bradley and Rebecca Secreto v. City of San Dimas, LASC Case No. BS094531

No reportable action.

c. **CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION
(PURSUANT TO SUBDIVISION (c) OF GOVERNMENT CODE SECTION 54956.9)**

one case

No reportable action.

8. ADJOURNMENT

The meeting was adjourned at 11:10 p.m. The next meeting is on August 9, 2005, 5:30 p.m., at the City's Maintenance Yard, 301 South Walnut Avenue, for a study session on street naming signs.

Mayor of the City of San Dimas

ATTEST:

City Clerk