

CITY OF HIDDEN HILLS
ADJOURNED REGULAR CITY COUNCIL MEETING

City Hall

Tuesday, September 22, 2009

MINUTES

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

An adjourned regular meeting of the City Council of the City of Hidden Hills was duly held in the Council Chambers at the City Hall, 6165 Spring Valley Road, Hidden Hills, California 91302 on Tuesday, September 22, 2009 at the hour of 6:00 p.m. Mayor Steve Freedland called the meeting to order and presided thereover after leading the Council and audience in the Pledge of Allegiance.

ROLL CALL

Council:	Mayor Steve Freedland Mayor Pro Tem Larry G. Weber Council Member Jim Cohen Council Member Stuart E. Siegel
Staff:	City Attorney Roxanne Diaz City Manager Cherie L. Paglia
Absent:	Council Member Monty E. Fisher

Upon MOTION of Council Member Siegel, seconded by Council Member Cohen and unanimously carried, it was resolved to excuse the absence of Council Member Fisher.

APPROVAL OF AGENDA

Upon MOTION of Council Member Siegel, seconded by Mayor Pro Tem Weber and unanimously carried, it was resolved that the agenda for the September 22, 2009 adjourned regular meeting be approved as submitted.

AUDIENCE

There were no questions or comments at this time.

MATTERS FROM CITY COUNCIL MEMBERS

Consideration of Approval of an Ordinance Regarding Adoption of Telecommunications Regulations – Urgency

City Attorney Roxanne Diaz presented the following information:

In reviewing the City's current Municipal Code (MC), staff found provisions regarding the regulation of wireless communications facilities that needed to be updated to comply with current law and the Telecommunications Act (Act); consideration of this ordinance was scheduled for the last Council meeting, but the draft was not quite ready at that time, so she asked that it be pulled from the agenda; that last meeting was then adjourned to this particular date and time to address this issue; under the Act, cities cannot prohibit the provision of telecommunications services; cities across the state are dealing with this issue; Glendale and others are adopting moratoriums until they can review the matter while others, like Hidden Hills, are updating their MCs; the purpose of the ordinance is to provide a uniform and comprehensive set of standards for wireless communications facilities that recognizes the unique character of the City while being consistent with the Act; the Act recognizes a city's authority to apply general zoning laws to wireless facilities as long as local regulations do not prohibit the provision of services and do not unreasonably discriminate among wireless providers; residents believe the City has more power than it does; local governments cannot regulate the placement of wireless facilities on the basis of environmental effects of radio frequency emissions as long as those facilities comply with the FCC regulations concerning emissions.

Attorney Diaz went on to provide an overview of the proposed ordinance:

The ordinance requires a wireless provider to submit an application and site plan for review and final approval by the City Council; the provider is required to submit certain items; one of those items is a coverage map showing the coverage area of the applicant's existing facilities that serve the City, and the proposed facility; a second required item is

an analysis of whether or not the proposed facility is necessary to prevent or fill a significant gap or shortfall in the applicant's service area; the applicant also has to address whether the proposed site is the least intrusive means of providing that coverage, or if there are other alternative sites that would have fewer aesthetic impacts while providing comparable services; the regulations provide for an order of preference for sites starting first with collocation with an existing facility, on existing structures, on existing poles, in commercial areas, and lastly in residential areas; the provider must have all applicable licenses, approved by the FCC and PUC, and comply with FCC emissions requirements; a site plan is needed showing where structures and proposed screening are to be located, and include a visual impact analysis; the ordinance establishes development criteria, stating the City's preference for facility types such as microcells first, then facade mounted, roof mounted, ground mounted, and finally freestanding poles; facilities should be designed and located to minimize their visibility to the greatest extent feasible, considering technological requirements, by means of placement, screening and camouflage; it also recognizes collocation and provides that as long as certain criteria is met (not expanding height or size), a discretionary permit is not required; the ordinance contains findings for approval of a facility and makes it clear that denial of a site plan approval shall not be based on any matter that the City is prohibited from considering under the Act; the ordinance contains operation and maintenance standards and at no time allows a wireless facility to exceed certain power levels or FCC limits for electric and magnetic fields; under current statutory provisions cities can exercise control as to the time, place and manner in which public rights of way are accessed; in Hidden Hills, all the roads are privately owned so Section 7901 of the California Public Utilities Code that grants telephone companies a statewide franchise to construct telephone lines in the public right of way does not apply; since this is an urgency ordinance, it does require a 4/5 vote.

Council Member Siegel commented as follows:

He apologized for the possible perception that there might be something strange about the timing of the consideration of this ordinance, but as the City Attorney has stated, she asked that the matter be pulled from the last regularly scheduled meeting agenda (when it was originally scheduled) as her office had not finished drafting the ordinance; this was not a secret meeting, and the company that might have an interest in this ordinance was provided a copy of the ordinance and invited to attend this meeting; the City is just attempting to codify its responsibilities in relation to state and federal laws and regulations; this ordinance does not make it any more difficult to proceed with an application; rather, it just better defines the process and assures compliance with existing laws.

Attorney Diaz added the following comments:

This ordinance recognizes new case law, and makes sure the process is fair to both the applicant and the City; there is some ability for the City to require the provider to go through the proper process and provide facilities in the least obtrusive way; this is a rapidly changing field, with ongoing court cases, and laws constantly changing.

As there was no further discussion, upon MOTION of Council Member Siegel, seconded by Council Member Cohen and unanimously carried, it was resolved to adopt by title only Ordinance No. 328 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIDDEN HILLS REVISING REGULATIONS APPLICABLE TO THE INSTALLATION AND OPERATION OF WIRELESS COMMUNICATIONS FACILITIES, AMENDING TITLE 5 OF THE HIDDEN HILLS MUNICIPAL CODE AND DECLARING THE URGENCY THEREOF.

ADJOURNMENT

There being no further business to come before the Council, upon MOTION of Council Member Siegel, seconded by Mayor Pro Tem Weber and unanimously carried, it was resolved to adjourn the adjourned regular meeting of September 22, 2009 at 6:17 p.m.

Steve Freedland, Mayor

ATTEST:

Cherie L. Paglia, City Manager/City Clerk