

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 28, 2006, at 7:30 p.m.

ROLL CALL: PRESENT: (5) MAYOR DALTON, COUNCIL MEMBERS KREBS, LEYES, NGUYEN, ROSEN

ABSENT: (0) NONE

INVOCATION AND PLEDGE

Deputy City Manager Les Jones gave the Invocation. Council Member Leyes led the Pledge of Allegiance to the Flag of the United States of America.

COMMUNITY SPOTLIGHT

Mayor Dalton called forward Chris Prevatt and presented him with a Certificate of Appreciation and a memento for his dedicated service to the Sanitary District Advisory Commission. (F: 52.3)
(XR: S-122.1B)

COMMUNITY SPOTLIGHT

Mayor Dalton called forward Mark Messick of Handbill Printing, and Mary Stewart of Lake Intermediate School, and presented them with Certificates of Appreciation and mementos for their generous donations to the City's 2005 Adopt-A-Family Program. (F: 52.3)
(XR: 78.4)

DEPARTMENT UPDATE BY PUBLIC WORKS DIRECTOR KEITH JONES (F: 24.1)

Public Works Director Keith Jones provided an update of activities in the Public Works Department.

ORAL COMMUNICATIONS - PUBLIC

David Vill addressed the City Council, speaking on behalf of AARP members, asking that the City Council take a vote to ban fireworks in Garden Grove. He stated that the City Council has not responded to their request for a meeting to discuss their concerns. He submitted a copy of their agenda and board minutes. (F: 53.3) (XR: 61.6)

Charles Mitchell addressed the City Council concerning the H.O.T. (Helping Our Troops) organization. He introduced Kristen Maddox, who spoke about the H.O.T. organization and its efforts. She asked residents to contact her relative to donations. (F: 53.3)

Larry Bonham addressed the City Council concerning the rights of mentally troubled and disabled people. (F: 53.3)

COUNCIL MEMBER NGUYEN LEFT THE MEETING ROOM AT 8:15 P.M.

Ricardo Mireles addressed the City Council concerning a Notice of Minutes Order from the Court. (F: 53.3)

COUNCIL MEMBER NGUYEN REJOINED THE MEETING AT 8:20 P.M.

Arva Hawkins, Manny Reyes, Tina Ganjifard, and Beth Tupper, students from Cal State Fullerton, addressed the City Council, indicating that the College is underfunded because of the financial situation of the State budget and requested the City Council encourage the State Legislators to act on their behalf. (F: 53.3) (XR: 90.1)

RECESS

At 8:25 p.m., the Mayor declared a recess.

RECONVENE

At 9:04 p.m., the meeting was reconvened with Mayor Dalton and all Council Members in attendance.

PROCLAMATION – ARBOR DAY (83.1)

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that March 7, 2006, be and hereby is designated Arbor Day.

AMENDMENT OF CITY COUNCIL POLICY NO. 100-21, CONFERENCES, MEETINGS, AND TRAINING (F: 127.3)

Staff report dated February 28, 2006, was introduced, noting that this amendment incorporates the use of the Internal Revenue Service's High-Low Substantiation Method for Per Diem Meal and Incidental Reimbursement for overnight business travel.

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that the Amendment of City Council Policy No. 100-21, Conferences, Meetings, and Training, be and hereby is approved.

EXONERATION OF STREET AND DRAINAGE IMPROVEMENT BONDS FOR TRACT MAP NO. 16767 (F: 103.TT-16767)

Staff report dated February 28, 2006, was introduced.

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that Street and Drainage Improvement Bonds for Tract Map No. 16767, posted by Trask Avenue Cottage, LLC, for property located at 11311 Trask Avenue, be and hereby are exonerated.

AGREEMENT WITH J & S STRIPING TO PROVIDE STREET STRIPING AND CURB PAINTING SERVICES ON AN AS-NEEDED BASIS (F: 55) (XR: 24.1)

Staff report dated February 28, 2006, was introduced.

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that the Agreement by and between the City of Garden Grove and J & S Striping, to provide street striping and curb painting services on an as-needed basis, be and hereby is approved; and the City Manager and City Clerk are authorized to execute the agreement.

PLANS AND SPECIFICATIONS FOR PROJECT NO. 7264-C & D, CONSTRUCTION OF RAISED MEDIANS ON GARDEN GROVE BOULEVARD BETWEEN BEACH BOULEVARD AND MAGNOLIA STREET (F: 96.Proj.7264-C & D)

Staff report dated February 28, 2006, was introduced.

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that Plans and Specifications for Project No. 7264-C & D, Construction of Raised

Medians on Garden Grove Boulevard between Beach Boulevard and Magnolia Street, be and hereby are approved, with authorization to advertise for construction bids.

CITY'S 2006 INVESTMENT POLICY AND REAPPOINTMENT OF CITY TREASURER AND DEPUTY CITY TREASURER/FINANCE DIRECTOR AS PERSONS RESPONSIBLE FOR THE CITY'S INVESTMENTS (F: 127.7) (XR: 60.8)

Staff report dated February 28, 2006, was introduced.

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that the City's 2006 Investment Policy be and hereby is approved; and Les Jones be reappointed as the City Treasurer, and Kingsley Okereke be reappointed as the Deputy City Treasurer/Finance Director, as persons responsible for the City's investments.

MINUTES (Vault)

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that the minutes of the Regular City Council Meeting held January 24, 2006, be and hereby are approved.

WARRANTS (F: 60.5)

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that regular warrants 355024 through 355777 and Wires W238 and W239, and payroll warrants 144632 through 144807, Direct Deposits D116973 through D117540, and Wires W1065 through W1068, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

PUBLIC HEARING – GENERAL PLAN AMENDMENT NO. GPA-4-05(A); AMENDMENT NO. A-123-05; DEVELOPMENT AGREEMENT; AND APPEAL OF SITE PLAN NO. SP-379-05 AND CONDITIONAL USE PERMIT NO. CUP-171-05 (F: 20.GPA-4-05(A))

General Plan Amendment No. GPA-4-05(A); Amendment No. A-123-05; a Development Agreement; and an Appeal of Site Plan No. SP-379-05 and Conditional Use Permit No. CUP-171-05. The Applicant, Lam Nguyen, is requesting to amend the General Plan Land Use designation by changing the current designation from Office Professional to Low Density Residential; to rezone the 1.8-

acre site to Single Family Residential to allow a religious facility on this site; for Site Plan approval to construct a two-story, 13,000 square foot Buddhist Temple; and for Conditional Use Permit approval for the operation of the proposed religious facility. The subject site is located on the southeast corner of Chapman Avenue and Nutwood Street at 10510 Chapman Avenue.

On November 3, 2005, the City Planning Commission, pursuant to Resolution Nos. 5518 and 5519, voted to deny the General Plan Amendment, Zone Change Amendment, Development Agreement, Site Plan, and Conditional Use Permit. An Appeal of the General Plan Amendment, Zone Change Amendment, Site Plan, Conditional Use Permit, and Development Agreement was filed by Council Member Rosen; and pursuant to legal notice published on February 16, 2006, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated February 28, 2006, was introduced, and staff reviewed the background information concerning this matter. Numerous letters received were also entered into the record.

Council Member Rosen noted that there are seven members of the Planning Commission, and this case was denied by that Commission on a three to two vote, with one vacancy and one member absent; and he believes this decision should be made at the City Council level.

Discussion took place relative to the fewer parking places, the building configuration, and the fixed seating on the revised plan. It was noted that no assembly gatherings are permitted; however, they have continued to occur. Council Member Rosen referenced a memo about the City taking legal action against the owners. The City Attorney responded that no legal action has been filed inasmuch as this application was in the works.

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

Richard Wynn of Placentia addressed the City Council on behalf of the Temple, indicating that the project meets all the requirements of the Code, noting that other temples have been approved in the past, and the City should follow the precedence set. They will use a remote parking facility with a shuttle on special days.

Chi Do of Garden Grove addressed the City Council in favor of the project.

(COUNCIL MEMBER NGUYEN LEFT THE MEETING AT 9:31 P.M. AND REJOINED THE MEETING AT 9:34 P.M.)

Tony Rector of Garden Grove addressed the City Council, urging this development not be approved. He cited Code violations and noted that there is not enough parking. Furthermore, he commented that Council Member Rosen should recuse himself.

Patty Steinhoff of Garden Grove addressed the City Council and presented a petition with 112 signatures opposing the Temple.

Cy LaBree of Garden Grove addressed the City Council in opposition to the project. The church does not generate taxes, and residential would be taxable. He noted that the Calvary Church was built on commercial property; however, they paid advance taxes.

Frank Steinhoff of Garden Grove addressed the City Council in opposition to the project. He urged the City Council to listen to the Planning Commission who has turned down this project twice.

Molan Doan of Westminster addressed the City Council, noting that he is a reporter and a news anchor at Radio Little Saigon. He commented that there seems to be a lot of hostility over this project, and he urged approval of the project.

Khan Van Nguyen of Long Beach addressed the City Council in support of the Temple.

Phac Nguyen of Corona del Mar addressed the City Council, urging approval of the Temple.

Son Le of Garden Grove addressed the City Council, noting that he is a youth activities leader for the Temple. He spoke about their activities and urged approval. Upon questioning by Mayor Dalton, Mr. Le noted that they have been meeting off site for the past four months.

Allison Dao addressed the City Council, noting she is a newspaper reporter and a news anchor with Radio Little Saigon. She commented that there is a lot of hostility over this, and urged the City Council to approve the project.

Thy Phan of Garden Grove addressed the City Council and spoke about the youth group at the Temple. She urged approval of the Temple.

Lanh Nguyen of Garden Grove addressed the City Council, urging approval of the project.

Anh Kim Pham of Westminster addressed the City Council, urging approval of the project.

Tom Courtney of Corona del Mar addressed the City Council and spoke about freedom of religion, assembly, and speech. He urged approval of the project.

Tom Petrosine of Garden Grove addressed the City Council, noting that he lives across the street from the subject site. He indicated the intersection of Nutwood Street and Chapman Avenue is dangerous, and an increase in traffic would exacerbate the situation.

RECESS

At 10:40 p.m., the Mayor declared a recess.

RECONVENE

At 10:49 p.m., the meeting was reconvened with Mayor Dalton and all Council Members in attendance.

PUBLIC HEARING – GENERAL PLAN AMENDMENT NO. GPA-4-05(A); AMENDMENT NO. A-123-05; DEVELOPMENT AGREEMENT; AND APPEAL OF SITE PLAN NO. SP-379-05 AND CONDITIONAL USE PERMIT NO. CUP-171-05 (CONTINUED)

Luan Tran of Long Beach addressed the City Council, noting he is an attorney and he believes there is a demonstration of racial tension here. He urged approval of the Temple.

Dr. Tim Nguyen of Garden Grove addressed the City Council, urging approval of the Temple.

Venerable Thieh Chon Thanh of Garden Grove addressed the City Council, urging approval of the Temple.

Lan Nguyen, member of the Garden Grove Unified School District Board addressed the City Council and presented a petition containing close to one thousand signatures, most of whom are citizens of Garden Grove, in support of this project. He noted that this project has complied with all technical requirements. However, denials have been made subjectively. He has served on the Planning Commission, and it has been his experience that the staff

has always worked to fix problems so projects could be approved. He indicated that in the past the City Council and staff have approved other projects with numerous violations and variances that were required. The staff has not worked with the Temple on how to make the project compatible with the General Plan. He stated that in order for the City to deny a permit, the City must find a compelling interest to do so. He asked for special consideration for this permit under the religious land use act of 2000.

Maxham Miller of Garden Grove addressed the City Council, noting that he had to conform to City codes for his building. He questioned the need for another church in Garden Grove.

So Hoang of Los Angeles addressed the City Council, commenting that the Temple plays a very important role in the lives of the Vietnamese people, and he urged approval of the project.

Abbot Tri Nguyen Thieh of Garden Grove addressed the City Council, urging approval of the Temple.

Dao Doan of Thousand Oaks addressed the City Council, noting that he is an architect and urban planning designer. He commented that the plans exemplify a good mixed-use project. He suggested dialog continue with the neighbors and a way be found to let the Temple temporarily function. He urged approval of the project.

Dr. Bao-Kiem Dam of Fountain Valley addressed the City Council, urging approval of the Temple.

Jack Berger of Garden Grove addressed the City Council, commenting that the present plan is unacceptable. He also noted that the animosity exhibited saddens him. He expressed concern about the increase in traffic this project would bring. He suggested a multi-story parking structure as a way to expand the parking spaces, and he suggested more thought be put into the proposed plan.

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

In response to a question from Council Member Leyes, the City Attorney noted that the City Council has the responsibility to consider the information and be attentive to the proceedings.

Council Member Krebs noted that Garden Grove has more churches than any other city. He noted that the site is zoned for commercial

office space, and vacancy rates are at their lowest level in the last decade. There is a need for the City to maintain the integrity of business, office, and professional areas and not give up an income piece of property that is very important to the city. Therefore, he is voting against changing the zoning of that parcel for that reason, and not because the building doesn't fit in or the traffic would be increased.

Council Member Rosen noted that staff has done an excellent job, and the City Council is sensitive to all ethnicity. It is problematic to have a lot of traffic coming up Nutwood. He further noted that medical zoning for that parcel might be right today. He spoke of a need to develop a policy about where to place churches.

Council Member Leyes noted that the City has a policy incorporated into the General Plan and zoning code that permits churches to exist in residential zones, with some restrictions, and 85 percent of the city falls into this category. Only about 15 percent of the city is zoned as commercial and the City resists the idea of taking commercial/industrial/office/professional areas and rezoning them to residential, especially in the context of a church, because not only is the property taken off the tax rolls, but also churches are tax-exempt. He noted that the City is not changing the rules to disadvantage the church, but rather to enforce the rules that have been there for a generation and were there when the new owners bought the property. Additionally, the last time the City Council denied this project, it was made clear that this property was not suitable for rezoning. He has not seen a compelling reason to change the City Council's position from the last time, and he has not seen anything that is significantly different to make him change his position from last time; therefore, he will vote to uphold the Planning Commission decision.

Council Member Nguyen noted that she supported the project the last time it came before the City Council. It has been a year, and she is saddened by the list of violations that have occurred over and over throughout that period, and this has now become an issue of other concerns – one community versus another. We are not talking about land use anymore. We are talking about giving special consideration for violations that have occurred for an entire year, and that is a very big concern. She added that there were no translation problems because Council Member Andy Quach was involved as a consultant. She commented that this is a difficult decision for the City Council to make.

Council Member Rosen referenced remarks made by Mr. Lan Nguyen relative to a Federal Law RLUIPA. He noted that Mr. Nguyen is an

excellent attorney as well as an excellent School Board member; however, RLUIPA was an enactment of the United States Congress, which attempts to dictate to municipalities and Planning Commissions throughout the country how they are supposed to weigh local planning issues. And it is his belief that the law is unconstitutional under the doctrine of Lopez v. United States as being beyond the scope of the United States Congress to regulate local land use issues. This is not a decision whether to deny a group particular treatment. We have the local decision and the local power to decide whether to rezone a particular area. And if we choose not to, that is beyond the scope of the law. He added that he wanted to get this on the record relative to RLUIPA in case the City Council's decision is challenged in court.

Mayor Dalton commented that denying the Temple is not denying someone their freedom, noting that rules have to be followed. He expressed his disagreement about alleged racial overtones over this, noting that this is not a race or discrimination issue.

RESOLUTION NO. 8687-06

It was moved by Council Member Krebs, seconded by Council Member Leyes, and carried by unanimous vote, that full reading of Resolution No. 8687-06 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DENYING GENERAL PLAN AMENDMENT NO. GPA-4-05(A) AND ZONE CHANGE AMENDMENT NO. A-123-05, be and hereby is adopted.

RESOLUTION NO. 8688-06

It was moved by Council Member Krebs, seconded by Council Member Leyes, and carried by unanimous vote, that full reading of Resolution No. 8688-06 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DENYING THE APPEAL OF SITE PLAN NO. SP-379-05 AND CONDITIONAL USE PERMIT NO. CUP-171-05 AND THEREBY UPHOLDING THE PLANNING COMMISSION DECISION OF DENIAL, be and hereby is adopted.

PUBLIC HEARING – GENERAL PLAN AMENDMENT NO. GPA-1-06(A); PLANNED UNIT DEVELOPMENT NO. PUD-110-06; AND DEVELOPMENT AGREEMENT (F: 20.GPA-1-06(A)) (XR: 116.PUD-110-06) (XR: 106.167)

General Plan Amendment No. GPA-1-06(A); Planned Unit Development No. PUD-110-06; and Development Agreement. Olson

Urban Housing, LLC, is requesting to change the General Plan Land Use from Mixed-Use to Medium-High Residential; to rezone the property from Harbor Corridor Specific Plan Office Professional to Planned Unit Development; and approval of a Development Agreement to construct an at grade parking structure with 159 dwelling units above the parking structure on a 3.8-acre parcel of land located on the east side of Palm Street, south of the intersection of Palm Street and Harbor Boulevard, at 12852 Palm Street.

On January 5, 2006, the City Planning Commission, pursuant to Resolution No. 5527, adopted a negative declaration and recommended approval of the General Plan Amendment, the Planned Unit Development, and the Development Agreement. Pursuant to legal notice published February 16, 2006, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated February 28, 2006, was introduced, and staff reviewed the background information concerning this matter.

Bill McReynolds from the Olson Company addressed the City Council and spoke about the project.

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

Margaret Bergin addressed the City Council, commenting on traffic issues at the intersection of Palm Street and Garden Grove Boulevard, further commenting that the traffic study was done during non-school hours.

Mayor Dalton indicated that the Traffic Engineer will look into this.

Verla Lambert addressed the City Council and also expressed concern about the traffic situation in that area. She commented that Palm Street is heavily trafficked.

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

Council Member Rosen commented that this development creates a buffer between International West and the Palm area, and he will support the project.

Council Member Leyes also noted that traffic situation should be looked at in this area. He believes the Olson Company has a good plan, and he will support the project.

Mayor Dalton noted that he believes this project will enhance the neighborhood.

RESOLUTION NO. 8689-06

It was moved by Council Member Leyes, seconded by Council Member Rosen, and carried by unanimous vote, that full reading of Resolution No. 8689-06 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING GENERAL PLAN AMENDMENT NO. GPA-1-06(A), be and hereby is adopted.

ORDINANCE NO. 2684 was introduced for first reading and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING PLANNED UNIT DEVELOPMENT NO. PUD-110-06, CHANGING THE ZONING DESIGNATION FROM HCSP-OP TO PLANNED UNIT DEVELOPMENT NO. PUD-110-06

It was moved by Council Member Leyes, seconded by Council Member Rosen, and carried by unanimous vote, that full reading of Ordinance No. 2684 be waived, and said Ordinance be and hereby is passed to second reading.

ORDINANCE NO. 2685 was introduced for first reading and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING A DEVELOPMENT AGREEMENT BETWEEN OLSON URBAN HOUSING, LLC, AND THE CITY OF GARDEN GROVE

It was moved by Council Member Leyes, seconded by Council Member Rosen, and carried by unanimous vote, that full reading of Ordinance No. 2685 be waived, and said Ordinance be and hereby is passed to second reading.

PUBLIC HEARING – GENERAL PLAN AMENDMENT NO. GPA-1-06(B)
(F: 20.GPA-1-06(B))

General Plan Amendment No. GPA-1-06(B). The City of Garden Grove is proposing to modify the housing density of the "Medium High Density Residential" land use designation from between 32.1 and 48 units per acre to between 32.1 and 60 units per acre.

On January 5, 2006, the City Planning Commission, pursuant to Resolution No. 5530, recommended approval of the General Plan Amendment; and pursuant to legal notice published February 16, 2006, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated February 28, 2006, was introduced, and staff reviewed the background information concerning this matter.

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

Verla Lambert addressed the City Council, commenting that she does not understand why the City has to conform with everybody else relative to the increase in density range.

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

RESOLUTION NO. 8690-06

It was moved by Council Member Leyes, seconded by Council Member Rosen, and carried by unanimous vote, that full reading of Resolution No. 8690-06 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING GENERAL PLAN AMENDMENT NO. GPA-1-06(B) FOR CHANGES TO THE LAND USE ELEMENT FOR THE MODIFICATION OF THE HOUSING DENSITY OF THE "MEDIUM HIGH DENSITY RESIDENTIAL" LAND USE DESIGNATION, be and hereby is adopted.

SECOND READING OF ORDINANCE NO. 2683

It was moved by Council Member Rosen, seconded by Council Member Nguyen, and carried by unanimous vote, that full reading of Ordinance No. 2683, be and hereby is waived.

ORDINANCE NO. 2683 was presented for second reading and adoption and the title read in full, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A DEVELOPMENT AGREEMENT BETWEEN YUET NGAN KWONG (PROPERTY OWNER) AND THE CITY OF GARDEN GROVE (F: 106.166)

It was moved by Council Member Krebs, seconded by Council Member Leyes, and carried by unanimous vote, that Ordinance No. 2683 be and hereby is declared passed.

APPOINTMENT TO PLANNING COMMISSION, AS REQUESTED BY COUNCIL MEMBER ROSEN (F: 122.10B)

It was noted that this item was continued from the meeting of February 14, 2006.

It was moved by Council Member Rosen, seconded by Council Member Krebs, and carried by unanimous vote, that Joseph Pak be and hereby is appointed to the Planning Commission, as Mayor Pro Tem Rosen's appointee.

COMMENTS FROM THE MAYOR AND CITY COUNCIL MEMBERS

City Council Members congratulated City Clerk Ruth Smith on her receipt of the 2006 Cypress College Americana Citizen of the Year award at Disneyland on Saturday evening. (F: 53.1) (XR: 45.1)

Mayor Dalton wished his granddaughter Cassandra a Happy 14th Birthday. (F: 53.1)

ADJOURNMENT

At 12:40 a.m. on Wednesday, March 1, 2006, the meeting was adjourned to Saturday, March 11, 2006, at 8:00 a.m. in the Crystal Cathedral Family Life Center, Third Floor, Room 342, 12141 Lewis Street, Garden Grove.

RUTH E. SMITH
CITY CLERK