

APPROVED

PLANNING COMMISSION MINUTES

June 10, 2009

- I. PLEDGE OF ALLEGIANCE** Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE** Present: Larry Ciardella, Alex Galang, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, Mark Tiernan, and Cliff Williams
Absent: Aslam Ali
Staff: Andrade, Hom, Lacey, and Lindsay
Alternate Commissioner Mark Tiernan was seated as a member of the voting body.
- III. PUBLIC FORUM** Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.
There were no speakers from the audience.
- IV. APPROVAL OF MINUTES**
May 27, 2009 Chair Williams called for approval of the minutes of the Planning Commission meeting of May 27, 2009.
There were no changes to the minutes.
Motion to approve the minutes of May 27, 2009 as submitted.
M/S: Mandal, Galang
AYES: 7
NOES: 0
ABSENT: 1 (Aslam Ali)
ABSTAIN: 0
- V. ANNOUNCEMENTS** James Lindsay, Planning Director, stated he is looking at dates for the project walking tour and will email the Commission in a couple of weeks with some possible dates for the tour in the summer either June or July.
Chair Williams stated he will not be at the June 24th meeting; he will be out of town for training.
- VI. CONFLICT OF INTEREST** Deputy City Attorney Bronwen Lacey asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. There were no Commissioners who identified a conflict of interest.
- VII. APPROVAL OF AGENDA** Chair Williams asked whether staff or the Commission have any changes to the agenda. There were no changes to the agenda.
Motion to approve the agenda as submitted.
M/S: Mandal, Galang
AYES: 7
NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

**VIII. CONSENT
CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

There were no items on the Consent Calendar.

IX. PUBLIC HEARING

**1. THREE MONTH
REVIEW FOR
CONDITIONAL USE
PERMIT NO. UP08-0039**

Cindy Hom, Assistant Planner, stated this was a review of the Planning Commission's approval of the operation of a farmer's market located at 525 Los Coches Street. The purpose of the review is to address issues raised by the public and evaluate the last three months of operation of the market. Ms. Hom is recommending the Commission note receipt and file and add a subsequent three month review.

Ms. Hom stated the farmer's market was approved on January 23, 2009. Staff conducted a review and found the farmer's market is in conformance with the Conditions of Approval. The farmer's market adheres to the traffic handling plan. Staff recommends that the flaggers continue to assist with pedestrian crossing and continue monitoring traffic and safety conditions during the peak summer season.

Since the start of the market, staff has received two complaints from the public regarding overflow parking in unauthorized areas and the display of advertising signs. Staff received a complaint regarding display of signs within the public right-of-way on Calaveras and at the intersection of Calaveras/Hillview. However, some of the said signs were part of the approved traffic handling plan. There was a complaint with parking conflicts with the adjacent neighbor at 555 Los Coches Street.

Vice-Chair Mandal asked the number of people directing traffic. Ms. Hom stated currently there is only 1 flagger.

Commissioner Ciardella asked if there will be monitoring of the parking situation. Ms. Hom stated the applicant will install barricades between the 2 properties.

Commissioner Tabladillo asked about the trash overflow. Ms. Hom said the applicant will increase services with Allied Waste. Commissioner Tabladillo also asked who does the clean up after the market is over. Ms. Hom said the market operators and ICC has volunteers to do the cleanup.

John Silveria, Director, Pacific Coast Farmer's Market Assoc., Concord, CA, said they operate several certified farmer's markets in the Bay Area.

Chair Williams asked Mr. Silveria if he was aware of the damage on his neighbor's property. Mr. Silveria stated he was aware of the claim. Chair Williams asked if he did a site inspection. Mr. Silveria said they do not do site inspections they have on site market managers that are on the site two hour before and one hour after the market closes just for clean up purposes. Chair Williams asked if there was a policy in place to address issues such as broken sprinklers. Mr. Silveria said they do not have a policy. He said that if any damage happened on his watch they have an insurance policy that would take care of the damage. He feels that this situation regarding the sprinklers is between the two parties involved.

Vice-Chair Mandal asked Mr. Silveria in his opinion how the market is working. Mr. Silveria stated the market has been great. The community is a great support. Vice-Chair Mandal stated the Commission expects that these issues are resolved properly and

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on a timely basis and they move forward.

Mr. Silveria stated that with regards to the trash, the market is responsible for hauling the trash. ICC is willing to increase their trash pick up to make sure that happens and be a good neighbor. Mr. Silveria stated that if any of the property owners have any issues to please contact him.

Chair Williams opened the public hearing.

Larry Russel, 987 University Ave, Los Gatos, CA, is one of the partners of Calaveras Assoc. which owns the building to the east of 555 Los Coches. He stated they have had problems with parking. He stated they have towed vehicles; they never received notices on the farmer's market. There is no traffic control at ICC.

Barry, 555 Los Coches, stated they have a church they are working with and that the City has taken away their ability for future conditional use permits for those types of uses. He supports the 3 month review. He requests that the City work with ICC for their parking problems.

Motion to close the public hearing.

M/S: Mandal, Sandhu

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Chair Williams asked staff for clarification of notification. Ms. Hom stated that the property owner of 555 Los Coches was notified per the Assessors Office.

Vice-Chair Mandal stated he understood both sides. He supports the 3 month review.

Commissioner Tiernan asked staff to review the notices sent to various owners of the buildings in the area to make sure they received them. James Lindsay, Planning Director, said the City has 3 ways that they send out notices: 1) mail notices to property owners and tenants within 1,000 ft of subject property per the Assessors Office, 2) site is posted with bright yellow signs notifying date of hearing, and 3) advertisement in the Milpitas Post. The City does not have a process by which they can confirm if a piece of mail is indeed received by the owner or tenant.

Commissioner Sandhu asked who put the yellow tape on the adjacent building from the farmer's market. Ms. Hom stated the market operator put the yellow tape to further restrict people from parking in that area.

Motion to close the public hearing after public testimony, note receipt and file, and add a subsequent three month review.

M/S: Mandal, Galang

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Motion for staff to review the Conditional Use Permit for the ICC in regards to the

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parking situation and overflow at their facility to make sure they are in compliance.

M/S: Tabladillo, Galang

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

Vice-Chair Mandal stated that the 3 methods that the Planning Director explained about notices if sufficient. Mr. Lindsay stated he will give a presentation at the next meeting regarding the requirements for public notification.

X. NEW BUSINESS

2. DISCUSSION OF PLANNING COMMISSION STIPEND

Bronwen Lacey, Deputy City Attorney, stated the Planning Commission By-Laws and the Milpitas Municipal Code provides a stipend to the Planning Commissioners. In order to modify those provisions, the City Council would have to take action on the recommendations the Commissioners decide which would take 3 to 4 months. An alternate action staff would recommend is that the Commissioners donate their stipend back to the City for 6 months.

Chair Williams asked how the Commissioners would donate their stipend back to the City. Ms. Lacey stated the Commissioners could write a check to the City and deliver it to the cashier.

Commissioner Ciardella feels it would cost the City a lot of money by having to write a check to the City after receiving the check. He asked if there was another way to do this. Ms. Lacey stated the only other way is to change the By-Laws and to change the municipal code. Chair Williams stated the Commission is considered employees and it becomes an IRS issue.

Commissioner Sandhu asked if the Commissioners want to give more to the City can they do that. Ms. Lacey stated yes they can and use it as a donation on their taxes.

Vice-Chair Mandal stated to keep it simple. If the Commissioners want to write a check to the City let it be up to the individual to decide how much to give back.

Commissioner Tiernan asked if it would be possible to just sign the back of the check and hand it over to the cashier. Mr. Lindsay said unfortunately the City posts to the IRS the money that is issued to the Commissioners. The simplest approach is to change the By-laws and the ordinance. Commissioner Tiernan stated he is willing to donate his stipend back to the City.

Motion to approve Resolution 09 encouraging the Commission to voluntarily donate their stipends for 6 months due to the urgent financial challenges facing the City.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 1 (Aslam Ali)

ABSTAIN: 0

XI. ADJOURNMENT

The meeting was adjourned at 8:20 p.m. to the next regular meeting of June 24, 2009.

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Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

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