

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, March 24, 2009, at 5:38 p.m.

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

ABSENT: (2) COUNCIL MEMBER DO (absent at Roll Call but
joined the meeting at 5:45 p.m.)
COUNCIL MEMBER JONES (absent at Roll Call
but joined the meeting at 5:42 p.m.)

PUBLIC INPUT ON CLOSED SESSION ITEM

None.

ADJOURN TO CLOSED SESSION

At 5:39 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 REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8

Properties: 9182 Chapman Avenue, 11962 Bailey Street, and
11200 Stanford Avenue, Garden Grove.

City's Negotiators: Chet Yoshizaki, Economic Development Director;
and Greg Brown, Redevelopment and Real Property Manager.

Negotiating Party: Orange County Library District.

Under Negotiation: To seek direction regarding negotiations to lease certain real property and the parameters for price and terms of payment related to such real property lease.

RECONVENE IN OPEN SESSION

At 6:49 p.m., Mayor Dalton reconvened the meeting with all Council Members present.

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

INVOCATION AND PLEDGE

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

PRESENTATION - COMMUNITY SPOTLIGHT

Mayor Dalton called forward the students and chaperones chosen to represent the City of Garden Grove in the 19th annual Sister City Exchange Program to Anyang, Korea. Each student was presented with a City gift bag. The City Council wished them a safe and memorable trip to Korea, as well as continued success in their future academic endeavors. (F: 52.3)

ORAL COMMUNICATIONS – PUBLIC

Rod Powell addressed the City Council regarding the use of fireworks in the city and read from the the Grand Jury's fireworks report. (F: 53.3) (XR: 61.6)

Peggy Bergin addressed the City Council regarding the City's purchasing practices. (F: 53.3) (XR: 60.4)

RECESS

At 7:08 p.m., the Mayor declared a recess.

RECONVENE

At 7:16 p.m., Mayor Dalton reconvened the meeting with all Council Members present.

EXONERATION OF IMPROVEMENT BONDS FOR PARCEL MAP NO. 2003-172
(F: 118.PM-2003-172) (XR: 24.11)

Staff report dated March 24, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Jones, and carried by unanimous vote that the exoneration of the street improvement bonds for Parcel Map No. 2003-172, be and hereby is approved.

AGREEMENT WITH RBF CONSULTING, TO PROVIDE ENGINEERING DESIGN SERVICES FOR PHASE II OF THE FIBER OPTIC SIGNAL INTERCONNECT SYSTEM (F: 55) (XR: 24.11)

Staff report dated March 24, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Jones, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and RBF Consulting, to provide civil engineering design services for the Fiber Optic Signal Interconnect System, Phase II, in the amount not to exceed \$208,526, be and hereby is approved; and the City Manager and City Clerk are authorized to execute the agreement.

RENEWAL OF AGREEMENT WITH THE COUNTY OF ORANGE FOR THE HOMELAND SECURITY GRANT PROGRAM, ADMINISTERED BY THE ORANGE COUNTY SHERIFF'S DEPARTMENT (F: 55) (XR: 82.1) (XR: 117.2C)

Staff report dated March 24, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Jones, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and the County of Orange, for the Homeland Security Grant Program, administered by the Orange County Sheriff's Department, be and hereby is approved; and the Chief of Police and City Clerk are authorized to execute the agreement.

WARRANTS (F: 60.5)

It was moved by Council Member Do, seconded by Council Member Jones, and carried by unanimous vote Payroll Warrants 160648 through 160814, Direct Deposits D166770 thru D167432, and Wires W1420 thru W1423, 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 Do, seconded by Council Member Jones, and carried by unanimous vote that full reading of all Ordinances listed for consideration of adoption be waived.

CITY ATTORNEY, THOMAS F. NIXON, LEFT THE COUNCIL CHAMBER AT 7:18 P.M.

ASSISTANT CITY ATTORNEY, M. LOIS BOBAK, ENTERED THE COUNCIL CHAMBER AT 7:18 P.M.

PUBLIC HEARING - APPEAL OF CONDITIONAL USE PERMIT NO. CUP-253-08 FOR THE CAN RESTAURANT LOCATED NORTH OF BUSINESS CENTER PARKWAY, SOUTH OF FORBES AVENUE ON THE WEST SIDE OF EUCLID STREET AT 14241 EUCLID STREET, SUITE C-101 (F: 51.CUP-253-08) (XR: 80.1)

Staff reports dated March 10, 2009, and March 24, 2009, were introduced and reviewed by staff.

The Planning Commission heard and approved the Conditional Use Permit No. CUP-253-08 on January 15, 2009. On February 5, 2009, the Business Owner/Operator, Victoria Tieu, submitted an appeal requesting the City Council overturn the Planning Commission's approval of Conditional Use Permit No. CUP-253-08 for an existing restaurant and nightclub, The CAN Restaurant & Club. Pursuant to Legal Notice published February 26, 2009, the Public Hearing on the case was ordered by the City Council to be held March 10, 2009, and was then continued to this date.

Ms. Tieu originally received approval for a restaurant with entertainment and a Type "47" (On-Sale General, Eating Place) Alcoholic Beverage Control (ABC) license in 1990; and in 1996 she was granted an extension under Conditional Use Permit No. CUP-285-96 that requires the business to be operated as a bona-fide eating-place. Among other existing requirements, no customers under the age of 21 are allowed in the establishment except in the segregated food service area and no use or activities of an adult-oriented nature are permitted.

Since 1995, the Police Department has had increasing concerns about the continuing problems and reoccurring violations at The CAN Restaurant (Restaurant). These violations include serving alcohol to minors, serving obviously intoxicated customers, public disturbances, assaults, underage patrons in the nightclub/bar/patio area, adult

oriented activities, and not operating as a bona-fide eating-place. The property management company, Sperry Van Ness, sent formal complaints to ABC regarding the Restaurant in 2005 and 2006. In an effort to eliminate these problems, City staff met with Ms. Tieu and/or her agents in 2003, 2004, 2006, and 2008, with no appreciable decline in the criminal activity, problems, or Conditional Use Permit violations.

In an effort to develop an effective strategy for the Restaurant to become a successful business that complies with the City's requirements, at the January 15, 2009, Planning Commission meeting Conditional Use Permit No. CUP-253-08, with revised Conditions of Approval was approved.

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

Andrew Couch, Attorney for Ms. Tieu, presented to the City Council Members a new Security Plan the Applicant has agreed to implement. According to Mr. Couch, this plan addresses the Police Department's concerns. The key issue facing Ms. Tieu is the reduction in the hours of operation. Currently, the Restaurant is open until 2:00 a.m., seven days a week. Limiting the hours of operation would greatly hinder Ms. Tieu from being able to offer her unique service to her customers.

Those speaking on behalf of Ms. Tieu were Jay Jones, Linh Nhu Vu, Jeff Asano, Simon Cruz, Ray Cruz, Van Kolakowski, Shirley Cruz, Lillibeth Batoon, Theresa Nguyen, Michael Huynh, Ly Huynh, Thanh Nguyen, and Sam Nguyen.

Those speaking in favor of the new conditions were John Ramirez, Teresa Piñon, and Elizabeth Piñon.

Catherine Weinberg, Counsel for the Landlord, assured the City Council the Landlord intends to cooperate with the City to reduce criminal activity, and will give the tenant permission to make the necessary modifications within the Restaurant to meet the requirements.

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

After a question and answer period between the Council Members and staff regarding types of calls for service, and the impact on the neighborhoods near the Restaurant, the Mayor asked Mr. Couch and Ms. Tieu to return to the podium.

In response to inquiries regarding the hours of operation, Ms. Tieu requested the days the Restaurant could stay open until 2:00 a.m. be changed to Friday, Saturday, and Sunday.

Council Member Do inquired as to the options available to the City Council. The Assistant City Attorney responded the City Council could act to deny the appeal; or grant the appeal modifying Condition No. 26, addressing the Hours of Operation, and Condition No. 33, requiring Ms. Tieu to abide by the newly submitted Security Plan. An additional condition could be added directing staff to provide status reports on how the business performs under the modified conditions.

Council Member Do moved, seconded by Council Member Broadwater that the Appeal of the Conditional Use Permit No. CUP-253-08 be denied with regard to all of the Conditions of Approval, except No. 26 and No. 33; and grant the appeal with regard to Condition No. 26 and No. 33. In place of Condition No. 26, the business would be allowed to remain open until 2:00 a.m., seven days a week. In place of Condition No. 33, the Business Owner/Operator would be required to comply with the terms and spirit of the Security Plan submitted to the City Council by Mr. Couch. A new condition, No. 45, would be added directing staff to return to the City Council for a new Public Hearing for revocation or modification of the new Conditional Use Permit upon three violations of the Conditional Use Permit, or for a status review in six months, whichever occurs first.

The Police Chief clarified that calls for service from the Restaurant's security staff in their efforts to enforce the Security Plan would not be used to initiate a new Public Hearing.

Council Member Nguyen requested, and Council Member Do concurred in a modification to his motion, that Condition No. 26, Hours of Operation, be modified to Monday-Thursday, 8:00 a.m.-11:00 p.m., Fridays, Saturdays, and Sundays, 8:00 a.m.-2:00 a.m. The Business Owner/Operator agreed to the modification.

RESOLUTION NO. 8869-09

It was moved by Council Member Do, seconded by Council Member Broadwater, and carried by unanimous vote that full reading of Resolution No. 8869-09 be waived, and said Resolution entitled, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DENYING IN PART AND GRANTING IN PART THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT NO. CUP-253-08, FOR AN EXISTING BUSINESS, THE CAN RESTAURANT & CLUB, LOCATED AT 14241 EUCLID STREET, SUITE C-101, PARCEL NO. 099-183-03, be and hereby is adopted as modified.

ASSISTANT CITY ATTORNEY, M. LOIS BOBAK, LEFT THE COUNCIL CHAMBER AT 9:27 P.M.

CITY ATTORNEY, THOMAS F. NIXON, RETURNED TO THE COUNCIL CHAMBER AT 9:27 P.M.

PUBLIC HEARING - APPEAL OF DENIAL OF CONDITIONAL USE PERMIT NO. CUP-252-08 FOR THE FOUR SEASONS HOT POT CHINESE RESTAURANT, LOCATED ON THE WEST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE, AT 12119 BROOKHURST STREET (F: 51.CUP-252-08) (XR: 80.1)

Due to a conflict of interest, Council Member Broadwater recused himself from this matter.

COUNCIL MEMBER BROADWATER LEFT THE MEETING AT 9:30 P.M.

Staff report dated March 24, 2009, was introduced and reviewed by staff.

The Planning Commission heard and denied Conditional Use Permit No. CUP-252-08 on January 15, 2009.

On January 30, 2009, the Applicant, Mark One, 888 Brothers, Inc., submitted an appeal of the Planning Commission's decision requesting the City Council allow their request for the existing restaurant, Four Seasons Hot Pot Chinese Restaurant, located at 12119 Brookhurst Street, to operate with a new original ABC Type "41" (On-Sale, Beer, and Wine) License. Pursuant to Legal Notice published March 5, 2009, the Public Hearing on the case was ordered by the City Council to be held this date.

Staff report dated March 24, 2009, was introduced and reviewed by staff.

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 that the City may 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 that 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.

Ross Melodia, speaking on behalf of the Applicant, confirmed the Applicant is in agreement with the standard conditions.

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

RESOLUTION NO. 8870-09

It was moved by Council Member Do, seconded by Mayor Dalton, and carried by unanimous vote of those present that full reading of Resolution No. 8870-09 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-252-08, be and hereby is adopted granting the appeal.

COUNCIL MEMBER BROADWATER RETURNED TO THE MEETING AT 9:37 P.M.

PUBLIC HEARING - AMENDMENT NO. A-146-09. THE CITY OF GARDEN GROVE IS PROPOSING TO AMEND TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE, SECTION 9.16.160(H) – GROUNDCOVER, AND SECTION 9.16.160(L) – SUBSTITUTE LANDSCAPING, TO ALLOW ARTIFICIAL TURF WITHIN THE R-1 (SINGLE-FAMILY RESIDENTIAL) ZONE, SUBJECT TO SPECIAL STANDARDS (F: 115.A-144-08) (XR: 80.1)

Staff report dated March 24, 2009, was introduced and reviewed by staff. Staff noted that a letter was received from the Apartment Association of Orange County raising concerns that the use of artificial turf for apartment complexes is not included in the proposed Ordinance. An Ordinance to address the use of artificial turf in apartment complexes will be brought to a future City Council meeting for consideration.

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

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

ORDINANCE NO. 2743 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 CODE AMENDMENT NO. A-146-09, TO ALLOW THE USE OF ARTIFICIAL TURF WITHIN THE R-1 (SINGLE-FAMILY RESIDENTIAL) ZONE

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

Council Member Nguyen moved, seconded by Council Member Do that Ordinance No. 2743 be and hereby is passed to second reading. Said motion carried by the following vote:

AYES:	COUNCIL MEMBERS:	(4) DO, JONES, NGUYEN, DALTON
NOES:	COUNCIL MEMBERS:	(1) BROADWATER
ABSENT:	COUNCIL MEMBERS:	(0) NONE

AGREEMENT WITH ROMTEC, INC., DBA: OREGON ROMTEC INC., FOR REPLACEMENT OF TWO RESTROOMS AT GARDEN GROVE PARK AND EASTGATE PARK (F: 55) (XR: 73.5) (XR: 73.2)

Staff report dated March 24, 2009, was introduced and reviewed by staff.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and Romtec, Inc., dba: Oregon Romtec Inc., in the amount of \$669,708.08, be and hereby is approved; and the City Manager and City Clerk are authorized to execute the agreement.

AWARD OF CONTRACT TO PSOMAS, FOR PROFESSIONAL ENGINEERING SERVICES FOR THE WESTHAVEN BOOSTER PUMP STATION, NATURAL GAS ENGINE DRIVEN PUMP CONVERSION PROJECT (F: 55) (XR: 24.11)

Staff report dated March 24, 2009, 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 contract for professional engineering services for the Westhaven Booster Pump Station, Natural Gas Driven Pump Conversion Project, in the amount of \$372,772, be and hereby is awarded to Psomas; and the City Manager and City Clerk are authorized to execute the agreement.

AWARD OF CONTRACT TO VALI COOPER & ASSOCIATES, INC., FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE NEWLAND/YOCKEY STORM DRAIN, WATER AND SEWER IMPROVEMENTS – PROJECT NO. 7420
(F: 55) (XR: 92.proj.7420) (XR: 24.11)

Staff report dated March 24, 2009, 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 contract for the Newland/Yockey Storm Drain, Water and Sewer Improvements Project No. 7420 in the amount of \$446,064, be and hereby is awarded to Vali Cooper & Associates; and the City Manager and City Clerk are authorized to execute the agreement.

AMENDMENT TO THE GARDEN GROVE MUNICIPAL CODE SECTION 5.28.020 RELATING TO ELIGIBILITY REQUIREMENTS FOR FIREWORKS STAND PERMITS (F: 50.2) (XR: 61.6)

Staff report dated March 24, 2009, was introduced and reviewed by staff.

ORDINANCE NO. 2744 was introduced for first reading and the title read in full, entitled 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

It was moved by Council Member Do, seconded by Council Member Jones, 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 Jones, and carried by unanimous vote that Ordinance No. 2744 be and hereby is passed to second reading.

SECOND READING OF ORDINANCE NO. 2742

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

ORDINANCE NO. 2742 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 NEGATIVE DECLARATION AND APPROVING AMENDMENT NO. A-145-08, TO CHANGE THE ZONE OF THE SUBJECT PROPERTY, LOCATED AT 10712 PEARL STREET, FROM CCSP-BC29 (COMMUNITY CENTER SPECIFIC PLAN – BUSINESS CENTER, DISTRICT 29) TO CCSP-BC17 (COMMUNITY CENTER SPECIFIC PLAN – BUSINESS CENTER, DISTRICT 17) TO OPERATE A NEW AUTO BODY SHOP (F: 115.A-145-08)

Mayor Dalton moved, seconded by Council Member Do that Ordinance No. 2742 be and hereby is declared adopted. Said motion carried by the following vote:

AYES: COUNCIL MEMBERS: (4) DO, JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (1) BROADWATER
ABSENT: COUNCIL MEMBERS: (0) NONE

APPOINTMENT OF REPRESENTATIVES TO THE GARDEN GROVE SANITARY DISTRICT LIAISON COMMITTEE (F: 122.1) (VIP)

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that Mayor Dalton be and hereby be appointed as a representative to the Garden Grove Sanitary District Liaison Committee.

It was moved by Mayor Dalton, seconded by Council Member Jones, and carried by unanimous vote that Council Member Do be and hereby be appointed as a representative to the Garden Grove Sanitary District Liaison Committee.

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

Council Member/Agency Chair Broadwater responded to comments made during Oral Communications that the Police Chief and Fire Chief are kowtowing to the Mayor and City Council concerning the issue of fireworks. He stated the Chief's perform their duties under direction of the City Manager, who receives his direction from the City Council. Should any staff person decide not to follow direction given by the City Council, they would not work for the City much longer. (F: 53.1) (XR: A-53.1) (XR: 61.6)

Council Member Broadwater offered his condolences to the Greer and Lea families. Jeffie Greer and Doug Lea, both former Neighborhood Improvement and Conservation Commissioners, passed away this week. (F: 53.1) (XR: 122.4A)

Council Member Nguyen announced the Push Cart Derby sponsored by Boy Scout Troop 1103 scheduled for Sunday, March 29. She encouraged residents to see the Grease production at the Gem Theater, as well as to shop in Garden Grove. (F: 53.1)

Council Member Jones encouraged everyone to stop by a unique business in town, the wine shop in the Bridgecreek Center, MAWL Wine. (F: 53.1)

Mayor Dalton commented on the recent Basketball Awards ceremony and the 7th Anniversary event for the Buena Clinton Collaborative. These types of programs provide positive reinforcement to children. He offered his condolences to the Moll family on the recent passing of Tom Moll, a long time Garden Grove resident. (F: 53.1) (XR: 87.1)

ADJOURNMENT

At 10:01 p.m., the meeting was declared adjourned in memory of Jeffie Greer, Doug Lea, and Tom Moll. (F: 46.9)

KATHLEEN BAILOR
CITY CLERK