

CITY OF HIDDEN HILLS
REGULAR CITY COUNCIL MEETING

City Hall

Monday, June 13, 2016

MINUTES

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

A 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 Monday, June 13, 2016 at the hour of 7:30 p.m. Mayor Jim Cohen called the meeting to order and presided thereover after asking City Clerk Deana Graybill to lead the Council and audience in the Pledge of Allegiance.

ROLL CALL

Council:

Mayor Jim Cohen
Mayor Pro Tem Stuart E. Siegel
Council Member Steve Freedland
Council Member Marv Landon

Staff:

City Attorney Roxanne Diaz
City Treasurer Michael Blazenski
Water Quality Consultant Joe Bellomo
City Manager Cherie L. Paglia
City Clerk Deana L. Graybill
Bookkeeper Randee Weinberger
Building Official Greg Robinson

Absent:

Council Member Larry G. Weber

Upon MOTION of Mayor Pro Tem Siegel, seconded by Council Member Freedland and unanimously carried, it was resolved to excuse the absence of Council Member Weber.

APPROVAL OF AGENDA

Upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Siegel and unanimously carried, it was resolved that the agenda for the June 13, 2016 regular meeting be approved as submitted.

ANNOUNCEMENTS

At the request of Mayor Cohen, Mayor Pro Tem Siegel gave a report on the 6/9/16 community meeting led by Deputy Mike Woodard, Lt. Tina Baker, and Lt. AJ Rotella, which was attended by approximately 60 people who were provided information on criminal activity in the City (which is very low) and some tips on how to protect themselves and their properties. Mayor Pro Tem Siegel stressed a few of the important points made at the meeting: do not call the gates to report problems that should be handled by law enforcement - call either 911 or the Lost Hills Station directly at 818.878.1808; the Sheriff personnel welcome your calls and are there to help, so do not hesitate to call them, even if something just looks suspicious or a little out of place; if you need help and feel like you cannot actually speak into the phone, you should still dial 911 if possible, and the Sheriff will then have your location and respond. Mayor Cohen pointed out that if you call 911, those calls do go directly to the Station (there were issues with that in the past, as the 911 calls would first go to the Highway Patrol and then needed to be rerouted). Council Member Landon again stressed that the Sheriff should be called anytime you feel there is something wrong or suspicious looking, and then if you need follow-up, you can always call Deputy Woodard.

Mayor Cohen then made the following announcements:

Happy Birthday to Mayor Pro Tem Siegel's daughter Jenna tomorrow (6/14), to City Engineer Dirk Lovett (6/21), to City Clerk Deana Graybill's mother Joanne (6/25), and to his wife Joanne (6/23).

Today is the first day of the Community Association/Parks & Recreation summer camp; the summer BBQs start this Thursday evening (6/16) at 5:30 p.m.; call the Association for more information.

Don't forget Fathers' Day this coming Sunday (6/19).

There will be a bulky item pick-up day on Saturday, 6/25; call Waste Management for details.

AUDIENCE

Resident and Association Board Member Bret Katz wished to reiterate, after what he saw at the recent Calabasas fire, the importance of undergrounding overhead power lines for safety purposes, and the impact on a community that undergrounding can have. He stated that there would not have been a fire if the wires in that area had been underground. Council Member Freedland said the cause of that fire, from his understanding, was a pick-up truck hitting a power pole, which caused the overhead lines to fall and ignite three separate fires.

PRESENTATION

Consideration of Approval of Community Assistance Grant to Agoura High School for Support of the Girls' Golf Team

Resident Riley Levaton, Team Captain of the Agoura High School varsity golf team, requested a community grant so the 6-member team could purchase matching golf bags that would be used not only by this year's team but for many years by future teams. She pointed out that girls sports are traditionally underfunded, and they are the only team in their League that does not have matching bags.

Council Member Marv Landon informed everyone that the City had funds, which are set aside for these types of requests, in its budget to cover the amount. Upon MOTION of Council Member Landon, seconded by Mayor Pro Tem Siegel and unanimously carried on roll call vote, it was resolved to approve a community assistance grant in the amount of \$1200 to the Agoura High School girls golf team for the purchase of matching golf bags.

2016 FIESTA

A. Consideration of Approval of Proposal from La Paz Mexican Seafood Restaurant to Provide Saturday Night Dinner

City Clerk Deana Graybill presented the following information, after the Council thanked the Fiesta Co-chairmen, Linda Raznick and Gayle Pick:

before the Council is a proposal for the Fiesta dinner from La Paz; the menu has been changed from last year; the kids menu will continue to be Mexican food, but the adult dinner will be brisket and chicken breast, with a cheese tortellini option for those who might not want meat; cans of lemonade and iced tea will be provided; the proposal does include clean-up after the dinner; the original proposal was a bit high, but she and the co-chairmen met with Oscar, who reduced the price to what they believe is now very reasonable for what is being provided; Oscar is always very willing to work with the City and do a really good job, as he is very happy to be asked to provide the Fiesta dinner.

In response to Council Member Landon, staff explained that the price in the past for a BBQ dinner was very similar to what La Paz charged last year, but due to the food upgrade this year, the cost has gone up, with the tip included, approximately \$6,000. Council Member Freedland pointed out that in the proposed budget that the Council will be reviewing later this evening, the budget committee has recommended a \$10,000 increase in the Fiesta budget. Upon MOTION of Mayor Pro Tem Siegel, seconded by Council Member Landon and unanimously carried on roll call vote, it was resolved to approve the proposal from La Paz Mexican Seafood Restaurant to provide the Saturday evening dinner at this year's Fiesta at a cost, including the tip, of \$28,870.50.

B. Consideration of Approval of the 2016 Fiesta Budget

The following staff report was provided by City Clerk Deana Graybill:

as previously stated by Council Member Freedland, at the budget meeting, the committee added \$10,000 to the Fiesta budget, raising the total budgeted amount to \$120,000; the budget for this year's Fiesta shows expected expenses at \$116,860, with expected income at \$31,255, which is still within the proposed overall budget, even with the increased dinner expenses and equipment rental expenses.

Upon MOTION of Mayor Pro Tem Siegel, seconded by Council Member Freedland and unanimously carried on roll call vote, it was resolved to approve the proposed 2016 Fiesta budget with a projected net cost to the City of \$85,605.

PUBLIC HEARING

Review and Discussion of Preliminary Draft City Budget for Fiscal Year 2016-2017

Council Member Freedland, who was on the budget committee with Mayor Cohen, provided the following highlights of the preliminary draft budget:

the City is financially very healthy; the proposed budget shows almost \$200,000 revenues over expenditures; there is really nothing unusual; the payroll expenses are a little higher than usual, due to the transitioning of City Managers, whereby the City will be paying the current City Manager for approximately four months of overlap (September - December) while she is training the new City Manager; the budget shows \$100,000 for ten months for the new City Manager (September - June), which could be more or less depending on the qualifications of the new City Manager, but is very reasonable for someone who is not going to have the same thirty years of experience as the current City Manager; the Ashley project was not submitted last year, but is expected to be submitted this year; 5% raises are being proposed for the current staff; \$10,000 has been added to the Fiesta budget; hopefully the interest income will be better this year due to Council Member Landon's suggestion to invest a good deal of the City's reserves with Schwab/Beacon Pointe/Belle Haven, rather than leaving it all in LAIF.

Council Member Landon asked what was available for undergrounding, which usually costs about \$100,000 per pole, depending on the complexity of the project. Council Member Freedland and City Treasurer Mike Blazenski responded as follows:

this year's budget is very conservative, as always; last year's surplus was around \$350,000; the projected surplus for this current year is looking better than expected, and could end up anywhere between \$300,000 - \$400,000; the City might be able to do an undergrounding project in another year.

Mayor Pro Tem Siegel said he thought the undergrounding project along Long Valley near Lasher Road, on which Mike Ashley was working with the neighbors in that area, might still be alive - the City had offered a small amount of money to at least help with some plans. Council Member Landon said there is a new neighbor, Mike Sage, who is very interested in the

undergrounding in that area, and he has been talking with Mr. Ashley. Council Member Freedland added that he was in total agreement that if this Long Valley/Lasher project moved forward, he would be happy to participate to a degree; however, the City needs to be careful about spending money on private property (although if a pole falls over in someone's back yard, there is a fire danger that could impact the entire community), and would if possible rather see undergrounding projects along main streets that would affect and benefit a greater portion of the community.

Mayor Cohen pointed out that at the budget meeting, the possibility of placing more of the City's funds with Schwab was discussed. This led to a short discussion during which the following points were made:

currently the City has just over \$5 million with Schwab and approximately \$2 million in LAIF; when that money was originally invested, it was suggested that staff keep \$1 million in LAIF, and place the other \$1 million in CalTRUST; staff did not move that other \$1 million, as it was decided to wait to see how the investments were going with Schwab; the City should have on hand, easily accessible, enough to cover one year of expenses; staff will check to see how liquid the money in Schwab is; the money in LAIF is available within a day or two; LAIF is currently paying .54 with no service charge; Schwab was 1.84 gross without the service charges; the City Treasurer is carefully watching the Schwab monthly statements, and would not recommend at this time moving additional funds to Schwab; there was agreement to wait 6-9 months to get a better history of the investments with Schwab, and then to see if additional funds might be invested with them at that time.

As there was no further discussion, and no suggested changes to the preliminary draft budget, Mayor Cohen stated that it would be placed on the next agenda for consideration of formal approval.

CONSENT CALENDAR

- A. City Council Minutes - May 23, 2016**
- B. Demand List**

Upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Siegel and unanimously carried on roll call vote, it was resolved to approve items A and B of the consent calendar as submitted.

MATTERS FROM STAFF

- A. Consideration of Approval of Proposal from Willdan Engineering for Professional Consulting Services for Compliance with the Municipal NPDES Permit and Associated TMDLs**

The following information was provided by Water Quality Consultant Joe Bellomo:

he is proposing another three year agreement; the new proposed agreement maintains everything in the original other than a few minor changes that have been approved by City Attorney Roxanne Diaz [the changes were shown on a red-lined version]; the agreement also maintains a 5% reduction in the current hourly billing rates; the last three years have involved a lot of planning for water quality; now we will be seeing more of a transition into monitoring and compliance, and looking at programs to protect the City.

In response to Council Member Landon, City Attorney Diaz said the City would probably expend all of the budgeted amount, but in terms of Mr. Bellomo's work, all of the planning, agreements, permits, etc. are in place - now we are going into the execution stage. She added that it helps that this City is very small, and our portion or split of costs in relation to those things we are required to do is pretty good. The City Manager reminded everyone that the City is in two watersheds, and thus ends up having to pay double (some of the same things, like EWMPs, have to be done in both watersheds), although the costs remain low compared to other cities since we make up only .03% of each watershed. She also wished to make it clear that Mr. Bellomo was freezing this year's current hourly billing rates (that would normally be increased on 7/1/16) for the next three years. Mr. Bellomo pointed out that there would not be a spike in his services, but there could very well be a spike in outside expenses. Council Member

Freedland thought there could also be a spike in legal fees in relation to water quality, and that additional funds had been added to the budget in case that does occur. Ms. Diaz explained that if there were additional legal fees, they are also split among quite a few cities that they represent, so again, that helps Hidden Hills. In response to Mayor Pro Tem Siegel, Attorney Diaz stated that the insurance coverage stated in the agreement was pretty standard.

As there was no further discussion, upon MOTION of Mayor Pro Tem Siegel, seconded by Council Member Landon and unanimously carried on roll call vote, it was resolved to approve the proposal from Willdan Engineering for professional consulting services for compliance with the Municipal NPDES permit and associated TMDLs, for three years commencing July 1, 2016 through June 30, 2019, with the hourly billing rates for all three years to be those as stated on the July 1, 2015 to June 30, 2016 Schedule of Hourly Rates.

B. Consideration of a Proposed Ordinance Regarding Noise Control - Second Reading

Upon MOTION of Council Member Landon, seconded by Council Member Freedland and unanimously carried, it was resolved to give second reading to and adopt by title only Ordinance No. 356 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIDDEN HILLS REGARDING NOISE CONTROL AND AMENDING TITLE 3 OF THE HIDDEN HILLS MUNICIPAL CODE.

C. Consideration of a Proposed Ordinance Regarding Unruly Assemblages - Second Reading

Upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Siegel and unanimously carried, it was resolved to give second reading to and adopt by title only Ordinance No. 357 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HIDDEN HILLS REGARDING UNRULY ASSEMBLAGES AND AMENDING TITLE 4 OF THE HIDDEN HILLS MUNICIPAL CODE.

D. Discussion and Direction to Staff Regarding Code Enforcement and Civil and Criminal Penalties Regarding Filming

City Attorney Roxanne Diaz presented the following staff report:

in the Council packets is a summary of code enforcement programs; she tried to find common threads to show some of the differences and similarities of the four categories; the first on the list is the administrative citation, which would require the adoption of an ordinance; this is allowed by the Government Code, which requires that the ordinance include certain things, such as the violation description, the fine, due process, etc.; this process is administrative and does apply to all Municipal Code (MC) misdemeanor violations; the cost to set up the program and pay for staff time (it is very staff intensive) may not be exactly what this City needs, especially when we seem to have one main issue; this process would not preclude the Sheriff from getting involved; fines can be imposed, but if those fines are not working, the City can escalate to the next step of enforcement, which could include any of the other three listed on the summary sheet, but the City cannot do all four; some cities do deputize staff; for infractions, the fines are limited to \$100, \$200, and then \$500; but since almost all violations of the City's MC are now misdemeanors, the fine could be set up to \$1000.

The City Manager added that almost all the cities she spoke to spend money to hire a separate code enforcement officer. Council Member Landon was a bit concerned for the safety of the staff person who would have to confront people and issue the citations, with Council Member Freedland stating that this process seemed to be a bit of overkill for what the City needed.

Attorney Diaz then went on to explain the other three code enforcement programs:

the second listed program is the civil penalty, which again is administrative but a little different and a bit more simple; this comes from the City's own police powers, and there is also a Government Code provision that allows cities to levy fines and penalties for violations of ordinances; the fine cap is up to \$1000; again, you have to provide notification of the violation, the fine, etc., but there also has to be a process for a hearing if the violation is contested; the City would have to hire an administrative hearing officer; there are people, often former lawyers, who travel around to cities and do this, probably at a cost of between \$75 and \$200 per hour; some of our neighboring cities use hearing officers, so we might be able to share in the costs with them; if the ordinance and notice so state, the penalties can accrue automatically if there is no compliance, but this automatic accrual would not lend itself to such things as filming violations, as normally any filming that is being conducted without a permit would be shut down; the City does have a \$1000 fine already in place, and would just have to provide the due process part in

terms of the opportunity for a hearing; the third program on the summary sheet is civil litigation, which is initiation of litigation by the City Council; the court could order civil penalties; for the filming, the City would seek an injunction; this would go through a hearing process; it is a much slower process and could be much more costly; the last code enforcement program is criminal prosecution, which is at the direction of the City Council in terms of how the MC violations should be handled; there are ethical obligations both on the part of the City Prosecutor, i.e. the City Attorney, as she can act as both; as the City Attorney she represents the City and Council, but as the City Prosecutor, would represent the people of California and would have to be impartial, with no pressure from the Council or staff; the City Prosecutor needs to determine if there is enough sufficient probable cause that the MC was violated; an investigation needs to be conducted by staff to work up the code enforcement case; the Prosecutor has to determine if the defendant actually committed an offense and if there is sufficient admissible evidence.

Council Member Freedland then asked Attorney Diaz to walk the Council through the criminal prosecution process if, for example, someone reported illegal filming to the City. Attorney Diaz explained the following:

when the filming is reported, the code enforcement officer would be sent out to determine what is going on in terms of camera use, taking photos, talking to the neighbors, etc.; a case sheet/profile is prepared with all the details; that is then sent to the City Prosecutor who would determine if there is enough evidence to show the judge that there has been a violation of the MC; some cities, before they file criminally, hold an office conference to see if the violator can cure the violation; it is a little different with filming, as there is nothing to cure, as we have either stopped the filming, or they have obtained a retroactive permit; if the City chooses to go straight to the prosecution, a criminal complaint is filed, which has to have enough requirements to be sufficient; it has to have statements regarding the offense committed, with sufficient time to give the accused notice of the offense; there could then be an arraignment, and if no compromise is reached, it would go to trial; however, that is rare, as a compromise is usually reached; if there is a compromise, the violator pays the costs and agrees to follow all laws, the court would put them on summary probation (maybe two years), and then it is usually expunged from their record.

Council Member Freedland asked which program would be the most motivating to get people to follow the laws. Attorney Diaz responded as follows:

it would be between the civil penalty and the criminal prosecution; the civil penalty is more immediate, may or may not be contested, the violation fine could be fairly high, and it would be less staff intensive; the City would have to adopt an ordinance for the civil

penalty; the criminal prosecution depends on the violation; the Council would have to understand that the City is undertaking a whole new process that has costs; the Council does not make the decision as to whom would be prosecuted; sometimes, especially with filming, it is hard to work up a case (and you have to be sure you have a good case), as it is difficult to obtain proof; it is much more staff intensive, but would be more of a deterrent since it is criminal.

At this point, a fairly lengthy discussion occurred, during which the following issues were raised and points made by the Council Members, audience, and staff:

with the civil penalty, you can issue a fine (up to \$1000) for each day a violation occurs, and then they can either pay or request a hearing; this could be done fairly inexpensively, but it's often hard to get evidence unless someone from the City actually sees the violation, especially if you are talking about filming; even if you can tell from a television broadcast that filming occurred in the City, there is no way to prove when the filming occurred, or how often it occurred (some shots are used repeatedly, and filming from one day can be spread over several episodes); the Sheriff can always be called to shut down a film shoot, even now; with the criminal prosecution, it could be up to a \$1000 fine and/or up to six months in jail, but there would be more legal time involved to set it up and more expense involved; a civil penalty fine is paid to the City, but a criminal prosecution fine is normally paid to the court, unless the court orders restitution; the City is not interested in the money, but rather would like to see a deterrent to stop the illegal filming; a code enforcement officer cannot enter someone's property unless they are invited in, or the court has issued a warrant, so there could be inside filming that could not be detected; exterior filming is much more egregious, as it can have an impact on the neighbors; with the civil penalty program, subpoenas can be issued to the filming companies; the Community Association will be talking about filming in the near future, so perhaps the City should wait to see if they ban all filming or what they are going to do differently, if anything; even if the Association would ban filming, any filming would then be illegal and the City will still need a code enforcement program for violations; it seems that the Association has a greater ability to impose larger financial penalties than the City does; any way that the City and Association can work together and coordinate efforts would be helpful; a city would not want to threaten criminal prosecution if that city were not going to follow through with that threat; the ability to completely ban filming has probably not been adjudicated; if there is a complete ban, that will make some people happy, but might not be fair to others who are willing to follow the rules; there are current exemptions for filming in relation to family use, news, real estate use, or non-commercial activity, which would still be allowed even if a complete ban were to be imposed; there are differing opinions as to how much of a problem filming is, and how much worse it might get; the concern is mostly for impacts on neighbors (that could involve traffic, noise, lighting, privacy), and calls from neighbors are usually how the

City hears about filming, unless a staff person happens to drive by; if a violation occurs, the City responds with a civil penalty, and the fine is paid, you cannot then move forward with a criminal prosecution; if the fines are imposed and ignored, that would then allow an escalation to a criminal prosecution.

As the discussion was winding down, Attorney Diaz stated that some cities actually use the District Attorney (DA) more directly, paying them on an hourly basis, and staff could certainly open up a dialogue with the DA's office to see how they might be able to work with us on this issue. The Council Members liked that idea, as a letter from the DA should be one of the best deterrents, although they felt if the direct connection to the DA was made through the Sheriff's Department, that would carry more weight with the DA. Staff will contact both the DA's office and Sheriff personnel at the Lost Hills Station to further investigate the options available to the City.

E. Charles Abbott Monthly Report - May

The report was received and filed.

ADJOURNMENT

There being no further business to come before the Council, upon MOTION of Council Member Freedland, seconded by Mayor Pro Tem Siegel and unanimously carried, it was resolved to adjourn the regular meeting of June 13, 2016 at 9:00 p.m.

Stuart E. Siegel, Mayor Pro Tem

ATTEST:

Cherie L. Paglia, City Manager