



MINUTES CITY OF NORCO

CITY COUNCIL/COMMUNITY REDEVELOPMENT AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE
OCTOBER 20, 2010

CALL TO ORDER: Mayor Pro Tem Hanna called the meeting to order at 6:01 p.m.

ROLL CALL: Mayor Malcolm G. Miller, M.D., **Absent**
Mayor Pro Tem Berwin Hanna, **Present**
Council Member Kathy Azevedo, **Present**
Council Member Kevin Bash, **Present**
Council Member Harvey C. Sullivan, **Present**

Staff Present: Carlson, Cooper, Groves, Jacobs, King, Okoro, Petree and Thompson

City Attorney Harper – **Present**

THE CITY COUNCIL/CRA RECESSED TO CLOSED SESSION (SECTION 54954) TO CONSIDER MATTERS:

Section 54957.6 – Conference with Labor Negotiator

Negotiating Parties: City Manager Groves and Deputy City Manager/Director of Finance Okoro

Employee Organization: Norco General Employees Association
Norco Public Works & Parks Maintenance Workers Association

RECONVENE PUBLIC SESSION: With nothing to report from Closed Session, Mayor Pro Tem Hanna reconvened the meeting at 7:00 p.m.

PLEDGE OF ALLEGIANCE: Norco Boy Scout Troup 999

INVOCATION: Council Member Sullivan

PROCLAMATIONS: Red Ribbon Week
Corona-Norco Unified School District

Mayor Pro Tem Hanna introduced Jessica Hodgeson, representing the Corona-Norco Unified School District, who presented information regarding Red Ribbon Week and the events that will take place. Red Ribbon Week information was passed out to the Council Members and staff.

Agenda Item 1.A. & 3.A.

OMNI Youth Music and Actors Award for
"Outstanding Pop Performer, 12-18"
Brooke Rose-Merola

Mayor Pro Tem Hanna presented a certificate to Brooke Rose-Merola in recognition of her accomplishments. A short movie clip was shown highlighting her award.

REGULAR COMMUNITY REDEVELOPMENT AGENCY (CRA) AGENDA AS FOLLOWS:

1. CRA CONSENT CALENDAR ITEMS:

M/S Bash/Sullivan to approve the items as recommended on the CRA Consent Calendar. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, SULLIVAN
NOES: NONE
ABSENT: MILLER
ABSTAIN: NONE

- A. CRA Minutes:
Regular Meeting of October 6, 2010
Recommended Action: Approve the CRA Minutes. (City Clerk)
- B. Approval to Appropriate \$11,500 from the Unallocated Low-Mod Fund Balance to Account 015-5500-41225 (Homeless Prevention) for the Norco Senior Meals Program. **Recommendation: Adopt CRA Resolution No. 2010-18.** (Housing Manager)
- C. Authorization to Execute a Contract Change Order with the Firm of GMID Architecture, Interior and Planning ("GMID") to Modify the Working Drawings for Engineering and Design of the Animal Control Shelter. **Recommended Action: Authorize the Executive Director to execute a Contract Change Order in the amount of \$101,250 with GMID to modify the working drawings and engineering site work for the construction and renovation of the Norco Animal Control Shelter and authorize the Executive Director to approve contract change orders up to 10 percent of the original contract amount.** (Director of Parks, Recreation & Community Services)

JOINT CRA/CITY COUNCIL AGENDA AS FOLLOWS:

2. JOINT CRA/CITY COUNCIL CONSENT CALENDAR ITEM:

M/S Sullivan/Bash to approve the item as recommended on the Joint CRA/City Council Consent Calendar. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, SULLIVAN
NOES: NONE
ABSENT: MILLER
ABSTAIN: NONE

- A. Authorization for the City to Quit Claim City Property at 1468 Second Street to the Norco Redevelopment Agency. **Recommended Action: Adopt Resolution No. 2010-56, authorizing the City to Quit Claim its interest in real property located at 1468 Second Street purchased for the Second Street Widening Project to the Norco Redevelopment Agency.** (City Engineer)

3. OTHER CRA MATTERS: **No other CRA matters.**

ADJOURNMENT OF CRA: 7:10 p.m.

REGULAR CITY COUNCIL AGENDA AS FOLLOWS:

4. CITY COUNCIL CONSENT CALENDAR ITEMS:

M/S Sullivan/Bash to approve the items as recommended on the City Council Consent Calendar. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, SULLIVAN
NOES: NONE
ABSENT: MILLER
ABSTAIN: NONE

- A. City Council Minutes:
Regular Meeting of October 6, 2010
Special Meeting of October 11, 2010
Recommended Action: Approve the City Council Minutes (City Clerk)
- B. Recap of Actions Taken at the Planning Commission Regular Meeting of October 13, 2010. **Recommended Action: Receive and File** (Planning Director)
- C. Quarterly Investment Report for Quarter Ended September 30, 2010. **Recommended Action: Receive and File** (Deputy City Manager/Director of Finance)

- D. Resolution Approving Employer Paid Member Contributions. **Recommended Action: Adopt Resolution No. 2010-57, approving Employer Paid Member Contributions.** (Deputy City Manager/Director of Finance)
 - E. Acceptance of the Parmenter Park ADA Restroom Project as Complete. **Recommendation: Accept the Parmenter Park ADA Restroom Project as complete and direct the City Clerk to file the Notice of Completion with the County Recorder's Office.** (Housing Manager)
 - F. Acceptance of Irrevocable Offer of Dedication for Public Use an Easement for Equestrian Trail Purposes across Parcels 1 and 5 of Parcel Map No. 24006. **Recommended Action: Adopt Resolution No. 2010-58, accepting the offer of dedication.** (Director of Public Works)
 - G. Acceptance of Bids and Award of Contract for the Auger/Grinder Wastewater System. **Recommendation: Award the contract for the Auger/Grinder Sewage System Project to Atom Inc. in the amount of \$281,095 and authorize the City Manager to approve contract change orders up to 10- percent of the contract amount.** (Director of Public Works)
 - H. Approval to Declare as Surplus the Reclaimed Water Meters from the Automated Meter Reading Project. **Recommended Action: Declare the reclaimed water meters as surplus and authorize the Deputy City Manager/Director of Finance to dispose of surplus assets through a competitive process.** (Deputy City Manager/Director of Finance)
 - I. Amendment to the Facility Use Policy for the Parks, Recreation and Community Services Department approving the list of Special Consideration Groups. **Recommended Action: Adopt Resolution No. 2010-59.** (Director of Parks, Recreation & Community Services)
 - J. City of Norco Participation in the County of Riverside Mortgage Credit Certificate (MCC) Program. **Recommendation: Adopt Resolution 2010-60, approving the City's participation in the County of Riverside Mortgage Credit Certificate Program.** (Housing Manager)
5. ITEMS PULLED FROM CITY COUNCIL CONSENT CALENDAR: **No items pulled from the City Council Consent Calendar.**

6. CITY COUNCIL PUBLIC HEARINGS:

- A. Amendment to the Comprehensive Fee Schedule to Update and Adjust Fees for Parks, Recreation and Community Services

On June 2, 2010, the City Council adopted Resolution No. 2010-26 updating the fees for general City services. The proposed resolution recommends the following amendments to the City's Comprehensive Fee Schedule: 1.) The addition of certain new fees to the Comprehensive Fee Schedule relating to Parks, Recreation and Community Services Department; and 2.) Changes to certain facility use charges based on the elimination of Groups 1, 2, and 3 fee categories creating one fee for all users, with the exception of Special Consideration Groups.

Recommended Action: Adopt Resolution No. 2010-___, amending Resolution No. 2010-26 to update and adjust fees for Parks, Recreation and Community Services. (Director of Parks, Recreation & Community Services)

City Manager Groves stated that an ad-hoc committee reviewed the current facility fees to find the most effective way to bridge the gap that is subsidized by the General Fund, while accommodating residents, businesses and those special consideration organizations/events that have had historical and widespread community involvement with reduced or waived fees. The current Group II arena rates are proposed to increase by 30% on January 1, 2011 and an additional 30% on July 1, 2011, at which time the fee structure will once again be reevaluated to determine if the increases should continue until all direct costs are recovered.

Director Petree thanked the sub-committee and all the various groups that worked together through this process.

Mayor Pro Tem Hanna OPENED the public hearing, indicating that proper notification had been made and asked for the appearance of those wishing to speak. With no one wishing to speak, Mayor Pro Tem Hanna **CLOSED** the public hearing.

Under discussion following the motion, Council Member Azevedo thanked the groups that worked on this and also thanked the "amazing" Parks and Recreation staff. Council Member Bash stated that he is proud of the Parks and Recreation Commission and ad-hoc committee that worked on this.

M/S Sullivan/Azevedo to adopt Resolution No. 2010-61, amending Resolution No. 2010-26 to update and adjust fees for Parks, Recreation and Community Services. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, SULLIVAN
NOES: NONE
ABSENT: MILLER
ABSTAIN: NONE

- B. Appeal of Planning Commission Denial of Conditional Use Permit 2010-02 to Locate a Service Station/Convenience Store at 2807 Hamner Avenue

This item is an appeal of the Planning Commission denial of Conditional Use Permit 2010-02, a request for approval to allow development of a service station with a convenience store at 2807 Hamner Avenue located within the C-G (Commercial General) Zone. The project was denied by the Planning Commission on a 5-0 vote because the project did not meet the minimum development standards required for the approval of the conditional use permit. The appeal to the City Council was filed by the property owner/applicant.

Recommended Action: Adopt Resolution No. 2010-___, upholding the Planning Commission action to deny Conditional Use Permit 2010-02. (Planning Director)

Director King stated that what is being requested is approval of the development of a new gas station, with a convenience store and pump stations, at 2807 Hamner Avenue. Currently, there is an existing gas station at that site. He noted that the current gas station needs to be removed from the site. The application is for a new gas station on that site.

Director King stated that one of the issues that came up is the Hamner Avenue Widening Project. Since the City (through TUMF) initiated this street-widening program, the City was required to obtain the right-of-way from adjacent properties where it didn't exist. That was the case with this project site as well. The right-of-way had not been dedicated so it was necessary for the City to obtain access to the needed property. Because the site is already small and congested, it was determined that obtaining any right-of-way for street improvement purposes would put the business in a position of not being able to stay open and function properly. The owner was therefore compensated entirely in the amount of nearly \$1.5 million for the loss of the business as well as the loss of the property that was taken through the acquisition of right-of-way for the street improvements. The agreement was that once street improvements began, the owner would close the business permanently, hence the compensation for the loss of the business. This compensation agreement was entered into in January 2008. The owner stayed in business per the agreement even though the compensation for the loss of the business had already been paid.

The property owner is now requesting approval to allow the development of a new service station on the remainder parcel (the project site for this conditional use permit application) after demolition of the existing structures. Service Stations are conditionally permitted land uses in the C-G zone. With conditionally-permitted uses, the Planning Commission must hold a public hearing to consider whether the proposed land use will adversely affect the adjoining land uses and the growth and development of the area. The project must also be reviewed to ensure that development standards in the C-G zone are complied with as well as other requirements of the Norco Municipal Code including Chapter 18.33 "General Provisions for Service Stations".

Staff met with the applicant a number of times at pre-planning meetings and one of the persistent problems was the access and circulation on the site, per the requirements in the Norco Municipal Code. Because the parking requirement has not been met and on-site circulation is inadequate by not continually maintaining the required 25-foot wide drive-aisle clearance, the Planning Commission concurred with staff's determination that the site is not large enough to accommodate the proposed land use. As such, the Planning Commission could not make findings for the approval of the conditional use permit and for the approval of the accessory convenience store. Therefore, the project was denied.

Council Member Azevedo asked Director King if, as a part of this agreement, the applicant would give us back the \$1.5 million dollars, or does he want to keep the money, keep the current business running and build a new business? Director King stated that he does not intend to give the Agency the money back, does intend to keep the existing business running and does intend to build a new business.

Mayor Pro Tem Hanna OPENED the public hearing, indicating that proper notification had been made and asked for the appearance of those wishing to speak.

Larry Morris. Mr. Morris stated that he represents Conoco-Phillips 76 gas stations and is the area representative for them. He encouraged the building of the new station and noted that the applicant received an award for being in the top 10 of 50 stations in his group. He further noted that he was under the impression that the new driveway built would make the development OK to do and encourages this to be approved.

Reda Wasee. Mr. Wasee stated that he owns the Mobile gas station across the street and based on the Purchase and Sale Agreement, the station should be shut down and added that the applicant is fully aware of his responsibilities. He noted that, according to the City's Code, you cannot open a gas station less than 2,000 feet from an existing gas station and his station is less than that from Mr. Sedrak's station. Mr. Wasee stated that the applicant should not keep the public money and keep the business, and added that he hopes that the City denies the project.

Charles Schurter. Mr. Schurter is the attorney representing Mr. Sedrak and stated that this gas station has been in existence before the City was incorporated and is a long standing gas station that is popular with the residents. He noted that its benefit creates a public convenience and is not detrimental to public welfare, and further noted that it adds competition, which is good for the community. He pointed out that the minimum location and distance requirements in the City's Municipal Code, in this instance, and in most instances, would be applied in an arbitrary manner. What is going to happen is that the Mobile station down the street would remain open and Mr. Sedrak's station would be closed down and this is arbitrary, why him? He commented on the contract issues and noted that Mr. Sedrak would experience quite a hardship from the loss of his business. Mr. Schurter stated that blight would be created if the business was closed down and added that Mr. Sedrak is creating tax revenue and jobs for the City.

Fayez Sedrak. Mr. Sedrak, the applicant, stated that the payment to him from the City was based on an appraisal done by the City, and not by him. He stated that there was not much he could do with the remaining contaminated land. Mr. Sedrak stated that what he is proposing is to completely tear down the existing business and put a new business in. He added that he is investing money received into Norco and he will create revenue for the City.

Council Member Sullivan asked Mr. Sedrak when he signed the agreement to shut the business down and took the \$1.5 million dollars; did he have his attorney look at it? Mr. Sedrak responded that he did not have an attorney at the time and indemnified the City and agreed on everything. Council Member Sullivan commented on the fact that Mr. Sedrak owned two or three other stations and asked if he would have an attorney look at other agreements that would shut his businesses down. Mr. Sedrak responded that he did not have an attorney at the time and was very happy. He added that he spent the money on his business. Council Member Sullivan commented on discussions Mr. Sedrak had with City Staff regarding the islands and canopies at his gas station and asked Mr. Sedrak if he had permits from the City to make those changes. Mr. Sedrak stated he was told he did not need City permits and received permission from the County. Council Member Sullivan stated that Mr. Sedrak should have done the things he agreed to do.

Niall Saunders. Mr. Saunders, Mr. Sedrak's architect, stated that the project has support among the community. He commented on the Purchase and Sale Agreement and noted that the agreement was to compensate Mr. Sedrak for the closing of the business and redevelopment, not to purchase the site. Mr. Saunders stated that the plans under the CUP are to tear the existing business down and reopen a brand new gas station.

John Box. Mr. Box commented that he is a patron of the Mobile and 76 stations and has had great service from both. He stated that this is a great situation to be in as they want to do business in the City and added that it wouldn't hurt to formulate a solution for all parties. Mr. Box stated that making a deal is all about giving something up and added "don't just push him off the cliff." He noted that there should be a plan to satisfy all parties and further commented on the economic impact from this.

Pat Overstreet. Ms. Overstreet stated that sometimes she wonders if we are getting "punked" and added that she does not get this one at all. She noted that she also supports businesses in Norco and further noted that we have a competent Planning Commission and the Council should vote for denial.

Mayor Pro Tem Hanna CLOSED the public hearing.

Council Member Bash commented on the contract with the business owner and noted that he needs to keep his word. He further commented that he understands competition, but there is another business involved. Council Member Bash stated that the owner is still responsible for cleaning it up and is on the hook for the contamination. He added that the \$1.5 million was a good deal. He noted the sub-standard lot and further noted that the City is trying to help him, but he is on a sub-standard lot and gave his word that he would give up the property.

Council Member Azevedo commented on sections of the Purchase and Sale Agreement relating to the demolition of the existing structures on the remainder parcel and within the easement, the \$1.5 million he received and the fact that the business remained open rent free. She stated that with that, over \$2 million was given to him in exchange for property. Council Member Azevedo stated that if Mr. Sedrak gave the money back, then we could re-look at a project in compliance with City's Code. She further stated that we cannot turn our backs on a signed agreement as this would make for an unfair playing field in our community.

Council Member Sullivan commented on the competition in the gas stations and noted the comments made that the owner paid only for his loss of business. He further stated that he was also compensated for the City's purchase of the easement.

Mayor Pro Tem Hanna stated that Mr. Sedrak was treated fairly as he was paid to cease business in 2008 and has been operating ever since. He added that when he was asked by the City to close down, he continued to operate. Mayor Pro Tem Hanna stated that he sees no reason why he should go against the Planning Commission recommendation.

City Attorney Harper reminded the Council Members that there has been a lot of discussion regarding the agreement and that was not why we are here tonight. He added that the agreement (he supposed) is background about how we got to where we are tonight. What the Council is here for is to consider the appeal of the denial of the Conditional Use Permit based upon the grounds upon which you can either deny or approve a CUP. The agreement in itself, whether or not he has been paid or not paid, is not relevant to the extent that the Council is considering the appeal based upon the requirements that the City places in its Zoning Code on the issuing of a CUP for a gas station/convenience store. City Attorney Harper stated that should be the basis of any decision made tonight, not whether or not he was adequately compensated for closing the business.

Under discussion following the motion, Council Member Azevedo stated that she absolutely would love to have a gas station and a Circle K in town where it meets the right conditions of the City.

M/S Bash/Azevedo to adopt Resolution No. 2010-62, upholding the Planning Commission action to deny Conditional Use Permit 2010-02. The motion was carried by the following roll call vote:

AYES: AZEVEDO, BASH, HANNA, SULLIVAN
NOES: NONE
ABSENT: MILLER
ABSTAIN: NONE

7. PUBLIC COMMENTS OR QUESTIONS:

Ron Warren. Mr. Warren invited everyone to a tribute for Veterans Day on the 13th of November to be held at the Norco Seventh-Day Adventist Church.

Glenn Hedges. Mr. Hedges announced the Norco Trails Cleanup Day to be held on November 13th at Pikes Peak Park. He added that Waste Management will be hosting a barbeque following the event.

8. OTHER MATTERS – COUNCIL:

Council Member Sullivan:

- Commented on a check received from the Mustang Heritage Foundation in the amount of \$500 that will be donated to the City for the Employee Recognition Dinner.

Council Member Azevedo:

- Commented on her first attendance at a RCTC Commission meeting and reported that it was very informational. She added that there is a lot of good work being done in the region to help mitigate traffic.

Council Member Bash:

- Noted the October 30th event where there will be a run around Lake Norconian put on by the Kiwanis and the Lake Norconian Club Foundation.
- Commented on his attendance at an event put on by the Urban Land Institute called “Planning for Edge Development in the Next Cycle: A Case Study in Emerging Communities” where discussion was held regarding how to survive as cities.

Mayor Pro Tem Hanna:

- Asked Public Works Director Thompson if there was any more discussion on traffic calming. Public Works Director Thompson responded that no discussions have taken place but he will look into this by the next meeting.
- Commented on a young man injured on a horse on Hillside above the Norco High School football stadium and asked if anything was being done to complete the horse trail and also asked about the placement of the memorial bench. Public Works Director Thompson responded that Hillside will need to be moved 18 feet to the east so that there will be more room for the trail and added that the trail design has been stopped at this point until that road design is complete. He added that he has been in contact with Norco High School about the bench placement and will get information to the City Manager on this.
- Noted the conditions of the trail on Town and Country, where they are covered with bushes, and asked if there was any way they can be made safer.
- Commented on calls he has received regarding dogs that are running up to fences and spooking horses. He asked if there could be a letter placed in water bills making residents aware of this.

9. OTHER MATTERS – STAFF:

City Manager Groves stated that a City Council Study Session will be held on Monday, October 25th at 1:00 p.m. She also reminded everyone about the Holiday Banner Program on Sixth Street and noted that staff will be accepting applications through the next week.

10. ADJOURNMENT: There being no further business to come before the City Council, Mayor Pro Tem Hanna adjourned the meeting at 8:19 p.m.

BRENDA K. JACOBS
CITY CLERK

/bj-76873