

**MINUTES
CITY COUNCIL REGULAR MEETING
JANUARY 14, 2020**

CALL TO ORDER

The regular meeting of the City Council of the City of Highland was called to order at 6:00 p.m. by Mayor McCallon at the Donahue Council Chambers, 27215 Base Line, Highland, California.

The invocation was given by Pastor Willie Hicks, Harvest Care Church, and the Pledge of Allegiance was led by Council Member Timmer.

ROLL CALL

Present: Chavez, Lilburn, McCallon, Solano, Timmer
Absent: None

REPORT FROM CLOSED SESSION

City Attorney Marroquin stated the City Council met in closed session pursuant to Government Code Section 54957(b)(1): City Manager: Public Employee Appointment, with no reportable action taken.

SPECIAL PRESENTATIONS

Mayor McCallon presented Mayor Pro Tem Lilburn with a Plaque for her service as Mayor.

Mayor McCallon presented Hillary Steenson-Ray of Children's Network Community with a Proclamation recognizing January 2020 as National Mentoring Month.

PUBLIC COMMENT

Thomas Fleming spoke in regards to general concerns in the community of Highland.

CITY COUNCIL CONSENT CALENDAR

A MOTION was made by Council Member Chavez, seconded by Council Member Solano, to approve the consent calendar as submitted. Motion carried on a roll call vote, 5-0.

1. Waive the Reading of All Ordinances
Waived the reading of all Ordinances in their entirety and read by title only.

2. Minutes – December 10, 2019 City Council Special Meeting
Approved the Minutes as submitted.
3. Minutes – December 10, 2019 City Council Regular Meeting
Approved the Minutes as submitted.
4. Warrant Register
Approved Warrant Register No. 697 for January 14, 2020, in the amount of \$6,481,850.34 and Payroll of \$315,331.63.
5. Treasurer's Report for November 2019
Received and filed Treasurer's Report for November 2019.
6. Highland Sam J. Racadio Library and Environmental Learning Center – 7863 Central Avenue – Lease Agreement No. 08-403 Permission Request (Consent to Enter into an Agreement with the University of California, Cooperative Extension for Additional Space)
Authorized the City Manager to sign the permission letter.

CITY COUNCIL PUBLIC HEARING

No public hearing.

CITY COUNCIL LEGISLATIVE

Mayor McCallon stated if the Council is in agreement, he would like to move Item#10 up in the Agenda. Hearing no objections, the Council will address Item#10 first.

10. Veterans Day

City Clerk Hughes gave a brief review of the staff report.

James Morales spoke in support of the City of Highland holding a Veterans Day event and offered his services to coordinate the event.

Mayor McCallon appointed Mayor Pro Tem Lilburn to work with James Morales in coordinating a Veterans Day event.

City Manager Hughes stated once the details are worked out, this item will be placed back on the City Council agenda for consideration of making it a City co-sponsored event.

7. An Interim Ordinance Prohibiting New Accessory Dwelling Units ("ADUs") Except Those that Satisfy Specified Standards, Declaring the Urgency Therefore, and making Findings under CEQA

Community Development Director Mainez stated the item before you should seem familiar as about six months ago we went through this process and updated our code. State legislators have recently approved several laws that have impacted how cities can regulate accessory dwelling units. It is getting a little bit more complicated as we go forward and staff does anticipate additional changes which we will address hopefully at the end of the year. This also is a result of the directive we got from City Council to explore regulating these types of units in the high fire severity zones and we plan on doing that as part of this ordinance. So because of its complexity, he is going to turn this item over to the City Attorney to give the remainder of the presentation.

City Attorney Marroquin stated to start off, this is an interim ordinance which means it's only in effect for 45 days unless it is further extended by the City Council. It also requires a 4/5ths vote of the Council in order to pass and if it does pass, and is adopted, it goes into effect immediately. What this interim ordinance does is two main things: the first is that it prohibits the construction of ADUs in high fire severity zones while staff has the opportunity to study the issue of whether for public health and safety reasons, people should be allowed to construct ADUs in those areas. As you know, these areas are prone to fire which is why they've been designated as high fire severity zones and so there's the concern that the increase in population and structures could pose a risk if people need to evacuate quickly in case of a fire. As you know, seeing what has been happening in the news with the fires, this could really have some devastating consequences. So that is what the Planning Department staff is going to be studying very closely, working with the Fire Department to determine what in this area that these areas have been designated as high fire severity zones. Number one should no ADUs be allowed or if some should be allowed, where in those areas would be appropriate to have them, so that's what will be studied during this period of this interim ordinance. In all likelihood, it's going to take staff longer than the 45 days, so we will likely be coming back and requesting an extension. We can do up to two extensions, the first extension would be for 10 months and 15 days and there'll be a public hearing at that time. That would be coming back to you in February. The second thing that the ordinance does is revises the City's existing ADU standards to be consistent with all the changes that were made under State law this year and that went into effect January 1, 2020. As you've probably read in the news, the State has further limited a City's ability to regulate ADUs. What the State did is it now mandates that cities have to approve through a building only permit process as certain ADUs and JADUs without applying any local standards. A JADU, for those who are not familiar, is a junior accessory dwelling unit and those are units that are no more than 500 square feet in size and are located entirely within the single family residence. They don't have to have separate bathroom facilities; they can be shared with the single family residence. They do have to, however, have their own efficiency kitchen, at

a minimum, and their own entrance. State law now dictates that one attached ADU or one JADU is allowed through this building only permit process. Additionally, one detached new construction ADU is allowed as long as the ADU maintains at least 4 foot rear and side yard setbacks. The City may limit the floor area to 800 square feet and a height of 16 feet. What this comes down to is under a building only permit process, there could be a single family residence and that single family residence could have a JADU which would allow up to 500 square feet within the single family residence, plus one additional detached ADU that is up to 800 square feet and 16 feet in height. So, if someone comes in with that type of application the only thing the City can do is ask if they meet these bare minimum requirements of size-wise and height and then you get your building permits. Then, and this probably even more challenging, the legislation also allows multi-family residences to convert spaces not used as livable space into ADUs. The examples that are given in the legislation are boiler rooms, attics, basements, and garages. Those can all be converted into ADUs up to 25% of the number of existing units. So let's say you have an apartment complex that has eight units, you would be able to have up to two ADUs within the existing livable space. If there are four garages for eight units, two of those garages would be able to be converted into ADUs. In addition, two additional two detached ADUs can also be constructed on multi-family dwellings. So you can have two detached plus up to 25% of the existing units within the confines of what the multi-family dwellings already are. And again, the City has zero discretion for these types of building permit only applications. The portion of the ordinance that talks about all the local standards, none of that applies, nor does the prohibition on the construction of ADUs in high fire severity zones. We don't have that discretion. It's just you come in, you get your building permit, and you move forward. Now, as to what we do have discretion, which has slowly whittled down from the last round of legislation, the State law does allow the City to adopt an ordinance regulating ADUs under certain standards. So, for example, someone comes in with a 1,000 square foot ADU that they want to construct, well that doesn't meet the 800 requirement that would get a building permit only process, so we would say that it is too large, you don't get to have just a building permit. You have to come in and follow our local ordinance in addition to getting the building permit to build. What State law states is that if there is an existing primary dwelling the total floor area of an attached ADU shall not exceed 50% of the existing primary dwelling, that's for attached. For detached, the total floor area can't exceed 1,200 square feet. That's the max that the State law has set forth. However, the City is allowed to further restrict the floor area requirements so long as it ultimately allows for a studio or one bedroom that is at least 800 square feet and a two bedroom or more ADU that has at least 1,000 square feet. The draft ordinance that is before you today, for consideration, does have the maximum at 850 and 1,000 square feet rather than the 1,200 that State law had said you can go up to. With respects to setbacks, no setbacks can be required for an ADU that is located on the same location and the same dimensions as an existing structure. So if someone tears down their garage and it's already really close to the property line, you can't impose any additional setbacks there, as long as it's taking up the same footprint of where the existing structure was. If we're

talking about any other type of ADU, the maximum rear and side yard setbacks for all these other ADUs, is now reduced to four feet. So, that's different from what we currently have in our ordinance that says you have to comply with local standards but now, unfortunately, down to four feet. The City can require the maximum of one parking space per ADU, however, under certain circumstances, you can't require any parking. So, that's when you're within one half miles of public transit or some other circumstances like if there is a local car share. There are things that trigger no parking and one of the biggest changes is if a garage or carport is demolished or converted to an ADU, the City can no longer require any replacement parking. So, someone could come in, demolish the garage, build an ADU there, you can't require replacement for that and you can't require more than one parking space for the ADU unless you're in one of those circumstances where you can't require any. The City also can't impose any impact fees on an ADU that is less than 750 square feet. So for an ADU that is 750 or more the impact fee must be charged proportionally to the square footage of the primary dwelling. If we're talking about a primary dwelling that is 1,600 square feet in size and the proposed ADU is 800 square feet, you would take whatever the DIF is for the primary dwelling and 50% of that, because it's half, its proportional, would be the amount that ADU has to pay. One of the limited areas that the City does still have discretion is with respect to architectural features. For our local ordinance, we have continued to require that ADUs have the same design, architecture, colors, and materials of the primary dwelling unit and that the ADUs comply with objective design standards that we have in place. The City is also allowed to require a deed restriction to be recorded assuring that the ADU isn't separately sold from the single family residence and that the ADU not be used for any short term rentals which helps ultimately in meeting our RHNA obligations if they're actually being used for housing and not a short term rental. It helps towards our numbers.

Mayor McCallon stated the State is intent on taking away local control and they're going to do it a little at a time. This is one of the first steps of the State having all control over everything a City does.

City Manager Hughes asked City Attorney Marroquin to clarify building code requirements. They still have to build per our current building code, they still have to meet Title 24, there is no exemptions for that, correct?

City Attorney Marroquin stated correct. They still do have to meet current local building standards. However, there is a portion of the law that states if there are any code enforcement violations that don't impact building type standards, those can be waived up to five years so we wouldn't be able to enforce anything. It's not kind of like a building type standard. The State has now introduced additional legislation in January, there is some pending legislation impacting ADUs that will

likely further restrict a City's ability to regulate. The plan is with this interim ordinance, if the Council adopts it, it would get sent to HCD as mandated by State law. We would get input from them, we would have time to study the issue pertaining to the high fire severity zones and also see how the State law shakes out so we don't adopt a permanent ordinance that we then have to come back and change yet again.

Mayor Pro Tem Lilburn stated this is really sad and she hopes the audience understands what is happening with our California state. Even though we just recently adopted the granny, where we could put the dwellings from 200 to 500 to 1,200, add those, and in addition to, we have to have this kind of ordinance as well, even though we were already proactive with facilities and those are the facilities with the...

City Attorney Marroquin asked if we are talking about the ADU ordinance that we previously adopted.

Mayor Pro Tem Lilburn stated is that what we're talking about?

City Attorney Marroquin stated yes, it is the same ordinance except we're now changing it.

Mayor Pro Tem Lilburn stated so now it's just a free for all. We used to have some kind of regulation, now you can just, you know.

City Attorney Marroquin stated so with the building permit only process, it's only the State standards. If they don't qualify for the building permit only process, then it's whatever the amount we get for the local standards.

Council Member Timmer stated he met with Community Development Director Mainez and City Attorney Marroquin before tonight's meeting to discuss some of these things and to get clarification, as some of these numbers are very confusing. To him, the issue really is that the State is already talking about revising them again, so to try and spend a bunch of staff time on doing a permanent ordinance, it's probably a waste of time. That's why we need to do this interim and then extend it for whatever time we can while this process is evolving. His big concern is there is not a lot we can do throughout the City on some of these issues but he thinks we need to focus some effort on the fire zones. That's where the potential could be really major for our City and for the residents. What they are proposing here is to allow us to add more structures in these fire zones where these were designed to be relatively fire safe with few modification zones and perimeter roads and all those things. It gives the firefighters a basis to do some active work when a fire comes. Now they're talking about adding more fuel loading, meaning more things that can burn right next to wildland, which is kind of counterproductive on keeping public safety for our community. There are two things, he thinks, we need to focus on. That we list all the fires, and so forth, over the past couple years and why we think we need

to study this fire zones and look at maybe limiting or prohibiting them all together. Whatever the findings talk about. The one fire we missed and that was most significant was the Old Fire. He thinks we need to add that statistic in there as well. The one that really bothers him is when you start building houses closer and closer together, the potential for spreading from one structure to another structure becomes significantly higher. Now this ordinance, what the State is pushing, allows us to have a four foot setback in the rear and side yard setbacks of four feet. So now we're going to have houses that essentially could be close to eight feet together and the rear yard setback is four feet from the wildland. So, what they're proposing is criminal. We're putting our residents at risk by doing this. He really likes when staff reviews what the fire zone issue and looking at reviewing the findings, that we really need to focus on the fuel loading being added to this high sensitive zone. Also the building separation, he thinks, it is critical that we do something to address us maintaining what we currently have. He knows whatever we approve, as a City, still has to go to Sacramento for those people to say yes, we agree or we don't agree. So he doesn't see a lot of sympathy in Sacramento. We need to study this really well and come up with really good findings of why we feel, as a City, that we shouldn't allow these kinds of structures in our fire zones, especially in fire zone one.

City Manager Hughes stated we have a perfect example of a fire that occurred in our City within the last year where a gas main broke and those homes were built under the old County standards. They were built very close together and that burned three or four homes. It was just engulfed, that whole section of it, so we have history of it and we know what's going to occur.

Council Member Chavez stated he understands the State of California has a housing crisis and with these new law requirements, maybe it's not the best for us in Highland. He's sure it's not, and we can tell it's not, but we obviously have no choice.

Mayor Pro Tem Lilburn stated what about all these additional people? Our police, our fire, our streets, our trash, there are no additional funds.

City Manager Hughes stated that is a big one, the waiving of the development impact fees. You're bringing in all these additional residents that are going to impact the streets and no money to support the infrastructure. That's huge.

Council Member Timmer stated the staff report talks about evacuations and in and out access. Putting more people in these high fire zones is another part of the findings which was talked about in the staff report but needs to be really stressed as well. We saw what happened up north with some of those fires and with people trying to get out and now we're going to be putting more people in. It doesn't make absolutely any sense at all.

Mayor Pro Tem Lilburn stated even if we do study the high fire zone, we're creating a high fire zone with these structures. We're actually creating one.

City Attorney Marroquin stated she'd like to note part of the reason we're doing this interim urgency ordinance is because under the State law, as of January 1, 2020, if you don't have an ordinance that complies with the State's standards our current standards are null and void. So to the extent, that's why it's happening as an urgency ordinance, so it can go into effect immediately, so that there isn't that lag time between the time of having to take this to the Planning Commission and then back to Council.

A MOTION was made by Council Member Chavez, seconded by Mayor Pro Tem Lilburn, to:

1. Adopt Interim Urgency Ordinance No. 441 prohibiting new ADUs except those that satisfy specified standards, and making the findings required by Government Code Section 65858, to become effective immediately;
2. Direct staff to study appropriate regulations pertaining to ADUs; and
3. Direct staff to file a Notice of Exemption. Motion carried, 4-1, with Council Member Timmer dissenting.

City Clerk Hughes introduced Interim Urgency Ordinance No. 441:

INTERIM URGENCY ORDINANCE NO. 441
AN INTERIM ORDINANCE OF THE CITY OF HIGHLAND PROHIBITING
NEW ACCESSORY DWELLING UNITS EXCEPT THOSE THAT SATISFY
SPECIFIED STANDARDS, DECLARING THE URGENCY THEREOF, AND
FINDING THE ORDINANCE TO BE EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT

which title was read.

8. Contract with the County of San Bernardino to Fund the City's Efforts to Provide Outreach Activities for the 2020 Census Targeting "Hard to Count" Populations within the City

Assistant Community Development Director Stater gave a brief review of the staff report.

A MOTION was made by Council Member Chavez, seconded by Council Member Solano, to adopt Resolution No. 2020-001, as amended, approving a contract with the San Bernardino County Administrative Office authorizing the City to provide Census outreach activities. Motion carried, 5-0.

RESOLUTION NO. 2020-001
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, TO OPT-IN TO THE 2020 CENSUS OUTREACH
ACTIVITIES WITH THE COUNTY OF SAN BERNARDINO COUNTY
ADMINISTRATIVE OFFICE

9. Development Impact Fee Credit/Transition Properties, L.P.

Public Works Director/City Engineer Wong gave a brief review of the staff report.

A MOTION was made by Council Member Solano, seconded by Mayor Pro Tem Lilburn, to approve Development Impact Fee credits under the Regional Circulation category in the amount of \$17,239.97 for Phase 1 and \$90,267.97 for Phase 2 of the Transition Properties project. Motion carried, 5-0.

11. Resolution in Support for the "Reducing Crime and Keeping California Safe Act of 2020"

A MOTION was made by Mayor Pro Tem Lilburn, seconded by Council Member Chavez, to adopt Resolution No. 2020-002, in support of the "Reducing Crime and Keeping California Safe Act of 2020." Motion carried, 5-0.

RESOLUTION NO. 2020-002
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGHLAND,
CALIFORNIA, SUPPORTING THE REDUCING CRIME AND KEEPING
CALIFORNIA SAFE ACT OF 2020

12. City Manager Report and Comments (Work Program, Regional/Legislative/Development Issues, Subcommittees, etc.)

City Manager Hughes stated Council received a mid-year status report on the Work Program. Also, three electric car chargers have been installed with active accounts. Our grant is still open to install additional chargers at the Highland Library and the YMCA. Council had previously approved installation at these other sites, but staff would like to study the necessity of these additional chargers first and then bring the item back to Council for consideration. Previously the agreement with the County for the purchase of the Flood Control property had been approved, and staff has been working diligently on this agreement with final documents being signed by the Mayor this evening. We should be closing escrow at the end of next month which should be the gateway for new commercial properties coming into the City.

13. Council Member Comments (Agency/Committee/AB 1234 Reports, District Updates, etc.)

Council Member Chavez stated he attended the San Bernardino Water Board meeting last week as well as attending the COPS meeting this morning.

Mayor Pro Tem Lilburn stated the Eastgate lease was approved at the San Bernardino International Airport. She attended the COPS meeting this morning too, which was well attended. Recently she and Mayor McCallon attended the EVAR installation dinner for Redlands realtors.

ANNOUNCEMENTS

January 23

Highland Chamber of Commerce Installation Dinner

CLOSED SESSION

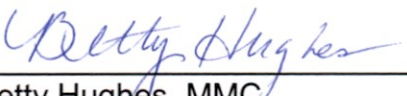
None

ADJOURN

There being no further business, Mayor McCallon adjourned the meeting at 7:08 in memory of Keith Hart, Blas Sanchez and Jack Wallace.

Submitted By:

Approved By:



Betty Hughes, MMC
City Clerk



Larry McCallon
Mayor