

## 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, September 14, 2004, at 6:50 p.m.

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

ABSENT: (0) NONE

ALSO PRESENT: City Manager, Matthew Fertal; Deputy City Manager, Les Jones; Administrative Services Director, Kathy Porter; Community Development Director, Susan Emery; Community Services Director, Cal Rietzel; Finance Director, Kingsley Okereke; Fire Chief, Keith Osborn; Public Works Director, Keith Jones; Deputy City Attorney, Doug Holland; and City Clerk, Ruth Smith.

#### INVOCATION AND PLEDGE

Deputy City Manager Les Jones gave the Invocation. Councilman Tran led the Pledge of Allegiance to the Flag of the United States of America.

#### ORAL COMMUNICATIONS – PUBLIC

Thanh Hien Tran, Timothy Do, Dat Nguyen, Timothy Ngo, Thi Nguyen, Grap Ngo, Herb Lieberman, Tuan Pham, George Vu, Tri Ta, Mike Nguyen, Lac Nguyen, Lan Tran, Peter Nguyen, Nghia Nguyen, Carol McLaughlin, Hung Nguyen, Nicole Nguyen, Veronique Tran, Quy Tu Nguyen, and Holly Ngo spoke in support of the UVSA continuing to run the Tet Festival, commenting on the many donations they make to non-profit organizations, and asking for City help to meet the guidelines for distribution of proceeds. (F: 53.3) (XR: 42.8a)

Bob Owens addressed the Council, expressing his support for a casino in Garden Grove, noting that he does not believe the Brown Act was violated by the Council with regard to the talks they held about the casino inasmuch as they were only seeking information. He questioned the unemployment

figures recently released and talked about the vast outsourcing that is occurring. (F: 53.3)

Janine Fowler addressed the Council, requesting clarity on the subject of the Gilbert Overlay recently heard by the Planning Commission. She also noted she was impressed with the Union of Vietnamese Student Associations and their activities. (F: 53.3) (XR: 42.8a)

Tony Flores addressed the Council, commenting that the Council should follow the Brown Act rules on Closed Sessions. He also referenced a City pin that was made in Communist China, referencing the recent resolution passed by the Council to "keep the Vietnamese Communists out of Garden Grove." Lastly, he spoke about a school at 5856 Belgrave, which is built close to a condominium complex. He noted that the new owners have not adhered to the Conditional Use Permit, and there is a meeting coming up soon and the condo complex that is 36 feet away was not notified of the meeting. (F: 53.3)

Norman Ross addressed the Council concerning his recent arrest by the Garden Grove Police, alleging their misconduct by not advising him why they were arresting him. He submitted a bill to the City Clerk for the impounding of his vehicle at the time of arrest. (F: 53.3) (XR: 82.1)

Robin Marcario addressed the Council, noting that she is impressed with the volunteer efforts of the Union of Vietnamese Student Associations. She complimented Public Works employees' efforts on the Lampson Avenue project and announced her candidacy for City Council. (F: 53.3) (XR: 42.8a)

DISCUSSION CONCERNING REORGANIZATION OF THE TET FESTIVAL BOARD, AS REQUESTED BY MAYOR BROADWATER (F: 53.1) (XR: 42.8a)

Introduced for the record was a staff report dated August 18, 2004, submitting letters received by the Union of Vietnamese Student Associations on August 12, 2004, which was within the timeline set by staff. These letters addressed the following specific issues: (1) request for a change in terms of the agreement from 90 days to 180 days for proceeds distribution; and (2) starting in 2004 UVSA would like to put a portion of the annual proceeds toward plans for a community center.

Staff noted that it became apparent in early July of 2004 that UVSA was in default on two provisions of their current agreement with the City. First, the City had not been given the opportunity to review the list of organizations selected to receive grants before the distributions had been made. Secondly, not all of the eligible proceeds from the 2004 Tet Festival

had been distributed to the community. Also introduced for the record were four possible options to address the issue.

Mayor Broadwater reviewed the historical background of how the Tet Festival came about approximately ten years ago and the City's involvement with it. He noted that the Tet Festival has been great and is not in jeopardy for the students. However, he is concerned about UVSA being in default on the two provisions of their contract. The \$50,000 in proceeds that were arbitrarily withheld for a community center should have been given to the charities, and it is the City Council's job to see that the terms of the contract are complied with. He noted that the students have done a fantastic job of running the Tet Festival; however, he would like to see the management of the funds taken away from the students' management.

Mayor Broadwater recommended that a seven-person commission be set up, with each Councilmember appointing one member and the Mayor appointing two members.

Councilman Leyes noted that Mayor Broadwater's accounting of the Tet Festival is right on, and it is important for the community to have this celebration, noting that it attracts people from all over California. He further noted that there have been three years of successful festivals with few problems. He noted that the \$50,000 the UVSA withheld to put toward a community center is not in keeping with the contract. He expressed his support for Option 1 that recommended allowing UVSA to complete the second round of funding and have the City monitor the process, and allow them to continue operating future festivals; however, he noted that he would be uncomfortable voting on this matter at this time because of the language appearing on the agenda.

Councilman Dalton noted that the UVSA has done an outstanding job of running the festival; however, they did not communicate their wishes to the City about withholding the money for the community center.

Councilman Rosen also commented that UVSA has done a wonderful job and he expressed his support for amending the contract to the 180-day time frame for distributing the proceeds, noting, however, that the UVSA should have come to the City with their request to set aside the \$50,000 for a community center. He noted that the City should not strip the Union of their ability of deciding to whom the proceeds should go; however, there should be safeguards. He further noted that he is not prepared to vote this evening on this.

Councilman Tran commented on how well the festival has run the past three years, noting that the City has done much for the Vietnamese

community and has absorbed costs associated with the Festival in Garden Grove Park. He recommended the Council consider issuing a letter of introduction so the students could collect sponsorships for the organization. He commented that he could support an extension to 180 days to distribute the proceeds; however, there does need to be checks and balances. The students must meet with the City Council to discuss the issue, noting that the Tet Festival has been politicized.

Councilman Leyes commented that the wording in the agreement, "mutually agreed upon," relating to the disbursement of the proceeds, is not clear. He noted there needs to be a method of accountability for the distribution of the funds.

It was moved by Councilman Rosen, seconded by Councilman Tran, and carried by unanimous vote, that a subcommittee be formed, consisting of the Mayor, Councilman Tran, and student representatives, to develop a method of overseeing the distribution of funds and to amend the compliance term; and return with an amended agreement for City Council consideration on October 12, 2004.

Councilman Tran requested a meeting be set up by the following week, with a proposed distribution mechanism.

Councilman Leyes asked staff to provide a copy of the current agreement to Councilmembers.

#### RECESS

At 9:10 p.m., Mayor Broadwater declared a recess.

#### RECONVENE

At 9:30 p.m., the meeting was reconvened with Mayor Broadwater and all Councilmembers present.

#### REJECTION OF ALL BIDS RECEIVED FOR PROJECT NO. 7658, CONSTRUCTION OF THE GARDEN GROVE SPORTS COMPLEX LOCATED ON WESTMINSTER AVENUE BETWEEN ATLANTIS WAY AND DEODARA DRIVE (F: 73.5c Proj.7658) (XR: 73.5)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that all bids received for Project No. 7658, Construction of the Garden Grove Sports Complex located on Westminster Avenue between Atlantis Way and Deodara Drive, be and hereby are rejected; and staff is authorized to readvertise the project.

AMENDMENT TO THE HOUSING REHABILITATION AGREEMENT WITH ARROYO DEVELOPMENT PARTNERS, LLC, TO PROCURE TWO ADDITIONAL RENT-RESTRICTED AFFORDABLE UNITS AT THE ARROYO VISTA APARTMENTS  
(F: A-55.225)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that the Amendment to the Housing Rehabilitation Agreement by and between the City of Garden Grove and Arroyo Development Partners, LLC, for two additional affordable units at the Arroyo Vista Apartments, be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement and all other documents necessary to implement the amendment.

AMENDMENT TO THE AGREEMENT WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR THE PROVISION OF TRANSPORTATION SERVICES FOR SENIORS TO PARTICIPATE IN THE AREA AGENCY ON AGING SENIOR NUTRITIONAL PROGRAM (F: 55) (XR: 87.8)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that the Amendment to the Agreement by and between the City of Garden Grove and the Orange County Transportation Authority (OCTA) for the provision of transportation services for seniors to participate in the Area Agency on Aging Senior Nutritional Program, be and hereby is approved; and the Mayor and City Clerk are authorized to execute the agreement.

AMPHITHEATER TOWER RECONSTRUCTION – FINAL PROGRESS PAYMENT AND ACCEPTANCE OF CONTRACT AS COMPLETE (F: 55) (XR: 87.5)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that Final Progress Payment on the Amphitheater Tower Reconstruction be and hereby is approved; the Finance Director is authorized to draw a warrant to Radan Construction, Inc., in the amount of \$34,447.50 and release the retention payment when appropriate to do so; and the Mayor and City Clerk are authorized to execute the Notice of Completion.

PROJECT NO. 7264 – MEDIAN ISLANDS ON GARDEN GROVE BOULEVARD AND STREET CLOSURE OF RANCHERO WAY AT TRASK AVENUE – ACCEPTANCE OF CONTRACT AS COMPLETE (F: 96 Proj.7264)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that Project No. 7264, Median Islands on Garden Grove Boulevard and Street Closure of Rancho Way at Trask Avenue be accepted as complete as of this date; the Finance Director is authorized to release the retention payment to Nativ Engineering, Inc., when appropriate to do so; and the Mayor and City Clerk are authorized to execute the Notice of Completion.

REQUEST FOR TRAVEL EXPENSES FOR THE EXECUTIVE PRODUCER FOR CHANNEL 3 TO SPEAK AT A CABLE CONFERENCE IN SAN FRANCISCO (F: 45.1)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that the request for travel expenses for the Executive Producer for Channel 3 to speak at a cable conference in San Francisco, be and hereby is approved.

ADVANCED PAY STEP APPOINTMENT OF NEW ECONOMIC DEVELOPMENT MANAGER (F: 78.1)

Staff report dated September 14, 2004, was introduced.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that the advanced pay step appointment of a new Economic Development Manager to "G" step of the salary range for this position, be and hereby is approved.

WARRANTS (F: 60.5)

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that regular warrants 318716 through 320306 and wires W154–W157; and payroll warrants 136652 through 137011, Direct Deposits D95905 through D96448, and wires W883–W888, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

JOINT PUBLIC HEARING WITH THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT TO CONSIDER A FOURTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SYCAMORE WALK, LLC (THE OLSON COMPANY) FOR THE DEVELOPMENT OF A PORTION OF PHASE II OF THE SYCAMORE WALK PROJECT ON THE SOUTH SIDE OF GARDEN GROVE BOULEVARD FROM ROCKINGHORSE ROAD EAST TO PHASE I OF THE SYCAMORE WALK RESIDENTIAL DEVELOPMENT (F: A-55.160)

Staff report dated September 14, 2004, was introduced, and staff reviewed the salient provisions of the Disposition and Development Agreement. It was noted that this item was continued from the meeting of August 24, 2004.

Councilman/Chairman Rosen declared the public hearing opened and asked if anyone wished to address the Council/Agency on the matter.

A representative from the Olson Company approached the Council/Agency and indicated that they are eager to move ahead with the project.

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

RESOLUTION NO. 645

It was moved by Member Broadwater, seconded by Member Dalton, and carried by unanimous vote, that full reading of Resolution No. 645 be waived, and said Resolution entitled A RESOLUTION OF THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING THE FOURTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND SYCAMORE WALK, LLC, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH, be and hereby is adopted.

RESOLUTION NO. 8603-04

It was moved by Mayor Broadwater, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Resolution No. 8603-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE FOURTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND SYCAMORE WALK, LLC, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

## RECESS

At 9:33 p.m., the Mayor declared a recess.

## RECONVENE

At 9:34 p.m., the meeting was reconvened with Mayor Broadwater and all Councilmembers in attendance.

## PUBLIC HEARING TO CONSIDER ALLOCATION OF FY 2004-05 STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS FOR LAW ENFORCEMENT PROGRAMS (F: 82.5)

Staff report dated September 14, 2004, was introduced. It was noted that pursuant to Legal Notice published August 26, 2004, public hearing on this matter was ordered by the City Council to be held this date.

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

There being no response from the audience or comments from the Councilmembers, the public hearing was declared closed.

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that approval be given to allocate FY 2004-05 State Supplemental Law Enforcement Services Funds in the amount of \$250,926.00 for the Police Department's C-CAT Team and Crime Analysis Unit.

## PUBLIC HEARING TO CONSIDER ISSUANCE BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY (CSCDA) OF MULTIFAMILY HOUSING REFUNDING REVENUE BONDS TO REFINANCE THE CRYSTAL VIEW APARTMENTS PROJECT (FORMERLY KNOWN AS BAYPORT APARTMENTS), LOCATED AT 12091 BAYPORT STREET (F: 117.16I)

Staff report dated September 14, 2004, was introduced.

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

There being no response from the audience or comments from the Councilmembers, the public hearing was declared closed.



RESOLUTION NO. 8604-04

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Resolution No. 8604-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE ISSUANCE OF MULTIFAMILY HOUSING REFUNDING REVENUE BONDS BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

PUBLIC HEARING TO CONSIDER THE FY 2003-04 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER), DESCRIBING AND ASSESSING THE HOUSING, ECONOMIC, AND COMMUNITY DEVELOPMENT ACTIVITIES UNDERTAKEN OVER THE PAST YEAR (F: 117.10D

Staff report dated September 14, 2004, was introduced.

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

There being no response from the audience or comments from the Councilmembers, the public hearing was declared closed.

It was moved by Councilman Leyes, seconded by Councilman Rosen, and carried by unanimous vote, that the FY 2003-04 Consolidated Annual Performance and Evaluation Report be and hereby is received and ordered filed, with transmittal to HUD recommended.

PUBLIC HEARING TO CONSIDER GENERAL PLAN AMENDMENT NO. GPA-3-04, PLANNED UNIT DEVELOPMENT NO. PUD-103-04, AND A DEVELOPMENT AGREEMENT (F: 20.GPA-3-04) (XR: 116.PUD-103-04) (XR: 106.153)

General Plan Amendment No. GPA-3-04, Planned Unit Development No. PUD-103-04, and a Development Agreement, initiated by Willow Partners, requesting to change the General Plan Land Use designation from MX (Mixed Use) to CR (Community Residential), to rezone the property to Planned Unit Development, and a Development Agreement to construct an 85-unit senior housing development on the north side of Garden Grove Boulevard, west of Sungrove Street, at 12721 and 12739 Garden Grove Boulevard.

The City Planning Commission, pursuant to Resolutions No. 5437 and No. 5438, recommended approval of GPA-3-04, PUD-103-04, and the Development Agreement.

Pursuant to Legal Notice published August 26, 2004, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated September 14, 2004, was introduced, providing background information on the matter.

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

There being no response from the audience or comments from the Councilmembers, the public hearing was declared closed.

RESOLUTION NO. 8605-04

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Resolution No. 8605-04 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING GENERAL PLAN AMENDMENT NO. GPA-3-04 FOR A PARCEL OF LAND LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD WEST OF SUNGROVE STREET, AT 12721 AND 12739 GARDEN GROVE BOULEVARD, PARCEL NO. 231-323-18 AND 19

ORDINANCE NO. 2637 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-103-04, CHANGING THE ZONING DESIGNATION FROM HCSP-OP (HARBOR CORRIDOR SPECIFIC PLAN OFFICE PROFESSIONAL) TO PLANNED UNIT DEVELOPMENT NO. PUD-103-04, FOR PROPERTY LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF SUNGROVE STREET, AT 12721 AND 12739 GARDEN GROVE BOULEVARD, PARCEL NOS. 231-323-18 AND 19

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Ordinance No. 2637 be waived, and said Ordinance be and hereby is passed to second reading.

ORDINANCE NO. 2638 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 WILLOW PARTNERS (DEVELOPER) AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF SUNGROVE STREET, AT 12721 AND 12739 GARDEN GROVE BOULEVARD, PARCEL NOS. 231-323-18 AND 19

It was moved by Councilman Leyes, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Ordinance No. 2638 be waived, and said Ordinance be and hereby is passed to second reading.

TRANSPORTATION ENHANCEMENT ACTIVITIES APPLICATION SUBMITTAL FOR THE HARBOR BOULEVARD/GARDEN GROVE BOULEVARD INTERSECTION IMPROVEMENTS (F: 36.11)

Staff report dated September 14, 2004, was introduced.

RESOLUTION NO. 8606-04

It was moved by Councilman Tran, seconded by Councilman Rosen, and carried by unanimous vote, that full reading of Resolution No. 8606-04 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 21<sup>ST</sup> CENTURY FOR THE HARBOR-GARDEN GROVE INTERSECTION IMPROVEMENT PROJECT

SECOND READING OF ORDINANCE NO. 2636 (F: 106.147) (XR: 116.SP-346-04) (XR: 103.TT-16688) (XR: 111.V-114-04)

It was moved by Councilman Rosen, seconded by Councilman Dalton, and carried by unanimous vote, that full reading of Ordinance No. 2636 be waived.

ORDINANCE NO. 2636 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 FIRST PACIFIC INVESTMENT GROUP, INC. (PROPERTY OWNER), AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE SOUTH SIDE OF GARDEN GROVE BOULEVARD, BETWEEN COAST STREET AND MONROE STREET, AT 8252, 8280, 8302 GARDEN GROVE BOULEVARD, PARCEL NOS. 097-011-08, 09, 10

Councilman Dalton moved, seconded by Councilman Tran, that Ordinance No. 2636 be and hereby is passed. Upon the following vote:

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

said Ordinance No. 2636 be and hereby is declared passed.

MAYOR BROADWATER LEFT THE MEETING ROOM AT 9:48 P.M., AND MAYOR PRO TEM DALTON ASSUMED THE CHAIR.

DISCUSSION CONCERNING ISSUES REGARDING THE HAWAIIAN CAFETERIA ON BROOKHURST STREET, AS REQUESTED BY COUNCILMAN LEYES (F: 53.1)

Councilman Leyes commented on the double homicide that occurred recently at the Hawaiian Cafeteria on Brookhurst Street., suggesting that the Council take care not to jeopardize the Conditional Use Permit (CUP) process that is in place.

Councilman Rosen noted that if the CUP revocation proceeding will come before the Council, the Council would be wise not to get into much detail at this time.

Councilman Tran asked Sergeant Fowler for a progress report about what has taken place since the incident.

Sergeant Fowler noted that the business has been closed since the incident, and contact has only been made with the property owner regarding the CUP.

Councilman Rosen noted that it would be wise to hire security guards so no further incidents occur at the location.

MAYOR BROADWATER REJOINED THE MEETING AT 9:53 P.M.

DISCUSSION CONCERNING DISTRIBUTION OF THE RALPH M. BROWN ACT TO COUNCIL MEMBERS AND COMMISSION MEMBERS; AND PROPOSED LANGUAGE FOR POLICIES, AS REQUESTED BY COUNCILMAN LEYES (F: 53.1)

Councilman Leyes referenced a potential violation of the Brown Act that is currently being investigated by the District Attorney's Office. He noted that the Brown Act and amendments should be distributed to Council and Commission members, commenting that errors in judgment have been made in the past, and this is one way to provide some guidance in this arena.

He further noted that a policy is needed on the Brown Act. He has solicited information from other cities relative to their policies, including when Closed Sessions can be held and possibly recording them. However, he commented perhaps this should be continued until the new Council is in place.

Councilman Leyes further noted that the confidentiality agreement concerning the casino should be agendized so individuals can explain why they did or did not sign it, commenting that the Council has an obligation to do public business in public and not deal in secret on any of these matters.

Councilman Leyes moved that the City Attorney's office distribute a copy of the Ralph M. Brown Act to both Council and City Commission Members. Motion died for lack of a second.

Councilman Tran noted that as an investigating agency, the District Attorney's office is obligated to investigate any complaints. He noted that he is confident the Council has not violated any laws. He further noted that as elected officials hundreds of private meetings are held every year, with residents, business owners, developers and community leaders; however, no action is taken. He noted that Councilman Leyes and he met with Mr. Steve Wynn in Las Vegas at the ICSC Convention, and it was convenient to meet with him while attending the convention. Furthermore, the casino talks were strictly preliminary.

Councilman Rosen noted that the City of Anaheim has announced that they are in negotiations with the National Football League to bring a football team to Anaheim. And they have been holding non-public meetings for some time. Cities do this all the time. It is standard operating procedure and is not a violation of the Brown Act. He suggested that Closed Sessions might be better held earlier before the start of the open meetings and place everything that is listed on Closed Session also in Open Session. This would enable the entire Council to come back into the Chamber and take their seats and report back. However, he suggested that any further consideration of this matter be postponed until after the new Council is seated.

Councilman Dalton inquired of the Deputy City Attorney whether the City Attorney's Office is kept up to date on any Brown Act changes, to which the Deputy City Attorney responded in the negative.

Mayor Broadwater noted that Councilmembers went in pairs to meet with Mr. Wynn; however, he personally never had any intention of supporting a casino in Garden Grove. Furthermore, he commented that it was probably a mistake for the Councilmembers to sign the Confidentiality Agreement, but it is time to move on, noting that the intention was to bring more revenue into the city without raising taxes for the citizens.

DISCUSSION CONCERNING HOLDING CLOSED SESSIONS AT THE BEGINNING OF THE MEETINGS, WITH LISTING OF ITEMS ALSO APPEARING ON THE AGENDA FOR POSSIBLE DISCUSSION IN OPEN SESSION, AS REQUESTED BY COUNCILMAN ROSEN (F: 53.1)

Councilman Rosen indicated he has already expressed his views on this subject.

Councilman Leyes commented that it is unfair to compare the NFL new stadium with the casino issue. He noted he does not understand moving the Closed Session to the beginning of the meeting, or recording the sessions. He did not realize there was going to be a confidentiality agreement for everyone to sign who had met with Mr. Wynn; however, he did not sign it. He noted that the problem occurred by having a serial meeting with Mr. Wynn. He indicated that he hopes the District Attorney does not pursue an investigation, noting that it was an error in judgment. The majority of the Council should never have signed the agreement.

Councilman Tran indicated he is unsure what Brown Act violation allegedly occurred. They talked politics, and there was no agenda and no actionable items.

DISCUSSION CONCERNING FEASIBILITY OF RECORDING CLOSED SESSIONS, AS REQUESTED BY COUNCILMAN DALTON (F: 53.1)

Councilman Dalton indicated that recording the Closed Sessions would be a way to legitimize what was said if confirmation were needed. He noted that he is pulling this until the new Council is seated.

Mayor Broadwater noted his disagreement with recording the Closed Sessions, although he noted he could support having the Closed Sessions earlier and before the Open Sessions. He also agreed with placing this on the agenda for discussion after the new Council is seated.

STATUS REPORT CONCERNING THE SR 22 FREEWAY EXPANSION AND THE RECENT OCTA CITY LIAISON COMMITTEE MEETING, AS REQUESTED BY COUNCILMAN ROSEN (F: 53.1) (XR: 62.2)

Councilman Rosen noted that he attended a meeting of the Orange County Transportation Authority City Liaison Committee on the 22 Freeway on August 25, 2004.

OCTA has hired a contractor to build the 22 Freeway improvements. There is a groundbreaking September 22<sup>nd</sup>. They are supposed to have 800 days from that day to complete all the improvements on the 22 Freeway, which puts it in early 2007. They are going to add a carpool lane in each direction between the 55 Freeway and Valley View Street. And in addition to that, a continuous auxiliary lane in each direction between the City Drive and Beach Boulevard. Some of the on-and-off-ramps will be changed, and this is supposed to result in approximately 40 percent more capacity. There will be penalties for the contractor if he goes beyond the deadlines. This is in addition to the repairs that are going to be made under the freeway that were negotiated as part of the OCTA lawsuit.

Councilman Rosen also commented on AB 710, which was passed by the legislature and takes effect January 1<sup>st</sup>, which expands OCTA from 12 members to 18 members and provides for two cities to be on OCTA for each of the five Supervisor districts. In our Supervisor District we have a 50 percent chance of getting a seat, depending on how the politics play out.

#### MATTERS FROM THE MAYOR AND CITY COUNCILMEMBERS

Councilman Leyes spoke about the groundbreaking today for the Shelley/Kensington Park. He noted that Councilman Rosen deserves a lot of credit for that facility, and it will serve some of the lower income apartments in the area. He also commented on his recent trip to New York City for the Republican Convention. He spoke about his visit to Ground Zero and commented that on his return to Garden Grove he attended a 9-11 Memorial service at the First Christian Church on Chapman Avenue. (F: 53.1)

Councilman Dalton wished his wife Sandy a Happy 43<sup>rd</sup> Anniversary. (F: 53.1)

Councilman Rosen spoke about the dedication of the Shelly/Kensington Park, noting that in another two weeks the groundbreaking for the new Gutosky Park will be held. He noted that he lobbied OCTA representatives for the two park sites on these rights-of-way, commenting that we should expand our parkland. (F: 53.1)

Mayor Broadwater complimented Councilman Rosen on his efforts to expand our parks. He also commented that he recently met with the Guys over 55 Soccer Team at City Hall, noting that next year they will be the Guys over 60 Soccer Team. (F: 53.1)

#### ADJOURNMENT

At 10:42 p.m., the meeting was declared adjourned.

RUTH E. SMITH  
CITY CLERK