

"Approved by the City Council/Redevelopment Agency Board on June 27, 2007."

CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF AN ADJOURNED REGULAR MEETING

WESTMINSTER, CALIFORNIA
May 30, 2007

The City Council/Agency Board of the City of Westminster, California convened on May 30, 2007 at 6:00 p.m. in an Adjourned 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, MARSH, FRY, QUACH, TA
ABSENT: NONE

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session at 6:00 p.m. for the following purpose:

- 1) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Designated Representative: City Manager Ray Silver and Interim Director of Personnel/Risk Management Chris Birch; Employee Organization: Westminster Municipal Employees Association (WMEA).

RECESS: At 6:35 p.m., Mayor/Agency Chair Rice recessed the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING

The City Council/Redevelopment Agency Meeting reconvened at 7:03 p.m. in the Council Chambers.

ROLL CALL

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

SALUTE TO FLAG: Council Member Ta

INVOCATION: Council Member Fry

REPORT OUT OF CLOSED SESSION:

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

SPECIAL PRESENTATIONS:

- A. The Mayor and Council Members presented grad night checks to Bonnie Duffy from Westminster High School, Harrison Ono with La Quinta High School and Marlene Rudd with Ocean View High School.
- B. The Mayor and Council Members presented 10-year, 15-year, 20-year, 25-year, 30-year, 35-year, and 40-year service pins to City Employees.
- C. Mayor Pro Tem Marsh presented a Proclamation declaring May 20-26, 2007 as Emergency Medical Services Week in the City of Westminster to Battalion Chief Don Forsyth.

The City Clerk Announced Late Communications

The City Clerk announced Late Communications regarding agenda items that had been received in the City Clerk's office following the distribution of the agenda packet:

Public Hearings

- 4.1** – Communication submitted by David and Johanna Mansell dated May 29, 2007.
Public Utilities Commission General Order 95

1. CONSENT CALENDAR**APPROVAL OF MINUTES**

- 1.1** **(City Council/Redevelopment Agency) Minutes of the Regular Meetings of the City Council/Redevelopment Agency of May 9, 2007 and May 23, 2007**

ACTION: Approved.

ROUTINE MATTERS

- 1.2** **Notice of Completion for work performed by Meyer, Mohaddes Associates for Installation of Traffic Congestion Video Monitoring Cameras and Equipment at Nine Intersections (502-13)**

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.

- 1.3** **Award of Contract for City-Wide Cape & Slurry Seal Project at Various Locations (502-08)**

ACTION: The Mayor and City Council awarded a contract to the qualified bidder, Hardy & Harper, Inc. in the amount of \$993,000, and authorized the City Manager to execute the contract on behalf of the City.

1.4 Lot Line Adjustment No. 2006-79 for 6721 and 6731 Westminster Boulevard, located within the Westminster Center (201-06)

ACTION: The Mayor and City Council accepted Lot Line Adjustment No. 2006-79 and authorized the City Clerk to record it with the County Recorder's Office.

1.5 (City/Agency) Amendment No. 2 to Consulting Services Agreement with Comprehensive Housing Services, Inc. to Perform Additional Monitoring and Environmental Services in FY 2006-2007. (502-03)

ACTION: The Mayor/Chair and City Council/Agency Board Members approved Amendment No. 2 to the Consulting Services Agreement with Comprehensive Housing Services Inc. to provide additional monitoring and environmental services as needed for \$15,000, resulting in a total contract amount not to exceed \$60,000, and authorized the City Manager/Executive Director to execute Amendment No. 2 on behalf of the City and Agency.

1.6 Award of Bid for Purchase of Forensic Evidence Storage Freezer (106-00)

ACTION: The Mayor and City Council authorized a purchase order in an amount not to exceed \$21,059.25 to Commercial Cooling, Par Engineering Company for a Forensic Evidence Storage Freezer.

(ITEM REMOVED AND HEARD SEPARATELY)

1.7 Professional Consultant Services Agreement for Design, Architectural and Engineering Services for the New Police Facility. (502-04)

Motion was made by Mayor Pro Tem Marsh, and seconded by Council Member Fry, to continue this item to the City Council meeting of June 13, 2007, to consider the approval of a Professional Consultant Services Agreement with DMJM&N Design in an amount not to exceed \$3,618,243.35 to provide design, architectural and engineering services for the new police facility, and authorize the City Manager to execute the agreement on behalf of the City. The motion carried by a 5-0 vote.

ADMINISTRATIVE ITEMS

1.8 Amendment No. 1 to Agreement with Orange County Transportation Authority to provide the Senior Mobility Transportation Program to the Westminster Senior Center. (502-15)

ACTION: The Mayor and City Council approved Amendment No. 1 to Agreement No. C-2-0141 with the Orange County Transportation Authority, extending the term of the program through June 30, 2011, and authorized the City Manager to execute the agreement amendment on behalf of the City.

ORDINANCES (SECOND READING)/RESOLUTIONS**(ITEM REMOVED AND HEARD SEPARATELY)**

- 1.9 **Resolution No. 4081 – A Resolution of the Mayor and City Council of the City of Westminster Upholding the Planning Commission’s Decision in Consideration of Case No. 2006-107 Approving a Variance Request to Allow a Room Addition, and Denying Four Requested Variances Related to the Conversion of a Hobby/Storage Room into a Dwelling Unit at a Property Located at 14321 Alta Street. (201-00) (CN 2006-107)**

Mayor Rice pulled the item up for discussion due to the fact she had voted against this item at the last meeting.

Mike Carrillo, Westminster resident, requested that he be able to do the work on his house himself. He thanked the Council for the 120 day extension from May 9, 2007, but requested an additional 120 days from the date the permit is pulled for the front house.

Council Member Quach stated that he is not in favor of granting Mr. Carrillo another 120 day extension. He explained that if Mr. Carrillo needs additional time to complete the work, that he can come back to Council closer to the end of the original extension and request more time.

Motion was made by Council Member Quach, and seconded by Council Member Ta, to adopt Resolution No. 4081.

The motion carried by the following vote:

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

- 1.10 **Resolution No. 4084 - A Resolution of the Mayor and City Council of the City of Westminster Concerning the Status of the Circulation Element for the City of Westminster (613-07)**

ACTION: The Mayor and City Council adopted Resolution No. 4084.

WARRANT REGISTER

- 1.11 **(City Council/Redevelopment Agency) Warrant Register dated May 2 through 22, 2007 (105-09) (07)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.12 **Minutes of the Planning Commission meeting held May 2, 2007 (104-11)**

ACTION: Received and filed.

1.13 Community Development Monthly Activity Report – April 2007 (216-01)

ACTION: Received and filed.

1.14 Treasurer's Report - April 2007 (105-08)

ACTION: Received and filed.

1.15 Minutes of the Traffic Commission meeting held on April 24, 2007 (104-12)

ACTION: Received and filed.

1.16 Minutes of the Energy Committee meeting held on May 3, 2007 (104-07)

ACTION: Received and filed.

Motion was made by Council/Agency Member Quach, and seconded by Council/Agency Member Ta to approve the Consent Calendar with the exception of Item No.'s 1.7 and 1.9 which were removed for separate consideration. The motion carried by a 5-0 vote.

END OF CONSENT CALENDAR**2. ORAL COMMUNICATIONS**

Vivian Kirkpatrick–Pilger, Westminster resident, inquired about the new speaker slips and asked if it was a violation of the Brown Act to require speakers to fill out the form.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW**3.1 The actions of the Planning Commission meeting held on May 24, 2007.**

RECOMMENDATION: That the City Council determine if they wish to call up any items for review from the Planning Commission meeting of May 24, 2007.

- 1) Case No. 2005-21 Tentative Parcel Map, Site Plan Review, Design Review for a new 14,411 square-foot single story retail drug store. Location: 7001 Westminster Boulevard. (Walgreens).
- 2) Case No. 2006-57 Site Plan Review and Design Review for a new 3,741 Square-foot single story commercial building in an existing retail shopping center. Location: 6491 Westminster Boulevard.
- 3) Case No. 2007-03 Conditional Use Permit to allow for the operation of a billiard center. Location: 9191 Bolsa Avenue, Suite 109-111. (Saigon Billiard Center).
- 4) Case No. 2007-05 Conditional Use Permit for an ABC type 41 license in conjunction with a new 4,320 square-foot restaurant in an established retail center. Location: 15380 Beach Boulevard. (L8 Café & Lounge).

- 5) Case No. 2007-14 Conditional Use Permit for an ABC type 41 license to allow entertainment in conjunction with a proposed 3,136 square-foot restaurant. Location: 15440 & 15442 Brookhurst Street. (Citryst Lounge).

Mayor Pro Tem Marsh called up Item No. 4 for review. He addressed his concern about live entertainment and the serving of alcohol.

Council Member Quach asked to recuse himself from Item No. 4 due to the fact that the representative on this project is a former business associate of his.

Council Member Quach questioned Item No. 5 as to whether or not the project is outside of the 500 foot radius of his residence. Community Development Director, Don Anderson confirmed that the project is outside of the 500 foot radius.

Motion was made by Council Member Quach, and seconded by Council Member Fry, to receive and file Item Nos. 1 and 2 of the oral report of the Planning Commission meeting of May 24, 2007. The motion carried by a 5-0 vote.

4. PUBLIC HEARINGS

- 4.1 **APPEAL OF THE PLANNING COMMISSION'S DENIAL OF CASE NO. 2005-62 (VARIANCE, CONDITIONAL USE PERMIT, SITE PLAN, DESIGN REVIEW), A REQUEST TO CONSTRUCT A 74,297 SQUARE FOOT SELF STORAGE FACILITY ON TWO SOUTHERN CALIFORNIA EDISON OWNED PARCELS LOCATED WEST OF HOOVER STREET AND NORTH OF TRASK AVENUE); APPLICANT/APPELLANT: JENNIFER LAURO, PACIFIC PLANNING GROUP, INC.; PROPERTY OWNER: SOUTHERN CALIFORNIA EDISON. (201-00) (2005-62)**

Art Bashmakian, Planning Manager, gave a brief description and history of the proposed project.

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

Todd Wright, Vault Storage Partners, spoke in favor of the item. He gave a PowerPoint presentation and handed out a sheet of paper outlining proposed modifications of specifications of specific conditions of approval.

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

The following Westminster residents spoke in opposition to the proposed project:

- Barbara Holmes
- Dawn Hyatt
- Glenn Sato
- Michael Verrengia
- Dianne Dunn
- Richard Hayden
- Kathy Kern
- Jerry Kelley
- Holly Vanepps
- Terry Doyle
- Gregory Bodenhamer – handed out pictures of an existing storage facility
- Griselda Gimenez
- Joan Ziegler
- David Mansell
- Vivian Kirkpatrick-Pilger
- Brandon Vanepps
- Johanna Mansell
- Don Salow
- Judy Ahrens

The above mentioned residents expressed their concerns about noise; aesthetics; security; increase in crime such as robbery, rape, and drug trafficking; rat infestation; decrease in property value; graffiti; and increase in traffic and danger to pedestrians.

IN REBUTTAL:

Todd Wright, Vault Storage Partners, addressed each issue that was of concern to the residents. He explained that they do not allow business operations in the storage units, and that they do not supply any electricity to the units, which would make it difficult for living or conducting business from the facility. He also addressed the security issue by saying that there is no entry after a certain hour and there are security alarms. He explained that the money that he offered to the City was because he felt that the storage facility could have an impact on the surrounding neighborhood and that the money could be used to put towards the park.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Mayor Pro Tem Marsh asked staff why Edison has not allowed structures beneath power lines in the past.

Art Bashmakian, Planning Manager, responded by saying that Edison explained that storage facilities are not considered permanent structures. Mr. Bashmakian received an email from Tami Bui with Southern California Edison stating that Edison no longer allows such use and in the future these projects will be handled on a case-by-case basis.

Christian Bettenhausen, Assistant City Attorney informed the Council to re-open the public hearing due to the fact of additional evidence that may be obtained during discussion.

MAYOR RICE RE-OPENED THE PUBLIC HEARING.

Tami Bui, Southern California Edison stated that Edison does not have plans for any other secondary land use as of right now and that there is no blanket policy, which means that each project is handled on a case by case basis depending on the property.

Mayor Pro Tem Marsh asked Ms. Bui whether or not single family homes can be built on such property.

Ms. Bui responded by saying that she would need to speak with the Real Estate Department in regards to that issue.

Mayor Pro Tem informed Council that he had researched Rule 95 and asked Ms. Bui whether or not an evaluation of the discussed property for tax purposes will be made by the Public Utilities Commission or the Orange County Assessor's Office?

Ms. Bui responded by saying she was not aware of who would make that evaluation.

Mr. Dominguez, former employee of Southern California Edison, informed the Council that the Edison properties that have single family homes have most likely been sold to private parties in the past.

Mayor Pro Tem Marsh asked Mr. Dominguez if Edison has made a determination that the property is not necessary or useful in the performance of Edison's duties to the public?

Mr. Dominguez responded by saying that no such evaluation has been made.

Mayor Pro Tem Marsh stated that since no evaluation has been made, Edison cannot legally transfer the property under PUC 851. He requested that PUC 851 be read into the record.

Public Utilities Code Section 851

"No public utility other than a common carrier by railroad subject to Part 1 of the Interstate Commerce Act (49 U.S.C. Sec. 10101 et seq.) shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having either secured an order from the commission authorizing it to do so for qualified transactions valued above five million dollars (\$5,000,000), or for qualified

transactions valued at five million dollars (\$5,000,000) or less, filed an advice letter and obtained a resolution from the commission authorizing it to do so. The commission shall determine the types of transactions valued at five million dollars (\$5,000,000) or less, that qualify for advice letter handling. For a qualified transaction valued at five million dollars (\$5,000,000) or less, the commission may designate a procedure different than the advice letter procedure if it determines that the transaction warrants a more comprehensive review. Absent protest or incomplete documentation, the commission shall approve or deny the advice letter within 120 days of its filing by the applicant public utility. The commission shall reject any advice letter that seeks to circumvent the five million (\$5,000,000) threshold by dividing what is a single asset with a value of more than five million dollars (\$5,000,000), into component parts, each valued at less than five million dollars (\$5,000,000). Every sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the advice letter and resolution from the commission authorizing it is void. The permission and approval of the commission to the exercise of a franchise or permit under Article 1 (commencing with Section 1001) of Chapter 5 of this part, or the sale, lease, assignment, mortgage, or other disposition or encumbrance of a franchise or permit under this article shall not revive or validate any lapsed or invalid franchise or permit, or enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or waive any forfeiture.

Nothing in this section shall prevent the sale, lease, encumbrance or other disposition by any public utility of property that is not necessary or useful in the performance of its duties to the public, and any disposition of property by a public utility shall be conclusively presumed to be of property that is not useful or necessary in the performance of its duties to the public, as to any purchaser, lessee or encumbrancer dealing with that property in good faith for value, provided that nothing in this section shall apply to the interchange of equipment in the regular course of transportation between connecting common carriers."

Mayor Pro Tem Marsh asked Ray Silver, City Manager how he felt about the proposed project?

Ray Silver, City Manager responded by saying that at the beginning of the year the Council set goals for the City in which one of the goals is to work on the overall appearance of the City and encourage a positive investment. Mr. Silver explained that he reviewed the staff report and feels that this project cannot support the proposed changes.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Fry said that he does not feel that anything needs to be built on the subject property.

Council Member Ta asked staff whether or not property values have been affected by the existing storage facilities within the City.

Art Bashmakian, Planning Manager said that no research or study has been made on the affects storage facilities have on property value.

Mayor Pro Tem Marsh expressed that he does not feel comfortable with waiving the conditions placed by staff and feels that there are only two options which are to either deny the project in its entirety or to approve it with extreme conditions.

Motion was made by Council Member Fry, and seconded by Council Member Ta to:

- 1) Deny the Mitigated Negative Declaration pertaining to Case No. 2005-62; and
- 2) Deny Case No. 2005-62 to construct a single story self storage facility on a six acre site subject to redesign and granting a variance to allow a seven foot high wall, located west of Hoover Street and between Trask Avenue and the Garden Grove Freeway (Assessor's Parcel Numbers 096-455-02 & 096-465-24), in the PF (Public Facilities) District".

The motion carried by a 5-0 vote.

RECESS AND RECONVENE:

At 10:06 p.m., Mayor/Chair Rice recessed the City Council/Redevelopment Agency Meeting, and reconvened the meeting at 10:16 p.m. All members were present.

4.2 APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CASE NO. 2006-49 (TENTATIVE PARCEL MAP, SITE PLAN REVIEW, AND DESIGN REVIEW); LOCATION: 14241 PACIFIC AVENUE; APPLICANT: BON HOANG, AUTHORIZED AGENT FOR ALAN LEE, APPELLANT AND PROPERTY OWNER OF RECORD (Continued from the April 11, 2007, April 25, 2007 and May 9, 2007 Meetings). (201-00) (CN 2006-49)

Art Bashmakian, Planning Manager, gave a brief history of the project. He explained that the applicant had redesigned the project per staff's request, and that the new plan conforms to all of the standards. However, the new plan does not address the issue of the garages in front.

Mayor Pro Tem Marsh asked the Planning Manager whether the issues that a neighbor had significant concerns about were resolved. Mr. Bashmakian responded by saying yes.

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

Bon Hoang, applicant of proposed project, asked the Council for support of the project. He explained that he has done everything to meet the zoning requirements of the City.

Alin Hamade, Westminster resident, spoke in favor of the project. He feels that the driveways that are in the proposed plan are a good idea, because there will be less parking issues on the street.

MAYOR RICE ASKED IF ANY PERSONS WISHED TO SPEAK IN OPPOSITION TO THE ITEM. SINCE THERE WERE NO PERSON WHO WISHED TO SPEAK IN OPPOSITION TO THE ITEM, MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Council Member Fry, and seconded by Council Member Ta to, adopt Resolution No. 4078 entitled, "A Resolution of the Mayor and City Council of the City of Westminster granting an appeal by the applicant to remove a condition of approval requiring the project's re-design and upholding the Planning Commission's decision to approve Case No. 2006-49 pertaining to a Tentative Parcel Map, Site Plan Review, and Design Review for the a New Condominium Development Consisting of Three Units Located at 14241 Pacific Avenue". Council Member Quach recommended that the Council approve the project with three front loading garages. The maker of the motion and the second to the motion agreed to amend the motion to include comments proposed by Council Member Quach. The motion carried by a 5-0 vote.

4.3 ORDINANCE NO. 2413 - AN AMENDMENT TO EXTEND THE DURATION OF THE AMENDED AND RESTATED REDEVELOPMENT PLAN FOR THE WESTMINSTER COMMERCIAL REDEVELOPMENT PROJECT AREA BY ONE YEAR, IF THE AGENCY MAKES A FINDING THAT THE PAYMENTS REMITTED TO THE EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF) IN FISCAL YEAR 2003-2004 IMPAIRS ITS ABILITY TO FUND PROJECTS IN THE FUTURE.

ORDINANCE NO. 2414 - AN AMENDMENT TO EXTEND THE DURATION OF THE AMENDED AND RESTATED REDEVELOPMENT PLAN FOR THE WESTMINSTER COMMERCIAL REDEVELOPMENT PROJECT AREA BY TWO YEARS, IF THE AGENCY MAKES A FINDING THAT THE PAYMENTS REMITTED TO THE EDUCATIONAL REVENUE AUGMENTATION FUND (ERAF) IN FISCAL YEARS 2004-2005 AND 2005-2006 IMPAIRS ITS ABILITY TO FUND PROJECTS IN THE FUTURE. (903-07)

Don Anderson, Director of Community Development, gave a brief presentation on the item.

Assistant City Attorney Bettenhausen informed the Council of a correction to the fourth paragraph of Ordinance No. 2414 , it should read Ordinance No. 2413.

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

Vivian Kirkpatrick-Pilger, Westminster resident, stated that she disagrees with extending any Redevelopment zones for any reason.

Mr. Betthausen explained that the City is adopting these Ordinances in light of the ERAF payments. It gives the City an opportunity to be reimbursed for some of the money that was paid out for education.

Mayor Pro Tem Marsh explained that if the City does not adopt these Ordinances that the City will not be eligible to receive reimbursement from the State.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Motion was made by Council Member Ta, and seconded by Council Member Fry to:

- 1) Introduce Ordinance No. 2413 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster amending certain time limitations with respect to the Westminster Commercial Redevelopment Project No. 1, for the Original Plan Area, Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, and Amendment No. 5 , pursuant to the provisions of Health and Safety Code Sections 33333.2(c) and 33333.6 (e)(2)(C)", and waive further reading; and
- 2) Introduce Ordinance No. 2414 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster amending certain time limitations with respect to the Westminster Commercial Redevelopment Project No. 1, for the Original Plan Area and Amendment No. 1, pursuant to the provisions of Health and Safety Code Section 33333.6(e)(2)(D)", and waive further reading.

The motion carried by the following vote:

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

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Pro Tem Marsh stated that the Memorial Day Celebration was a wonderful event and commended Mayor Rice and Assemblywoman Walters on an outstanding job.

Mayor Rice thanked Mayor Pro Tem Marsh and Council Member Ta for their participation in the Memorial Day Celebration.

- 5.2 AB 1234 Reports** – Mayor Rice reported that she and Council Member Fry and Council Member Quach attended the International Conference of Shopping Center (ICSC) Conference in Las Vegas, Nevada, from May 20 through May 23, 2007. (103-08)

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR**6.1 Transfer of Funds for 9-1-1 System and Communication Upgrades. (105-12)**

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Marsh to, approve the transfer of \$375,000 from the General Police Services Account to the Police Capital Improvement Project Account to accomplish upgrades to the 9-1-1 System and Emergency Communications Center. The motion carried by a 5-0 vote.

6.2 Authorization to Increase Vehicle Fuel Purchase Order to Cover Higher Fuel Costs for FY 2006-07 (502-16)

Motion was made by Council Member Fry, and seconded by Council Member Ta to:

1. Transfer \$18,050 from the Equipment Replacement Fund Budget Contingency Reserve to the Equipment Replacement Fund; and;
2. Transfer \$31,950 from the Equipment Replacement Fund Emergency Reserve to the Equipment Replacement Fund; and
3. Authorize an increase of \$50,000 to Purchase Order No. 3170 with Petro Diamond, Inc. for Gasoline and Diesel Fuel for Fiscal Year 2006-07.

The motion carried by a 5-0 vote.

6.3 Review of Proposed Reflexology Ordinance (203-05)

Police Chief Andy Hall presented the proposed Ordinance pertaining to reflexology establishments. He explained that reflexology should be treated differently than massage and would like to have Council's thoughts on this item. He explained that this issue still needs to go to Planning Commission and will also have a Public Hearing.

Mayor Rice said she would like to see the establishments have adequate space provided for the customers.

Assistant City Attorney Bettenhausen stated that this issue is scheduled for the June 6, 2007 Planning Commission Meeting for the sole purpose of discussing the Conditional Use Permit.

Council Member Fry expressed his concerns of sterilization and also explained that there should be limits as to what can be massaged as far as nothing above the knees or elbows.

Council Member Quach thanked the City Attorney and the Police Department for bringing this item back to Council, because he feels that this is an urgent matter. He also expressed that he would like to see adequate space and no separate rooms within the establishments. He would like for the Police Department to

approve the establishments' layouts before approval, to see if they meet all requirements and whether it complies with the Fire Code.

Mayor Pro Tem Marsh explained that he would like to have copies of the Ordinances relating to massage parlors and other non-massage businesses that could potentially function as fronts for prostitution. He would like to see the City be able to distinguish which establishments are for customer treatment and which facilities are used as school facilities in which they use for training purposes.

Mayor Pro Tem Marsh asked Chief Hall whether or not he had pulled comparable Ordinances with the neighboring jurisdictions. Chief Hall responded by saying yes, but there were not very many. Mayor Pro Tem Marsh requested that the City Attorney and Police Department send an email out through League of California Cities to see if there are any other Ordinances they can use in comparison.

Mayor Pro Tem Marsh also requested that a provision be included with the Ordinance about certification and that it may be mandatory to have before obtaining a permit from the Police Department.

7. WRITTEN COMMUNICATIONS (Public) – None

8. LEGISLATIVE ITEMS

8.1 Ordinance No. 2416 - An Ordinance of the Mayor and City Council of the City of Westminster Establishing Policies Regarding the Use of Eminent Domain for the Westminster Commercial Redevelopment Project No. 1 as Amended by Amendments One, Two, Three and Four and the Westminster Infrastructure Revitalization Project (Amendment Five) and Authorizing Recording of a Revised Statement of Proceedings for Each Redevelopment Project Area (903-08)

Mayor Pro Tem Marsh proposed a couple of changes be made to the Ordinance. The first change is in Section 3, fifth line down with the sentence that starts with "domain". Mayor Pro Tem Marsh said that he would like to take out the words "is or" so it would say "domain, shall be that, if the Agency becomes authorized to acquire real property by".

He would also like to propose that the current section 6 through 11 be renumbered 7 through 12 and add a new section 6 reading as follows:

"Section 6: Currently, the Agency lacks the legal authority to engage in eminent domain, and this ordinance does nothing to change that fact. The Agency's ability to engage in eminent domain in Commercial Redevelopment Project No. 1, as amended by Amendments One, Two, Three and Four, expired as of July 18, 2003. Amendment Five (the Infrastructure Revitalization Plan or "IRP") has never permitted the Agency to use eminent domain and in fact prohibits the use of eminent domain by the Agency. Amendment Five's prohibition against Agency use of eminent domain may only be revoked under specified circumstances, including, at a

minimum, both of the following: (1) a unanimous vote of all members of the Westminster City Council eligible to vote; and , (2) a two-thirds super-majority vote of owners of land within the project area (i.e., all of the territory covered by Amendment Five). Nothing in this ordinance empowers any use of eminent domain that is not already allowed, and nothing in this ordinance removes any restrictions upon or prohibitions against eminent domain that already exist.”

Assistant City Attorney Bettenhausen informed the Council that it is a State Law requirement for the City to have an Ordinance that describes the current eminent domain program. The proposed Ordinance will not change what the City already has in place. He also stated that the only way to amend the Ordinance is by the regular process for amending the plan.

Motion was made by Council Member Quach, and seconded by Council Member Fry to introduce Ordinance No. 2416 as amended and waive further reading.

The motion carried by the following vote:

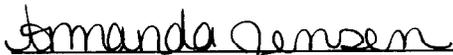
AYES: RICE, MARSH, FRY, QUACH, TA
NOES: NONE
ABSENT: NONE

9. COMMISSION AND COMMITTEE ITEMS

9.1 Appointment to the City’s Energy Committee (Mayor Pro Tem Marsh appointee) (104-07)

Motion was made by Mayor Pro Tem Marsh, and seconded by Council Member Ta, to appoint James Ziegler (Mayor Pro Tem Marsh’s appointee) to the Energy Committee. The motion carried by a 5-0 vote.

10. COUNCIL/AGENCY ADJOURNMENT: At 10:56 p.m., Mayor/Agency Chair Rice adjourned the meeting.


Amanda Jensen, Deputy City Clerk/
Agency Secretary