

"Approved by the City Council/Redevelopment Agency Board on November 12, 2008"

CITY COUNCIL/REDEVELOPMENT AGENCY  
MINUTES OF A REGULAR MEETING

WESTMINSTER, CALIFORNIA  
September 10, 2008

The City Council/Redevelopment Agency Board of the City of Westminster, California convened on September 10, 2008 at 6:30 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Boulevard, Westminster, California.

**6:30 P.M.**

**CALL TO ORDER:**

**ROLL CALL**

PRESENT: RICE, QUACH, FRY (Arrived at 6:33 p.m.), MARSH, TA  
ABSENT: NONE

**CLOSED SESSION:**

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

- 1) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case). The City is not specifically identifying the potential litigation to be discussed or the facts supporting this Closed Session item because to do so would jeopardize the City's position.
- 2) Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Anticipated Litigation (one potential case re. 15192 Goldenwest Street).

**RECESS:**

**7:00 P.M.**

**RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING**

Mayor Rice reconvened the meeting in the Council Chambers at 7:10 p.m.

**ROLL CALL:**

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

**SALUTE TO FLAG:** Richard Jones, City Attorney

**INVOCATION:** Mayor Pro Tem Quach

**REPORT OUT OF CLOSED SESSION – None**

**SPECIAL PRESENTATIONS – None**

**REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS**

The Assistant 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**

**Item No. 4.1 - Case No. 2008-32 (Paracel Seafood)**

A memo from the Acting City Clerk dated August 9, 2008 stating that Resolution No. 4183 was inadvertently assigned to two agenda items. An amended staff report and resolution reflect Resolution No. 4187 as the reassigned number.

**ROUTINE MATTERS**

**1.1 Proclamation declaring October 24, 2008 as Developmental Disabilities Day in the City of Westminster. (115-00) (08)**

ACTION: Approved.

**1.2 Proclamation recognizing Legal Aid Society of Orange County on their 50<sup>th</sup> Anniversary – November 6, 2008. (115-00) (08)**

ACTION: Approved

**(ITEM REMOVED AND HEARD SEPARATELY)**

**1.3 First Option Year Renewal for Police Global Positioning Systems (GPS) Monitoring Services for FY 2008-09. (502-19)**

Darrell A Nolta, resident of Westminster, stated that he supports the item but is concerned with how effective the system is in aiding the police in terms of policing Westminster.

**Motion was made by Council Member Fry**, and seconded by Council Member Ta to authorize a purchase order in an amount not to exceed \$20,000 with S & L Services, Inc. for GPS monitoring services.

The motion carried by a 5-0 vote

**1.4 First Amendment to Agreement for Workers' Compensation Claims Administration Services for Fiscal Year 2008-09. (502-03)**

ACTION: The Mayor and City Council approved the first amendment to the agreement with CorVel (formerly known as Hazelrigg Risk Management Services) for the period July 1, 2008 through June 30, 2009, at an annual cost of \$58,500, and authorized the City Manager to execute the agreement amendment on behalf of the City.

**1.5 Keri Access Control System for City Buildings. (502-01)**

ACTION: The Mayor and City Council approved the purchase and installation of a Keri Access Control System from Access Security Controls International, Inc. (ASCI), in the amount of \$49,300.00.

**1.6 Covenant and Agreement to Hold Property as One Parcel for 6612 Walt Street. (502-32)**

ACTION: The Mayor and City Council accepted the subject document and authorized the City Clerk to record the agreement with the County Recorder's Office.

**1.7 Covenant and Agreement to Hold Property as One Parcel for 14452 Goldenwest Street. (502-32)**

ACTION: The Mayor and City Council accepted the subject document and authorized the City Clerk to record the agreement with the County Recorder's Office.

**1.8 Acceptance of Final Parcel Map Number 2007-178 for 7901 13<sup>th</sup> Street. (201-02) (PM 2007-178)**

ACTION: The Mayor and City Council accepted Final Parcel Map Number 2007-178 and authorized the City Clerk to sign, seal and record the map with the County Recorder's Office.

**ORDINANCES (SECOND READING)/RESOLUTIONS**

**1.9 Resolution No. 4184 – A Resolution of the Mayor and City Council of the City of Westminster Overturning the Planning Commission's Denial of a Design Review Application for Property Located at 9251 Bolsa Avenue (Assessor's Parcel Number 098-563-05) (Case No. 2008-24). Applicant: Lee's Sandwiches –Cheuk Yau; Property Owner: Chieu Van Le. (201-00) (CN 2008-24)**

ACTION: The Mayor and City Council adopted Resolution No. 4184.

**ADMINISTRATIVE ITEMS**

- 1.10 **Special Event Permit Application from the South Vietnamese Marines Association to hold a Memorial on Friday, October 31, 2008 between the hours of 3:00 p.m. and 9:30 p.m. (includes set up and clean up times). The event will take place at Sid Goldstein Freedom Park, 14180 All American Way, Westminster. Applicant estimates the attendance will be 400 people. (213-02) (SO)**

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

**WARRANT REGISTER**

- 1.11 **(City Council/Redevelopment Agency) Warrant Register dated August 20 through September 2, 2008. (105-09) (08)**

ACTION: Approved

**INFORMATION AND REPORTS**

- 1.12 **Minutes of the Planning Commission meeting held August 6, 2008. (104-11)**

ACTION: Received and filed.

**Motion was made by Council/Agency Member Fry**, and seconded by Council/Agency Member Ta, to approve the Consent Calendar, with the exception of Item No. 1.3 which was removed for separate consideration. The motion carried by a 5-0 vote.

**END OF CONSENT CALENDAR**

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**2. ORAL COMMUNICATIONS**

Sandra McClure, President of the Chamber of Commerce, announced the Chamber's upcoming events.

Harry Andrews, resident of Garden Grove, expressed his concerns with the parking and traffic issues at Hayden School.

Mayor Rice informed Mr. Andrews that Hayden School is located in Midway City and directed him to the School District and the County for assistance.

Judy Ahrens, resident of Westminster, shared her frustration with all the taxes that the citizens pay. She shared her concerns and urged voters to read all of the information before voting on Measure 0 on the Westminster School Safety

Teacher Recruitment/Fiscal Responsibility Bond. She asked that everyone fly their flags at half-mast in memory of September 11<sup>th</sup>.

Darrell A. Nolta, resident of Westminster, commended Mayor Rice for taking a strong stance on the Freedom Bridge item at the last City Council Meeting. He expressed concern with a recent incident that occurred on Brookhurst south of McFadden. He requested additional police patrol in that area. Mr. Nolta is also concerned with the trash in his neighborhood and requested that it be removed.

Vivian Kirkpatrick-Pilger, President of the Rose Center Foundation, provided a letter (on file in the Clerk's Office) requesting that the Rose Center Foundation be allowed a bingo operation at the Community Services East-West Room on Tuesdays from 5:00 p.m. to 9.00 p.m. and waive the usage fees. The urgency for this item is to allow for the advertising of this activity. (702-02)

### **3. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW**

#### **3.1 The actions of the Planning Commission meeting held on September 3, 2008.**

The Community Development Director reviewed the actions of the Planning Commission meeting of September 3, 2008.

- 1) Case 2008-47 Conditional Use Permit request to expand the dining area of an existing bar (Michael's Sports Pub & Grill) at 15192 Goldenwest Street.
- 2) Case 2008-45 Design Review for a proposed police station and adjoining parking facility at the Northwest corner of All American Way and 13<sup>th</sup> Street.
- 3) Case 2008-65 General Plan Conformity determination regarding the 2008 amendment to the redevelopment plan for the Westminster Infrastructure Revitalization Project

### **4. PUBLIC HEARINGS**

#### **4.1 Case No. 2008-32 (Conditional Use Permit) - Review of the Planning Commission's Action on August 6, 2008, an Application for a Conditional Use Permit to Request Live Entertainment on Weekdays from 7:00 pm to 10:00 pm in Conjunction with an Established Restaurant (Paracel Seafood), Located at 15583-15589 Brookhurst Street (Assessor's Parcel Number 143-143-07); Applicant: Ly Thi Hoang; Property Owner: Edward Wong (201-00) (CN 2008-32)**

Doug McIsaac, Community Services Director, provided a PowerPoint presentation (on file in the Clerk's Office) on the location and history of the proposed item.

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

Kim Hong, restaurant owner's daughter, requested that the Conditional Use Permit be extended to the weekdays, especially on Thursdays and Fridays in order to accommodate their customers.

Tu Pham, restaurant manager, stated he was present to answer any questions that Council may have.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION OF THIS ITEM.

Mindy Velasco, resident of Westminster, stated that the noise level has been unacceptable and that there is very loud behavior at the restaurant. She submitted for Council's review a petition signed by six of the eight residents that are opposed to the approval of the Conditional Use Permit. Ms. Velasco is concerned with activity that occurred outside Alertos that is located in the same structure as the Paracel restaurant.

Darrell A. Nolta, resident of Westminster, agreed with the previous speaker. He commended the restaurant for being very clean. Mr. Nolta expressed concern with the police document that lists violations of the existing permit.

SPEAKING IN REBUTTAL:

Tu Pham, restaurant manager, stated the restaurant only has a beer and wine license.

Kim Hong, restaurant owner's daughter, believes that the residents are confusing their business with a karaoke bar nearby. Their restaurant has security monitoring the noise and safety of the patrons.

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

Council Member Ta stated that he has attended many events at the restaurant and does not see any problem granting the extension. He requested that the owner of the restaurant monitor the noise.

Mayor Pro Tem Quach suggested adding a condition that the exit door in the back be sound proof. He asked that Council extend the live entertainment from Thursday to Sunday from 7:00 p.m. to 10:00 p.m. and add a probationary period with a six-month review.

Council Member Marsh expressed concern with the loud noise and does not want the noise to go on too late. His impression is that the restaurant does not have many violations. He is concerned with adding Thursday for live entertainment because Friday is a workday.

Council Member Fry stated that the noise is loud inside not outside and if the backdoor is soundproofed and closed the noise would not filter outside He has no problem with live entertainment Monday to Thursday until 10 pm and Friday to Sunday until 11 pm Council Member Fry agreed with the conditions stated by Mayor Pro Tem Quach

Mayor Rice prefers a 90-day probationary review period.

**Motion was made by Mayor Pro Tem Quach**, and seconded by Council Member Fry to adopt Resolution 4187 entitled: "A Resolution of the Mayor and City Council of the City of Westminster upholding the Planning Commission's approval to allow live entertainment on Thursday, Fridays Saturdays, and Sundays from 7:00 PM to 10:00 PM in conjunction with Paracel Seafood Restaurant located at 15583-15589 Brookhurst Street (Assessors Parcel Number 143-142-07) (Case No. 2008-32)," as amended to add a condition that the back door be sound proof and kept closed during the live entertainment hours with a 90-day probationary review period

The motion carried by the following vote:

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

**4.2 Case No. 2008-02 – (Conditional Use Permit and Variance) - Review of the Planning Commission's Approval of an Amendment to the Conditions of a Conditional Use Permit to Change the Hours of Operation for Live Entertainment from 9:30 pm to 11 pm and closing time to midnight from 10 pm at an existing banquet facility/restaurant; and appeal of the Planning Commission's denial of a variance to allow 13 fewer parking spaces than required by the Westminster Municipal Code (WMC) at 9741 and 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13); Applicant: Jerry Yates; Appellant: Catinat Plaza LP (201-00) (CN 2008-02)**

RECOMMENDATION: Staff recommends that the Mayor and City Council adopt Resolution No. 4183 entitled "A Resolution of the Mayor and City Council of the City of Westminster upholding the Planning Commission's approval to amend the conditions of a Conditional Use Permit (CUP) to extend the hours for live entertainment to 11 pm and closing to 12 am at an existing banquet facility/restaurant and denial of a variance to allow 13 fewer parking spaces than required by the Westminster Municipal Code located at 9741 and 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13) (Case No. 2008-02)."

Mayor Pro Tem Quach and Council Member Ta recused themselves from this item because they live within 500 feet of this address.

Art Bashmakian, Planning Manager, provided a brief history of the project and provided pictures (on file in the City Clerk's office) of the site.

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

Bart Kasperowicz, designated speaker for applicant, agreed with Mr. Bashmakian on the time of operation for the weekends. He provided a timeline on The Catinat Plaza. Mr. Kasperowicz stated that the Yogurt Passion currently has no seating allowed. He submitted for Council's review invoices from the security guard company enforcing the one-hour parking. Mr. Kasperowicz requested that Council grant the parking variance.

Keil Maberry, Principal Engineer, LLG Engineers, prepared the parking study analysis and stated he is prepared to answer any questions that Council may have.

Jerry Yates, Architect, stated that this is unique because it is a multi-use center. The second story leases out to businesses with different hours that provides for a favorable parking study result.

Peter Quant, speaking on behalf of the owner of Yogurt Passion, requested that Council grant them a minimum of twelve seats for Yogurt Passion.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION OF THIS ITEM.

Lynn Zachmeyer, resident of Westminster, provided a letter to the Council (on file in the Clerk's Office). She complained about the noise coming from the restaurant because the doors are left open and that the restaurant does not comply with the required hours of operation.

Darrell A. Nolta, resident of Westminster, said he agrees with Ms. Zachmeyer. He supports the Planning Commission in opposing the variance.

**SPEAKING IN REBUTTAL:**

Keil Maberry, Principal Engineer, restated the findings from the parking study analysis. He said that the valet parking is available for everyone to use. The offices do not require weekend parking just the restaurant.

Jerry Yates, Architect, said that the valet is not reserved and anyone can to use it at no extra cost.

Bart Kasperowicz addressed Ms. Zachmeyer's comment that the restaurant is operating at extended hours. He explained that the one incident was due to a Cancer Survivor Fundraiser and that attendees lingered in the parking lot. He is open to a probationary review period if the Council were to grant them the seating at the other restaurants.

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

Ray Silver, City Manager, clarified that staff is recommending the change of the hours but not the variance. Council can instruct staff to explore with the applicant the development of a specific plan, which would have separate parking requirements and standards or modify the Parking Code and the Zoning Code to allow for a shared parking arrangement in this particular type of facility.

Council Member Marsh thinks that a review of the Code for the square footage the City allows per parking space for upper story commercial uses could help address this problem over time. Council Member Marsh stated that the applicant could deal with this problem immediately if the Royal restaurant reduced their seating and allocated some of that seating to the other tenants. Council needs to add the requirement of soundproofing of the doors and that they remain closed during the live entertainment hours. He requested that the valet pickup station be moved to accommodate for the noise

**Motion was made by Council Member Fry**, and seconded by Council Member Marsh to extend the hours for live entertainment on Friday, Saturday and Sunday to 11 pm and closing to 12 am at an existing banquet facility/restaurant located at 9741 and 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13) (Case No. 2008-02)," as amended with the added condition of sound proofing the back door

The motion carried by the following vote:

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

**Motion was made by Council Member Marsh**, and seconded by Council Member Fry to affirm the Planning Commission denial of a variance to allow 13 fewer parking spaces than required by the Westminster Municipal Code located at 9741 and 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13) (Case No. 2008-02)." and adopt Resolution No. 4183 entitled "A Resolution of the Mayor and City Council of the City of Westminster upholding the Planning Commission's approval to amend the conditions of a Conditional Use Permit (CUP) to extend the hours for live entertainment to 11 pm and closing to 12 am at and existing banquet facility/restaurant, located at 9741 and 9743 Bolsa Avenue (Assessor's Parcel Number 098-453-13) (Case No. 2008-02)" and its findings, "with the added condition of sound proofing the back door."

The motion carried by the following vote:

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

**Motion was made by Council Member Fry**, and seconded by Mayor Rice to direct staff work with the applicant to attempt to address the parking issue immediately through a shared parking arrangement so that they can address their immediate parking needs without violating City Code.

The motion carried by the following vote:

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

THE MAYOR/CHAIR AND CITY COUNCIL/AGENCY BOARD RECESSED AT 9:27 P.M. AND RECONVENED AT 9:40 P.M. ALL MEMBERS WERE PRESENT.

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

**5.1 Council/Agency Member Items**

The Mayor and all the Council Members encouraged attendance at the September 11<sup>th</sup> Memorial service tomorrow at 10:00 a.m. at Freedom Park.

Mayor Rice announced that Pastor Bill Smith passed away Sunday and that Madlyn Woodyard also recently passed away.

**5.2 AB 1234 Reports – None**

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

**6.1 (City/Agency) Purchase Orders for Legal Services for FY 2008-09. (502-02)**

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

- 1) Authorize a budget transfer in the amount of \$140,000 from the Redevelopment Operating Fund Contingency to the Redevelopment Administration Operating Fund in the amount of \$40,000 and to the Low/Moderate Income Housing Fund in the amount of \$100,000; and
- 2) Authorize two purchase orders for a total amount of \$140,000 with Best, Best and Krieger for legal services.

The motion carried by a 5-0 vote.

**6.2 Consideration of Alternative Date(s) or Cancellation of the Regular Meetings of November 26, 2008 and December 24, 2008 and Extension of the 2008 Furlough. (103-08) (08)**

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

- 1) Cancel the regular meetings of November 26, 2008 and December 24, 2008; and
- 2) Extend the 2008 furlough one additional day to include Friday, January 2, 2009.

The motion carried by a 5-0 vote.

**7. WRITTEN COMMUNICATIONS (Public) –None.**

**8. LEGISLATIVE ITEMS – None.**

**9. COMMISSION AND COMMITTEE ITEMS**

**9.1 Youth Committee Appointments. (104-17)**

**Motion was made by Council Member Ta**, and seconded by Council Member Fry to appoint Pauline Nguyen, Lucy Wang and Judith Ayala as the three (3) regular members and Catherine Nguyen, Richard Tran, Krystal Lam and Kim Huynh as the four (4) alternate members (in the order of 1<sup>st</sup> through 4<sup>th</sup> alternate respectively), to serve on the City's Youth Committee, for terms to expire on June 30, 2009.

The motion carried by a 5-0 vote.

**10. COUNCIL/AGENCY ADJOURNMENT** – Mayor/Agency Chair Rice adjourned the meeting at 9:48 p.m. in memory of Pastor Bill Smith and Mrs. Madlyn Woodyard.

  
Patricia Jacquez-Nares  
Assistant City Clerk/Acting Agency Secretary