"Approved by the City Council/Redevelopment Agency Board on November 29, 2006."

CITY COUNCIL/REDEVELOPMENT AGENCY WESTMINSTER, CALIFORNIA
MINUTES OF A REGULAR MEETING November 8, 2006

The City Council/Agency Board of the City of Westminster, California convened on November 8, 2006 at 7:05 p.m. in a Regular Meeting in the Council Chamber, 8200 Westminster Boulevard, Westminster, California.

7:00 P.M.

ROLL CALL:

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

SALUTE TO FLAG: Council Member Quach

INVOCATION: Mayor Pro Tem Fry

SPECIAL PRESENTATION:

A. Mayor Rice and the City Council presented a Certificate of Commendation to Joan Katz, in appreciation for leading the "55 Alive" safe driving program at Westminster Senior Center, and for her volunteer work as a telephone coordinator for AARP.

ADDED PRESENTATION:

B. David Kasabo, Member of the 2006-2007 Orange County Grand Jury, gave a presentation explaining the functions of the Orange County Grand Jury. Mr. Kasabo gave handouts to the Mayor and City Council and stated that applications are being accepted at this time for the next fiscal year July 1, 2007 to June 30, 2008.

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 Professional Services Contract with Hugo Morales, Video/Audio Engineer for Fiscal Year 2006-2007 (502-13)

ACTION: The Mayor and City Council approved the contract with Hugo Morales in an amount not to exceed $25,000, and authorized the Interim City Manager to execute the contract on behalf of the City.

1.3 **Second Amendment to Agreement for Interim Economic Development Services** (502-18)

ACTION: The Mayor and City Council approved the Second Amendment to the Agreement for Interim Economic Development Services with Rosenow-Spevacek Group, Inc., in an amount not to exceed $65,000, and authorized the Interim City Manager to execute the Agreement on behalf of the City.

1.4 **(Agency) Real Estate Market Study** (502-05)

ACTION: The Chair and Agency Board awarded a contract to Economics Research Associates in the amount of $49,000 for a Real Estate Market Study, and authorized the Interim City Manager to execute the Agreement on behalf of the City.

(ITEM REMOVED AND HEARD SEPARATELY)

1.5 **(Agency) First Amendment to the 1998 Addendum to Loan Agreement Executed December 29, 1993** (502-05)

Agency Member Marsh noted that the 1998 document failed to be recorded due to it not being properly formatted, and asked what is being done so that similar situations don't arise again. He asked if there would be a penalty for the late recording of the document, and whether there had been other records against the property since 1998.

Housing Supervisor Kathy Johnston stated that errors in past documents are being corrected; there is no penalty for the late recording of this document; and that the title on this property has not been pulled.

Agency Member Marsh requested that the recorded instruments be pulled.

Motion was made by Agency Member Marsh, and seconded by Agency Member Quach to continue the item.

Ms. Johnston noted that this matter was brought to her attention approximately a month ago in a letter from the State of California. They want a recorded document by November 21, 2006.

Agency Member Quach asked if the Agency Board could take action to approve the First Amendment to the 1998 Addendum to the Loan Agreement for the Rose Gardens Project in concept, subject to the research by the City Attorney's office.

Agency Member Marsh stated that he will withdraw his motion to continue the item. The second to the motion, Agency Member Quach, agreed to withdraw the motion.

A substitute motion was made by Agency Member Marsh, seconded by Agency Member Quach to approve the First Amendment to the 1998 Addendum to the Loan Agreement executed December 29, 1993 for the Rose Gardens Project located at 8190 13th Street, in concept, subject to verification of other recordings on the property. The motion carried by a 4-0 vote.

1.6 **Second Amendment to the City of Westminster Theater/Art Gallery Facility Management Services Agreement for the Westminster Rose Center, Between the City and the Friends of the Abbey Center, Inc. dba as the Rose Center Foundation** (502-18)

ACTION: The Mayor and City Council approved the Second Amendment to the City of Westminster Theater/Art Gallery Facility Management Services Agreement with the Rose Center Foundation and authorized the Interim City Manager to execute the Amended Agreement on behalf of the City.

1.7 **Fee Waiver Request from Team of Advocates for Special Kids (TASK) to Host their Annual Holiday Event for Vietnamese Families Who Have a Child with a Disability. The Event is Scheduled to Take Place on Sunday, December 17, 2006 in the East/West Room of the Community Services and Recreation Building from 11:00 a.m. to 3:00 p.m.** (702-06)

ACTION: The Mayor and City Council approved the fee waiver request as outlined in the fee waiver policy for use of City facilities by Community Groups/Non-Profit Organizations.

1.8 **Fee Waiver Request from Westview to Hold their Fourth Annual Holiday Party in the East/West Room of the Community Services & Recreation Building on Wednesday, December 6, 2006 from 3:00 p.m. to 9:00 p.m.** (702-06)

ACTION: The Mayor and City Council approved the fee waiver request as outlined in the fee waiver policy for use of City facilities by Community Groups/Non-Profit Organizations.

1.9 **Rejection of Bids for Purchase of a One Ton Water Production Truck** (603-02)

ACTION: The Mayor and City Council rejected all bids received for the purchase of a one ton water production truck.

1.10 **Notice of Completion for Work Performed by Koltemp Refrigeration Inc. for the Replacement of the Air Conditioning Condensing Coil Unit at the Police Department** (502-11)

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.

1.11 **Award of Contract for Median Island Improvements for Westminster Boulevard from Beach Boulevard to Bushard Street – Project No. P-2126 – Federal Aid Project No. RPSTPLE-5338(032)** (502-19)
ACTION: The Mayor and City Council waived the bid irregularity/clerical error and approved the award of contract to the low qualified bidder in the amount of $2,157,180.20 to Sequel Contractors, Inc.; rejected all other bids; and authorized the Interim City Manager to execute the contract on behalf of the City.

ORDINANCES (SECOND READING)/RESOLUTIONS

1.12 **(Second Reading) Ordinance 2406 - An Ordinance of the Mayor and City Council of the City of Westminster Amending Sectional District Map 18-5-10 of Municipal Code Section 17.06.070 to Change the Zoning District Designation for Three Adjoining Parcels Located at the Southeast Corner of Bolsa Avenue and Moran Street from CM (Commercial-Industrial) to C2 (General Business).** (201-00) (CN 2006-72)

ACTION: The Mayor and City Council adopted Ordinance No. 2406 and waived further reading.

WARRANT REGISTER

1.13 **(City Council/Redevelopment Agency) Warrant Register dated October 18 through 31, 2006.** (105-09)

ACTION: Approved.

INFORMATION AND REPORTS

1.14 **Treasurer's Report – September 2006** (105-08)

ACTION: Received and filed.

Motion was made by Council/Agency Member Marsh, and seconded by Council/Agency Member Quach to approve the Consent Calendar with the exception of Item 1.5 which was removed for separate consideration. The motion carried by a 4-0 vote.

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS – None

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW

3.1 The Community Development Director reviewed the action of the Planning Commission meeting of November 1, 2006.

1) Case 2006-80 – Conditional Use Permit to allow the sale of beer and wine for off-site consumption (Alcoholic Beverage Control Type 20 license) at a proposed, yet to be constructed mini-market (Jack's Mini-Mart), at 14502 Beach Boulevard.

Motion was made by Council Member Quach, and seconded by Council Member Marsh to receive and file the report. The motion carried by a 4-0 vote.

4. PUBLIC HEARINGS

4.1 CASE 2005-16 (ZONE CHANGE, TENTATIVE PARCEL MAP, SITE PLAN REVIEW AND DESIGN REVIEW); 7601 23RD STREET; APPLICANT: LAM NGUYEN (201-00) (CN 2005-16)

Time set for a public hearing to consider the construction of three residential condominiums on a 12,774 square foot lot. The required entitlements include a Zone Change, Tentative Parcel Map for condominium purposes, Site Plan review to assess the proposed site layout, and design review to assess the design and overall appearance of the development.

The City Attorney stated that Council Member Quach did business with the applicant. Since it was over a year ago, he can participate in the hearing process. He noted that Mayor Pro Tem Fry does not reside within 500 feet of the subject property; therefore, he may also participate in the process.

Mayor Rice asked the applicant, Lam Nguyen, if he would like to postpone the item until the next meeting to have a full Council present to which Mr. Nguyen responded that he did not want to postpone the public hearing.

Steve Ratkay, Associate Planner, explained the history of the project starting October 12, 2005 when the project was first reviewed. The applicant proposed to change the existing zoning from M-1 to R-2 to allow the development of three detached residential condominiums. At that time, the project was deferred to resolve the driveway issue. Council considered the project again May 17, 2006 with the issue of project density and the item was deferred. The project is before Council at this time with revised plans to reduce the common driveway area thus providing adequate lot area to accommodate three units.

In response to an inquiry by Council Member Marsh regarding the zoning on surrounding properties of the project, Mr. Ratkay stated that directly across from the property on 23rd Street is R4, multi-family residential. To the east is zoned CR which is Commercial Restricted and to the west is PF which is Public Facilities. The General Plan calls for the property to be medium density residential so this project would be consistent with the General Plan. He said the properties immediately to the west and to the east are both single-family homes. The width and depth of the two sites are sufficient to be developed if they also sought to be rezoned R1(PD) rather than R2, which would make it more consistent with the immediate adjacent usage of the project.

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

Lam Nguyen, applicant, stated he had worked for the last few months with planning staff to present a project that would be acceptable to the City for approval. He is present to answer questions.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM. BEING THERE WAS NO ONE TO SPEAK IN OPPOSITION; MAYOR RICE CLOSED THE PUBLIC HEARING.

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

1) Adopt Resolution No. 4049 entitled "A Resolution of the Mayor and City Council of the City of Westminster adopting Mitigated Negative Declaration (MND) 05-02 and approving Case No. 2005-16 (Zone Change, Tentative Parcel Map, Site Plan Review, Design Review) to allow the construction of three residential condominiums on a 12,774-square-foot lot located at 7601 23rd Street, and waive further reading; and
2) Introduce Ordinance No. 2409 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster amending Sectional District Map 2-5-11 of Municipal Code Section 17.06.070 to change the zoning district designation for property located at 7601 23rd Street from M1 (Light Industrial) to R2 (Multiple Units, 08-12 units/acre)," and waive further reading.

The motion carried by the following vote:

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

4.2 CASE 2006-73 (CONDITIONAL USE PERMIT); 15991 MAGNOLIA STREET; APPLICANT: MOHINDERPAL S. GHUMAN (201-00) (CN 2006-73)

Time set for a public hearing to consider an appeal of the Planning Commission denial of Case No. 2006-73 (Conditional Use Permit); involving a request to amend a Planning Commission condition of approval restricting the sale of individual containers of beer for off-site consumption. The Planning Commission recommends that the Mayor and City Council adopt Resolution No. 4048 upholding the Planning Commission's decision to deny Case No. 2006-73 (Conditional Use Permit) involving a request to amend a Planning Commission condition of approval restricting the sale of individual containers of beer for off-site consumption at 15991 Magnolia Street.

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

Mohinderpal S. Ghuman, applicant, introduced his brother Ajay Singh who spoke on his behalf.

Mr. Singh distributed written material for the Mayor and City Council to review. He said that they own fifteen stores in South Orange County and have not had any ABC violations. They adhere to strict standards. This is the only store that has restrictions on sales of individual containers of beer. He wishes to be able to compete with his competitors. The inside of the subject store can be seen as the windows are not covered with advertisements.

Gus Guzman, Westminster resident, stated he can only afford to buy one beer. He said Mr. Ghuman helps the community and schools which is why he supports Mr. Ghuman's request.

Darrell Guzman, Westminster resident, stated that when he goes home late at night, he would like to have the option of purchasing one beer. He spoke in support of Mr. Ghuman's request.

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

Randall Ressell, Westminster resident, stated that when 7/11 requested approval there were restrictions to protect the neighborhood. He said the police also believe that this condition helps curb people from drinking and driving.

In response to Mayor Pro Tem Fry, Michael Patterson, Assistant Planner, stated the Condition of Approval "No single-can sales of beer, 40 oz. or magnum beers shall be permitted" was in the permit at the time the property was built and the applicant agreed to the condition. The condition was imposed in 2001 by planning staff on different alcohol conditional use permits.

Council Member Quach asked if the condition of approval was sometimes used and other times not used. Mr. Patterson replied that was correct.

Mr. Singh stated that the police do not oppose lifting the condition at this time.

MAYOR RICE CLOSED THE PUBLIC HEARING SINCE THERE WERE NO FURTHER COMMENTS.

Council Member Marsh asked if the Police Department's position is against the sales of single cans and if the applicant poses a greater or lesser level of risk. Interim City Manager Hall responded that there is no data that single container sales pose a greater risk. He said the applicant poses a lesser risk due to the lack of signage in the windows of the business.

Council Member Quach said the 7/11 has done an excellent job as far as being a convenience store and is a first class operation.

Motion was made by Council Member Quach, seconded by Council Member Marsh to support the appeal and overturn the Planning Commission's decision.

Council Member Marsh stated he wanted to propose an amendment and asked if the applicant would be willing to not advertise single can sales in the window.

Mr. Ghuman stated that they had stopped putting up banners in the window because the police department had issues seeing inside the store. He agreed to the condition.

Council Member Marsh requested a condition to the permit be added that the applicant will not advertise the sale of single cans of beer visible from the exterior of the building. The maker of the motion agreed to the condition.

The motion carried by the following vote:

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

The City Attorney stated that the resolution consistent with the finding made will be brought back to Council.

Council Member Marsh stated that this site was an eyesore before the store was built. They won the national award for the best 7/11 in the country. He said the City should reward those businesses who follow the direction the City has given in terms of being attractive, clean, and safe, rather than penalizing the ones who are doing a good job.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Council Member Quach stated it was an honor and privilege to serve on the City Council for the past four years and he looks forward to his continued service. He thanked the Mayor and City Council and citizens and staff for their support. He encouraged the person who spoke in opposition to the appeal to let the City Council know if there are any problems.

Mayor Pro Tem Fry stated that we live in a great country that enables us to have elections. He congratulated Mrs. Neugebauer and Council Member Quach. He congratulated Marilyn Fry for being elected to the Midway Sanitary District.

Council Member Marsh congratulated the election winners Mayor Rice, Council Member Quach and former Council Member Joy Neugebauer. He said that now that the election is over, he would appreciate the remaining campaign signs be removed.

Mayor Rice expressed her appreciation for the support she received from the City and Midway Sanitary District.

5.2 AB 1234 Reports - None

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Holiday Decorating Contest – Judge (701-01)

ACTION: The Mayor and City Council appointed Mayor Pro Tem Fry to serve as a judge for the Fifteenth Annual Holiday Decorating Contest scheduled for Thursday, December 7, 2006 at 5:45 p.m.

6.2 Award of Contract for Street Improvements for Hazard Avenue from Magnolia Street to Beach Boulevard – Federal Project No. STPL-5338(034), Hoover Street from Hazard Avenue to Trask Avenue – Federal Project No. STPL-5338(035), and Bolsa Chica Road from Rancho Road to Westminster Boulevard – Federal Project No. STPL-5338(036) – Project No. AHRP 05-06 (502-01)

Motion was made by Council Member Quach, seconded by Council Member Marsh to:

1) Allocate the following leftover funds to Account No. 55036-063602 (Hazard, Hoover, Bolsa Chica street improvements):

51502-011013	Pvt Rehab-Haz/Brk to E City Limits	$ 1,889.00
51502-031021	Bushard St Pvmt Bolsa-Hazard	$120,329.00
51502-031022	Edinger St Pvmt Magnolia-Bushard	$153,273.00
51502-031023	Newland St Pvmt Edinger-Heil	$ 56,217.00

2) Approve cancellation of the following two AHRP projects for next fiscal year 2006-07 and transfer their budgeted funds to Account No. 55036-063602 (Hazard, Hoover, Bolsa Chica street improvements):

55036-073603	Springdale St Improv, SR-22 to Iroquois	$270,000.00
55036-073604	Hoover St Improv Trask to Garden Grove	$200,000.00

3) Approve the award of contract to the low qualified bidder in the amount of $2,957,096.38 to All American Asphalt and that all other bids be rejected; and that the Interim City Manager be authorized to execute the contract on behalf of the City.

The motion carried by the following vote:

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

Mayor Pro Tem Fry stated that when streets are disrupted due to construction, he would like to have it posted on WTV3.

6.3 Consideration of Alternative Council/Agency Meeting Dates for November and December, 2006. (103-08)

Motion was made by Council/Agency Member Marsh, seconded by Council/Agency Member Quach for Council/Agency meeting dates to be November 29, 2006, December 6, 2006 and December 20, 2006. The motion carried by a 4-0 vote.

7. WRITTEN COMMUNICATIONS (Public) - None

8. LEGISLATIVE ITEMS

8.1 Resolution No. 4047 - Establishing Fees and Charges Relating to Shopping Cart Containment and Retrieval Plan, Amendment to the Plan, and an Appeals Hearing. (209-05) (105-07)

Motion was made by Council Member Quach, seconded by Council Member Marsh to adopt Resolution No. 4047 entitled, "A Resolution of the Mayor and City Council of the City of Westminster establishing fees and charges for Chapter 8.78 of the Westminster Municipal Code relating to shopping cart containment or retrieval plan, amendment to the plan, and an appeals hearing," and waive further reading.

Discussion ensued regarding the penalties and enforceability of the resolution.

Vicki Morgan, Code Enforcement Manager, explained the appeal and revocation process for the containment and retrieval plans available to grocers. She stated the code is written that the grocer has to have one or the other. If they do not have a plan as approved by the City, it would be treated as any other code violation.

In response to Council Member Marsh's question regarding carts from other cities, Ms. Morgan stated she is trying to get code enforcement in neighboring cities to adopt the same type of ordinance. She said the City is in the forefront with the ordinance, but the other cities are not far behind.

The motion carried by the following vote:

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

Mayor Pro Tem Fry stated he voted in opposition because he does not think the ordinance is enforceable.

Ms. Morgan stated that with the adoption of this Resolution she will be having town hall meetings with a session to be held during the day and one during the evening.

9. COMMISSION AND COMMITTEE ITEMS - None

10. COUNCIL/AGENCY ADJOURNMENT: At 8:57 p.m., Mayor/Agency Chair Rice adjourned the meeting.

Christine Otto

Christine Otto, Deputy City Clerk/
Acting Agency Secretary