

The City Council/Agency Board of the City of Westminster, California convened on December 12, 2007 at 5:09 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California.

**5:00 P.M.
CLOSED SESSION**

CALL TO ORDER:

ROLL CALL

PRESENT: RICE, FRY, QUACH, TA
ABSENT: MARSH

URGENT ITEMS ADDED TO CLOSED SESSION:

By a majority vote of the City Council (Council Member Marsh absent), the following item was added to Closed Session, as the matter arose subsequent to the posting of the agenda and requires immediate action.

Conference with Legal Counsel pursuant to Government Code Section 54956.9(a) – Existing Litigation: Estate of Hoang Tan Bui vs. City of Westminster, et al., Case No. SACV05-774.

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session at 5:09 p.m. for the following purpose:

- 1) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8: Property: 7201 Westminster Boulevard and 13942 Cherry Street; Agency Negotiator: Executive Director Ray Silver; Negotiating Party: Michelle Nguyen (Pacific West Family Limited Partnership); Under Negotiation: Price and Terms of Payment.

RECESS: At 5:45 p.m., Mayor 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, FRY, QUACH, TA
ABSENT: MARSH (Arrived at 8:33 p.m.)

Mayor Rice stated that Council Member Marsh is representing the City tonight at the Coast Community College District Trustees Meeting re. the proposed Costco store in the City of Huntington Beach.

SALUTE TO FLAG: City Attorney

INVOCATION: Council Member Ta

REPORT OUT OF CLOSED SESSION: None.

SPECIAL PRESENTATIONS

- A. "SCE Presentation to City of Westminster – Preparing for Tomorrow’s Energy Needs”, presented by Tami Bui, Region Manager, Local Affairs.
- B. The Mayor and Council Members presented Certificates of Appreciation to the judges and Certificates of Commendation to the participants in the 2007 17th Annual Holiday Home Decorating Contest. In honor of the City’s 50th Anniversary, homes with the highest overall score in each area were presented with a \$50 Target gift card.

REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS – 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 November 14, 2007.**

ACTION: Approved.

ROUTINE MATTERS

- 1.2 **(REMOVED AND HEARD SEPARATELY)
Approval of Agreement No. D07-090 with Orange County Flood Control District for Water Quality Ordinance Implementation. (502-15)**

Darrell Nolta, Westminster resident, expressed concern with the discharge of trash and non-water materials into the storm drains that ends up in the flood control system. He feels that NPDES violations may continue and is concerned that violations may be withheld from the County, who holds the NPDES permit. He further addressed the litter issue on Brookhurst.

Vivian Kirkpatrick-Pilger, Westminster resident, asked what the Orange County Flood Control District will be inspecting in the City.

Marwan Youssef, Director of Public Works/City Engineer, responded that in the event City staff is not available for NPDES clean-up, the agreement allows for the use and payment to County staff for these services.

Motion was made by Mayor Pro Tem Quach, seconded by Council Member Fry to approve the subject agreement and authorize the Mayor to execute the agreement on behalf of the City.

The motion carried by a 4-0 vote. (Council Member Marsh absent)

- 1.3 Notice of Completion for work performed by All American Asphalt, Inc., for Street Improvements for Hazard Avenue from Magnolia to Beach – Federal Project No. STPL-5338(034), Hoover Street from Hazard to Trask – Federal Project No. STPL-5338(035), and Bolsa Chica Road from Rancho Road to Westminster – Federal Project No. STPL-5338(036) – Project No. AHRP 05-06. (502-01)**

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.

(REMOVED AND HEARD SEPARATELY)

- 1.4 Agreement to Transfer Property or Funds for the 2007 Homeland Security Grant Program Purposes. (502-19)**

Darrell Nolta, Westminster resident, stated he is opposed to the Homeland Security Act under the President Bush administration. This issue relates to terrorism. Mr. Nolta commented that he does not feel that Orange County is prepared to handle a multi-type disaster.

Mayor Pro Tem Quach said that this is a grant from the State of California acting through the Office of Homeland Security. The grant will require the County to use grant monies to purchase necessary equipment that will be transferred from the County to the City.

Motion was made by Council Member Ta, seconded by Mayor Pro Tem Quach to enter into an Agreement with the City of Santa Ana for Transfer or Purchase of Equipment/Services or for Reimbursement of Training Costs for FY 2007 Urban Areas Security Initiative (UASI), and authorize the Police Chief to execute the agreement on behalf of the City.

The motion carried by a 4-0 vote. (Council Member Marsh absent)

ORDINANCES (SECOND READING)/RESOLUTIONS

- (REMOVED AND HEARD SEPARATELY)**
- 1.5 **Ordinance 2423 – An Ordinance of the Mayor and City Council of the City of Westminster to amend Title 17 (Land Use Ordinance) of the Westminster Municipal Code relating to development standards for detached non-habitable accessory structures. (201-00) (CN 2007-53)**

Vivian Kirkpatrick-Pilger, Westminster resident, commented that three public hearings were held on this matter. She said that when citizens put up accessory structures on their property, they should come down to City Hall to find out what the restrictions are. Further, she commented that people cannot live in accessory structures unless they are built to live in.

Motion was made by Council Member Ta, seconded by Council Member Fry to adopt Ordinance No. 2423 and waive further reading. The motion carried by the following roll call vote:

AYES: RICE, FRY, TA
NOES: QUACH
ABSENT: MARSH

- (REMOVED AND HEARD SEPARATELY)**
- 1.6 **(Agency) Substitution of Remarketing Agent in Connection with the Agency's Westminster Commercial Redevelopment Project No. 1 1997 Tax Allocation Revenue Refunding Bonds. (502-02)**

Vivian Kirkpatrick-Pilger, Westminster resident, commented that she always has concerns when it has to do with redevelopment, and asked for a presentation from staff on what the changes are.

Paul Espinoza, Finance Director, explained that the Agency currently pays ten basis points to the existing firm of Stone & Youngberg, which is relatively high for the current market rate. The proposed firm of Bear Sterns & Company, Inc. can provide the same services for six basis points, thus saving the Agency money.

Motion was made by Agency Member Ta, seconded by Vice Chair Quach to:

- 1) Adopt Resolution No. 186 entitled, "A Resolution of the Westminster Redevelopment Agency Approving the Substitution of Remarketing Agent and a Form of Remarketing Agreement in Connection with the Agency's Westminster Commercial Redevelopment Project No. 1 1997 Tax Allocation Revenue Refunding Bonds" authorizing the removal of the Prior Remarketing Agreement dated December 1, 1997 with Stone & Youngberg LLC and Replacing the Prior Remarketing Agreement with Bear Sterns & Co., Inc. ; and

- 2) Authorize the Executive Director to execute the Remarketing Agreement in an amount not to exceed an annual fee of one-sixth of one percent (.01%) based upon the outstanding principal amount of the 1997 Tax Allocation Revenue Refunding Bonds and authorize the Executive Director to execute the agreement on behalf of the Agency.

The motion carried by the following roll call vote:

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

WARRANT REGISTER

- 1.7 **(City Council/Redevelopment Agency) Warrant Register dated November 21 through December 4, 2007. (105-09)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.8 **(REMOVED AND HEARD SEPARATELY)
 Westminster Redevelopment Agency Annual Report for Fiscal Year 2006-07. (901-04)**

Darrell Nolta, Westminster resident, stated that he is opposed to the Redevelopment Agency. Government has no business being involved in business. He commented on the Urban Land Institute study, his opposition to same, and the controversy generated from the study in the Little Saigon area.

Motion was made by Mayor Pro Tem Quach, seconded by Council Member Ta, to receive, approve, and file the Westminster Redevelopment Agency Annual Report for Fiscal Year 2006-2007. The motion carried by a 4-0 vote. (Council Member Marsh absent)

- 1.9 **Minutes of the Commission on Aging meeting held on September 10, 2007. (104-03)**

ACTION: Received and filed.

- 1.10 **Minutes of the Planning Commission meeting held November 7, 2007. (104-11)**

ACTION: Received and filed.

Motion was made by Mayor Pro Tem/Vice Chair Quach, and seconded by Council/Agency Member Fry to approve the Consent Calendar with the exception

of Item Nos. 1.2, 1.4, 1.5, 1.6 and 1.8 which were removed for separate consideration. The motion carried by a 4-0 vote. (Council/Agency Member Marsh absent)

END OF CONSENT CALENDAR

2. ORAL COMMUNICATIONS

Ed Royce, Sr., Municipal Water District of Orange County (MWDOC), provided information about the District, and introduced Karl Seckel, Assistant General Manager of the MWDOC.

Darrell Nolta, Westminster resident, commented that he was correct in the statement he made relative to Consent Calendar Item No. 1.4. In his opinion, SCE is a monopoly and there are many issues whether SCE is providing proper services to the citizens in Orange County. He commended Mayor Pro Tem Quach and Council Member Marsh for voting to select the best ambulance provider for the City and County of Orange. He further commended Police Chief Hall and Finance Director Paul Espinoza for standing up for CARE Ambulance, which he feels was the best and correct choice for the ambulance provider. He fears there will be situations in which citizens or tourists in the City lives will be at risk, and hopes that Council will reconsider this issue, as he feels the bad decision for an ambulance provider was based upon politics.

Vivian Kirkpatrick-Pilger, Westminster resident, wished everyone a Merry Christmas and Happy New Year.

3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW

3.1 The actions of the Planning Commission meeting held on December 5, 2007.

The City Council reviewed the actions of the Planning Commission meeting of December 5, 2007.

- 1) Case 2007-44 Conditional Use Permit and Design Review at 15412 Goldenwest Street for alcohol sales and exterior remodel for a proposed Fresh and Easy Market.
- 2) Case 2007-69 Tentative Tract Map, Site Plan Review, and Design Review at 7881 11th Street to develop a 5-unit condominium.
- 3) Case 2007-76 Design Review at 13961 Willow Lane to renovate an existing commercial building.
- 4) Zoning Code Interpretation regarding access to patios from single-family dwellings.

Mayor Pro Tem Quach requested that staff provide him with a set of the site plan, elevation and color chart on Item No. 1.3 in order to review what the Planning Commission discussed.

Motion was made by Council Member Ta, seconded by Mayor Pro Tem Quach to receive and file the report. The motion carried by a 4-0 vote. (Council Member Marsh absent).

4. PUBLIC HEARINGS.

4.1 RESOLUTION NO. 4128 – WATER RATES & CHARGES FOR WATER SERVICES (610-13)

Marwan Youssef, Director of Public Works/City Engineer, gave a PowerPoint presentation. He noted that in preparation for this water rate increase, 34,573 notices were mailed to all water accounts in the City. Three letters of protest were received to the proposed water rate increase. The letters addressed financial hardships, spreading the increase over several years to minimize the impact, and whether the water division is solvent. Mr. Youssef stated that the City last increased rates in August, 2004.

Council Member Fry asked why there wasn't an automatic raise of the water rates each year.

Scott Miller, Water Superintendent, said the current resolution does not allow for automatic pass throughs.

Mayor Rice suggested that a slight increase each year, rather than a large increase would be better, as a large increase hurts people on limited income.

Council Member Marsh arrived at the meeting at 8:33 p.m.

MAYOR RICE OPENED THE PUBLIC HEARING.

MAYOR RICE ASKED IF THERE WERE ANYONE WISHING TO SPEAK IN FAVOR OF THIS ITEM. BEING THERE WERE NO SPEAKERS IN FAVOR, MAYOR RICE ASKED IF ANYONE WISHED TO SPEAK IN OPPOSITION TO THE ITEM.

SPEAKING IN OPPOSITION:

Eric Skornipski, Westminster resident, commented that the water rate increase is difficult for persons who live on a fixed income. He believes that the water rate structure needs to be reviewed. He commended the Council on doing a tremendous job.

Dale Bradberry, Westminster resident, spoke regarding the impact the water rate increase has on persons with a fixed income.

Vivian Kirkpatrick-Pilger, Westminster resident, commented on the Water Rate Structure Committee that was established to review the City's current water rate structure. She spoke regarding her water bill that she displayed on the overhead projector. She

expressed her opposition to the water rate increase as she feels the original water rate structure from 2004 was flawed, and it doesn't make sense to build upon that structure.

Darrell Nolta, Westminster resident, expressed his opposition to the current water rate structure. He feels the hearing notice regarding the water rate increase is flawed. Mr. Nolta understands that something must be done to curtail the excessive water use. He believes that the City needs an increase, but the problem is he doesn't know what the increase is. He cannot support the 8% because he is unsure whether it is valid or not.

BEING THERE WERE NO MORE SPEAKERS, MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Fry spoke relative to what makes up a water bill. He said our City's rates are the lowest around and feels rates should be increased slightly each year.

Council Member Ta questioned the feasibility of an increase lower than 8% this year.

Mr. Youssef explained the way they came up with the percentage was to run a model to include the extra charges from outside agencies and from salaries and benefits and SCE. In order to maintain the water system as it is now and to have enough money to build the capital projects needed to keep the system running, it comes out to be 8%.

Mayor Pro Tem Quach stated that it is difficult to raise rates, especially knowing the impact it has on individuals with fixed income. He is supportive of an automatic increase on a yearly basis.

Mayor Rice commented that she feels that a lot of the increase is the pass through from other agencies that charge. She feels that water boards meetings should limit the number of meetings and cut some of their expenses.

Council Member Ta stated that many residents have concerns with the 8% increase, but understands that it has to be done.

Council Member Marsh commented that he believes a flat rate for each gallon of water used would have been much better than the current water rate structure. He believes the way the current water rate structure is designed unfairly penalizes the large lot owners. He would like a full review of the City's water rate structure.

Motion was made by Mayor Pro Tem Quach, seconded by Council Member Marsh to adopt Resolution No. 4128 entitled, "A Resolution of the Mayor and City Council of the City of Westminster rescinding Resolution No. 3836 and adopting Administrative Rules and Regulations for the City Water System, pursuant to the Municipal Code", and to schedule within the next six months a meeting or a series of meetings with respect to restructuring the water rate to include all members of the City Council, City Manager and City Attorney and any member of the public who is a stakeholder and lives in Westminster.

The motion carried by the following roll call vote:

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

Staff was directed to agendize in January, 2008 for the Mayor and City Council to select a date for the study session relative to the restructuring of the water rate.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Pro Tem Quach wished everyone a Merry Christmas and Happy Holidays. He encouraged everyone to shop in Westminster. He thanked Council Member Marsh for his representation at the Coast Community College Board Meeting and the results he achieved.

Council Member Fry wished everyone a Merry Christmas and announced the New Year's Eve Gala at the Rose Center.

Council Member Ta wished everyone a Merry Christmas and Happy New Year. He thanked staff for working hard to support the Council. He thanked Council Members for their support and generosity over this past year.

Council Member Marsh thanked the Mayor and City Council and staff for the outstanding job at the Tree Lighting Ceremony. Unfortunately, he was unable to stay at the Employee Holiday Luncheon this year. He expressed his appreciation to Senior Animal Control Officer Karen Pickl who helped them find their lost cat.

Mayor Rice thanked Council Member Marsh for representing the Council at the Coast Community College District meeting this evening. She expressed her support and appreciation to the Council Members, staff and City Manager Ray Silver. The New Year's Gala will be held at the Rose Center.

5.2 AB 1234 Reports – None

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Study Session for the Fiscal Year 2008-2009 Community Development Block Grant (CDBG) Program and HOME Program federal funds. (103-08) (07)

Motion was made by Mayor Pro Tem/Vice Chair Quach, seconded by Council/Agency Member Marsh to schedule Wednesday, February 6, 2007 at 6:00 p.m. in the Council Chambers for the study session to hear presentations from Non-profit agencies and City Departments applying for Fiscal Year 2008-2009 CDBG and HOME federal funds. The motion carried by a 5-0 vote.

6.2 Amendment No. 4 to the Street Sweeping Contract with R.F. Dickson Co., Inc. (502-18)

Darrell Nolta, Westminster resident, expressed concern with extending an agreement for a company that in his opinion is not doing a very good job. Specifically, R. F. Dickson in not doing a good job where he lives.

In response to Council Member Marsh's inquiry about street sweeping complaints received, Marwan Youssef, Director of Public Works/City Engineer said they have spoken to the contractor, but do intend to meet in person with the contractor to address the issues of concern.

City Manager Ray Silver noted that the contract expires in May, 2008. The amendment begins the process in January, 2008 for street sweeping in Midway City. He said that if the Mayor and City Council are not satisfied with the current contractor, staff could go out to bid for these services next year.

Mayor Rice stated that she has received several complaints that the streets are not being swept property.

Mr. Youssef said the current contract has been in place for approximately eight years. Staff will go out to bid next year for street sweeping services, but noted that the prices may be higher. During the interim period, he will meet with the contractor about the issued raised.

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

- 1) Authorize a budget adjustment in the amount of \$12,000 from the General Fund to Concrete Repair – Contractual Other; and
- 2) Approve Amendment No. 4 to the Street Sweeping Contract with R.F. Dickson Co., Inc., and authorize the City Manager to execute the contract amendment on behalf of the City.

The motion carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public) - None**8. LEGISLATIVE ITEMS****8.1 Establishment of an Ad Hoc New Police Building Planning Committee (702-08)**

RECOMMENDATION: Staff recommends that the Mayor and City Council:

- 1) Adopt Resolution No. 4129 entitled, "A Resolution of the Mayor and City Council of the City of Westminster establishing an Ad Hoc New Police Building Planning Committee"; and
- 2) Appoint two (2) Council Members to serve as Chair and Co-Chair to the Ad Hoc New Police Building Planning Committee.

Chief Hall stated that the purpose of the Committee will be to provide design oversight during the design/development stage. It is anticipated the Committee would meet five or six times or more frequently. He said there would be a working committee below the ad hoc committee.

Mayor Rice stated that three Council Members have expressed interest in serving on the Committee, and that she personally would like to be on the Committee. She feels there will be a need for a study session every three months or so that all Council Members can participate in and provide input.

Motion was made by Mayor Pro Tem Quach, seconded by Council Member Ta to receive and file.

Council Member Marsh expressed the need to have the study session materials at least two to two and half weeks to allow Council time to review the documents.

Darrell Nolta, Westminster resident, expressed concern with the balance of security and many other factors pertaining to security of the police station, and the issue of true independent oversight.

The motion carried by a 5-0 vote.

8.2 City Initiated Code Amendment Relating to Mandatory Installation of a Shopping Cart Containment System for Merchants Who Provide Ten (10) or More Shopping Carts for Use by the Public. (209-05)

Vivian Kirkpatrick-Pilger, Westminster resident, asked what the new code amendment is.

Vicki Morgan, Code Enforcement Manager, explained the new ordinance amendment requires that all retail establishments with ten or more carts have to install some type of mandatory containment system. If adopted in January to become effective in February, 2008, retailers have until February 11th to submit a plan letting us know which type of system they plan to utilize. The system must be in place by June, 2008.

Council Member Marsh stated a lot of complaints about shopping carts are not coming from establishments in Westminster. He suggested working with other jurisdictions on "companion" legislation so they are working in the same direction that our City is.

Darrell Nolta, Westminster resident, would like something to be done about this issue before June 1, 2008, as this has been an ongoing public nuisance. Mr. Nolta said that the warning on the carts will be ineffective if it is not read.

Ms. Morgan explained that the reason for the June 1, 2008 effective date is to allow the merchants to end their current contract for retrieval services.

Motion was made by Council Member Ta, seconded by Council Member Fry to introduce Ordinance No. 2426 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster amending Chapter 8.78 to Title 8 of the Westminster Municipal Code relating to shopping cart containment," and waive further reading. The motion carried by the following roll call vote:

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

8.3 Establishing Compensation for the Mayor and City Council (103-02)

City Attorney Jones noted that the ordinance will not be effective until after the November, 2008 election.

Motion was made by Mayor Pro Tem Quach, seconded by Council Member Fry to introduce Ordinance No. 2425 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster Establishing Compensation for the Mayor and City Council", and waive further reading. The motion carried by the following roll call vote:

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

9. COMMISSION AND COMMITTEE ITEMS - None

- 10. COUNCIL/AGENCY ADJOURNMENT:** At 9:52 p.m., Mayor/Agency Chair Rice adjourned the meeting in memory of Roger Paris, son of late Council Member Russell C. Paris.


Marian Contreras, City Clerk/Agency Secretary