

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, April 8, 2003, at 6:53 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; Personnel Services Director, Steve Larson; Police Chief, Joe Polisar; City Attorney, John Shaw; and Deputy City Clerk, Priscilla Stierstorfer.

INVOCATION AND PLEDGE

Assistant City Manager Les Jones gave the Invocation. Mayor Broadwater led the Pledge of Allegiance to the Flag of the United States of America followed by a moment of silence in honor of the military troops in Iraq.

PRESENTATION – COMMUNITY SPOTLIGHT

Mayor Broadwater called forward Francisco Lopez, and presented him with a gift for his exceptional efforts in helping his neighbors. (F: 52.3)

PRESENTATION – COMMUNITY SPOTLIGHT

Mayor Broadwater called forward Sister City Association exchange students who will be visiting Anyang, South Korea, and presented them and their chaperones with mementos of Garden Grove. (F: 52.3) (XR: 102.3)

ORAL COMMUNICATIONS – PUBLIC

Chad Morgan presented to the Council a bag of yellow ribbons and requested that they be placed on City vehicles to show support to the families of the troops in Iraq. (F: 53.3)

Loretta Evans commented that she has not received a response on how to file an appeal for the citation she received for the height of her front yard

security fence. Mayor Broadwater directed staff to provide a report on what can be done to help Mrs. Evans. (F: 53.3) (XR: 80.2)

Richard Princler commented that he is not opposed to fireworks; although, moving the stands 1,000 feet from the city's boundary will cause a hazard. If they cannot use the parks or city streets, the City is not leaving a place for the average person in Garden Grove to light them. (F: 53.3) (XR: 61.6)

Charles Mitchell commented regarding Item 4.a., recognizing 30 years of service for the Community Service Programs. This program focuses on dispute resolution. Their personnel are trained to mediate court cases to avoid a judgment. (F: 53.3) (XR: 83.1)

Tony Flores distributed a packet of information and commented on some of the items dealing with hotel costs and revenue projections, firework sales and cleanup, and using the old Costco site for a gym. (F: 53.3) (XR: 61.6)

Nicole Nguyen and Mike Vu, representing the Union of Vietnamese Student Associations, commented regarding the money that was raised at the recent Tet Festival. They provided funding allocation application forms, and anticipate distributing the profits after April 15, 2003. (F: 53.3) (XR: 42.8a) (XR: 55)

RECESS

At 7:30 p.m., the Mayor declared a recess.

RECONVENE

At 7:32 p.m., the meeting was reconvened with Mayor Broadwater and all Councilmembers in attendance.

REQUEST FROM THE ORANGE COUNTY REGIONAL AIRPORT AUTHORITY

(F: 88.1) (XR: 23.11)

A communication dated March 14, 2003, from the Orange County Regional Airport Authority (OCRAA) was introduced requesting funding to continue its efforts in finding reasonable transportation alternatives that mitigate the air transportation demand shortfall and solve resulting ground transportation problems.

Mayor Broadwater commented that at a previous Council meeting it was discussed that all dues will be frozen until the City's financial situation is determined.

It was moved by Mayor Broadwater, seconded by Councilman Rosen, and carried by unanimous vote, that OCRAA dues will be frozen and that in-kind donations to provide office space in City Hall for the director will continue.

REQUEST FROM SINE CABALLERO TO DISCUSS HIS CLAIM FOR DAMAGES
FROM TREE LIMBS (F: 88.1) (XR: 49.2)

A communication dated March 26, 2003, from Sine Caballero was introduced.

The City Manager commented that Mr. Caballero had a tree limb fall on his car during a recent windstorm. The Claims Board denied his claim, and he requested to address the Council.

Sine Caballero commented that the reason the tree fell is failure on the City's part to properly care for the tree because it had diseased branches. He requested that the City pay his claim of \$755.

Councilman Tran asked Mr. Caballero how he knows that the tree was diseased. Mr. Caballero commented that the tree branches that fell looked dry and unhealthy. He indicated that the City's tree trimming crew picked up the debris and did not notice the condition of the branches.

Councilman Tran questioned whether Mr. Caballero brought a branch to someone who is a tree expert. Mr. Caballero commented that the burden is on the City, which has been in business a long time. City staff knows what a diseased branch looks like, and the tree was on City property.

Councilman Dalton commented that during previous high winds, one of his tree branches fell on his neighbors' property. The insurance company did not cover the damage because they said it was an act of God.

Mayor Broadwater noted that the burden of proof begins with the person making the accusation.

Councilman Leyes commented that Mr. Caballero, in his letter, also notes his frustration with staff and the fact the City is self-insured. The City is self-insured because it is more affordable and a benefit to the taxpayers. He indicated to Mr. Caballero that he would have to go to Small Claims Court to prove liability.

Councilman Rosen noted that is what a judge is for. The claim was denied and he advised Mr. Caballero that he only has so much time in which to file his claim with the Court.

Councilman Tran commented that Mr. Caballero noted that his experience with staff was unpleasant, which is a separate issue. He advised Mr. Caballero that he is the claimant, and it is his responsibility to prove the City is liable. There has been nothing presented to change the City's decision.

PROCLAMATION ACKNOWLEDGING COMMUNITY SERVICE PROGRAMS (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that the Proclamation acknowledging Community

Service Program's (CSP) 30th year of providing human services to the citizens of Orange County, be and hereby is approved.

PROCLAMATION – DAY OF HOPE (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that April 2, 2003, hereby is proclaimed Day of Hope, during National Child Abuse Prevention Month.

PROCLAMATION – ORANGE COUNTY FALUN DAFA WEEK (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that April 21-27, 2003, be and hereby is proclaimed the first Orange County Falun Dafa Week.

PROCLAMATION – RECORDING FOR THE BLIND & DYSLEXIC RECORD-A-THON WEEK IN GARDEN GROVE (F: 83.1)

Charles Mitchell read a proclamation that was given by Congresswoman Loretta Sanchez honoring Craig Durfee.

Craig Durfee thanked the Council for its support and requested it encourage the State and Federal elected officials to pass appropriate funding legislation.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that April 27-May 3, 2003, be and hereby is proclaimed as Recording for the Blind & Dyslexic Record-A-Thon Week in Garden Grove.

PROCLAMATION – VETERAN APPRECIATION MONTH (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that May 2003, be and hereby is proclaimed Veteran Appreciation Month.

PROCLAMATION – FOOD DRIVE DAY IN GARDEN GROVE (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that May 10, 2003, be and hereby is proclaimed Food Drive Day in Garden Grove

PROCLAMATION – NATIONAL WOMEN'S HEALTH WEEK IN GARDEN GROVE (F: 83.1)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that May 11-17, 2003, be and hereby is proclaimed National Women's Health Week in Garden Grove.

CLAIMS FOR DAMAGES (F: 49.2)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that claims submitted by attorneys on behalf of Monica and Emilio Flores, Jr., and on behalf of James Klepner and Fabiana Flores, be and hereby are denied.

AGREEMENT WITH PURSUIT TECHNOLOGY FOR THE CHANGEOVER OF POLICE PATROL CAR EQUIPMENT (F: 55) (XR: 82.4)

Staff report dated April 8, 2003, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that the Agreement by and between the City of Garden Grove and Pursuit Technology for the changeover of Police patrol car equipment, be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement.

ACQUISITION OF REAL PROPERTY LOCATED AT 13832 NEWHOPE STREET FOR THE FUTURE EXPANSION OF THE CITY'S MUNICIPAL SERVICES CENTER (F: 84.1) (XR: 24.1)

Staff report dated April 8, 2003, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that the acquisition of real property located at 13832 Newhope Street for the future expansion of the City's Municipal Services Center, be and hereby is approved; the City Manager and City Clerk are authorized to accept the Grant Deed and execute the Purchase Agreement; and the Finance Director is authorized to draw a warrant in the amount of \$650,000.00 to Henry Sprague, III, and Dermot Fitzpatrick, when appropriate to do so.

MINUTES (F: Vault)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that the Minutes of the Regular City Council Meetings held February 11 and February 25, and Adjourned Regular Meeting held March 4, 2003, be and hereby are approved.

WARRANTS (F: 60.5)

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that regular warrants 284890 through 286410, wire W99, and payroll warrants 127588 through 127842, Direct Deposits D75096 through D75653, and wires W721 through W724, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

PUBLIC HEARING – APPEAL OF SITE PLAN NO. SP-317-02
(F: 116.SP-317-02) (XR: 112.10)

Appeal of Site Plan No. SP-317-02 – Viacom Outdoor is requesting Site Plan approval to relocate a 50-foot-high, 672 square foot billboard to an approximately 5.29-acre parcel located on the north side of Garden Grove Boulevard, east of Fairview Street, at 13311-13341 Garden Grove Boulevard. The project is a relocation of a billboard that was previously located on the west side of Harbor Boulevard, north of Chapman Avenue.

The City Planning Commission, pursuant to Resolution No. 5340, denied SP-317-02; and pursuant to Legal Notice published March 27, 2003, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated April 8, 2003, was introduced, and staff provided background information concerning this matter.

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

Mr. Dave Ryan, representing Viacom, was available to respond to questions.

Councilman Dalton questioned who gets the money for the advertisement. Mr. Ryan responded that Viacom purchased the assets and has the right to the sign.

Councilman Rosen questioned whether the billboard generated any income for the City. The City Manager commented that it does not. The income from the lease goes to the property owner.

Councilman Tran inquired whether the physical billboard was the property of Viacom or only the rights to the billboard. Mr. Ryan commented that they have a very large storage yard with old structures, and he was not aware of whether they had that particular billboard or not. He noted that at this point, they are talking about a right.

Councilman Tran questioned whether this specific billboard is delineated in any documents. Mr. Ryan noted that specific assets may not be mentioned in the documents. However, if it is critical, he could find the language.

Councilman Tran commented that the issue is whether the claim is legally bound in the contract and whether the City is legally liable. Mr. Ryan indicated that usually the acquiring company owns all the assets.

Mayor Broadwater commented that it is his understanding that the City had to relocate that sign when the restaurant came down for the hotels. The City Manager noted that the Agency's Special Attorney gave the City an opinion, and the direction at that time was that staff was to assist in the relocation of the billboard.

The City Attorney advised that much of the original dispute occurred when the Agency purchased the land. The sign company was a lessee at that time. He indicated that the discussion should take place in Closed Session, and the sign company may be required to produce documents showing that they are the owners of the sign.

Councilman Rosen commented that it seems to him that everyone is right. He indicated that there was a confidential memo written by Celeste Brady, Special Attorney to the Agency. It would be helpful to review that memo and minutes of the meetings that were held on this billboard and discuss the matter in Closed Session at the same meeting that a decision is made.

Mr. Phillip Bacerra addressed the Council. He commented that billboards have been banned in the city; however, the burden of proof is on the billboard company. He noted that there is a concern of how many billboards are located on the east side of the city. He indicated that billboards lower the quality of life. He requested that the Council uphold the Planning Commission's decision and deny the request.

Mr. Dave Ryan readdressed the Council. He commented that in 1999, there were three billboards that were to be relocated. Two have already been relocated near the 22 Freeway. He noted that he has been very patient in the last three years that he has had discussion with staff on relocating the third billboard to a site that staff would approve. He indicated that a site was chosen in the industrial area, and the Planning Commission denied the request because they do not like billboards. They did not consider that the location met the criteria. He noted that they do not want to file a suit over this; however, the statute of limitation is running out.

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

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that the decision on this matter be continued and listed for Closed Session on April 22, 2003.

PUBLIC HEARING – APPEAL OF CONDITIONAL USE PERMIT NO. CUP-612-02
(F: 51.CUP-612-02) (XR: 122.10)

Appeal of Conditional Use Permit No. CUP-612-02, initiated by Garden Grove RV, requesting approval to utilize approximately 5.9 acres for a recreational vehicle storage yard. The subject property is a Southern California Edison easement and a portion of Union Pacific Right-of-Way, located between Lampson Avenue and the terminus of Park Avenue east of Western Avenue.

The City Planning Commission, pursuant to Resolution No. 5318, approved CUP-612-02. On March 13, 2003, an appeal of the conditions was filed by the applicant, and public hearing on the case was ordered by the City Council to be held this date. Then, on March 30, 2003, the applicant formally withdrew his appeal, no longer necessitating the need for the public hearing.

RECOMMENDATION FROM THE TRAFFIC COMMISSION MEETING OF MARCH 13, 2003 (F: 122.11) (XR: 75.1) (XR: 100.1)

Staff reports dated April 8, 2003, were introduced.

It was moved by Councilman Dalton, seconded by Councilman Tran, and carried by unanimous vote, that the recommendation from the Traffic Commission to install a four-hour parking time limit on the north side of the frontage road on Katella Avenue, be and hereby is approved.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that the recommendation from the Traffic Commission to remove on-street parking restrictions between the hours of 7 a.m. and 9 a.m., and 2 p.m. and 5 p.m., on the east side of Bailey Street from Tiffany Avenue to approximately 200 feet south, be and hereby is approved.

It was moved by Councilman Dalton, seconded by Councilman Tran, and carried by unanimous vote, that the recommendation from the Traffic Commission to remove parking on the west side of Harbor Boulevard from Cardinal Circle to Westminster Avenue; and install a third lane on this section of Harbor Boulevard, be and hereby is approved.

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that the recommendation from the Traffic Commission to install stop signs on June Street at Bluebell Avenue, and on Nieta Drive at Fredrick Drive, be and hereby is approved.

AWARD OF CONTRACT FOR PROJECT NO. 7135, SOUTHBOUND HARBOR BOULEVARD RIGHT-TURN LANE AT CHAPMAN AVENUE (F: 96.PROJ.7135)

Staff report dated April 8, 2003, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Leyes, and carried by unanimous vote, that Alliance Streetworks, Inc., be and hereby is determined to be the lowest acceptable bidder in connection with Project No. 7135, Southbound Harbor Boulevard Right-Turn Lane at Chapman Avenue; that contract for said project be and hereby is awarded to said company in the sum of \$317,000.00, in accordance with the terms of the City's plans and specifications and the bid submitted by said company; that all other bids be and hereby are rejected; and the Mayor and City Clerk are authorized to execute said contract.

RESOLUTION AUTHORIZING APPLICATION TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE TRANSPORTATION ENHANCEMENT ACTIVITIES PROGRAM FOR BEAUTIFICATION OF THE HARBOR BOULEVARD/GARDEN GROVE INTERSECTION (F: 36.11) (XR: 96.1)

Staff report dated April 8, 2003, was introduced.

RESOLUTION NO. 8493-03

It was moved by Councilman Leyes, seconded by Councilman Rosen, and carried by unanimous vote, that full reading of Resolution No. 8493-03 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AUTHORIZING APPLICATION FOR FUNDS FOR THE TRANSPORTATION ENHANCEMENT ACTIVITY (TEA) PROGRAM UNDER THE 1998 TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY FOR THE HARBOR/GARDEN GROVE BEAUTIFICATION PROJECT, be and hereby is adopted.

CONSIDERATION OF FORMAL OPPOSITION OF AB 496 (CORREA), WHICH WOULD CREATE A SANTA ANA RIVER CONSERVANCY (F: 67.1)

Councilman Leyes announced that he is pulling this agenda item, and it will not be discussed. He noted that a letter was received from the author that explained some of the amendments.

DISCUSSION CONCERNING ORANGE COUNTY WATER DISTRICT'S GROUNDWATER BASIN OVERDRAFT AND A NEW MANAGEMENT APPROACH TO DETERMINE THE BASIN PRODUCTION PERCENTAGE (BPP) FOR THE REGION (F: 112.6)

Staff report dated April 8, 2003, was introduced.

The City Manager commented that this item was continued from March 25, 2003, when representatives of the Orange County Water District (OCWD) gave a presentation. He noted that attached to the staff report is a draft letter for the Mayor's signature noting the City's concerns and impacts that Garden Grove would face if a major change in the Basin Production Percentage (BPP) occurs.

Councilman Leyes commented that OCWD is proposing to lower the basin production percentage and raise the rates at the same time. He noted that he is not convinced that they have demonstrated the need to go in this direction. He indicated that they are still debating the whole point at the City's expense. He did not think the letter goes far enough; however, it will get the message before the Board when it meets next week.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote that staff invite representatives from the Orange County Water District to provide a brief presentation to the public on why the water rates will be increased, and that the letter signed by the Mayor to be sent to OCWD noting the City's concerns, be and hereby is approved.

STATUS REPORT REGARDING PARKING ISSUES ON WEST STREET AND ADJACENT RESIDENTIAL STREETS (F: 75.1) (XR: 73.12a)

The Assistant City Manager/Public Works Director provided an update, noting that the adjacent residential streets are not being used. Staff's proposal to open the school parking that added 64 parking spaces has helped.

COMMENTS BY COUNCILMEMBERS

Councilman Rosen commented that a request was received regarding changing the name of a street. He noted that the process is to request that the Planning Commission hold a hearing and make a recommendation to the City Council. (F: 53.1) (XR: 120.10)

Councilman Rosen inquired whether any trees will be planted along the sound wall east of Valley View. The Assistant City Manager/Public Works Director commented that the proposal is to have low bushes and vines planted along the wall. There was no intent to plant trees in this area. Councilman Rosen requested more information on whether the proposed vegetation will help to mitigate the noise. (F: 53.1) (XR: 120.1)

Councilman Tran commented that last week he requested that banners be placed in City facilities for everyone to sign in support of our troops in the Middle East, which will be delivered to them. The City Manager responded that posters have been placed in all City facilities, and there is one that people have been signing at the entrance of the Meeting Center. (F: 53.1)

RECESS AND ADJOURN TO CLOSED SESSION

At 8:50 p.m., the Mayor declared a recess and announced that the Council will adjourn to the Founders Room for Closed Session, under the Ralph M. Brown Act, and 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 Garden Grove Police Association.

Present in Closed Session, in addition to Mayor Broadwater and all Councilmembers, were City Manager, George Tindall; Assistant City Manager, Les Jones; Assistant City Manager, Matthew Fertal; Police Chief, Joe Polisar; Deputy Police Chief, Scott Jordan; Personnel Services Director, Steve Larson; and City Attorney, John Shaw.

RECONVENE IN OPEN SESSION

At 10:19 p.m., the meeting was reconvened in Open Session with Mayor Broadwater and all Councilmembers in attendance, and it was announced that the matter previously disclosed was discussed and no others.

ADJOURNMENT

At 10:20 p.m., the meeting was declared adjourned in memory of Randy Smith. (F: 46.9)

PRISCILLA STIERSTORFER
DEPUTY CITY CLERK