
CITY OF YORBA LINDA
CITY COUNCIL/REDEVELOPMENT AGENCY
JOINT MEETING MINUTES

MAY 20, 2008

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING
CONVENING AT 5:30 P.M.

CALL TO ORDER

The City Council/Redevelopment Agency convened at 5:30 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members Present: Anderson, Castellano, Horton, Wedaa, Winder
Staff Members Present: Carvalho, Gruchow

CLOSED SESSION

CITY COUNCIL

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Government Code Section 54956.9(a)

Name of Case: Stuart Glenn, Wen Jong Wu, et al. v. City of Yorba Linda, et al.

Case Number: Orange County Superior Court Case No. 06CC00083

Government Code Section 54956.9(a)

Name of Case: Placentia-Yorba Linda Unified School District v. City of Yorba Linda et al.

Case Number: Orange County Superior Court Case No. 06CC10534

B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION, INITIATION OF LITIGATION

Government Code Section 54956.9(c) (1 case)

C. CONFERENCE WITH LABOR NEGOTIATOR

Government Code Section 54957.6

Labor Negotiator: Acting City Manager Gruchow

Employee Organization: Yorba Linda Mid-Management Association; Yorba Linda Chapter of the Orange County Employees Association; and Department Heads

RECESS

**CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING
RECONVENING AT 6:30 P.M.**

CALL TO ORDER

The City Council/Redevelopment Agency reconvened at 6:41 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members Present: Anderson, Castellano, Horton, Wedaa, Winder

Staff Members Present: Carvalho, Christiansen, Conklin, Gruchow, Hartman, Leto, Ostendorf, Steep, Stowell

PLEDGE OF ALLEGIANCE – Acting City Manager Dave Gruchow

INVOCATION

Pastor Kathleen Puntar, United Methodist Church

CLOSED SESSION REPORT

City Attorney Carvalho stated there was no reportable action taken in closed session.

INTRODUCTIONS & PRESENTATIONS

PRESENTATION OF PROCLAMATION TO THE AMERICAN LUNG ASSOCIATION OF CALIFORNIA ACKNOWLEDGING "WORLD NO-TOBACCO DAY" - NATALIE MARTINEZ, PROGRAM DIRECTOR, WILL ACCEPT THE PROCLAMATION

Mayor Winder presented a Proclamation acknowledging "World No-Tobacco Day" to Natalie Martinez, Program Director, who accepted the proclamation on behalf of the American Lung Association.

At the request of Mayor Winder, Captain Conklin gave a brief report on the Brea Police Department's plans for education and enforcement efforts regarding tobacco sales to minors.

PUBLIC COMMENTS - ITEMS ON THE CONSENT CALENDAR OR ITEMS NOT ON THE REMAINDER OF THE AGENDA

Pat Nelson, resident, commented on Item 12 and made an announcement on behalf of the Yorba Linda Arts Alliance that the annual "Celebration of the Arts" will be held on Sunday, June 1, 2008.

Lee Day, resident, discussed the staff report for Item 13 and stated that it did not report the ten percent the City receives from the County of Orange.

Betty Hirsch, Vice President of the Yorba Linda Senior Club Executive Board, discussed a complaint filed against the Senior Citizens organization by a resident.

Greg Gillaspy, resident, spoke regarding the City of Anaheim's proposed 200 megawatt power plant at Miraloma Avenue and Kraemer Boulevard to serve Anaheim residents and the negative impacts it will cause on the residents of Yorba Linda. He suggested alternate sites Anaheim could use.

Claudine Lynch, resident, thanked all of Council for their actions regarding a town center investigation and read some of Greg Brown's notes regarding blockers. She asked Council to continue to go forward.

Nancy Rikel, resident, thanked Council for their collaborative effort for the investigation of the town center investigation.

James Prather, resident, asked what the budget for the investigation is and what action will be taken after the investigation.

Louie Scull, local business property owner, stated he has supported City staff for years and he sees some hemorrhaging of staff leaving and going other places and they should be left alone.

Jerry Kirschner, resident, discussed the Town Hall meeting and stated that it was not informal at all.

Roslyn Ruocco, owner of Main Street Restaurant, asked if anything is being done about the back side of Main Street.

CONSENT CALENDAR

Mayor Winder stated he will abstain on Item 3, the minutes of the May 6, 2008 meeting, as he was absent from that meeting.

Councilmember Wedaa asked that Items 6 and 7 be removed from the Agenda.

Councilmember Anderson disclosed that he is an Assistant District Attorney in charge of a specialized gang unit and will have to abstain on Item 7.

It was **MOVE/SECONDED – CASTELLANO/HORTON** – to approve the Consent Calendar with Mayor Winder abstaining on Item 3 and the removal of Items 6 and 7.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

1. **WAIVE READING IN FULL OF ALL ORDINANCES AND RESOLUTIONS ON THE AGENDA**

The City Council/Redevelopment Agency approved the reading by title of all ordinances and resolutions on the agenda and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

2. **ACCOUNTS PAYABLE WARRANT LISTS**

The City Council/Redevelopment Agency approved the Accounts Payable Warrant Lists.

3. APPROVAL OF THE MINUTES OF THE MAY 6, 2008 JOINT MEETING OF THE CITY COUNCIL/REDEVELOPMENT AGENCY

The City Council/Redevelopment Agency approved the minutes of the May 6, 2008 joint meeting with Mayor Winder abstaining as he was absent from that meeting.

4. APPROVAL OF THE MAY 13, 2008 CITY COUNCIL ADJOURNED MEETING

The City Council approved the minutes of the May 13, 2008 City Council meeting.

5. TREASURER'S REPORT - MARCH 2008

The City Council/Redevelopment Agency received and filed the report.

6. REMOVED

7. REMOVED

8. GO LOCAL PARTNERSHIP PROGRAM

The City Council approved the Go Local Program Step 1 Report/Funding Application to OCTA for Step 2 funding to advance the development of the project concept.

9. AWARD OF CONTRACT - VILLAGE CENTER DRIVE MEDIAN MODIFICATIONS AT YORBA LINDA BOULEVARD

The City Council awarded the contract for the Village Center Drive Median Modifications Project at Yorba Linda Boulevard to California Engineering & Contracting, Inc., in the amount of \$75,327.00 and rejected all other bids.

10. CHANGE ORDER NO. 1 OF AMENDMENT NO. 1 TO SECOR INTERNATIONAL, INC., CONTRACT TO CONDUCT ADDITIONAL TASKS REQUIRED BY ORANGE COUNTY HEALTH CARE AGENCY FOR THE SITE REMEDIATION OF THE NORTHEAST CORNER OF IMPERIAL HIGHWAY AND LEMON DRIVE

The City Council authorized the Mayor to execute Change Order No. 1 to Amendment No. 1 to the Professional Services Agreement with Secor International, Inc. for interim site remediation and ongoing site monitoring on a time and materials basis, not to exceed \$26,630.63 funded with RDA bond proceeds.

11. CHANGE ORDER NO. 1 TO AMENDMENT NO. 2 TO OVERLAND, PACIFIC & CUTLER, INC. CONTRACT FOR THE LAKEVIEW AVENUE WIDENING FROM ORIENTE DRIVE TO BASTANCHURY ROAD PROJECT

The City Council approved Change Order No. 1 to Amendment No. 2 to the Professional Services Agreement with Overland, Pacific & Cutler, Inc. for right-of-way acquisition services in the amount of \$17,000.00.

12. RESOLUTION NO. 2008-3920 , A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YORBA LINDA TO HOLD A PUBLIC HEARING TO ASCERTAIN WHETHER PRIVATE PROPERTY LOCATED IN THE CITY OF YORBA LINDA CONSTITUTES A PUBLIC NUISANCE

The City Council adopted Resolution No. 2008-3920.

13. STREET LIGHTING AND LANDSCAPING MAINTENANCE DISTRICT, ARTERIAL STREET LIGHTING AND LANDSCAPING ZONES UPDATE

The City Council received and filed the report.

End of Consent Calendar

- ITEM 6: APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR BIDS FOR THE EMERGENCY BACKUP POWER GENERATOR INSTALLATION AT CITY HALL

Councilmember Wedaa asked that this item be deferred for two weeks as he wants to talk to the Air Quality Management District relative to the use of diesel in this location.

Parks & Recreation Director Leto noted that the contractor will not be available to attend the next meeting to discuss detailed information regarding the generator.

It was **MOVED/SECONDED – CASTELLANO/HORTON** – to continue this item to the June 3, 2008 City Council meeting. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder

NOES: None

ABSENT: None

- ITEM 7: RENEWAL OF AGREEMENT WITH COUNTY OF ORANGE FOR THE PROVISION OF PROSECUTION SERVICES

Councilmember Anderson left the dais/Council Chambers to avoid a conflict of interest.

Councilmember Wedaa inquired if this agreement could be used for investigative services also.

Acting City Manager Gruchow stated that services outside their normal services have never been discussed.

Discussion ensued.

Councilmember Castellano stated it would be a conflict as this particular Council has one Councilmember who is part of the District Attorney's office.

It was **MOVED/SECONDED – WEDAA/HORTON** - to approve the agreement with the County of Orange for the provision of prosecution services, authorize the Mayor to sign the agreement, and the City Clerk to attest. **MOTION CARRIED** by the following roll call vote:

AYES: Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: Anderson (To avoid a conflict of interest.)

Councilmember Anderson returned to the Council Chambers and the dais.

PUBLIC HEARINGS

14. PUBLIC HEARING REGARDING WEED ABATEMENT AND FUEL MODIFICATION MAINTENANCE PROGRAM AND ORDERING ABATEMENT

- a. Open Public Hearing – Mayor Winder opened the public hearing.
- b. Staff Report – Community Development Director presented the written staff report stating that tonight sets the process for abating the nuisance, modifications have been made to the process, and estimates are no longer given.
- c. Take Testimony – No testimony was forthcoming.
- d. Close Public Hearing – Mayor Winder closed the public hearing.
- e. Make Determination:

It was **MOVED/SECONDED – CASTELLANO/WEDAA** – to adopt Resolution No. 2008-3930, declaring that weeds growing upon or in front of certain property in the City constitute a public nuisance and ordering abatement thereof. **MOTION CARRIED** by the following roll call vote:

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

MAYOR'S REPORT

Mayor Winder reported on the Rotarian's Lobster Fest and stated that 4,400 pounds of lobster and 900 pounds of steak were consumed and that it was an outstanding event. He also noted that approximately \$85,000 from the event will be available for student grants and nonprofits.

Mayor Winder stated that a comment was made regarding the change and purpose of the May 27th meeting and he explained that with the need to interview candidates for Interim City Manager and the resignation of the Community Development Director, it was critically important to move those interviews up as soon as possible.

MATTERS PRESENTED BY COUNCILMEMBERS

Upon inquiry from Councilmember Wedaa regarding the status of the Woodbridge/Casino Ridge Agreement, Public Works Director Stowell stated that at this point there is no resolution to the items that were to be worked out.

City Attorney Carvalho responded to questions from Councilmember Wedaa relative to the interview of attorneys for Measure B.

Councilmember Wedaa inquired as to the feedback from the Request for Proposals (RFP's) for investigative services.

Management Analyst Aalders responded that 32 RFP's have been sent out to date and three or four inquiries have been received.

Mayor Pro Tem Horton stated that she would like to see delineated the 4 million plus dollars spent on Town Center costs – “how much of it is money that would have been spent anyway versus what was spent just because.”

Mayor Pro Tem Horton requested that when the Anaheim Power Plant report comes back to Council, she would want to know what the proposed emissions will be and what kind of technology will be used to scrub it.

Mayor Pro Tem Horton clarified that the former City Manager did not make \$300,000 – she made a little over \$200,000 and the rest was benefits.

Upon inquiry from Mayor Pro Tem Horton, Acting City Manager responded that the participants in the Blue Ribbon Committee will be recognized at the June 3, 2008 City Council meeting.

Mayor Pro Tem Horton reported the following:

She had the honor of attending Wesley Andrew Heuler's Eagle Scout award and that he is an outstanding young man.

She and Parks & Recreation Director Leto met with Supervisor Bill Campbell regarding potential properties/locations within county land for a dog park and equestrian stables.

She attended a seminar called “New Face of the Homeless” and stated they are seeing more small children with families who have lost jobs and have no where else to go sleeping in armories and going to the homeless shelters. She stated there is a children and families commission in Orange County that finds and renovates homes that have been vacated in downtown areas. She asked Gail Monestere, Executive Director of “On My Own But Not Alone” Foundation, to address Council.

Gail Monestere, Executive Director and caseworker with the “On My Own But Not Alone Foundation”, spoke relative to some of the people who are homeless due to unforeseen circumstances in their life, a housing intervention program, and funds that are available. She opens up those houses on an interim basis and stated that the “On My Own But Not Alone Organization” is familiar with this kind of project and spoke regarding today's homeless people and efforts to provide temporary homes to help these people regroup.

Mayor Winder asked Mayor Pro Tem Horton and Gail Monestere to meet with the Acting City Manager to begin the staff work to bring this forward to Council.

As requested by Mayor Pro Tem Horton, Councilmember Anderson delineated the costs included in the \$4 million plus Town Center costs.

Councilmember Anderson, in reference to comments made by Roslyn Ruocco, reviewed some short-term measures Council has taken for the Main Street area.

Councilmember Anderson requested a short report in the future for the railroad overcrossings that have been approved on Rose Drive and Lakeview Avenue.

Councilmember Castellano noted that the Mayor's Prayer Breakfast is this Thursday morning at 7:00 a.m.

ADMINISTRATIVE REPORTS

15. AGREEMENT RE YORBA LINDA VETERANS MEMORIAL ASSOCIATION

Councilmember Anderson recused himself from this item as his wife is the secretary for this organization. He stated that in consulting with the City Attorney, this is not legally necessary, but to avoid the appearance of a conflict of interest, he would not participate in this item.

Acting City Manager Gruchow introduced the written staff report and Parks & Recreation Director Leto gave a power point presentation, gave background information, a description of the site, site and elevation plans, highlights of the terms and conditions in the Agreement, and recommended actions.

Parks & Recreation Director Leto also reported that if the agreement is approved tonight, the Ground Breaking Ceremony and the Decommissioning of the Veterans plaques currently held at the Fire Station will be held on Sunday, June 29th. The dedication of the Monument will be held on September 11th.

Sue Fenwick, resident, Chair of Fundraising and Volunteer Recruitment, and Executive Director of the Veterans Memorial Association, publicly thanked partners in the community who have helped the Association. Mrs. Fenwick read the names of benefactors/donors, volunteers, Board of Directors, and caretakers of the memorial. She stated that 158,000 in grant proposals are still pending and they will continue fund raising all summer long. She stated they will have a slide every City Council meeting that gives the address and phone number and bar rising showing the funds.

Clay Baxter, Post Commander of Richard Nixon Post 679, introduced the Reverend Bob Mooney of Messiah Lutheran Church who presented a check towards the Veterans memorial.

Commander Baxter acknowledged other pledges they have received and stated they are seeking two more donors for the remaining benches. He also spoke regarding the decommissioning and ground breaking ceremonies, and introduced Gary Brittain who is serving as volunteer construction manager.

Gary Brittain spoke and stated he is pleased to be doing this, he lost his youngest son in Iraq and he and his wife are trying to help other military families.

Commander Baxter introduced Bill Davis, legal advisor for the Association, who spoke regarding the agreement and responded to questions from Council.

It was **MOVED/SECONDED – HORTON/CASTELLANO** – to approve the agreement between the City of Yorba Linda and the Yorba Linda Veterans Memorial Association (YLVMA) for the construction, funding, and site plan preparation for a Veterans Memorial Monument, and authorized the Mayor to sign and the City Clerk to attest said agreement. **MOTION CARRIED** by the following roll call vote:

AYES: Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: Anderson (To avoid the appearance of a conflict of interest.)

It was **MOVED SECONDED – HORTON/CASTELLANO** – to approve the design and location of the Veterans Memorial Monument. **MOTION CARRIED** by the following roll call vote:

AYES: Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: Anderson (To avoid the appearance of a conflict of interest.)

AGENDA ITEM 19 WAS TAKEN AT THIS TIME BUT IS REPORTED IN ITS RESPECTIVE POSITION ON THE AGENDA.

RECESS:

Following Item 19, Mayor Winder called a recess at 9:10 p.m. and reconvened the meeting at 9:25 p.m.

16. CONSIDER RELEASE OF INFORMATION PROTECTED BY ATTORNEY-CLIENT PRIVILEGE – Combined with:

AGENDA ITEM 29 - UNREDACTING BEST BEST & KRIEGER INVOICES RE TOWN CENTER (ANDERSON)

City Attorney Carvalho presented the written staff report relative to the Building Industry Association's (BIA) agenda they prepared and distributed for a meeting they called. The meeting in December 2005 was attended by the City Manager and a litigation attorney from the City Attorney's office. The agenda from that meeting contained handwritten notes. The City Council asserted an attorney-client privilege to the notes and released a copy of the agenda with the notes redacted.

City Attorney Carvalho also discussed Item 29 and stated that the City Attorney's invoices, pertaining to the Town Center, are available for review by the public. She also stated that some entries are redacted if there are comments that contain strategic or privileged information.

Councilmember Wedaa stated he would like to talk about the issue of the RFP's - either revising them to include the unredacted BIA letter and attorney invoices, or cancelling the investigation. He stated a lot of people have talked to him that are supportive of the investigation and a lot of people have talked to him that are not supportive of it and he has written down their questions they asked him to ask Council.

Councilmember Anderson called a point of order and stated that this is far afield of this agenda item and will be on the next meeting agenda.

Discussion ensued and Mayor Winder stated that he would allow Councilmember Wedaa to ask questions but with direction to the City Attorney to narrowly construe the agenda items to make sure there is compliance with the Brown Act.

Acting City Manager Gruchow clarified that the RFPs have been mailed out and the proposals are to be submitted to the City by June 3, 2008 - therefore, it would be the June 17th meeting before they are brought to Council.

Councilmember Anderson inquired if all of Council has seen the unredacted BIA letter and discussion ensued.

Councilmember Castellano stated that he would like to see the unredacted BIA letter before he makes this assessment and Councilmember Anderson concurred.

Councilmember Anderson stated that he would like the invoices of the City Clerk's Attorney, Michael Colantuono, for the Measure B lawsuit to be included.

Upon City Attorney Carvalho expressing concern pertaining to attorney-client privilege and City Council waiving that privilege, Councilmember Anderson noted that he favors giving them to the public however City Attorney Carvalho would have to research the issue and talk to staff.

Mayor Pro Tem Horton stated she thinks the unredacted BIA letter has to go to the public, but she wants some kind of analysis of the attorney invoices and it may be better to give those invoices to the investigator to analyze.

Discussion ensued regarding sending the BIA letter and invoices to Council under Attorney-Client privilege for Council to look at.

It was **MOVED/SECONDED - ANDERSON/HORTON** - to continue Items 16 and 29, with direction as discussed by Council, to the next meeting and for them to be separate items with Item 29 advanced to Administrative Reports.

Acting City Manager Gruchow stated for clarification that the direction given was for the copies to be submitted/transferred to Council under attorney-client privilege for the purposes of reviewing before the next Council meeting wherein Council will be taking action.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

17. ETHICS POLICY OPTIONS

City Attorney Carvalho gave a review of the written staff report.

Councilmember Anderson stated he is ready to make a motion.

Ed Rakochy, resident, stated he is looking forward to Council adopting the resolutions and first reading of the Ordinance.

Councilmember Anderson made a **MOTION** to revamp Resolution No. 495, the ethics policy adopted by the City Council in 1972, to reflect both genders as there is a Councilwoman on Council, add language to reflect the Council's allegiance to the Brown Act and Political Reform Act; adopt Resolution No. 2008 3909 and call it a "Model of Ethical Behavior" - as a supplemental policy of a model of ethical behavior of how Council should act; and approve first reading of Ordinance No. 2008-918 that has various campaign contributions and disqualifications.

City Attorney Carvalho outlined the prohibitions in the proposed Ordinance.

Mayor Pro Tem Horton **SECONDED** the **MOTION** for discussion only and asked that when the motion comes to a vote, it be broken into three sections. She stated she does not think that a piece of paper makes you ethical and that she thinks the original policy is wonderful and discussed various aspects of the Resolution and Ordinance. She stated that if this is passed, she would like for it to include that Councilmembers are not allowed to use their personal name and position as an endorsement.

City Attorney Carvalho clarified some of the sections/prohibitions referred to by Mayor Pro Tem Horton.

Mayor Winder stated he agrees that Council should deal with each individually and he is not inclined to change anything in Resolution No. 495 as some of these provisions are included in the personnel rules and regulations. It is a historic and legal document and could be reaffirmed.

Councilmember Anderson suggested additional language in a separate addendum to Section 9 that would be in compliance with state and federal laws.

It was **MOVED/SECONDED – ANDERSON/CASTELLANO** - to reaffirm Resolution No. 495. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

It was **MOVED/SECONDED – ANDERSON/CASTELLANO** – to adopt Resolution No. 2008-3909 but to change the title of the Resolution to “A New Code of Ethical Behavior” and to change other places that say “ethical code” to “ethical behavior.”

Discussion ensued and Councilmember Wedaa stated that he would like to see the Resolution, with changes, and asked that it be brought back next meeting as a Consent Calendar Item.

MOTION CARRIED UNANIMOUSLY.

Councilmember Anderson discussed Ordinance No. 2008-918 and read examples of Council comments in the past that could be considered campaigning before an election. He proposed the addition of a prohibition of Council comments for a period of time before an election to Ordinance No. 2008-918.

Discussion ensued.

Mayor Winder stated that a remedy is already in place, if the public doesn't like what is being said they can not vote for a candidate or vote Councilmember(s) out of office – the public does that at the ballot box.

Councilmember Castellano stated it gets confusing with everyone breaking down what can/cannot be said and it gets down to controlling. He stated that it is subject to interpretation and he will not be a supportive, it is the will of the public, let them make the decision.

It was **MOVED** by Councilmember Anderson to approve first reading of Ordinance No. 2008-918 in its present form with a change of the \$99 in Section 2.04.21 to make it \$100.00. **MOTION DIED** for lack of a second.

It was **MOVED/SECONDED – ANDERSON/HORTON** - to approve first reading of Ordinance No. 2008-918 with Section 2.04.24 eliminated.

Discussion ensued.

MOTION FAILED by the following roll call vote:

AYES: Anderson
NOES: Castellano, Horton, Wedaa, Winder
ABSENT: None

18. CITY COUNCIL E-MAIL PROCEDURES

Public Information Officer, Michael Maxfield, gave an overview of the written staff report and responded to questions from Council.

Mayor Pro Tem Horton thanked staff for intervening on some of Council's e-mails.

Councilmember Anderson asked City Attorney Carvalho for a short definition of the Brown Act.

Councilmember Anderson thanked staff for intervening on some of the e-mails and stated that this system that is in place is very good and is a wonderful service.

Upon request of Councilmember Anderson, City Attorney Carvalho gave a short definition of the Brown Act and discussed serial meetings. She also noted that there is pending litigation, regarding City Managers' ongoing meetings with all of Council, to amend the Brown Act.

It was **MOVED/SECONDED – HORTON/WEDAA** - to receive and file the report.
MOTION CARRIED by the following roll call vote:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

19. REQUEST FOR ABANDONMENT OF A PORTION OF LANDSCAPE EASEMENT BEHIND 27030 MAIDEN MOOR LANE

Public Works Director Stowell presented the written staff report.

Councilmember Wedaa stated he went to see the property with Mr. Stowell and thinks some kind of agreement should be prepared.

Upon request from Councilmember Wedaa, Public Works Director Stowell discussed items he and Councilmember Wedaa had talked about and stated that he would need to talk to the City Attorney regarding liability, issues if slope should fail, and ongoing leasing of areas.

It was **MOVED** by Councilmember Wedaa to make a finding per City Council Policy E-5 in relation to permanent encroachment permits and allow the encroachment in the interest of fairness. **MOTION FAILED** for lack of a second.

Councilmember Castellano noted that the adoption on July 15, 2003 of City Council Policy E-5 stemmed from discussions such as tonight's.

It was **MOVED/SECONDED – CASTELLANO/HORTON** – to deny the request for permanent encroachment (abandonment of a portion of City Landscape Easement for a fence recently installed in the easement).

Mr. Pham, owner of the property, stated he drove around his neighborhood and the majority of houses that have slopes have their fences moved down and he does not know if the City has records of it. He also stated he would agree to an Agreement.

Lee Day, resident, stated that she has many examples of non-permit encroachments and conditional use permit violations. She also discussed the many problems that would result if City property continues to be given away via encroachments and conditional use permits.

Discussion ensued.

Councilmember Wedaa stated that hundreds of people are in violation and it is not fair to Mr. Pham and he is going to vote "no" on something he agrees with.

Further discussion ensued and staff responded to questions from Council.

Councilmember Wedaa called for the question.

MOTIONED CARRIED by the following roll call vote:

AYES: Anderson, Castellano, Horton, Winder
NOES: Wedaa
ABSENT: None

Councilmember Wedaa made a **MOTION** to instruct the City Engineer, under Policy E5b, to examine all the various aspects of this problem as mentioned tonight to determine how best to solve the problem and to include the pros and cons.

Mayor Pro Tem Horton noted that this is also about horse trails and parks.

Tom Lynch, resident, stated it is a bigger issue and the policy should be adhered to and those violating the policy should have their property noticed in some way on the deeds and if you start cherry picking, you are going to have no control.

Pat Nelson, resident, stated that what you have now is selective enforcement, and no one should be allowed to do it.

MOTION FAILED by the following roll call vote:

AYES: Wedaa
NOES: Anderson, Castellano, Horton, Winder
ABSENT: None

It was **MOVED/SECONDED – WINDER/ANDERSON** - to direct staff to begin identifying property in the City where this is a problem and in the next budget cycle prepare an enforcement plan with resources necessary to staff and enforce this. **MOTION CARRIED** by the following roll call:

AYES: Anderson, Castellano, Horton, Wedaa, Winder
NOES: None
ABSENT: None

20. REPORT OF PLANNING COMMISSION ACTIONS FROM THEIR LAST MEETING/APPEAL OF PLANNING COMMISSION ITEMS

Community Development Director Christiansen gave a recap of the Planning Commission's actions from their last meeting of May 14, 2008 and responded to questions from Council.

Mayor Winder asked that an item to consider revising the palapa process to have them reviewed administratively without burdening the Planning Commission be placed on the agenda under "Other Business".

OTHER AGENCY REPORTS AND REFERRALS

ORANGE COUNTY SANITATION DISTRICT – No Report

ORANGE COUNTY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES – No Report

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR/TRANSPORTATION
CORRIDOR SYSTEM

Mayor Pro Tem Horton reported that now is the 30 day time frame for whether or not you agree or disagree with the Coastal Commission's decision to deny the extension of the Foothill toll road.

ORANGE COUNTY FIRE AUTHORITY – Mayor Pro Tem Horton reminded Council that the Orange County Fire Authority’s “Media Day” is May 30, 2008 from 9:00 a.m. to 12:00 noon and is an opportunity to dress like firefighters and be given a box lunch.

ORANGE COUNTY VECTOR CONTROL – No Report

OTHER BUSINESS

21. TOWN HALL MEETINGS (WEDAA)

Councilmember Wedaa stated that although he was originally going to comment regarding Town Hall Meetings, he would now receive and file this item.

22. PUBLIC COMMENTS AT COMMISSION MEETINGS (WEDAA)

Councilmember Wedaa stated he believes that the residents of Yorba Linda should be heard first at Commission meetings, and not be put at the end of the meeting as happens in the Planning Commission meetings. He thinks Council should tell the Commissions that public comments are always up front.

Councilmember Anderson stated that he agrees with Councilmember Wedaa.

Councilmember Wedaa **MOVED** to take whatever action is necessary to put public comments up front on agendas of the Commissions.

Mayor Pro Tem Horton stated that Commission meetings are not like City Council meetings, they have contractors, developers, and applicants in attendance for specific items and Council should let them do their job as they have been doing

Councilmember Castellano agreed with Mayor Pro Tem Horton.

Councilmember Anderson stated that the Council and Commissions should listen to the voice of the residents.

Mayor Pro Tem Horton noted that if you move public comments to the front of the agenda, those having items on the agenda may have a longer wait.

Mayor Winder commented that he would be happy to carry this as a discussion item to the Commissioners but will not support Council making that decision at this time – these decisions are best left up to the Commissioners and they can make their own rules.

No action was taken on this item.

23. ADMINISTRATIVE OFFICIAL SALARY CAP (ANDERSON) - Continued

24. SITE 13 SEGMENTATION (ANDERSON) - Continued

25. COUNCIL STUDY SESSIONS (ANDERSON) - Continued

26. COUNCIL ATTENDANCE AT MAIN STREET MERCHANTS ASSOCIATION'S QUARTERLY MEETING (ANDERSON) - Continued

27. DISCUSSION RE BLACK GOLD GOLF COURSE (WEDAA) - Continued

28. ACTION MINUTES FOR CITY COUNCIL MEETINGS (ANDERSON) -
Continued

29. UNREDACTING BEST BEST & KRIEGER INVOICES RE TOWN CENTER
(ANDERSON) – combined with Agenda Item 16.

CLOSED SESSION – None Required

ADJOURNMENT

Mayor Winder adjourned the meeting at 10:39 p.m. to Wednesday, May 21, 2008 at 6:00 p.m. for a Housing Element study session.

Councilmember Anderson stated that he can attend the May 21st meeting until 7:00 p.m. but will have to leave as something has come up - his son is being honored at an event at the middle school and he cannot miss it.

The next regularly scheduled City Council/Redevelopment Agency Joint Meeting is June 3, 2008.

Jackie Ostendorf, Deputy City Clerk
City of Yorba Linda

APPROVED BY COUNCIL/RDA:

JUNE 17, 2008