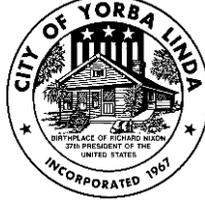

CITY OF YORBA LINDA



Land of Gracious Living

CITY COUNCIL/REDEVELOPMENT AGENCY JOINT MEETING MINUTES

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

CLOSED SESSION

CITY COUNCIL

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Government Code Section 54956.9(a)

Government Tort Claims - Paul Johnson, Gillian Johnson, Mohamad and Fatima Itani, Shannon Lew

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

Government Code Section 54956.9(b) (1 case)

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

Government Code Section 54956.9(c) (1 case)

- D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION – TITLE: CITY
ATTORNEY

Government Code Section 54957

RECESS

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

CALL TO ORDER

The City Council/Redevelopment Agency reconvened at 6:48 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: Carvalho, Conklin, Kelly, Leto, Mendoza, Parisien, Steep,
Stowell, Thiele

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Anderson

INVOCATION

Bishop Carey Barney, Church of Jesus Christ of Latter-Day Saints

CLOSED SESSION REPORT

City Attorney Carvalho stated that under Item C, the Council authorized the City Attorney to prepare and file a receivership complaint against the property owner at 5170 Los Altos for community preservation issues.

INTRODUCTIONS & PRESENTATIONS

Mayor Schwing recognized Keiko Hoen for her fundraising efforts.

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

Members of the YMCA Indian Princesses, thanked the City Council, Police Department and the Fire Authority for their help and support.

Lee Day, resident, spoke to Council about Item No. 4 - the Esperanza Road Cape Seal Project, the budget has already been increased \$64,000 in 3 months and she felt that the west Yorba Linda area was short changed and urged Council not to approve at this time. She also commented on Item No. 6 - the Landscape Maintenance Contract for Tract 16757, and commented on the annual cost being absorbed into the Arterial Landscape Assessment District #1.

Roy Lipshin, resident, discussed a bill for removal of City trees on his property. He stated he had agreed to pay \$915 but was surprised at the additional 20% administrative fee. He requested that council consider waiving the additional fee. Mayor Schwing requested the matter be agendaized to the next meeting to allow staff time to review the minutes in order to make a decision about waiving fees.

Greg Gillaspay, resident, complained about tumbleweeds near his property that are coming from the new high school. He said it has been a problem since April and he is concerned about losing his home or the new school if there is a fire. Mayor Schwing invited him to contact the school district, and also to call the public works department the next time he sees tumbleweeds.

Claudine Lynch, resident, stated that Fairmont Boulevard, south of Bastanchury Road was very messy. She was also concerned about the amount of tumbleweeds near her home. She stated that the school district was refusing to do anything about it and suggested that the Fire Authority handle it to prevent a fire hazard. Mayor Schwing asked that staff patrol the area and pick up the tumbleweeds and that Interim City Manager Kelly call the school district superintendent about the issue.

CONSENT CALENDAR

Mayor Schwing pulled Item 4 from the Consent Calendar.

It was **MOVED/SECONDED - WINDER/HORTON** - to approve the Consent Calendar with the removal of Item 4. **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. **APPROVAL OF THE MINUTES OF THE JANUARY 6, 2009 CITY COUNCIL MEETING**

The City Council/RDA approved the minutes of the January 6, 2009 joint meeting.

4. Removed
5. ADOPTION OF RESOLUTION NO. 2009-3978, WITH MODIFIED FINDINGS TO APPROVE ADMINISTRATIVE ADJUSTMENT 2008-26 – DOWNS

The City Council adopted Resolution No. 2009-3978.

6. AWARD OF LANDSCAPE MAINTENANCE CONTRACT FOR TRACT 16757

The City Council awarded the contract for landscape maintenance to Rockey Murata Landscape in the amount of \$2,900.00 per month for Tract 16757 located on Bastanchury Road and Fairmont Boulevard and rejected all other bids.

7. CLAIM FOR DAMAGES - CAROL RAEI

The City Council denied the claim for damages by Carol Rael.

End of Consent Calendar

ITEM 4

AWARD OF CONTRACT - ESPERANZA ROAD CAPE SEAL PROJECT FROM NEW RIVER ROAD TO WEST CITY LIMITS

Mayor Schwing asked why Fairmont Rehabilitation Project funds were used as opposed to funds from somewhere else.

Director of Public Works Mark Stowell replied that S & S Construction had paid for the Fairmont Boulevard Rehabilitation project and the funds were no longer needed.

It was **MOVED/SECONDED - SCHWING/WINDER** - to transfer \$100,000 from the Fairmont Rehabilitation Project into the Esperanza Cape Seal Project to cover the increased cost of the project construction; and award the contract for the Esperanza Road Cape Seal Project from New River Road to West City limits to Copp Contracting, Inc. in the amount of \$450,627.65 and reject all other bids. **MOTION CARRIED** by the following roll call vote:

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

Interim City Manager Bill Kelly provided a slide presentation with an update on the fire recovery process. He also discussed a new program, Fire Recovery Facilitation Team, formed to assist residents rebuilding their destroyed homes.

PUBLIC HEARINGS

8. CONTINUED 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 presented 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 – HORTON/WINDER** – to adopt Urgency Ordinance 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, as defined in section 702A of the 2007 California Building Code, said designation then requiring the implementation of Chapter 7A, Materials and Construction Methods for Exterior Wildfire Exposure, of the 2007 California Building Code for the reconstruction of all damaged or destroyed properties. **MOTION CARRIED** by the following roll call vote:

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

MAYOR'S REPORT

Mayor Schwing attended the Eagle Scout ceremony of Joseph Benz and John Gunnison, III of Troop 824. He praised the scout leaders who do an outstanding job of encouraging young men in obtaining their Eagle Scout badges.

MATTERS PRESENTED BY COUNCILMEMBERS

Councilmember Horton spoke about the Housing Element Study Session held the week before and added that sites 7, 8 and 10 could also be looked at. She mentioned that the Arroyo area has historic homes and the potential for a cultural center and retail use and for those reasons she would prefer not to place too much emphasis on this area.

Councilmember Horton also stated that she attended the Senior Citizen volunteer luncheon and thanked all the volunteers at the Senior Center. She said that many people, even from surrounding cities use the wonderful Senior Center services.

Councilmember Horton announced she was appointed to the League of California Cities Policy Committee as a delegate from Southern California and that deals with parks & recreation, libraries and historic preservation. She is also on the Advocacy Committee for the League of California Cities.

Councilmember Rikel said she also attended the Eagle Scout ceremony for Joseph Benz and congratulated him and his family. She also attended the Senior Center volunteer luncheon, and thanked all of the volunteers.

Councilmember Rikel stated she attended the Yorba Linda Water District Board meeting where the Freeway Complex Fire Disaster and Response Water System Assessment report was discussed. The report is available from the Water District's website or could be purchased from them for \$22. She advised that the public could pose questions in writing to the Water District before their meeting on February 12th.

Councilmember Rikel spoke about the Leave Early or Stay and Defend Expo to be held on February 11th and stated her appreciation to the Orange County Fire Authority. The Orange County Animal Care Services would also be in attendance to address animal evacuation procedures.

Councilmember Rikel spoke about the Reserve Ad Hoc Committee whose job it is to provide feedback and recommendations to the Orange County Fire Authority regarding various aspects of the Reserve Firefighter program. The Committee's work will be provided to the OCFA for their consideration.

Mayor Pro Tem Anderson congratulated staff on the quick response in developing the One Stop Permit program. He also asked Captain Conklin to provide Council with an explanation on the 28% increase in traffic citations and the 12% auto collision reduction for 2007/2008. He also asked him to address the reduction in DUI arrests while there was an increase in DUI-related traffic accidents.

Mayor Pro Tem Anderson provided a slide presentation on the progress of the Yorba Linda Veterans Memorial. A fundraiser will be held on March 20th and the Memorial dedication will be on March 22nd at 2:00 p.m.

ADMINISTRATIVE REPORTS

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

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

Councilmember Horton asked about the status of the T-Mobile cell tower in the Eastlake area. Interim Community Development Director Thiele responded that the matter had been continued to provide the applicant sufficient time to create samples of the design.

Mayor Pro Tem Anderson asked what the basis was for the dissenting vote with Toll Brothers.

Interim Community Development Director Thiele responded that Chairman Abramowitz was concerned with development in the adjacent jurisdiction that might affect the EIR but staff indicated that was the responsibility of the other jurisdiction and should not impact Yorba Linda.

10. TOWN CENTER PERFORMANCE REVIEW

Interim City Manager Kelly gave a brief history of the Town Center development process and read aloud through some of the report including his recommendations, and made a correction to his report in Section 3.2, stating that the City Clerk was required to get a second legal opinion to review the adequacy of the initiative petition, not to sue the City Council.

The following members of the audience spoke regarding the Town Center Review:

Ed Rakochy, Pat Nelson, Tom Lynch, Claudine Lynch, Louie Scull, Jerry Kirschner, Walt Tamulinas, Greg Gillaspy

It was **MOVED/SECONDED – ANDERSON/RIKEL** - to direct the City Manager to interview developers, signature gatherers, and former councilmembers, including Keri Wilson, about all the things already discussed and the Quid Pro Quo potential. **MOTION CARRIED** by the following roll call vote:

Councilmember Horton stated she was not in support of the motion because of the cost, the City has more urgent issues to address such as the recent fire, floods and looking for a new city manager and interviewing more people would unlikely change the outcome.

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

It was **MOVED/SECONDED – ANDERSON/RIKEL** - to direct City Attorney or City Manager to develop a set of guidelines for appropriate initiative and referendum handling by the City Clerk's Office that would include all of the things identified in the Town Center Performance Review including when all petition signatures should be counted instead of a percentage. **MOTION CARRIED** by the following roll call vote:

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

It was **MOVED/SECONDED – ANDERSON/RIKEL** - to direct the City Manager to draft a letter identifying that City Clerk Kathie Mendoza was in fact ordered to

file the lawsuit against the City Council and that it be given to Ms. Mendoza and a copy placed in her personnel file.

Councilmember Winder said he wasn't sure that the third paragraph in Section 3.2 was totally accurate, according to his recollection and he would vote no.

MOTION CARRIED by the following roll call vote:

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

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to have staff return with an appropriate proposal for an attorney review of the city suing itself, the legal implications involved in the City Clerk lawsuit against the City Council, the joint defense and so forth as stated under Section 4.2, of the Town Center Performance Review.

Councilmember Winder stated he doesn't believe the way it was characterized is the action he recalls occurring at the time and for that reason he'd be voting no.

MOTION CARRIED by the following roll call vote:

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

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to amend the report to eliminate references that exonerate individuals and also to include a timeline of events.

Interim City Manager Kelly asked if the timeline information could simply be attached to the report or if a parallel City time frame was required.

Mayor Pro Tem Anderson **WITHDREW THE (2nd part of the) MOTION/SECONDED** by Rikel - He supplied a sample timeline to Mr. Kelly to use as he felt was appropriate.

Interim City Manager Kelly asked for further clarification on his recommendations under 4.2 of the Town Center Performance Review, was the motion for both concluding comments to be stricken from the record? Mayor Pro Tem Anderson replied that only the BIA section should be eliminated and the City Clerk section should remain. **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 9:35 p.m. and reconvened the meeting at 9:45 p.m.

It was **MOVED/SECONDED – ANDERSON/RIKEL** - to accept Interim City Manager Kelly's recommendations under Section 4.2, Brown Act Issues of the Town Center Performance Review and submit to the Attorney General's office. **MOTION CARRIED** by the following roll call vote:

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

It was **MOVED/SECONDED – ANDERSON/RIKEL** – to accept staff's recommendation under 4.3, Entitlement Processing of the Town Center Performance Review, and direct staff to draft a City Council policy to bring back to Council.

Councilmember Horton asked for clarification on bullet point 5, about stakeholder's meetings that sometimes involve a bus tour. Mayor Pro Tem Anderson thanked Councilmember Horton for bringing that up.

An **AMENDED MOTION WAS MADE – ANDERSON/RIKEL** – to allow for out of city field trips if appropriate.

Councilmember Winder said he could not support all of the motion and stated he would be voting against it. **MOTION CARRIED** by the following roll call vote:

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

Mayor Pro Tem Anderson requested that bullet points 3 & 4 under Section 4.4, Ethical Issues of the Town Center Performance Review, be included in his previous motion to develop a set of guidelines for appropriate initiative and referendum handling by the City Clerk's Office.

11. 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

Interim Community Development Director Thiele stated there was nothing to add to the staff report and responded to questions from Council.

It was **MOVED/SECONDED – WINDER/ANDERSON** - to adopt Resolution No. 2009-3977, waiving plan check and building permit fees applicable to the retrofit or improvement of existing residential structures to comply or partially comply

with Chapter 7A of the California Building Code. **MOTION CARRIED** by the following roll call vote:

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

12. CLAIMS FOR DAMAGES - JOHNSON, ITANI, LEW

City Attorney Carvalho and Director of Public Works Stowell presented the staff report.

It was **MOVED/SECONDED – WINDER/SCHWING** - to deny the claims for damages by Paul and Gillian Johnson, Mohammad and Fatima Itani, and Shannon Lew. **MOTION CARRIED** by the following roll call vote:

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

13. VAN BUREN STREET "NO PARKING" RESTRICTION AT YELLOWSTONE AVENUE, RESOLUTION NO. 2009-3962

Traffic Engineering Manager Tony Wang gave an overview of the staff report.

Albert Miller, resident, spoke in support of the "No Parking" restriction.

Kris and Dan Wilson, residents, spoke in opposition to the "No Parking" restriction.

It was **MOVED/SECONDED – HORTON/WINDER** - to approve Resolution No. 2009-3962 to extend the existing 20 feet of red curb to 50 feet on the east side of Van Buren Street, south of Yellowstone Avenue. **MOTION CARRIED** by the following roll call vote:

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

14. ANIMAL CARE MASTER AGREEMENT FY 2008/09 AND BARKING DOG ORDINANCE REVIEW

Assistant to the City Manager Mark Aalders gave overview of the staff report.

Councilmember Horton stated she had concerns about the barking dog ordinance because it allowed the accuser to lodge a complaint without having any proof.

Interim City Manager Kelly asked if the barking dog ordinance could be separated from the agreement. Assistant to the City Manager Aalders replied

that the agreement needed to be approved but did not entail the barking dog ordinance.

It was **MOVED/SECONDED – ANDERSON/HORTON** - to authorize the Mayor to sign the Animal Care Master Agreement FY2008/09 with the County of Orange Health Care Agency for the provision of animal care services. **MOTION CARRIED** by the following roll call vote:

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

The following members of the audience spoke in opposition to the Barking Dog Ordinance:

Mary Carbone, Pat Nelson, Nancy Stevens

ORDINANCES

15. ROSE DRIVE ENGINEERING AND TRAFFIC SURVEY AND POSTED SPEED LIMIT, ORDINANCE NO. 2009-927

Traffic Engineering Manager Tony Wang gave an overview of the staff report.

Nancy Stevens, representing Rose Drive neighbors north of Imperial Highway, thanked the City staff and the Brea Police Department for answering her questions and was pleased that the speed limit would be changed to 40 mph. She would like to see the City of Brea change the timing of the left-hand turn lane at Valencia Avenue and Rose Drive and eventually to have the speed limit at a limit that could be enforced.

It was **MOVED/SECONDED – WINDER/HORTON** - to establish the speed limit on Rose Drive between Wabash Avenue and Blake Drive, within the City limits, at 40 mph; and approve first reading of Ordinance No. 2009-927, establishing Citywide posted speed limits and rescinding Ordinance No. 2007-901. **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 – 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

OTHER BUSINESS

16. ELIMINATION OF INFORMAL POLICY OF CITY COUNCILMEMBERS RECEIVING CAMPAIGN STATEMENTS AT NO CHARGE (ANDERSON)

Mayor Pro Tem Anderson stated Council would no longer be receiving campaign statements at no charge except during an election and requested that the item be removed from Agenda.

Councilmember Horton asked that campaign statements be placed on the city's website.

17. DISCUSSION RE CITY HALL OPERATING HOURS (SCHWING) – Removed by Mayor Schwing
18. DISCUSSION RE LONG TERM FIRE PREVENTION ISSUES IN OUR HIGH RISK FIRE ZONE AREAS (SCHWING) – Removed by Mayor Schwing
19. DISCUSSION RE COUNCIL STUDY SESSIONS/WORKSHOPS (SCHWING) – Continued
20. DISCUSSION RE TOWN CENTER (SCHWING) - Continued
21. ETHICS ORDINANCE (SCHWING)

Mayor Pro Tem Anderson proposed a new ethics Ordinance to include legal prohibitions.

Councilmember Horton stated she would not be in support of the proposed Ordinance as our current ethics policy code is sufficient.

It was **MOVED/SECONDED – ANDERSON/RIKEL** - to direct staff to prepare an ordinance to include the following:

Legal prohibition on

- accepting contributions from city contractors
- voting on projects of major contributors within 1 year of accepting qualifying contribution or accepting a contribution within 90 days of voting on project of contributor
- soliciting political endorsement of city commissioners

- mandatory AB 1234 training for all department heads and commissioners every 2 years and within 3 months of appointment
- new guidelines on commissioner behavior
- tape record all closed session proceedings
- eliminate all ad hoc committee meetings
- require that any committee with less than a quorum be an open committee meeting with proper procedures
- adopt a whistleblower statute

MOTION CARRIED by the following roll call vote:

AYES: Anderson, Rikel, Schwing

NOES: Horton, Winder

ABSENT: None

22. CITIZENS FAIR POLITICAL PARTICIPATION ORDINANCE (SCHWING) - Continued
23. DISCUSSION RE DEVELOPMENT PROCESSING (SCHWING) – Continued
24. EXPLORE POSSIBILITY OF MERGING YORBA LINDA WATER DISTRICT AND CITY OF YORBA LINDA AGENCIES INTO ONE ENTITY (HORTON) – Continued
25. DISCUSSION OF DUTIES RE COMMUNITY PRESERVATION (SCHWING) – Continued
26. USE OF CELL PHONES IN THE CITY COUNCIL CHAMBERS (HORTON) – Continued
27. COMMISSION TRAINING (SCHWING) – Continued
28. JOINT MEETING OF ALL AGENCIES TO PRESENT FINAL AFTER ACTION REPORTS (HORTON) – Continued

ADJOURNMENT

It was **MOVED/SECONDED – HORTON/WINDER** – to adjourn the meeting at 11:03 p.m. **MOTION CARRIED UNANIMOUSLY.**

The next regularly scheduled City Council/Redevelopment Agency Joint Meeting is February 3, 2009.