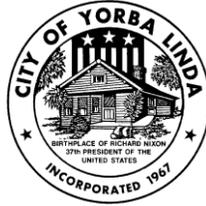

CITY OF YORBA LINDA



Land of Gracious Living

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING MINUTES

OCTOBER 6, 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 334-403-1 & 2
City Negotiators: City Manager Adams
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 6:39 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, Conklin, Harris, Hartman, Mendoza, Raymond,
Steep, Stowell

PLEDGE OF ALLEGIANCE

Captain Conklin

INVOCATION

Father Michael Hanifin, Santa Clara De Asis Catholic Church

CLOSED SESSION REPORT

City Attorney Jamie Raymond reported that Council will reconvene to Closed Session after the City Council meeting, to continue discussion on Item A, Conference With Real Property Negotiator.

INTRODUCTIONS & PRESENTATIONS

PROCLAMATION, FIRE PREVENTION WEEK, OCTOBER 3 - 10, 2009

Mayor Schwing presented Battalion Chief Chuck Nicola the proclamation who accepted on behalf of the Orange County Fire Authority. Battalion Chief Nicola spoke about the importance of preparing our homes and ourselves, in case of future fires. He also announced that a new CERT (Citizens Emergency Response Team) class was starting on October 17th and encouraged residents to apply on the city's website.

OCFA READY, SET, GO! REPORT

Presented by Battalion Chief Nicola during receipt of Proclamation.

FRIENDS CHRISTIAN HIGH SCHOOL PROGRESS REPORT

Rick Kempton, Superintendent of Friends Christian Schools, remarked that the new high school will be a continuation of a 35 year legacy in the community, providing an exceptional educational experience for children through the 12th grade.

Michael Kairis, provided a power point presentation and updated Council on the construction timelines, the financing status and stated that the proposed opening date was the Fall of 2012.

PRESENTATION RE SUCCULENTS AND CACTI BY ROSEMARIE SAUER

Rosemarie Sauer provided a power point presentation illustrating various types of succulent and cacti plants.

PLEASE NOTE: A NUMBER OF AGENDA ITEMS WERE DISCUSSED/REPORTED OUT OF SEQUENCE ON THE AGENDA BUT ARE REPORTED IN THEIR RESPECTIVE POSITION ON THE AGENDA.

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

Lee Day, resident, objected to Council's approval of the September 15th Agenda item, Request for Replacement of City Owned Trees on Lombardy Lane and Granada Drive. She indicated that the staff report had some inaccuracies and requested that Council place the matter on a future Council Agenda for reconsideration.

City Manager Adams said that staff can place Ms. Lee's original request on a future City Council agenda. There was Council consensus to bring back the report for Council consideration.

Paul Weddell, resident, questioned the timing of the resurfacing of Buena Vista Street between Richfield Road and Scenic View and requested that any future street work near schools be coordinated with summer schedules.

Susan Janowicz, resident, General Manager of East Lake Village Community Association, inquired about Item No. 7, Lane Reductions on Paseo de Las Palomas, Village Center Drive and Yorba Ranch Road. She asked when the traffic survey count was taken and whether the community members would be contacted about the proposed project. Ms. Janowicz also requested information that can be published in their monthly community newsletter.

Assistant City Manager/Public Works Director/City Engineer Stowell replied that the last traffic survey counts were completed in 2008. He also stated that no changes are proposed for that portion of East Lake Village. Mr. Stowell said the Traffic Commission felt the best method for notifying residents was by placing signs in the neighborhood that included a phone number to call for recorded information, the City's website

address and an invitation to attend a Traffic Commission meeting to provide public input.

Judy Murray, resident, Rancho Dominguez Homeowners Association, said there is a disparity of assessments in relation to benefit received and urged Council to reconfigure LMAD Zone L-2 to be fairer to all involved.

Greg Gillasp, resident, noted that with the number of people attending the Council meeting that evening, it was likely a violation of the fire code. Mr. Gillasp also spoke about the CERT program and encouraged residents to get involved and obtain more information on the city's website.

CONSENT CALENDAR

Councilmembers Horton and Winder registered a "no" vote on Item 8. Councilwoman Horton pulled Item 7 and Mayor Pro Tem Anderson pulled Item 9 from the Consent Calendar.

It was **MOVED/SECONDED - WINDER/HORTON** - to approve the Consent Calendar with the removal of Items 7 and 9 and Councilmembers Horton and Winder's no vote on Item 8. **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 waive 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. APPROVAL OF THE MINUTES OF THE SEPTEMBER 15, 2009 CITY COUNCIL/RDA MEETING

The City Council/RDA approved the minutes of the September 15, 2009 City Council/RDA Meeting.

4. APPROVAL OF THE MINUTES OF THE SEPTEMBER 22, 2009 SPECIAL CITY COUNCIL MEETING

The City Council approved the minutes of the September 22, 2009 Special City Council Meeting.

5. APPROVAL OF THE MINUTES OF THE SEPTEMBER 22, 2009 CITY COUNCIL/RDA ADJOURNED MEETING

The City Council/RDA approved the minutes of the September 22, 2009 adjourned meeting.

6. EXTENSION OF AUDITING SERVICES CONTRACT

The City Council extended the auditing services contract with LSL (formerly known as Lance Soll and Lunghard) LLP for an additional two fiscal years with an option for a third year and authorized the Mayor to sign the extension letter.

7. Removed

8. FUNDING ALLOCATION FOR FIRE DAMAGED AREAS IN THE LANDSCAPE & LIGHTING MAINTENANCE ASSESSMENT DISTRICT, ZONES L-1 & L-2

The City Council approved the allocation of funds from LMAD reserves to cover the cost of re-construction of fuel modification landscape zones along Rim Crest Drive/Falconridge Road, Dorinda Road, Stonehaven/Heatheridge Drive, Hidden Hills Road and Via Lomas de Yorba East, which were damaged by the Freeway Complex Fire.

9. Removed

End of Consent Calendar

ITEM 7

LANE REDUCTIONS ON PASEO DE LAS PALOMAS, VILLAGE CENTER DRIVE AND YORBA RANCH ROAD (ROADWAY DIET)

Councilwoman Horton remarked that in the concept of transparency in government this is a well planned and thought-out project and congratulated staff on their efforts.

It was **MOVED/SECONDED - HORTON/WINDER** – to direct the Traffic Commission, as funding sources become available, to receive public input on the reduction of the roadway lane configuration to one travel lane and a bike lane in each direction for Paseo de Las Palomas between Yorba Linda Boulevard and Paseo del Prado; Village Center Drive between Bastanchury Road and north Fairmont Boulevard; and Yorba Ranch Road between Yorba Linda Boulevard and Esperanza Road. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder

NOES: None

ABSENT: None

ITEM 9

MULTIPLE CLAIMS FOR DAMAGES - GARY HOMBS, MATTHEW A. PALMER, RODERICK QUINN, GREG SLATER AND JORGE TORRES & NOEMI RUEDAS TORRES

Mayor Pro Tem Anderson stated that he appreciated the detailed report and thanked staff for a job well done.

It was **MOVED/SECONDED - ANDERSON/WINDER** – to deny the claims for damages submitted by Gary Hombs, Matthew A. Palmer, Roderick Quinn, Greg Slater and Jorge Torres and Noemi Ruedas Torres. **MOTION CARRIED** by the following roll call vote:

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

PUBLIC HEARINGS

10. APPEAL OF DESIGN REVIEW 2008-12 AND MITIGATED NEGATIVE DECLARATION PREPARED THEREFORE, ST. JOSEPH HEALTH SYSTEM

- a. Open Public Hearing – Mayor Schwing opened the public hearing. He stated the reason for appeal of the item was not to overturn the Planning Commission's decision but to review it and ensure that the mitigated conditions are sufficient.

Councilwoman Horton stated that she is employed by St. Jude Medical Center and will recuse herself from participating in the public hearing. Councilwoman Horton left the Council Chamber.

Councilmember Winder stated he is the Chairman of the St. Jude Medical Center Board of Trustees. The City Attorney provided a legal analysis regarding a potential conflict of interest and determined that as an unpaid board member of a non-profit organization there is no disqualifying conflict of interest therefore he will be participating in the public hearing.

- b. Staff Report - Community Development Director Steve Harris restated the reasons for appeal of the item and introduced Associate Planner Greg Rehmer who provided a brief overview of the staff report along with a power point presentation and responded to questions from Council.
- c. Take Testimony
 - 1) Appellant – Mayor Schwing inquired about the amount of handicap spaces on the project, sidewalk and parking issues and turn lanes on both Rose Drive and Bastanchury Road. Brian Crawford, Kunzman & Associates, responded to the Mayor's questions.

2) Project Applicant – Jake Rohe, Director of Development, Pacific Medical Buildings, provided a power point presentation and gave an overview of the proposed project and responded to the Mayor’s concerns.

3) Public Comment

The following persons spoke in opposition to the project:

Nathan Woods, Stephen Miller, Patrick Jonas, Mike Barsch, Gary Schwab, Blake Golden

The following persons spoke in support of the project:

Pat Nelson, Bill Morris, Jerry Fanos, Chuck Street, Rosemarie Sauer, Jim Ash, Mary Carbone, Dr. Michael Sugarman

4) Rebuttal by Applicant – Bill Halligan, The Planning Center, addressed Council regarding the mitigated negative declaration which his firm prepared. Mr. Halligan also responded to previous questions from Council and the public.

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

e. Make Determination

Mayor Schwing suggested as a condition of approval that traffic mitigating measures, such as turning pockets, traffic lights and striping, be in place before an occupancy permit is issued. He also requested that the sidewalks be pulled back from the curb to discourage stopping and dropping off patients on a street with no parking allowed. Mayor Schwing also asked for a condition of approval to increase the number of handicapped spaces on the project.

It was **MOVED/SECONDED – WINDER/ANDERSON** - to adopt Resolution No. 2009-4035, upholding the Planning Commission’s decision to approve Design Review 2008-12, and the mitigated negative declaration prepared therefore, St. Joseph Health System, with additions and amendments to Conditions of Approval, as stated above.

Mayor Pro Tem Anderson said he would like to see this project go before the Traffic Commission for review and input once the traffic designs are in place.

Mayor Schwing agreed with Mayor Pro Tem Anderson and commented that Council had previously discussed the probability of similar projects coming before the Traffic Commission for review.

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Rikel, Schwing, Winder
NOES: None
ABSENT: Horton (due to a conflict of interest)

11. APPEAL OF DESIGN REVIEW 2008-06, METZ

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

Councilwoman Horton recused herself from the public hearing stating that her husband has an economic interest with one of the parties who is opposing the project. Councilwoman Horton left the Council Chambers.

Councilwoman Rikel recused herself from the public hearing stating that she received a contribution from the appellant and although not required by law, she feels it is the right thing to do in terms of Council's proposed ethics ordinance. She added that she has also recused herself during all Closed Session negotiations regarding this item. Councilwoman Rikel left the Council Chambers.

Mayor Pro Tem Anderson stated that he received a campaign contribution from the appellant which he returned, therefore he will not be recusing himself from the public hearing.

Mayor Schwing informed all that in 2000 and 2002 the appellant was an unpaid consultant to his campaign committee.

- b. Staff Report - Community Development Director Harris introduced Associate Planner Greg Rehmer. Mr. Rehmer provided a brief overview of the staff report and presented slides of the proposed project.

- c. Take Testimony

1) Appellant – Peter Mitchell stated that the reason he appealed Design Review 2008-06 is due to the size and height of the proposed structure and the potential hours of operation. He said he would like a condition of approval to restrict any future conversion to a two-story building and that the mezzanine cannot be rented or used for retail purposes.

2) Project Applicant – Clark Davis, JR Miller & Associates, compared the past and current project. He stated that special attention was paid to the locale, landscaping and friendly-style architecture. Mr. Davis mentioned that the overall footprint is only 2,500 square feet which is smaller than most of the houses in the area. He said he is available to address any questions or concerns from Council.

Anthony L. Cannon, Attorney for the applicant, stated that Mr. Metz is disappointed with Mayor Pro Tem Anderson's decision not to recuse himself from the proceedings and of hearing about Mayor Schwing's

association to the appellant. Mr. Cannon affirmed that the applicant is not requesting a variance but the project is within the permitted uses, and responded to the appellant's concerns.

3) Public Comment

Pat Nelson, resident, stated she is pleased that the proposed structure is not a two-story building and that the parking is in the back. Mrs. Nelson however is concerned about the proposed driveway that feeds onto Kellogg Drive, which is a busy street.

John Summerfield, resident, spoke about the history of the property and said he is not in support of retail use. Mr. Summerfield also thought the signage should be in the landscaping and not on top of the building.

Terry Wentworth, resident, spoke in support of the applicant and the project. He stated that Mr. Metz has good intentions for the property and he should be allowed to move forward with the project.

- 4) Rebuttal by Applicant - Anthony L. Cannon, Attorney for the applicant, stated that the parking concerns that were brought up tonight were covered by Associate Planner Rehmer during the Planning Commission meeting and the traffic issues have been addressed by the traffic report. Mr. Cannon advised Council that he believes the City Attorney's opinion regarding conflicts of interest is in error and requested that she respond to the applicant in writing.

Councilmember Winder asked Mr. Cannon if the binder that was presented to Council that evening was about potential pending litigation.

Mr. Cannon responded that the binder is a brief for Council's review of their position of matters and at this point there is no contemplated litigation depending on how things develop.

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

e. Make Determination

City Attorney Raymond responded to Councilmember Winder's concern about potential litigation stating that in her brief review of the applicant's binder there appeared to be some threat of litigation. She suggested if Council has concerns or questions of an attorney-client privileged nature it would be appropriate to move into closed session.

It was **MOVED/SECONDED – WINDER/ANDERSON** - to convene into Closed Session per Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Schwing, Winder
NOES: None
ABSENT: Horton, Rikel (due to conflicts of interest)

Council recessed at 9:36 p.m. and reconvened at 9:43 p.m.

COUNCILMEMBER WINDER made a **MOTION** to adopt Resolution No. 2009-4034, upholding the Planning Commission's approval of Design Review 2008-06.

MOTION DIED for lack of a second.

Mayor Pro Tem Anderson inquired about signage and design changes to the exterior.

Associate Planner Rehmer responded that a condition of approval could be added requiring a sign program be approved by the Planning Commission. Mr. Rehmer also said a condition could be added that any exterior changes need to be reviewed by the Planning Commission.

It was **MOVED/SECONDED – ANDERSON/WINDER** - to adopt Resolution No. 2009-4034, upholding the Planning Commission's approval of Design Review 2008-06 with conditions of approval for a sign program and for exterior changes to go before the Planning Commission for review. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Schwing, Winder
NOES: None
ABSENT: Horton, Rikel (due to a conflict of interest)

Councilwomen Horton and Rikel returned to the Council Chambers.

12. ZONING CODE AMENDMENT 2009-01, AMENDING EXISTING ZONING REGULATIONS FOR SECOND STORY DECKS
 - a. Open Public Hearing - Mayor Schwing opened the public hearing.
 - b. Staff Report - Community Development Director Harris gave a brief overview of the staff report and recommended to continue the matter to a future council meeting.
 - c. Take Testimony – None
 - d. Make Determination

It was **MOVED/SECONDED – RIKEL/WINDER** – to continue this item to the City Council meeting of October 20, 2009. **MOTION CARRIED** by the following roll call vote:

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

MAYOR'S REPORT

Mayor Schwing presented a Proclamation proclaiming October 19, 2009 as El Dorado Golden Hawks Band and Colorguard Day. The El Dorado Band and Colorguard has been invited to represent the cities of Yorba Linda and Placentia in the upcoming 2010 Tournament of Roses Parade.

Ed Byrd thanked Council and said the El Dorado Band and Colorguard are very excited about the opportunity. Mr. Byrd also thanked City Clerk Kathie Mendoza for her outstanding assistance.

MATTERS PRESENTED BY COUNCILMEMBERS

Councilwoman Rikel announced that most fire stations will be open this weekend for Fire Prevention Week. She remarked that Fire Station 10 has a brand new Predator, a state of the art fire engine, and invited everyone to visit.

ADMINISTRATIVE REPORTS

13. GRANT REQUEST OF \$42,000 BY THE YORBA LINDA VETERANS MEMORIAL ASSOCIATION FOR ADDITIONAL AMERICANS WITH DISABILITIES ACT IMPROVEMENTS AT VETERANS PARK

Mayor Pro Tem Anderson stated that his wife serves on the Yorba Linda Veterans Memorial Association board as an unpaid member and although it is not a disqualifying conflict of interest, he will not be participating in the discussion or decision. Mayor Pro Tem Anderson left the Council Chambers.

City Manager Adams gave a brief overview of the staff report.

Mike Shanahan, Vice Chairman of the Yorba Linda Veterans Memorial Association, gave a background of the Veterans Memorial and the fundraising to date.

It was **MOVED/SECONDED – WINDER/SCHWING** – to direct staff to provide a \$42,000 grant to the Yorba Linda Veterans Memorial Association. **MOTION CARRIED** by the following roll call vote:

AYES: Horton, Rikel, Schwing, Winder
NOES: None
ABSENT: Anderson (due to a conflict of interest)

Mayor Pro Tem Anderson returned to the Council Chambers.

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

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

James Schreder, resident, suggested that City Policy E-5 be amended to reflect the current law and requested that Council approve his encroachment request to install solar panels within a landscape maintenance assessment district slope behind his home.

City Attorney Raymond noted that the City is not prohibited from imposing reasonable restrictions on these types of solar panels. She also pointed out that the City is not acting in a regulatory capacity, but protecting its landscape interest and having solar panels would defeat that purpose. Ms. Raymond said if Council is interested in allowing solar panel installations in landscape easements, her recommendation is that the City vacate the easement rather than allow the use in order to protect the City from liability.

It was **MOVED/SECONDED – ANDERSON/HORTON** – to continue the matter and allow the City Attorney to investigate the legislative history and report back to Council at the next City Council meeting. **MOTION CARRIED** by the following roll call vote:

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

15. REQUEST FOR REMOVAL OF CITY OWNED TREES WITHIN THE CITY MAINTAINED LANDSCAPE SLOPE BEHIND THE RESIDENCE AT 27850 BEN NEVIS WAY

Assistant City Manager/Public Works Director/City Engineer Stowell provided an overview of the staff report along with a power point presentation.

Mr. and Mrs. Nunez addressed Council regarding their request to remove trees on their slope. They want the slope returned to the original slope plan with only one tree and that the City bear the cost of removal of the trees.

Council discussion ensued.

It was **MOVED/SECONDED – RIKEL/ANDERSON** – to direct staff to work with Mr. and Mrs. Nunez and give them a price to remove the trees and the Nunez's make a decision to either remove or keep, some or all of the trees. **MOTION CARRIED** by the following roll call vote:

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

16. ORDINANCE NO. 2009-933, AMENDING THE YORBA LINDA MUNICIPAL CODE TO PERMIT CERTAIN BRIDGE GAMES - Continued
17. CONSIDERATION OF ORDINANCE NO. 2009-935 PROHIBITING THE FEEDING OF WILD MAMMALIAN ANIMALS

Assistant to the City Manager Mark Aalders provided the staff report along with a power point presentation and responded to questions from Council.

Council discussion ensued.

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to continue the item to the October 20, 2009 City Council meeting. **MOTION CARRIED** by the following roll call vote:

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

OTHER AGENCY REPORTS AND REFERRALS

ORANGE COUNTY SANITATION DISTRICT - None

ORANGE COUNTY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES - None

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR/TRANSPORTATION
CORRIDOR SYSTEM - None

ORANGE COUNTY FIRE AUTHORITY - None

ORANGE COUNTY VECTOR CONTROL - None

OTHER BUSINESS

18. ATTORNEY GENERAL LETTER RE FORMER CITY MANAGER TAMARA LETOURNEAU AND BIA (ANDERSON) - Continued
19. RELAXED SIGNAGE ENFORCEMENT DUE TO ECONOMIC DOWNTURN (ANDERSON) - Continued

CLOSED SESSION IF REQUIRED

The City Council/RDA convened into Closed Session at 11:33 p.m.

ADJOURNMENT

Mayor Schwing adjourned the meeting at 12:30 a.m. to a Special Joint Meeting of the City Council/RDA and Planning Commission at 7:00 p.m. on Tuesday, October 13, 2009.

The next regularly scheduled City Council/Redevelopment Agency Joint Meeting is October 20, 2009.

Kathie M. Mendoza, City Clerk

APPROVED BY COUNCIL/RDA:
