

MINUTES

of a 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 September 7, 1999.

PRESENT

William E. Cunningham, Mayor  
Geni A. S. Banda, Mayor Pro Tem  
Pat Gilbreath, Councilmember  
John L. Freedman, Councilmember  
Gary George, Councilmember

Gary M. Luebbers, City Manager  
Daniel J. McHugh, City Attorney  
Lorrie Poyzer, City Clerk  
Beatrice Sanchez, Deputy City Clerk  
(evening session)  
Michael Reynolds, City Treasurer  
Jim Bueermann, Police Chief  
Mel Enslow, Fire Chief  
Bonnie Johnson, Finance Director  
Ronald C. Mutter, Public Works Director  
Gary G. Phelps, Municipal Utilities Director  
Jeffrey L. Shaw, Community Development Director

ABSENT

None

The meeting was opened with an invocation by Councilmember Freedman followed by the pledge of allegiance.

CONSENT CALENDAR

Minutes - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the minutes of the special meeting of July 29, 1999, the regular meeting of August 3, 1999, and the special meeting of August 11, 1999, were approved as submitted.

Bills and Salaries - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, bills and salaries were ordered paid.

Planning Commission Actions - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the report of the Planning Commission meeting held on August 10, 1999, was acknowledged as received.

Environmental Review Committee - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the report of the Environmental Review Committee meeting held August 23, 1999, and the agenda for the

Environmental Review Committee meeting to be held on September 13, 1999,  
were acknowledged as received.

Ordinance No. 2416 - Laser Devices - Ordinance No. 2416, an ordinance of the City of Redlands adding Chapter 9.21 to the Redlands Municipal Code regulating the use of Laser Devices, was adopted on motion of Councilmember Gilbreath, seconded by Councilmember Freedman, by the following vote:

AYES: Councilmembers Banda, Gilbreath, Freedman, George;  
Mayor Cunningham

NOES: None

ABSENT: None

Ordinance No. 2419 - Ultralight Aircraft - Ordinance No. 2419, an ordinance of the City of Redlands amending Chapter 12.56 of the Redlands Municipal Code relating to the operation of ultralight aircraft at the Redlands Municipal Airport, was adopted on motion of Councilmember Gilbreath, seconded by Councilmember Freedman, by the following vote:

AYES: Councilmembers Banda, Gilbreath, Freedman, George;  
Mayor Cunningham

NOES: None

ABSENT: None

Contract Award - Fire Station Door Enlargements - Bids were opened and publicly declared on July 29, 1999, by the City Clerk for the construction of the Fire Station No. 1 door enlargements project; a bid opening report is on file in the Office of the City Clerk. It was the recommendation of the Public Works Department that the responsible bidder submitting the bid for said project which will result in the lowest cost for the City was Moody Construction, Banning, in the amount of \$25,500.00, and it would be in the best interest of the City that this contract be awarded to said firm. On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, this recommendation was unanimously approved and the Mayor and City Clerk were authorized to sign the contract on behalf of the City.

Funds - University of Redlands Contribution - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously accepted the voluntary contribution from the University of Redlands and authorized additional appropriations in the amount of \$40,000.00 distributed as follows: \$10,000.00 to the Redlands Fire Department to procure a truck to haul the Life Safety trailer; \$10,000.00 to the Redlands Police Department for the purpose of remodeling the substation located on North Orange Street; and \$20,000.00 to the A. K. Smiley Public Library to enhance the library's "Acquisition and Materials Fund."

Resolution No. 5672 - Street Vacation No. 114 - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, Resolution No. 5672, a resolution of the City Council of the City of Redlands declaring its intention to vacate a remnant portion of public right-of-way located at the most northerly terminus of Margarita Drive (Osborne Development, applicant) and setting the

public hearing for this street vacation for October 5, 1999, at 7:00 P.M., was unanimously adopted.

Resolution No. 5679 - Permit Fees - Following brief discussion, Councilmember Gilbreath moved to adopt Resolution No. 5679, a resolution of the City of Redlands amending processing fees for the Community Development Department for Home Occupation Permits and Banner Permits. Motion seconded by Councilmember Freedman and carried unanimously.

Resolution No. 5684 - Salary - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously adopted Resolution No. 5684, a resolution of the City of Redlands rescinding Resolution Nos. 5657 and 5671 establish a salary schedule and compensation plan for City employees. This salary resolution changes the following: the transfer of the Management Information Systems Division from the Municipal Utilities Department to the Finance Department; the transfer of the Equipment Maintenance Division from the Municipal Utilities Department to the City Manager's Office; an increase for the Management Information Systems Administrator from MM 54 to MM 56; the addition of a Code Enforcement Officer position and the upgrade of the existing Code Enforcement Officer position to a Senior Code Enforcement Officer; the addition of one Police Officer which was recently approved as part of an ABC grant; the creation of an hour salary rate of \$9.90 for the Police Cadet positions which are fully funded under AB 3229; the change in title for the Police Records Clerk position in Animal Control to an Administrative Clerk; and changes to salary ranges for cost of living adjustments previously approved in employment agreements with all the bargaining units.

Funds - Hazmat Cleanup at Hillside Memorial Park - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved an appropriation of \$15,000.00 from the Cemetery Fund for Hazmat investigation and cleanup of an underground fuel storage tank at Hillside Memorial Park.

Agreement - Inland Empire Stars Baseball - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved a rental agreement between the City of Redlands Recreation Bureau and Inland Empire Stars Baseball and authorized the Mayor and City Clerk to sign the agreement on behalf of the City.

Resolution No. 5683 - Speed Limits - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously adopted Resolution No. 5683, a resolution of the City Council of the City of Redlands establishing traffic regulations pursuant to Title 10 of the Redlands Municipal Code: establish speed limits on Wabash Avenue between Fifth Avenue and Sessums Drive.

Claim - Reimbursement of SANBAG Funds - Public Works Director Mutter reported that SANBAG makes approximately \$5,000.00 available annually for the City to use for construction of curb ramps to retrofit existing intersection corners. The City cannot request this money until after construction has been completed. Construction has been completed to retrofit 30 corners with curb ramps for a total construction cost of \$38,255.00. Councilmember Banda asked if these funds could be applied toward the completion of the Herald Street improvements. City Manager Luebbers said staff is also looking at CDBG and Neighborhood funds to complete that project. Councilmember Banda moved to authorize staff to file a claim for reimbursement from SANBAG for LTF Article 3 funds as described above. Motion seconded by Councilmember Freedman and carried unanimously.

Agreement - Right-of-Way Acquisition - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously ratified an executed agreement approved in a recent closed session regarding purchase of fee interest between Fred J. and Anetha Stafford and the City of Redlands for acquisition of right-of-way at Colton Avenue and Wabash Avenue.

Agreement - Right-of-Way Acquisition - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously ratified an executed agreement approved in a recent closed session regarding purchase of fee interest between Frank and Lydia Coyazo and the City of Redlands for acquisition of right-of-way at Colton Avenue and Wabash Avenue.

Funds - COPS MORE 98 - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously authorized the Mayor to accept the Department of Justice COPS MORE 98 grant award of \$37,509.00 and authorized an additional appropriation of said funds to the Police Department to fund the grant.

Proclamation - World Population Week - Following a reading of the proclamation, Councilmember Banda moved to authorize issuance of a proclamation declaring October 10-16, 1999, as World Population Awareness Week. Motion seconded by Councilmember Freedman and carried unanimously.

Resolution No. 5686 - Natural Disaster Assistance Act - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously adopted Resolution No. 5686, a resolution of the City Council of the City of Redlands authorizing designation of applicant's agent to obtain Natural Disaster Assistance Act (NDAA 99-094) financial assistance due to the severe thunderstorms that occurred on July 12, 1999.

Fee Waiver - Girl Scouts of America - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved the request by the Girl Scouts of America for waiver of reservation fees for use of the Redlands Bowl for their annual Night Hike program to be held on October 16, 1999.

Note Agreement - Diana Heemstra - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved an extension of the maturity date on a note agreement between the City of Redlands and Diana Heemstra from September 1, 1999, to October 15, 1999; and further authorized staff to prepare the appropriate documents for execution by the Mayor and City Clerk.

Agreement - California Street Landfill - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously authorized an engineering services agreement with Vector Engineering, Inc. to furnish engineering services for the California Street Landfill Horizontal Expansion Project.

Annexation Area No. 72 - Solid Waste Service - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously authorized the Municipal Utilities Department to proceed with assumption and implementation of solid waste service in Annexation Area No. 72.

## COMMUNITY DEVELOPMENT

Conditional Use Permit No. 677 - Time Extension - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved a one-year time extension for Conditional Use Permit No. 677 extending approval until August 10, 2000. This CUP is for an 11,079 square foot church on approximately 2.12 acres located on the southwest corner of Ford Street and Highland Avenue (Redlands United Pentecostal Church, applicant).

Minor Subdivision No. 244 - Time Extension - On motion of Councilmember Gilbreath, seconded by Councilmember Freedman, the City Council unanimously approved a one-year time extension for Minor Subdivision No. 244, extending tentative approval until August 12, 2000. This is an application for a parcel map for the purpose of merging two existing lots of record as one parcel located at 250 Terracina Boulevard (Redlands Community Hospital, applicant).

## COMMUNICATIONS

Legislative Bulletins - Councilmember Freedman reviewed the League of California Cities position opposing AB 1553 noting that this bill only applies to an unincorporated island within the City of Redlands, but all cities should oppose it due to the many bad precedents in this bill. He urged citizens to contact the Governor and urge him to veto this bill. Councilmember Banda also reported on the local League committee's stand opposing this bill and provided address, telephone and facsimile numbers to the Governor's office.

Pre-Annexation Agreement No. 99-03 - Mountainview Power Company - Community Development Director Shaw reported that several meetings have been held with representatives of Mountainview Power Company regarding the annexation of an 81 acre area located at the northeast corner of Mountain View and San Bernardino Avenues on the western edge of the City. As a result of these meetings, it was agreed that the most productive course of action was to have Mountainview Power prepare and submit a development agreement and a zoning ordinance text amendment which would address their concerns. In addition, it was agreed they would submit a pre-annexation agreement which would ensure their willingness to annex to the City if the development agreement and zoning ordinance text amendment were approved. City Attorney McHugh suggested one additional provision be added: a defend and indemnify clause that is Mountainview's responsibility. Following brief discussion, Councilmember Gilbreath moved to approve the pre-annexation agreement as submitted by Mountainview Power Company, LLC with the indemnification clause and directed staff to process the related development agreement and zoning ordinance text amendment. Motion seconded by Councilmember Freedman and carried unanimously.

Crafton Hills Road Extension - Public Works Director Mutter reviewed his staff report addressing traffic concerns on the Hampton Heights project located along Sand Canyon Road near Crafton Hills College. It is believed by the staff from both the City and the County of San Bernardino that Crafton Hills Road should be extended westerly to a connection with Wabash Avenue and Reservoir Road at Interstate 10. Councilmember Cunningham moved to support a connection of Crafton Hills Road from the Hampton Heights project to the Wabash Avenue/Reservoir Road intersection at Interstate 10 with mitigation measures of installation of a westbound freeway onramp at this intersection and whatever other mitigations are necessary to alleviate problems on Reservoir Road. Motion seconded by Councilmember Freedman and carried unanimously.

Inland Empire Annual Survey - SANBAG - City Manager Luebbers reported that SANBAG has been a major sponsor of the Inland Empire Annual Survey which is conducted to measure public perception about quality of life and public services in San Bernardino and Riverside Counties. In the past, cities have indicated a desire to have valid survey results on a City-by-City basis. Therefore, SANBAG will provide member jurisdictions the opportunity to increase the survey sample within their jurisdiction in order to obtain

statistically valid City data. The cost to interested cities will be \$3,000.00 to \$4,000.00 per jurisdiction, depending on the increased number of survey samplings required within specific jurisdictions. Mayor Cunningham commented that although this is an exhaustive survey, as it is now, it is not very formative. He suggested holding off action on this request for further information as how it would focus on Redlands. Councilmember Banda moved to table this matter to the September 21, 1999, meeting. Motion seconded by Councilmember Gilbreath and carried unanimously.

I-10 Soundwalls - Public Works Director Mutter reported Caltrans has developed a master plan for the ultimate widening and improvement of Interstate 10 through Redlands. This plan calls for an initial widening to four lanes with ultimate widening to five lanes in each direction. As part of the environmental mitigation required for a freeway widening project, Caltrans must look at the construction of soundwalls along areas developed with residential neighborhoods to mitigate noise impacts associated with increased freeway capacity. Staff has met with Caltrans' representatives to identify these residential areas and locate possible soundwalls. Those areas generally include the entire northerly side of the freeway between Sixth Street and Highland Avenue and the southerly side of the freeway between Central Avenue and Highland Avenue. Public Works Director Mutter explained the proposed walls would be typical of those built along freeways in Southern California. They are generally constructed of concrete block materials to a height of 12 feet. Staff agrees with the need for soundwalls, but has reservations regarding the height along the elevated section of the freeway. Motorists driving through Redlands are currently afforded a view of greenery as they overlook the City. With the walls, all motorists will see are concrete block walls with the pavement. There will be no landscaping along the internal portion of the freeway through this area. The view from the residential areas will also be hampered with an additional 12-foot height added to the existing elevated freeway. Mayor Cunningham remarked on the input from residents in the Wimbledon Heights area he has received about freeway noise. Public Works Director Mutter noted this phase does not go beyond Highland Avenue. Councilmember George wanted to give the citizens an opportunity to review these plans and comment. By unanimous consensus, the City Council continued this matter to October 5, 1999.

Automated Unicom - Redlands Municipal Airport - Public Works Director Mutter reported Redlands Aviation has proposed to purchase a Super Unicom in lieu of the City making the purchase of a simple Unicom station. The greatest advantage to this system is that it provides 24-hour operation with an expanded range of data, far more than is currently available. Redlands Aviation will continue to operate the Unicom and the City will continue to provide the Unicom operation payments as specified in the lease. The Airport Advisory Board voted unanimously on May 5, 1999, to recommend approval of the purchase of the new Unicom equipment for the Redlands Municipal Airport.



Councilmember Freedman moved to approve the request of Redlands Aviation to install, operate and maintain an automated Unicom at Redlands Municipal Airport. Motion seconded by Councilmember Gilbreath and carried unanimously.

Vine Street Name Change - C. Alton Robertson, President of the Redlands Sister Cities Association, reported on their long-standing request that two streets in the City of Redlands be named for Redlands' sister cities in recognition of our long and important relationship with them. Early in August, they suggested renaming the section of Vine Street between Cajon and Fourth Streets Hino, and the section between Fourth and Eureka Streets San Miguel de Allende. Following an article in local newspapers, the Redlands Area Historical Society, the Smiley Library Board, the Historic and Scenic Preservation Commission, and the Redlands Chamber of Commerce have publicly opposed this suggestion and suggested pursuit of alternatives. Eleven telephone calls and two letters to the Office of the City Council were received opposed to changing the name of Vine Street. At this time, Mr. Robertson withdrew his proposal, and said he would meet with the Redlands Area Historical Society on October 5, 1999, to discuss alternatives. Liz Beguelin, Redlands Area Historical Society, confirmed this meeting and suggested also inviting the Redlands Horticultural Society to work with them. Chris Gallacher addressed the City Council asking them not to change the name of Vine Street. Her great-grandfather, George Stevens Hinckley, Redlands City Engineer from 1908-1947, pioneered the white line on roads to guide traffic. This white line was used for the first time on Vine Street and she urged the City Council to preserve the name for its historical values to Redlands and for what it represents to her and her family.

Sister City Garden - Public Works Director Mutter reported the Redlands Sister Cities Association asked the Parks Commission for permission to place two large rocks with plaques attached in the small garden area adjacent to the General Telephone building in the Smiley Park. One plaque would name the garden "The Ellis Crane Garden" in honor of the first president of the Redlands Sister Cities Association who established the relationship with Hino, Japan. The second plaque would be in memory of Mrs. Toshiko Nakada, the long-time Chair of the Hino-Redlands Friendship Committee from Hino. The Parks Commission considered this request at their meeting held on August 12, 1999. The Commission felt that the Donor Wall Program, as approved by the City Council, sets the guidelines for installation of any plaque in the City's parks, and that any request for the installation of plaques should comply with the provisions of the Donor Wall program. Councilmember Freedman moved to refer this request back to staff and the Parks Commission for further study. Motion seconded by Councilmember Banda and carried unanimously.

Tree Policies - Public Works Director Mutter reported the Street Tree Committee has defined a number of areas of concern regarding the overall operation and maintenance of the City's urban forest. These areas of concern

have been prioritized and the Committee is working on policies for each. The first two areas completed include tree versus hardscapes such as the conflicts between trees and sidewalks or curbs, and the second regards pruning of tree roots. The Street Tree Committee referred these two policies to the Parks Commission who recommended approval and implementation of both policies on August 12, 1999. The Parks Commission and Public Works Director Mutter commended the members of the Street Tree Committee for their hard work and diligence in this effort. Councilmember Gilbreath moved to approve the policies for Tree/Hardscape Conflicts and for Root Pruning specifications, contingent on funding for implementation being authorized through the normal budget process. Motion seconded by Councilmember Banda and carried unanimously.

Prospect Park Pavilion - Public Works Director Mutter reported Friends of Prospect Park have requested reimbursement of building permit fees in the amount of \$189.53 for the construction of an outdoor pavilion in Prospect Park. The pavilion will be located in the upper portion of Prospect Park, northerly of the Carriage House and near the Lawson Gardens, and will be donated to the City when completed. Staff and the Parks Commission think the pavilion will be an asset to Prospect Park. Councilmember Gilbreath moved to accept the offer of the Friends of Prospect Park to construct the pavilion and authorized reimbursement of the building permit fees. Motion seconded by Councilmember Freedman and carried unanimously.

Adopt-A-Park Program - With various strategies outlined in the City Community Policing Program, Corporal Rick Hulbert has developed a concept for a public-private partnership in the long-term care and maintenance of the City's park system. Public Works Director Mutter said his department and the Police Department, under Police Chief Bueermann's direction, have committed considerable resources to improving the safety and security of Redlands' parks for the benefit of residents who use these facilities for recreation, family outings, youth activities, nature study, and relaxation. The goal of the Adopt-A-Park program is to involve the different communities of Redlands in maintaining and improving our parks over the long-term. Commending staff and the Parks Commission for their efforts, Councilmember Gilbreath moved to approve the Adopt-A-Park Program which will be administered by the Public Works Department. Motion seconded by Councilmember Freedman and carried unanimously.

Fee Waiver - Alzheimer's Association - Councilmember Banda moved to approve the request from the Alzheimer's Association to waive the rental fee for use of barricades at their 5K Run/Walk on October 2, 1999. Motion seconded by Councilmember Gilbreath and carried unanimously.

## JOINT MEETING - CITY COUNCIL AND REDEVELOPMENT AGENCY

Resolution No. 5682 - Great Neighborhoods Program - Councilmember Banda moved to adopt Resolution No. 5682, a resolution of the City Council of the City of Redlands authorizing the use of low- and moderate-income housing funds outside the Redlands Project Area for the Great Neighborhoods Program to implement an additional seven participant agreements which will be acted upon by the Board of Directors of the Redevelopment Agency. Motion seconded by Councilmember Gilbreath and carried unanimously. (Also see Redevelopment Agency minutes for September 7, 1999.)

### CLOSED SESSION

The City Council meeting recessed at 4:25 P.M. to continue the Redevelopment Agency meeting and reconvened at 4:31 P.M. to a closed session to hold a conference with its legal counsel as follows:

- Existing litigation - Government Code Section 54956.9(a): Juarez/Macias v. City of Redlands - Case No. SCV 53458 and SCV 53457 respectively

The meeting reconvened at 7:00 P.M.

### PUBLIC HEARINGS

Appeal - Conditional Use Permit No. 688 - Public hearing was continued to this time and place to hear an appeal to the Planning Commission decision of June 8, 1999, to approve a conditional use permit for a billiard room in the C-2 (Neighborhood Convenience) District at 1544 Orange Street; Ezequiel Ocampo, applicant. The City Council appealed this decision to afford an opportunity to review the project and consider neighborhood concerns. On July 20, 1999, the City Council, after review this proposal and taking into consideration testimony from other tenants within this existing Neighborhood Convenience Shopping Center, continued this item to August 3, 1999, at which time the City Council continued the public hearing to this time. In the interim, the applicant was allowed to operate under the conditions of the Planning Commission's approval. During this period of time, the Police Department was directed to prepare a report on the activities that led to the closure of the billiard hall on San Mateo Street and Brookside Avenue and to monitor this site relative to any negative impacts that may occur during this time span. The report prepared by the Police Department was provided to the City Council. Mayor Cunningham declared the meeting open as a public hearing for any questions or comments. None being forthcoming, the public hearing was declared closed. Councilmember Gilbreath moved to approve Conditional Use Permit No. 688 based on the following findings:

1. That the use applied for at this location set forth in the application is a proper one for which a conditional use permit is authorized by this title because it is identified as a potential use in this zone district subject to a conditional use permit.

2. That the use is necessary and desirable for the development of the community, is in harmony with the various elements or objectives of the General Plan, and will not be detrimental to existing uses in the zone in which the proposed use is to be located because the proposed use is compatible with the uses in the shopping center and surrounding neighborhood.
3. That the site for the intended use is adequate in size and shape to accommodate the use and other features required in order to adjust the use to those existing or permitted future uses within this existing neighborhood shopping center because the proposed use is located within an existing tenant space of an existing commercial center which, when approved, met all required development standards for this district, and the proposed use has been designed to fit within the proposed tenant space.
4. That the site for the proposed use relates to streets and highways that are properly designed and improved to carry the type and quantity of traffic generated or to be generated by the proposed use.
5. That the conditions set forth and recommended on June 8, 1999, by the Planning Commission in the permit, with the addition of Condition of Approval No. 13 to read: "No sale or consumption of alcohol on the premises," are necessary to protect the public health, safety, or general welfare.

Motion seconded by Councilmember Banda and carried with Councilmember Freedman voting NO.

Tentative Tract No. 16015 - Gardner Construction - Public hearing was advertised for this time and place to consider the Socio-Economic Cost Benefit Study, Tentative Tract No. 16015, and an accompanying Negative Declaration for a subdivision of 19.45 acres into 62 residential lots and one lettered lot in the R-1 (Single Family Residential) District on property located on the north side of Pioneer Avenue, east of Duke Street. Community Development Director Shaw reviewed the application and the Planning Commission's recommendation for approval. Mayor Cunningham declared the meeting open as a public hearing for any questions or comments. Mark Gardner, the applicant, thanked staff, especially Community Development Director Shaw and Senior Planner Bob Dalquest, for their assistance and informed the City Council they will accept all conditions set forth. There being no further comments, the public hearing was declared closed. Councilmember Freedman moved to approve the Environmental Review Committee's Negative Declaration for Tentative Tract No. 16015 based on the finding that the project will not have a significant effect on the environment, determining this project will not individually or cumulatively have an adverse impact on wildlife resources as defined in Section 711.2 of the California Fish and Game Code and directed staff to file and post a Notice of Determination in accordance with the City's guidelines. Motion seconded by Councilmember George and carried unanimously. Councilmember Freedman moved to approve the Socio-Economic Cost Benefit Study for Tentative Tract No. 16015 as the project will not create unmitigable physical

blight or over-burden public services in the community, and no additional information or evaluation is needed, and that the proposed project, based on the overall Fiscal Impact Analysis, will provide the City with a positive annual revenue/cost ratio of 1.123. Motion seconded by Councilmember Gilbreath and carried unanimously. Councilmember Freedman moved to approve Tentative Tract No. 16015 subject to:

- A. The conditions of approval contained in the staff report;
- B. An additional condition (No. 21, Community Development Department, Planning Division) to read: "That the segment of the regional trail depicted on the General Plan for the subject site shall be designed, submitted, approved and installed subject to the review and approval of the Community Development Director and Public Works Director. The applicant may provide surety in the form of a bond for the future improvement if it is determined that it would be best to install this segment of the trail at a later date."; and
- C. The following findings:
  - 1. That the proposed tentative map is consistent with the policies, land use designation, and density prescribed by the General Plan;
  - 2. That the proposed project qualifies as "infill" in accordance with the criteria established in Policy 2.2.3(a) of the Redlands Municipal Code Airport Land Use Compatibility Plan;
  - 3. That the design and improvements of the proposed subdivision are consistent with City standards;
  - 4. That the site is physically suitable for the type of development;
  - 5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
  - 6. That the design of the subdivision or type of improvements will not cause any serious public health problems;
  - 7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within proposed subdivision; and
  - 8. That pursuant to California Government Code Section 66474.6, the discharge of waste from this subdivision apparently will not result in violation of existing requirements prescribed by the Santa Ana Regional Water Quality Control Board pursuant to Division 7 of the California Water Code.

Motion seconded by Councilmember Banda and carried unanimously.

Tentative Tract No. 15937 - Curtis Development - Public hearing was advertised for this time and place to consider the Socio-Economic Cost Benefit Study, Tentative Tract No. 15937 and Conditional Use Permit No. 686, and accompanying Negative Declaration for a Planned Residential Development for the subdivision of 61.27 acres into 160 residential lots in the R-E (Residential Estate) District for property generally located north of Lugonia Avenue, south of San Bernardino Avenue, west of Wabash Avenue, and east of Dearborn

Street. Citing a potential conflict of interest, Councilmember Banda left the City Council Chambers. Community Development Director Shaw reviewed the application and the Planning Commission's recommendation for approval. Mayor Cunningham declared the meeting open as a public hearing for any questions or comments. On behalf of the applicant, Pat Meyer asked the City Council to consider amending the Municipal Utilities Department Condition No. 1 regarding the Heritage Citrus Grove as they will not be able to plant until spring of 2001. Al Kelley offered kudos to staff, the developer, and the City Council for this project. There being no further comments, the public hearing was declared closed. Councilmember George moved to approve Tentative Tract No. 15937 with 160 or fewer lots subject to:

- A. The conditions of approval contained in the staff report;
- B. The following amended Condition of Approval: No. 13, Community Development Department, Planning Division, to read: "To mitigate the potential impact to agricultural resources identified in Section 1(d) of the environmental checklist, Lots A-D, as identified on Tentative Tract No. 15937, and which total approximately 13.01 acres, shall be required to be planted with citrus trees and deed to the City to ensure permanent preservation of viable citrus land (Mitigation Measure No. 1). This shall be accomplished prior to the occupancy of the first resident and deeded to the City prior to release of the Subdivision Bond. The City shall not accept the citrus until its installation is approved by the Citrus Committee."; and
- C. The following findings and
  1. That the proposed map is consistent with the policies, land use designation, and density prescribed by the General Plan;
  2. That the design and improvements of the proposed subdivision are consistent with City standards;
  3. That the site is physically suitable for this type of development;
  4. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
  5. That the design of the subdivision or type of improvements will not cause any serious public health problems;
  6. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision; and
  7. That pursuant to California Government Code Section 66474.6, the discharge of waste from this subdivision apparently will not result in violation of existing requirements prescribed by the Santa Ana Regional Water Quality Control Board pursuant to Division 7 of the California Water Code.

Motion seconded by Councilmember Gilbreath and carried with Councilmember Banda having abstained. Councilmember George moved to approve Conditional Use Permit No. 686 subject to the conditions of approval contained in the staff report; subject to the following amended conditions of approval:

- A. No. 16, Community Development Department, Planning Division, to read: "To mitigate the potential impact to agricultural resources identified in Section 1(d) of the environmental checklist, Lots A-D, as identified on Tentative Tract No. 15937, and which total approximately 13.01 acres, shall be required to be planted with citrus trees and deeded to the City to ensure permanent preservation of viable citrus land (Mitigation Measure No. 1). This shall be accomplished prior to the occupancy of the first resident and deeded to the City prior to release of the Subdivision Bond. The City shall not accept the citrus until its installation is approved by the Citrus Committee."
- B. No. 1 under the Citrus Groves Section to read: "Provide 'in fee' title to approximately 13.02 acres of land to the City, to be designated as a 'Heritage Citrus Grove' as a condition of the tract map. The citrus trees shall be installed prior to the occupancy of the first resident and deeded to the City prior to release of the Subdivision Bond. The City shall not accept the citrus until the installation is approved by the Citrus Committee";

and subject to the following findings:

1. That the site for the intended use is adequate in size and shape to accommodate the use and other features and is compatible with other permitted future uses on the land and vicinity;
2. That the site for the proposed use relates to the streets and highways properly designed to carry the type and quantity of traffic generated or to be generated by the proposed use;
3. The use is desirable for the development of the community is consistent with the policies and objectives of the Redlands General Plan and is not detrimental to existing or planned uses in the vicinity of the proposed project;
4. The proposed development is in compliance with the policies and standards as identified in Section 18.144 (Planned Residential Development standards) of the Redlands Municipal Code and Ordinance Text Amendment No. 265 as adopted in Ordinance No. 2404; and
5. That the conditions set forth in the permit and shown on the approved site plan are necessary to protect the public health, safety, or general welfare.

Motion seconded by Councilmember Gilbreath and carried with Councilmember Banda having abstained.

Ordinance No. 2403 - Density Bonus - Public hearing was advertised for this time and place to consider Ordinance No. 2403, an ordinance of the City of Redlands adding Chapter 18.226 to the Redlands Municipal Code to establish incentives (density bonus) for the production of very low, lower income and senior housing, and an accompanying Negative Declaration. Stating this was a complicated issue, Councilmember Freedman recommended continuance of this matter to a study session to be held on November 16, 1999, at 9:00 A.M. Councilmembers were in concurrence with the recommendation.

## UNFINISHED BUSINESS

Certification of Referendum Petition - City Clerk Poyzer reported a petition entitled *Referendum Against a Legislative Act Passed by the City Council* purported to consist of an estimated 1,085 sections and an estimated 4,765 raw signatures was filed in the City Clerk's Office on August 10, 1999, by Mark W. Bulot, San Bernardino County Taxpayers Coalition. The legislative act is described as an agreement for construction and operation of a home improvement center and the provision of unrelated off-site improvements between the City of Redlands and Lowe's HIW, Inc. The petition was transported to the Registrar of Voters in San Bernardino for examination of the signatures. At the request of the petitioners, the City Clerk began processing a sample examination of 500 of the signatures as permitted by Section 9115 of the California Election Code. On August 11, 1999, the City Council unanimously directed the City Clerk to check all signatures on the petition and bill the costs of the signature verification to the petitioners. The results of this examination are as follows:

1. Number of registered voters residing within the City of Redlands: 32,929
  2. Number of verified signatures filed by the proponents: 4,774
  3. Number of minimum signatures required for a sufficient petition pursuant to Section 9237 of the California Elections Code: 3,293
  4. Number of sufficient signatures: 3,455
  5. Number of insufficient signatures: 1,319
- Number of insufficient signatures that were duplicates: (21)

Based on the information provided above, the petition was found to be sufficient. A copy of the Certificate of Sufficiency executed by the City Clerk is attached.

Referendum Legal Opinion - Following a review of existing law regarding the referendum petition for the City's contract with Lowe's HIW, Inc. for the sharing of sales taxes generated by the project, City Attorney McHugh expressed the staff's opinion that the contract is not a proper subject for a referendum. He summarized his memorandum dated September 2, 1999, citing case law and answered the City Council's specific question, if the contract between the City Council and Lowe's is administrative in nature, a court cannot compel the City to submit that contract to a referendum vote. However, on the other hand, if the contract is deemed a legislative act, then the matter is a proper subject of referendum. In this case, the City Council adopted Resolution No. 5658 on July 12, 1999, to establish a policy for the consideration of financing proposals from new businesses proposing to locate in the City. That resolution contained specific criteria and objectives which new businesses are required to satisfy if their proposals are to be considered by the City. In the City Attorney's opinion, that resolution established City legislative goals and policies and would be a proper subject of referendum. By contrast, the contract with Lowe's which the City Council approved on July 12, 1999, merely carried out, as an administrative act, those goals and policies established by the City



Council in its Resolution No. 5658. Therefore, the Lowe's contract, being an administrative act, is not subject to referendum.

On behalf of the San Bernardino County Taxpayers Coalition, Mark Bulot asked the City Council to place this matter on the ballot or re-negotiate an agreement with Lowe's that would not be a taxpayers' burden. He noted they have a legal opinion explaining why this issue is subject to referendum. In answer to the Mayor's question, Mr. Bulot indicated they desired to place this matter on the ballot for the next general municipal election in November 2001. Representing the San Bernardino County Taxpayers Coalition, Attorney Bradley W. Hertz, Reed & Davidson, Los Angeles, referred to his letter dated September 2, 1999, which disagreed with City Attorney McHugh's opinion. Mayor Cunningham asked Mr. Hertz if Majestic Realty was his firm's client; Mr. Hertz said that question was not relevant. Representing Lowe's, Attorney Charles Berwanger, Higgs, Fletcher & Mack, San Diego, agreed with City Attorney McHugh's opinion that this contract was not subject to the referendum process. He stated that if litigation is commenced to compel an election, Lowe's will provide a defense on the terms and conditions already agreed to. Mr. Berwanger provided copies of his letter and a memorandum dated September 7, 1999, expressing his legal opinion on this matter. Councilmember Freedman exhibited figures showing Lowe's impact on Redlands and the estimated sales tax revenue projected for the first four years. Councilmember Banda felt this was a "bottom-line deal." Councilmember Gilbreath reiterated her position that this contract was a subsidy. Noting that although he was not wildly enthused about this contract, Councilmember George felt we needed to keep the deal in place. Mayor Cunningham supported the two legal opinions from City Attorney McHugh and Lowe's attorney Charles Berwanger.

Referendum Petition - Councilmember Freedman moved not to place the petition entitled *Referendum Against a Legislative Act Passed by the City Council* (described as an agreement for construction and operation of a home improvement center and the provision of unrelated off-site improvements between the City of Redlands and Lowe's HIW, Inc.) on a ballot. Motion seconded by Councilmember Banda and carried with Councilmember Gilbreath voting NO.

Rezoning - Regional Center - Councilmember Freedman moved to continue this matter to October 5, 1999. Motion seconded by Councilmember Banda and carried unanimously.

## NEW BUSINESS

Krikorian Theatre Expansion - On behalf of the Downtown Redlands Business Association's Board of Directors, Chairman Jim Cavanaugh reported the DRBA discussed the expansion proposal of the Krikorian Theatre and wished to express a public position of support. They felt the expansion of the theater is a

positive move that supports and benefits all of the people of Redlands. DRBA sees this project as a great opportunity to unify the historic downtown area with future projects such as those supporting the Shopper's Lane as defined in Specific Plan No. 45.

Ordinance No. 2420 - Mobilehome Rent Control Arbitration - City Attorney McHugh reported that under the Redlands Municipal Code, the City is required, from time to time, to retain an arbitrator to conduct proceedings associated with rent stabilization disputes between mobilehome park owners and tenants. The arbitrator is selected from a list of attorneys and retired Judges, and the services of such persons are not inexpensive. Although the Code provides that at the end of the arbitration proceedings, the "losing" party must pay the City's costs for the arbitrator, there is no provision which requires an "up-front" payment by the applicant for such proceedings. City staff does not believe the City should fund the arbitration proceedings with the hope that it might recover its costs from the losing party sometime at the end of those proceedings. It would be more appropriate, similar to all other applications to the City, that the person seeking the entitlement or decision, pay the City's actual costs associated with the request. Proposed Ordinance No. 2420 would establish a \$3,000.00 deposit which would be paid by the applicant in the event the City was required to hold arbitration proceedings. Ordinance No. 2420, an ordinance of the City of Redlands amending Chapter 5.48 of the Redlands Municipal Code, was read by title only by City Clerk Poyzer, and on motion of Councilmember Banda, seconded by Councilmember Freedman, further reading of the ordinance text was unanimously waived, and Ordinance No. 2420 was introduced with unanimous Council approval and laid over under the rules with adoption scheduled for September 21, 1999.

Ordinance No. 2421 - Adult-Oriented Business Permits - City Attorney McHugh reported that recent decisions from the Ninth Circuit Court of Appeals have ruled that adult business permitting systems are an invalid and improper "prior restraint" of free speech unless an applicant for a permit can be assured "prompt judicial review" if his or her permit is denied. As a result of these decisions, the California Legislature enacted Senate Bill No. 1165 as urgency legislation to add Section 1094.8 to the California Code of Civil Procedure. This section establishes a new requirement for prompt judicial review of a public agency's denial of a permit that relates to expressive conduct protected by the 1st Amendment (including adult businesses). Proposed Ordinance No. 2421 would revise Chapter 8.76 of the Redlands Municipal Code to provide for prompt or judicial review of the City's denial of any adult business permit in accordance with the new State law. City Attorney McHugh explained the proposed permitting process. This ordinance also revises the Redlands Municipal Code provisions regulating nudity at adult businesses and amends the Code to add more stringent regulation of activities of adult businesses operating within the City. City Attorney McHugh explained that Ordinance No. 2421 is proposed as an urgency ordinance to protect the public peace, health and safety

of the citizens of Redlands. If the City Council agrees with staff's recommendation, a motion to adopt the urgency ordinance would be appropriate. The ordinance would take effect immediately provided there are at least four affirmative votes of Councilmembers. The following employees of Déjà Vu Show Girls in Redlands urged Councilmembers not to enact this proposal: Christina Mock, Jason Mohny, Mike Branstetter, and Brandi Malone. Also opposed was shareholder Donald Krontz. Roger Jon Diamond, attorney for Déjà Vu Show Girls, objected to this proposed ordinance presented as an urgency ordinance which he felt did not give them a reasonable opportunity to present their viewpoint; he urged the City Council to give this ordinance first reading at this meeting and allow them time for further review. Urging the City Council to adopt this ordinance were: Reverend Don Wallace and George E. Riday. City Attorney McHugh explained the need for an urgency ordinance and offered to meet with anyone to fine tune the ordinance if necessary, and also responded to questions by noting that the studies supporting the findings in the ordinance were available for review in the City Clerk's Office. Ordinance No. 2421, an urgency ordinance of the City of Redlands amending Chapter 8.76 of the Redlands Municipal Code to provide for prompt review of applications for permits or other entitlements for adult-oriented businesses, was read by title only by City Clerk Poyzer, and on motion of Councilmember Banda, seconded by Councilmember Freedman, further reading of the ordinance text was unanimously waived and Ordinance No. 2421 was adopted as an urgency ordinance by the following vote:

AYES: Councilmembers Banda, Gilbreath, Freedman, George;  
Mayor Cunningham  
NOES: None  
ABSENT: None

#### ADJOURNMENT

There being no further business, the City Council meeting adjourned at 8:30 P.M. The next regular meeting will be held on September 21, 1999.

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City Clerk