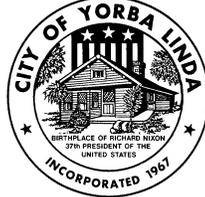

CITY OF YORBA LINDA



Land of Gracious Living

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING MINUTES

OCTOBER 20, 2009

**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: Anderson, Horton, Rikel, Schwing, Winder
Staff Members: Adams, Raymond

CLOSED SESSION

CITY COUNCIL

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Government Code Section 54956.8

Property: 4801 Park Avenue, APN No. 334-403-1 & 2
City Negotiators: City Manager Adams, City Attorney Jamie Raymond
Property Negotiators: Property Owner Sylvia Chavez
Under Negotiation: Price and Terms of Payment

RECESS

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

CALL TO ORDER

The City Council/Redevelopment Agency reconvened at 6:30 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members: Anderson, Horton, Rikel, Schwing, Winder

Staff Members: Adams, Brantley, Conklin, Hartman, Mendoza, Raymond, Steep, Stowell

PLEDGE OF ALLEGIANCE

Captain Conklin

INVOCATION

Bishop Dale Madsen, Church of Jesus Christ of Latter-Day Saints

CLOSED SESSION REPORT

City Attorney Raymond stated that there was no reportable action.

INTRODUCTIONS & PRESENTATIONS

INTRODUCTION OF OCFA FIRE CHIEF KEITH RICHTER

Orange County Fire Authority Chief Richter introduced himself to the Council and said he was proud to be leading the finest organization in the nation and representing the City of Yorba Linda.

OCFA READY, SET, GO! PROGRAM

Battalion Chief Ric Schultz provided an update on the Ready, Set, Go! Program and spoke about making homes defensible against wildfires. He encouraged residents to prepare their homes and family before an event occurs and stated that more information is available on their website.

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

Craig Sheets, resident, spoke about subterranean methamphetamine labs and distributed informational handouts to Council.

Rosemarie Sauer, resident, suggested that staff use 15 gallon instead of 24 gallon trees when replanting trees on City property. Ms. Sauer inquired on the City's plan for landscaping of hillsides and she offered to donate cacti and succulents to the City in time for planting on the slopes by next year.

City Manager Dave Adams responded to the speaker and said that Council awarded a contract to begin repairs and planting of drought resistant landscaping on several different areas of the City. Mr. Adams informed everyone that a public workshop would be held in November to address all of the issues regarding the hillsides.

Laurel Van Gilder, resident, provided a power point presentation about the southern boundary line of the new Yorba Linda High School. Ms. Van Gilder requested that the City take action on their November 6, 2006 response to the Yorba Linda High School EIR which requires that the PYLUSD mitigate the impact of the school on the surrounding communities and that a block wall would be constructed on the southerly boundary of the school

City Attorney Raymond responded to the speaker's comments and said the letters would become part of the EIR but it is a question of whether or not they incorporated any and all comments into mitigation measures or conditions of approval that specified that a block wall needed to be built.

Senior Planner David Brantley stated that staff would research the letter the City prepared in response to the EIR and report back to Council.

Councilwoman Horton requested that staff also look into a document that former Parks and Recreation Director Leto obtained that showed a portion of the boundary line that was supposed to be a block wall and that is now being proposed as a chain link fence.

James Prather, Masonic Family Helping Veterans Committee, invited Council to two events. The Cornerstone Laying Ceremony will be held on November 2nd at the Community Center and the 1st Annual Veteran's Recognition Day at the Yorba Linda Veterans Memorial Park on November 9th. Mr. Prather said that Veteran's Recognition Day is being held in honor of all veterans and to bring awareness to the community of the importance of Veterans Day. Mr. Prather also requested that Council proclaim the week of November 9th through the 15th as Veterans Recognition Week.

Pat Buttress, SCE, reported that three street lights were out in east Yorba Linda because of a cable problem. She urged residents to refrain from throwing tennis shoes onto the cables as it is a hazardous situation and costly to repair.

Tom Dorch, resident, asked for an update on the El Cajon Trail project and requested that residents along the canal be informed on the status of the project by mail.

City Manager Adams informed Council that the El Cajon Trail Improvement project is nearing completion. He stated that part of the project entails restricting encroachment of the trails and encourage greater use by pedestrians, bicyclists and equestrians. Mr. Adams inquired if there was Council consensus to bring the matter back at a future Council meeting.

Councilmember Anderson stated that many residents have expressed concern to him as some have grown accustomed to using the trails for such things as hay deliveries and would like to see the matter on a future Council agenda.

Councilwoman Horton suggested a compromise could be worked out and that trail users could be warned whenever an RV or truck will be on the trail in order to avoid an accident. She requested that staff consider that option when the matter returns to Council.

Councilwoman Rikel also expressed a desire to see the matter come back at a future Council meeting. She said she uses the trail often and has never seen anything such as hay deliveries or motorbikes.

Tom Lynch, resident, spoke in support of Laurel Van Gilder's comments about a block wall on the Yorba Linda High school border. He said sound walls are routinely built for railroad tracks and said the school district should be cooperative and build the wall.

Mike Shanahan, resident, spoke on behalf of the Veterans Memorial Association and said that his comments at the last council meeting regarding funding for the veterans memorial were not meant to offend any group or business. Mr. Shanahan also stated that the Chamber of Commerce and various businesses in the community have been very supportive to the Association.

Lee Day, resident, thanked Council for reagentizing her request for replacement of city-owned trees on her street. Ms. Day also commented about another project to remove and replace six easement trees on Granada Drive. She hoped that Council has had time to reconsider approving that larger project as the cost will be significantly higher.

David Baker, resident, stated he is the last living member of the committee to incorporate the City of Yorba Linda. He also spoke about recent fires in Wrightwood praising the procedure used whereby the town was evacuated. He said that people in Wrightwood are prepared for wildfires and that is why they have not lost a home to fire damage in more than 40 years. Mr. Baker also spoke about Bastanchury Road at Imperial Highway and urged Council to move forward with bringing the road up to standard because traffic constraints will become worse after the St. Jude Medical Center is built.

Councilmember Winder commented that there are several construction projects either starting or finishing up in the Bastanchury Road and Imperial Highway area and he would like to know the status.

It was **MOVED/SECONDED - WINDER/HORTON** – to direct staff to bring back a report with a timeline on the widening of and acquisition of properties along Bastanchury Road. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

John Lembesis, resident, spoke in support of Ms. Van Gilder's comments about the Yorba Linda High School wall. He said the sports field and the future joint use park face into neighbor's yards and a chain link fence is not sufficient mitigation.

Dee Dee Frederick, resident, reported that the Yorba Linda Country Riders were at East Lake Village this past weekend meeting the community, offering horse rides, balloons and pictures with the horses. She thanked everyone who was involved including Mayor Pro Tem Anderson and Councilwoman Rikel. Ms. Frederick pointed out other trails that are blocked by fences and asked if staff could look into that. She also inquired about the status of the feasibility study for an equestrian center.

City Manager Adams responded that the City would have the second phase of the feasibility report in November at a future council meeting or workshop.

Pat Nelson, resident, invited everyone to support the Philharmonic Society of Orange County by attending the Design House in Shady Canyon in Irvine. She informed Council that school kids were once again vandalizing the El Cajon trail fence and suggested using a camera to discourage such behavior. Ms. Nelson expressed her disappointment with the number of public input meetings on the Town Center Specific Plan that have resulted in no action.

CONSENT CALENDAR

Councilmember Winder pulled Items 3 and 13, Councilwoman Horton pulled Items 8 and 9 and Mayor Pro Tem Anderson pulled Item 11 from the Consent Calendar.

It was **MOVED/SECONDED - WINDER/HORTON** - to approve the Consent Calendar with the removal of Items 3, 8, 9, 11 and 13. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

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

The City Council/Redevelopment Agency waived reading in full 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. Removed

4. APPROVAL OF THE MINUTES OF THE SEPTEMBER 30, 2009 CITY COUNCIL/RDA ADJOURNED MEETING

The City Council/RDA approved the minutes of the September 30, 2009 adjourned meeting.

5. APPROVAL OF THE MINUTES OF THE OCTOBER 6, 2009 CITY COUNCIL/RDA MEETING

The City Council/RDA approved the minutes of the October 6, 2009 City Council/RDA Meeting.

6. TREASURER'S REPORT - JUNE 2009 (FINAL)

The City Council received and filed the report.

7. TREASURER'S REPORT - JULY 2009

The City Council received and filed the report.

8. Removed

9. Removed

10. DESIGNATION OF NEW CITY TREASURER

The City Council approved Resolution No. 2009-4047 designating David F. Adams as the City Treasurer and Rescinding Resolution No. 2004-3677.

11. Removed

12. LIBRARY COMMISSION VACANCY

The City Council directed the City Clerk to proceed with the regular recruitment process to fill the vacancy on the Library Commission created by the resignation of Gene Searce by advertising the vacancy in the Yorba Linda Star, the Government Access Channel 3 and the City's webpage, and set an agreeable date and time for Council to interview the applicants to fill the vacancy on the Library Commission.

13. Removed

End of Consent Calendar

ITEM 3

APPROVAL OF THE MINUTES OF THE SEPTEMBER 12, 2009 SPECIAL CITY COUNCIL MEETING

Councilmember Winder stated that Mr. and Mrs. Murray were in attendance at the September 12th Special City Council Meeting and that Mrs. Murray had requested their presence and comments be reflected in the Minutes.

It was **MOVED/SECONDED - WINDER/SCHWING** – to approve the minutes of the September 12, 2009 Special City Council Meeting with the addition of Mr. & Mrs. Murray's name and comments. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder

NOES: None

ABSENT: None

ITEM 8

RESOLUTION NO. 2009-4048, APPROVING THE FORM OF & AUTHORIZING THE EXECUTION & DELIVERY OF A PURCHASE & SALE AGREEMENT & RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING & AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

Councilwoman Horton gave a brief summary of the item and inquired if the State could afford to accumulate more debt and whether there was any assurance that there would be no repercussion for the City if the State defaulted on the loan.

Finance Director Susan Hartman replied that legislation was approved last week and the Governor has signed the bill. She added that the State has agreed to take on the additional liability for repaying the principal as well as any interest payments in June of 2013.

City Attorney Raymond stated that all documents have been reviewed and the City is not pledging any general fund or other city funds, it is completely a State liability.

It was **MOVED/SECONDED - HORTON/SCHWING** – to adopt the Proposition 1A Sale Resolution No. 2009-4048, approve the purchase and sale agreement and authorize the Mayor, City Manager and Finance Director to sign the Proposition 1A documents.

City Manager Adams explained to the public that the State of California has borrowed funds from local government agencies to help balance the budget. The League of Cities created a program to allow agencies a faster return of their funds. Mr. Adams added that over 1,200 cities, counties and special districts are participating in the Prop 1A Securitization Program.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 9

GENERAL FUND BUDGET REPORT - 1ST QUARTER FY 2009-2010

Councilwoman Horton asked for a report at a future council meeting regarding cost cutting at Council meetings. She suggested a reevaluation of council meetings in attempt to avoid staff overtime, limiting council comments to five **ten** minutes and ending meetings at 10:30.

There was council consensus to provide a report at a future council meeting.

It was **MOVED/SECONDED - SCHWING/ANDERSON** – to appropriate an additional \$379,200 from General Fund reserves to support increased police service costs and direct staff to return with an updated budget report in January 2010. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 11

PROFESSIONAL SERVICES AGREEMENT - SR CONSULTING, INC.

Mayor Pro Tem Anderson stated he will not vote in approval of this item because the agreement is not attached to the staff report and felt that the \$125 an hour fee in excess of five hours per month for attending meetings should be reevaluated as well.

City Manager Adams stated that the agreement can be given to Council during a break and stressed the importance of approving the agreement tonight to begin providing general management of the Recreation and Community Services Department.

City Attorney Raymond stated that the actual terms of the contract are stated in the staff report and the remainder of the agreement is standard language and insurance requirements.

Councilmember Winder inquired about the City Manager's spending limits and suggested that the City Manager has the authority to hire a consultant on a temporary basis until the next City Council meeting.

City Attorney Raymond replied that City Manger's authority is between \$75,000 and \$100,000 and it would be within his authority to hire a consultant with a contract signed by the City Manager.

It was **MOVED/SECONDED - WINDER/ANDERSON** – to authorize the City Manager to sign a temporary contract with SR Consulting, Inc. until the next City Council meeting on November 3, 2009. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

ITEM 13

ORDINANCE NO. 2009-933, AMENDING THE YORBA LINDA MUNICIPAL CODE TO PERMIT CERTAIN BRIDGE GAMES

Councilmember Winder said that Ordinance No. 2009-933 is too limiting and many of the local community groups who do fundraising activities might be prohibited under the new Ordinance. He would prefer that it follows State law.

After obtaining direction from Council, City Attorney Raymond read into the record the following modification to Ordinance No. 2009-933: Nothing in this article shall prohibit the operation, permitting of, participation in or employment related to games or activities otherwise permitted under State law conducted by non-profit organizations, regardless of whether money or anything of value is collected as a condition of or as a stake in participation.

It was **MOVED/SECONDED - WINDER/HORTON** – to introduce and conduct first reading of Ordinance No. 2009-933, as amended. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

RECESS:

Mayor Schwing called a recess at 8:19 p.m. and reconvened the meeting at 8:25 p.m.

PUBLIC HEARINGS

14. ZONING CODE AMENDMENT 2009-01, TO AMEND THE EXISTING ZONING REGULATIONS FOR SECOND STORY DECKS
 - a. Open Public Hearing - Mayor Schwing opened the public hearing.
 - b. Staff Report - Associate Planner Greg Rehmer provided a brief overview of the staff report and responded to questions from Council.
 - c. Take Testimony – None

- d. Close Public Hearing - Mayor Schwing closed the public hearing.
- e. Make Determination

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to introduce for first reading, Ordinance No. 2009-932, approving Zoning Code Amendment 2009-01, to amend Section 18.10.120.I, Accessory Structures. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

15. REDEVELOPMENT AGENCY DISPOSITION OF TWENTY-SIX (26) AGENCY OWNED PROPERTIES, LOCATED WITHIN THE EVERGREEN VILLAS SENIOR CONDOMINIUM COMPLEX

- a. Open Public Hearing - Mayor Schwing opened the public hearing.
- b. Staff Report - Housing and Redevelopment Specialist Pam Stoker provided an overview of the staff report and responded to questions from Council.
- c. Take Testimony

Barry A. Cottle, C & C Development, gave a short history of his firm and experience in real estate development and housing and responded to questions from Council.

Pat Nelson, resident, commented the City was giving away \$3 million in property and not receiving anything in return.

Paul Maldonado, resident, suggested selling the property to a good cause otherwise it was a giving away of funds.

Rick Nelson, resident, asked if the rent could be increased more than 3% after a unit is vacated.

Housing & Redevelopment Specialist Stoker replied that it could not be raised more than 3%.

- d. Close Public Hearing - Mayor Schwing closed the public hearing.
- e. Make Determination

It was **MOVED/SECONDED - WINDER/HORTON** – to adopt Redevelopment Agency Resolution No. 2009-213 approving the report related to Health and Safety Code Section 33433, adopt City Council Resolution No. 2009-4046 authorizing the Redevelopment Agency's disposition of property located at 5053, 5055, 5057, 5061, 5066, 5068, 5069, 5070, 5072, 5073, 5078, 5080, 5082, 5090, 5104, 5108, 5109, 5111, 5113, 5114, 5115, 5116, 5118, 5119,

5122 and 5126 Avocado Circle, and adopt Redevelopment Agency Resolution No. 2009-212 authorizing the Agency to enter into an Affordable Housing Agreement (AHA) with Evergreen Villas LP, and provide direction to the Executive Director of the Agency to execute the Affordable Housing Agreement, Loan Agreement, Grant Deed, Regulatory Agreement, and all other necessary documentation to effectuate the sale of the property. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

16. RESOLUTION NO. 2009-4045, DECLARING A PRIVATE PROPERTY LOCATED AT 4542 GRANADA DRIVE A PUBLIC NUISANCE

a. Open Public Hearing – Mayor Schwing opened the public hearing.

b. Staff Report – Senior Community Preservation Officer Howard Weldon presented the staff report and responded to questions from Council.

c. Take Testimony

Claudine Lynch, resident, provided Council with a summary of the condition on the property and suggested the City consider adopting an International Property Maintenance Code to prevent similar future situations.

Pat Nelson, resident, suggested that council move forward with declaring the property a public nuisance as it might push the County to become involved.

Paul Maldonado – resident, stated that he lives next door to the subject property and it is a complete mess. He urged Council to declare the property a public nuisance.

d. Close Public Hearing – Mayor Schwing closed the public hearing.

e. Make Determination

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to adopt Resolution No. 2009-4045, declaring a private property located at 4542 Granada Drive in the City of Yorba Linda, a public nuisance.

Councilmember Winder expressed concern for the scope of work that might be involved in abating the property. He would like the City Attorney to be involved with Code Enforcement and the County Administrator's office in keeping the costs for abatement minimal so the lien against the property does not prevent the house from being saleable and to consider abatement of nuisances that may be inside the residence.

The **MOTION** was **AMENDED – ANDERSON/RIKEL** – to include Councilmember Winder's direction to the City Attorney to work with Code

Enforcement and the County Administrator to keep abatement costs to a minimum and to consider abatement of potential nuisances inside the property.

City Attorney Raymond stated that an inspection warrant would be needed to enter the backyard or inside of the property.

Battalion Chief Ric Schultz explained to Council that the OCFA would also require a warrant to enter the property. He offered to research any history on the property and bring it back to Council at a future time.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder

NOES: None

ABSENT: None

MAYOR'S REPORT- None

MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Winder attended the Eagle Scout Court of Honor for Cody Olive, an accomplished athlete with over 60 merit badges.

Councilmember Winder made a suggestion for the Agenda to help manage the meeting. He said that providing a time estimate on each Agenda Report would help Council and the Mayor determine the duration of meetings.

Councilwoman Horton praised Officer Jason Wambaugh and Detective Mario Vaughan who were both recognized recently by residents as going above and beyond the call of duty in responding to different incidents.

Councilwoman Horton spoke about an earlier request she had made to discuss a Dog Park in the City and hoped that the matter would be placed on a Parks and Recreation Commission meeting Agenda in the near future.

Councilwoman Horton requested a staff report on regulating massage parlors in the City. She stated that she has received several emails from residents and would like their concerns to be addressed.

Councilwoman Horton spoke about the recent Town Center community meeting in the east part of town and suggested that more meetings be held further east so all residents can become involved. She also recommended putting a blog on the City's website where residents can submit their ideas and suggestions for the Town Center. Councilwoman Horton also asked that plans be posted in city hall and the library for so the community can see the process as it evolves.

Mayor Pro Tem Anderson remarked that the recent East Lake Village meet and greet event with the Yorba Linda Country Riders was a great event. Some of the concerns mentioned by residents were the budget and water issues.

Mayor Pro Tem Anderson agreed with Councilwoman Horton's comments about massage parlors and asked the City Attorney prepare a report on minimizing the number of such establishments.

Mayor Pro Tem Anderson read a letter from a long time resident who is concerned about coyotes. The resident said there is a pack of coyotes running around his neighborhood that are very aggressive and do not back down when confronted. He also said that recently a neighbor's dog was snatched in broad daylight while the owner was weeding his garden. Mayor Pro Tem Anderson urged all residents to remain vigilant against the threat of coyotes.

Mayor Pro Tem Anderson commented on the recent public hearing for the St. Jude project and said it was unnecessary as the concerns revolved mostly around potential traffic issues. He said that it has been quite some time since Council requested that the Traffic Commission have input on major development issues.

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to direct staff to return with a Resolution or City policy on obtaining the Traffic Commission's review on any major new developments in the City within the next two City Council meetings.

Councilwoman Horton **AMENDED THE MOTION** to direct staff to bring back a report for Council discussion on the Traffic Commission review of traffic issues and then format a policy if there is Council agreement.

MOTION DIED for lack of a second.

MOTION CARRIED ON THE ORIGINAL MOTION by the following roll call vote:

AYES: Anderson, Rikel, Schwing
NOES: Horton, Winder
ABSENT: None

Mayor Pro Tem Anderson announced Councilwoman Rikel's birthday is tomorrow and wished her a very Happy Birthday.

Councilwoman Rikel suggested consolidating Councilmember Comments with Agency Reports in an effort to save time during Council meetings. She also requested that Police Updates be added to the Agenda to keep the public and Council informed.

Councilwoman Rikel stated Council and staff was inundated with emails from concerned residents regarding the St. Jude project hearing and feels the Traffic Commission should be involved in the traffic issues of the community.

Councilwoman Rikel attended the East Lake Village meet and greet event on Saturday along with the Yorba Linda Country Riders (YLCR). Later that evening she also attended an awards dinner with the YLCR which was a great event.

Councilwoman Rikel was present at a dinner and exhibition of the El Dorado Band and Color Guard who will be performing in the Rose Parade on New Year's Day. She remarked that only 15 bands in the world are invited each year to perform at the Rose Parade and it is a great honor for the El Dorado band to be chosen. Councilwoman Rikel added that El Dorado Band and Color Guard pins can be purchased from the El Dorado High school Booster Club to help raise funds.

Mayor Schwing inquired about massage parlor regulations.

City Attorney Raymond stated that legislation approved a year ago preempts local licensing laws for massage practitioners and instead creates a state process whereby a masseuse can become licensed by the State but the City cannot require that they obtain a local license.

Director of Finance Susan Hartman explained that the City requires proof of State certification for massage therapists and then issues a massage permit license. If a massage practitioner elects not to obtain state certification they must still attain a city permit license to practice in the City.

City Attorney Raymond declared that her report to Council will include the different permits issued under the City's ordinance and the new zoning criteria for massage establishments which states they must be treated the same as any "professional or other service" organization.

ADMINISTRATIVE REPORTS

17. REQUEST FOR USE OF THE LANDSCAPE EASEMENT FOR PLACEMENT OF SOLAR PANELS AT REAR OF 3303 GARDENIA LANE

Assistant City Manager/Public Works Director/City Engineer Mark Stowell gave a brief overview of the staff report.

City Attorney Raymond provided legislative history on the Solar Rights Act and determined that the Act does not mandate that Council approve Mr. Schreder's request to install solar panels on the City's landscape easement.

James Schreder, resident, offered to plant trees to mitigate the neighbor's view of the solar panels. He also stated that having solar panels on a property is equivalent to saving 7,442 trees and is a tremendous benefit to the City.

Pat Nelson, resident, expressed her opposition to the homeowner's request.

City Attorney Raymond recommended that the City vacate the easement if Council grants the owner's request for the installation of solar panels due to liability.

Mr. Schreder indicated he would be happy to have a covenant recorded that runs with the property to alleviate any of the City's concerns.

It was **MOVED/SECONDED - HORTON/ANDERSON** – to direct staff to begin the process for abandonment process for a portion of the landscape easement to allow the installation of solar panels and stipulate in the City’s code that this exception only relates to solar panels.

Mayor Pro Tem Anderson said he would like to add specific language stating that if the solar panels are ever abandoned then the easement reverts back to the City, that the property owner, as part of a covenant, puts the easement back into the same condition it was in before the solar panels were installed, that the property owner is responsible for all mitigation measures and that he pays all costs for vacation of easement.

Councilwoman Rikel would like to add that if the solar panels ever become in disrepair or are not in use, the property owner is responsible for completely removing them.

Councilmember Winder stated he is not in support of the motion due to the massive size of the panels, but if approved, he would like the mitigation landscaping to be within the perimeter of the fence to make it clear that it is the property owner’s responsibility to maintain.

Mayor Schwing said he also has some concerns about the project and will not be supporting it.

City Attorney Raymond added that the property owner will also be responsible for all costs associated with noticing and staff time.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel
NOES: Schwing, Winder
ABSENT: None

RECESS:

Mayor Schwing called a recess at 10:18 p.m. and reconvened the meeting at 10:23 p.m.

18. RECONSIDERATION OF REQUEST FOR REPLACEMENT OF CITY OWNED TREES ON LOMBARDY LANE AND GRANADA DRIVE

Lee Day, resident, requested that the pear tree in front of her house be removed as it is causing damage to the sidewalk.

Brian Constant, resident, stated the tree in front of his house is a public nuisance, the buds are plentiful and undesirable and the tree has lifted the sidewalk.

Council discussion ensued.

It was **MOVED/SECONDED - RIKEL/ANDERSON** – to direct staff to replace trees that have become a problem or for those residents who would like to complete a theme with tristania, using 15 gallon trees and giving the City the discretion of determining if the homeowner is responsible for the cost depending on whether or not it is a problem tree.

Councilmember Winder stated that he does not care for the look of that neighborhood with the placement of the cutouts where trees once were. He said he would support putting in concrete when trees need replacement as it would create a safer walking path as well as minimize future maintenance expenses.

The **MOTION** was **AMENDED – RIKEL/ANDERSON** – to give the homeowners the option of not replacing the tree. **MOTION CARRIED** by the following roll call vote:

AYES: Horton, Rikel, Schwing
NOES: Anderson, Winder
ABSENT: None

19. **CONSIDERATION OF ORDINANCE NO. 2009-935, PROHIBITING THE FEEDING OF WILD MAMMALIAN ANIMALS**

Assistant to the City Manager Mark Aalders provided an overview of the staff report and responded to questions from Council.

Councilwoman Horton stated she is not in support of the Ordinance and inquired about enforcement if the Ordinance were approved.

Captain John Conklin replied that it would be very challenging.

Mayor Pro Tem Anderson acknowledged there has been a great loss of pets because of coyotes however he does not see how the Ordinance can be enforceable and suggested the matter be tabled.

Councilwoman Rikel expressed her support of the Ordinance and said that people are simply unaware that they should not be feeding coyotes. She said the Ordinance is for the protection of everyone's pets.

Pat Nelson, resident, declared she is not in support of the Ordinance and the enforcement would be unimaginable.

Mary Carbone, resident, stated her opposition to the Ordinance and suggested creative advertising to create more public awareness.

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

AYES: Anderson, Horton, Schwing, Winder
NOES: Rikel
ABSENT: None

“ITEM NO. 23” WAS TAKEN AT THIS TIME BUT IS REPORTED IN ITS RESPECTIVE POSITION ON THE AGENDA.

EMERGENCY ITEM ADDED BY CITY MANAGER ADAMS

It was **MOVED/SECONDED - HORTON/WINDER** - to add the following emergency item to the Agenda that came up after the Agenda was posted - Canyon Power Plant project - Immediate Action Required. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: None

City Manager Adams declared that the State Energy Commission will hold a preliminary hearing on the Canyon Power Plant project on November 2nd. He recommended that Council authorize up to \$2,000 to send the City’s consultant to the hearing and represent the City in its opposition to the plant.

Councilmember Winder suggested a public official be present at the meeting and represent the residents of Yorba Linda.

Councilwoman Horton stated she is not against the power plant but it is not the cleanest available and it will bring pollution over our schools and community.

Mayor Schwing related that all of the standards of the peaker plant are currently being met and he is not willing to spend more City funds to promote an alternate technology that will benefit another person’s business.

Mayor Pro Tem Anderson expressed his opposition to advocating a previous councilmember’s business and it is a conflict of interest.

It was **MOVED/SECONDED - SCHWING/RIKEL** - to receive and file the report.

Councilwoman Horton stated that she is not advocating a particular technology but the cleanest that is available and that should be the City’s position at the hearing.

Councilmember Winder remarked that the City has previously spent money on this subject and Council has discussed it in the past but this is the first time the conflict of interest issue has been raised.

Councilwoman Rikel clarified that she has not voted on any issue in relation to this matter and she supports clean air.

Councilmember Anderson said he is in support of opposing the plant itself but not a particular technology.

A **SUBSTITUTE MOTION** was made - **MOVED/SECONDED - ANDERSON/RIKEL** – to oppose the Canyon Power Plant project for all of the health risks associated with it. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing
NOES: Winder
ABSENT: None

It was **MOVED/SECONDED - HORTON/WINDER** - to adjourn the meeting. **MOTION FAILED** by the following roll call vote:

AYES: Horton, Winder
NOES: Anderson, Rikel, Schwing
ABSENT: None

20. AUTHORIZATION TO PROCEED WITH PROCESS TO TRANSFER OWNERSHIP OF THE CITY SEWER SYSTEM TO THE YORBA LINDA WATER DISTRICT

Assistant City Manager/Public Works Director/City Engineer Stowell provided the staff report and responded to questions from Council.

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to direct staff to begin the process to transfer the City sewer system ownership and maintenance responsibility to the Yorba Linda Water District.

Councilwoman Horton stated her concern that this matter became an issue when less than half of one percent of the property owners in the sewer district area protested the fee increase yet Council voted against increasing sewer fees. She asked that the sewer system be appraised stating that it has value and transferring ownership to the water district could be considered a gift of public funds and suggested exploring other options.

Councilmember Winder agrees with Councilwoman Horton and is interested in tabling the item until it becomes a priority matter.

A **SUBSTITUTE MOTION** was made - **MOVED/SECONDED - WINDER/HORTON** – to receive and file the report.

Mayor Schwing said he also has questions about the transfer of the sewer system and would support studying the process instead of proceeding with it.

Councilwoman Rikel feels that it is an important issue that deserves consideration and is in support of pursuing the matter for more information.

Mayor Pro Tem Anderson said he will not support the motion to receive and file the report and that it makes no sense to have two different agencies running the sewer system in the City.

MOTION FAILED by the following roll call vote:

AYES: Horton, Winder
NOES: Anderson, Rikel, Schwing
ABSENT: None

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to direct staff to come back with a more comprehensive report with potential options other than the Yorba Linda Water District and without the \$20,000 consultant fee.

Councilmember Winder expressed his disagreement and said that the City previously had a Proposition 218 vote and that Council voted not to raise sewer fees without thinking of the repercussions.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing
NOES: Winder
ABSENT: None

Councilmember Winder left the dais at 11:47 p.m.

Councilwoman Horton **MADE A MOTION** to adjourn the meeting.

MOTION DIED for lack of a second.

OTHER AGENCY REPORTS AND REFERRALS

ORANGE COUNTY SANITATION DISTRICT

ORANGE COUNTY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR/TRANSPORTATION
CORRIDOR SYSTEM

ORANGE COUNTY FIRE AUTHORITY

ORANGE COUNTY VECTOR CONTROL

OTHER BUSINESS

21. PROCLAMATION RE NIGHT FLYING OF OCFA HELICOPTERS (RIKEL)

Councilwoman ~~Horton~~ Rikel spoke about Orange County Fire Authority helicopters that have been upgraded with night vision goggle capability but are not being used due to staffing limitations. She requested a Proclamation to request that OCFA management and the firefighter union work together to make it possible to begin taking advantage of these helicopters.

It was **MOVED/SECONDED - ANDERSON/RIKEL** – to direct staff to submit a Proclamation asking the Orange County Fire Authority management and the firefighters union to resolve the staffing issues and allow the use of night helicopters.

Councilwoman Horton suggested the matter be directed to the Orange County Fire Authority board and the Finance Committee meeting. She also asked that an item be added to a future agenda to discuss councilmember's roles on regional boards.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing
NOES: None
ABSENT: Winder

22. ON CALL ENGINEERS (RIKEL)

Councilwoman Rikel asked that when the City requires residents to obtain a consultant for certain projects, that they have a choice of two or three prequalified consultants to choose from.

Mayor Schwing suggested that staff incorporate this matter into the report on soils testing that will come back to Council in November.

23. DISCUSSION RE CITY REQUIREMENTS FOR POST FIRE SOILS TESTING (SCHWING)

Mayor Schwing inquired about requirements for soils testing on properties that were destroyed by last year's fires.

Donna Porter, Dream Homes, spoke on behalf of her client who is rebuilding his house after it was lost to the fires last November. Ms. Porter stated it has been a difficult and lengthy process that has cost thousands of dollars.

Mr. Hammond, Engineer, said he has lived and worked in Yorba Linda in the past and the City has been making ridiculous requirements.

Mayor Schwing requested agendizing the matter for a full report at the next city council meeting to include the number of homes that have been required to have soils testing, the number of iterations submitted to get it passed, the timeframe and especially what the reason is for requiring the tests.

City Manager Adams stated that staff could bring back a report at the second council meeting in November.

There was Council consensus to bring back a report regarding soils testing at the second meeting in November.

24. DIRECTION RE PROFESSIONAL FEASIBILITY STUDY FOR A CULTURAL ARTS FACILITY IN THE TOWN CENTER (SCHWING)

Mayor Schwing stated that it is important to determine if a cultural arts facility is feasible, what size structure can our demographics support and what is the likelihood that it can be funded and privately built. He said the only way to have an unbiased review is to have a professional feasibility study and would like to direct staff to come back with a draft RFP for council review.

City Manager Adams suggested acquiring copies of other agencies' similar studies for council review before pursuing a draft RFP

There was Council consensus to direct staff to obtain samples of other agencies professional feasibility studies for their review.

ADJOURNMENT

Mayor Schwing adjourned the meeting at 12:10 a.m. in honor of retiring City Clerk Kathie Mendoza and Finance Director Susan Hartman, to the next regularly scheduled City Council/Redevelopment Agency Joint Meeting on November 3, 2009.

Marcia Brown, City Clerk

APPROVED BY COUNCIL/RDA:
