

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA
August 18, 2004

The City Council/Redevelopment Meeting of the City of Westminster, California convened on August 18, 2004 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Blvd, Westminster, California.

6:00 P.M.
CLOSED SESSION

CALL TO ORDER:

ROLL CALL

PRESENT: RICE, QUACH, FRY, MARSH, PARIS
ABSENT: NONE

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session for the following purposes:

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Agency Designated Representatives: City Manager Vangie Schock and Labor Negotiator Dave Larsen; Employee Organization: Westminster Municipal Employees' Association (WMEA);
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case).

The Deputy City Attorney announced that, by a unanimous vote, the following items were added to the agenda for discussion:

- 3) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case).
- 4) Pursuant to Government Code Section 54957: (two personnel matters).

RECESS: At 6:07 p.m., Mayor/Agency Chair Rice recessed from the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING: The City Council/Redevelopment Agency Meeting was reconvened at 7:08 p.m. in the Council Chambers.

ROLL CALL:

PRESENT: RICE, QUACH, FRY, MARSH, PARIS
ABSENT: NONE

SALUTE TO FLAG: Mayor Pro Tem Quach

INVOCATION: Council Member Marsh

REPORT OUT OF CLOSED SESSION:

The Deputy City Attorney stated that there was nothing to report out of the Closed Session.

SPECIAL PRESENTATIONS - None

1. CONSENT CALENDAR

APPROVAL OF MINUTES

- 1.1 (City Council/Redevelopment Agency) Minutes of the Adjourned Regular Meeting of the City Council/Redevelopment Agency of July 28, 2004 and Minutes of the Regular Meeting of August 4, 2004.**

ACTION: Approved.

ROUTINE MATTERS

- 1.2 (City Council/Redevelopment Agency) Waive reading in full of all ordinances and resolutions under consideration, and approve and adopt same by reading title only.**

ACTION: Approved.

- 1.3 Purchase of Seven Black and White Patrol Cars for fiscal year 2004-05 (106-00)**

ACTION: The City Council authorized a purchase order for the purchase of seven new patrol cars from Villa Ford in the amount of \$160,231.33.

- 1.4 Information Services Consulting Services Contract (502-03)**

ACTION: The City Council approved a contract with Consistent Solutions Inc. to provide Information Systems consulting services during the implementation of the city's new financial systems and authorized the City Manager to execute the contract on behalf of the City.

1.5 Annual software maintenance for Utility Billing (502-16)

ACTION: The City Council approved a purchase order in the amount of \$17,444.75 to Progressive Solutions, Inc. (PSI) for Utility Billing software.

1.6 Purchase Order to Electronic Risk Consultants (ERC) for fiscal year 2004-05 (502-05)

ACTION: The City Council approved issuance of a purchase order to ERC to underwrite maintenance of electronic equipment located throughout the City in the amount of \$56,578.00.

ORDINANCES (SECOND READING)/RESOLUTIONS**1.7 Resolution No. 3858 - A Resolution of the City Council of the City of Westminster approving submittal of Tree Planting Project to the State of California Department of Forestry and Fire Protection for Urban Forestry Grant Program funding through Proposition 12. (109-08)**

ACTION: The City Council adopted Resolution No. 3858 and waived further reading.

WARRANT REGISTER**1.8 (City Council/Redevelopment Agency) Warrant Register dated July 27, 2004 through August 10, 2004. (105-09)**

ACTION: Approved.

INFORMATION AND REPORTS**1.9 Minutes of the Planning Commission meeting held July 14, 2004 (104-11)**

ACTION: Received and filed.

1.10 Community Development Monthly Activity Report – July 2004 (216-01)

ACTION: Received and filed.

Motion was made by Council/Agency Member Paris, and seconded by Mayor Pro Tem/Vice Chair Quach, to approve the Consent Calendar. The motion was carried by a 5-0 vote.

END OF CONSENT CALENDAR

2. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW**2.1 The actions of the Planning Commission meeting held on August 11, 2004**

The Community Development Director reviewed the actions of the Planning Commission meeting of August 11, 2004:

1. 545 Mall Ring Road (Case 2004-41, Conditional Use Permit/ Site Plan/ Design Review) to establish a full bar and live entertainment in a new restaurant named "S" Restaurant. The interior of the building will be remodeled; extensive design changes will be made to the exterior with a new outdoor patio.
2. 9741 Bolsa Avenue (Case 2004-30, Site Plan/Design Review) for demolishing an existing self-storage facility and constructing a new 55,207 square foot commercial center.
3. 15496 Magnolia Street (Case 2004-38, Lot Line Adjustment/Site Plan/Design Review) for construction of a new 17,000 sq. ft. two-story commercial retail building. The applicant is proposing to consolidate the subject parcel with the nearby property (15460 Magnolia Street) for shared parking.

Council Member Paris requested that Item No. 3 be called up for review by the Council.

4. 7742 12th Street (Site Plan/Design Review) for construction of three rental apartment units.
5. 15440 Beach Boulevard (Site Plan/Design Review) for remodeling the old K-mart building to a supermarket and fifteen new shop tenants with exterior façade improvement as well as parking lot and landscaping improvements.

Mayor Pro Tem Quach stated he would recuse himself from voting to receive and file Item No. 2 since he believes it is within 500 feet of his residence.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Marsh, to receive and file Items 1, 4 and 5 from the report of the Planning Commission meeting of August 11, 2004. The motion was carried by a 5-0 vote.

Mayor Pro Tem Quach left the dais.

Motion was made by Council Member Paris, and seconded by Council Member Marsh, to receive and file Item No. 2 from the report of the Planning Commission meeting of August 11, 2004. The motion was carried by a 4-0-1 vote with Mayor Pro Tem Quach absent.

Mayor Pro Tem Quach returned to the dais.

3. PUBLIC HEARINGS

3.1 SALE OF ONE AGENCY-OWNED PROPERTY LOCATED AT THE NORTHEAST CORNER OF OLIVE STREET AND WESTMINSTER BOULEVARD; AND TWO AGENCY-OWNED PROPERTIES AT THE NORTHWEST CORNER OF CHERRY STREET AND WESTMINSTER BOULEVARD (Continued from the July 28, 2004 meeting) (502-16)

(City Council) Time set for a public hearing to consider authorization to allow the Westminster Redevelopment Agency to enter into a Disposition and Development Agreement (DDA) with Mr. Chuck Ponti to sell one Agency-owned property at the northeast corner of Olive Street and Westminster Boulevard (7361 Westminster Boulevard), and two Agency-owned properties at the northwest corner of Cherry Street and Westminster Boulevard (7185 & 7191 Westminster Boulevard).

(Redevelopment Agency) Time set for a public hearing to consider entering into a Disposition and Development Agreement (DDA) with Mr. Chuck Ponti for one Agency-owned property at the northeast corner of Olive Street and Westminster Boulevard (7361 Westminster Boulevard), and two Agency-owned properties at the northwest corner of Cherry Street and Westminster Boulevard (7185 & 7191 Westminster Boulevard).

The Economic Development Manager explained that in the early nineties the Agency bought the properties from the City and the parcels have remained vacant. Mr. Ponti offered to buy the properties in order to build auto-related businesses.

Council/Agency Member Marsh inquired about the history of the two parcels. The Economic Development Manager stated that the City purchased the property at Olive and Westminster for \$115,000.

Council/Agency Member Marsh asked if any of the properties were taken with a threat of eminent domain, to which the Economic Development Manager responded that they were not threatened with eminent domain.

Council/Agency Member Fry said he recalled that when the property was purchased by the City it was for the purpose of widening Olive Street.

MAYOR/AGENCY CHAIR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE

ITEM. SEEING NONE, THE MAYOR/CHAIR ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM.

Bob Crossley, resident of Westminster, was concerned that only Mr. Ponti requested to buy the properties and wondered if anyone else might have been interested. He stated he is opposed to the sale until the City reconciles their information to what the County has on record, pertaining to the recorded documents.

Darrell Nolta, resident of Westminster, spoke in opposition to the item, stating that he did not want the City to lose money on the sale, even though he was in favor of the City selling the land.

MAYOR/AGENCY CHAIR RICE CLOSED THE PUBLIC HEARING.

The Economic Development Manager explained that in the early 90's the City purchased the land from the Redevelopment Agency and perhaps the documents were not recorded at that time. Council/Agency Member Marsh was concerned about the valuation of the two properties, especially the property on Cherry Street. The Economic Development Manager believes that it has something to do with the surrounding businesses. He also noted that in the past, the City put the parcels out for bid and received no offers until now.

Council/Agency Member Fry recalled that in 1975 it was the City that purchased the property as there was no Redevelopment Agency at that time and in 1990, the Agency purchased the land from the City.

Motion was made by Council Member Marsh, and seconded by Council Member Fry, to authorize the Westminster Redevelopment Agency to enter into a Disposition and Development Agreement (DDA) with Mr. Chuck Ponti to sell one Agency-owned property at the northeast corner of Olive Street and Westminster Boulevard (7361 Westminster Boulevard), and two Agency-owned properties at the northwest corner of Cherry Street and Westminster Boulevard (7185 & 7191 Westminster Boulevard). The motion was carried by a 5-0 vote.

Motion was made by Agency Member Marsh, and seconded by Agency Member Fry, to approve a Disposition and Development Agreement (DDA) with Mr. Chuck Ponti to sell one Agency-owned property at the northeast corner of Olive Street and Westminster Boulevard (7361 Westminster Boulevard), and two Agency-owned properties at the northwest corner of Cherry Street and Westminster Boulevard (7185 & 7191 Westminster Boulevard). The motion was carried by a 5-0 vote.

4. ORAL COMMUNICATIONS

Darrell Nolta, resident of Westminster, spoke regarding problems with the electronic voting system.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS**5.1 Council/Agency Member Items**

Council Member Paris said he enjoyed the Senior's luau party today.

Mayor Pro Tem Quach announced that the date of the Energy Fair has been changed to September 25, 2004 because participants from Edison and the Gas Company were unable to attend if it was held on September 4th. He was approached regarding a request to celebrate the completion of the Bolsa median and he will ask the group to have the celebration on private property with some assistance from City staff on September 5, 2004. There was no objection.

Mayor Rice said that she started a program, "Ask the Mayor and City Council", and three requests were submitted today, but there was no time to consult staff, so those questions will be answered at the next Council meeting. She also announced that the City Clerk was absent due to the passing of her father and the Council wishes her well. She also announced the death of Gloria Turro (the wife of Planning Commission Chair Mike Turro), who was an alternate member of the Council on Aging and a member of the Community Services and Recreation Commission, and the meeting will be adjourned tonight in her honor.

5.2 Discussion to set a timeline to reduce utility users tax (Mayor Pro Tem Quach & Council Member Marsh)

Mayor Pro Tem Quach said he would like to eliminate the utility users tax some day in the future.

Council Member Marsh stated that this is not something that can be done now, however, he asked staff to calculate what the cost would be to reduce the utility users tax showing different categories of breakdowns – one based on half-percent increments (3 ½%, 3%, 2 ½%, 2%, etc.). Also, he would like it to show different utility companies. He suggested a date in September for the first set of estimates to be returned to Council.

Mayor Rice also asked staff to look at what programs would have to be cut if the utility tax was reduced or eliminated. Council Member Marsh noted that it is not known whether the State is going to return funds that were seized, and there could be some impact from initiatives on the November ballot.

The City Manager said it was possible to schedule the timeline report for the September 22, 2004 Council meeting. Mayor Rice stated that staff could get an extension of time if it became necessary.

Council Member Fry inquired about the liability impacts of the Westminster Police Officers Association's retirement package.

Mayor Rice said that the information was discussed three months ago and staff could bring that information back to the Council. There were no objections.

Darrell Nolta, resident of Westminster, stated he disagrees with any utility tax.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 State Legislative Consultant (502-23)

Council Member Marsh stated he would like our City Attorney staff to take into account the hold harmless provision in Paragraph 15. On the first line he suggested, insert "defend" and "indemnify"; separate "indemnity" from "save" by a comma. On the next line "from and against all damages" should read "from and against any and all damages," etc. He requested the Deputy City Attorney to review the language in the paragraph to convey the message to defend, indemnify, save, and hold harmless the City. He appreciates the contract price.

Motion was made by Council Member Paris, and seconded by Council Member Marsh, to:

- 1) Approve the amended agreement with Townsend Public Affairs, Inc. to obtain grant funding from the state, and authorize the City Manager to execute the agreement on behalf of the City;
- 2) Approve the priority for funding requests as listed on page 2 of the staff report; and
- 3) Authorize an appropriation of \$50,000.00 from General Fund Contingency Account No. 20000-60904 to Assistant City Manager Contractual/Professional Services Account No. 11600-43090.

The motion carried by a 5-0 vote.

6.2 Traffic Mitigation and Impact Fee for Self Storage Facility located at 13070 Old Bolsa Chica Road (Continued from the August 3, 2004 meeting) (606-01)

The Public Works Director reminded the Council that the developer chose to install a signal rather than accept the staff's recommendation to post "right turn only in" and "right turn only out" signs. The signal will have sensors for use.

Mayor Rice asked the Deputy City Attorney if there might be a conflict for her because the developer donated to her campaign, to which the Deputy City Attorney responded that there would be no conflict.

Motion was made by Council Member Fry, and seconded by Council Member Paris, to install the California Environmental Quality Act (CEQA) required traffic signal at the corner of Bolsa Chica Avenue and Old Bolsa Chica Road.

Mayor Rice noted that she received letters from Pat Stewart, representing her neighbors, and Reginald Crozier regarding the item, both objecting to a signal.

Phil Anthony, representative for the owners of the property, the Millers, stated that the signal should not be the issue since it is required by CEQA, but rather whether or not the traffic impact fee and the costs for the traffic signal interconnection will be waived and shared, respectively. He stated that the Millers believe that their storage facility is not the only reason for a signal at this intersection. If the City does not wish to share the cost, he said then perhaps CalTrans could reimburse part of the cost at the time they expand their yard on Old Bolsa Chica Road, which they have planned.

Council Member Marsh stated his opinion, that safety has to take priority over convenience so he agreed that the site needs to have a signal. He agreed with waiving the traffic impact fee, but did not agree to reimburse the developer for any portion of the traffic signal interconnection, as it may start a precedent. He said he did not want to speculate what CalTrans may or may not do in the future.

Council Member Fry suggested that the City ask the operators of the Seal Beach Naval Weapons Station if they would like to donate toward the signal, as they own a well at that location. The Public Works Director stated that the intersection belongs to the City, however, staff can inquire at the Seal Beach Naval Weapons Station.

Mr. Anthony noted that the Millers have already signed a contract with the City to install the signal, so that cannot be changed because those plans have been approved by the City.

The Deputy City Attorney stated that Council must implement the mitigation measures to protect the design immunities.

Reginald Crozier, resident of Westminster, inquired concerning the amount of traffic coming off the freeway ramps.

Darrell Nolta, resident of Westminster, said he is concerned about safety and does not want the City to reimburse the developer for the traffic signal interconnection costs.

A substitute motion was made by Council Member Marsh, and seconded by Council Member Paris, to require the developer to install the California Environmental Quality Act (CEQA) required traffic signal at the corner of Bolsa Chica Avenue and Old Bolsa Chica Road; waive the requirements for the traffic impact fee; and deny the request to waive the costs for traffic signal interconnection. The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public)**7.1 Waiver of Rental Fees/Community Services Building (702-06)**

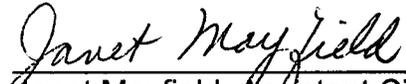
Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Paris, to approve the request from Erwin Vysma from Kiwanis Club of Westminster, for waiver of fees for the use of the Community Services Building (East/West Room) on Saturday, August 21, 2004 between the hours of 11 a.m. to 3 p.m. for a fish fry to benefit the Boy Scouts of America, Orange County District. The motion was carried by a 5-0 vote.

7.2 Waiver of Rental Fees/Community Services Building (702-06)

Motion was made by Council Member Paris, and seconded by Mayor Pro Tem Quach, to approve the request from Leonard Tran from the Vietnamese American Cancer Foundation, for waiver of fees for the use of the Community Services Building (East/West Room) on Sunday, August 29, 2004 between the hours of 1 p.m. to 5 p.m. for a community seminar regarding hepatitis and liver cancer. The motion was carried by a 5-0 vote.

Discussion ensued regarding the possibility of allowing a health clinic to be set up in the Community Services building. Council Member Marsh stated he did not want the City to become a health care provider without a license.

8. LEGISLATIVE ITEMS - None**9. COMMISSION AND COMMITTEE ITEMS - None****10. COUNCIL/AGENCY ADJOURNMENT** At 8:55 p.m. Mayor/Agency Chair Rice adjourned the meeting in honor of Gloria Turro, to Monday, August 23, 2004 at 6:00 p.m. in the Council Chambers, 8200 Westminster Boulevard, Westminster, for the purpose of holding a City/Agency study session meeting.



Janet Mayfield, Assistant City Clerk/
Acting Agency Secretary