

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, Garden Grove, on Tuesday, November 23, 2010, at 5:30 p.m.

ROLL CALL: PRESENT: (3) MAYOR DALTON, COUNCIL MEMBERS
BROADWATER, DO

ABSENT: (2) COUNCIL MEMBER NGUYEN (Absent at Roll
Call, but joined the meeting at 5:40 p.m.)
COUNCIL MEMBER JONES (Absent at Roll
Call, but joined the meeting at 5:43 p.m.)

PUBLIC INPUT ON CLOSED SESSION ITEM

None.

ADJOURN TO CLOSED SESSION

At 5:32 p.m., under the Ralph M. Brown Act, Mayor Dalton announced that the City Council was going into Closed Session to discuss the following: Personnel Matter: Public Employee discipline/dismissal/release, Pursuant to Government Code Section 57957, Consideration of a Request for Rescission of Employee Discipline/Dismissal action taken on August 10, 2010, and Consideration of Public Employee Discipline/Dismissal/Release

Present in Closed Session: Mayor Dalton, Council Members Broadwater, Do, Jones, and Nguyen; Matthew Fertal, City Manager; and from the Law Firm of Stradling Yocca Carlson & Rauth: Celeste Brady, Bryan Gibson, and Bruce May

RECESS

At 6:37 p.m., the Mayor declared a recess.

RECONVENE IN OPEN SESSION

At 6:39 p.m., Mayor Dalton reconvened the meeting with all Council Members present.

Bruce May, Law Firm of Stradling Yocca Carlson & Rauth, announced that Pursuant to Garden Grove Municipal Code Section 2.44.390, the City Council and the City Manager reviewed disciplinary action taken against a former Garden Grove Police Officer during a Closed Session meeting held on August 10, 2010.

Legal Counsel for that former Police Officer subsequently asserted that the action taken on August 10, 2010, was in violation of the Brown Act.

Without finding or conceding any such violation, the City Council has decided to rescind the action taken on August 10, 2010, and to conduct a new review. The vote on that decision to rescind was 4-1. Mayor Dalton and Council Members Nguyen, Jones, and Broadwater voted yes; Council Member Do voted no.

The City Council and the City Manager then undertook a new review in Closed Session this evening. Based on all the evidence and arguments in the Administrative Record, the City Council voted unanimously, with the concurrence of the City Manager, to direct Legal Counsel to prepare written findings and conclusions sustaining the Police Department's decision to terminate the employment of the Police Officer in question for consideration during a second Closed Session to be held on December 14, 2010.

INVOCATION AND PLEDGE

Kingsley Okereke, Finance Director, gave the Invocation. Council Member Jones led the Pledge of Allegiance to the Flag of the United States of America.

PRESENTATION (F: 52.3)

The Mayor and Council Members presented the representatives from The Boys and Girls Club of Garden Grove, Community Health Charities, and Orange County United Way with contributions raised by City employees through the City's annual charity campaign.

PRESENTATION - COMMUNITY SPOTLIGHT (F: 52.3)

The Mayor and Council Members honored employees who have served the City for 25, 30, and 35 years of public service.

ORAL COMMUNICATIONS – PUBLIC COMMENTS

Peggy Bergin inquired as to the purpose of medians and the cost to the City; and expressed concern on the increased demand on the City's water supply with the Water Park Hotel project.

Charles Mitchell encouraged everyone to consider applying to serve on the Orange County Grand Jury.

ORAL COMMUNICATIONS – COUNCIL MEMBER COMMENTS

None.

JOINT ACTION WITH THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT BROOKHURST TRIANGLE UPDATED RELOCATION PLAN (F: A-116.7) (XR: 43.4)

Staff report dated November 23, 2010, was introduced and reviewed by staff.

CITY COUNCIL ACTION
RESOLUTION NO. 9021-10

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that full reading of Resolution No. 9021-10, be waived, and said Resolution entitled A RESOLUTION OF CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE RELOCATION PLAN FOR THE BROOKHURST TRIANGLE BUSINESSES AND MAKING CERTAIN OTHER FINDINGS IN CONNECTION THEREWITH, be and hereby is adopted.

AGENCY ACTION

It was moved by Agency Member Jones, seconded by Agency Member Dalton, and carried by unanimous vote that the Brookhurst Triangle Updated Relocation Plan be and hereby is received and filed; and the Agency Director and his designees are authorized to implement the Brookhurst Triangle Updated Relocation Plan.

JOINT PUBLIC HEARING WITH THE GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT - DISPOSITION AND DEVELOPMENT AGREEMENT
WITH NEW AGE BROOKHURST, LLC, (KAM SANG COMPANY) FOR THE
DEVELOPMENT OF REAL PROPERTY LOCATED ON THE NORTHWEST CORNER
OF GARDEN GROVE BOULEVARD AND BROOKHURST STREET IN THE
GARDEN GROVE COMMUNITY REDEVELOPMENT PROJECT AREA
(F: A-55.232) (XR: A-116.7) (XR: 43.4)

Staff report dated November 23, 2010, was introduced and reviewed by staff.

Chair/Council Member Broadwater declared the Public Hearing open and asked if anyone wished to address the Agency and City Council on the matter.

Linda Tang, representing The Kennedy Commission, stated the proposed Brookhurst Triangle Development is a great opportunity for the City to address its remaining housing needs for low-, very low-, and extremely low-income households.

Josh McIntosh raised concerns the impact a project this size could have on traffic and parking in this area.

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

CITY COUNCIL ACTION
RESOLUTION NO. 9022-10

It was moved by Council Member Nguyen, seconded by Council Member Jones, and carried by unanimous vote that full reading of Resolution No. 9022-10, be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE CONSENTING TO THE APPROVAL BY THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT OF THE DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND NEW AGE BROOKHURST, LLC, be and hereby is adopted.

AGENCY ACTION
RESOLUTION NO. 691

It was moved by Agency Member Do, seconded by Agency Member Nguyen, and carried by unanimous vote that full reading of Resolution No. 691, be waived, and said Resolution entitled A RESOLUTION OF THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT APPROVING THE DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT AND NEW AGE BROOKHURST, LLC, be and hereby is adopted; and the Director is authorized to execute the Disposition and Development Agreement by and between the Garden Grove Agency for Community Development and New Age Brookhurst, LLC, and any other pertinent documents to effectuate the agreement.

RECESS

At 7:34 p.m., the Mayor declared a recess.

RECONVENE IN OPEN SESSION

At 7:49 p.m., Mayor Dalton reconvened the meeting with all Council Members present.

PAYMENT TO COUNTY OF ORANGE FOR FISCAL YEAR 2010/2011 OF THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER MANAGEMENT PROGRAM (F: 112.15)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the City's shared budget contribution amount for Fiscal Year 2010/2011 National Pollutant Discharge Elimination System (NPDES) Storm Water Management Program, in the amount of \$181,687, be and hereby is approved; and the City Manager or his representative is authorized to submit an approval letter to the County of Orange approving the countywide 2010/2011 National Pollutant Discharge Elimination System (NPDES) Storm Water Management Program Budget in the amount of \$5,615,529.

AGREEMENT WITH GARY MAITEN CONSULTING FOR SERVICES RELATED TO
JAIL AND POLICE FLEET OPERATIONS (F: 55-Gary Maiten Consulting)
(XR: 82.1)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and Gary Maiten Consulting for Jail and Police Fleet Consultant/Coordinator services, in the amount not to exceed \$42,240, be and hereby is approved; and the City Manager is authorized to execute the agreement on behalf of the City.

PURCHASE ORDER TO WONDRIES FLEET GROUP FOR FIVE POLICE VEHICLES
(F: 60.4) (XR: 24.1)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the Finance Director is hereby authorized to issue a purchase order in the amount of \$120,430 to Wondries Fleet Group for the purchase of five new Police vehicles.

ADOPTION OF PROGRAM SPECIALIST AND SENIOR PROGRAM SPECIALIST
CLASSIFICATIONS (F: 78.1)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the creation of Program Specialist at Range E150, and Senior Program Specialist at Range M166 be and hereby is approved; and the City Manager and Human Resources Director are directed to treat incumbents being reclassified from the Administrative Analyst class series to the Program Specialist class series as if they had retained their original classification as of the day prior to the effective date of any such reclassification, for the purposes of implementing Municipal Code Section 2.44.400 "Abolition of Position."

MEMBERSHIP IN PROPOSED ASSOCIATION OF CALIFORNIA CITIES-ORANGE COUNTY (F: 74.14)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the City support the establishment of the Association of California Cities-Orange County; and authorize staff to join the Association and pay dues in the amount of \$28,167 for calendar year 2011.

COOPERATIVE AGREEMENT WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR THE BROOKHURST STREET MEDIAN REHABILITATION PROJECT (F: 55-OCTA) (XR: 24.11)

This matter was considered later in the meeting.

RESOLUTION APPROVING THE WATER SUPPLY ASSESSMENT FOR THE PROPOSED WATER PARK HOTEL ON HARBOR BOULEVARD (F: A-116.15) (XR: 24.12)

Staff report dated November 23, 2010, was introduced.

RESOLUTION NO. 9023-10

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that full reading of Resolution No. 9023-10, be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING THE WATER SUPPLY ASSESSMENT FOR THE PROPOSED WATER PARK HOTEL PROJECT, be and hereby is adopted.

MINUTES

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that the City Council minutes for the Regular Meeting held July 13, 2010, be and hereby are received and ordered filed.

CONSENT TO TRANSFER AGREEMENT BETWEEN CARE AMBULANCE SERVICE AND FCA CORPORATION (F: 55-FCA) (XR: 55-CARE Ambulance)

This matter was considered later in the meeting.

WARRANTS (F: 60.5)

It was moved by Council Member Nguyen, seconded by Council Member Do, and carried by unanimous vote that Regular Warrants 482617 through 482891, and Wires W689 and W690; and Payroll Warrants 167889 through 168068, Direct Deposits D196498 through D197454, and Wires W1613 through W1620, 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 Nguyen, seconded by Council Member Do, and carried by unanimous vote that full reading of all Ordinances listed for consideration of adoption be waived.

COOPERATIVE AGREEMENT WITH THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR THE BROOKHURST STREET MEDIAN REHABILITATION PROJECT (F: 55-OCTA) (XR: 24.11)

Staff report dated November 23, 2010, was introduced.

Council Member Broadwater stated medians have saved more lives in Orange County than any other traffic device.

It was moved by Council Member Broadwater, seconded by Council Member Do, and carried by unanimous vote that Cooperative Agreement No. C-0-1807 by and between the City of Garden Grove and the Orange County Transportation Authority (OCTA) for the Brookhurst Street Median Rehabilitation Project, for a total cost projected to be \$1,492,000, with an award from OCTA of up to \$500,000, be and hereby is approved; and the Mayor's execution of the Cooperative Agreement is hereby ratified.

CONSENT TO TRANSFER AGREEMENT BETWEEN CARE AMBULANCE SERVICE AND FCA CORPORATION (F: 55-FCA) (XR: 55-CARE Ambulance)

Staff report dated November 23, 2010, was introduced.

Mayor Dalton and Council Member Broadwater thanked the owners of CARE Ambulance present in the audience for their service to the Garden Grove community.

It was moved by Council Member Broadwater, seconded by Mayor Dalton, and carried by unanimous vote that the Consent to Transfer Agreement amongst the City of Garden Grove, Care Ambulance Services, Inc., and FCA Corp regarding the City's ambulance services agreement, be and hereby is approved; and the City Manager is authorized to execute the Agreement, including making minor modifications deemed appropriate, and any related implementing documents.

PUBLIC HEARING - AMENDMENT PROVIDING FOR A THREE-YEAR EXTENSION TO A DEVELOPMENT AGREEMENT WITH LV DEVELOPMENT, INC., IN CONJUNCTION WITH THE DEVELOPMENT OF TWELVE (12) DETACHED SINGLE-FAMILY HOMES AT 12661 NELSON STREET, GARDEN GROVE (F: 106.DA-171-06) (XR: 80.1)

Mayor Dalton announced he owns property in the vicinity of this project and recused himself from considering this matter due to a potential conflict of interest.

MAYOR DALTON LEFT THE MEETING AT 7:52 P.M.

MAYOR PRO TEM JONES ASSUMED THE POSITION AS CHAIR

Staff report dated November 23, 2010, was introduced and reviewed by staff.

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

Peggy Bergin raised concerns on the Developer's inability to secure financing for this project.

Nhien Nguyen, the applicant, requested the City Council support his request to extend his Development Agreement. Current market conditions and the scarcity of funds from lending institutions have prevented him to move forward on this development. He anticipates the market will improve within the next two years, and plans to complete the project before September 2013.

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

Responding to Ms. Bergin's concerns, Mayor Pro Tem Jones stated the Developer has worked with the Saint Columban's Church switching properties to accommodate the Church's need for parking closer to the church. The project has begun, and the action tonight is to ensure the entitlements are continued until the project is complete.

ORDINANCE NO. 2786 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 REVISED DEVELOPMENT AGREEMENT BETWEEN LV DEVELOPMENT, INC., (DEVELOPER), AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE WEST SIDE OF NELSON STREET, NORTH OF STANFORD AVENUE, AT 12661 NELSON STREET, GARDEN GROVE, PARCEL NOS. 089-101-11, 12, 14, 15, and 27

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

It was moved by Council Member Do, seconded by Council Member Broadwater, and carried by unanimous vote of those present that Ordinance No. 2786 be and hereby is passed to second reading.

MAYOR DALTON RETURNED TO THE MEETING AT 8:01 P.M. AND REGAINED THE POSITION AS CHAIR

JOINT PUBLIC HEARING WITH THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT: DISPOSITION AND DEVELOPMENT AGREEMENT WITH NEW AGE BROOKHURST, LLC, (KAM SANG COMPANY) FOR THE DEVELOPMENT OF REAL PROPERTY LOCATED ON THE NORTHWEST CORNER OF GARDEN GROVE BOULEVARD AND BROOKHURST STREET IN THE GARDEN GROVE COMMUNITY REDEVELOPMENT PROJECT AREA
(F: A-55.232) (XR: A-116.7) (XR: 43.4)

This matter was heard earlier in the meeting.

LETTER OF RESIGNATION FROM HOUSING AUTHORITY COMMISSIONER ELLA NEVAREZ (F: H-10.3)

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote that Housing Authority Commissioner Ella Nevarez's resignation be accepted with regret.

AGREEMENT WITH ALL CITY MANAGEMENT SERVICES, INC., TO PROVIDE CROSSING GUARD SERVICES (F: 55-All City Management) (XR: 82.1)

Staff report dated November 23, 2010, was introduced and reviewed by staff.

It was moved by Council Member Broadwater, seconded by Council Member Jones, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and All City Management Services, Inc. to provide Crossing Guard Services for 32 school locations within the Garden Grove Unified School District, in the amount of \$688,848 for two years, be and hereby is approved; and the City Manager is authorized to execute the agreement on behalf of the City.

JOINT ACTION WITH THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT - BROOKHURST TRIANGLE UPDATED RELOCATION PLAN (F: A-116.7) (XR: 43.4)

This matter was considered earlier in the meeting.

AWARD OF CONTRACT TO CEDARS ENGINEERING CONSTRUCTION, INC., FOR PROJECT NO. 7282 - SPRINGDALE STREET AND SENECA STREET SIDEWALK AND RETAINING WALL IMPROVEMENTS (F: 96.proj.7282) (XR: 24.11)

Staff report dated November 23, 2010, was introduced.

It was moved by Council Member Jones, seconded by Council Member Nguyen, and carried by unanimous vote that the contract for Project No. 7282 - Springdale Street and Seneca Street Sidewalk and Retaining Wall Improvements, in the amount of \$397,000, be and hereby is awarded to Cedars Engineering Construction Inc.; and the City Manager is authorized to execute the agreement on behalf of the City.

SECOND READING OF ORDINANCE NO. 2784 (F: 115.A-156-10) (XR: 57.1)

Amendment No. A-156-10. Amendment to the Community Center Specific Plan - Office Professional, to add the use 'delicatessen/sandwich shop' for a parcel located on the northeast corner of Euclid Street and Lampson Avenue, subject to Conditional Use Permit approval.

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

ORDINANCE NO. 2784 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 AMENDMENT NO. A-156-10, AN AMENDMENT TO THE CCSP-OP9 (COMMUNITY CENTER SPECIFIC PLAN – OFFICE PROFESSIONAL, AREA 9) ZONE TO ADD 'DELICATESSEN/SANDWICH SHOP', LIMITED TO 1,200 SQUARE FEET OF GROSS FLOOR AREA WITH 0-16 SEATS AND LESS THAN 300 SQUARE FEET OF CUSTOMER DINING AREA, AS A PERMITTED USE, SUBJECT TO CONDITIONAL USE PERMIT APPROVAL, WITHIN THE OFFICE PROFESSIONAL SUB-DISTRICT, AREA 9

Following the reading of the Ordinance title, it was moved by Council Member Jones, seconded by Council Member Do, and carried by unanimous vote that Ordinance No. 2784 be and hereby is declared adopted.

SECOND READING OF ORDINANCE NO. 2785 (F: 73.26) (XR: 87.1)

Regulations for Public Skate Parks.

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

ORDINANCE NO. 2785 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 8.40.010 OF AND ADDING SECTION 8.40.090 TO CHAPTER 40 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO PUBLIC SKATE PARK FACILITIES

Following the reading of the Ordinance title, it was moved by Council Member Jones, seconded by Council Member Nguyen, and carried by unanimous vote that Ordinance No. 2785 be and hereby is declared adopted.

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

The Council Members wished Mayor Dalton and Council Member Nguyen each a Happy Birthday.

The Mayor and Council Members wished everyone a Happy Thanksgiving.

The Mayor and Council Members congratulated staff on the recent CALEA (Commission on Accreditation for Law Enforcement Agencies) Conference hosted by the Garden Grove Police Department.

Council Member Broadwater announced both Garden Grove High School and Rancho Alamitos High School have reached the football playoffs.

Council Member Nguyen reminded everyone about the Buy in Garden Grove campaign.

Mayor Dalton complimented staff on its youth flag football program.

ADJOURNMENT

At 8:14 p.m., the meeting was declared adjourned.

KATHLEEN BAILOR, CMC
CITY CLERK