

7:00 P.M.

ROLL CALL: 7:10 P.M.

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

SALUTE TO FLAG: Christian Bettenhausen, Assistant City Attorney

INVOCATION: Council Member Quach

REPORT FROM CITY CLERK ON LATE COMMUNICATION ITEMS

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.

Item No. 4.3 Public hearing to consider adoption of Resolution No. 4259 - "A Resolution of the Mayor and City Council of the City of Westminster, Rescinding Resolution No. 4193 and Adopting Administrative Rules and Regulations for the City Water System Pursuant to the Municipal Code" (610-13)

- 1) Submitted by the Department of Public Works, changes to proposed Resolution No. 4259 as noted on pages 3, 7, 8 and 11.
- 2) Correspondence from Midway City resident Lori Griffin, received by the City Clerk's Office on September 9, 2009, addressed to Mayor Rice and the Members of the Westminster City Council, relating concerns of a surcharge rate increase for water services.

1. SPECIAL PRESENTATIONS:

- A. The Mayor and City Council presented the City of Westminster Retirees plaques in appreciation for their service as follows: Thomas Broderson (Police Sergeant), Mark Groh (Police Sergeant), James Bock (Leadworker), Jeffrey Howell (Public Works Manager), Andrew Hall (Police Chief), and Joseph Jaksha (Maintenance Worker II).
- B. The Mayor and City Council introduced the new Orange County Fire Authority Fire Chief Keith Richter.

- C. Paul Espinoza, Finance Director/City Treasurer provided a PowerPoint Presentation (on file in the City Clerk's Office) and brief summary of the adopted Budget for the 2009-10 Fiscal Year.

2. ORAL COMMUNICATIONS

Judy Ahrens, resident of Westminster, spoke to her views on current political events.

Vaughn Becht, resident of Westminster, referenced correspondence dated August 5, 2009 to the Mayor and City Council related to issues on housing, taxes, water, and business and thanked City staff for responding to said concerns. He then stated that he will be submitting a Public Records Act request inquiring on City leaders communications to elected representatives regarding the above stated concerns. He further commented that his correspondence dated August 5, 2009 and City staff response dated August 17, 2009 be made a public record as written communication.

Vivian Kirkpatrick-Pilger, resident of Westminster, commended B.J. Savage on the Ken Worley Memorial. She expressed her concerns with the stray shopping carts. She also addressed the August 5, 2009 letter she sent to Council, which did not receive a response. Ms. Kirkpatrick-Pilger requested that Council spearhead a change to the redevelopment law by contacting the elected officials and finding out what needs to be done to affect that change. She requested to have the specifics on the cost to send the Mayor and Council to the Shopping Center Conference.

Reyna M. Reynoso, Public Affairs Manager, The Gas Company, introduced herself to the Mayor, City Council and City staff.

Darrell A. Nolta, expressed concerns on the following matters: Number of Drinking Under the Influence (DUI) cases in the community; Conditional Use Permits granted for liquor licenses; pay increases to Metropolitan Water District members; potential impact of swine flu cases in the community and concerns with County assistance in preparedness and response when needed.

Diana Lee Carey, I-405 Ad Hoc Committee Chair, updated the Council on the Committee's meetings with Orange County Transportation Authority (OCTA) and the OCTA scoping meetings. OCTA will hold a meeting on September 30, 2009 in the City of Westminster.

Marwan Youssef, Director of Public Works, reviewed the I-405 expansion alternatives and updated the Council on the meetings with OCTA.

3. CONSENT CALENDAR

APPROVAL OF MINUTES

- 3.1 (Council/Agency) Minutes of the Regular Meetings of the City Council/Redevelopment Agency of June 24, 2009, July 22, 2009 and August 12, 2009.**

ACTION: Approved.

ROUTINE MATTERS

- 3.2 Award Contract to CCI Network Services for digital telephone lines and Direct Inward Dialing. (502-03)**

ACTION: The Mayor and City Council awarded a (two) 2 year contract to CCI Network Services for (two) 2 digital Primary Rate Interface (PRI) telephone lines and 300 Direct Inward Dialing (DID) phone numbers.

- 3.3 Acceptance of Final Parcel Map 2008-124 (201-02 PM)**

ACTION: The Mayor and City Council accepted Final Parcel Map No. 2008-124 and authorized the City Clerk to sign and seal the map.

- 3.4 Increase Purchase Order with Liebert Cassidy Whitmore to Provide Legal Services for the City. (502-12)**

ACTION: The Mayor and City Council approved an increase to the purchase order with Liebert Cassidy Whitmore in the amount of \$25,968.89.

- 3.5 (Council/Agency) Purchase Order for sales tax audit services with Hinderliter, de Llamas & Associates, (HdL) for the fiscal year 2009-10. (502-08)**

ACTION: The Mayor/Chair and the City Council/Agency Board authorized a purchase order with HdL for sales tax audit services in the amount of \$14,000.

- 3.6 (Council/Agency) Purchase Order for property tax audit services with Hinderliter, de Llamas & Associates, (HdL) for the fiscal year 2009-10. (502-08)**

ACTION: The Mayor/Chair and the City Council/Agency Board authorized a purchase order for property tax audit services in the amount of \$30,000 from HdL Coren & Cone (HdL).

3.7 Option Year Renewal for Ambulance billing services for FY 2009-10 (502-03)

ACTION: The Mayor and City Council approved the option year renewal of the contract with Chupan Medical Computer Services (CMCS) in an amount not to exceed \$100,000 for the fiscal year 2009-10.

3.8 Cooperative Agreement C-9-0653 between Orange County Transportation Authority (OCTA) and the City of Westminster for the West County Connectors Project (502-15)

ACTION: The Mayor and City Council approved the Agreement and authorized the Mayor to execute the Agreement on behalf of the City.

3.9 Administrative approval of fee waiver for the U.S. Department of Commerce, Bureau of the Census for the use of the Craft room to hold a workshop on Tuesday, August 4, 2009 from 10:00 a.m. - 12:00 p.m. (702-06)

ACTION: The Mayor and City Council received and filed the report.

ORDINANCES (SECOND READING)/RESOLUTIONS

3.10 Second Reading of Ordinance No. 2453 - 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 Establishing Standards to Permit the Use and Application of Artificial Turf. (201-00 CN 2009-24)

ACTION: The Mayor and City Council adopted Ordinance No. 2453 and waived further reading.

3.11 Second Reading of Ordinance No. 2455 - An Ordinance of the Mayor and City Council of the City of Westminster, Repealing Chapters 8.16 and 9.32 of the Westminster Municipal Code and Replacing Chapter 8.16 to Title 8 Relating to a Comprehensive Waste Management Program. (209-05 & 609-09)

ACTION: The Mayor and City Council adopted Ordinance No. 2455 and waived further reading.

WARRANT REGISTER

3.12 (Council/Agency) Warrant Register dated August 11, 2009 through September 1, 2009. (105-09) (2009)

ACTION: Approved.

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to approve the Consent Calendar.

The motion carried by a 5-0 vote.

END OF CONSENT CALENDAR

4. PUBLIC HEARINGS

4.1 FY 2008/09 Consolidated Annual Performance and Evaluation Report (CAPER) (109-04) (2009)

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OR IN OPPOSITION OF THIS ITEM. THERE BEING NO SPEAKERS, MAYOR RICE CLOSED THE PUBLIC HEARING.

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

- 1) Hold a Public Hearing to hear comments on and approve the FY 2008-09 Consolidated Annual Performance and Evaluation Report for the Community Development Block Grant (CDBG) Program and the HOME Investments Partnership Act Grant (HOME) Program; and
- 2) Authorize the City Manager to transmit this report to the U.S. Department of Housing and Urban Development (HUD) by September 28, 2009.

The motion carried by the following vote:

AYES:	RICE, TA, FRY, QUACH DIEP
NOES:	NONE
ABSENT:	NONE
ABSTAINED:	NONE

4.2 Review of the proposed Zoning Text Amendment (ZTA) to Section 17.46.040(P) of the Westminster Municipal Code, which will reduce the amount of parking spaces required for retail food and beverage service businesses offering twelve or fewer seats (202-01)

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OR IN OPPOSITION OF THIS ITEM. THERE BEING NO SPEAKERS, MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Quach, thanked staff for their work on this item and for providing the distinction between the small and large restaurants.

Motion was made by Council Member Fry, and seconded by Council Member Quach to introduce Ordinance No. 2457 entitled, "An Ordinance of the Mayor and City Council of the City of Westminster Amending Section 17.46.040(P) of Title 17 (Land Use Ordinance) of the Westminster Municipal Code which Reduces the Amount of Parking Spaces Required for Retail Food and Beverage Service Businesses Offering Twelve or Fewer Seats."

The motion carried by the following vote:

AYES:	RICE, TA, FRY, QUACH DIEP
NOES:	NONE
ABSENT:	NONE
ABSTAINED:	NONE

4.3 Public hearing to consider adoption of Resolution No. 4259 - "A Resolution of the Mayor and City Council of the City of Westminster, Rescinding Resolution No. 4193 and Adopting Administrative Rules and Regulations for the City Water System Pursuant to the Municipal Code" (610-13)

Marwan Youssef, Public Works Director, provided a brief history of this item. He announced the Ad Hoc Water Rate Structure Committee Members: Mayor Rice, Mayor Pro Tem Ta, Phil Anthony, Gloria Reyes, Darrell A. Nolta, Lee Lieberg, Judy Ahrens, and Kermit Marsh. He also introduced the consultants Brian Jewett and Greg Tobler from Willdan Financial Services. He noted the corrections presented in the late communications.

Brian Jewett of Willdan provided a PowerPoint presentation (on file in City Clerk's Office).

Council Member Diep questioned the bi-monthly service charge of \$5.78.

Mr. Jewett explained that these are fixed charges and the \$5.78 charge is the cost to service the meter and the \$6.48 charge is for the meter this charge varies to match the size of the meter.

Mayor Pro Tem Ta said this proposal gives the consumer more control on their water expense.

Council Member Fry asked if any of this money is going to increase the water the City gets from the delta.

Marwan Youssef, Public Works Director, informed Council that staff will have a monitoring model to adjust the rates.

Council Member Diep asked if the City has considered money from our reserves to help the customers.

Marwan Youssef, Public Works Director, said no the City has tried to generate the revenues all from the rate system.

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

Phil Anthony, resident of Westminster and Member of Water Rate Ad Hoc Committee spoke in favor. He said the City does a very good job in controlling the operations costs. The City did the best job they could in controlling its own costs and in distributing the cost to the water users as fairly as possible.

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

Michael Tonnesen, resident of Westminster, read his opposition statement into the record (on file in the City Clerk's Office) and suggested the use of gray water as an alternative.

Gary Burton, resident of Westminster, spoke in opposition. He expressed his concerns with the current and proposed water rate increases.

Dale Bradberry, resident of Westminster, spoke in opposition and stated concerns with the Metropolitan Water District's spending. He asked the residents to ask their legislators to help with the water problem.

Judy Ahrens, resident of Westminster and Member of Ad Hoc Water Rate Committee, and spoke in opposition and commended Michael Tonneson for being so articulate. She further commented on water conservation in the community and encouraged the City be bold and say enough is enough to these increases.

Vivian Kirkpatrick-Pilger, resident of Westminster, spoke in opposition. She questioned Government Code 53735 on the Public Hearing Notice which infers that the City will transfer unencumbered funds to the next fiscal year. Ms. Kirkpatrick-Pilger asked why single-family homes pay more than multi-family dwellings and does not think it is fair. She requested that the City on their website put the list the names and addresses of the people that can be contacted to complain about the Metropolitan Water District water rates.

IN REBUTTAL:

Phil Anthony, spoke in rebuttal, stating he agrees with some of the opponents comments except for the water rate for single-family homes being unfair is not correct. The rate for single-family homes seems higher because 50 percent of their water use is for the outdoors. He then noted that none of the Committee Members opposed this rate proposal during their meetings and now they speak in opposition. Mr. Anthony then related that he feels this rate increase is to cover the true cost of the water incurred by the City. He requested the resolution be amended to include the reduction of the rates if applicable in the future.

Mayor Rice asked for a list of names of the members on the Metropolitan Water Board.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Mayor Pro Tem Ta thanked the residents that came to share their concerns. He requested that the consultant address the opposition's concerns.

Marwan Youssef, Director of Public Works, clarified the current and proposed water rate information.

Brian Jewett, Willdan, said the current rate structure for single-family dwellings is three tiers and the new rate structure is two tiers; the City's rate is increasing to cover the water cost increase.

MAYOR RICE REOPENED THE PUBLIC HEARING.

Michael Tonnesen, resident of Westminster, speaking in opposition and stating he believes the rate will be increasing by 77 percent.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Mayor Pro Tem Ta believes that the residents' concerns are with the part of the resolution that allows for automatic rate increases.

Marwan Youssef, Director of Public Works, clarified that what the resolution has is a pass through cost clause. This resolution is good for two years. If the cost of water decreases, staff will come to Council to decrease the rate.

Christian Bettenhausen, Assistant City Attorney, informed Council that by State Law this issue would need to come back to Council in five years. The water lifeline rates are funded by General Fund money.

Council Member Diep asked how much money is in the Water Enterprise Reserve Fund.

Paul Espinoza, Finance Director, said there is approximately 1.7 million dollars for the water fund however, if the City does not change the rates and continues to operate in the same manner the 1.7 million positive reserves will go into the negative. That cannot happen because the City has a bond that is currently outstanding. The bond covenants require that the City maintain a 1.2 percent debt to service ratio. The City must have above 20 percent in revenue over expenditures. The failure to have that amount would mean that the City is in breach of the bond covenants and that bond will be callable which would cost the City roughly eight million dollars. If the City chooses to use reserves at this time to help offset our defrayed costs, the impact would be that the bond for the water fund becomes callable.

Council Member Diep is not in favor of depleting the City's reserves but Council has used General Fund reserves in the past for other expenditures. He just wants Council to consider using reserve money to help our residents.

Brian Jewett, Willdan, informed Council Member Diep that on page 10 of the report it shows the fund balance is 1.7 million and the City used 1.2 million to stabilize the rates. The reserve balance is projected not to exceed 90 days of operating funds.

Motion was made by Mayor Rice, and seconded by Council Member Fry to adopt Resolution No. 4259 entitled, "A Resolution of the Mayor and City Council of the City of Westminster, Rescinding Resolution No. 4193 and Adopting Administrative Rules and Regulations for the City Water System Pursuant to the Municipal Code" as amended to include the reduction of rates if the water purchase cost is reduced.

The motion carried by the following vote:

AYES:	RICE, TA, FRY
NOES:	QUACH
ABSENT:	NONE
ABSTAINED:	DIEP

Council Member Quach does not support any increases but acknowledges the efforts of those involved with respect to this matter.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Pro Tem Ta welcomed the new City Clerk, Robin Roberts.

Council Member Diep invited everyone to attend the 911 Remembrance at Sid Goldstein Freedom Park on Friday at 10:00 a.m.

Mayor Rice invited everyone to attend the 911 ceremony at Freedom Park and she requested this ceremony be done every year. She asked Council to cancel the September 30, 2009 City Council meeting due to the OCTA I-405 Expansion community meeting. Mayor Rice along with the Council Members support will prepare a letter of protest addressed to the Metropolitan Water District Board. She urged the citizens to write letters as well.

5.2 AB 1234 Reports – None

6. REGULAR BUSINESS

6.1 Response to Orange County Grand Jury Findings and Recommendations Regarding the 2008-2009 Orange County Grand Jury Report entitled "Paper Water - Does Orange County Have a Reliable Future?" (112-18) (2009)

Motion was made by Council Member Quach, and seconded by Mayor Pro Tem Ta to review the responses and authorize staff to forward the response letter to the Honorable Kim Dunning, Presiding Judge of the Superior Court and to the Orange County Grand Jury.

The motion carried by a 5-0 vote.

6.2 Approval of 2009 Recovery Act Edward Byrne Memorial Justice Assistance Grant Memorandum of Understanding (502-15)

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

1. Authorize the City Manager to execute the agreement with the Orange County Sheriff's Department to transfer funds for the Fiscal Year 2009 Recovery Act Edward Byrne Memorial Justice Assistance Grant (JAG) Program in the amount of \$147,105; and
2. Approve an appropriation of \$1,616 for the 2009 Recovery Act Edward Byrne Memorial JAG Program to the Local Law Enforcement Block Grant (LLEBG), Grant Revenue for the FY 2009-10 budget (Account No. 39910-34098); and
3. Approve an appropriation of \$1,616 to the LLEBG Fund expenditure budget for the FY 2009-10 to Contractual Services (Account No. 39910-43090).

The motion carried by a 5-0 vote.

6.3 Funding for the Tet Parade and Founder's Day Parade and Festival FY 09-10 (105-12) (2009)

Motion was made by Mayor Pro Tem Ta, and seconded by Mayor Rice to authorize a budget transfer in the amount of \$70,000 from the Community Development Fund to the Community Services - Special Department Expense budget.

Council Member Quach requested staff time to help with this event. He requested that a Council Member be a co-chair to help with this year's fundraising efforts for this event.

The motion carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public)

7.1 Request from Philip Hodgetts, Energy Committee, to allow the use of a Community Services Room for the purpose of holding meetings for the Orange County Renewable Energy Society on the second Thursday of each month from 6:45 p.m. to 8:00 p.m. (estimated attendance is 30-50 people). (103-09) (2009)

Phil Hodgetts, Energy Committee Chair, clarified that their meeting dates are until the end of this year.

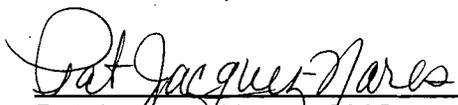
Motion was made by Council Member Fry, and seconded by Council Member Quach to approve the request from Philip Hodgetts, Energy Committee, to allow the use of a Community Services Room for the purpose of holding meetings for the Orange County Renewable Energy Society on the second Thursday of each month from 6:45 p.m. to 8:00 p.m. from September to December 2009 (estimated attendance is 30-50 people).

The motion carried by a 5-0 vote.

8. LEGISLATIVE ITEMS – None

9. COMMISSION AND COMMITTEE ITEMS – None

10. COUNCIL/AGENCY ADJOURNMENT: At 10:03 p.m., Mayor/Agency Chair Rice adjourned the meeting in memory of Mr. Earl French, to Wednesday, October 14, 2009 at 7:00 p.m. in the Council Chambers.



Pat Jacques-Nares, CMC
Assistant City Clerk