

"Approved by the City Council/Redevelopment Agency Board on July 26, 2006."

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA
June 14, 2006

The City Council/Agency Board of the City of Westminster, California convened on June 14, 2006 at 6:05 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, FRY, MARSH, QUACH
ABSENT: NONE

CLOSED SESSION:

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

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Designated Representatives: Interim City Manager Andy Hall and Director of Personnel/Risk Management Pat Corcoran; Employee Organization: Westminster Police Officers' Association (WPOA); and
- 2) Conference with Legal Counsel pursuant to Government Code Section 54957(b)(2): Personnel Matter to consider findings and recommendations of the Personnel Board in the administrative appeal of Delores Searle.

RECESS: At 6:50 p.m., Mayor/Agency Chair Rice recessed the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY BOARD: The City Council/Redevelopment Agency Board reconvened at 7:10 p.m. in the Council Chambers.

ROLL CALL:

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

SALUTE TO FLAG: Mayor Pro Tem Fry

INVOCATION: Council Member Quach

REPORT OUT OF CLOSED SESSION:

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

SPECIAL PRESENTATIONS:

- A. Mitch Waller, Acting Police Chief, introduced and administered the oath of office to Cord Vandergrift, who was promoted to Police Sergeant.
- B. Westminster Soroptomist President Penny Loomer, and Members Betty Goynes and Charlene Lent presented a \$7,000 check to the City for the continuation of the Project SHUE Program. Mayor Rice presented a Certificate of Appreciation to Westminster Soroptomist on behalf of the City Council.
- C. Mayor Rice presented Certificates of Recognition to LaVada Cordasco, Supervisor for WTV-3's Video Production Assistants Eunyoung Kim, Hugo Morales, Yollenna Morales, and Gustavo Sanchez.

1. CONSENT CALENDAR**APPROVAL OF MINUTES**

(ITEM REMOVED AND HEARD SEPARATELY)

1.1 (City Council/Redevelopment Agency) Minutes of the Adjourned Regular Meeting of the City Council/Redevelopment Agency of May 18, 2006

Darrell Nolta, Westminster citizen, stated that comments made by Council Member Marsh pertaining to the public safety budget should have been included in the minutes. Council Member Marsh agreed that his comments should be included in the minutes, and stated that he would like to review the video.

Motion was made by Council Member Marsh, and seconded by Council Member Quach to defer the May 18, 2006 Council minutes to the June 28, 2006 meeting. The motion carried by a 4-0 vote.

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 Proclamation declaring June 26 – July 3, 2006 as Childhood Cancer Awareness Week in the City of Westminster

ACTION: Approved.

1.4 Notice of Completion for work performed by GMC Engineering, Inc. for the Landscaped Median Island Improvements for Westminster Boulevard from Edwards Street to Beach Boulevard (502-07)

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

1.5 Approval of Agreement with Harris & Associates for Street Pavement Management System Upgrade (deferred from the May 31, 2006 meeting) (502-08)

ACTION: The Mayor and City Council approved the agreement with Harris & Associates in the amount of \$37,520 for Street Pavement Management System Upgrade, and authorized the Interim City Manager to execute the agreement on behalf of the City.

(ITEM REMOVED AND HEARD SEPARATELY)

1.6 Authorization to Increase/Decrease the Purchase Orders for Various Contracts for the Construction of the Westminster Rose Center (106-00)

Council Member Marsh stated that the names and totals for the individual contracts were not stated on the agenda. He requested that this item be reagendaized.

Motion was made by Council Member Marsh, and seconded by Council Member Quach to defer this item to the June 28, 2006 Council meeting. The motion carried by a 4-0 vote.

1.7 Amendment No. 1 to Contractual Services Agreement with MWH Americas, Inc. for the Design of Drilling and Equipping of Well 107 Replacement (502-13)

ACTION: The Mayor and City Council:

- 1) Extended the term of the existing contract until December 31, 2006 or until the construction of Well 107 is completed, whichever occurs first; and
- 2) Approved Amendment No. 1 to the contractual professional services agreement with MWH Americas, Inc., in an amount not to exceed \$32,240 and authorized the Interim City Manager to execute the amendment on behalf of the City.

1.8 Annual Anticipated DBE Participation Level (AADPL) for the Federal Fiscal Year 2006/07 (603-03)

ACTION: The Mayor and City Council:

- 1) Adopted the AADPL of 8% for Federally-funded projects for the Federal fiscal year 2006/07; and
- 2) Approved the DBE Race-Neutral Implementation Agreement for the City of Westminster and authorized the Interim City Manager to execute the agreement on behalf of the City.

1.9 Option Year Renewal of Municipal Parking Citation Processing, Payment and Adjudication Services Contract (502-20)

ACTION: The Mayor and City Council authorized a purchase order be issued to Turbo Data Systems, Inc. in an amount not to exceed \$32,000 for police department parking citation process services, exercising the second option year renewal of the contract.

1.10 Purchase Order for Police Related Services (502-03)

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

1.11 Increase purchase order with Ferguson, Praet & Sherman to provide legal services for the City (502-06)

ACTION: The Mayor and City Council approved an increase to the purchase order with Ferguson, Praet & Sherman in the amount of \$18,000.

1.12 (City/Agency) 2007 Statement of Investment Policy (105-01)

ACTION: The City Council/Agency Board approved the 2007 City of Westminster/Westminster Redevelopment Agency Statement of Investment Policy.

(ITEM REMOVED AND HEARD SEPARATELY)

1.13 Notice of Completion for work performed by GMC Engineering, Inc. for the City Hall North Parking Lot Improvements (502-07)

Darrell Nolta, Westminster citizen, expressed concern regarding the increased cost for the work.

Mayor Rice read the following from the staff report, "The increased cost was the result of the additional amount of dirt that was removed and hauled away, repair to the damaged electrical and irrigation conduits in the parking lot, and the cost of planting trees by the City's landscape contractor."

Council Member Marsh stated the increase is well within the range that the City would normally anticipate. However, it should not have been difficult to estimate the amount of dirt to be removed.

Public Works Director Youssef explained it is difficult to estimate the root depth when trees are removed. The project included expanding the lot north towards Westminster Boulevard, which is an area with a lot of trees. The parking lot is old. It was unknown where the underground utilities were, therefore, some of the utilities were damaged during construction.

Motion was made by Mayor Pro Tem Fry, and seconded by Council Member Marsh to accept the subject project with a final cost of \$322,269.89, and to authorize the City Clerk to file a Notice of Completion with the County Recorder's Office. The motion carried by a 4-0 vote.

ORDINANCES (SECOND READING)/RESOLUTIONS

(ITEM REMOVED AND HEARD SEPARATELY)

1.14 Resolutions pertaining to the November 7, 2006 General Municipal Election (302-00)

Resolution No. 4013 - A Resolution of the Mayor and City Council of the City of Westminster, California, calling and giving notice of the holding of a General Municipal Election to be held on Tuesday, November 7, 2006, for the election of certain officers as required by the provisions of the laws of the State of California relating to general law cities.

Resolution No. 4014 - A Resolution of the Mayor and City Council of the City of Westminster, California, adopting regulations for candidates for elective office pertaining to candidates statements submitted to the voters at an election to be held on Tuesday, November 7, 2006.

Resolution No. 4015 - A Resolution of the Mayor and City Council of the City of Westminster, California, requesting the Board of Supervisors of the County of Orange to consolidate a General Municipal Election to be held on Tuesday, November 7, 2006, with the Statewide General Election to be held on that date pursuant to Section 10403 of the Elections Code.

Darrell Nolta, Westminster resident, urged the public to vote in the November election.

Motion was made by Council Member Marsh, and seconded by Council Member Quach to adopt Resolution Nos. 4013, 4014, and 4015 and waive further readings. The motion carried by a 4-0 vote.

1.15 Resolution No. 4008 – A Resolution of the Mayor and the City Council of the City of Westminster extending the wage and benefits continuation for City employees who are members of the Military Reserve called to active duty as set forth in Resolution Nos. 3669 and 3680. (110-05)

RECOMMENDATION: The Mayor and City Council adopted Resolution No. 4008 and waived further reading.

WARRANT REGISTER

- 1.16 (City Council/Redevelopment Agency) Warrant Register dated May 24 through June 6, 2006 (105-09)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.17 Minutes of the Planning Commission meetings held May 3 and May 10, 2006 (104-11)**

ACTION: Received and filed.

Motion was made by Mayor Pro Tem/Vice Chair Fry, and seconded by Council/Agency Member Quach, to approve the balance of the Consent Calendar with the exception of Item Nos. 1.1, 1.6, 1.13, and 1.14 which were removed for separate consideration. The motion carried by a 4-0 vote.

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS

Vivian Kirkpatrick-Pilger, Westminster resident, stated that having one lobby packet to review is too limited, and suggested that the backup reports for the agenda be posted on the City website.

The Interim City Manager stated he would have staff explore the feasibility of providing agenda back-up materials on the City's website.

Vivian Kirkpatrick-Pilger, Westminster resident, asked about the annual maintenance cost for the splash pads for Sigler Park.

Darrell Nolta, Westminster resident, spoke regarding a recent Board of Supervisor's meeting that he attended and expressed his opinion on various topics, i.e., Measure M, Medical Services (MSI) funding, and pollution matters.

Laverna Murphy, Westminster resident, spoke regarding a parking problem in her neighborhood due to the construction of a mansion.

Interim City Manager Hall advised Ms. Murphy to contact the Police Department and they will route her concern to the appropriate person.

John Vu, Westminster resident, stated that the construction project at the corner of Cornwall and Wakefield has been going on for a year and is causing traffic problems.

Zak Memon, Westminster resident, stated he lives next door to John Vu and that parking is a problem.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW

The Community Development Director reviewed the action of the Planning Commission meeting of June 7, 2006.

- 1) Case 2005-66, construction of eight (8), three-story residential apartment units at 13816 Pine Street.
- 2) Case No. 2006-25, construction and operation of a wireless communications facility on the rooftop of an existing 6-story office building at 5455 Garden Grove Boulevard
- 3) Case No. 2006-46, temporary display of non-helium inflatable (including cold-air balloons) advertising devices in conjunction with a temporary used car sales event in the parking area of the Westminster Mall.

After discussion regarding the possibility of the enclosure of antennas on the rooftop, Mayor Rice requested Item No. 2 be called up for Council review. Discussion ensued regarding enclosing the equipment on the rooftop.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Fry, to receive and file Item Nos. 1 and 3 of the oral report of the Planning Commission meeting of June 7, 2006. The motion carried by a 4-0 vote.

Mayor Rice requested that item 7.1 be brought forward on the agenda at this time.

Motion was made by Council Member Marsh, seconded by Council Member Quach to move Item 7.1 forward for consideration. The motion carried by a 4-0 vote.

7.1 Consideration of request from B. J. Savage and Chuck Smith that the Mayor and City Council adopt a Resolution that would formally adopt the 3rd Assault Amphibian Vehicle Battalion, 1st Marine Division based at Camp Pendleton. (103-16)

B.J. Savage, retired Police Deputy Chief, announced that the Commander and Sergeant Major were very apologetic that they were unable to attend the Council meeting. Mr. Savage stated the reason for the proposal to adopt the battalion is to provide funds for families of wounded soldiers and to be able to visit them. In addition, they would also like to give the battalion items to give to the children of Iran and Iraq to promote good will, and to host a dinner for the battalion at the Rose Center. Mr. Savage stated that the Color Guard for the battalion has agreed to present colors at the Mayor's Ball.

Darrell Nolta, Westminster resident, stated that he supports the men who are doing their duty and serving the President of the United States.

Vivian Kirkpatrick-Pilger, Westminster resident, said her father was a marine and would approve of this action. She also thanked Council for the flowers they sent in memory of her mother who passed away.

Mayor Pro Tem Fry said a "goodie" box should be sent monthly to the Westminster police officer who is being deployed to Iraq.

Motion was made by Council Member Marsh, and seconded by Council Member Quach to adopt Resolution No. 4018 entitled, "A Resolution of the Mayor and City Council of the City of Westminster, State of California, adopting the 3rd Assault Amphibian Battalion, 1st Marine Division", and waive further reading. The motion carried by a 4-0 vote.

4. PUBLIC HEARINGS

4.1 (Council/Authority/Agency) Adoption of Budget for the 2006-08 Fiscal Years and Appropriation of Funds for Fiscal Year 2006-07 Only and Establishing Fees and Charges for Special Services Provided by the City for Fiscal Year 2006-07. (105-03)

The Finance Director presented an overview of the proposed Budget for Fiscal Years 2006-08. He reviewed the source and use of funds along with increased expenses with PERS, public safety, legal fees, overhead charges in various funds, police services increase in overtime, redevelopment debt services fund increase for pass-through costs, and Consumer Price Index adjustments. He reviewed projected use and source of funds using PowerPoint slides. The Finance Director stated the Orange County Fire Authority (OCFA) has kept their increase in their budget in the 4% cap range which is mandated in their contract.

MAYOR/CHAIR/AUTHORITY MEMBER OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR TO THE ITEM.

Vivian Kirkpatrick-Pilger suggested televising the budget study session each year. She was unable to attend and she would like to hear more detail on the budget.

Mayor/Chair/Authority Member Rice stated they would review the possibility of televising future budget study sessions.

MAYOR/CHAIR/AUTHORITY MEMBER ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM.

Darrell Nolta, Westminster resident, stated his concerns with revenues and overhead, and his opposition to fees above 100% of cost; combining Information Services and the network between the Police Department and City Hall; the increase in the police budget with a big percentage allocated to PERS; the Fire Authority 4% cap increase; and parking meter installation. He supports Council

Member Marsh in regards to the taser issues in reference to the guns and stated that Public Works needs more support for capital improvement projects and the expansion of the City Yard.

The Finance Director pointed out that the factor does not indicate the percent the City is recovering, but is the factor used to adjust the existing fee, so that the City will recover 100% of its costs. The City is not trying to make a profit, but is attempting to recover its costs so that the City's funds are not used to subsidize the fees.

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

Mayor Rice stated she had reviewed the fees with the Finance Director, but would like to discuss and review fees at a future meeting. There was no opposition.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Fry to defer Resolution No 4012 entitled, "A Resolution of the Mayor and City Council of the City of Westminster establishing fees and charges for special services provided by the City of Westminster" to the June 28, 2006 Council meeting and to adopt:

- 1) Resolution No. 4010 entitled, "A Resolution of the Mayor and City Council of the City of Westminster adopting the budget for the 2006-08 fiscal years and appropriating funds for fiscal year 2006-07 only", and waive further reading; and
- 2) Resolution No. 4011 entitled, "A Resolution of the Mayor and City Council of the City of Westminster establishing the Article XIII B Appropriation limit for the 2006-07 fiscal year", and waive further reading.

The motion carried by the following vote:

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

Motion was made by Authority Member Quach, and seconded by Authority Vice Chair Fry to adopt:

- 1) Resolution No. 26 entitled, "A Resolution of the Westminster Public Financing Authority adopting the budget for the 2006-08 fiscal years and appropriating funds for fiscal year 2006-07 only", and waive further reading.

The motion carried by the following vote:

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

Motion was made by Agency Member Quach, and seconded by Agency Vice Chair Fry to adopt:

- 1) Resolution No. 180 entitled, "A Resolution of the Westminster Redevelopment Agency adopting the budget for the 2006-08 fiscal years and appropriating funds for fiscal year 2006-07 only", and waive further reading.

The motion carried by the following vote:

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

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items/AB 1234 Reports

Council Member Quach suggested people display their flags to show their patriotism.

Mayor Pro Tem Fry encouraged the public to view the program on Channel 3 pertaining to the Flag Day ceremony presented by the Elks.

Mayor Rice thanked Art Bashmakian, Planning Manager, for meeting with her and another citizen regarding the citizen's project.

Mayor Rice said she attended an AB 1234 class in San Diego and earned her certificate. She said she would like to take the next sexual harassment class offered by the City.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Establishment of an Ad Hoc Committee to review current development standards for single-family dwellings in the R-1 (Single-Family Residence) District (104-33)

Council Member Marsh said he is in favor of an Ad Hoc Committee but would like to broaden the scope of the Committee to deal with current development standards in all residential zoning districts. He said the Committee needs to look at parking requirements for residential and how it is structured.

Laverna Murphy, Westminster citizen, spoke in support of the Committee stating the homes are being built too large. They cannot be built without the public street and public sidewalk, which adversely impacts the neighborhood.

Zak Memon agreed with Council Member Marsh that all residential development standards should be reviewed.

Darrell Nolta, Westminster resident, spoke in support of an Ad Hoc Committee with a balanced membership of citizens representing private property rights, community members, and Council members.

In regards to a letter received by a citizen wanting to remodel, Mayor Rice asked for the definition of a red area.

The Planning Manager responded that "red" refers to a designation of commercial which is indicated in red on a map. The City has a number of properties within the city that are residential properties but are zoned commercial and designated commercial in the General Plan, which means they are restricted from expanding because it's a nonconforming provision.

Discussion ensued regarding updating the City's General Plan.

Motion was made by Council Member Quach, and seconded by Council Member Marsh to establish an Ad Hoc Committee consisting of two Council Members, 5 homeowners, 1 mobile home park owner and one resident of the park, and 1 apartment building owner and 1 apartment tenant. There is to be a residence requirement. A quorum will consist of five members. The motion carried by a 4-0 vote.

6.2 Fourth Amendment to Consulting Services Agreement with Willdan to provide temporary Planning staff services (502-23)

Motion was made by Council Member Marsh, seconded by Mayor Pro Tem Fry to approve the Fourth Amendment to the Consulting Services Agreement with Willdan for an increase of \$36,000 and a total amount not to exceed \$151,480, and authorize the Interim City Manager to execute the amendment on behalf of the City. The motion carried by a 4-0 vote.

6.3 (City/Agency) Financing Plan for the Proposed New Police Facility (702-08)

The Finance Director presented five financing plan options for the proposed new police facility based on projected assumptions. All options contain provisions for both General Fund and Redevelopment-IRP Fund contributions and the issuance of debt. At this time, the City has an opportunity to put aside some funds to help pay for construction in cash up front.

Council/Agency Member Marsh noted a correction to page 3, bottom of first paragraph and page 4, option 3, first paragraph of the staff report to read \$6 million, rather than \$26 million.

The Finance Director recommended a \$2.2 million contribution from the General Fund for this fiscal year and a \$2.5 million contribution from the unallocated residual IRP balance for this Fiscal Year (2005-06). It would be options 1 and 2 and then \$2.5 million from the General Fund debt service.

Council/Agency Member Marsh stated that this gives the City the largest amount it can set aside in the fiscal year now closing. It also does not tie the City to a financing package right now. He said that the City has another major IRP obligation that it needs clarification on, and that is the pavement management system. It was set up as a 7-year program. The City has taken eight years and still missed 20% of its obligations. The amount of money that is contributed every year towards streets needs to be increased. The final number for the annual obligation from the consultant is needed before Council can determine what to do with the IRP dollars.

Darrell Nolta, Westminster resident, spoke in support of the proposed new police facility and questioned the projected estimated cost of the facility.

Council/Agency Member Marsh stated the estimated cost of the proposed police facility for the budget year 2009 is higher because it includes the estimated interest.

The Finance Director stated that in addition to Council Member Marsh's comments, the construction cost management is paid during construction, and cannot be paid for from proceeds from debt. The overall cost remains at \$59 million, but the debt issued for the construction will remain at \$55.5 million.

Motion was made by Council/Agency Member Marsh, seconded by Mayor Pro Tem/Vice Chair Fry to allocate from the 2005-2006 Fiscal Year unallocated residual IRP sources \$2,206,163 and from the General Fund Debt Service budget \$2,500,000, for a total of \$4,706,163, to be set aside for the police facility project. The motion carried by a 4-0 vote.

6.4 Rose Center Building Fund Donation (105-11)

Motion was made by Council Member Quach, seconded by Council Member Marsh to approve the transfer from the Cable TV Fund Reimbursements Other (Account No. 11200-39069) to the Community Theater Capital Improvement Project (Account No. 11202-964001) in the amount of \$158,522. The motion carried by a 4-0 vote.

6.5 First Amendment to the City of Westminster Theater/Art Gallery Facility Management Services Agreement for the Westminster Rose Center (deferred from the May 31, 2006 meeting) (502-18)

The Deputy City Attorney explained changes to the agreement between the City and the Rose Foundation. Most of the changes were given by bond counsel to comply with the way the facility was financed with public bonds. He addressed use of excess funds to be set-aside to offset losses in future years. He said the language reflects that the Council (rather than the Foundation), is the one who is exercising control of the fund for this purpose.

The Deputy City Attorney read the proposed changes to the agreement into the record, "At the end of each fiscal year, if there is determined to be earnings in excess of expenses in the Operating Account after paying all Operating Expenses, such excess earnings shall be delivered over to the City for deposit into a special account set up by the City for this purpose (the "Special Account"). Funds in the Special Account shall then be credited to the Operating Account to help offset Operating Expenses/deficiencies in future years. Notwithstanding the foregoing, nothing in this paragraph shall be deemed to give the Foundation any interest or right, contractual or otherwise, in the additional funds in the Operating Account or in the Special Account. At all times, the City Council shall retain sole and absolute discretion concerning the use of funds in the Special Account."

The Deputy City Attorney further stated that there is an additional paragraph which indicates that if the agreement is terminated by the Foundation for any reason, or by the City because of a breach, the funds held in the operating account (not in the Foundation's separate account), would be returned to the City for the operation of the City.

He noted the second change on 14B, page 13 of the agreement deals with the issues of utilities. He stated that both the Foundation and operator of the banquet facilities have indicated that they do not want to be responsible for each others utilities, so that language has been deleted, and worded so that the City could take over the utilities.

The Deputy City Attorney read the change to Section 14B of the proposed agreement, "Foundation's responsibility for the utility and other charges described in this Section shall begin as of the date a temporary or permanent certificate of occupancy, whichever occurs first, is issued by City to Foundation for the Theater Complex."

"At the City's sole discretion, utilities may be placed in the City's name and the Foundation and Concessionaire invoiced for one hundred percent (100%) of the costs incurred by City for those utilities. Prior to placing any utilities into the City's name, City, Foundation and Concessionaire must execute a separate agreement outlining the duties and responsibilities of each party concerning the payment of all utility fees and charges (the "Utility Agreement"). At minimum, the Utility Agreement shall state that Foundation and Concessionaire are liable to the

City for all utility expenses paid by City related to the operation of the Center. Following execution, a copy of the Utility Agreement shall be attached to this Agreement as Exhibit F, and shall be incorporated herein by this reference. To the degree the terms of the Utility Agreement conflict with the terms of this Agreement, the terms of the Utility Agreement shall prevail."

Motion was made by Council Member Marsh, seconded by Council Member Quach to approve the First Amendment to the City of Westminster Theater/Art Gallery Facility Management Services Agreement with the Rose Center Foundation with the proposed modifications, and authorize the Interim City Manager to execute the Agreement on behalf of the City. The motion carried by a 4-0 vote.

6.6 City's Handling of Utilities for the Rose Center Banquet Facility and Performing Arts Center; Approval of Utility Agreement between City, Rose Center Foundation and Crystal Rose Catering (deferred from the May 31, 2006 meeting) (502-18)

Peter Galang, Crystal Rose Catering, stated that ideally the utilities would be billed separately for the banquet facilities and theater, but since there are not separate meters, he thinks a fair solution would be for him to pay half of the utilities.

Darrell Nolta, resident of Westminster, stated that although he was opposed to the proposed Rose Center in the beginning, he believes it will be a success. To be practical, the utilities should be in the City's name. The proportion the parties pay needs to be looked at.

Motion was made by Council Member Quach, seconded by Council Member Marsh to defer the item to the June 28, 2006 Council meeting. The motion carried by a 4-0 vote.

7. WRITTEN COMMUNICATIONS (Public)

7.1 Consideration of request from B. J. Savage and Chuck Smith that the Mayor and City Council adopt a Resolution that would formally adopt the 3rd Assault Amphibian Vehicle Battalion, 1st Marine Division based at Camp Pendleton. (103-16)

This item was moved forward on the agenda.

8. LEGISLATIVE ITEMS - None

9. COMMISSION AND COMMITTEE ITEMS - None

10. **COUNCIL/AGENCY ADJOURNMENT:** At 10:10 p.m., Mayor/Agency Chair/Authority Member Rice adjourned the meeting.

Christine Otto

Christine Otto, Deputy City Clerk/
Acting Agency Secretary