

CITY OF HIGHLAND SPECIAL MEETING OF THE CITY COUNCIL AGENDA

SPECIAL MEETING

January 10, 2023

6:30 p.m.

City Hall

Donahue Council Chambers

27215 Base Line

Highland, California

CITY COUNCIL MEMBERS

LARRY McCALLON, MAYOR

PENNY LILBURN, MAYOR PRO TEM

JESSE CHAVEZ, COUNCIL MEMBER

ANAELI SOLANO, COUNCIL MEMBER

JOHN P. TIMMER, COUNCIL MEMBER

STAFF

Joseph A. Hughes - City Manager

Chuck Dantuono - Director of Administrative Services/City Treasurer

Betty Hughes - City Clerk

Lawrence Mainez - Community Development Director

Carlos Zamano - Public Works Director/City Engineer

Maricela Marroquin - City Attorney

MISSION STATEMENT

Highland is dedicated to the betterment of the individual, the family, the neighborhood and the community. The City Council and the staff of Highland are dedicated to providing the quality of public facilities and services that its citizens are willing to fund and will do so as efficiently as possible.

Visit the City's website at: www.cityofhighland.org

CITY OF HIGHLAND | 27215 BASE LINE | HIGHLAND, CALIFORNIA 92346 | (909) 864-6861 ☎; (909) 862-3180 📠

The City of Highland complies with the Americans with Disabilities Act of 1990. Please contact the City Clerk's office at (909) 864-6861, ext. 226, at least 72 hours prior to the meeting for any requests for reasonable accommodation to include interpreters.

Pursuant to Government Code Section 54957.5, any disclosable public records related to an open session item on a regular meeting agenda and distributed by the City of Highland to all or a majority of the City Council less than 72 hours prior to that meeting are available for public inspection at City Hall, 27215 Base Line, Highland, CA 92346, during normal business hours.

Submission of Public Comments for ITEMS ON THIS AGENDA ONLY: For those wishing to make public comments by email, please submit your comments by email to be read aloud at the meeting. Email comments must be submitted by 5:30 p.m. on January 10, 2023, to the City Clerk at publiccomment@cityofhighland.org. If you are submitting a public comment pertaining to an item on the January 10, 2023 agenda, please identify the agenda item number in the subject line. Members of the public will be permitted to make public comments in person.

CALL AND NOTICE OF A SPECIAL MEETING OF THE HIGHLAND CITY COUNCIL

Donahue Council Chambers – City Hall
27215 Base Line, Highland, California

January 10, 2023 – 6:30 p.m.

NOTICE IS HEREBY GIVEN that a special meeting of the Highland City Council is hereby called to be held on January 10, 2023, at 6:30 p.m. in the City Council Chambers of City Hall located at 27215 Base Line, Highland, California. Said special meeting shall be for the purpose of conducting business in accordance with the attached Agenda.

AGENDA

CALL TO ORDER

ROLL CALL

PUBLIC COMMENT (LIMITED TO ITEMS ON THIS AGENDA ONLY)

To address the City Council, please complete a speaker form located at the entrance and give it to the City Clerk prior to the beginning of the meeting. Your name will be called when it is your turn to speak. Those wishing to speak on an item ON THE AGENDA will be heard at this time. State Law prohibits the City Council from taking action on any item not on the agenda. Individual speakers are limited to three minutes each.

Comments received via email by January 10, 2023, 5:30 p.m., will be read into the record, provided that the reading shall not exceed three (3) minutes. Email comments submitted by a speaker that also appears in person to address the same matter will not be read into the record.

CITY COUNCIL LEGISLATIVE

1. Request for Deferment of Development Impact Fees for Ninety (90) Days by Dan Moore Electric located at 27002 Meines Street (DRA-19-008)
RECOMMENDATION: That the City Council direct the City Attorney to draft a Development Impact Fee Deferral Agreement for the City Manager's signature.

ADJOURN

I, Betty Hughes, City Clerk, certify I caused to be posted this Agenda on or before January 9, 2023, by 6:30 p.m., on our website at www.cityofhighland.org and in the following designated areas:

Highland Branch Library
7863 Central Avenue

Fire Station No. 1
26974 Base Line

City Hall
27215 Base Line

Date: January 9, 2023



Betty Hughes, MMC
City Clerk



STAFF REPORT

TO THE CITY COUNCIL SPECIAL MEETING

DATE: January 10, 2023

FROM: Joseph A. Hughes, City Manager

PREPARED BY: Lawrence A. Mainez, Community Development Director *Lamy*
Maricela Marroquin, City Attorney

SUBJECT: Request for deferment of Development Impact Fees for ninety (90) days by Dan Moore Electric located at 27002 Meines Street (DRA-19-008)..

RECOMMENDATION: Staff recommends the City Council direct the City Attorney to draft a Development Impact Fee Deferral Agreement for the City Manager's signature.

FISCAL IMPACT: The costs associated with this request are unknown at this time. Unknown, but likely minimal, costs are: Staff and City Attorney review time drafting the subject deferral agreement. The Development Impact Fee Deferral Agreement will allow Dan Moore Electric ninety (90) days to pay the required Development Impact Fee in the amount of \$288,604.45 and authorize the City to release a Temporary Certificate of Occupancy.

PUBLIC NOTICE: As required by City Council Resolution, the meeting agenda was posted at the City's three (3) designated posting locations. In addition, the staff report was also posted on the City's website. No further notice is required.

ENVIRONMENTAL REVIEW:

Pursuant to the California Environmental Quality Act (CEQA), staff is recommending the City Council determine that any proposed Development Impact Fee Deferral Agreement is exempt from the requirements of CEQA and CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Development Impact Fee Deferral Agreement will have a significant effect on the environment. The proposed Development Impact Fee Deferral will not result in a permanent alteration of property nor the construction of any new or expanded structures.

Approved _____	Motion _____	Second _____	Agenda Item No. <u>1</u>
Denied _____	Ayes _____		File No. _____
Continued _____	Noes _____		
Tabled _____	Abstain _____		
	Absent _____		

Betty Hughes

City Clerk

[Signature]

City Manager

DISCUSSION:

On December 19, 2022, the City received a letter from Dan Moore Electric outlining their concerns about the disclosure of the City's Development Impact Fees (See Attachment A).

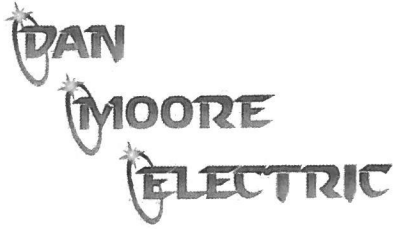
On January 10, 2023, the Finance Subcommittee heard Dan Moore Electric's concerns and considered staff's suggestion to recommend the City Council consider a Development Impact Fee Deferral Agreement. The recommended Deferral Agreement would provide Dan Moore Electric ninety (90) additional days to pay the required Development Impact Fee in the amount of \$288,604.45 [Industrial Use: \$13.487 per sf x 13,850 sf + Office Use: \$17.706 per sf x 5,750 sf = \$288,604.45].

Dan Moore Electric has already commenced a private loan process to pay the City's Development Impact Fee but needs additional time to complete that process. Once the Deferment Agreement is executed, the City's Building Official will issue a Temporary Certificate of Occupancy.

Attachments:

- A. Dan Moore Electric letter date stamped December 19, 2023

Attachment A



RECEIVED
DEC 19 2022
CITY OF HIGHLAND

I am an electrical contractor. I am building an office/warehouse in the city. The building is "99%" complete. For me, it has been a very long and expensive process.

In determining my "go" or "no go" at the initial stages, the city met with me to review various conditions. Among those conditions were discussions regarding storm water, fire department access, fire hydrants, turn-around areas, parking, planters, utilities, fire sprinklers, street improvements, set-backs, etc., etc. The list was long and exhaustive, but one component was not covered in detail.

A few weeks ago, I had an over-the-counter meeting with staff, and I was presented – for the first time – a "billing" for over \$288,000.00 for Development Impact Fees ("DIF"). At first, I was just thinking it was some sort of joke, but the reality of the situation became clear over the next hours and days. If I didn't pay the DIF, I was not going to get occupancy.

The initial issue is the city's process in full and transparent disclosure of DIF. Additional issues come from this core issue.

City staff has repeatedly asserted that initial meetings with "developers" always includes a detailed discussion about "conditions", and always "covers" DIF because this issue is always important to the "bottom line" on development projects. Moreover, in follow-up conversations with staff, they have asserted that in 20 years, this is the first and only time that DIF has had this impact at this stage of the project.

First, I think there are plenty of human factor studies that would discount the term, "always". Second, a 20-year record lends itself to a first-time-ever mistake. This is why pilots use check-lists and why there are formal Transmittal Letters of important documents. To me, a bill for \$288,000.00 + is an important document.

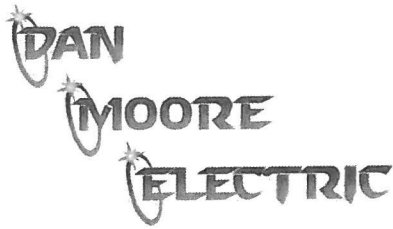
I am very good at taking notes and keeping records, while I did sign the project conditions, I did not receive the "DIF Table" handout. It is not in my records.

1833 Riverview Drive, Ste E

San Bernardino, CA 923408

Office (909)888-8639 Fax (909)888-8640

Lice. No. 938017



Consistent with my records, the city does not have any record of any kind showing that I did get the handout, and they certainly do not have a signed receipt, transmittal, or other document from me acknowledging the transmission of the DIF handout or calculations, or even an internal checklist of handouts.

My point is pretty simple... The DIF on my project is one of the most expensive single-line items. I can assure you that it would have weighed heavily on my “go”/ “no-go” decision process, had the amount been fully and transparently discussed. Essentially, the Conditions are a Contract with the city, and my position is that I didn’t get all the pages to that contract. The city staff position, based on discussions and emails, is that no mistakes were made by the city, someone on “my team” caused a “communication breakdown”, and “buyer beware” (I should have figured out that I would owe over \$288,000.00 at some point.)

Initially, I requested additional time to refinance my project and pay the DIF. However, I’ve been informed that the committee and council will not be reviewing this issue in full until at least February, and I need occupancy by January 31, 2023. The loan process (as typical) takes 6 – 8 weeks, subsequently I don’t have this amount of time prior to needing to vacate our current lease space on Riverview Dr. in San Bernardino.

In light of the city’s timeline, and the conflict with my own, I’m trying to be clear on the following points:

Protest Period -

I’m not sure what rules or cases are involved, but I think my “protest period” starts when I received the bill, and I am certainly protesting – the “disclosure” /” documentation” process/procedures, and timeliness.

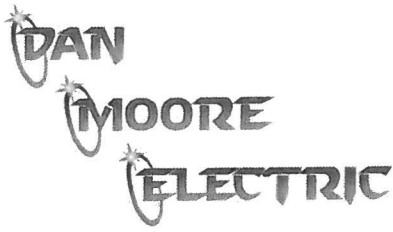
DIF Study and other dated documents -

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I am also protesting the amount of the various DIF contributions and 2006 study and other documents related to the DIF Calculations. It seems to me that a 16-year-old study is extremely out-of-date. I am hopeful the city has updated other things since 2006 and I find it questionable that the DIF are still accurate. A more detailed challenge will be presented to the committee or council.

Payment Under Protest -

Again, I'm not sure what rights I may have, or what rules or cases apply, but I want to attempt to preserve my right to pay the DIF Under Protest and to continue the Appeal Process through the committee and council.

Thank you for your consideration of these points.

Danny Moore

Dan Moore

Owner

1833 Riverview Drive, Ste E

San Bernardino, CA 923408

Office (909)888-8639 Fax (909)888-8640

Lice. No. 938017