

MINUTES

GARDEN GROVE CITY COUNCIL

A Regular Meeting of the City Council of the City of Garden Grove was called to order in the Council Chamber of the Community Meeting Center, 11300 Stanford Avenue, on Tuesday, February 24, 2004, at 6:49 p.m.

ROLL CALL: PRESENT: (5) MAYOR BROADWATER, COUNCILMEMBERS DALTON, LEYES, ROSEN, TRAN

ABSENT: (0) NONE

ALSO PRESENT: City Manager, George Tindall; Assistant City Manager/Community Development Director, Matthew Fertal; Assistant City Manager/Public Works Director, Les Jones; Community Services Director, Cal Rietzel; Finance Director, Kingsley Okereke; Fire Division Chief, Dave Barlag (representing Fire Chief) Personnel Services Director, Steve Larson; Police Chief, Joe Polisar; City Attorney, John Shaw; and City Clerk, Ruth Smith.

INVOCATION AND PLEDGE

Assistant City Manager Matthew Fertal gave the Invocation. Councilman Rosen led the Pledge of Allegiance to the Flag of the United States of America.

PRESENTATION – COMMUNITY SPOTLIGHT

Mayor Broadwater called forward former Planning Commissioner, Benjamin Freze, and presented him with a Certificate of Appreciation and a gift in recognition of his seven years of dedicated volunteer service to the City's Planning Commission. (F: 52.3) (XR: 122.10.a)

COMMUNICATION FROM GARDEN GROVE RELAY FOR LIFE EXECUTIVE COMMITTEE FOR WAIVER OF FEES FOR USE OF THE SHOWMOBILE ON JULY 30-31, 2004, AT PACIFICA HIGH SCHOOL. (F: 88.1) (XR: 74.27)

Communication from the American Cancer Society's Garden Grove Relay For Life Executive Committee, dated February 13, 2004, was introduced.

Chairperson Dee Berge'-Morse addressed the Council, expressing appreciation for past support and commenting that they are also working with the Korean and Vietnamese communities to garner their support for the event.

It was moved by Councilman Dalton, seconded by Councilman Tran, and carried by unanimous vote, that the fees be waived for use of the Showmobile by the Garden Grove Relay for Life Executive Committee on July 30-31, 2004, at Pacifica High School.

ORAL COMMUNICATIONS – PUBLIC

Eileen Jurak addressed the Council concerning her alleged physical assault at the Social Security office, alleging a police cover-up in the report. (F: 53.3)

Ana Meyer of the West Garden Grove Little League addressed the Council concerning their previously approved request to use the Showmobile for their opening day ceremony. They asked that the insurance requirement be reduced to last year's level, noting they cannot afford the increase in the premiums.

Staff noted that this will be taken care of. (F: 53.3) (XR: 88.1) (XR: 74.27)

Bob Owens addressed the Council concerning contributions being made to local candidates from outside the area. He indicated that staff will not provide campaign headquarters phone numbers for local candidates. He also alleged that developers are treated better than the citizens are treated. (F: 53.3)

Charles Sloan, President of the West Garden Grove Little League, addressed the Council, about "double charges" for use of lights at Fleming Field in the Chapman Sports Complex.

Mayor Broadwater indicated that staff will look into this and will contact Mr. Sloan. (F: 53.3) (XR: 87.1)

Gene Kirkham addressed the Council about alleged misuse of absentee ballots in the March 2 election, indicating that he hopes this will be cleared up. (F: 53.3)

Tony Flores addressed the Council concerning the widening of the 22 Freeway, suggesting the City contact the West Garden Grove Residents Association for help in this endeavor. (F: 53.3)
(XR: 130.17)

RECESS

At 7:26 p.m., the Mayor declared a recess.

RECONVENE

At 8:13 p.m., the meeting was reconvened with Mayor Broadwater and all Councilmembers in attendance.

PROCLAMATION – STOP IN THE NAME OF LOVE MONTH (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that February 2004, be and hereby is proclaimed Stop in the Name of Love Month.

AGREEMENT WITH THE GARDEN GROVE STRAWBERRY FESTIVAL ASSOCIATION, INC. TO CONDUCT THE STRAWBERRY FESTIVAL ANNUALLY AT THE VILLAGE GREEN THROUGH 2008 (F: 55) (XR: 42.3)

Staff report dated February 24, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that the Agreement by and between the City of Garden Grove and the Garden Grove Strawberry Festival Association, Inc., to conduct the Strawberry Festival annually at the Village Green through 2008, be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement.

LICENSE AGREEMENT WITH DR. MICHAEL DAO FOR USE OF PARKING SPACES AT GARDEN GROVE PARK TO FACILITATE THE EXPANSION OF HIS MEDICAL OFFICE BUILDING (F: 55) (XR: 73.5)

Staff report dated February 24, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that the Agreement by and between the City of Garden Grove and Dr. Michael Dao, for use of parking

spaces at Garden Grove Park to facilitate the expansion of his medical office building, be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement.

AMENDMENT TO COOPERATIVE AGREEMENT NO. 12-403 WITH THE STATE OF CALIFORNIA FOR IMPROVEMENTS INVOLVING THE HARBOR BOULEVARD UNDERCROSSING AT THE SR-22 (GARDEN GROVE FREEWAY) (F: 55) (XR: 38.1) (XR: 128.10)

Staff report dated February 24, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that the Amendment to the Cooperative Agreement No. 12-403 by and between the City of Garden Grove and the State of California for improvements involving the Harbor Boulevard undercrossing at the SR-22 (Garden Grove Freeway), be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement.

SOLE SOURCE PURCHASE OF A NITRATE ANALYZER FROM DIONEX CORPORATION TO MEET FEDERAL AND STATE DRINKING WATER STANDARDS AT THE CITY'S WATER FACILITIES (F: 60.4) (XR: 24.12)

Staff report dated February 24, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that the sole source purchase of a nitrate analyzer from Dionex Corporation to meet Federal and State drinking water standards at the City's water facilities, be and hereby is approved for an estimated cost of \$34,781.25.

INITIATION OF SPRING 2004 WEED ABATEMENT (F: 113.Spring 2004)

Staff report dated February 24, 2004, was introduced.

RESOLUTION NO. 8540-04

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that full reading of Resolution No. 8540-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DECLARING THAT A NUISANCE EXISTS IN CONNECTION WITH THE EXISTENCE OF WEEDS, RUBBISH, AND REFUSE ON CERTAIN PROPERTIES WITHIN THE CITY OF GARDEN GROVE AND AUTHORIZING THE CITY CLERK TO MAIL A WRITTEN NOTICE OF THE NUISANCE(S) IN

ACCORDANCE WITH THE PROVISIONS OF GOVERNMENT CODE SECTION 39566 AND 39567.1, be and hereby is adopted.

SUBMITTAL OF APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR SB 1346 RUBBERIZED ASPHALT CONCRETE GRANT FUNDS (F: 97.05.01) (XR: 24.1)

Staff report dated February 24, 2004, was introduced.

RESOLUTION NO. 8541-04

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that full reading of Resolution No. 8541-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AUTHORIZING THE SUBMITTAL OF APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR SB 1346 RUBBERIZED ASPHALT CONCRETE GRANT FUNDS, be and hereby is adopted.

WARRANTS (F: 60.5)

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that regular warrants 306298 through 306699 and wire W131; and payroll warrants 133391 through 133603, Direct Deposits D87733 through D88279, and wires W823 through W826, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

PUBLIC HEARING – AMENDMENT NO. A-105-04 (F: 115.A-105-04) (XR: 50.3) (XR: 121).

Amendment No. A-105-04. The City of Garden Grove is proposing to amend Title 9 of the Garden Grove Municipal Code to create Section 9.08.100, Wireless Telecommunications Facilities. This amendment will establish a review process and specific development standards for telecommunication wireless facilities within the City of Garden Grove.

On January 15, 2004, the City Planning Commission, pursuant to Resolution No. 5401, recommended approval of A-105-04 and the associated Wireless Telecommunications Master Plan; and pursuant to Legal Notice published February 5 and February 12, 2004, public hearing on the case was ordered by the City Council to be held this date.

The City Manager noted that both Edison and Verizon have requested that this matter be continued to allow them time to review the proposed ordinance and packet of information. Councilman Rosen inquired how many applications currently exist. Staff responded that staff has had two inquiries; however, no formal applications have been received.

Councilman Rosen asked whether 9.08.100 of the proposed ordinance could be amended to say "All wireless telecommunications facilities, proposed or constructed on or after February 24, 2004. shall comply...."

The City Attorney responded that a retroactive date could be substituted for the current language; and staff can provide that suggested language in the ordinance when it returns to the Council for consideration.

It was moved by Councilman Rosen, seconded by Councilman Tran that this item be continued two weeks.

Councilman Leyes suggested the public hearing be opened and then continued so the matter does not need to be renoticed.

Mayor Broadwater commented that Verizon was noticed; however, he does not believe the Edison Company was.

The City Manager commented that staff did meet with the major service providers in the wireless field in the course of developing this master plan.

Mayor Broadwater declared the public hearing opened and asked if anyone wished to address the Council on the matter.

William Bennett of Spector Site Communications out of Irvine, addressed the Council noted they have reviewed the draft ordinance and overall find it to be good. However, he noted that there are two issues that require clarification, one relating to the open space ratio requirements for land use. He asked if this requirement applies to the parent parcel or to the ground leased area. The City Manager indicated staff will meet with him to address his concerns.

Barbara Satto of Nextel Communications addressed the Council, commenting that parts of the ordinance are unenforceable, and they have been working with Cityscapes to see if they can come up with some language that is a little more enforceable on the City's part and a little more acceptable on Nextel's part, having to do with the

way public safety is addressed in this ordinance, in particular interference issues. The FCC is currently working on a nationwide set of guidelines to address this. She asked that this matter be continued for a month to enable them to work on suggested wording. She noted that the carriers are looking forward to the new guidelines.

Councilman Leyes moved a substitute motion to continue the public hearing to April 13, 2004. Councilman Dalton seconded the motion.

Councilman Rosen and Councilman Tran withdrew their previous motion.

The motion to continue this matter to April 13, 2004, carried by unanimous vote.

RECESS

At 8:30 p.m., the Mayor declared a recess.

RECONVENE

At 8:36 p.m., the meeting was reconvened with Mayor Broadwater and all Councilmembers in attendance.

PUBLIC HEARING – APPEAL OF CONDITIONAL USE PERMIT NO. CUP-126-03 (F: 51.CUP-126-03)

Appeal of Conditional Use Permit No. CUP-126-03, initiated by Cingular Wireless, requesting approval to construct and operate a 63-foot wireless telecommunications facility disguised as a palm tree (monopalm) and related ground-mounted equipment cabinets in an existing small commercial center. The site is located in the CCSP-DC1 (Community Center Specific Plan, District Commercial Area 1) zone on the west side of Euclid Street, north of Chapman Avenue, at 11935 Euclid Street.

On December 4, 2003, the City Planning Commission, pursuant to Resolution No. 5398, adopted a Negative Declaration and approved CUP-126-03. Then on December 11, 2003, an appeal was filed by a Councilmember. Pursuant to public notice published on January 22, 2004, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated February 24, 2004, was introduced, and staff reviewed the background information concerning this project.

Councilman Rosen commented that he is the one who filed the appeal; however, he will not hold up the applicant any further. Mayor Broadwater declared the public hearing opened and asked if anyone wished to address the Council on the matter.

Gil Gonzalez addressed the Council, commenting that he took great care in developing this project, noting that it is compatible with the surrounding area. He indicated that he will plant two live trees next to the fake one.

There being no further comments from the audience, the public hearing was declared closed.

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that the Appeal of Conditional Use Permit No. CUP-126-03 be and hereby is denied, and the Planning Commission decision is upheld.

PUBLIC HEARING – DEVELOPMENT AGREEMENT IN CONNECTION WITH SITE PLAN NO. SP-338-04 (F: 106.149) (XR: 116.SP-338-04)

Development Agreement for Site Plan No. SP-338-04, initiated by Architecture M, Inc./Shahraz Danesh, to construct an approximately 5,000 square foot retail commercial center with a variance to allow a drive-through lane in the required rear and side landscape setbacks. The site is located on the west side of Haster Street, north of Garden Grove Boulevard, at 12881 Haster Street.

On January 15, 2004, the City Planning Commission, pursuant to Resolution No. 5403 approved SP-338-04 and V-107-04, and recommended approval of the Development Agreement. Pursuant to Legal Notice published February 12, 2004, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated February 24, 2004, was introduced, and staff reviewed the background information concerning this project.

Mayor Broadwater declared the public hearing opened and asked if anyone wished to address the Council on the matter.

Ray Littrell addressed the Council commenting that the handicapped need to be noticed for projects such as this, and he inquired whether this was done.

The City Attorney responded that no special notices went out other than the normal public hearing notices.

There being no further comments from the audience, the public hearing was declared closed.

ORDINANCE NO. 2622 was introduced for first reading and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A DEVELOPMENT AGREEMENT BETWEEN SHAHRAZ DANESH AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE WEST SIDE OF HASTER STREET, NORTH OF GARDEN GROVE BOULEVARD, AT 12881 HASTER STREET, PARCEL NO. 231-582-15

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Ordinance No. 2622 be waived, and said Ordinance be and hereby is passed to second reading.

RETROFIT OF STRAWBERRY BOWL AMPHITHEATER LIGHTING TOWER
(F: 60.4) (XR: 87.5)

Staff report dated February 24, 2004, was introduced.

RESOLUTION NO. 8542-04

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that full reading of Resolution No. 8542-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DECLARING A PUBLIC WORKS EMERGENCY AND WAIVING FORMAL BID REQUIREMENTS UNDER PUBLIC CONTRACTS CODE SECTION 20168, be and hereby is adopted.

CONSIDERATION OF RESOLUTION ENDORSING PROPOSITIONS 57 AND 58 ON THE MARCH 2004 BALLOT, AS REQUESTED BY COUNCILMAN ROSEN
(F: 53.1)

Councilman Rosen introduced his proposed Resolution, commenting that Propositions 57 and 58 are probably the most important initiatives California has seen in a long time and most certainly has a direct impact on Garden Grove. He noted that both political parties have endorsed these initiatives.

Councilman Rosen moved, seconded by Councilman Leyes, that the City Council adopt the proposed resolution endorsing Propositions 57 and 58 on the March 2004 ballot.

Councilman Leyes commented that the proposed resolution is well drafted, noting that the passage of the proposed initiatives is a key part of the government recovery plan, without which there will be severe cuts in programs and services, increases in taxes, or continued raids on City finances.

Councilman Tran commented that he can support Proposition 58, but not Proposition 57. He would prefer to see drastic cuts in spending, demonstrating discipline and accountability. Further future generations will have to pay for the bonds. He asked that two votes be taken.

Councilman Rosen noted that Propositions 57 and 58 are linked, and are inseparable. There will be complete chaos if they both don't pass, and there will be defaults on obligations.

Councilman Dalton commented that the Cities already are facing cuts, and if the State takes more money away, that would leave most California cities crippled. He expressed his support for the proposed resolution.

Councilman Tran again asked for a separate vote on the two Propositions.

Mayor Broadwater commented that he can support both Propositions because they are necessary. He asked Councilman Rosen to split up the two Propositions.

Councilman Rosen responded that his proposed resolution has been drafted with both Propositions.

Councilman Tran commented that he is being denied a reasonable request.

Councilman Leyes commented that the two Propositions are joined together and should be endorsed as a package.

Mayor Broadwater moved, seconded by Councilman Tran, a substitute motion that the two Propositions be separated for two votes. Said motion carried by the following vote:

AYES: COUNCILMEMBERS: (3) DALTON, TRAN, BROADWATER
NOES: COUNCILMEMBERS: (2) LEYES, ROSEN
ABSENT: COUNCILMEMBERS: (0) NONE

Councilman Tran moved that the City Council approve the endorsement of Proposition 58 by making changes in the resolution that Councilman Rosen presented. The motion died for lack of a second.

It was moved by Councilman Leyes, seconded by Councilman Rosen, and carried by unanimous vote, that the City Council approve the endorsement of Proposition 58.

Councilman Leyes moved, seconded by Councilman Rosen, that the resolution in its original form be adopted. Said motion failed to carry by the following vote:

AYES: COUNCILMEMBERS: (2) LEYES, ROSEN
NOES: COUNCILMEMBERS: (3) DALTON, TRAN, BROADWATER
ABSENT: COUNCILMEMBERS: (0) NONE

Mayor Broadwater moved, seconded by Councilman Rosen, that the City Council approve the endorsement of Proposition 57. Said motion carried by the following vote:

AYES: COUNCILMEMBERS: (4) DALTON, LEYES, ROSEN,
BROADWATER
NOES: COUNCILMEMBERS: (1) TRAN
ABSENT: COUNCILMEMBERS: (0) NONE

It was moved by Councilman Rosen, seconded by Mayor Broadwater, and carried by unanimous vote, that letters be forwarded to the Governor, State Controller, State legislators, the media, and other Orange County cities, advising them of the Council's stand on these two Propositions.

MATTERS FROM THE MAYOR, CITY COUNCILMEMBERS AND CITY MANAGER

Councilman Leyes spoke about the March 2 election, expressing his hope that everyone respects the integrity of the voting process and pledging to run a clean campaign. He also noted that in recognition of his involvement and service to the Republican Party, he has been selected by President Bush as a California delegate to the Republican National Convention in New York in August. (F: 53.1)

Councilman Dalton congratulated Tom and Marge Doolin on their 50th Wedding Anniversary. (F: 53.1)

Councilman Rosen provided an update on the Council subcommittee's efforts in dealing with the OCTA with regard to the

widening of the 22 Freeway and how that affects the city's underpasses. (F: 53.1) (XR: 62.2) (XR: 23.18)

Councilman Tran pledged to run a clean campaign and announced that he was honored by the National Republican Congressional caucus for the second year in a row as the Business Man of the Year for upholding low taxes, principles, and free enterprise and will be honored at the Capitol in Washington, D.C. He also commented that yesterday he had the opportunity to join in a police training seminar on firearm training and public safety for new recruits from our city. He encouraged other Councilmembers to attend this training. (F: 53.1) (XR: 82.1)

Mayor Broadwater encouraged everyone to get out and vote on March 2. (F: 53.1)

ADJOURN TO CLOSED SESSION

At 9:22 p.m., the meeting was adjourned to Closed Session, under the Ralph M. Brown Act, and it was announced that pursuant to Government Code section 54957.6, the City Council will meet with its negotiator (City Manager) regarding the status of labor negotiations with the Employee Association, Employee League, and non-represented Management and Central Management employees. And, pursuant to Government Code section 54957.6, the City Council will meet with its negotiator (City Manager) regarding the status of labor negotiations with the Garden Grove Police Association, Police Middle Management, and Garden Grove Fire Fighters Local 2005. Further, pursuant to Government Code section 54956.8, the City Council will give direction to its negotiator (City Manager) regarding property located at 12212 and 12222 Tamerlane Drive, Parcel Nos. 231-471-31, 32, Ronald H. White. The party with whom the Council is negotiating is Vista Communications.

RECONVENE IN OPEN SESSION

At 10:20 p.m., the meeting was reconvened and it was announced that all matters previously disclosed were discussed and no others.

ADJOURNMENT

At 10:21 p.m., the meeting was declared adjourned in memory of Mary Jean Reid, wife of Don Reid and long-time Garden Grove resident. (F: 46.9)

RUTH E. SMITH
CITY CLERK