

*"Approved by the City Council/Redevelopment Agency Board on February 18, 2004."*

CITY COUNCIL/REDEVELOPMENT AGENCY  
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA  
February 4, 2004

The City Council/Redevelopment Agency Board of the City of Westminster, California convened on February 4, 2004 at 7:10 p.m. in a Regular Meeting in the Council Chambers, 8200 Westminster Blvd, Westminster, California.

**7:00 P.M.**

**ROLL CALL:**

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

**SALUTE TO FLAG:** Council Member Paris

**INVOCATION:** Mayor Rice

**SPECIAL PRESENTATIONS - None**

Mayor Rice announced that she would be closing tonight's meeting in honor of Police Officer Steve Phillips, who lost his life in an on-duty traffic accident on January 29, 2004. She read a synopsis about his life and remarked that he was the first police officer in the history of the City of Westminster to die in the line of duty.

**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 January 12, 2004 and Minutes of the Regular Meeting of the City Council/Redevelopment Agency of January 21, 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 Classification Specification – Public Information Clerk - Part Time (110-04)**

ACTION: The City Council approved the classification specification for Public Information Clerk - Part Time.

**1.4 New Classification Specification – Records Clerk (110-04)**

ACTION: The City Council approved the classification specification for Records Clerk at a salary range of \$2,597 - \$3,424 per month.

**1.5 Notice of Completion for work completed by Pavement Coatings Company for 2003-04 City-Wide Slurry and Cape Seals, Project No. CAPE-03-04 (502-16)**

ACTION: The City Council accepted the subject project and authorized the City Clerk to file a Notice of Completion with the County Recorder's Office.

**(REMOVED AND HEARD SEPARATELY)**

**1.6 AB-939 Integrated Waste Management Goal Attainment Annual Report – CY 2002 (609-11)**

The Public Works Director made one correction to the Model Annual Report on page 9 under Section H, to change the contact person at Midway City Sanitary District from Dayna Michaelsen to Ronny Liddell, who is the General Manager.

Mayor Rice congratulated the Midway City Sanitary District and the City for reaching 60%, exceeding the 50% goal for recycled solid waste.

**Motion was made by Mayor Rice**, and seconded by Council Member Marsh, to receive and file the amended report. The motion was carried by a 5-0 vote.

**1.7 Increase the Purchase Order for Koltemp Refrigeration, Inc. for HVAC repairs. (106-00)**

ACTION: The City Council approved the increase of the purchase order from \$15,000 to \$25,000 for repairs of HVAC equipment for the remainder of Fiscal Year 2003-04.

**ORDINANCES (SECOND READING)/RESOLUTIONS****1.8 Ordinance No. 2370 entitled, "An Ordinance of the City Council of the City of Westminster amending the Westminster Municipal Code by amending Section 17.06.070 thereof to provide for change of zoning (Case 2003-73) for 28 sites per Sectional District Maps: 1-5-11, 2-5-11, 3-5-11, 4-5-11, 8-5-10, 10-5-11, 11-5-11, 12-5-11, 13-5-11 14-5-11, 17-5-10, 18-5-10 and 24-5-11". (201-00)**

ACTION: The City Council adopted Ordinance No. 2370 and waived further reading.

**WARRANT REGISTER****1.9 (City Council/Redevelopment Agency) Warrant Register dated January 16 through 29, 2004 (105-09)**

ACTION: Approved.

**INFORMATION AND REPORTS****1.10 Minutes of the Financial Review Committee meeting held on December 4, 2003 (104-08)**

ACTION: Received and filed.

**1.11 Minutes of the Planning Commission meeting held on January 14, 2004 (104-11)**

ACTION: Received and filed.

**1.12 Minutes of the Traffic Commission meeting held on January 6, 2004 (104-12)**

ACTION: Received and filed.

**Motion was made by Council Member Paris**, and seconded by Council Member Fry, to approve the balance of the Consent Calendar with the exception of Item No. 1.6. 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 January 28, 2004**

RECOMMENDATION: That the City Council determine if they wish to call up any item(s) for review from the Planning Commission meeting of January 28, 2004:

- 1) 549 Westminster Mall (Site Plan/Design Review/Conditional Use Permit/Area Variance) for construction of a new freestanding restaurant at the Westminster Mall. This restaurant will have a full service bar serving alcoholic beverages (Conditional Use Permit). In addition, an Area Variance is also requested to allow four wall signs.

**Motion was made by Council Member Paris**, and seconded by Council Member Fry, to receive and file the review of the Planning Commission meeting of January 28, 2004. The motion was carried by a 5-0 vote.

**3. PUBLIC HEARINGS****3.1 CASE 2003-56 - GENERAL PLAN AMENDMENT, ZONE CHANGE, SITE PLAN, DESIGN REVIEW, AREA VARIANCE, AFFORDABLE HOUSING DENSITY BONUS AND DEVELOPMENT INCENTIVE, AND CERTIFICATION OF MITIGATED NEGATIVE DECLARATION (MND 03-12); LOCATION: 13942 CEDAR STREET; APPLICANT; NALDO CABANILLAS, A REPRESENTATIVE OF SHELTER FOR THE HOMELESS (201-00)**

Time set for a public hearing to consider a request for approval of a General Plan Amendment changing the land use designation of the site from Commercial-Low Intensity to Residential –High (15-25 du/ac); rezone the site from C-2 (General Business) to R-5 (Multiple Units, 19-24 units per acre), Site Plan and Design Review for the construction of a three-unit, two-story apartment building, an Area Variance for a second story side yard setback, a 25% Affordable Housing Density Bonus, an Affordable Housing Development Incentive allowing a parking space in the front yard setback and a Mitigated Negative Declaration (MND 03-13)

The Community Development Director stated that the variance was requested to allow the second story of the units to be moved 5 feet closer to the south property line to accommodate a walkway on the north side. He said that a land use study was recommended for the legal non-conforming commercially zoned parcels, to consider a rezone to residential.

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

Jim Miller from Shelter for the Homeless urged the Council to approve the project. He said that the 3-unit building will be permanent housing for three homeless families who are now in a transitional shelter.

Darrell Nolta, resident of Westminster, spoke in support of the project and commended the City for being so concerned about the homeless situation.

**THE MAYOR ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM. SEEING THAT NO ONE CAME FORWARD, THE MAYOR CLOSED THE PUBLIC HEARING.**

Council Member Marsh commended Mr. Miller for Shelter for the Homeless. He assured the public that the people who will be helped are only those who really want the help and are willing to abide by the structured living.

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

1. Certify Mitigated Negative Declaration MND 03-13; and
2. Adopt Resolution No. 3823 entitled, “A Resolution of the City Council of the City of Westminster approving Case 2003-56 (General Plan Amendment/ Zone Change/ Site Plan/ Design Review/ Area Variance/ Affordable Housing Density Bonus and Development Incentive)”, and waive further reading;
3. Introduce Ordinance 2371 entitled, “An Ordinance of the City Council of City of Westminster rezoning the property at 13942 Cedar Street from C-2, “General Business” to R-5, “Multiple Units, 19-24 units per acre”, and waive further reading; and

4. Instruct staff to prepare a land use study for the legal non-conforming commercially zoned parcels north of Westminster Boulevard, east of Goldenwest Street and west of Olive Street.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS  
NOES: NONE  
ABSENT: NONE

#### 4. ORAL COMMUNICATIONS

Leonard Crane, resident of Huntington Beach, addressed the Council concerning a \$97 fee charged to churches and others to do a background check on persons being hired to work around children. He said he would like to know more about the procedure.

The Public Works Director made an announcement that roadwork has begun on Goldenwest between Bolsa and McFadden and he assured everyone that the businesses are and will remain accessible.

Darrell Nolta, resident of Westminster, addressed the Council regarding the Orange County Water District Basin Percentage Update which will probably result in a water rate increase and he said that the electric bills and ambulance fees will be increasing too.

Joy Neugebauer, resident of Westminster, spoke regarding the loss of one of "Westminster's finest". She said that a memorial service will be held on Friday at 11:00 a.m. She also asked that everyone extend their sympathy to the family of Duane Scott, former Westminster Fire Chief, who passed away.

Ken Piety said he received his sample ballot and saw Council Member Marsh's name in it. He said he supports Council Member Marsh and will do anything to help him. He asked about where people could donate to the family of Officer Phillips. The Police Chief said that people can donate through the Westminster Police Officers Association.

Mayor Rice said she would like to investigate the possibility of placing a memorial for fallen police officers and firemen in Freedom Park.

#### 5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

##### 5.1 Council/Agency Member Items

Council Member Paris passed along a compliment to the Council and staff from Donna French and the Goldenwest homeowners regarding the upgraded park near them. He congratulated Chief Hall on the hiring of three new police officers. Council Member Paris announced that a mobile health clinic from Childrens Hospital of Orange County (CHOC) will be coming to the Boys and Girls Club parking lot on February 13, 2004, to provide services to indigent children.

Mayor Pro Tem Quach suggested that the new police officers be sworn in at the City Council meetings. He said he liked the idea of a police and firemen memorial in Freedom Park and he thought that the money saved from the Bolsa Corridor project could be used for that purpose. As far as the ambulance rate goes, he said those without insurance can purchase insurance for ambulance service.

Council Member Marsh said he agreed with the suggestion of a police memorial. He said that he was happy with the turn-out for the Tet Parade and it was a great success, despite comments made by an opposing group.

Mayor Pro Tem Quach said that, if there was a request for it, the Council might consider granting an entitlement for a certain number of years to a specific group putting on the Tet Parade.

Mayor Rice stated that Orange County Sanitation District has increased their fee by 15% and she is concerned that people may be taxed right out of their houses with all the increases.

## **6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR**

### **6.1 Consideration of Contract Renewal with State Legislative Consultant (502-05)**

The Interim City Manager stated that due to the financial situation with the state no funds for infrastructure are available, so there is no recommendation to continue with the services of Ken Emanuels.

Council Member Marsh said that if the Council takes no action, the contract will just expire because it is not a renewable or self-executing contract.

Council Member Fry asked if Mr. Emanuels could be used as a lobbyist to protect the City's sales tax. Mayor Rice believes that letters from the Council to the Legislature would have the same effect as a lobbyist.

### **6.2 Renewal of Agreement for Federal Legislative Consultant (502-13)**

The Public Works Director said that the federal consultants have been successful in the past year and they have indicated that they would be willing to reduce their fee if the City ran into financial problems.

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

- 1) Approve the appropriation of \$16,000.00 from General Fund Contingency to Account No. 11600-43090 for the remainder of FY 2003-04;
- 2) Approve a renewal to the agreement in the amount of \$48,000.00 to James F. McConnell and authorize the City Manager to execute on behalf of the City; and

- 3) Approve the Federal Legislative priorities for Federal FY 2005 (attached to the Staff Report).

The motion was carried by a 5-0 vote.

### 6.3 Award of Contract for Police Building and Parking Needs Assessment Cost Study (502-04)

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

- 1) Approve the appropriation of \$70,000.00 from Account No. 18002-044003 (Westminster Boulevard Median Phase 3) to Account No. 18002-044008 (Police Building and Parking Study); and
- 2) Award a contract to DMJM Design/Roth & Sheppard in the amount of \$64,900 and authorize the Interim City Manager to execute the contract on behalf of the City.

Darrell Nolta, resident of Westminster, said that the Public Works Director should be commended on the bid award price unless the contractor is "low-balling" with the bid.

The Public Works Director said he owes the commendation to Police Captain Mitch Waller and a number of other staff on the selection committee for the bid result.

The Police Chief said he supports the forward-looking approach in planning a new facility because the City has outgrown its current police station.

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 Council Member Paris**, and seconded by Council Member Marsh, to approve the request from the Westminster Senior Center Foundation for permission to use the East/West Rooms and Room 5 of the Community Services Building on April 3, 2004 from 8:00 a.m. to 4:00 p.m. to have an Information Fair for seniors and their families.

The Interim City Manager suggested that in the future the Council might want to consider that these types of requests can be approved administratively by the Community Services Manager.

Council Member Marsh stated that soon a new Community Center will be built and fee waiver requests will come in for use of those rooms. It is his opinion that these requests continue to come before the Council to avoid public scrutiny.

It was the opinion of the Mayor that each request continues to go before the Council.

The motion was carried by a 5-0 vote.

Agripino Toro, a member of the Senior Center Foundation, thanked the Council for approving the waiver of fees for their event.

**7.2 (Redevelopment Agency) Street Improvement Projects Affecting Midway City Sanitary District (MCSD) Manholes (112-14)**

Agency Chair Rice and Agency Member Paris both excused themselves from the discussion on this item and left the dais, as they are also members of the Midway City Sanitary District Board of Directors.

Agency Vice Chair Quach assumed the Chair of the Agency Board.

The Public Works Director noted that the request from Midway City Sanitary District is to use Westminster Redevelopment Agency funds from the Infrastructure Revitalization Plan (IRP) to repair their manholes that lay outside the IRP boundary. He said that the Agency Board may consider the request as the rules do not prevent the Agency Board from approving it, but is not legally bound to approve it. The initial request came in the form of a letter in November, 2003, and a return letter from former City Manager Don Vestal rejected the request stating that all other utilities pay for their own upkeep. Even the City uses funds like Measure M funds for street repair on streets outside the IRP area.

Agency Member Marsh asked for confirmation on his understanding that the state places legal responsibility for the cost upon Midway City Sanitary District and not on the City of Westminster. The Deputy City Attorney stated that was correct and it was from an Attorney General opinion made in 1984.

Discussion ensued regarding the current procedure used to coordinate raising manholes up to grade.

Joy Neugebauer, President of the Midway City Sanitary District, introduced herself and fellow Board Member Grace Epperson (in the audience). President Neugebauer stated that when the IRP project area was being considered, each presentation included a statement that sewer systems were being unfunded.

**Motion was made by Agency Vice Chair Quach**, and seconded by Agency Member Marsh, to approve 9 additional minutes to President Neugebauer's time to speak as a representative of Midway City Sanitary District. The motion was carried by a 3-0-2 vote with Agency Chair Rice and Agency Member Paris absent from the discussion.

President Neugebauer noted that the actual money involved is very small and the manholes need to be raised to be even with the street following street repair both in commercial and residential areas. She reminded the Agency Board that Midway City Sanitary District is a special district with an elected board formed in 1939, and not a privately owned utility. She said that this request is reasonable since Midway City Sanitary District is a state authorized agency serving the same residents as the City of Westminster.

Agency Member Marsh inquired concerning the unfunded improvements, if they were within the City's jurisdiction or the IRP project area. The Public Works Director responded that the estimate of \$260 million was within the designated IRP project area. Agency Member Marsh said he understands that the letter from President Neugebauer is asking who should cover the cost of raising the sewer manholes. President Neugebauer responded that the question is who should cover the cost after the manholes need to be raised following the City's street repair projects.

Agency Member Marsh asked for clarification on past practices. The Public Works Director explained that typically, the City treats Midway City Sanitary District the same as the City Water Division. With the Water Division, any work they perform is paid out of the Water Fund, as Midway City Sanitary District does the work and pays for the raising of their own manholes following street repairs. Agency Member Marsh concluded that the current practice/policy would have to be changed if the request was granted.

Darrell Nolta, resident of Westminster, argued both sides of the issue and is most concerned that the manholes be raised as quickly as possible after street repair due to possible accidents.

Agency Member Fry stated he would not be in favor of granting the request at this uncertain financial time.

Agency Member Marsh said he would not be in favor of granting the request because it is for an area outside the IRP project area, however, he said he would not object to considering the request at a later time. Also, he did not wish to change current policy.

Vice Chair Quach also agreed not to grant the request because of the 1984 opinion of the Attorney General that Midway City Sanitary District would be responsible for its own manholes.

**Motion was made by Agency Member Marsh**, and seconded by Agency Member Fry, to receive and file the letter of request from Midway City Sanitary District. The motion was carried by a 3-0-2 vote with Agency Chair Rice and Agency Member Paris absent from the discussion.

Mayor Rice and Council Member Paris returned to the dais.

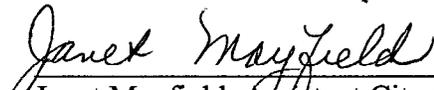
**8. LEGISLATIVE ITEMS - None****9. COMMISSION AND COMMITTEE ITEMS****9.1 Appointment of Youth Committee Member and Designation of Alternate Members (104-17)**

Mayor Rice stated that she and Council Member Fry interviewed all of the candidates who were appointed to the Youth Committee last year. She said she was very impressed with Hanh Vu.

**Motion was made by Mayor Rice**, and seconded by Council Member Fry, to nominate Hanh Vu to replace David Do as a regular member of the Youth Committee. The motion was carried by a 5-0 vote.

**Motion was made by Council Member Marsh**, and seconded by Council Member Fry, to appoint Linda Kohan as First Alternate, Kristy Nguyen as Second Alternate and Sally Kim as Third Alternate to the Youth Committee. The motion was carried by a 5-0 vote.

- 10. COUNCIL/AGENCY ADJOURNMENT:** At 9:18 p.m. Mayor/Chair Rice adjourned the meeting in memory of Officer Steve Phillips, to Monday, February 9, 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