

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 12, 2005, at 7:12 p.m.

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

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; Personnel Director, Steve Larson; Deputy Police Chief, Kevin Raney; Public Works Director, Keith Jones; City Attorney, John Shaw; and City Clerk, Ruth Smith.

INVOCATION AND PLEDGE

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

PRESENTATION OF THE ORANGE COUNTY HUMAN RELATIONS ANNUAL REPORT BY COMMISSIONER BECKIE WELTY (F: 52.3)

Ms. Welty was not present to give a report.

ORAL COMMUNICATIONS - PUBLIC

Randy Maynor, Marina Limon, Martin Jimenez, Alfredo Cordero, and Rafael Torres, along with translator Erendira Cardona, asked for the City Council's help with their eviction from the Travel Country Trailer Park. They commented that 120 families have received notice and need time to find new residences and need financial help. They asked to be able to speak with a City representative for help in securing their rights. (F: 53.3)

Elena Popp addressed the City Council and asked that a City representative with authority be designated to meet with the individuals from the Trailer Park and tell them what is happening. (F: 53.3) (XR: 57.1)

Mayor Dalton requested that staff prepare a report outlining all the facts and contact Ms. Popp. Council Member Rosen requested that the report include crime statistics for the trailer park.

Renu Debozi and members of Soka Gakkai International-USA addressed the City Council about the Earth Day Festival at Twin Lakes Park on April 23, 2005. (F: 53.3) (XR: 73.10)

David Vill, Vice President of AARP, addressed the City Council on behalf of the organization, protesting the continued sale and use of fireworks in Garden Grove. He noted that the group would like to meet with Mayor Dalton to discuss this matter. (F: 53.3) (XR: 61.6)

Charles Mitchell addressed the City Council concerning the displacement of wildlife because of the 22 Freeway expansion, commenting on the danger of disease being passed on to dogs and then to humans by displaced raccoons. (F: 53.3) (XR: 62.2)

Ricardo Mireles addressed the City Council about elderly drivers who are no longer permitted to drive. (F: 53.3)

Herb Lieberman addressed the City Council expressing appreciation for supporting the sending of students to our Sister City, Anyang, Korea. He displayed a plaque given to Joseph Pak, Sister City Association President, by the Mayor of Anyang. (F: 53.3) (XR: 102.3)

Jacqueline Ha addressed the City Council on behalf of the 12 students who visited Anyang, Korea. She indicated they all appreciated the opportunity and she hopes this tradition will continue. She provided thank you letters to the Mayor and City Council from some of the students. (F: 53.3) (XR: 102.3)

Ray Littrell addressed the City Council, indicating that the Valley View off-ramp from the 22 Freeway has been closed for a long time, and he asked the Mayor to look into it. (F: 53.3) (XR: 62.2)

REQUEST FROM THE INTERFAITH COUNCIL OF GARDEN GROVE, STANTON & WESTMINSTER FOR WAIVER OF FEES FOR USE OF THE GARDEN GROVE COMMUNITY MEETING CENTER FOR THEIR NINTH ANNUAL UNITY BANQUET
(F: 48.4) (XR: 91.1)

Communication dated April 12, 2005, was introduced.

In response to an inquiry by Council Member Nguyen, staff indicated that the Interfaith Council has used the facility before with the waiver of fees.

Council Member Krebs commented that the Interfaith Council does extraordinary work in the community.

It was moved by Council Member Rosen, seconded by Council Member Krebs, and carried by unanimous vote, that the request from the Interfaith Council of Garden Grove, Stanton & Westminster for waiver of fees for the use of the Garden Grove Community Meeting Center for their Ninth Annual Unity Banquet on May 9, 2005, be and hereby is approved.

RECESS

At 7:56 p.m., the Mayor declared a recess.

RECONVENE

At 9:52 p.m., the meeting was reconvened with Mayor Dalton and all Council Members in attendance.

PROCLAMATION – DONATE LIFE MONTH (F: 83.1)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that April 2005, be and hereby is declared Donate Life Month.

PROCLAMATION – NATIONAL CRIME VICTIMS' RIGHTS WEEK (F: 83.1)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that April 10-16, 2005, be and hereby is declared National Crime Victims' Rights Week.

RESOLUTION COMMEMORATING THE 30TH ANNIVERSARY OF THE VIETNAMESE REFUGEES IN GARDEN GROVE (F: 52.2)

Council Member Leyes commented that the cherry tree-planting event on Brookhurst Street that was held to commemorate the 30th Anniversary of the Vietnamese Refugees in Garden Grove was a very good event.

Council Member Nguyen noted that a donor supplied the \$1600.00 to cover the planting of the trees.

It was moved by Council Member Leyes, seconded by Mayor Dalton, and carried by unanimous vote, that the Resolution Commemorating the 30th Anniversary of the Vietnamese Refugees in Garden Grove, be and hereby is approved.

AGREEMENT WITH CURBSIDE, INC., FOR ADMINISTRATION OF THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD NINTH CYCLE AND TENTH CYCLE USED OIL RECYCLING BLOCK GRANT PROGRAMS (F: 55) (XR: 24.13)

Staff report dated April 12, 2005, was introduced.

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that the Agreement by and between the City of Garden Grove and Curbside, Inc., for administration of the California Integrated Waste Management Board Ninth Cycle and Tenth Cycle Used Oil Recycling Block Grant Programs, be and hereby is approved.

RESOLUTION OF DENIAL FOR GENERAL PLAN AMENDMENT NO. GPA-1-05 (A), AMENDMENT NO. A-118-05, DEVELOPMENT AGREEMENT; AND APPEAL OF SITE PLAN NO. SP-361-05 AND CONDITIONAL USE PERMIT NO. CUP-152-05 (F: 20.GPA-1-05(A)) (XR: 115.A-118-05) (XR: 106.160) (XR: 116.SP-351-05) (XR: 51.CUP-152-05)

Council Member Rosen noted that the proponents have modified their document and now have plans for a one-story temple. He indicated he is hoping to pick up a third "no" vote this evening on this item so it can be sent back to staff or to the Planning Commission.

The City Attorney indicated that the final action on this was taken at the March 22, 2005, City Council meeting, and this is simply a document that reflects that final action. The applicant is free to resubmit the new plans to the Planning Commission without prejudice.

RESOLUTION NO. 8635-05

Council Member Krebs moved, seconded by Council Member Leyes, that full reading of Resolution No. 8635-05 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DENYING GENERAL PLAN AMENDMENT NO. GPA-1-05(A) AND ZONE CHANGE AMENDMENT NO. A-118-05 AND RELATED ENTITLEMENTS FOR A PARCEL OF LAND LOCATED AT THE SOUTHEAST CORNER OF CHAPMAN AVENUE AND NUTWOOD STREET NORTH, AT 10510 CHAPMAN AVENUE, PARCEL NO. 089-141-61, be and hereby is adopted. Upon the following vote:

AYES: COUNCIL MEMBERS: (4) KREBS, LEYES, DALTON
NOES: COUNCIL MEMBERS: (2) NGUYEN, ROSEN
ABSENT: COUNCIL MEMBERS: (0) NONE

APPARATUS DOOR REPLACEMENT AT FIRE STATION #5 – ACCEPTANCE OF CONTRACT AS COMPLETE (F: 55) (XR: 24.1) (XR: 61.1)

Staff report dated April 12, 2005, was introduced.

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that the Apparatus Door Replacement at Fire Station #5, be accepted as complete as of this date; the Finance Director is authorized to release the retention payment to Andersen's Door Service, when appropriate to do so; and the City Manager and City Clerk are authorized to execute the Notice of Completion.

SECOND FLOOR KITCHEN REMODEL AT FIRE STATION #1 – FINAL PROGRESS PAYMENT AND ACCEPTANCE OF CONTRACT AS COMPLETE (F: 55) (XR: 24.1) (XR: 61.1)

Staff report dated April 12, 2005, was introduced.

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that Final Progress Payment for the Second Floor Kitchen Remodel at Fire Station #1, in the amount of \$8,975.25 be and hereby is approved; the Finance Director is authorized to draw warrant to Warvi Construction Incorporated in said amount and release the retention payment when appropriate to do so; and the City Manager and City Clerk are authorized to execute the Notice of Completion.

INSTALLATION OF AN 18-INCH WATER VALVE AT LAMPSON AVENUE AND WEST STREET – FINAL PROGRESS PAYMENT AND ACCEPTANCE OF CONTRACT AS COMPLETE (F: 112.Proj.01-1078)

Staff report dated April 12, 2005, was introduced.

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that Final Progress Payment for the Installation of an 18-Inch Water Valve at Lampson Avenue and West Street, in the amount of \$25,200.00 be and hereby is approved; the Finance Director is authorized to draw warrant to Mike Prlich & Sons, Inc., in said amount and release the retention payment when appropriate to do so; and the City Manager and City Clerk are authorized to execute the Notice of Completion.

MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF ORANGE FOR ACCEPTANCE OF JUSTICE ASSISTANCE GRANT FUNDS FOR USE IN THE PROACT PROGRAM AND THE JAIL SERVICES CONTRACT (F: 55) (XR: 82.15)

Staff report dated April 12, 2005, was introduced.

Council Member Rosen requested that when the Police Department participates with another law enforcement agency in a project, a check is made to see whether the City is named as coinsured on the insurance.

It was moved by Council Member Rosen, seconded by Mayor Dalton, and carried by unanimous vote, that the Memorandum of Understanding with the County of Orange to fund the PROACT Program with a share of the City's Justice Assistance Grant funds, be and hereby is approved, with the allocation of the remainder of the Grant to fund the Police Department's Jail Services contract with Correctional Systems, Inc.

MINUTES (Vault)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that the Minutes of the Regular City Council Meeting held February 8, 2005, be and hereby are approved.

WARRANTS (F: 60.5)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that regular warrants 332695 through 333981 and Wire W190, and payroll

warrants 139925 through 140102, Direct Deposits D104108 through D104655, and Wires W954 through W957, which have been audited for accuracy and availability of funds by the Finance Director, be and hereby are approved.

PUBLIC HEARING – APPEAL OF VARIANCE NO. V-123-05 (F: 111.V-123-05)

Appeal of Variance No. V-123-05, initiated by Khue Van Nguyen, requesting to allow a patio cover, laundry room, and storage room addition to deviate from the required rear yard setback. The subject property is located on the north side of Central Avenue, west of Newland Street, at 8261 Central Avenue.

On February 3, 2005, the City Planning Commission, pursuant to Resolution No. 5481, denied V-123-05. On February 24, 2005, an appeal was filed by the applicant; and pursuant to legal notice published on March 31, 2005, public hearing on the case was ordered by the City Council to be held this date.

Staff report dated April 12, 2005, was introduced, and staff reviewed the background information concerning this matter.

The property abuts the 22 Freeway to the north, land owned by the State of California to the west, and a single-family residential home to the east. The property is one of two residential lots in the neighborhood that abuts the freeway.

On September 13, 2004, following a complaint from a resident, City staff inspected the premises and documented that the single-family home had been illegally converted into five dwelling units. The current property owner restored the house to its permitted construction with the exception of a non-permitted addition at the rear of the property.

The property owner is requesting variance approval in order to maintain a non-permitted addition that consists of a patio cover, a laundry room, and a storage room located three feet from the rear property line. The R-1 zone requires single-story attached additions to maintain a minimum rear yard setback of ten feet from the rear property line.

At the time the residence functioned as multiple units, the rear non-permitted addition was used as living space of which several of the units included kitchen and dining areas.

The property owner states that the structure is a vital addition to help protect the residence from freeway debris and excessive noise. Although the property abuts the freeway, a 17-foot-high sound attenuation wall separates the property from the freeway. The wall is taller than the residence and functions as a buffer to protect the residence from freeway debris and excessive noise.

It was noted that the property owner has options that would allow him to add space to the residence without a variance. Sufficient space is located at the front and on the sides of the lot that would accommodate further additions to the residence. Staff has determined that if the structure were to remain, significant structural modifications would have to be made to more than 50 percent of the structure.

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

The proponent, Khue Nguyen, addressed the Council. He noted that he has owned the property for three years and bought it that way. Upon further questioning, Mr. Nguyen noted that he just signed the real estate papers without reading them. He indicated that he would like to keep the patio and there is only one family currently living there.

Council Member Leyes asked Mr. Nguyen if he would be willing to improve the patio cover and bring it up to code, to which Mr. Nguyen responded in the affirmative.

Council Member Rosen questioned staff about structural issues. Staff indicated that if the variance were given, he would be able to rebuild the patio; and if it were denied, the City would continue to notice him for an unsafe structure. If he resubmitted plans that would meet the code, the factors would be considered again; and if the patio cover were constructed to code, the variance would not be as much of an issue.

Discussion ensued relative to the \$700 cost for a new application, and the City Manager noted that the City Council could consider waiving that fee.

Council Member Krebs moved to deny the appeal and support the Planning Commission decision. Council Member Nguyen suggested the motion include a waiver of the \$700 fee. Council Member Krebs amended his motion to include the waiver.

Council Member Rosen noted that there are lots of projects with small backyards and he believes a variance to build within three feet of the wall would be okay. Mayor Dalton added his agreement, if everything else is up to code.

RESOLUTION NO. 8636-05

It was moved by Council Member Krebs, seconded by Council Member Nguyen, and carried by unanimous vote, that full reading of Resolution No. 8636-05 be waived and said Resolution No. 8636-05 entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE UPHOLDING THE DECISION OF THE PLANNING COMMISSION AND THEREBY DENYING APPEAL OF VARIANCE NO. V-123-05, FOR A PROPERTY LOCATED ON THE NORTH SIDE OF CENTRAL AVENUE, WEST OF NEWLAND STREET AT 8261 CENTRAL AVENUE, PARCEL NO. 097-204-02, be and hereby is adopted, with the waiver of the \$700 fee should the applicant resubmit new plans.

SECOND READING OF ORDINANCES NO. 2656, NO. 2657, AND NO. 2658

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that full reading of Ordinances No. 2656, No. 2657, and No. 2658, be and hereby is waived.

ORDINANCE NO. 2656 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 PLANNED UNIT DEVELOPMENT NO. PUD-106-05, CHANGING THE ZONING DESIGNATION FROM HCSP-OP (HARBOR CORRIDOR SPECIFIC PLAN OFFICE PROFESSIONAL) TO PLANNED UNIT DEVELOPMENT NO. PUD-106-05, FOR PROPERTY LOCATED ON THE NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF SUNGROVE STREET, AT 12753 TO 12781 GARDEN GROVE BOULEVARD, PARCEL NOS. 231-574-19, 20, 21, AND 22 (F: 20.GPA-1-05(B)) (XR: 116.PUD-106-05) (XR: 106.159)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that Ordinance No. 2656 be and hereby is declared passed.

ORDINANCE NO. 2657 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 BGN INVESTMENTS, LP. (DEVELOPER), AND THE CITY OF GARDEN GROVE FOR PROPERTY LOCATED ON THE

NORTH SIDE OF GARDEN GROVE BOULEVARD, WEST OF SUNGROVE STREET, AT 12753 TO 12781 GARDEN GROVE BOULEVARD, PARCEL NOS. 231-574-19, 20, 21, AND 22 (F: 20.GPA-1-05(B)) (XR: 116.PUD-106-05) (XR: 106.159)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that Ordinance No. 2657 be and hereby is declared passed.

ORDINANCE NO. 2658 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-119-05, CHANGING THE ZONING DESIGNATION FROM PLANNED UNIT DEVELOPMENT RESIDENTIAL (PUD-113-96) TO C-1 (NEIGHBORHOOD COMMERCIAL), FOR PROPERTY ON THE SOUTHEAST CORNER OF GARDEN GROVE BOULEVARD AND ROCKINGHORSE ROAD, AT 11906 GARDEN GROVE BOULEVARD, PARCEL NUMBERS 100-504-1, 2, 3, 26, 27, 28, 30, 49, 50, 51, 66, 75, AND 76 (F: 115.A-119-05)

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that Ordinance No. 2658 be and hereby is declared passed.

REVIEW OF THE GEM THEATER AND THE AMPHITHEATER FACILITIES AGREEMENTS, AS REQUESTED BY COUNCIL MEMBER KREBS (F: 53.1) (XR: 87.3) (XR: 55)

Staff referred to a report dated January 27, 2005, and provided information on the current status of the Grove Theater Center's (GTC's) operations in the Gem Theater. A summary of their performance between August 12, 2003, and January 27, 2005 was reviewed, and it was noted that GTC's performance under the Facilities Usage Agreement for 2004 has generally been below the standards set in that agreement.

Council Member Leyes commented that only copies of the Grove Theater Center agreement were provided, and he requested that a copy of the Amphitheater Agreement with Tom Bradac also be provided to the Council Members.

Council Member Krebs commented that the City has never received what it should have received from GTC. He urged that their contract be terminated immediately and that the facility be cleaned up and turned over to capable management so the theater can be as it used to be. He indicated that the average attendance at their 37

performances amounted to five people. He further indicated it costs the City \$25,000 plus \$13,000 in utility costs each year.

Council Member Krebs moved to terminate the contract with the Grove Center Theater based on nonperformance.

Council Member Nguyen commented that the problem is the facility itself and that shouldn't be blamed on GTC, noting the City cut their mailing costs support last year.

The City Manager noted that the City has contributed less money to them over the past years.

Council Member Nguyen indicated that she would like more information before terminating the contract.

Mayor Dalton suggested this matter be continued to the next City Council meeting to allow time to check into other viable production companies.

The City Manager referenced a communication from GTC dated April 8, 2005, proposing that GTC give the City notice that they will not be seeking renewal of their current agreement; and in exchange for this waiver, they would be allowed to continue to fulfill their contractual obligations through June 30, 2006, with the removal of the requirements that productions be recognized by Actors Equity and that annual financial statements be audited. The City Manager indicated that some response to this proposal would be appropriate in two weeks.

Council Member Krebs noted his suspicions to the communication; however, he agreed to continue the matter to April 26, 2005. He requested that no further payments be made to GTC before April 26.

Staff noted that the next payment to them is due May 1, 2005.

Mayor Dalton agreed that no money should be given to GTC until this matter returns to the City Council at its next meeting.

Council Member Rosen requested information as to whether GTC has met certain points under the Covenants portion of their agreement. He also requested information as to what productions have been planned between now and June 2006.

Council Member Krebs commented about a company called One More Productions, which appears to be scheduled at the Gem Theater through the summer, noting that it sounds like a GTC subcontractor.

Council Member Leyes referenced a portion of the GTC agreement setting out limitations on subcontracting.

It was moved by Council Member Krebs, seconded by Council Member Rosen, and carried by unanimous vote, that this matter be continued to April 26, 2005, and that no further payments be made to Grove Theater Company in the interim.

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

Council Member Leyes spoke about the Crystal Cathedral's 50th Anniversary celebration that he attended. He also spoke about the Pope's passing. (F: 53.1)

Council Member Rosen asked that the City Manager's annual review be placed for discussion in Closed Session at the next meeting. (F: 53.1)

Council Member Nguyen noted that the \$1600 to plant the Cherry trees in the median on Brookhurst Street is being donated by Tac Tax Consultant, Inc., which is a good example of a successful private/public relationship. She also spoke about concerns that the Zlakets have with zoning on Main Street. She asked for a report addressing this. (F: 53.1) (XR: 122.6)

Council Member Krebs wished the Jewish residents of Garden Grove a Happy Passover. (F: 53.1)

Mayor Dalton wished Council Member Krebs a Happy Birthday. (F: 53.1)

ADJOURNMENT

At 11:10 p.m., the meeting was declared adjourned.

RUTH E. SMITH
CITY CLERK