

MINUTES of an adjourned regular meeting of the City Council of the City of Redlands held in the Council Chambers, Civic Center, 35 Cajon Street, at 3:00 P.M. on Tuesday, January 8, 2002, in accordance with Section 2.02.020 of the Redlands Municipal Code.

PRESENT Karl N. (Kasey) Haws, Mayor
Susan Pepler, Mayor Pro Tem
Pat Gilbreath, Councilmember
Gary George, Councilmember
Jon Harrison, Councilmember

ABSENT None

STAFF John Davidson, City Manager; Daniel J. McHugh, City Attorney; Beatrice Sanchez, Deputy City Clerk; Michael Reynolds, City Treasurer; Mel Enslow, Fire Chief; Bonnie Johnson, Finance Director; Ronald C. Mutter, Public Works Director; Gary G. Phelps, Municipal Utilities Director; and Jeffrey L. Shaw, Community Development Director.

The meeting was opened with an invocation by Mayor Haws followed by the pledge of allegiance.

UNFINISHED BUSINESS

Resolution No. 5998 - Donut Hole Services Agreement - Mayor Haws reviewed the negotiations that have occurred over the past several months for a proposed utilities services agreement with the County of San Bernardino for the “Donut Hole.” City Attorney McHugh highlighted, for the benefit of the audience, his memorandum to the City Council outlining that the County of San Bernardino, County Service Area 70 EV-1 and Majestic Realty Company have made a proposal for Redlands to provide utilities and other municipal services to CSA 70 EV-1 and the “Donut Hole.” The proposal is based upon discussions that the negotiating team, Mayor Haws and Councilmember George had with County Supervisor Hansberger over certain initial “deal points.” The agreement being discussed today is the tenth version from the County which directs the City to provide water and sewer service to CSA 70 EV-1, and police and fire services to the “Donut Hole” for a one-time payment of \$25,000; in exchange, Redlands will bill CSA 70 EV-1 capacity charges for the infrastructure necessary to connect each development project in the “Donut Hole” to CSA 70 EV-1, and will also bill CSA 70 EV-1 for commodity charges which represent the monthly charge of providing water to those projects. He then asked for direction for one minor legal issue. The County and Majestic have required that the City Council direct the City Attorney’s office to provide a legal opinion for both entities on the applicability of Measure “U” to the project. He needed direction on whether the

City Council wishes to waive the attorney-client privilege and have the City Attorney comply with this request. Also, because the County's proposal is a "project" under CEQA, the City, as the responsible agency, must undertake environmental review of the proposal before it is approved. The Community Development Department has worked with a consultant to prepare the environmental analysis that was previously distributed. The County, as lead agency for the proposal, suggested that the project description within its October 23, 2001, EIR for its Second Cycle 2001 General Plan Amendments and modifications to the Majestic project encompass this proposal. Community Development Department staff has undertaken a review of the proposal in relation to the County's EIR, and in relation to the City's 1995 General Plan Amendment EIR, the City's 1998 Negative Declaration for its water and sewer master plan update, and the County's 1989 East Valley Corridor Specific Plan EIR, and attempted to determine if any additional environmental documentation should be prepared. Municipal Utilities Director Phelps then addressed Council and reviewed his analysis. The proposed agreement requires the City to sell water to CSA 70 EV-1, provide the CSA 70 EV-1 with sewer capacity and requires the City to provide police and fire services to the "Donut Hole." Thus, the agreement is a project under CEQA. He provided a Facts, Findings and a Statement of Overriding Considerations regarding the proposed agreement and the project associated with the Final Subsequent EIR for the County's General Plan, Specific Plan and Development Code Amendments for the IVDA area and associated water and wastewater facilities plan for unserved IVDA areas and revisions to the Citrus Plaza Regional Mall project. Mayor Haws then introduced Douglas Headrick, Chief of Water Resources for the City of Redlands, who greatly assisted Gary Phelps, Municipal Utilities Director. He added that he and Councilmember George met separately with Supervisor Hansberger to discuss the IVDA, property taxes and policy issues. This project is a sales tax producing development; Redlands should take the revenue and protect other parts of the City that will be impacted like downtown. This document is not perfect, but it's in the best interest of the citizens of Redlands. The alternative to not take this risk is a greater risk. Councilmember George thanked Supervisor Hansberger for asserting himself into this fight on our behalf and thanked the Mayor. "We worked on this a long time -- sorry that we are in different directions." A lot of time was spent on negotiations and he supported the agreement until December; now he opposes it and does not recommend approval to the City Council. It is important to note that the agreement here is not the one we came out to negotiate. Water was to be sold to the County at the cost that it is sold within the City. This agreement makes one developer more equal than others not only in Redlands but also in the "Donut Hole." Mayor Haws recommended approving the agreement "as is." The following individuals spoke against the agreement: Bill Javert, Gary Negin, Robert Custer, Jerry Biggs, Bill Cunningham, Dr. Durand Jacobs, Teddy Banta, Sally Beck (who read a letter from The Redlands Association attorney, Stephen M. Miles), David Raley, Tex Moore and Robert Frost. Speaking in support of the agreement were: John Goss and Charles House. Councilmembers

then asked a variety of questions of staff present. Councilmember Gilbreath inquired about waiving the attorney-client privilege with regard to this issue in order to comply with the request from the County and Majestic. City Attorney McHugh explained that the way this agreement is structured we are only assisting another governmental agency. On motion of Councilmember Gilbreath, seconded by Councilmember Pepler, Council unanimously directed the City Attorney to prepare a legal opinion for both entities on the applicability of Measure “U” to the project.

Councilmember Harrison then moved that none of the circumstances identified in Section 15162 of the State CEQA Guidelines exist with regard to the City Council’s possible adoption of the County/CSA 70 EV-1 proposal. Those circumstances are as follows:

1. Substantial changes are proposed in the project or the proposal which will require major revisions of any previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes have occurred with respect to the circumstances under which the project or proposal will be undertaken which will require major revisions of any previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows that:
 - a. The project or proposal will have one or more significant effects not discussed in any previous EIR or negative declaration;
 - b. Significant effects previously examined will be substantially more severe than shown in any previous EIR or negative declaration;
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in any previous EIR or negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Motion seconded by Councilmember Pepler and carried unanimously.

Councilmember Harrison moved to approve the “Facts, Findings and Statement of Overriding Considerations” (Exhibit “B”) in the form attached to the City staff’s report. Motion seconded by Councilmember Pepler and carried unanimously.

Councilmember Harrison moved to approve Resolution No. 5998, a resolution of the City Council of the City of Redlands affirming findings made pursuant to the California Environmental Quality Act, making determinations with regard to the Redlands General Plan, and approving an agreement with the County of San Bernardino and County Service Area No. 70 EV-1, for the provision of utilities and other municipal services to CSA 70 EV-1 and the "Donut Hole," and for the sharing of sales taxes and property taxes generated within the "Donut Hole." Motion seconded by Councilmember Pepler and carried by the following vote:

AYES: Councilmembers Pepler, Gilbreath, Harrison; Mayor Haws

NOES: Councilmember George

ABSENT: None

ABSTAIN: None

ADJOURNMENT

The City Council meeting adjourned at 8:48 P.M. Next regular meeting January 15, 2002.

Deputy City Clerk