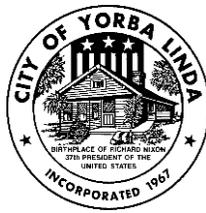

CITY OF YORBA LINDA



Land of Gracious Living

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING MINUTES

JANUARY 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 Present: Anderson, Horton, Rikel, Schwing, Winder
Staff Members Present: Carvalho, Kelly

TEAM BUILDING SESSION

RECESS

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

CALL TO ORDER

The City Council/Redevelopment Agency reconvened at 6:33 p.m. in the Council Chambers at 4845 Casa Loma Avenue, Yorba Linda.

ROLL CALL

Council/Agency Members Present: Anderson, Horton, Rikel, Schwing, Winder
Staff Members Present: Carvalho, Conklin, Hartman, Kelly, Leto, Mendoza, Steep, Stowell, Thiele

PLEDGE OF ALLEGIANCE – Captain Conklin

INVOCATION – Pastor Elder Guy Gibbs, Yorba Linda Friends Church

INTRODUCTIONS & PRESENTATIONS

UPDATE ON ORANGE COUNTY GRADE SEPARATION PROJECT ALONG ORANGETHORPE CORRIDOR (BY OCTA)

Third District Representative of Orange County Transportation Authority Carolyn Cavecche, presented slides and provided a brief update of the Grade Separation Project affecting the City.

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

Lynn Carrillo, representing the Hills for Everyone Association, addressed the Council and asked about V-ditches and a letter from her insurance company that was required by the Building Department.

Pat Nelson, resident, spoke regarding the Town Center. She suggested developing a chart showing a timeline for the process.

Julia Shultz, resident, announced the next Yorba Linda Water District board meeting would be on Thursday at 6:30 p.m.

Greg Gillaspay, resident, congratulated Councilmember Winder on finalizing his election. He asked if the City was still having Town Hall meetings. Interim City Manager Bill Kelly responded that Council had discussed it at the last meeting and the next Town Hall meeting would be in March.

Jerry Kirschner, resident, stated Council should have more communication with the residents. He asked if the City had taken any steps to contact an outside State or Federal agency to investigate the fire. He also asked if the City was going to spend \$8 million to repair the golf course when we can't even get lights or sprinklers to work.

Tom Loose, resident, stated he lost his home on Deodar Drive and had spoken to Council at a previous meeting to ask the following questions: Why didn't the Chief of Police call a general evacuation at 9:30 a.m. on November 18 when he knew the City was in imminent danger? His street burned at 2:00 p.m. but it wasn't evacuated until 4:00 p.m. Why did the Fire Authority representative state that fire engines responded within half an hour but his street burned at 2:00 p.m. and fire trucks did not respond until 4:00 p.m. Why did the Water District representative only speak about the Hidden Hills area losing water pressure? Mr. Loose stated there was no water pressure on his street either.

CONSENT CALENDAR

Councilmember Horton asked for clarification on Item 4, Treasurer's Report. Director of Finance Hartman explained the report.

Mayor Schwing pulled Items 5 and 9 from the Consent Calendar.

It was **MOVED/SECONDED - WINDER/ANDERSON** - to approve the Consent Calendar with the removal of Items 5 and 9. **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 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 DECEMBER 16, 2008 CITY COUNCIL MEETING

The City Council/RDA approved the minutes of the December 16, 2008 joint meeting.

4. TREASURER'S REPORT - NOVEMBER 2008

The City Council and Agency Board received and filed the November 2008 Treasurer's Report.

5. Removed

6. ACCEPTANCE OF IMPROVEMENTS - HVAC INSTALLATION AT THE THOMAS LASORDA JR. FIELD HOUSE - COUTS HEATING AND COOLING, INC.

The City Council accepted the improvements constructed at the Thomas Lasorda Jr. Field House completed by Coutts Heating and Cooling, Inc., authorized the City Clerk to file a Notice of Completion with the County Recorder, and authorized the release of retention monies when appropriate to do so.

7. RELEASE OF GRADING BOND, MESSIAH LUTHERAN CHURCH, GRADING PERMIT NO. 1616

The City Council authorized the City Clerk to reduce the Grading bond to 10 percent of the original amount and release in one year if no liens have been filed, per Public Works Department report.

8. RESOLUTION NO. 2009-3961, RECITING THE FACTS OF THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 4, 2008, DECLARING THE RESULTS, AND RESCINDING RESOLUTION NO. 2008-3956

The City Council adopted Resolution No. 2009-3961.

9. Removed

End of Consent Calendar

ITEM 5

CHANGE ORDER NOS. 3 & 4, TRAVIS RANCH YOUTH PARK RESTROOM, CONCESSION STAND AND ADA IMPROVEMENT PROJECT - HONDO COMPANY, INC

Mayor Schwing was concerned that not all the change orders for this project had come before Council. Interim City Manager Kelly responded that it had been an unusually complicated and difficult project. He further stated that if the project had been stopped to bring the changes to Council there would have been a significant increase in project fees. Interim City Manager Kelly assured Council that staff would work hard to prevent such an issue in the future.

Tom Lynch, resident, was concerned that the Public Contract Code states that only a maximum of 10% was allowed on accumulative change orders. He further stated he was familiar with the Education Code which clearly stated that. Interim City Manager Kelly responded that the City was governed by the City Code which is different from the Education Code, and the change orders would not have been approved by staff if not necessary. City Attorney Carvalho clarified that the California Contract Code has separate divisions for Cities, Educational agencies, Water agencies, etc. and they all differ in the change order section. She confirmed Interim City Manager Kelly's comments.

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

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

ITEM 9

RESOLUTION 2009-3979, PROCLAIMING THE TERMINATION OF A LOCAL EMERGENCY

Mayor Pro Tem Anderson asked that staff clarify the resolution for the public. Interim City Manager Bill Kelly explained the purpose of the resolution and gave an update of the fire recovery process.

It was **MOVED/SECONDED - SCHWING/RIKEL** - to adopt Resolution No. 2009-3979, proclaiming the termination of a local emergency. **MOTION CARRIED** by the following roll call vote:

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

PUBLIC HEARINGS

10. APPEAL OF ADMINISTRATIVE ADJUSTMENT 2008-26 – DOWNS

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

Councilmember Horton stated she was concerned about a possible conflict of interest with Mayor Pro Tem Anderson. City Attorney Carvalho responded that she had not found a conflict with Mayor Pro Tem Anderson participating in the matter. She asked Mayor Pro Tem Anderson if he was prepared to apply the law to the facts of the appeal. Mayor Pro Tem Anderson stated he had previously served on the Traffic Commission with Mr. Larry Larsen, the appellant's husband, and he felt he could be fair and unbiased. Councilmember Horton indicated she was referring to a Closed Session conversation that Mayor Pro Tem Anderson shared with Mr. Larsen. City Attorney Carvalho stated that there was no problem and Mayor Pro Tem Anderson could participate in the matter.

Councilmember Rikel, Mayor Pro Tem Anderson and Mayor Schwing also disclosed, for the record, that they had had individual conversations with the Larsens.

- b. Staff Report - Interim Community Development Director Thiele gave an overview of the staff report and briefly reviewed the history of the project.
- c. Take Testimony

- 1) Appellant – Michele Staples, attorney for the appellant, Marilyn Larsen, presented her client’s position on the appeal. Larry Larsen, spouse of the appellant, stated that City code requires a driveway/private street be paid for and improved by permit applicant when doing a construction of 40% or greater. He also clarified to Councilmember Horton that in his conversation with her the previous evening, he was referring to John Rafter, Traffic Commissioner, not John Anderson.
- 2) Project Applicant – Michael Gellar, attorney for the applicants, David and Cassie Downs, spoke in favor of the project and read two letters from neighbors also in support of applicants. David and Cassie Downs spoke in support of the project and presented slides of their home. They stated they have taken measures to work with the Larsens, such as posting a fence that matches the Larsen’s, planting adequate foliage to assure privacy, cleaned out the storm drain and moved their mailbox.

RECESS:

Mayor Schwing called a recess at 9:18 p.m. and reconvened the meeting at 9:35 p.m.

- 3) Public Comment

The following people spoke in support of the applicants:

Marilyn B., Keeler Thompson, Greg Schultz, Berneeta Harris, Doug Whitney, Michael Lee, Julia Shultz, Pat Nelson

Louis Schirm, resident, suggested Council look at a picture of the property on Google to get a different perspective of the issue.

Louie Scull, resident, commented that if the City continued to approve the use of Administrative Adjustments then the City would experience an increase of these.

- 4) Rebuttal by Applicant – Michael Gellar, attorney for the applicants, reviewed his previous statements.

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

A lengthy discussion ensued among Council.

- e. Make Determination

It was **MOVED/SECONDED – WINDER/HORTON** - to deny the appeal and direct City Attorney to amend Resolution No. 2009-3978, upholding the Planning Commission decision to approve Administrative Adjustment 2008-26 – Downs, with one additional finding that no evidence exists that building permit was issued deceitfully or fraudulently and building permit was obtained and property was inspected properly. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing, Winder

NOES: None

ABSENT: None

Councilmember Winder left the meeting at 11:00 p.m.

RECESS:

Mayor Schwing called a recess at 11:02 p.m. and reconvened the meeting at 11:08 p.m.

11. URGENCY ORDINANCE NO. 2009-926, TO DESIGNATE ALL PROPERTIES WITHIN THE CITY OF YORBA LINDA DAMAGED OR DESTROYED BY THE FREEWAY COMPLEX FIRE AS BEING WITHIN A WILDLAND-URBAN INTERFACE FIRE AREA

- a. Open Public Hearing - Mayor Schwing opened the public hearing.
- b. Staff Report – Interim Community Development Director Thiele gave brief overview of the staff report.
- c. Take Testimony

Tim Tivenan, resident, had concerns about the increase in building fees if the Ordinance was approved.

Tom Loose, resident, stated his homeowners insurance rates would increase if the Ordinance was approved.

Michelle Ives, resident, said she was concerned this would cost more and cut into her insurance settlement.

Shannon Lew, resident, stated the intention is a good one, but the cost of rebuilding will increase.

Mark Davidson, resident, thought they were being penalized for being unlucky yet the next door neighbor would be vulnerable to a future fire.

Valinda Tivenan, resident, doesn't want to be singled out because she's a victim nor pay the price for the entire area.

- d. Close Public Hearing - Mayor Schwing closed the Public Hearing.

Laura Blaul, Assistant Fire Chief, Orange County Fire Authority, responded to questions from Council.

- e. Make Determination

It was **MOVED/SECONDED – ANDERSON/SCHWING** - to continue the public hearing to the City Council meeting of January 20, 2009. **MOTION CARRIED** by the following roll call vote:

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

12. PUBLIC HEARING RE RESOLUTION NO. 2009-3960 - CDBG APPLICATION FOR YEARS 2009/2010, 2010/2011 AND 2011/2012

- a. Open Public Hearing - Mayor Schwing opened the public hearing.
- b. Staff Report – Housing & RDA Specialist Pam Stoker gave a brief overview of the staff report and responded to questions by the City Council.
- c. Take Testimony - None
- d. Close Public Hearing – Mayor Schwing closed the Public Hearing.
- e. Make Determination

It was **MOVED/SECONDED – ANDERSON/HORTON** - to adopt Resolution No. 2009-3960 which would recommend Community Development Block Grant projects for a three year period to be consistent with the County of

Orange's process for Rehabilitation and Public Service programs. Additionally, it is recommended that the Council approve the environmental determination and accept the County of Orange Citizen Participation Plan. **MOTION CARRIED** by the following roll call vote:

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

“MATTERS PRESENTED BY COUNCILMEMBERS” WAS TAKEN AT THIS TIME BUT IS REPORTED IN ITS RESPECTIVE POSITION ON THE AGENDA.

MAYOR'S REPORT

Mayor Schwing wished everyone a happy New Year. He was concerned that there wasn't more rapid progress in repairing trail fencing or getting playgrounds torn out and replaced with new equipment. Mayor Schwing hoped to see more progress on that soon. He also noted the City did not have a cell tower policy and suggested that staff draft one for Council consideration at a future meeting.

MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Rikel announced that the Orange County Fire Authority and the City would be holding a “Leave Early or Stay and Defend” seminar at the Community Center in February. She thought it was interesting that the footprint for the recent fire was exactly the same as the fire that occurred in 1980. Councilmember Rikel spoke about a new Ad Hoc group that includes the Battalion Chief and Supervisor Campbell. The group will be studying the possibility of reserve and volunteer firefighters. She stated she would like Council to consider adopting two resolutions in the future: one to reinstate volunteer firefighters and the other to implement the “Stay & Defend” program.

Councilmember Rikel said she recently toured the library and the Susanna Bixby Bryant Ranch Museum and Botanic Garden where she learned many interesting things. She encouraged others to visit as well.

Councilmember Horton spoke about the extra Council meeting on the 2nd Tuesday of the month. She suggested not moving extra agenda items to that meeting and begin addressing some of the larger items that have been put off such as the Housing Element and the Blue Ribbon Committee.

Councilmember Horton said she had heard that some people hire consultants to sit at council meetings and use cell phones to instruct them on what to say or do. She hoped that Council could develop a Resolution or policy to forbid cell phone use at meetings.

Councilmember Horton suggested that Galvan Preservation Associates who is conducting a citywide historic resources survey contact the Yorba Linda Historical Preservation Society. The Society has a lot of information on the historical homes in the City.

Councilmember Horton recommended setting up a new program where a city employee would act as a single point of contact to assist those homeowners who were affected by fire. This person would help direct them through the whole rebuilding process. She also mentioned that residents don't have to wait for community meetings to approach Council about issues they might be having since Council is restricted from taking any action at a community meeting. Instead she suggested residents come to Council meetings and obtain assistance in a more timely manner. She also suggested that along with a Stay & Defend seminar, the City could organize a health & safety fair or seminar with fire safety personnel, hospitals or similar businesses and include pertinent fire retardant products and information.

She mentioned having received many complaints regarding the size of the cell phone tower at the east end of the City. She asked at what point does it come back to Council if it can't be designed the way Council approved? Building Official Silva responded that his inspector has issued the company a notice to put it back to its original approved height or return to the City for approval of the modification.

“MAYOR’S REPORT” WAS TAKEN AT THIS TIME BUT IS REPORTED IN ITS RESPECTIVE POSITION ON THE AGENDA.

ADMINISTRATIVE REPORTS

13. TOWN CENTER PERFORMANCE REVIEW – Continued

14. WAIVER OF PLAN CHECK AND BUILDING PERMIT FEES FOR RECONSTRUCTION OF HOMES DAMAGED OR DESTROYED IN THE FREEWAY COMPLEX FIRE, RESOLUTION NO. 2009-3976

Interim Community Development Director Thiele stated there was nothing to add to the staff report.

The following people spoke in support of Resolution No. 2009-3976:

Tim Tivenan, Michelle Ives, Mark Schook

It was **MOVED/SECONDED – ANDERSON/HORTON** – to approve Resolution No. 2009-3976, waiver of plan check and building permit fees for reconstruction of homes damaged or destroyed in the freeway complex fire. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing

NOES: None

ABSENT: Winder

15. WAIVER OF BUILDING PLAN CHECK AND PERMIT FEES FOR RETROFITTING OF EXISTING HOMES TO COMPLY OR PARTIALLY COMPLY WITH CHAPTER 7A OF THE CALIFORNIA BUILDING CODE, RESOLUTION NO. 2009-3977

It was **MOVED/SECONDED – SCHWING/ANDERSON** - to continue this item to the January 20, 2009 meeting. **MOTION CARRIED** by the following roll call vote:

AYES: Anderson, Horton, Rikel, Schwing

NOES: None

ABSENT: Winder

OTHER AGENCY REPORTS AND REFERRALS

ORANGE COUNTY SANITATION DISTRICT – Continued

ORANGE COUNTY DIVISION OF THE LEAGUE OF CALIFORNIA CITIES – Continued

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR/TRANSPORTATION CORRIDOR SYSTEM – Continued

ORANGE COUNTY FIRE AUTHORITY – Continued

ORANGE COUNTY VECTOR CONTROL – Continued

OTHER BUSINESS

16. ELIMINATION OF INFORMAL POLICY OF CITY COUNCILMEMBERS RECEIVING CAMPAIGN STATEMENTS AT NO CHARGE (ANDERSON) – Continued
17. DISCUSSION RE LONG TERM FIRE PREVENTION ISSUES IN OUR HIGH RISK FIRE ZONE AREAS (SCHWING) – Continued
18. DISCUSSION RE CITY HALL OPERATING HOURS (SCHWING) – Continued
19. DISCUSSION RE COUNCIL STUDY SESSIONS/WORKSHOPS (SCHWING) – Continued
20. DISCUSSION RE TOWN CENTER (SCHWING) – Continued
21. ETHICS ORDINANCE (SCHWING) – Continued
22. CITIZENS FAIR POLITICAL PARTICIPATION ORDINANCE (SCHWING) – Continued
23. DISCUSSION RE DEVELOPMENT PROCESSING (SCHWING) – Continued
24. EXPLORE POSSIBILITY OF MERGING YORBA LINDA WATER DISTRICT & CITY OF YORBA LINDA AGENCIES INTO ONE ENTITY (HORTON) – Continued
25. HIDDEN HILLS COMPREHENSIVE ISSUES COMMUNITY MEETING (ANDERSON)

In response to Council inquiry, Mark Schook replied that either the Council Chambers or the Community Center are good choices and that broadcasting the meeting would be helpful to those who could not attend.

It was **MOVED/SECONDED – ANDERSON/HORTON** – to set a date in mid-February for an expanded community meeting in the Council Chambers and broadcast live on Channel 3. **MOTION CARRIED** by the following roll call vote:

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

26. DISCUSSION OF DUTIES RE COMMUNITY PRESERVATION (SCHWING) – Continued

ADJOURNMENT

Mayor Schwing adjourned the meeting at 12:20 a.m. to a regular adjourned City Council meeting to be held on January 13, 2009 at 5:00 p.m. to interview Executive Recruitment firms and at 7:00 p.m. to discuss the Housing Element. The next regularly scheduled City Council/Redevelopment Agency Joint Meeting is January 20, 2009.

Kathie M. Mendoza, City Clerk

APPROVED BY CITY COUNCIL/RDA:

JANUARY 20, 2009