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**CITY OF YORBA LINDA**

**CITY COUNCIL/REDEVELOPMENT AGENCY  
JOINT MEETING MINUTES**

**OCTOBER 7, 2008**

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**CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING  
CONVENING AT 5:00 P.M.**

**CALL TO ORDER**

The City Council/Redevelopment Agency convened at 5:00 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, Kelly

**CLOSED SESSION**

**CITY COUNCIL**

**A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Government Code Section: 54956.9 (a)

Name of Case: Garth and Marilyn Becker v. City of Yorba Linda, et al., Mark and Mary Jagusiak v. City of Yorba Linda, et al.

Case Number: Orange County Superior Court Lead Case No. 06CC11193

**B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION,  
SIGNIFICANT EXPOSURE TO LITIGATION, INITIATION OF LITIGATION**

Government Code Section: 54956.9(b) and (c) (2 cases)

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

Government Code Section: 54956.9(c) (1 case)

Name of Case: La Floresta Development Project

**RECESS**

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

**CALL TO ORDER**

The City Council/Redevelopment Agency reconvened at 6:40 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, Hartman, Kelly, Leto, Mendoza, Steep, Stowell, Thiele

**PLEDGE OF ALLEGIANCE** – Councilmember Castellano

**INVOCATION** - Pastor Bob Mooney, Messiah Lutheran Church

**CLOSED SESSION REPORT**

City Attorney Carvalho reported that the City Council gave direction to legal counsel regarding Closed Session Item A; and on Item B - the Kopit easement item, directed the City Attorney to take all regulatory and legal action necessary to enforce public access to the El Cajon trail – this would include the preparation/presentation of a draft Ordinance and initiation of legal action against the Kopits if necessary.

**INTRODUCTIONS & PRESENTATIONS**

PRESENTATION OF PROCLAMATION RE FIRE PREVENTION WEEK,  
OCTOBER 5 – 11, 2008

Mayor Winder and Mayor Pro Tem Horton presented the Proclamation to Battalion Chief Jeff Genoway, who accepted the Proclamation on behalf of the Orange County Fire Authority.

Battalion Chief Genoway spoke regarding the use of fire alarms and stated that trends show increases in laundry room dryer fires and in fires caused by candles.

PRESENTATION RE COYOTES BY JENNIFER PHILLIPS, DIRECTOR, ORANGE COUNTY ANIMAL CONTROL

Jennifer Phillips, Director of Orange County Animal Control, made a presentation with slides regarding coyotes and responded to questions from Council.

Mayor Pro Tem Horton asked that a copy of Orange County Animal Control's "Coyote" flyer be put on the City's web site.

**AGENDA ITEM NO. 20 WAS TAKEN AT THIS TIME BUT IS REPORTED IN ITS RESPECTIVE POSITION ON THE AGENDA.**

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

Jim Burke, resident, spoke regarding a change in zoning on the property across from the Richard Nixon Library for low-income housing. He stated it is reverse condemnation of his property and taking away his property rights. He spoke regarding the lack of noticing of the action, and the City owing the State 1,600 low-income housing units.

Interim City Manager Kelly reported that a notice will go out this week to every property owner on what the City is doing and at this point everything is status quo until the draft housing element comes back to Council. He also stated that the State is still being met with on what the options are.

Mark Schwing, resident, stated he had a chance meeting with Dale Duncan, Friends Church High School, who told him there were still issues on five to seven wells with the Department of Oil and Gas and they were to go back and verify they were capped and sealed. They expected to clear that and start construction in late November or early December. He stated that last night he was told that the gas issues were cleared up months ago and that it was the City Council holding up the project.

Interim Community Development Director Thiele reported that the Church came to the last Planning Commission meeting for an extension of their permit as they had not received all the clearances from the State Gas and Oil Department and they also asked to extend it a year, instead of six months, to delay the grading until after the rainy season.

Louie Schirm, resident, spoke regarding cutting City energy bills and stated a one-day Energy Conference is being held on October 22, 2008. He stated that on that same day there is a Safety Conference to which the entire staff is going and asked why not send one or two employees to the Energy Conference as well.

Parks & Recreation Director Leto responded that only key individuals are going to the safety training, and there is the intention to do a study on lighting retrofit during the budget process.

Interim City Manager Kelly stated the safety conference is a federally mandated emergency management program – attendance is not an option. He also stated that Council made studying energy costs a staff priority and it is a matter of finding the time and resources to do it.

Mary Carbone, resident, stated she received a printout of a trail map of the local trail systems of Rancho Cucamonga and Alta Loma. In Rancho Cucamonga's and Alta Loma's general plans, it states that all the trails that connect cannot be built upon and have to be maintained according to code. She suggested that Yorba Linda implement that into its General Plan. Mrs. Carbone also stated that on the City's web site there is an item regarding having your E-waste (TVs, computers, batteries, telephones, and other common electrical items) picked-up from the curb through Yorba Linda Disposal's bulky item pickup program. She stated her neighbor called the disposal company and they would not pick it up.

Walter Bruckner, resident, discussed the responsibility of Council with consultants, interest on bonds, the Kennedy Commission, and the State of California.

Upon inquiry from Jerry Kirschner, resident, Public Works Director Mark Stowell explained about the six-street lights that did not go off when the other street lights did.

Mr. Kirschner also spoke regarding the Town Hall meeting, his neighbor's boy having to go to Placentia to play soccer, the tennis courts on Fairmont not being lighted, and the Brea Police Department budget.

Louie Scull, local business property owner, spoke regarding the City's 20-year Evergreen Trash Disposal Contract that was approved in 1995, and presented a copy of the City of Yorba Linda Solid Waste Franchise Extension Valuation Study.

Pat Nelson, resident, asked why the Valley View Avenue/horse trail crosswalk light is a flashing yellow light and not a red light for cars to stop; referred to the housing issue and stated there should be a moratorium until the housing market settles itself; and spoke regarding the extension of the Friends High School permit.

Public Works Director Stowell discussed the intent of installing the yellow flashing beacon on the trail at the crosswalk.

Lee Day, resident, spoke regarding the 2008-2009 property tax bill and the sanitation rate increases, and passed out copies of a 1998 article in the Yorba Linda Star relative to costs.

Anita Smiley, resident, presented a "Yes on Prop 11" flyer and gave a brief review of Proposition 11, which changes authority for establishing Assembly, Senate, and Board of Equalization district boundaries from elected representatives to a 14 member commission. She asked that Council support Proposition 11.

### **CONSENT CALENDAR**

It was **MOVED/SECONDED – CASTELLANO/ANDERSON** – to approve the Consent Calendar with Councilmember Castellano and Mayor Winder abstaining on No. 9, and Councilmember Wedaa abstaining on No. 3. **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/RDA approved the Accounts Payable Warrant Lists.

3. APPROVAL OF THE MINUTES OF THE SEPTEMBER 16, 2008 CITY COUNCIL/RDA JOINT MEETING

The City Council/RDA approved the minutes of the September 16, 2008 joint meeting. (Councilmember Wedaa abstained on this item as he was not present at the meeting.)

4. TREASURER'S REPORT - JUNE 2008 (FINAL)

The City Council/RDA received and filed the report.

5. TREASURER'S REPORT - JULY 2008

The City Council/RDA received and filed the report.

6. TELECOMMUNICATIONS FACILITIES LICENSE AGREEMENT WITH  
OMNIPONT COMMUNICATIONS (T-MOBILE USA, INC.) - EASTSIDE  
COMMUNITY PARK, 5400 EASTSIDE CIRCLE

The City Council approved the Telecommunications Facilities License Agreement with Omnipoint Communications (T-Mobile USA, Inc.) at Eastside Community Park, 5400 Eastside Circle.

7. CHANGE ORDER NO. 2, YORBA LINDA LIBRARY FLOOR STRENGTHENING  
PROJECT

The City Council received and filed the report.

8. COMMUNICATIONS SITE LEASE AGREEMENT WITH ROYAL STREET  
COMMUNICATIONS CALIFORNIA, LLC - VETERANS PARK, 4756 VALLEY  
VIEW AVENUE

The City Council approved the Communications Site Lease Agreement and Memorandum of Agreement with Royal Street Communications California, LLC and authorized the Mayor to sign and City Clerk to attest said agreement and memorandum.

9. AWARD OF CONTRACT - SLURRY SEAL PROGRAM FOR VARIOUS  
STREETS, FISCAL YEAR 2007/2008 AND 2008/2009

The City Council awarded the contract for the Slurry Seal Program to American Asphalt South, Inc. in the amount of \$2,230,297.53 and authorized a budget transfer of \$200,000 from the Village Center Median Modification at Yorba Linda Boulevard, Account No 008.4.512.7641, to the Slurry Seal Account No. 008.4.512.7120.

(Mayor Winder and Councilmember Castellano abstained on this item to avoid a conflict of interest.)

10. CHANGE ORDER NO. 2 OF AMENDMENT NO. 1 TO STANTEC CONSULTING, INC. - CONTRACT TO CONDUCT ADDITIONAL TASKS REQUIRED BY OC HEALTH CARE AGENCY FOR THE SITE REMEDIATION OF THE N/E CORNER OF IMPERIAL HIGHWAY/LEMON DRIVE (FORMER ULTRAMAR GAS STATION SITE)

The City Council authorized the Mayor to execute Change Order No. 2 to Amendment No. 1 to the Professional Services Agreement with Stantec Consulting, Inc. for interim site remediation and ongoing site monitoring on a time and materials basis not to exceed \$117,052.63 funded with Redevelopment Agency bond proceeds.

11. APPROVAL OF PLANS AND SPECIFICATIONS AND AUTHORIZATION TO ADVERTISE FOR BIDS - ESPERANZA CAPE SEAL PROJECT FROM HIDDEN HILLS TO THE WEST CITY LIMITS

The City Council approved the construction plans and specifications, and authorized the advertising of bids for the Esperanza Cape Seal Project from Hidden Hills to the West City Limits.

12. RELEASE OF MONUMENTATION BOND, TOLL BROTHERS, TRACT NO. 16144

The City Council authorized the City Clerk to release the Monument Bond per Public Works Department Report.

13. REQUEST TO FUND DEFERRED TREE TRIMMING FOR THE ARTERIAL LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT FROM GENERAL FUND RESERVES

The City Council approved the transfer of \$157,080 from General Fund reserve funds into the Arterial Zone of the Landscape Maintenance Assessment District (LMAD) to allow the LMAD to cover the cost of trimming trees necessary to remain on track with the City Council Policy of performing routine maintenance pruning every three years.

**End of Consent Calendar**

**RECESS:**

Mayor Winder called a recess at 8:22 p.m. and reconvened the meeting at 8:36 p.m.

**PUBLIC HEARINGS**

14. PUBLIC HEARING RE APPEAL OF CONDITIONAL USE PERMIT 2008-35, DESIGN REVIEW 2008-06, VARIANCE 2008-04 - METZ, 5951 KELLOGG DRIVE

Mayor Pro Tem Horton left the Council Chambers to avoid a conflict of interest.

- a. Open Public Hearing – Mayor Winder opened the public hearing.
- b. Staff Report – Interim Community Development Director Thiele
- c. Take Testimony

Councilmember Anderson reported he met with both Tom Metz and Peter Mitchell.

Tom Metz, applicant, presented a letter in support of the project from Armando Bollini, a petition signed by neighbors in support of the project, and expressed his desire to move his business to Yorba Linda.

Clark Davis, project architect, presented some highlights of the project.

Craig Duncan, landscape architect, presented the planting design for the landscape.

The following residents spoke in opposition to the project:

Larry Larsen; John Summerfield; Ted Woodward; Claudine Lynch; Bob Massari; Kris Mitchell; Wayne Naen; and Ryan DeYoung.

Peter Mitchell, resident, also spoke and submitted a petition signed by neighbors in opposition to the proposed project.

Pat Nelson, resident, spoke regarding ingress/egress issues and wondered about the project's compatibility with the neighborhood.

Mark Schwing, resident, asked about noise and issues from the equipment.

Mike Peridino, a Bond and Insurance Agent for Contractors, stated he thinks there are a lot misconceptions about this project and spoke in support of the project.

Mr. Metz responded to questions raised by the speakers.

Clark Davis, project architect, spoke regarding the lighting for the project and responded to questions from Council.

- d. Close Public Hearing – Mayor Winder closed the public hearing.

Councilmember Wedaa stated he is opposed to the project and will vote “no”.

Councilmember Castellano stated his concern that if the property is sold, what business could go in next and he will vote “no”.

Councilmember Anderson stated he does not think a two-story building is a workable plan and will vote “no”.

- e. Make Determination

It was **MOVED/SECONDED** – to direct staff to bring back a Resolution to the next City Council meeting denying Conditional Use Permit 2008-35; Variance 2008-04; and Design Review 2008-06. **MOTION CARRIED** by the following roll call vote:

**AYES:** Anderson, Castellano, Wedaa, Winder  
**NOES:** None  
**ABSENT:** Horton (Absent due to a conflict of interest.)

**RECESS:**

Mayor Winder called a recess at 10:20 p.m. and reconvened the meeting at 10:35 p.m.

**MAYOR'S REPORT**

Mayor Winder reported he attended the ribbon cutting at Yogurt Mania and the Town Hall meeting. He stated the Mayor’s annual State of the City address will be held at the Yorba Linda Community Center on October 16, 2008.

**MATTERS PRESENTED BY COUNCILMEMBERS**

Upon request from Councilmember Castellano of Public Works Director Stowell to check the traffic light at Bastanchury and Fairmont, Mr. Stowell responded that the loops were taken out of working order when the road was repaved, and the loops were reinstalled today and it should be back in working order soon.

Councilmember Anderson stated that a lot of people have been asking about the condition of the Eichler House and in response, he was assured by staff that they are on top of it and will take whatever remedial action they can.

Councilmember Anderson asked that a report regarding the elimination of the informal policy of Council receiving Campaign Statements at no charge be brought back to Council.

Councilmember Anderson stated that if looking for safe alternatives for Halloween night, Friends Church has Family Fun Fest which is free and is a safe alternative for Halloween.

Upon inquiry from Councilmember Anderson if it was proper to add discussion regarding endorsing Proposition 11, City Attorney Carvalho indicated that it would not be illegal, but might be improper.

Mayor Pro Tem Horton brought attention to Agenda Item 26 and stated she is asking for a review of the decision Council made regarding the red curb at Van Buren/Yellowstone.

Mayor Pro Tem Horton reported she attended the Taste of Esperanza which was a great event and the League of California Cities Conference.

Mayor Pro Tem Horton asked that a report on the pros and cons of hiring a lobbyist be brought to Council. She also asked what bills coming forward would affect the City and for regular updates on the financial status of the City.

Interim City Manager Kelly stated that the affect on the City if the State takes \$1.2 million from the Redevelopment Agency is being analyzed. He noted that SB 375, which deals with global warming and revolves around transportation, passed and the budgetary impacts are not known. He also stated that it looks like the deficit is going into the year 2011.

Councilmember Anderson welcomed Councilmember Wedaa back.

Councilmember Wedaa thanked residents and City employees for their support during his illness and stated he appreciates it.

### **ADMINISTRATIVE REPORTS**

#### **15. MAYOR PRO TEM HORTON CONFLICT OF INTEREST**

Mayor Pro Tem Horton left the dais and the room to avoid a conflict of interest.

City Attorney Carvalho gave an overview of the written staff report and responded to questions from Council.

Discussion ensued.

It was **MOVED/SECONDED – WEDAA/CASTELLANO** – to receive and file.

Pat Nelson, resident, stated that Alternative 1 in the staff report is the easiest and costs nothing.

Councilmember Castellano stated it is premature to decide what Site 13 is to be used for and it is not proper to discuss it now.

Councilmember Anderson stated Council can receive and file the report and look at Alternative 1 in the future.

Mayor Winder agreed it is premature to commit the property.

**MOTION CARRIED** by the following roll call vote:

**AYES:** Anderson, Castellano, Wedaa, Winder

**NOES:** None

**ABSENT:** Horton (to avoid a conflict of interest)

16. TOWN CENTER PERFORMANCE REVIEW

Interim City Manager Kelly gave an overview of the written staff report.

Tom Lynch, resident, stated the title of the report is a misnomer and actions of staff should be explored in depth and disclosed.

Nancy Rikel, resident, stated that residents have the right to know and that it should be called an investigation.

Louie Scull, local business property owner, stated he believes it is a civil rights issue and suggested hiring an investigator.

Walter Bruckner, resident, stated that contacting the District Attorney's office or the Attorney General's office is a total waste of time.

Claudine Lynch, resident, stated the City has become toxic and she would like for the toxic City to be cleaned up.

A lengthy discussion by Council ensued and staff responded to questions from Council.

Mayor Pro Tem Horton stated that some of the things she is asking for is that a policy be put in place that would protect public participation in a democratic process without City hindrance; expectation of developers in the community - rules, regulations, and procedures for ethical standards that developers should not violate and contracts with developers to include those rules and regulations that say they will not act unethically; that the Police Department do an analysis of the Pruneyard decision and how it would apply to Yorba Linda, and hold Council to the Brown Act.

**MAYOR PRO TEM HORTON** moved to receive and file and redirect the Interim City Manager to put policies in place that incorporate items discussed tonight in lieu of recommendation in the staff report.

A **SUBSTITUTE MOTION** was made **HORTON/CASTELLANO** – to direct staff to work on policies including public participation and ethical behavior of developers, incorporating items discussed tonight and come back to Council for review and approval.

Councilmember Anderson stated he thinks Council should go back to what was proposed in the staff report and spoke in opposition to the motion. He stated that other items - such as the City Clerk to exercise her own independent judgment, an addendum to contracts saying developers should be ethical; and addressing relationships between attorneys – should be incorporated into the policies and procedures.

Mayor Pro Tem Horton stated she has no problem incorporating those other items.

Discussion ensued and Councilmember Anderson called for the question.

Interim City Manager Kelly stated he will have to do further review and analysis to write these policies and procedures.

Discussion ensued.

A **SUBSTITUTE MOTION – CASTELLANO/ANDERSON** – was made to direct the Interim City Manager to do further review and analysis and come back with a work program, time line, options, other projects to be done, and recommendations. **MOTION CARRIED** by the following roll call vote:

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

17. CITY COUNCIL STUDY SESSIONS – Continued
18. TOWN CENTER FACADE IMPROVEMENT PROGRAM - Continued
19. DUTIES OF TRAFFIC COMMISSIONERS - Continued
20. COYOTE ENFORCEMENT ISSUES

Interim City Manager Kelly gave a brief report.

Gene Matthews, resident, asked if it is possible to put bait out soaked with some sort of birth control.

Joyce Flocken, resident, asked the City Council to take steps such as posting a telephone number people can call and report sightings and warning people with children to have some protection for the children. She also stated that she thinks bait with medication so they cannot proliferate is a good idea.

Walter Bruckner, resident, stated he has lived in the City 30 years and has never seen a coyote until two weeks ago - since then, he has seen them in packs of two, three, and five. He stated they are treacherous and intelligent and should be eradicated.

Fred Bittner, resident, spoke regarding making neighborhoods safer for the community and suggested hotlines and patrols for coyote sightings.

Pat Nelson, resident, expressed concerns in seeing coyotes walking on Valley View in the mornings.

Louie Schirm, resident, stated he has a half coyote/half shepherd pet and to keep him from getting out, he installed battery operated electrical-charged cattle guards and they work well.

Further discussion ensued.

It was **MOVED/SECONDED – HORTON/CASTELLANO** – to put a public education program on the website and in the City newsletter, to include an e-mail address which is logged into a database for residents to contact regarding coyote sightings. **MOTION CARRIED** by the following roll call vote:

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

Jennifer Phillips, representative of Orange County Animal Control, responded to further questions from Council and described coyote fences.

It was **MOVED/SECONDED – HORTON/ANDERSON** – to do some type of coyote trapping every three months in three or four areas of the City and that they be moved into another area.

Discussion ensued.

Jennifer Phillips, Director of Orange County Animal Control, stated it does not work to move the coyote and let it go, that it is labor intensive to track, and the coyotes that are trapped are euthanized. She stated she is not aware of any birth control measures for coyotes.

Gene Matthews, resident, read an article in the paper regarding the City of Los Alamitos tracking and euthanizing coyotes.  
Mayor Pro Tem Horton **withdrew** her **motion**.

Mayor Winder asked staff to report back in six months on the City's efforts to educate the public.

21. EQUESTRIAN COMMITTEE REPORT - Continued

22. REQUEST FOR REMOVAL OF THREE CITY-OWNED TREES WITHIN THE PARKWAY OF YORBA LINDA BOULEVARD ALONG THE FRONTAGE OF MESSIAH LUTHERAN CHURCH AT LIVERPOOL STREET

Councilmember Castellano stated he would abstain from voting on this item to avoid a conflict of interest and left the dais.

Public Works Stowell presented slides, gave a brief recap of the written staff report, and responded to questions from Council.

It was **MOVED/SECONDED – ANDERSON/WINDER** – to approve the removal of the three Tristania Conferta trees from the parkway along the northern Yorba Linda Boulevard Messiah Lutheran Church property frontage west of Liverpool Street, with Messiah Lutheran Church paying all costs, including concrete sidewalk removal and replacement and the purchase of six (6) 24-inch box trees for use in the City's Neighborhood Tree Program. **MOTION CARRIED** by the following roll call vote:

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

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

Councilmember Wedaa appealed the Planning Commission's decision relative to Design Review 2004-18, Conditional Use Permit 2006-55, and the Environmental Impact Report (EIR) prepared therefore – Chavez.

Councilmember Wedaa also appealed the Planning Commission's decision regarding Conditional Use Permit 2008-43 – Molenaar.

**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 – No Report

ORANGE COUNTY FIRE AUTHORITY – No Report

ORANGE COUNTY VECTOR CONTROL – No Report

