

"Approved by the City Council/Redevelopment Agency Board on April 9, 2008"

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

**WESTMINSTER, CALIFORNIA  
February 27, 2008**

The City Council/Agency Board of the City of Westminster, California convened on February 27, 2008 at 6:30 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California

**6:30 P.M.  
CLOSED SESSION**

**CALL TO ORDER:**

**ROLL CALL**

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

**CLOSED SESSION:**

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

- 1) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8: Property: 14452 Chestnut Street; Agency Negotiator: Executive Director Ray Silver, Chet Simmons, Economic Development Specialist and Marwan Youssef, Director of Public Works/City Engineer; Negotiating Party: Thao Lee; Under Negotiation: Price and Terms of Payment; and
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9(a): Existing Litigation: Daniel & Cynthia Imlay vs. City of Westminster; Case No. 07CC02259.

**RECESS:** At 7:00 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 7:10 p.m. in the Council Chambers.

**ROLL CALL**

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

**SALUTE TO FLAG:** Council Member Marsh

**INVOCATION:** Mayor Pro Tem Quach

**REPORT OUT OF CLOSED SESSION:**

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

**SPECIAL PRESENTATIONS**

- A. M.A.D.D. Representative, Gail Martinez, presented the Deuce Awards (25 and over DUI arrests) to Westminster Police Officers Officer William Drinnin (25 arrests), Officer Matthew Edinger (25 arrests), Officer James Nguyen (25 arrests), Officer Nicholas Tran (37 arrests), Motor Officer Paul Walker (33 arrests) and presented the Century Award (100 and over DUI arrests) to Officer Jose Flores (115 arrests). (115-00)

Police Chief Hall congratulated them on a job well done.

- B. The Mayor and City Council recognized Abel Salazar and Tyrone Williams of Sunset Ford for their donation of cars for the TET Parade. They also recognized Leo Lopez, Carlos Guzman, Carlos Guzman Jr., Mike Mathis, and Charles Christianson for chauffeuring the Council Members in the TET Parade. (115-00)
- C. The Mayor and City Council recognized the City's 50<sup>th</sup> Anniversary Committee Members: B. J. Savage, Ahn Do, Gloria Reyes, Crystal Wadsworth, Reverend John Furman and Charles V. Smith for their hard work and dedication towards the 50<sup>th</sup> Anniversary events. (115-00)

**REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS – None.**

**1. CONSENT CALENDAR**

**ROUTINE MATTERS**

- 1.1 **(City Council/Redevelopment Agency) Minutes of the Adjourned Regular Meeting of the City Council/Redevelopment Agency of February 6, 2008.**

ACTION: Approved.

- 1.2 **2009 Federal Legislative Priorities (109-05)**

ACTION: The Mayor and City Council approved the 2009 Federal Legislative Priorities: 1) Little Saigon: Asian Criminal Enterprise Initiative (Year 2 Funding Request); 2) Rose Center Technology Equipment and Civic Center Electronic Marquis; and 3) Westminster Storm Water Improvements.

**1.3 Increase Purchase Order with A.J. Fistes Corporation for Additional Painting of City Buildings (502-01)**

ACTION: The Mayor and City Council authorized an increase of \$20,000.00 to Purchase Order No. 4781 with A.J. Fistes Corp.

**1.4 Increase Purchase Order with Koltemp Refrigeration Co., Inc. for Heating, Ventilation, and Air Conditioning (HVAC) Repair of City Buildings. (502-11)**

ACTION: The Mayor and City Council authorized an increase of \$10,000.00 to Purchase Order No. 4280 to Koltemp Refrigeration Co., Inc. for HVAC repairs for the remainder of fiscal year 2007-08.

**1.5 Cooperative Agreement between the City of Westminster and the City of Fountain Valley for AHRP 2006-2007 paving project on Magnolia Street from Edinger Avenue to the I-405 Freeway (502-06)**

ACTION: The Mayor and City Council approved the subject Cooperative Agreement with the City of Fountain Valley and authorized the City Manager to execute the agreement on behalf of the City.

**1.6 (Agency) Consulting Services Agreement for Affordable Housing Implementation with Rosenow-Spevacek Group, Inc. (RSG) (502-18)**

ACTION: The Chair and Agency Board approved the Agreement for Affordable Housing Implementation with Rosenow Spevacek Group, Inc. in the amount of \$25,000.00, and authorized the Executive Director to execute the agreement on behalf of the Agency.

**ADMINISTRATIVE ITEMS****1.7 Special Event Permit application from O'Entertainment to hold a carnival beginning March 11, 2008 through March 18, 2008 (includes set up and clean up days). The carnival will be open to the public March 14, 2008 through March 16, 2008. The event will take place at the Westminster Mall parking behind JC Penney's. Applicant estimates the attendance will be 10,000 people throughout the event. (213-02)(OE)**

ACTION: The Mayor and City Council approved the Special Event Permit application subject to the conditions attached to the staff report.

**WARRANT REGISTER****1.8 (City Council/Redevelopment Agency) Warrant Register dated February 6 through 19, 2008. (105-09)**

ACTION: Approved.

**INFORMATION AND REPORTS**

**1.9 Minutes of the Cultural Arts meeting held on November 1, 2007 (104-06)**

ACTION: Received and filed.

**1.10 Minutes of the Planning Commission meeting held January 23, 2008 (104-11)**

ACTION: Received and filed.

**Motion was made by Council/Agency Member Ta, and seconded by Mayor Pro Tem/Vice Chair Quach Ta to approve the Consent Calendar. The motion carried by a 4-0-1 vote.**

**END OF CONSENT CALENDAR**

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**2. ORAL COMMUNICATIONS**

Rene Marconx, Westminster resident spoke regarding her concerns with a flier that she received in her mailbox on February 27, 2008 from Atlas Allied in regards to water shut off.

Mayor Pro Tem Quach directed City staff to contact Atlas Allied and notify them that they are violating federal law by placing something in the mail box that has not been paid postage.

**3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW - None.**

**4. PUBLIC HEARINGS**

**4.1 REVIEW OF THE PLANNING COMMISSION'S DENIAL OF CASE NO. 2007-50 (VARIANCE), A VARIANCE REQUEST TO ALLOW 67 PARKING SPACES WHERE 69 PARKING SPACES ARE REQUIRED AS A RESULT OF VY DA RESTAURANT'S UNAUTHORIZED EXPANSION WITHIN THE MILLENNIUM PLAZA LOCATED AT 9950 BOLSA AVENUE (ASSESSOR'S PARCEL NUMBERS: 143-041-30); APPLICANT: CALVIN LE; PROPERTY OWNER: SUPERIOR ONE, INC. (201-00)(CN 2007-50)**

Mayor Pro Tem recused himself from this item due to the fact that he lives within 500 feet of the subject project and stepped down from the Council dais.

Art Bashmakian, Planning Manager gave a PowerPoint presentation and a brief overview of this project.

Mayor Rice asked Mr. Bashmakian if the applicant asked for a variance to rectify the situation with the building. He responded by saying that the applicant did ask for a variance in order to legalize the expansion without providing the required

parking. Mr. Bashmakian informed the Council that the entire shopping center would be 13 parking spaces short of the required amount.

The City Attorney explained to the Council that in 2000, the developer of the Millennium Plaza was granted a special interpretation of the code to allow the shopping center to be eleven parking spaces short.

Council Member Marsh asked whether or not the applicant asked for a variance before or after the City informed them that they were in violation of the Municipal Code and that they expanded illegally.

Mr. Bashmakian replied by saying that Building Department/Code Enforcement Department discovered the violation and gave the property owner an opportunity to request a variance to legalize the issue. If the variance is granted then they can get building permits to make sure that the construction/modifications meet the building code.

Mayor Rice asked Mr. Bashmakian how the City knew the building had expanded without a permit. He responded by saying that the Health Department informed the Building Department.

Council Member Marsh asked for confirmation that the applicant is the one who created the parking space shortage himself by illegally expanding the building. Mr. Bashmakian agreed.

Council Member Marsh also asked for confirmation that the adjacent property has insufficient parking for their own needs and does not have any extra parking that they could lease to the Millennium Plaza. Mr. Bashmakian said that the adjacent property does not have any extra parking spaces.

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

Anthony Nguyen, Property Manager for Millennium Plaza, spoke in favor of the item. He explained that he was not aware that they were short eleven parking spaces. Mr. Nguyen informed the Council that he feels that Millennium Plaza doesn't have any problems with parking.

Council Member Marsh asked Mr. Nguyen whether or not he leased the former Orange Pharmacy space to the subject applicant. Mr. Nguyen responded by saying yes.

Council Member Marsh asked Mr. Nguyen if he realized if the restaurant space increased, it would also increase the demand of parking in the shopping center, and whether or not he reviewed his permit with the City or the City's Municipal Code. Mr. Nguyen responded by saying no.

Council Member Ta feels that the applicant was not aware of the City's regulations and feels that they did not do it on purpose.

Calvin Le, owner of subject property, spoke in favor of the item. He informed the Council that when he wanted to expand the business he didn't realize that he needed a permit. He explained that he spoke to the Health Department and they said it was acceptable to do the expansion as long as there would be no changes to the kitchen. He said that as soon as he received a letter from the City stating that he wasn't in compliance, he contacted the City to rectify the situation. He asked for the Council to accept his apology for not having the appropriate permits.

Ray Silver, City Manager confirmed that in the year 2000, the builders of the Millennium Plaza did not receive a variance, but instead received from the Planning Commission, an approval to determine the parking requirements based upon the gross leasing area rather than the gross floor area.

The City Attorney informed the Council that since this item requires a resolution, there would need to be three affirmative votes in order to overturn the Planning Commission.

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

Council Member Marsh stated that the five criteria that would need to be met for a variance has not been satisfied in this situation.

**Motion was made by Council Member Marsh, and seconded by Mayor Rice to adopt Resolution No. 4142 entitled: "A Resolution of the Mayor and City Council of the City of Westminster upholding the Planning Commission's denial of a request to provide 67 parking spaces where 69 parking spaces are required for the Millennium Plaza retail center with the expanded restaurant (Vy Da), located at 9950 Bolsa Avenue (Assessor's Parcel Numbers: 143-041-30) (Case No. 2007-50)."**

The City Attorney informed the Council that in 2000, it was not a variance that was approved, it was a recalculation. Instead of the City's regular standards, they used a more aggressive standard to achieve the outcome of fewer parking spaces.

The motion carried by the following vote:

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

**4.2 ORDINANCE NO. 2428 – EXTENDING URGENCY ORDINANCE 2427 WHICH ESTABLISHED INTERIM DEVELOPMENT STANDARDS AND PROCEDURES FOR LARGE FAMILY DAY CARE (7-14 CHILDREN) FACILITIES IN THE SINGLE FAMILY RESIDENCE DISTRICT (CASE NO. 2008-01) (201-00) (CN 2008-01)**

Art Bashmakian, Planning Manager informed the Council that State law mandates that the City extend the Urgency Ordinance for an extended period of time.

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

SINCE THERE WERE NO SPEAKERS IN FAVOR OR IN OPPOSITION ON THIS MATTER, MAYOR RICE CLOSED THE PUBLIC HEARING.

**Motion was made by Mayor Pro Tem Quach**, and seconded by Council Member Ta to adopt Ordinance No. 2428 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster to extend Ordinance No. 2427 (Urgency) which established interim development standards and procedures for large family day care (7 - 14 children) facilities in the single family residential district for a period of ten (10) months and fifteen (15) days", and waive further reading.

The motion carried by the following vote:

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

**5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS**

**5.1 Council/Agency Member Items**

Council Member Marsh wished Council Member Fry to get well.

Council Member Ta expressed his appreciation to the Chamber of Commerce and the various sponsors for organizing the Public Service Awards on February 26, 2008. He is pleased to see the many outstanding people in the community.

Mayor Rice informed the Council that she met with the City Manager and the Building Official with Debbie Cook, Huntington Beach Mayor and Kurt Kammerer, Huntington Beach Energy Consultant and discussed filing jointly for an Energy Partnership Program that starts in 2009. She explained that by doing this it would allow cities to receive incentive money as well as money to cover the cost of administration. The City of Fountain Valley and Irvine will also be a part of this program. She stated that there will be no cost to the City for filing and no obligation to stay in the program.

The City Manager informed the Council that there is no obligation to commit to this program until the City receives the grant.

Council Member Marsh stated that he doesn't have a problem applying for this program, but he informed the Council that if it's a joint application he wants to make sure the City has an equal vote.

**5.2 AB 1234 Reports – None**

**5.3 Consideration of a Request from Yen Tan Pham, Project Manager to waive the required park in-lieu fee of \$142,681.65 for the previously approved 12 unit townhouse project (Case No. 2003-21) located at 7861 23<sup>rd</sup> Street. (Deferred from the February 13, 2008 meeting) (201-00) (CN 2003-21)**

Mayor Pro Tem Quach gave a brief description of the item and asked the Council to consider waiving the park in-lieu fee.

Council Member Marsh expressed that he is not in favor of waiving the fee and feels that in the future the City should require park space and not have an option for the park in-lieu fee. He stated that he doesn't have a problem extending the fees amongst all of the properties for the ease of collection, but he said that the fees do need to be collected.

**Motion was made by Council Member Marsh, and seconded by Mayor Pro Tem Quach to reject the requested fee waiver, agree to a limited deferral of the fee for a short period of time, collect a pro-rated fee as each unit is sold and place a lien on all of the parcels. If any amount of the fees in lieu has not been paid by January 1, 2009, the full amount will be collectable by enforcement upon the remaining properties in question.**

The motion carried by a 4-0 vote.

**6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR**

**6.1 Appropriation of Funds and Increase to Purchase Order for Building Division Plan Check and Inspection Services for Fiscal Year 2007-08 (502-13)**

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

- 1) Authorize an appropriation of \$30,000 from the Undesignated Unreserved Community Development Fund Balance to Building – Contractual Other; and
- 2) Authorize an increase to the purchase order with Melad & Associates in the amount of \$42,000.

The motion carried by a 4-0 vote.

**6.2 (City/Agency) Adoption of Resolutions terminating the Interest Rate Swap Agreement between the City of Westminster and Ambac Financial Services L.P. and the Westminster Redevelopment Agency and Ambac Financial Services L.P. (107-01)**

Paul Espinoza, Finance Director gave a brief explanation of this item and informed the Council that with the recent financial difficulties with Ambac Financial, it has put the City in a position to negotiate a decreased termination fee, which would be a one time fee of \$795,000. He explained that the funds requested will be used to terminate two Interest Rate Swap Agreements with Ambac Financial Services for the City of Westminster and the City Water Fund.

Council Member Marsh commended the Finance Director for his hard work on this matter and stated that the amount of money to terminate the agreement is no comparison to the risks that the City may encounter if they were not to terminate the agreements.

The City Attorney also informed the Council that the City's Bond Council and Financial Advisor were present at the meeting, and stated that even though the recommendation is due to the financial conditions of the marketplace it is an opportunity due to the effective negotiations by our staff to allow the transition from a variable rate to a fixed rate. He also stated that staff has briefed Council in closed session in regards to this item and they are fully aware of the situation.

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

- 1) Adopt Resolution No. 4143 entitled, "A Resolution of the Mayor and City Council of the City of Westminster approving the termination of two interest rate swap agreements relating to the City's Variable Rate Demand Certificates of Participation, Series 1998A (1998 Civic Center Refunding Program) and Variable Rate Demand Certificates of Participation 1998B (1998 Water System Refunding Program) and authorizing the City Manager to establish the final terms of such termination".

The motion carried by the following vote:

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

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

- 1) Approve an appropriation of \$530,350.00 to the Redevelopment Agency Debt Service; and
- 2) Adopt Resolution No. 189 entitled, "A Resolution of the Westminster Redevelopment Agency approving the termination of an interest rate swap agreement relating to the Westminster Commercial Redevelopment Project

No. 1 1997 Tax Allocation Refunding Bonds (Variable Rate Demand) and authorizing the Executive Director to establish the final terms of such termination”.

The motion carried by the following vote:

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

- 7. **WRITTEN COMMUNICATIONS (Public) - None**
- 8. **LEGISLATIVE ITEMS - None**
- 9. **COMMISSION AND COMMITTEE ITEMS**
- 9.1 **Resignation of Betty Poole from the Commission on Aging (Council Member Marsh Appointee) (104-03)**

Council Member Marsh directed staff to prepare a commendation for Betty Poole to recognize her for the years of service she has dedicated to the City.

**Motion was made by Mayor Pro Tem Quach**, and seconded by Council Member Marsh to accept the resignation of Betty Poole from the Commission on Aging, with regrets. The motion carried by a 4-0 vote.
- 10. **COUNCIL/AGENCY ADJOURNMENT:** At 8:30 p.m., Mayor/Agency Chair Rice adjourned the meeting in memory of William F. Buckley, Jr.

  
Amanda Jensen, Assistant City Clerk/  
Agency Secretary