

MINUTES of a regular meeting of the City Council of the City of Redlands held in the Council Chambers, Civic Center, 35 Cajon Street, on December 7, 2004, at 3:00 P.M.

PRESENT Susan Pepler, Mayor
Gilberto Gil, Mayor Pro Tem
Pat Gilbreath, Councilmember
Gary George, Councilmember
Jon Harrison, Councilmember

ABSENT None

STAFF John Davidson, City Manager; Daniel J. McHugh, City Attorney; Lorrie Poyzer, City Clerk; Michael Reynolds, City Treasurer; Jim Bueermann, Police Chief (afternoon session); Cletus Hyman, Deputy Police Chief (evening session); Larry Burgess, Library Director (afternoon session); Mel Enslow, Fire Chief; Tina Kundig, Finance Director; Ronald C. Mutter, Public Works Director; Marjie Pettus, Administrative Services Director; Gary G. Phelps, Municipal Utilities Director (evening session); Doug Headrick, Water Resources Chief (afternoon session); and Jeffrey L. Shaw, Community Development Director

The meeting was opened with an invocation by Councilmember Harrison followed by the pledge of allegiance.

PRESENTATIONS

AED Program - Wal-Mart - Battalion Chief Mitch McKee explained the AED Program and introduced Debbie Mullins and Dwight Kelsey from the Redlands' Wal-Mart store. Mr. Kelsey presented two AEDs donated by Wal-Mart for placement in retail/commercial complexes and challenged other retailers to also have them available.

Gifts from Linli, China - Roy Cencirulo, member of the Redlands Sister City Committee who recently returned from a visit to Linli, China, reported they are looking forward to development a third Sister City relationship. He presented an agreement from the Linli Supervisors to develop the relationship, a letter of invitation, a beautiful hand-embroidered silk tapestry, and some commemorative stamps from high school students. Councilmembers concurred to prepare a proclamation and to proceed establishing another Sister City relationship.

CONSENT CALENDAR

Minutes - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the minutes of the regular meeting of November 16, 2004, were approved as submitted.

Bills and Salaries - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, payment of bills and salaries was acknowledged.

Development Impact Fees Annual Report - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously accepted the Annual Report of the Development Impact Fees for the year ended June 30, 2004, prepared in accordance with Government Code Section 66006.

Planning Commission Actions - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the report of the Planning Commission meeting held on November 23, 2004, was acknowledged as received.

Time Extension - Environmental Documents - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved an agreement requesting a time extension and waiver and release of claims relating to the California Environmental Quality Act with Lin Consulting, Inc. which will extend the processing deadline for a negative declaration for General Plan Amendment No. 101, Zone Change No. 406, Agricultural Preserve Removal No. 106, Tentative Tract No. 16878, and Conditional Use Permit No. 834 (Arief Naftali, applicant) for 90 days beyond its CEQA expiration dated of December 27, 2004.

Final Approval - Parcel Map No. 15911 - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved and accepted the completed subdivision improvements required by the Subdivision Improvement Agreement executed between the City of Redlands and Bixby Land Company on December 17, 2002.

2005 Local Appointments List - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously accepted the Local Appointments List for 2005 as required by Government Code Section 54972 for all regular and ongoing commissions and boards which are appointed by the City Council.

Contract Amendment - City Manager - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved the second amendment to the employment agreement for City Manager John Davidson.

Settlement Agreement - Lauren Harmon - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously acknowledged a General Release and Settlement with Lauren Harmon for

personal injury and authorized the Mayor and City Clerk to execute the document on behalf of the City. The City Council authorized settlement of this lawsuit and this agreement reflects the Council's terms and conditions for settlement.

Tolling Agreement - Russell Seheult - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously acknowledged an agreement with Russell Seheult for the Burrage Mansion and authorized the Mayor and City Clerk to execute the document on behalf of the City. The City Council agreed to the terms and conditions contained therein in closed session.

Proclamation - Arbor Day - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously authorized issuance of a proclamation for the 2005 celebration of National Arbor Day in Redlands on April 30, 2005.

Resolution No. 6344 - Traffic - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously adopted Resolution No. 6344, a resolution of the City Council of the City of Redlands establishing the following traffic regulations pursuant to Title 10 of the Redlands Municipal Code: Install a multi-way stop at Lugonia Avenue and Nevada Street.

Fee Waiver - Lincoln Pilgrimage - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved the request by the Boy Scouts of America for waiver of fees for use of the Redlands Bowl, barricades and public safety (police) services for the annual Lincoln Pilgrimage program to be held on February 5, 2005.

Lease Agreement - Xerox Corporation - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved a five-year lease agreement with Xerox Corporation to lease a Synergix Print System 510DP for the Public Works Department, authorized the Mayor and City Clerk to execute the document on behalf of the City, and authorized the purchase of print media supplies.

Review of Emergency Action - Public Works Director Mutter reported that Resolution No. 6343, adopted by the City Council on November 2, 2004, declared that the public interest and necessity demanded the immediate expenditure of public money to safeguard life, health and property. He had determined that damages caused by the storms of October 20 and October 27, 2004, had caused the undermining and collapse of storm drains and the undermining of embankments at several locations. The need to make necessary repairs was immediate. In accordance with Public Contract Code Section 22050, the City Council shall review the emergency action at its next

regularly scheduled meeting and at every regularly scheduled meeting thereafter until the emergency action is terminated to determine whether there is a need to continue the action, and shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts. Public Works Director Mutter reviewed the status of the emergency work.

OSC 04-09 - Razzouk, Applicant - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously determined that Outside City Case 04-09, Lot 2 of Parcel Map 4094, APN 299-112-11, is consistent with the City of Redlands General Plan and that the public health, safety, and welfare, and the best interests of the citizens of Redlands, are served by the City continued processing of the application.

Grant Contract - South Coast Air Quality Management District - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved a grant contract with the South Coast Air Quality Management District for the purchase of alternative fuel vehicles for the Solid Waste Division and authorized the Mayor and City Clerk to execute the document on behalf of the City.

High Groundwater Extraction Agreement - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved the second high groundwater extraction agreement with the San Bernardino Valley Municipal Water District and the Western Municipal Water District and authorized the Mayor and City Clerk to execute the document on behalf of the City.

Independent Contractor Agreement - DASH - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved an independent contractor agreement with Developing Aging Solutions with Heart, Inc. (DASH) and authorized the Mayor and City Clerk to execute the document on behalf of the City.

Fire and City-Wide Safety Training Officer - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously authorized the addition of one Battalion Chief position to serve as training officer for the Fire Department and the City-wide safety program.

Funds - Agreement - Secure Our Schools Initiative Grant - On motion of Councilmember Gilbreath, seconded by Councilmember Harrison, the City Council unanimously approved an award agreement for the \$49,997.00 grant from the U. S. Department of Justice, Office of Community Oriented Policing Services, for the Secure Our Schools Initiative grant, authorized the Mayor and City Clerk to execute the document on behalf of the City, and authorized an additional appropriation in the same amount to the Police Department to pay for security equipment.

COMMUNICATIONS

Alabama and Orange Street Bridges - Public Works Director Mutter reviewed the construction projects for the Alabama and Orange Streets bridge replacements. The project was originally planned to construct the bridges one

at a time. However, the construction management consultant has stated that if the City constructs the bridges together, there could be a savings of up to one million dollars. Staff explored the options and also asked the City of Highland for their thoughts. The Initial Study for CEQA compliance indicated the bridges would be built one at a time but Tom Dodson and Associates feels building both bridges at the same time would be within the environmental document guidelines. Public Works Director Mutter noted there are benefits and disadvantages to both sides and felt the City Council should be allowed to consider the issue. Staff stands by their recommendation that the Alabama bridge be constructed first and then the Orange Street bridge. Councilmembers Pepler, Gilbreath, and Harrison expressed concerns about closing both streets at the same time.

Appointments - Human Relation Commission - Mayor Pro Tem Gil moved to appoint Alex E. Contreras to a four-year term on the Human Relations Commission. Motion seconded by Councilmember Pepler and carried unanimously. Mayor Pro Tem Gil moved to reappoint Randall Brown to a four-year term on the Human Relations Commission. Motion seconded by Councilmember Pepler and carried unanimously.

Appointment - Recreation Advisory Commission - Mayor Pepler moved to appoint Lupe R. Sanchez, Jr. to fill the unexpired term of Marge Emrick to June 30, 2006, on the Recreation Advisory Commission. Motion seconded by Councilmember Harrison and carried unanimously.

Redlands Tourism Committee - Councilmember George reported the Redlands Tourism Committee (Char Burgess, Chair; Al Hernandez, Molly Burgess, Nathan Gonzales, Shelli Stockton, Nelda Stuck and Frank Herendeen) has been meeting for the past year to develop ideas to promote Redlands as a "destination" tourism location. Char Burgess addressed the City and presented a proposal to set aside 50 percent of the newly generated bed tax funds as a special fund to promote cultural tourism. The committee, to date, has been operating under the auspices of the Chamber of Commerce. The chamber is concerned about being open on weekends and developing printed brochures which would need to include all businesses in a certain category (such as restaurants) and thus extend beyond Chamber of Commerce members. They proposed to solve these dilemmas by moving the Redlands Tourism Committee under the Board of Trustees of the A. K. Smiley Public Library as an advisory committee. They proposed to augment the Library staff slightly, cross train existing staff, and have "full-time-plus" tourism coverage at the reference desk of Smiley Library. At this time, Councilmember George is seeking the City Council's approval in concept to move forward to implement this procedure. Mayor Pepler expressed appreciation to members of the Redlands Tourism Committee. Councilmember Gilbreath moved to approve this proposal in concept. Motion seconded by Councilmember George and carried unanimously.

JOINT MEETING - CITY COUNCIL AND REDEVELOPMENT AGENCY

Resolution No. 6347 - Conflict of Interest Code - Councilmember Gilbreath moved to adopt Resolution No. 6347, a resolution of the City Council of the City of Redlands adopting an amended Conflict of Interest Code pursuant to the Political Reform Act of 1974 by repealing Resolution No. 6177 in its entirety. Motion seconded by Councilmember George and carried unanimously. (Also see Resolution No. 387 in the Redevelopment Agency minutes for December 7, 2004.)

Resolution No. 6345 - First Time Home Buyer Program - Councilmember Gilbreath moved to adopt Resolution No. 6345, a resolution of the City Council of the City of Redlands authorizing the use of low- and moderate-income housing funds outside the Redlands Project Area for a First Time Home Buyer loan agreement with Christina Garcia and Armando Fonseca, 1012 Columbia Street, which will be acted upon by the Board of Directors of the Redevelopment Agency. Motion seconded by Councilmember George and carried unanimously. (Also see Resolution No. 386 in the Redevelopment Agency minutes for December 7, 2004.)

CLOSED SESSION

At this time, City Attorney McHugh announced the City Council would discuss the following in closed session:

1. Conference with real property negotiator -
Government Code Section 54956.8
 - a. Property: Portion of APN No. 167-101-06
Negotiating parties: Doug Headrick and
San Bernardino Valley Municipal Water
District
Under negotiation: Terms and price
 - b. Property: APN No. 168-041-19
Negotiating parties: Gary Phelps and
Hangar Owners' Association and Eric Paul
Under negotiation: Terms and price
 - c. Property: APN No. 294-161-08
Negotiating parties: John Davidson and
Tony L. Louka and Brenda Evans-Louka
Under negotiation: Terms and price
2. Conference with labor negotiator -
Government Code Section 54957.6
 - a. Agency Negotiator: John Davidson
Employee Organizations: Redlands Association of Safety Management
Employees, Redlands Professional Fire
Fighters Association, and
Redlands Police Officers Association

3. Conference with legal counsel: Anticipated litigation - Government Code Section 54956.9(b) - One case
4. Conference with legal counsel - Anticipated litigation - Government Code Section 54956.9(c) - One case
5. Public Employee Performance Evaluation - Government Code Section 54957 - City Manager and in connection therewith, the Administrative Services Director, Community Development Director, Finance Director, Fire Chief, Library Director, Municipal Utilities Director, Police Chief and Public Works Director

Mayor Pepler asked the City Attorney to explain the listing of the public employee performance evaluation under the closed session. City Attorney McHugh said the City Council wanted to evaluate the City Manager and by discussing his role in the day-to-day administrative operations, City departments would come up in the discussion. To protect the City under the Brown Act and in the interest of the taxpayers, staff listed all of the department heads that might be related to the City Manager's operations. Representing a number of people in the audience, the following spoke in support of Police Chief Bueermann: Curtis Baird, Reverend Anthony Green, Don Wallace, Joe Walloch, Pastor Joshua Beckley, Reverend Felix Roger Jones, III, Pastor Adam De La Vega, Joe Delgado, and Susanne Pastuschik. Noting there was a lot of bad information circulating in the community, which unfortunately resulted from insinuations and irresponsible reporting as part of a "gossip" column in a local newspaper (The Sun) and an anonymous flyer distributed around town, Mayor Pepler stated it was an "absolute lie" that she intended to fire the police chief. She stated the topic has never been approached nor did she have the power to fire any department head. She said the City Council supported all of the department heads, including the police chief, and thanked the people for coming to this meeting.

The City Council meeting recessed at 3:48 P.M. to continue the Redevelopment Agency meeting and reconvened at 3:58 P.M. to the closed session to discuss the above noted matters. The meeting reconvened at 7:00 P.M.

PRESENTATION

Proclamation - December to Remember - Mayor Pepler presented a proclamation to Tim Evans for The Unforgettables Foundation declaring December 2004, as *December to Remember* month and encouraged community members to focus on protecting and remembering our children. The mission of The Unforgettables Foundation is to encourage communities to recognize the financial trauma often associated with the death of a child and the importance of a dignified burial regardless of their family income. Since its inception in 1999, The Unforgettables Foundation has assisted more than 500 families in the Inland Empire with burial expenses, and this year three Redlands' families have received assistance with the cost of burials for premature infants. Mr. Evans

invited everyone to participate in the New Years' Eve "Lights for Little Lives Community March" starting at the Loma Linda Ronald McDonald House.

ANNOUNCEMENTS/REPORTS

Councilmembers reported on their activities and attendance at meetings during the past three weeks. At the suggestion of Mayor Pepler, Councilmembers concurred to consider further review of the City's logo at the December 21, 2004, meeting. Councilmember George suggested holding a joint meeting with the Planning Commission on January 4, 2005, at 2:00 P.M. to hear presentations from SCAG regarding its growth visions and the Emerald Necklace concept.

UNFINISHED BUSINESS

Appeal - Minor Exception Permit No. 255 - A request submitted by Larry Curti to allow construction of a six-foot high wrought iron fence and an eight-foot high wrought iron entry gate with both six-foot and eight-foot square masonry columns within the required front yard setback area at 1710 Smiley Ridge Drive was appealed by Community Development Director Shaw. The appeal was continued from the November 16, 2004, meeting at the request of the applicant. Community Development Director Shaw explained the Fence Committee, on October 15, 2004, voted to approve the applicant's request to place a combination block wall/wrought iron fence within the front yard setback subject to the following conditions:

1. The fencing proposed along the property frontage shall be no higher than 5-foot tall and shall incorporate irrigated landscaping along its front perimeter;
2. The entry gate shall be no higher than 6-feet in height; and
3. The applicant shall be required to obtain homeowners' association approval before City permits will be issued and that proof of homeowner association approval shall be required at the time of building permit issuance.

The original request by the applicant was to allow construction of a six-foot high wrought iron fences and eight-foot high wrought iron entry gates with both six-foot high and eight-foot high square masonry columns within the required front yard setback area at 1710 Smiley Ridge Drive. Community Development Director Shaw summarized the circumstances and information concerning both the request of the applicant for the subject fence and the reasoning behind the homeowners' association's denial of the applicant's requested fence. It appears, after the fact, that the third condition may have actually circumvented the City's, as well as the Fence Committee's, powers as an independent government body. Traditionally, the City does not enforce Conditions, Covenants and Restricts and does not delegate decision making authority to homeowners' associations. Given this historic policy of the City, it appears that the action of the Fence Committee to defer decision making authority to the homeowners' association was inconsistent with City policy. Because this is a matter of policy, staff believed the issues should be brought before the City Council for resolution. The Community Development Department is, at this time, recommending that

the third condition of approval be removed from the list of conditions of approval for Minor Exception Permit No. 255. Representing the homeowners' association, Weldon Brown supported staff's recommendation. Councilmember Peppler moved to determine that the Fence Committee's decision to condition approval of a fence upon the exercise of discretion by a private homeowner's association is not appropriate and to approve the City staff's appeal to delete Condition of Approval No. 3 from the approval of Minor Exception Permit No. 255 based on the following findings: it is inappropriate to defer City decision making authority to private persons; approval of an entitlement issued by the City should not be based on the unfettered discretion and evaluation performed by private persons; decisions made by City committees should be based on facts, details, conditions and specific circumstances encountered during the performance of committee duties and not delegated to private parties; and the City's longstanding custom and practice is to determine the issuance of City permits and entitlements based solely on City and State laws and not rules of private homeowners' associations. Motion seconded by Councilmember Gil and carried unanimously.

PUBLIC COMMENTS

City Logo - Mary Ann Wilson urged the City Council to keep the cross on the 1963 City seal and questioned the need for a new logo. Scott Siegel updated the progress and status of the signature gathering effort for the proposed ballot initiative to restore the original seal with the cross. With the understanding this matter will be on the agenda for the December 21, 2004, meeting, Mr. Siegel indicated he would consider withdrawing the petition only if the following actions were to take place:

1. There is a demonstrable ground-swell of support by the people of Redlands for the proposed design submitted by the Committee to Save Redlands Seal as a replacement.
2. A vote of the Redlands' City Council that officially adopts this proposed replacement seal, codifying it into the municipal code much the same way as the ballot initiative has proposed. The seal must be required to be displayed in all official capacities, defended vigorously from any potential challenges, and the citizens must be given assurance that the Council cannot simply change the seal once again at the first sign of conflict.

Mr. Siegel indicated that until such time as the City Council took bold legislative action that he would not entertain the withdrawal of his petition.

ADJOURNMENT

There being no further business, the City Council meeting adjourned at 7:32 P.M. The next regular meeting will be held on December 21, 2004.