

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA
May 5, 2004

The City Council of the City of Westminister, California convened on May 5, 2004 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminister Blvd, Westminister, California.

6:00 P.M.
CLOSED SESSION

CALL TO ORDER:

ROLL CALL

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

ITEMS ADDED TO CLOSED SESSION:

The City Council/Redevelopment Agency Board unanimously voted to bring the following item onto the agenda for Closed Session of an urgent nature, which arose subsequent to the posting of the agenda, as follows:

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Designated Representatives: Interim City Manager, Penny Loomer and Personnel Director, Pat Corcoran; Employee Organization: Westminister Police Officers' Association (WPOA); and
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case),

CLOSED SESSION:

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

- 3) Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation: Adelle Marie Wagner v. City of Westminister;
- 4) Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation: Harry and Julia Deschene v. City of Westminister;
- 5) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8: Property: Northwest corner of Cherry Street and Westminister Boulevard; Agency Negotiators: Interim Executive Director Penny Loomer and Economic Development Manager Steve Soto; Negotiating Party: Charles Ponti; Under Negotiation: Price and Terms of Payment; and

- 6) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8: Property: Northeast corner of Olive and Westminster Boulevard; Agency Negotiators: Interim Executive Director Penny Loomer and Economic Development Manager Steve Soto; Negotiating Party: Charles Ponti; Under Negotiation: Price and Terms of Payment.

RECESS: At 6:55 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 7:05 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 City Attorney stated that there was nothing to report out of the Closed Session.

SPECIAL PRESENTATIONS:

- A. Dorothy Hendrickson, Executive Assistant to Supervisor Chuck Smith, introduced the following speakers who spoke on the topic of senior services: Mary Paul, County of Orange, Interim Director of the Office on Aging; Nora Webb, Director, Westminster Senior Center; Gloria Reyes, CEO of Abrazar Community Service and Education Center; and Van Pham, Education Director, Asian American Senior Citizen Association.
- B. The Mayor and Council Members presented a Resolution of Commendation to Caroline Caporuscio for distributing valuable information throughout her neighborhood about the City. (116-02)
- C. The Community Development Director presented the "Pride of Westminster" award to Larry Nichols for his landscaped yard.

Mayor Rice requested that Item No. 5.2, Resolution No. 3835, be moved forward on the agenda.

Motion was made by Mayor Rice, and seconded by Council Member Marsh, to approve a request by the Mayor to move Item No. 5.2 forward on the agenda. The motion was carried by a 5-0 vote.

5.2 Resolution No. 3835 – A Resolution of the City Council of the City of Westminster relating to the burdens placed upon the City by representatives and officials from the Socialist Republic of Vietnam traveling in or through the City of Westminster (Mayor Pro Tem Quach and Council Member Marsh)

Mayor Rice made a statement that she has not had enough time to review the draft resolution since she received it tonight, although she supports the concept. She stated for the record that she does not support Communists no matter what country they are from, but as the elected Mayor her responsibility is to uphold the American tradition of freedom for all people. She noted that American men and women are dying in Iraq to protect our freedoms.

Motion was made by Council Member Marsh, and seconded by Council Member Paris, to continue this item, Resolution No. 3835, to the Council meeting of May 19, 2004.

The City Attorney advised that the Mayor could ask those present interested in speaking to this item if they would be unable to attend the May 19, 2004 Council meeting.

Mayor Pro Tem Quach asked the Council to reconsider the motion on the floor, stating that many times in the past, resolutions have been revised during the first meeting they were proposed.

Mayor Rice asked if there were any present interested in speaking to this item who would be unable to attend the May 19, 2004 Council meeting. There were none.

The motion was carried by a 4-0-1 vote, with Mayor Pro Tem Quach abstaining.

RECESS AND RECONVENE:

At 7:47 p.m., Mayor/Chair Rice recessed the City Council/Redevelopment Agency Meeting, and reconvened the meeting at 8:01 p.m.

1. CONSENT CALENDAR

ROUTINE MATTERS

1.1 (City Council) Denial of Claims(s) Against the City from:

- 1) Harry and Julia Deschene in the amount of \$2,500,000.00
- 2) St. Paul Fire and Marine Insurance Co. in the amount of \$280,610.00
- 3) Duc Nguyen in the amount of \$1,700.00

- 4) Marvin Manley in an unknown amount
- 5) Mary Harada in the amount of \$7,045.00

ACTION: Claim(s) filed against the City were denied.

- 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 Proclamation declaring May, 2004 as "Mental Health Month" in the City of Westminster**

ACTION: Approved.

(REMOVED AND HEARD SEPARATELY)

- 1.4 (City/Agency) Selection of Consultant for Design Services of Street Improvements for 19th, 20th, 21st and 22nd Streets, North of Westminster and East of Beach Boulevard (502-14)**

Council/Agency Member Fry requested that this item be continued to the study session on May 10, 2004, with more information provided.

The Public Works Director stated that the only request this evening was for street repairs.

Motion was made by Council/Agency Member Marsh, and seconded by Council/Agency Member Paris, to approve the selection of Norris-Repke to perform the subject work in the amount of \$59,200.00, and authorize the Interim City Manager to execute the agreement. The motion was carried by a 4-1 vote, with Council/Agency Member Fry voting no.

- 1.5 Notice of Completion for work completed by Hydrologue Inc. for Over-Purging and Testing of Wells at the Corporate Yard Tank site, and authorization for an increase of \$1,374.70 to Purchase Order No. 17953 for final payment (502-08)**

ACTION: The City Council:

- 1) Authorized an increase of \$1,374.70 to Purchase Order No. 17953 for final payment; and
- 2) Accepted the subject project and authorized the City Clerk to file a Notice of Completion with the County Recorder's Office.

ORDINANCES (SECOND READING)/RESOLUTIONS

- 1.6 Ordinance No. 2372 - An Ordinance of the City Council of the City of Westminster amending Title 9 (Public Peace, Morals, and Welfare) of the Westminster Municipal Code by adding Chapter 9.76**

ACTION: The City Council adopted Ordinance No. 2372 and waived further reading.

WARRANT REGISTER

1.7 (City Council/Redevelopment Agency) Warrant Register dated April 16 through April 29, 2004 (105-09)

ACTION: Approved.

INFORMATION AND REPORTS

1.8 Minutes of the Planning Commission meeting held April 14, 2004 (104-11)

ACTION: Received and filed.

1.9 Minutes of the Traffic Commission held on April 6, 2004 (104-12)

ACTION: Received and filed.

END OF CONSENT CALENDAR

Motion was made by Council Member Paris, and seconded by Mayor Pro Tem Quach, to approve the Consent Calendar with the exception of Item No 1.4. The motion was carried by a 5-0 vote.

The Interim City Manager requested that a correction be made to Item 1.7, the Warrant Register should be dated April 16 through April 30, 2004.

2. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW

2.1 The actions of the Planning Commission meeting held on April 28, 2004

The Community Development Director reviewed the actions of the Planning Commission meeting of April 28, 2004:

- 1) 15081 Beach Boulevard (Case No. 2004-13 Modification of Conditional Use Permit C-1000) for changing the existing restaurant to a banquet facility, changing the ABC license from 47 to 48, allowing dance and live entertainment in each of the two banquet rooms, and extending hours of operation to midnight Sunday through Wednesday and to 2:00 a.m. Thursday through Saturday.
- 2) 16494 Beach Boulevard (Case 2004-16, Conditional Use Permit) for adding massage services at the existing day spa.

Council Member Marsh requested that Case 2004-16 (Conditional Use Permit) for the property located at 16494 Beach Boulevard be reviewed by the City Council.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Paris, to receive and file the report of actions of the April 28, 2004 Planning Commission meeting. The motion was carried by a 5-0 vote.

3. PUBLIC HEARINGS

3.1 REVIEW OF PLANNING COMMISSION'S DENIAL OF CASE NO. 2003-74 (SITE PLAN/DESIGN REVIEW); LOCATION: 8882-92 BOLSA AVENUE; APPLICANT: ANDREW K. NGUYEN AND BRUCE H. NGUYEN OF SOUTHLAND PROPERTY DEVELOPMENT (continued from the April 7, 2004 meeting) (201-00)

Time set for a public hearing to review the Planning Commission's decision to deny a proposal to add a 4,684 square foot second floor, expand the first floor by 911 square feet, addition of a 106 square foot elevator and equipment room, and various site improvement, to an existing commercial building located in the Bolsa/Magnolia shopping center.

PLANNING COMMISSION RECOMMENDATION: That the City Council:

- 1) Uphold the Planning Commission's decision to deny; and
- 2) Adopt Resolution No. 3830 entitled "A Resolution of the City Council of the City of Westminster to deny Case 2003-74 (Site Plan/Design Review) located at 8882-8892 Bolsa Avenue," and waive further reading.

The Community Development Director described the revised plans which now includes an elevator. He noted that the shopping center has adequate parking for the proposed addition.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE PROPOSED PROJECT.

Mark Rosen, representing the property owners, spoke in support of the revised plans to build a second story, noting that reciprocal parking agreements are in affect.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Paris, to allow Mr. Rosen to speak more than three minutes. The motion was carried by a 5-0 vote.

The following persons spoke in favor of the project:

Reginald Crozier, resident of Westminster
Darrell Nolta, resident of Westminster

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE PROPOSED PROJECT.

The following persons spoke in opposition to the project, citing parking problems and trash in the shopping center:

John Morgan, President of the Bishop Place Homeowners Association
John Peters, resident of Bishop Place
Jennifer Tran, from the ABC Market
Don Pham, one of the owners of the center
Dr. Michael Vu, tenant (suggested it would be better for all the businesses to remodel their business at the same time)

REBUTTAL:

Mark Rosen rebutted the speakers who spoke in opposition to the project. He suggested that the Council could put conditions on the approval and he said there is a solution to the tour bus problem through the Public Utilities Commission if they are operating illegally. He suggested that the City allow the residents of Bishop Place to build a gate around their community in order to alleviate parking problems there.

Darrell Nolta, resident of Westminster, stated that the applicant should be allowed to improve his business.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Paris said he had concerns about the handicapped issue, and since they now have plans to provide an elevator that alleviates the problem. He also said that the tour bus issue needs to be dealt with.

Council Member Marsh stated that the revised plan makes more sense, however, he is still concerned about the parking. He suggested that a condition be stipulated that deliveries made to the portion of the center where the second story is built, be delivered to the rear of the building. He would also like to resolve the issue brought up by residents of Bishop Place, and see if it is possible for them to have a gate.

Council Member Fry stated that the handicapped problem is resolved with the new plan. He saw no problem with the parking.

Council Member Marsh proposed the following specific language for a condition to approval of Case 2003-74: "Delivery trucks will deliver to the rear of the building of the applicant during the hours from 8:00 a.m. to 9:00 p.m."

Motion was made by Council Member Fry, and seconded by Council Member Paris, to overrule the recommendation of the Planning Commission, approve Case 2003-74 with the suggested condition regarding delivery trucks, and direct staff to return with a resolution to approve Case 2003-74.

Mayor Rice stated that although there are problems with the shopping center not being kept clean, the action before the Council is a land use question. Also, she requested that the public report any violations to code enforcement if people put up tents and tables to sell products without a permit.

Mayor Pro Tem Quach asked the Community Development Director to look into the possibility of placing directional signs near the entrance of Bishop Place.

Regarding the tour buses, the Code Enforcement Manager said that the buses belong to a travel business inside the shopping center and they have a permit to be in the parking lot.

Mayor Pro Tem Quach said he would be happy to speak to the business owners and ask that the buses do their pickups in the rear parking lot. The Code Enforcement Manager said another thing that could be done is to ask those patrons of the buses to park their vehicles in a different location.

The motion was carried by a 5-0 vote.

3.2 REVIEW OF PLANNING COMMISSION'S APPROVAL OF CASE NO. 2004-10 (CONDITIONAL USE PERMIT/MINOR MODIFICATION TO DESIGN REVIEW); LOCATION: 16300 BEACH BOULEVARD, SUITES E AND F; APPLICANT: KATHERINE WONG (201-00)

Time set for a public hearing to review the Planning Commission's approval of a Conditional Use Permit for the sale of beer, wine, and distilled spirits for on-site consumption incidental to a newly proposed restaurant use in conjunction with a Minor Modification to the existing building façade.

The Community Development Director stated that alcoholic beverages will be incidental to the food served. Council Member Marsh asked the Community Development Director if staff was aware of any alcoholic violations in the past by the applicant or anyone affiliated with her, to which the Community Development Director responded, no, he was not aware of any prior violations.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE ITEM. SEEING THERE WAS NO ONE WISHING TO SPEAK FOR OR AGAINST THE ITEM, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Paris, to:

- 1) Uphold the Planning Commission's decision to approve Case 2004-10; and
- 2) Adopt Resolution No. 3833 entitled "A Resolution of the City Council of the City of Westminster approving Case 2004-10 (Conditional Use Permit/Minor Modification to Design Review) pertaining to the sale of beer, wine, and distilled spirits for on-site consumption and pertaining to the remodel of the existing

building façade located at 16300 Beach Boulevard, Suites E and F,” and waive further reading.

The motion was carried by a 5-0 vote.

4. ORAL COMMUNICATIONS

Philip Hodgetts, member of the Energy Committee, displayed a preschool in Manhattan Beach where the architecture of the building assisted in energy savings.

Linda Winant, resident of Westminster and a board member of the Friends of the Abbey said how excited she was about the new Community Cultural Center, and she announced the Mayor's Ball (a fundraiser for the Center), which will be held on June 26, 2004, "Celebrating America", in the sunken gardens.

Darrell Nolta, resident of Westminster, reported on an Energy Committee meeting held at the home of Phil Hodgetts and a meeting he attended in Sacramento held by the Secretary of State regarding the electronic voting machines.

Martin Fredstrom, resident of Westminster, complained about the condition of his street (13th Street) and trash left on the street. Mayor Rice explained that Midway City Sanitary District can pick up large items (like furniture) only if it is requested; and the District has to install larger sewer lines before the street paving can be completed.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Council Member Marsh wished his wife, his mother and all the mothers in the City a Happy Mothers' Day.

Council Member Fry cautioned residents to remove any standing water in order to reduce the mosquito population.

Mayor Pro Tem Quach reported on the Energy Committee meeting held at the home of Phil Hodgetts who gave everyone a tour of his energy-efficient house. Mr. Hodgetts has produced a 5-minute video that Mayor Pro Tem Quach would like to play on WTV-3 sometime.

Council Member Paris announced the Mayor's Prayer Breakfast is May 6, 2004, at the Boys and Girls Club at 7:00 a.m.

Mayor Rice wished everyone a Happy Cinco de Mayo Day. She presented pens to the Council Members that were used to sign the paperwork on the financing of the Community Cultural Center and the Westminster Learning Center.

URGENT ITEM ADDED TO AGENDA:

The Interim City Manager requested that an item be placed on the agenda which arose subsequent to the posting of the agenda, and which requires immediate action. (502-11)

Motion was made by Council Member Fry, and seconded by Mayor Rice, to place an urgency item on the agenda which arose subsequent to the posting of the agenda, and which requires immediate action. The motion carried by a 5-0 vote.

The Interim City Manager explained that a compressor in the air conditioning system failed in the Police Department building over the weekend, it will cost approximately \$9,200 to replace it and the funds will come from the Building, Maintenance and Repair fund.

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

- 1) The emergency repairs of the cooling system in the Police Building air conditioning and award contract to the low qualified bidder, Koltemp Refrigeration Company, Inc. in the amount of \$9, 200.00 and;
- 2) Transfer of \$9,200.00 from Account No. 75000-60904 (Building Maintenance Contingency) to Account No. 75500-44080 (Building Maintenance and Repair).

The motion was carried by a 5-0 vote.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR**6.1 (City/Agency/Authority) Contract for Professional Audit Services (502-04)**

Motion was made by Council/Agency/Authority Member Fry, and seconded by Mayor Pro Tem/Vice Chair/Authority Member Quach, to:

- 1) Approve a three year contract with two optional renewal years for professional audit services with Diehl, Evans & Company, LLP in the amount of \$38,900 for fiscal year 2003-04, \$39,675 for fiscal year 2004-05, and \$40,470 for fiscal year 2005-06; and
- 2) Authorize the Interim City Manager/Executive Director to execute the contract on behalf of the City.

The motion was carried by a 5-0 vote.

6.2 Review of draft Letter of Intent to Little Saigon Tet Parade Association for Right of First Consideration for Parade Permit for Little Saigon Tet Parade Association (213-02)

Motion was made by Council Member Marsh, and seconded by Council Member Fry, to approve the Letter of Intent to the Little Saigon Tet Parade Association for the Right of First Consideration for a parade permit for the Little Saigon Tet Parade Association. The motion was carried by a 5-0 vote.

6.3 Request for designation of voting delegate for a Special Meeting of the League of California Cities General Assembly on May 13, 2004 (103-03)

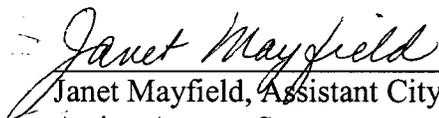
Motion was made by Council Member Marsh, and seconded by Council Member Paris, to nominate Mayor Pro Tem Quach as the voting delegate who will attend the May 13, 2004 Special Meeting of the League of California Cities General Assembly. The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public) – None

8. LEGISLATIVE ITEMS – None

9. COMMISSION AND COMMITTEE ITEMS – None

10. COUNCIL/AGENCY ADJOURNMENT: At 9:50 p.m. Mayor/Agency Chair Rice adjourned the meeting to Monday, May 10, 2004 at 6:00 p.m. in the Council Chambers, 8200 Westminster Boulevard, Westminster, for the purpose of holding a study session to discuss City/Agency business.


Janet Mayfield, Assistant City Clerk/
Acting Agency Secretary