

"Approved by the City Council/Redevelopment Agency Board on September 14, 2005."

**CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF THE REGULAR MEETING**

**WESTMINSTER, CALIFORNIA
August 10, 2005**

The City Council/Agency Board of the City of Westminster, California convened on August 10, 2005 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminister Boulevard, Westminister, California.

**6:00 P.M.
CLOSED SESSION**

CALL TO ORDER:

ROLL CALL

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

There was a unanimous motion to bring the following item 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: Estate of Hoang Tan Bui vs. City of Westminister, et al., Case No. SACV05-774. The lawsuit was filed on August 5, 2005 and received by the City on August 8, 2005, subsequent to the posting of the agenda.

CLOSED SESSION:

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

- 1) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (two potential cases); 1) re. the Claim from the Estate of Hoang Tan Bui; and 2) the Asian American Senior Citizens' Association; and
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9; Existing Litigation: Scott Center vs. City of Westminister.

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.

ROLL CALL:

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

SALUTE TO FLAG: City Attorney

INVOCATION: Mayor Pro Tem Paris

REPORT OUT OF CLOSED SESSION:

The 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 Regular Meeting of the City Council/Redevelopment Agency of July 13, 2005, and Minutes of the Adjourned Regular Meeting of the City Council/Redevelopment Agency of July 25, 2005.**

ACTION: Approved.

ROUTINE MATTERS

- 1.2 (ITEM 1.2(2) REMOVED AND HEARD SEPARATELY)
(City Council) Denial of Claim(s) Against the City from:**

1. Larry Hemming in an unknown amount.

ACTION: The claim filed against the City was denied.

2. Dolores Searle in an unknown amount.

Council Member Marsh stated that the assertion of Ms. Searle's claim occurs prior to the completion of exhaustion of administrative remedies by the claimant. He recommended that this claim should be rejected on the findings provided by staff and on the grounds that it fails to exhaust the administrative remedies provided by statute and by contract.

Motion was made by Council Member Marsh, and seconded by Mayor Pro Tem Paris, to deny the claim by Dolores Searle on the findings provided by staff and on the grounds that it fails to exhaust the administrative remedies provided by statute and by contract. The motion was carried by a 5-0 vote.

- 1.3 **(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.

- 1.4 **Final Seven Year Capital Improvement Program (CIP) for the Measure M and Congestion Management Programs (2005/06) (617-01)**

ACTION: The Mayor and City Council reviewed the Final Seven Year Capital Improvement Program for the Measure M and Congestion Management Programs (CMP), and authorized its submittal to the Orange County Transportation Authority (OCTA).

(ITEM REMOVED AND HEARD SEPARATELY)

- 1.5 **Purchase of Seven Black and White Patrol Cars for fiscal year 2005-06 (106-00)**

Phil Hodgetts, resident of Westminster, spoke regarding his compressed natural gas car and recommended that the City purchase them for the police force.

The Public Works Director/City Engineer said that consideration of compressed natural gas cars would require study to determine performance.

Mayor Rice noted that the State of California is placing a requirement on the trash truck fuel to change and she thought it would be a good idea to be prepared for that eventuality for the City.

Council Member Marsh was concerned about officer safety with a vehicle that doesn't have as high a safety record as cars powered by traditional petroleum. However, he had no objection to doing a study on the new fuel.

Motion was made by Council Member Quach, and seconded by Council Member Marsh, to authorize a purchase order to Villa Ford in the amount of \$160,231.33 for the purchase of seven new patrol cars. The motion was carried by a 5-0 vote.

(ITEM REMOVED AND HEARD SEPARATELY)

- 1.6 **Police radio repairs and maintenance costs for 800 Megahertz Countywide Coordinated Communications System for fiscal year 2005-06 (502-15)**

Darrell Nolta, resident of Westminster, said he learned that the Orange County Sheriff Department is not the sole source for the 800 megahertz radio maintenance and he said he could not support it without hearing comments from the Police Chief.

Police Captain Coopman said that last year's purchase order was for \$15,000 and an additional amount was requested for last year; this year they chose to increase the amount to \$25,000 for the fiscal year 2005-06.

Council Member Marsh asked Captain Coopman if he knew if there was a change in the County's payment structure to which Captain Coopman said he didn't know.

Motion was made by Council Member Marsh, and seconded by Council Member Quach, to continue this item to the August 24, 2005 Council meeting. The motion was carried by a 5-0 vote.

1.7 Agreement Amendment for Workers' Compensation Claims Administration Services (502-08)

ACTION: The Mayor and City Council approved an amendment to the agreement with Hazelrigg Risk Management Services, Inc., for the period July 1, 2005 through June 30, 2008, at an annual cost of \$56,126, and authorized the City Manager to execute the agreement amendment on behalf of the City.

1.8 Extension of contractual services agreement with Melad & Associates to provide plan check and inspection services for fiscal year 2005-06 (502-13)

ACTION: The Mayor and City Council authorized a purchase order in an amount not to exceed \$90,000 to Melad & Associates.

ORDINANCES (SECOND READING)/RESOLUTIONS

1.9 Ordinance No. 2389 - 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 (104-02)

ACTION: The Mayor and City Council adopted Ordinance No. 2389 and waived further reading.

1.10 Resolution No. 3936 - A Resolution of the Mayor and City Council of the City of Westminster providing for a compensation plan for the Management/Administrative/Confidential employees of the City of Westminster. (110-02)

ACTION: The Mayor and City Council adopted Resolution No. 3936 and waived further reading.

ADMINISTRATIVE ITEMS

1.11 Administrative approval of fee waiver for the Department of the Treasury Internal Revenue Services for the use of East and West rooms to host an E-File Seminar on Wednesday, August 31, 2005 from 7:00 am – 5:00 pm. (702-06)

ACTION: The Mayor and City Council received and filed the report.

WARRANT REGISTER

1.12 (City Council/Redevelopment Agency) Warrant Register dated July 20 through August 2, 2005 (105-09)

ACTION: Approved.

INFORMATION AND REPORTS

1.13 Minutes of the Planning Commission meeting held July 6, 2005 (104-11)

ACTION: Received and filed.

Motion was made by Council/Agency Member Fry, and seconded by Mayor Pro Tem/Vice Chair Paris, to approve the Consent Calendar, with the exception of Item Nos. 1.2(2), 1.5 and 1.6, which were removed for separate consideration. The motion was carried by a 5-0 vote.

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS

Lloyd Duncan, resident of Westminster, thanked the Mayor for the letter of reply she sent him and he distributed a letter of response. He spoke regarding the City's code enforcement procedure.

Diana Carey, resident and Chair of the Ad Hoc I-405 Committee, updated the Council on the latest OCTA meeting held this morning. Some of the speakers spoke to business issues, property values, parks and schools, and cost effectiveness of the two alternatives. She thanked Council Member Marsh for his participation.

John Geck and Ron Gardner, residents of Westminster, spoke regarding their parking concerns in the area of Denise and Homer Streets in Villiage Green. The City Manager said she will make sure that the correct employees get together and address these concerns. Mayor Rice said that the same conditions exist on Humbolt and Edwards and she would like those areas to be investigated also.

Darrell Nolta, resident of Westminster, said he was pleased with the outcome of the last OCTA meeting. He invited residents to attend the next meeting of the OCTA on September 12, 2005, which will be a meeting of their full board. He commented on newspaper articles regarding the Bui incident, especially information that the newspapers have received in a piecemeal fashion.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW**3.1 The actions of the Planning Commission meeting held on August 3, 2005**

The Building Official reviewed the actions of the Planning Commission meeting of August 3, 2005:

- 1) 5440 Garden Grove Boulevard (Continued from 6/22/05) Case No. 2005-28 – Modification of Variance for an Existing Sign on Property - proposal to retrofit an existing electronic message board pylon sign.
- 2) 7601 23rd Street Case No. 2005-16 – Zone Change, Tentative Parcel Map, Site Plan Review, and Design Review for Property - proposal to change the zoning from industrial to residential to allow the construction of three residential condominiums on a 12,774-square-foot lot.

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to receive and file the report of the Planning Commission meeting of August 3, 2005. The motion was carried by a 5-0 vote.

4. PUBLIC HEARINGS – None**5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS****5.1 Council/Agency Member Items**

Mayor Pro Tem Paris thanked all those who attended the Boys and Girls Club Golf Tournament, which he said was a great success.

Council Member Marsh reported on the last OCTA meeting. Although the vote turned out in favor of Westminster's proposal, he said that the opposition is very aggressive. He discussed the opposition's new Alternative 8B, which will not provide additional all purpose lanes but will provide another diamond lane and bus turnouts. He believes that the BRTs is a way OCTA can keep light rail in the running for transportation funding. He noted that Alternative 4 would be built in a shorter amount of time. He thanked all those officials who voted with Westminster for Alternative 4. Those who voted against Westminster included Supervisor Wilson. Mayor Rice said she would like to know if he was truly eligible to vote on the matter.

Mayor Rice thanked everyone on the Ad Hoc I-405 Committee and all those who attended today's OCTA meeting. She had to attend another meeting today. She said she was grateful to receive money from Boeing for Project SHUE.

The City Attorney noted that the President signed a transportation bill into law which will allow the City to regulate predatory towing.

- 5.2 Request from Supervisor Lou Correa for the Mayor and City Council to send a letter to the State Legislature in support of Assembly Concurrent Resolution (ACR) 70, to designate a portion of State Route 39 (Beach Blvd.) in honor of Westminster Police Officer Steve Phillips (Mayor Rice/Mayor Pro Tem Paris) (117-02)**

Motion was made by Council Member Fry, and seconded by Mayor Pro Tem Paris, directing staff to send a letter to the State Legislature in support of Assembly Concurrent Resolution (ACR) 70, to designate a portion of State Route 39 (Beach Blvd.) in honor of Westminster Police Officer Steve Phillips. The motion was carried by a 5-0 vote.

- 5.3 Request to have the Financial Review Committee review the overall expenses and financial position of the City (Council Member Marsh)**

Mayor Rice said she did not want the Finance Director to have to spend a lot of time feeding information to the Financial Review Committee when he is working on projects which need to be completed. Council Member Marsh said he would not be in favor of giving the Committee information that was not already compiled.

The City Attorney reminded the Council that the current resolution for the Financial Review Committee indicates they are not authorized to review labor contracts or labor issues, which happens to be a large portion of the budget. Council Member Marsh disagreed and stated that it is only the contract terms that are not within their purview.

Motion was made by Council Member Marsh, and seconded by Council Member Quach, to request that the Financial Review Committee review the overall expenses and financial position of the City. The motion failed by a 2-3 vote with Mayor Rice, Mayor Pro Tem Paris and Council Member Fry voting no.

The City Manager noted that she was directed to bring back in October with recommended cuts to the existing budget, which she is working on.

Council Member Marsh agreed that it would be a good idea to bring this item up again after the City Manager has presented her recommendations, perhaps in November.

- 5.4 Review of Ad Hoc Financing Committee (Council Member Marsh)**

Council Member Marsh said that the Ad Hoc Financing Committee was initially established to review the Westminster Rose Center's construction costs and now the focus should be on raising funds for ongoing maintenance costs. He suggested that another Ad Hoc Committee be formed to focus on the proposed police building.

Motion was made by Council Member Marsh, and seconded by Council Member Quach, to remove all references to the Westminster Rose Center from

the current Ad Hoc Financing Committee, changing their focus to the proposed police building; and proposing that a second Ad Hoc Financing Committee be established to review maintenance costs for the City's responsibility of the Westminster Rose Center, with new members appointed yearly. Staff is directed to come back with draft resolutions.

Mayor Rice stated she would like to see a provision where members who miss three consecutive meetings with no reason are removed from the Committee. The City Attorney also advised that the new committee contain a sunset clause.

The motion was carried by a 5-0 vote.

5.5 Monthly expense reimbursement for Mayor and Council Members (Mayor Rice) (103-02)

Council Member Marsh inquired about the tax implications. The Finance Director stated that the nature of the reimbursement dictates how it is treated; if you are not required to itemize the expense, it is considered taxable income.

Motion was made by Mayor Rice, and seconded by Mayor Pro Tem Paris, to adopt Resolution No. 3937 entitled, "A Resolution of the Mayor and City Council of the City of Westminster regarding monthly expense reimbursement", and waive further reading.

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 Reallocation of 1998, 2001, and 2002 Community Development Block Grant (CDBG) funding (109-02)

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Paris, to reallocate \$35,148 from three old Capital Improvement projects to an ongoing street reconstruction project for the area bounded by Westminster, Beach, Hazard, and Cedarwood. The motion was carried by a 5-0 vote.

6.2 Water Rate Update Study (610-13)

The Public Works Director/City Engineer said that the water rate structure was reviewed to determine if a rate increase was necessary. It was determined that no water rate increase will be needed for the next three years, however, an increase of 1½ % will be recommended beginning in January, 2009, depending on circumstances at the end of the next two years.

Council Member Marsh asked for the percentage of residential users in each of the five customer demand categories.

Darrell Nolta, resident of Westminster, said that the report is confusing because it does not give percentages. It appeared to him that there was a reserve created by overcharging.

It was Council Member Marsh's opinion that the reserve gives the City the ability to restructure the water rates in a way that will not discourage residents with large lots to have landscaped yards.

Vivian Kirkpatrick-Pilger, resident of Westminster, said she has large water bills and she requested that the water rate structure be reviewed by Council.

The Public Works Director/City Engineer explained that the reserve resulted from high estimates from MWDOC and MWD, then when the actual bills were received they were lower than the estimates.

The Finance Director also noted that the City bonds require a reserve of a particular amount to keep their rating.

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to receive and file the report. The motion was carried by a 5-0 vote.

6.3 Appropriation of funds for expenses incurred with mailing of I-405 Freeway Expansion letter (613-09)

Motion was made by Council Member Marsh, and seconded by Council Member Quach, to approve an appropriation of \$7,800 from the General Fund Contingency (Account No. 20000-60904) to the Finance Administration Postage (Account No. 21000-44010) for the expenses incurred with the I-405 Freeway Expansion letter. The motion was carried by a 5-0 vote.

6.4 Presentation of the City's new water bill (610-01)

The Finance Director described the new water bill from the new billing system.

Motion was made by Council Member Fry, and seconded by Mayor Pro Tem Paris, to receive and file the report on the new water bill. The motion was carried by a 5-0 vote.

6.5 Request from League of California Cities Designation for the Mayor and City Council to designate a voting delegate and alternate for the 2005 League Annual Conference, October 6-8, 2005 (112-09)

Motion was made by Mayor Rice, and seconded by Mayor Pro Tem Paris, to nominate Council Member Quach as the voting delegate (who will carry the City flag) and Council Member Fry as the alternate for the upcoming League of California Cities Conference; and direct the City Clerk to forward the Voting Delegate Form to the League of California Cities. The motion was carried by a 5-0 vote.

6.6 Purchase and Installation of Theater Seating for Westminster Rose Center located on All American Way (502-01)

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to approve an agreement with American Seating for the purchase and installation of theater seating for the Westminster Rose Center in the amount of \$105,183.12, and authorize the City Manager to execute the agreement on behalf of the City. The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public)

7.1 Request from Abrazar, Inc. to have the City of Westminster Fleet Division perform maintenance & repair of Abrazar, Inc. vehicles (601-04)

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Paris, to approve the request made by Abrazar, Inc. to have City staff perform maintenance for their vehicles. The motion was carried by a 5-0 vote.

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

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Marsh, to approve a request from Kiwanis Club of Westminster for waiver of fees for the use of the Community Services Building East/West Room on Friday, September 16, 2005 from 4 p.m. to 9 p.m. for their Installation and Awards Banquet, and on Saturday, October 29, 2005 from 2 p. m. to 8 p.m. for a Fish Fry. The motion was carried by a 5-0 vote.

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

Motion was made by Mayor Pro Tem Paris, and seconded by Council Member Quach, to approve a request from Strong Tower Worship Center for waiver of fees for the use of the Community Services Building East/West Room on Friday, September 2, 2005 from 3 p.m. to 10 p.m. to host a birthday celebration. The motion was carried by a 5-0 vote.

8. LEGISLATIVE ITEMS

8.1 Resolution fixing the employers contribution under the Public Employees' Medical and Hospital Care Act (PEMHCA) (110-07)

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

- 1) Appropriate \$14,000 from the Employee Benefit Fund (Account No. 740-14306-91002) to fund the retroactive increase for medical benefits; and
- 2) Adopt Resolution No. 3935 entitled, "A Resolution of the Mayor and City Council of the City of Westminster fixing the employer's contribution under the Public Employees' Medical and Hospital Care Act (PEMHCA), and waive further reading.

The motion was carried by the following vote:

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

9. COMMISSION AND COMMITTEE ITEMS

9.1 Youth Committee Appointments (104-17)

Applicants for the Youth Committee were interviewed by Mayor Rice and Council Member Fry and recommended for appointment. Mayor Rice stated that although Kevin Duong-Lam was on vacation and unable to attend the interview, she would like to appoint him as the last alternate. There were no objections.

Motion was made by Council Member Quach, and seconded by Council Member Marsh, to appoint the following 2 regular members and 4 alternate members (selected in the order of 1st through 4th alternates) to serve on the City's Youth Committee, for terms to expire on June 30, 2006:

Regular Members: 1. Andrew Duong
2. Thuy Tran

Alternate Members: 1. Candice Nguyen
2. Kimberly Doan
3. Patryk Grochowski
4. Kevin Duong-Lam

The motion was carried by a 5-0 vote.

9.2 Appointment to 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 Marsh, to appoint Vivian Kirkpatrick-Pilger to the Community Services and Recreation Commission for a term to expire November, 2006. The motion was carried by a 5-0 vote.

10. **COUNCIL/AGENCY ADJOURNMENT:** At 9:22 p.m., Mayor/Chair Rice adjourned the meeting to Monday, August 22nd at 6:00 p.m. in the Council Chambers, 8200 Westminster Boulevard, Westminster, CA for the purpose of hearing a presentation from the Public Cable Television Authority (PCTA).



Marian Contreras, City Clerk/
Agency Secretary