



MINUTES

CITY OF NORCO

CITY COUNCIL

REGULAR MEETING

CITY COUNCIL CHAMBERS – 2820 CLARK AVENUE

OCTOBER 5, 2011

CALL TO ORDER:

Mayor Hanna called the meeting to order at 6:00 p.m.

ROLL CALL:

Mayor Berwin Hanna, **Present**
Mayor Pro Tem Kevin Bash, **Present**
Council Member Kathy Azevedo, **Absent**
Council Member Greg Newton, **Present**
Council Member Harvey C. Sullivan, **Present**

Staff Present: Bryan, 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 54956.9(c) – Conference with Legal Counsel - Anticipated Litigation

Number of Potential Cases: 1

RECONVENE PUBLIC SESSION:

Mayor Hanna reconvened the meeting at 7:00 p.m.

REPORT OF ACTION(S) TAKEN IN CLOSED SESSION (§54957.1): **City Attorney Harper stated that there were no reportable actions resulting from the item discussed in Closed Session.**

PLEDGE OF ALLEGIANCE:

Boy Scout Troup No. 999

INVOCATION:

Assembly of God – Beacon Hill
Pastor Rene Parish

CITY COUNCIL AGENDA AS FOLLOWS:

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

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

1. CITY COUNCIL CONSENT CALENDAR ITEMS:
 - A. City Council Minutes:
Regular Meeting of September 21, 2011
Recommended Action: **Approve the City Council Minutes** (City Clerk)
 - B. Acceptance of the Ridge Ranch Park Project as Complete.
Recommended Action: Accept the Ridge Ranch Park Project as complete and direct the City Clerk to file a Notice of Completion with the County Recorder's Office. (Director of Parks, Recreation & Community Services)
 - C. Acceptance of Spirit Knoll Court for Public Utility Purposes.
Recommended Action: Adopt Resolution No. 2011-66, accepting the offer to dedicate to the public use, Spirit Knoll Court for public utility purposes and authorize the Mayor to sign the Certificate of Acceptance. (Director of Public Works)
 - D. Acceptance of the Community Center Parking Lot Expansion and Hamner Avenue Improvements Project.
Recommended Action: Accept the Community Center Parking Lot Expansion and Hamner Avenue Improvements Project as complete and direct the City Clerk to file the Notice of Completion with the County Recorder's Office. (Deputy City Engineer and Director of Parks, Recreation & Community Services)
2. ITEM(S) PULLED FROM CITY COUNCIL CONSENT CALENDAR: **No items pulled for discussion.**
3. CITY COUNCIL ACTION ITEM:
 - A. Approval of a Cooperative Agreement with the County of Riverside to Provide Fire Protection, Fire Prevention, Rescue and Medical Emergency Services for the City of Norco

On September 7, 2011, the City Council declared the City's intent to enter into a Cooperative Agreement with the County of Riverside for the provision of comprehensive fire protection and medical emergency services. The provision of comprehensive fire protection and emergency medical services to the City of Norco under the proposed Cooperative Agreement will be accomplished through a County contract with the California Department of Forestry and Fire Protection (CAL FIRE).

Recommended Action: Approve the Cooperative Agreement with the County of Riverside to provide fire protection, fire prevention, rescue and medical emergency medical services for the City of Norco. (City Manager and Deputy City Manager/Director of Finance)

City Manager Groves introduced the item for City Council discussion. She stated that the Cooperative Agreement incorporates the provision that were presented at a previous meeting, with the addition of the Fire Use Agreement. She added that the terms of the transition from the existing Norco Fire Department personnel into State of California employees will be in a separate transitional MOU, which is currently being formalized. She welcomed County Fire Chief John Hawkins to the meeting, noting that she appreciates the cooperative efforts between the County Fire Department/CAL FIRE and the Norco Firefighters.

Deputy City Manager/Director of Finance Okoro commented on the Fire Use Agreement and presented the options available to the City. He summarized his presentation by stating that the required annual payment to the County for major repairs/betterments and future engine replacements is considered very reasonable; the City does not have to worry about future engine replacement; this Agreement addresses the problem of inconsistent contributions for replacement; and ownership transfer of title for two engines to the County eliminates insurance needs and potentially significant liabilities arising from the operation and use of these fire engines. He further stated that staff recommends executing the Fire Engine Use Agreement and the subsequent transfer of titles of two engines to the County.

Council Member Newton received confirmation from Deputy City Manager/Director of Finance Okoro that the annual replacement funding for all four trucks is estimated to be \$115,000. In response to Council Member Newton's question regarding the retention of the two remaining engines as reserves, Chief Bryan stated that they would be used for additional staffing or during maintenance on another engine. Council Member Newton commented on the City assuming liability of the two engines retained. City Manager Groves noted that the Cooperative Agreement provides the City access to a lot of equipment and the two reserves would remain. She added that it is yet to be determined if they will be retained by the City, but at this point both of those reserves will be located at the City's stations.

County Fire Chief Hawkins stated that he also recommends the transfer of the two frontline engines, as it is like buying a modest insurance policy in always having an engine available and it is the most cost effective way to go. He added that In the future, the City may want to consider how many pieces of equipment the City wants to continue to maintain and insure.

Karen Leonard. Ms. Leonard questioned the transfer of the two engines and the costs involved and saved. Deputy City Manager/Director of Finance Okoro responded that the City is self-insured, which means that the City covers any losses. Also in response to Ms. Leonard, he noted that as it is not currently known which engines will be transferred to CAL FIRE, he would not be able to comment on depreciated values.

Vern Showalter. Mr. Showalter commented on his concerns regarding transferring the title of the fire engines. City Manager Groves noted that it could be an option in the future to transfer the remaining two fire engines.

John Koscki. Mr. Koscki stated his opposition to the Agreement, noting that there should be further negotiations with the Norco Firefighters. He further stated that he supports a “custom” fire department with volunteer assistance.

Closing comments were made by the Council Members, with the majority noting that this Agreement will reduce the liability exposure to the City and the residents will be happy with the service they will receive.

M/S Bash/Newton to approve the Cooperative Agreement with the County of Riverside to provide fire protection, fire prevention, rescue and medical emergency medical services for the City of Norco. The motion was carried by the following roll call vote:

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

4. CITY COUNCIL PUBLIC HEARING:

- A. **Appeal Hearing:** Planning Commission Approval of Resolution 2011-54 Amending Conditional Use Permit 2002-14 (Modification 2) to Allow the Service of Food and Alcoholic Beverages on an Existing Outdoor Deck and Front Fenced Area on Property Located at 3841 Old Hamner Avenue in the C-G (General Commercial) Zone

On August 31, 2011 the Planning Commission approved a modification to the existing CUP to allow the use of an outdoor deck and front fenced area to serve food and alcohol. Currently only smoking is allowed in these areas. Modification 1 was approved with the condition that the applicant could, after one year from approval, approach the Planning Commission requesting permission to use an existing deck to expand the service of food and alcohol outside the restaurant.

25. *No eating, drinking, or possession of alcoholic beverages shall be allowed on the outside patio deck as shown on the required Site Plan Exhibit. This outside patio deck shall be an allowed area for smoking. One year after approval the owner may apply to use the outdoor patio for more than smoking.*

It has been more than a year since Modification 1 was approved. In addition to the outdoor deck, the request is to expand the service of food and alcohol into a front fenced area that is outside the restaurant. This was required by the City as a condition to accommodate accessibility requirements for the disabled since there was no ramp access to the outdoor deck.

Recommended Action: Uphold the Planning Commission approval of Modification 2 to Conditional Use Permit 2002-14 to expand the service of food and alcohol to an existing outdoor deck and front fenced area.

Alternate Recommended Action: The Norco Municipal Code requires that an application to appeal an action of the Planning Commission must state the reason for the appeal. Just a general appeal is not permitted. The appellant has been contacted to provide a written statement of the reason for the appeal. Additional attempts to contact him have not been successful and as of the writing of this staff report the reason had not been submitted. If a written statement for the reason is not submitted to staff by noon on the Tuesday prior to the meeting the recommendation of staff will be for continuance of the appeal hearing. (Planning Director)

City Manager Groves introduced the Council item restating the information presented in the staff report presented to the Council.

Planning Director King provided an overview of the Planning Commission's action. He presented comments on the nine conditions appealed by Mr. Koziel, noting the concerns of the Sheriff's Department, the Building Division and the Fire Department.

City Council Members made some brief comments regarding the conditions being appealed.

Robbin Koziel, the appellant, presented his appeal remarks. He noted that on some of the items, his only concerns were the wording. In regards to the recording, he stated that he does not have someone there all the time when the business is open that knows how to operate the equipment and asked that that sentence be removed. Regarding the gates, he stated that he can see panic hardware on the side gate, but not on another gate where there is transfer from one area to the other that serve the same functions. He asked that the requirement for the panic hardware on the gate at the bottom of steps be removed from the conditions. In regards to the acrylic panel, he would like to be able to use another product, as air does not go through acrylic and the deck would get very hot in the summer. He also noted concerns regarding the height requirement of the panel, suggesting that six feet above the dirt would be adequate. In regards to the lighting study, he noted that this should be removed as a condition. In regards to the hours of operation, he stated that he would be the only business in the City with that condition, and asked for that condition to be removed. Lastly, he noted concerns regarding payment of City Attorney fees noted in the conditions.

Council Member Sullivan addressed his concerns regarding the panic hardware on two gates and also on the heater. In response to his concerns regarding the heater, Fire Chief Bryan stated that he recommends a permanently mounted heater because of the condition and materials of the deck. He further added that a free standing screwed down heater would need to be reviewed by the Fire Department.

Mayor Pro Tem Bash addressed his concerns regarding security, lighting and the deck panel material. In response to his concerns regarding the panel, he stated that the acrylic material was a recommendation from the Sheriff's Department. Captain Feltenberger from the Riverside Sheriff's Department stated that the Sheriff's Department likes the acrylic just because it is clear and can be seen through in the case of a response, he noted that he would not be opposed to an alternate material that is not solid and can be seen through at all times.

Council Member Newton addressed his concerns regarding the security equipment tapes and noted the provision of those tapes to the Sheriff's Department. In response, City Attorney Harper stated that the wording could be changed to read "as soon as reasonably available". Council Member Newton also addressed his concerns with both gates requiring panic hardware.

Mayor Hanna addressed his concerns regarding the hours of operation. In response, Planning Director King stated that this condition was recommended to the Planning Commission by the Sheriff's Department.

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

Vernon Showalter. Mr. Showalter commented on the use of the security camera and also noted that instead of an acrylic panel, Mr. Koziel could use a wire mesh screen.

Karen Leonard. Ms. Leonard noted that typically when you transition from one intended use to another it is not uncommon to be required to condition the requirements of upgraded codes, adding that these conditions are not unreasonable. She stated that the restriction on the hours does not make sense, adding that it should be the same requirement for everybody.

Norvah Williams. Ms. Williams noted her concerns regarding the acrylic panel requirement and the two gates requirement if there was a fire.

Mayor Hanna CLOSED the public hearing.

The City Council Members presented their final comments. Staff noted that none of the conditions approved by the Planning Commission were placed in the CUP with the intent to harm the business.

M/S Newton/Bash to make the following revisions to the conditions of Conditional Use Permit 2002-14 (modification 2) and bring back a resolution for City Council approval and adoption:

1. **Condition No. 15:** The exterior of the premises, including the outdoor deck and front-fenced area, and all parking areas under the control of the licensee, shall be illuminated during the hours of darkness the business is open at a minimum of one-half foot-candle of light at property line and one-foot candle in interior areas. ~~The applicant shall provide a lighting~~

~~and photometric plan for existing conditions on the outdoor deck and front-fenced area prior to the use of those areas for the service of food and alcoholic beverages for approval by the Planning Commission. If the existing lighting does not meet the minimum illumination standards, the applicant shall be required to provide a new plan for lighting the outside area along with a photometric plan indicating illumination levels for approval by the Planning Commission. Service of food and alcoholic beverages on the outdoor deck and front-fenced area shall not be permitted until lighting has been installed pursuant to plans approved by the Planning Commission. In all instances exterior lighting shall not exceed one foot-candle at property lines and one and one-half foot-candles in the interior areas including the outdoor deck and front-fenced area.~~

2. **Condition No. 19: DELETE THIS CONDITION** – This condition is repetitive as it is a past requirement still holding.
3. **Condition No. 20:** All security equipment shall be able to record reasonably sufficient quality images to enable law enforcement personnel to identify persons, and identify makes and models of vehicles. The security equipment must operate while the business is occupied, recording all activity at the premises, using video or digital memory to record the images. All recordings are to be maintained for a minimum 60 day period. ~~Unedited recordings must immediately be provided to Sheriff's staff upon request to assist in official investigations.~~ **All unedited recordings are to be provided to the Sheriff's Department as soon as reasonably available.**
4. **Condition No. 21:** Access to the outdoor deck shall only be from the interior of the restaurant and not from the front-fenced area or parking areas. Access to the front-fenced area shall only be from the interior of the restaurant or from the front main access to the building. **An Automatic locking, emergency exit-only gates with panic hardware shall be installed at the bottom of the stairs to the outdoor deck and at the north side of the front-fenced area prior to food and alcoholic beverages being served on the outdoor deck or in the front-fenced area.**
5. **Condition No. 22:** ~~Acrylic or plexiglass Panels~~ **made by a material reviewed and approved by the Sheriff's Department** shall be installed around **inside** all existing railing and fencing around the outdoor deck and front-fenced area to a height not less than ~~six~~ **three** feet ~~above the top of the railing.~~ Railing and fencing around the outdoor deck and front-fenced area shall be maintained at a height not less than three feet.
6. **Condition No. 23: DELETE THIS CONDITION**
7. **Condition No. 24: DELETE THIS CONDITION** – This condition is repetitive as it is a past requirement still holding.

8. **Condition No. 25: DELETE THIS CONDITION**
9. **Condition No. 26: Roof or wall mounted radiant heaters, or permanently mounted heaters** Heating fixtures shall be allowed ~~prohibited~~ on the outdoor deck, **subject to the approval by the Fire Department.**

The motion was carried by the following roll call vote:

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

5. PUBLIC COMMENTS OR QUESTIONS:

Linda Dixon. Ms. Dixon invited everyone to RURAL's "Meet the Candidates" night to be held on October 27th at 7 p.m.

Richard Waldt. Mr. Waldt stated his support of the arena at the Ingalls Equestrian and Event Center be open for public use and also noted his concerns regarding trash in the riverbed.

Danny Azevedo. Mr. Azevedo recognized the Council for the work they do, noting its decision four years ago to keep marijuana out of Norco.

6. OTHER MATTERS – COUNCIL:

Council Member Sullivan:

- ✚ Stated that he attended the WRCOG Executive Committee meeting on Monday, as he is the alternate for Council Member Azevedo. He noted that at that meeting, the Committee voted to extend the 50 percent reduction for TUMF fees to December 2012. He further stated that in April of this year, the Council voted not to continue with that program; however, the Council can come back and vote to participate in the 50 percent reduction TUMF program again if they so choose.
- ✚ Stated that he would like to see one of the arenas at the Ingalls Equestrian and Event Center open 24/7 for Norco residents. He added that there would be no need for supervision.
- ✚ Commented that Hal Clark and Richard Hallam originated the UNLOAD Committee, adding that Council Member Azevedo later became the President and has taken it to a new level.
- ✚ Noted that the opportunity to receive money from the Riverside Sheriff's Association is open to all candidates to apply and the support is then based on an interview.

Council Member Newton:

- ✚ Asked for an update on the Tuesday schedule for open riding at the arena at the Ingalls Equestrian and Event Center. Director of Parks, Recreation & Community Services Petree stated that out of the three Tuesdays it has been open, it was

used only one of those days. City Manager Groves added that there has been good support from volunteers to make that happen, adding that a report will be brought back to Council regarding its success.

Mayor Pro Tem Bash:

- + Stated that at the most recent Riverside Conservation Authority (RCA) meeting he attended, the trail system in western Riverside County was presented, which did not include the Norco trails. He asked Public Works Director Thompson to provide the RCA with the Norco trail system to include on that map.
- + Commented on the money donated to one of the candidates by the Riverside County Sheriff's Association, noting that he is disappointed and offended that the union gave a significant amount of money to one candidate without speaking to the other candidates.

Mayor Hanna:

- + Stated that with completion of the new arena at the Ingalls Equestrian and Event Center, it could be open Monday, Tuesday and Wednesday. He added that the days it is open should be advertised better and published in the newspaper.
- + Noted that he received word that there were two cases of the West Nile Virus detected in the Inland Empire, one in Norco and one in Lake Elsinore. He further warned everyone to be careful.

7. OTHER MATTERS – STAFF:

City Manager Groves:

- + Provided a status update on the scheduling of the appeal hearing for Tentative Parcel Map 36392 known as the Norco Distribution Center. Based on the availability of the Council Chambers, the City Attorney and Council Members, October 26, 2011 was the soonest date for the appeal hearing. Therefore, that date was provided to the appellant, the Alere Property Group (APG). A letter was received from APG today requesting an extension to that date because they had business conflicts on that date. They have further agreed to waive their right to setting the hearing date within 40 days of the filing of the appeal. Staff will begin checking calendars to set a date for that appeal hearing that is agreeable to all parties involved.

8. ADJOURNMENT: There being no further business to come before the City Council, Mayor Hanna adjourned the meeting at 9:06 p.m.

BRENDA K. JACOBS, CMC
CITY CLERK