

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 14, 2009, at 5:35 p.m.

ROLL CALL: PRESENT: (4) MAYOR DALTON, COUNCIL MEMBERS
BROADWATER, JONES, NGUYEN

ABSENT: (1) COUNCIL MEMBER DO

PUBLIC INPUT ON CLOSED SESSION ITEM

None.

ADJOURN TO CLOSED SESSION

At 5:37 p.m., under the Ralph M. Brown Act, the meeting was adjourned to Closed Session in the Founders Room to discuss the following:

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

City Representatives: Matthew Fertal, City Manager, and John D.R. Clark, Human Resources Director.

Employee Organizations: Orange County Employee Association, OCEA Employee's League, Garden Grove Police Association, Police Management, International Association of Fire Fighters, Garden Grove Local 2005, and non-represented employees.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Pursuant to Government Code Section 54956.8

Properties: Includes the following parcels listed by address:
13096 Blackbird Street, and 13741 Clinton Street, Garden Grove

City's Negotiator: Chet Yoshizaki, Economic Development Director.

Negotiating Parties: Lee M. Kort for Kort and Scott Financial Group, LLC, Bart Thomsen for Thomsen Properties, Dan Fischer for Fischer Investment Group, LLC, Thomas J. Coates for Jackson Square Properties, LLC, Pablo Leon for Golden Pacific Partners, and Kurt Goepfner for RD – Real Estate.

Under Negotiation: To seek direction from the City Council about negotiations to sell certain real property and the parameters for price and terms of payment related to such real property sale.

RECONVENE IN OPEN SESSION

At 6:35 p.m., Mayor Dalton reconvened the meeting with Council Members Broadwater, Jones, and Nguyen present.

It was announced that the previously disclosed items were discussed and no reportable action was taken.

INVOCATION AND PLEDGE

Keith Jones, Public Works Director, gave the Invocation. Council Member Jones led the Pledge of Allegiance to the Flag of the United States of America.

PRESENTATION - COMMUNITY SPOTLIGHT

Mayor Dalton called forward outgoing Sanitary District Advisory Commissioners Michael Boess, Paul Lucas, and Lactan Nuygen; Traffic Commissioners Kevin Lindsay and Bert Ashland; Planning Commissioner John Bankson; Administrative Board of Appeals Commissioner Oliver Taylor; Parking and Main Street Commissioner David Zlaket; and Housing Authority Commissioner Cam Nguyen. Each Commissioner received a certificate of appreciation for their loyalty, dedication, and outstanding service to the community.
(F: 52.3) (XR: 122.1)

PRESENTATION FROM THE UNITED STATES CENSUS BUREAU

Peter Nguyen, Census Bureau representative, provided information on the upcoming 2010 United States Census. (F: 52.3) (XR: 39.1)

ORAL COMMUNICATIONS – PUBLIC

Roger Christensen and Dorothy Pulsipher addressed the City Council regarding the potential sale of the City-owned mobile home parks. They requested the City Council consider awarding the purchase to the current management company, Golden Pacific Partners. (F: 53.3)

Bob Owens addressed the City Council regarding various community and civic matters. (F: 53.3)

Rod Powell read from the Orange County Grand Jury fireworks report. (F: 53.3) (XR: 61.6)

Members of the Soka Gakka/SGI-USA – Wild Wild West Area addressed the City Council inviting the Council Members, staff, and the public to participate in the upcoming Earth Day Celebration at Garden Grove Park. The Mayor presented the group with a certificate of appreciation for their efforts. (F: 53.3)

Tony Flores addressed the City Council regarding the negative effect religious organizations have on the City's tax base. (F: 53.3) (XR: 51.CUP-255.09)

Vanessa Van Nguyen addressed the City Council regarding the importance of becoming an organ/tissue donor. She expressed appreciation to the City Council for its support in proclaiming April 2009, as Donate Life Month. (F: 53.3)

RECESS

At 7:20 p.m., the Mayor declared a recess.

RECONVENE

At 7:23 p.m., Mayor Dalton reconvened the meeting with Council Members Broadwater, Jones, and Nguyen present.

PROCLAMATION DECLARING APRIL 2009, AS DONATE LIFE MONTH (F: 83.1)

Staff report dated April 14, 2009, was introduced.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that April 2009, be and hereby is proclaimed Donate Life Month.

PROCLAMATION AFFIRMING THE CITY OF GARDEN GROVE'S PARTNERSHIP WITH THE UNITED STATES CENSUS BUREAU TO ENSURE A FULL ACCURATE COUNT IN 2010 (F: 83.1) (XR: 39.1)

Staff report dated April 14, 2009, was introduced.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that the City be and hereby is committed to partnering with the United States Census Bureau to ensure a full accurate count in 2010.

PROCLAMATION DECLARING MAY 10 THROUGH MAY 16, 2009, AS POLICE MEMORIAL WEEK (F: 83.1) (XR: 82.1)

Staff report dated April 14, 2009, was introduced.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that May 10 through May 16, 2009, be and hereby is declared as Police Memorial Week.

INCREASE AMOUNT OF OPEN PURCHASE ORDER WITH JOHN B. EWLES INC., FOR LANDFILL FEES AND PURCHASE OF ROADWAY AGGREGATE BASE MATERIALS ON AN AS-NEEDED BASIS (F: 60.4) (XR: 24.1)

Staff report dated April 14, 2009, was introduced.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that the increase in the Purchase Order with John B. Ewles Inc., which provides a transfer station and dump site for disposal of broken concrete and asphalt, be and hereby is approved in the amount of \$50,000 per year.

RESOLUTION ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM IN COMPLIANCE WITH REQUIREMENTS OF THE FEDERAL FAIR AND ACCURATE CREDIT TRANSACTION (FACT) ACT OF 2003 (F: 82.1)

Staff report dated April 14, 2009, was introduced.

RESOLUTION NO. 8871-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8871-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM, be and hereby is adopted.

RESOLUTION PERTAINING TO THE KATELLA SMART STREET CONSTRUCTION AGREEMENT WITH THE COUNTY OF ORANGE DECLARING PORTIONS OF KATELLA AVENUE, DALE STREET, MAGNOLIA STREET, AND GILBERT STREET A COUNTY HIGHWAY DURING THE COURSE OF CONSTRUCTION (F: 23.26A) (XR: 24.1)

Staff report dated April 14, 2009, was introduced.

RESOLUTION NO. 8872-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8872-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE CONCURRING WITH ORANGE COUNTY BOARD OF SUPERVISORS RESOLUTION NO. 09-019 PERTAINING TO THE KATELLA SMART STREET IMPROVEMENTS, be and hereby is adopted.

REJECTION OF ALL BIDS FOR PROJECT NO. 7657, CONSTRUCTION OF BUENA CLINTON YOUTH AND FAMILY CENTER, AND AUTHORIZE RE-ADVERTISEMENT FOR BIDS (F: 73.20A) (XR: 87.1)

Staff report dated April 14, 2009, was introduced.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that all bids received from the January 13, 2009, bid opening for Project No. 7657, Construction of Buena Clinton Youth and Family Center, be and hereby are rejected, and staff is authorized to readvertise the project when the state releases the funding.

MINUTES (F: Vault)

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that the minutes of the Regular Meetings of the City Council held February 10, 2009, February 24, 2009, and March 10, 2009, be and hereby are received and filed.

WARRANTS (F: 60.5)

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that Regular Warrants 438219 through 440470; and Wires W472 through W485, and Payroll Warrants 160815 through 161252, Direct Deposits D167433 through D168772, and Wires W1424 through W1431, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

WAIVER OF FULL READING OF ORDINANCES LISTED

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of all Ordinances listed for consideration of adoption be waived.

PUBLIC HEARING - PROTESTS ON THE SPRING 2009 WEED ABATEMENT NOTICES (F: 113.1.Spring 2009)

Staff report dated April 14, 2009, was introduced reviewing the requirement to hold a Public Hearing for receipt of objections to the Weed Abatement notices mailed to parcel owners whose properties were cleaned by the City's contractor during the Spring 2009 Weed Abatement Program.

Mayor Dalton declared the Public Hearing open and asked if anyone wished to address the City Council on the matter.

There being no protests received and no response from the audience, the Public Hearing was declared closed.

It was moved by Council Member Nguyen, seconded by Council Member Jones, and carried by unanimous vote of those present that staff be directed to proceed with the scheduled weed abatement.

PUBLIC HEARING - APPEAL OF DENIAL OF CONDITIONAL USE PERMIT
NO. CUP-258-09 (F: 51.CUP-258-09)

Staff report dated April 14, 2009, was introduced and reviewed by staff.

On February 5, 2009, the City Planning Commission, pursuant to Resolution No. 5668, considered and denied Conditional Use Permit No. CUP-258-09. The Planning Commission determined that, based on the undue concentration of existing on-sale ABC licenses in the area and that the restaurant is located in a shopping center with a high number of calls for Police service, a finding of public convenience or necessity could not be made,.

On February 9, 2009, Tony Truong, representing the Applicant Helen Nguyen, appealed the Planning Commission's decision requesting the City Council allow the existing restaurant, Mon Ami Café and Restaurant, located at 14291 Euclid Street #D116, to operate with a new original ABC Type "41" (On-Sale, Beer, and Wine) License. Pursuant to the Legal Notice published April 2, 2009, the Public Hearing on the case was ordered by the City Council to be held this date.

At the March 17, 2009, City Council Study Session, the City Council authorized staff to implement a new Conditional Use Permit Review process for Type "41" Licenses. The City Council determined the City could consider approving Conditional Use Permit requests from restaurant owners proposing to operate with a Type "41" License, even though the restaurant may be located in an area with a high crime and/or over concentration of on-sale alcohol licenses, should the restaurant owner agree to comply with the standard conditions of approval. Staff noted the Applicant is in agreement with the standard conditions of approval.

Mayor Dalton declared the Public Hearing opened and asked if anyone wished to address the City Council on this matter.

Speaking in support of the Applicant's appeal were Harry Krebs, Son To, Kim Nga Nguyen, Liem Nguyen, Xuan French, and Jerry Margolin.

Speaking in opposition to the Applicant's appeal was Teresa Piñon.

There being no further response from the audience, the Public Hearing was declared closed.

RESOLUTION NO. 8873-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8873-09 be waived, and said Resolution entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE GRANTING THE APPEAL AND APPROVING CONDITIONAL USE PERMIT NO. CUP-258-09, be and hereby is adopted granting the appeal.

PUBLIC HEARING - APPEAL OF DENIAL OF CONDITIONAL USE PERMIT NO. CUP-255-09 (F: 51.CUP-255-09)

Staff report dated April 14, 2009, was introduced and reviewed by staff.

On February 5, 2009, the City Planning Commission, pursuant to Resolution No. 5667, considered and denied Conditional Use Permit No. CUP-255-09. The Planning Commission determined that, due to the over concentration of on-sale ABC licenses in the area, a finding of public convenience or necessity could not be made.

On February 25, 2009, the Applicant, Ngo Trong, appealed the Planning Commission's decision requesting the City Council allow this request for the existing restaurant, Newport Seafood Restaurant, located at 10541 Bolsa Avenue, to operate with an original Type "41" (On-Sale, Beer, and Wine) License. Pursuant to the Legal Notice published April 2, 2009, the Public Hearing on the case was ordered by the City Council to be held this date.

At the March 17, 2009, City Council Study Session, the City Council authorized staff to implement a new Conditional Use Permit Review process for Type "41" Licenses. The City Council determined the City could consider approving Conditional Use Permit requests from restaurant owners proposing to operate with a Type "41" License, even though the restaurant may be located in an area with a high crime and/or over concentration of on-sale alcohol licenses, should the restaurant owner agree to comply with the standard conditions of approval. Staff noted the Applicant is in agreement with the standard conditions of approval.

Mayor Dalton declared the Public Hearing opened and asked if anyone wished to address the City Council on this matter.

A representative for Mr. And Mrs. Trong spoke of the pride the owners take in the restaurant and granting approval for the ABC license would enhance the already busy restaurant.

There being no further response from the audience, the Public Hearing was declared closed.

RESOLUTION NO. 8874-09

It was moved by Council Member Nguyen, seconded by Mayor Dalton, and carried by unanimous vote of those present that full reading of Resolution No. 8874-09 be waived, and said Resolution entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE GRANTING THE APPEAL AND APPROVING CONDITIONAL USE PERMIT NO. CUP-255-09, be and hereby is adopted granting the appeal.

RECESS

At 7:44 p.m., the Mayor declared a recess.

RECONVENE

At 7:55 p.m., Mayor Dalton reconvened the meeting with Council Members Broadwater, Jones, and Nguyen present.

PUBLIC HEARING - GENERAL PLAN AMENDMENT NO. GPA-01-09(A); AMENDMENT NO. A-147-09 AND AN APPEAL OF CONDITIONS FOR SITE PLAN NO. SP-450-09 AND CONDITIONAL USE PERMIT NO. CUP-262-09
(F: 20.GPA-01-09(A)) (XR: 115.A-147-09) (XR: 116.SP-450-09)
(XR: 51.CUP-262-09)

Staff report dated April 14, 2009, was introduced and reviewed by staff.

General Plan Amendment No. GPA-01-09(A); Amendment No. A-147-09 and an Appeal of Conditions for Site Plan No. SP-450-09 and Conditional Use Permit No. CUP-262-09, were initiated by the Applicant, Tri Nguyen Thich, for a proposed Buddhist Temple located at 10510 Chapman Avenue, on the southeast corner of Chapman Avenue and Nutwood Street.

On March 5, 2009, the Planning Commission recommended approval of the General Plan Amendment and the Zone Change, and approved the Site Plan and the Conditional Use Permit with conditions of approval subject to the City Council's approval of the General Plan Amendment.

On March 19, 2009, Sean Matsler of Manatt, Phelps & Phillips, LLP, on behalf of the Applicant and the Vietnamese Buddhism Study Temple in America, submitted an appeal requesting the City Council modify or delete a number of the conditions of approval approved by the Planning Commission. Pursuant to the Legal Notice published April 2, 2009, a Public Hearing on this case was ordered by the City Council to be held this date.

In the original City Council report dated April 14, 2009, staff responded to the conditions in question with the position of retaining them in place. Staff, working together with the attorneys for the Applicant, has since re-reviewed the conditions. These newly revised conditions have been presented to the City Council for consideration. It is staff's understanding the Applicant is in concurrence with these amended conditions.

Sean Matsler of Manatt, Phelps & Phillips, LLP, and Belinda Helzer, ACLU, addressed the City Council and indicated they have been working with City staff for the past week with respect to the conditions appealed, and all outstanding issues have been resolved. They requested the City Council approve the newly amended conditions as presented.

Luan Tran, co-counsel for the Applicant, requested the Mayor allow him to address the audience in Vietnamese to announce that a tentative agreement has been made and agreed to by both sides; and to encourage those intending to speak on this matter to waive their time in order to allow the process to move more quickly.

The Mayor agreed to Mr. Tran's request.

Mr. Luan Tran addressed the audience in Vietnamese.

Mayor Dalton declared the Public Hearing open and asked if anyone wished to address the City Council on the matter.

Speaking in support of the project were Jennifer Le, Dieu Hiep T. Le, Harry Pearce, Brian Nguyen, Lan Quoc Nguyen, Esq., Linda La, Tony Reinecke, John Tran, and Dean Mander.

Speaking in opposition of the project were Myke Cossota, Patty Steinhoff, Frank Steinhoff, Tony Rector, and Charles Mitchell.

There being no further response from the audience, the Public Hearing was declared closed.

Council Member Broadwater stated he supports the amendments made to the conditions agreed upon by both parties, and would be voting in favor of the project.

Council Member Nguyen thanked the speakers on both sides of the issue, and she too supports the changes made to the conditions of approval.

Council Member Jones indicated he is in support of the project, and considers the development a fit within the neighborhood.

Mayor Dalton stated he would be supporting the project with the amendments to the conditions agreed upon by both parties. He thanked staff and the attorneys on both sides for their efforts in reaching an agreement.

RESOLUTION NO. 8875-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8875-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING A NEGATIVE DECLARATION AND APPROVING GENERAL PLAN AMENDMENT NO. GPA-01-09(A), be and hereby is adopted as amended.

RESOLUTION NO. 8876-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8876-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE MODIFYING SPECIFIC CONDITIONS OF APPROVAL AND TO UPHOLD THE PLANNING COMMISSION'S DECISION TO APPROVE SITE PLAN NO. SP-450-09 AND CONDITIONAL USE PERMIT NO. CUP-262-09, IN ITS ENTIRETY, be and hereby is adopted.

ORDINANCE NO. 2745 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 NEGATIVE DECLARATION AND APPROVING ZONE CHANGE AMENDMENT NO. A-147-09, TO CHANGE THE ZONING DESIGNATION FROM OFFICE PROFESSIONAL (OP) TO R-1-7 (SINGLE-FAMILY RESIDENTIAL)

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of all Ordinances listed for consideration of adoption be waived.

It was moved by Council Member Broadwater, seconded by Mayor Dalton, and carried by unanimous vote of those present that Ordinance No. 2745 be and hereby is passed to second reading.

RECESS

At 9:04 p.m., the Mayor declared a recess.

RECONVENE

At 9:17 p.m., Mayor Dalton reconvened the meeting with Council Members Broadwater, Jones, and Nguyen present.

PARKING AND MAIN STREET COMMISSION'S RECOMMENDED FY 2009-10 BUDGET FOR MAIN STREET ASSESSMENT DISTRICT NO. 1 (F: 31.4) (XR: 122.6)

Staff report dated April 14, 2009, was introduced and reviewed by staff. In 2005, efforts were made to increase the owner's assessment, but failed. Solid waste disposal costs were separated from the budget in 2007 to provide a balanced budget that would not draw down on the reserves. Ongoing service costs for the Main Street Maintenance District No. 1 have been identified in the proposed budget. The proposed budget of \$24,632, approved by the Parking and Main Street Commission, reflects no increase in assessment from Fiscal Year 2008-09.

RESOLUTION NO. 8877-09

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of Resolution No. 8877-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972 (SECTIONS 22500 ET SEQ. OF THE CALIFORNIA STREETS AND HIGHWAY CODE) DESCRIBING ANY PROPOSED NEW IMPROVEMENTS OR ANY SUBSTANTIAL CHANGES IN EXISTING IMPROVEMENTS IN THE MAIN STREET ASSESSMENT DISTRICT NO. 1, AND ORDERING THE ENGINEER TO PREPARE AND FILE A REPORT IN

ACCORDANCE WITH ARTICLE 4 OF CHAPTER 1 OF THE ACT, be and hereby is adopted.

SECOND READING OF ORDINANCE NOS. 2743 AND 2744

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote of those present that full reading of all Ordinances listed for consideration of adoption be waived.

ORDINANCE NO. 2743 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 APPROVING CODE AMENDMENT NO. A-146-09, TO ALLOW THE USE OF ARTIFICIAL TURF WITHIN THE R-1 (SINGLE-FAMILY RESIDENTIAL) ZONE (F: 115.A-144-08) (XR: 80.1)

Council Member Jones moved, seconded by Council Member Nguyen that Ordinance No. 2743 be and hereby is declared adopted. Said motion carried by the following vote:

AYES: COUNCIL MEMBERS: (3) JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (1) BROADWATER
ABSENT: COUNCIL MEMBERS: (1) DO

ORDINANCE NO. 2744 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 AMENDING SECTION 5.28.020 OF CHAPTER 5.28 OF TITLE 5 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO TEMPORARY FIREWORKS STAND PERMITS (F: 50.2) (XR: 61.6)

It was moved by Council Member Jones, seconded by Council Member Nguyen, and carried by unanimous vote of those present that Ordinance No. 2744 be and hereby is declared adopted.

MATTERS FROM THE MAYOR, CITY COUNCIL MEMBERS, AND CITY MANAGER

Council Member Nguyen encouraged residents to continue to shop in Garden Grove. She noted the Vietnamese community refers to the month of April as Black April, and announced an art and literature exhibit in the City of Cypress recognizing the hardships by the Vietnamese refugees after the fall of Vietnam. (F: 53.1)

Mayor Dalton complimented the students from first grade through high school involved in the "First Impressions" art show sponsored by the Garden Grove Unified School District. He referenced a letter from a business owner thanking Public Works staff for their help after a building fire. He invited everyone to attend the upcoming Strawberry Ball on May 21. He announced a new assistance program for people with special needs in the event of a disaster; anyone wanting to register for this program should contact the Garden Grove Fire Department. (F: 53.1) (XR: 90.5) (XR: 24.1) (XR: 61.1)

ADJOURNMENT

At 9:26 p.m., the meeting was declared adjourned.

KATHLEEN BAILOR
CITY CLERK