

"Approved by the City Council/Redevelopment Agency Board on August 24, 2005."

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF THE REGULAR MEETING

WESTMINSTER, CALIFORNIA
July 27, 2005

The City Council/Agency Board of the City of Westminster, California convened on July 27, 2005 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California.

6:00 P.M.
CLOSED SESSION

CALL TO ORDER:

ROLL CALL

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

URGENT ITEMS ADDED TO CLOSED SESSION:

There was a unanimous motion to bring the following items of an urgent nature onto the agenda for Closed Session, which arose subsequent to the posting of the agenda and requires immediate action, as follows:

- 1) Conference with Legal Counsel pursuant to Government Code Section 54956.9; Existing Litigation: Scott Center vs. City of Westminster.
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9(6); Existing Litigation: Estate of Hoang Tan Bui. et al. v. City of Westminster.
- 3) One additional potential litigation item.

CLOSED SESSION:

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

- 4) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case)

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 7:03 p.m. in the Council Chambers.

CALL TO ORDER

ROLL CALL:

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

SALUTE TO FLAG: City Attorney

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. The Mayor and Council Members and members of the Rose Center Foundation presented Commendations to sponsors of the Mayor's Ball held on June 25, 2005. (115-00)
- B. The Mayor and Council Members presented a Resolution of Commendation to representatives from College Health Costa Mesa and College Health Enterprises. (115-00)
- C. The Mayor and Council Members presented Resolutions of Commendation to John Garcia, Donald Hoglan, and Art Lopez for their heroic efforts. (115-00)

Mayor Rice announced that she will be adjourning tonight's meeting in honor of Jerome Catlin from Midway City, who passed away.

1. CONSENT CALENDAR

ROUTINE MATTERS

- 1.1 (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.

1.2 Purchase of pipeline materials for the installation, repair and maintenance of the water distribution system for FY 2005-06 (502-03)

ACTION: The Mayor and City Council:

- 1) Approved the yearly renewable unit bid prices from C. Wells Pipeline Materials Company;
- 2) Authorized the expenditure of \$46,800 for a one-year supply of pipeline materials for FY 2005-06; and
- 3) Rejected all other bids.

1.3 Option Year Renewal for Procurement of Asphalt for FY 2005-06 (502-22)

ACTION: The Mayor and City Council renewed the subject contract with Vulcan Materials for an additional year.

1.4 Option Year Renewal for Procurement of Automotive Repair Parts for FY 2005-06 (106-00)

ACTION: The Mayor and City Council authorized a purchase order for automotive repair parts in the amount of \$30,000 to Marfield Management, dba C&C Automotive Distributors.

1.5 Award of Contract for Maintenance/Service Agreement for Water Sampling for Fiscal Year 2005-06 (502-20)

ACTION: The Mayor and City Council approved a contract with four (4) renewal option years, to Truesdail Laboratories, Inc., the lowest responsible bidder, in an amount not to exceed \$25,840.15, and authorized the City Manager to execute the agreement on behalf of the City.

1.6 Purchase of Police Department Uniforms for 2005-06 (502-07)

ACTION: The Mayor and City Council authorized a purchase order to Galls' Uniform Center, Inc. in the amount of \$38,000 for the second and final option year renewal of the contract.

1.7 Renewal of police related blood test services with California Forensic Phlebotomy Inc. for FY 2005-06 (502-03)

ACTION: The Mayor and City Council authorized a purchase order be issued to California Forensic Phlebotomy, Inc. (CFP) for police related blood tests in an amount not to exceed \$24,000.

1.8 (City/Agency) Consulting services agreement with Richard Zimmer pertaining to Community Development Block Grant (CDBG) and HOME projects, Planning, Public Works, and Redevelopment projects (502-26)

ACTION: The City Council/Agency Board approved an agreement with Richard Zimmer in an amount not to exceed \$50,000 for fiscal year 2005-2006 and authorized the City Manager/Executive Director to execute the agreement on behalf of the City/Agency.

1.9 Agreement between the City of Westminster and the Westminster School District for staffing of Crossing Guards at eleven (11) locations (502-23)

ACTION: The Mayor and City Council:

- 1) Approved the agreement with the Westminster School District for fiscal year 2005-2006;
- 2) Accepted \$38,034.00 from the Westminster School District as their portion of the agreement; and
- 3) Authorized the City Manager to execute the agreement on behalf of the City.

1.10 Agreement between the City of Westminster and the Ocean View School District for staffing of Crossing Guard at one (1) location (502-15)

ACTION: The Mayor and City Council:

- 1) Approved the agreement with the Ocean View School District for fiscal year 2005-2006;
- 2) Accepted \$2,926.00 from the Ocean View High School District as their portion of the agreement; and
- 3) Authorized the City Manager to execute the agreement on behalf of the City.

ADMINISTRATIVE ITEMS

1.11 Administrative approval of fee waiver for Orange County Health Care Agency for the use of the East and West rooms to host a town hall meeting on Wednesday, July 13, 2005 from 12:15 – 3:15 pm (702-06)

ACTION: The City Council received and filed the report.

WARRANT REGISTER

- 1.12 (City Council/Redevelopment Agency) Warrant Register dated June 29 through July 19, 2005 (105-09)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.13 Minutes of the Commission on Aging Meetings held on April 11, May 9, and June 13, 2005 (104-03)**

ACTION: Received and filed.

- 1.14 Minutes of the Cultural Arts Commission meeting held on April 7, 2005 (104-06)**

ACTION: Received and filed.

- 1.15 Minutes of the Community Services & Recreation Commission meetings held on April 12 and May 3, 2005 (104-05)**

ACTION: Received and filed.

- 1.16 Minutes of the Planning Commission meeting held on June 22, 2005 (104-11)**

ACTION: Received and filed.

- 1.17 Minutes of Traffic Commission meeting held on July 5, 2005 (104-12)**

ACTION: Received and filed.

- 1.18 Community Development Monthly Activity Report – June 2005 (216-01)**

ACTION: Received and filed.

- 1.19 (City/Agency) Treasurer's Report for June, 2005 (105-08)**

ACTION: Received and filed.

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

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS

Phil Hodgetts, resident of Westminster and Cultural Arts Commission member, spoke regarding his experience during a recent black out.

Lloyd Duncan, resident of Westminster, spoke regarding change orders for the Westminster Rose Center building; and he said he wrote a letter about the street improvement on 14th Street. (Letter submitted on file in the City Clerk's office.)

Diana Carey, resident and Chair of the Ad Hoc I-405 Committee, updated the Council on the latest OCTA meeting held on June 22. OCTA gave her a disc of the maps of the affected area, so new residents were notified as a result. Block captains are circulating petitions. She spoke at Westminster School District and Huntington Beach Union High School District. The City will provide transportation to the next OCTA meeting to be held on August 10th. She said that the Mayor of Fountain Valley, Larry Crandall and Cathy Green, Huntington Beach Council Member, proposed a revised Alternative No. 8, which calls for a smaller footprint than the original Alternative No. 8. Most of the speakers were in favor of Alternative No. 4.

Council Member Marsh announced that one of the votes against the City's efforts on the I-405 expansion has left the OCTA Committee, Marilyn Brewer.

Darrell Nolta, resident of Westminster, spoke regarding the Cal-Optima situation. He also spoke regarding the Proposition 172 (Firefighters) Initiative and the Orange County Board of Supervisors' efforts against it, which will be decided at a special election.

Vivian Kirkpatrick-Pilger, resident of Westminster, stated that Diana Carey has a website with information on the I-405 expansion. She said there was a yellow banner hanging across Westminster Boulevard that was not written in English and she wanted to know what it said.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW - None**4. PUBLIC HEARINGS****4.1 VACATION OF RIGHT-OF-WAY RELATED TO TRACT MAP NO. 16669 (412-04)**

Time set for a public hearing to consider a request from Park Street Development, LLC, to vacate a portion of Park Street along the south side between Locust Street and Chestnut Street. This right-of-way vacation is associated with a 12-unit single-family housing development and Tract Map No. 16669. In order to complete the processing of Tract Map No. 16669, this portion of Park Street will need to be vacated.

The Public Works Director/City Engineer explained that Park Street will be narrowed by the developer from Locust Street to Chestnut Street.

Council Member Marsh asked if the developer will be frontloading the landscaping or whether they are maximizing their footprint. The Public Works Director/City Engineer said it will improve their land but as a result they will improve the rest of the street.

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

Andrew Patterson, representing Park Street Development, LLC, said his is a joint venture with the adjacent property and will improve the area. He spoke in favor of approval.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WHO WISHED TO SPEAK IN OPPOSITION TO THE ITEM.

Darrell Nolta, resident of Westminster, said he was opposed to the project because he thought the public had the right to have a segment of the right-of-way. He also was concerned about the sewage service to 12 new houses.

REBUTTAL:

Mr. Patterson said that the sidewalks are based on City standards and the front four houses have access onto Park Street. He also noted that landscaping will be planted all the way down the street.

SEEING THERE WERE NO OTHER PERSONS WISHING TO SPEAK, MAYOR RICE CLOSED THE PUBLIC HEARING.

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

- 1) Adopt Resolution No. 3931 entitled, "A Resolution of the Mayor and City Council of the City of Westminster, California, approving the vacation of right-of-way relating to Tract Map No. 16669", and waive further reading;
- 2) Direct the City Clerk to record a certified copy of Resolution No. 3931 with the County Recorder's office; and
- 3) Accept Tract Map No. 2003-197 and authorize the City Clerk to sign and seal the map.

Council Member Marsh asked what the zoning will be, to which the Public Works Director/City Engineer said it is in the R2-PD zone, with an average of 2100 square feet for each house. The diagram of the plans were reviewed. Council Member Marsh said he did not recall that the City Council has a policy on reducing street widths. The City Attorney stated there is no policy but rather it is done on a case by case basis.

Mayor Pro Tem Paris asked if the plans were approved by the Midway City Sanitary District for sewer service. The developer stated this was approved during the planning process.

The motion was carried by the following vote:

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

4.2 **ADOPTION AND AMENDMENT OF THE 2004 EDITION OF THE CALIFORNIA ELECTRICAL CODE (210-04)**

Time set for a public hearing for the purpose of considering the proposed amending the 2004 Edition of the California Electrical Code.

Building Official Soroosh Rahbari gave a brief presentation. He stated that the code becomes effective when the state adopts its code.

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

Darrell Nolta, resident of Westminster, spoke in favor of the new code, however, he expressed concern about the transition before the new code is effective and if seismic requirements will be applied to older homes.

SEEING THERE WERE NO OTHER PERSONS WISHING TO SPEAK, MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Quach inquired about Mr. Nolta's concern. The Building Official stated that any applications submitted after August 3, 2005, must comply with the new code.

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to adopt Ordinance No. 2387 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster to amend Title 15 of the Westminster Municipal Code by deleting Chapter 15.12 to repeal the previous edition of the Electrical Code and to replace with a new Chapter 15.12 adopting and amending the 2004 Edition of the California Electrical Code", and waive further reading.

The motion was carried by the following vote:

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

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Pro Tem Paris announced the Boys and Girls Club Golf Tournament on August 8th at the Seacliff Country Club; reported on the Safety Day event held today and the great presentation by the Police Department and Orange County Fire Authority.

Council Member Quach thanked the Police and Fire Departments for their response to an emergency call and their follow-up.

Council Member Fry requested that staff look into an allotment of money for people that want to rewire the aluminum wiring in their homes, and requested that staff bring back a recommendation to Council.

Mayor Rice spoke about the walk through today at the Westminster Rose Center, that she said is a dream come true. She would like to recognize a gentleman at the next Council meeting who is a good Samaritan.

5.2 Schedule a study session meeting for a presentation from Public Cable Television Authority (PCTA) (Mayor Rice) (103-08)

It was the consensus of Council to set Monday, August 22, 2005 at 6 p.m. as the date and time for a study session to hear a presentation from PCTA on the proposed regionalization of Channel 3.

5.3 Policies and Procedures for City Boards, Commissions and Committees (Mayor Rice) (104-00)

Council Member Marsh requested that staff bring back the Ad Hoc Financing Committee, and amend Ordinance No. 2389 to read "members" instead of "member" correcting the first sentence at the bottom of Page 1.

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

- 1) Adopt the City's Handbook for City Boards, Commissions and Committees – July, 2005, excluding the Ad Hoc Financing Committee;

- 2) Introduce Ordinance No. 2389, as amended, entitled, " An Ordinance of the Mayor and City Council of the City of Westminster amending the Westminster Municipal Code relating to various Boards, Commissions and Committees", as amended, and waiver further reading;
- 3) Adopt Resolution No. 3932 entitled, "A Resolution of the Mayor and City Council of the City of Westminster defining the role of the Advisory Committee for the Disabled", and waive further reading; and
- 4) Adopt Resolution No. 3933 entitled, "A Resolution of the Mayor and City Council of the City of Westminster defining the role of the Financial Review Committee", and waive further reading.

The motion was carried by the following vote:

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

5.4 Discussion on updating Resolution No. 2491 regarding monthly expense reimbursement and consideration of mileage reimbursement for Mayor and Council Members. (Mayor Rice)

Council Member Marsh asked if any increase will need to be identified for tax purposes by keeping a record, and he asked that the City Attorney get that information from a tax attorney or tax accountant.

The City Attorney stated that he will bring back an opinion on the tax issue and a resolution to increase the Council expenses by \$100 a month, effective upon adoption.

5.5 Consideration of the adoption of Resolution No. 3934 regarding the use of eminent domain (Mayor Pro Tem Paris/Council Member Marsh) (103-12)

Motion was made by Council Member Marsh, and seconded by Mayor Pro Tem Paris, to adopt Resolution No. 3934 entitled "A Resolution of the Mayor and City Council of the City of Westminster relating to the use of eminent domain by government agencies".

Council Member Marsh read the resolution in its entirety into the record.

Council Member Fry suggested that language be added to the resolution indicating that every two years, the City Council must agree to this resolution and its position with regard to its position on eminent domain or vote it down. There were no objections to the amendment.

Vivian Kirkpatrick-Pilger thanked the Council for adopting this resolution.

Darrell Nolta, resident of Westminster, reported that the Orange County Board of Supervisors have been discussing the issue of eminent domain at the state level. He requested that the resolution be made available to the public.

Council Member Marsh noted that the initial wording of the resolution was submitted by Vivian Kirkpatrick-Pilger and was contained in the packet for the meeting of July 13, 2005 and his comments were in the minutes of that meeting. He said he was more concerned about the issue at the federal level.

The motion was carried by the following vote:

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

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Two-story 17,000 square foot commercial building located at 15496 Magnolia Street; Owner: Charles Manh (201-00/CN 2004-38)

The Community Development Director noted that one of the conditions of approval of this permit was that the final project come back to the Council for consideration.

Scott Fawcett, partner of Scott Center, stated that at the September, 2004 meeting, the City Attorney said that when the final plans were presented, if the applicant cannot meet the parking requirements he cannot proceed. He requested staff from the firm of Nadel Architects, to review the final site plan and they have determined that Mr. Manh is short at least seven parking spaces.

Craig Johnson from Nadel Architects, stated that he reviewed the site layout including the vehicular and pedestrian circulation, parking, public safety, fire requirements and handicapped access. He said he prepared his own site plan which addresses the minimum requirements, which he distributed to the Council. It was his opinion that due to allowances for circulation, there are only 101 parking spaces, which is short of what is required for a building of that size.

John Davis, attorney for Scott Center, stated that litigation is currently proceeding and he wishes to make further statements for what he anticipates will be additional legal proceedings. He said that there is favoritism for Mr. Manh, a lack of due process and lack of equal protection. He said he has spoken to former members of the Planning Commission who have said that Mr. Manh brags that he can get anything done in Planning no matter what it looks like. He said that he subpoenaed contribution records and found that three members of the Council received \$1,000 each, two weeks after the project was approved. He said that another of Mr. Manh's projects at Westminster and Magnolia was

approved with inadequate parking. He said that Mr. Manh has a close relationship to Don Anderson, the Community Development Director because before a meeting he had with Mr. Anderson, Mr. Anderson was speaking about the health of Mr. Manh's brother which is intimate knowledge of a personal nature. He said that because of this treatment of Mr. Manh, his client is being denied equal, dispassionate treatment by the Council. He cited a court case, Horowitz vs. Los Angeles, where the proposition was established that if there is a set of ordinances in place, the City must apply those ordinances and not ignore it. In that case a homeowner was denied the right to use the home because they miscounted the setback and Mr. Davis believes this situation is more grievous.

Council Member Marsh asked Mr. Davis if he had any written submissions for the the ADA requirements, etc. Mr. Davis said he did not because he had a short amount of time to have the final plans analyzed by an expert because the staff was told that it would violate someone's copyright rights.

Charles Manh, owner of the property, stated that 108 parking spaces were required and that he received written approval from OCFA. He said he has worked with staff and provided 111 parking spaces, and if he violated the ADA requirements he would face a federal lawsuit. He said that his architect worked with City staff to make sure that the federal and state ADA requirements and the OCFA requirements were satisfied.

Rick Blomgren from Axxcess Architects, architect for Mr. Manh, stated that City staff has been meticulous working through five plan checks. He said that OCFA knows that the building on the east side is only 20 feet off the property line and does not meet the current code, but they determined that they do not need to get their trucks onto the site and he has that in writing from OCFA, approving the 111 parking spaces. He said, regarding ADA requirements, they put a path along the north property line to the project without going behind any parking spaces, which meets the ADA requirement.

Darrell Nolta, resident of Westminster, said he was in favor of Mr. Manh's building, but only if he met the parking requirements. He did believe the building was too high.

The Community Development Director stated that all staff and OCFA have carefully reviewed the plans. Council Member Quach asked if Mr. Manh met the parking requirements, to which the Community Development Director responded that all the parking requirements have been met, including the ADA and the OCFA requirements.

Craig Johnson from Nadel Architects, stated that three spaces were needed where the plan showed two spaces and spaces should be eliminated where access is needed; one of the spaces violates the easement. He said he assumed that the accessible path was proposed on the sidewalk which would

make the City responsible for maintenance. He said there is no circulation around the rear of the building.

Council Member Marsh said that a claim was made that at Mr. Manh's site at Westminster and Magnolia, the reciprocal parking agreement was made with the adjoining fee owner but would not be enforceable against the existing tenant. He asked if the parking agreement was obtained prior to or subsequent to the Council's vote on that project. Mr. Johnson said he did not know when it was obtained, but he said that Albertson's, who owns the lease, did not sign the document. Council Member Marsh asked if the document was recorded in Orange County, and Mr. Johnson said it was recorded.

Council Member Quach asked why OCFA would approve the site plan if the parking was a problem. Mr. Johnson said he cannot understand why OCFA approved it.

Council Member Marsh asked the Community Development Director if he thought any of the criticisms have any validity. The Community Development Director responded that the handicapped parking and the path of access was addressed; he said that the sidewalk would need to be improved, and that was incorporated in the ADA requirement.

Council Member Quach recommended that it should be a separate condition.

Council Member Marsh asked the Community Development Director if he recommended approval. The Community Development Director said he recommends approval.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Paris, to approve the elevations and site plan for the commercial building located at 15496 Magnolia Street.

Council Member Marsh requested a recess in order to review the Horowitz decision.

The Mayor and City Council recessed at 10:10 p.m. and reconvened at 10:23 p.m. All Members were present.

Council Member Marsh stated that he did not believe the Horowitz case applied in this case because the evidence from City staff and the OCFA confirms that the applicant met the conditions, so the City is within its bounds to approve it. He said there was one additional document, a parking map, that shows what was approved by the OCFA. The Community Development Director stated that the path of travel for ADA requirements were not on the document for OCFA, but the parking spaces and layout were the same as what was approved by OCFA.

Mayor Rice asked the Community Development Director if that would make any difference in his opinion, to which the Community Development Director said it would not make a difference.

Council Member Marsh gave the parking map and the Horowitz information to the City Clerk.

The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public)

7.1 Request for Waiver of Banner Hanging Fee and Co-Host Event (702-06)

Motion was made by Council Member Fry, and seconded by Mayor Pro Tem Paris, to approve a request from Westminster Chamber of Commerce to:

- 1) Co-host the Westminster Chamber of Commerce 6th Annual Taste and Tour of Little Saigon to be held on Thursday, September 29, 2005 by allowing WTV-3 to videotape the reception and dinner (and approve an additional camera for the WTV-3 staff); and
- 2) Waive the fee to hang a banner across Westminster Boulevard to advertise the Taste & Tour of Little Saigon.

The motion was carried by a 5-0 vote.

8. LEGISLATIVE ITEMS – None

9. COMMISSION AND COMMITTEE ITEMS

9.1 Resignation of Bob Crossley from the Community Services and Recreation Commission (Mayor Pro Tem Paris appointee) (104-05)

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to accept the resignation of Bob Crossley from the Community Services and Recreation Commission, with regrets, and direct the City Clerk to post the required Notice of Vacancy. The motion was carried by a 5-0 vote.

10. COUNCIL/AGENCY ADJOURNMENT Mayor Rice adjourned the meeting at 10:30 p.m. in memory of Jerome Catlin.


Janet Mayfield, Assistant City Clerk/
Acting Agency Secretary