

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, July 14, 2009, at 6:35 p.m.

ROLL CALL: PRESENT: (5) MAYOR DALTON, COUNCIL MEMBERS
BROADWATER, DO, JONES, NGUYEN

ABSENT: (0) NONE

INVOCATION AND PLEDGE

The Invocation was given by Kingsley Okereke, Finance Director. Council Member Do led the Pledge of Allegiance to the Flag of the United States of America.

BUSINESS SPOTLIGHT - RECOGNITION OF FAMILY PHYSICIAN DONALD HEMPHILL, M.D. (F: 52.3)

Mayor Dalton called forward Dr. Donald W. Hemphill, and presented him with a Certificate of Recognition and gift as the July Business Spotlight Honoree, saluting him as an outstanding business professional in the community.

ORAL COMMUNICATIONS

Peggy Bergin requested the City Council consider proclaiming September 26, 2009, as Mesothelioma Awareness Day.

Peggy Bergin, David Lautherboren, Richard Princler, Rod Powell, Verla Lambert, and Charles Mitchell commented on the water conservation ordinance and water shortage, as well as various other community and civic matters.

Robin Marcario provided an overview of the recent Central Garden Grove Neighborhood Association meeting, and displayed suggestions for future mosaics on bus benches that she would volunteer to do.

Verla Lambert, Scott Weimer, Peter Katz, and Myke Cossota addressed the City Council regarding the proposed dissolution of the Vehicle Parking District No. 2. (F: 75.3)

PUBLIC HEARING - APPEAL OF CONDITIONAL USE PERMIT NO. CUP-269-09. CHILDREN'S LEARNING CENTER AT 12196 BROOKHURST STREET, LOCATED ON THE EAST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE
(F: 51.CUP-269-09) (XR: 115.A-149.09) (XR: 57.1)

PUBLIC HEARING - AMENDMENT NO. A-149-09. A PROPOSED AMENDMENT TO THE BROOKHURST CHAPMAN SPECIFIC PLAN – BROOKHURST CHAPMAN COMMERCIAL ZONE TO ALLOW A CHILDREN'S LEARNING CENTER AT 12196 BROOKHURST STREET, ON THE EAST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE, SUBJECT TO THE APPROVAL OF A CONDITIONAL USE PERMIT (F: 51.CUP-269-09) (XR: 115.A-149.09)
(XR: 57.1)

These two matters were considered concurrently.

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

COUNCIL MEMBER BROADWATER LEFT THE MEETING AT 7:34 P.M.

Staff reports dated July 14, 2009, were introduced and reviewed by staff.

The subject property is located on the east side of Brookhurst Street south of Chapman Avenue. The site has a General Plan Land Use designation of Light Commercial and is zoned BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial).

On May 21, 2009, the Planning Commission considered Amendment No. A-149-09 amending the BCSP-BCC (Brookhurst Chapman Specific Plan – Brookhurst Chapman Commercial) zone, to add a use, Children's Learning Center, subject to the approval of Conditional Use Permit No. CUP-269-09. Along with the Amendment request, the Planning Commission considered and approved a Conditional Use Permit request from Davis Alexander, operator of Trung Tam Giao Duc and Luyen Thi Children's Learning Center to operate an existing 2,018 square foot Children's Learning Center, subject to City Council's approval of Amendment No. A-149-09. The Planning Commission adopted Resolution No. 5683 recommending approval of Amendment No. A-149-09.

On June 11, 2009, Davis Alexander, operator of the Trung Tam Giao Duc and Luyen Thi Children's Learning Center, appealed three conditions approved by the Planning Commission. Specifically appealed were Condition 32, preparation of a parking/traffic mitigation plan; Condition 36, installation of plumbing fixtures based on enrollment; and Condition 39, specifications for the designated waiting area in the rear of the building for dropping-off and picking-up students.

Several health and safety concerns were discussed by the Council Members including parking, traffic, location and size of the waiting area, and the number of plumbing fixtures needed.

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

The appellant, Davis Alexander, requested the City Council remove Condition Nos. 32, 36, and 39 from the list of conditions of approval. To address Condition No. 32, Mr. Alexander suggested a one-way only sign be placed on the side of the building in order to prevent traffic accidents; for Condition No. 36, he indicated his students are at the Center part-time, and two restrooms are adequate to accommodate their needs; and for Condition 39, he requested permission to increase the depth and height of the area. The increase in size would allow for more room for the students to wait for their parents, and a higher fence would address the noise concerns raised by the neighbors.

In response to City Council inquiries, Mr. Alexander indicated there is no room inside the building for a waiting area, and he would like to convert the back area to a play area with a fence for the safety of the children.

Khon Huynh and Reverend Dr. David Huynh spoke in support of the appeal of the three conditions.

Gene Kirkham, Planning Commissioner, related what transpired during the Planning Commission Public Hearing, resulting in the recommendation for approval. The Commission had concerns with the waiting area in the back of the building, and did not want the children waiting outside. However to reach a compromise with the owner, the Commission's recommendation included an enclosed waiting area in the rear of the building.

Peggy Bergin and Cy LaBree expressed concern for the health and safety of the students.

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

Council Member Nguyen suggested Condition 36 be applied in between the elementary school and church requirements. The restroom needs of a tutorial center are far less than a school and falls more inline with religious facilities. She further suggested Condition 39 be modified to include a play area/waiting area within the facility.

Council Members further discussed and made inquiries of staff and the Applicant concerning the details of the use of the Center and the safety of the children in the shopping center.

It was moved by Council Member Jones, seconded by Council Member Do that these matters be directed back to staff and the Planning Commission for the development of a more clearly defined plan that ensures the health and safety of the students to be submitted by the applicant; reviewed by staff addressing the concerns expressed by the Council Members including the type of services that are to be provided, hours of operation, traffic, and specifications of the outside play area; and then be presented to the Planning Commission for reconsideration.

Council Member Nguyen requested staff reconsider the restroom requirement coordinating the number required with the purpose for the facility. She sees the Center fitting more inline of a church facility as opposed to an elementary school.

The above-mentioned motion carried by unanimous vote of those present.

RECESS

At 8:58 p.m., the Mayor declared a recess.

RECONVENE

At 9:17 p.m., Mayor Dalton reconvened the City Council meeting with all Council Members present.

AWARD OF CONTRACT TO MANERI SIGN COMPANY, INC., FOR PHASE 1 STREET SIGN REPLACEMENT (F: 55) (XR: 24.1)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the contract for Phase 1 Street Sign Replacement in the amount of \$177,337, be and hereby is awarded to Maneri Sign Company, Inc.; and the City Manager is authorized to execute the agreement.

AGREEMENT WITH THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY FOR THE CITY'S CONTINUED PARTICIPATION IN THE WEATHER BASED IRRIGATION TIMER REBATE PROGRAM (F: 112.5) (XR: 24.12)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and the Municipal Water District of Orange County (MWDOC) for participation in the Weather Based Irrigation Timer Rebate Program not to exceed \$10,194 over two years, be and hereby is approved; the Mayor is authorized to execute the agreement; and the Finance Director is authorized to approve payments to MWDOC.

AMENDMENT TO THE AGREEMENT WITH SCOTT FAZEKAS & ASSOCIATES, INC., FOR PLAN REVIEW SERVICES (F: 55) (XR: 57.1)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the Amendment to the Agreement by and between the City of Garden Grove and Scott Fazekas & Associates, Inc., for plan review services not to exceed \$250,000, be and hereby is approved; and the City Manager is authorized to execute the agreement.

AMENDMENT TO THE AGREEMENT WITH WILLDAN ENGINEERING FOR PLAN REVIEW SERVICES (F: 55) (XR: 57.1)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that Amendment No. 2 to the Agreement by and between the City of Garden Grove and Willdan Engineering, for plan review services not to exceed \$126,100, be and hereby is approved; and the City Manager is authorized to execute the agreement.

ADOPTION OF A NEGATIVE DECLARATION AND A RESOLUTION REQUESTING DISBURSEMENT OF RIGHT-OF-WAY FUNDS FROM THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR THE FAIRVIEW STREET/TRASK AVENUE INTERSECTION IMPROVEMENT PROJECT NO. 7255 (F: 96.PROJ.7255) (XR: 24.11)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the Negative Declaration for the construction of the Fairview Street/Trask Avenue Intersection Improvement Project No. 7255, be and hereby is adopted; and that full reading of Resolution No. 8913-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE REQUESTING THE ORANGE COUNTY TRANSPORTATION AUTHORITY TO ALLOCATE COMBINED TRANSPORTATION PROGRAM FUNDS FOR FAIRVIEW STREET/TRASK AVENUE INTERSECTION IMPROVEMENTS, be and hereby is adopted.

AGREEMENT WITH SAINT ANSELM'S CROSS CULTURAL COMMUNITY CENTER FOR THE SENIOR TRANSPORTATION MOBILITY PROGRAM (F: 55) (XR: 87.8)

Staff report dated July 14, 2009, was introduced.

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the Agreement by and between the City of Garden Grove and St. Anselm's Cross Cultural Community Center to provide senior transportation services for the City of Garden Grove Senior Mobility Program not to exceed \$210,263 for the first year, and renewal up to three years, be and hereby is approved; and the City Manager is authorized to execute the agreement.

MINUTES (F: VAULT)

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that the minutes of the Regular Meetings of the City Council held March 24, 2009, and April 14, 2009, be and hereby are received and filed.

WARRANTS (F: 60.5)

It was moved by Council Member Do, seconded by Council Member Nguyen, and carried by unanimous vote that Regular Warrants 444575 through 446942; and Wires W504 and W515; and Payroll Warrants 162249 through 162459, Direct Deposits D172492 thru D173162, and Wires W1456 thru W1459, 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 Nguyen, and carried by unanimous vote that full reading of all Ordinances listed for consideration of adoption be waived.

PUBLIC HEARING - PROTESTS ON THE SPRING 2009 WEED ABATEMENT INVOICES (F: 113.1) (XR: 46.5)

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

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

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

RESOLUTION NO. 8914-09

It was moved by Council Member Broadwater, seconded by Council Member Jones, and carried by unanimous vote that full reading of Resolution No. 8914-09 be waived, and said Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE CONFIRMING REPORT OF COSTS OF SPRING 2009 WEED ABATEMENT AND DIRECTING THE ORANGE COUNTY AUDITOR-CONTROLLER TO ADD OUTSTANDING ASSESSMENTS TO THE 2009-2010 ASSESSMENT ROLL AS INDICATED BY SAID REPORT, be and hereby is adopted.

PUBLIC HEARING - APPEAL OF CONDITIONAL USE PERMIT NO. CUP-269-09. DAVIS ALEXANDER, OPERATOR OF THE TRUNG TAM GIAO DUC AND LUYEN THI CHILDREN'S LEARNING CENTER APPEALED THREE CONDITIONS APPROVED BY THE PLANNING COMMISSION. THE LEARNING CENTER IS LOCATED AT 12196 BROOKHURST STREET, LOCATED ON THE EAST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE (F: 51.CUP-269-09) (XR: 115.A-149.09) (XR: 57.1)

This matter was considered earlier in the meeting.

PUBLIC HEARING - AMENDMENT NO. A-149-09. A PROPOSED AMENDMENT TO THE BROOKHURST CHAPMAN SPECIFIC PLAN – BROOKHURST CHAPMAN COMMERCIAL ZONE TO ALLOW A CHILDREN'S LEARNING CENTER AT 12196 BROOKHURST STREET, ON THE EAST SIDE OF BROOKHURST STREET, SOUTH OF CHAPMAN AVENUE, SUBJECT TO THE APPROVAL OF A CONDITIONAL USE PERMIT

This matter was considered earlier in the meeting.

REPEAL OF BICYCLE LICENSING REGULATIONS (F: 50.2) (XR: 61.1)

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

ORDINANCE NO. 2752 was introduced for first reading and the title read in full, entitled AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE RELATING TO BICYCLES

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

The current Bicycle Licensing Ordinance is enforced by the Police Department, with the Fire Department issuing the licenses for a three-dollar fee for three years. A bicycle-licensing program assists with locating lost or stolen bicycles. Several years ago, a web based bicycle registration program, the National Bike Registry, was introduced. This program allows owners and police departments to register, locate, and recover lost or stolen bicycles nationwide.

It was moved by Council Member Broadwater, seconded by Council Member Nguyen, and carried by unanimous that Ordinance No. 2752 be and hereby is passed to second reading.

AMENDMENT OF THE BINGO GAME ORDINANCE (F: 50.2)

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

ORDINANCE NO. 2753 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 130 OF CHAPTER 50 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO THE AWARD LIMIT FOR BINGO GAMES

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

It was moved by Mayor Dalton, seconded by Council Member Jones, and carried by unanimous vote that Ordinance No. 2753 be and hereby is passed to second reading.

SECOND READING OF ORDINANCE NO. 2751 (F: 112.7) (XR: 50.2)

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

ORDINANCE NO. 2751 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 CHAPTER 40 OF TITLE 14 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO WATER CONSERVATION PROGRAM

It was moved by Council Member Broadwater, seconded by Council Member Do, and carried by unanimous vote that Ordinance No. 2751 be and hereby is declared adopted.

APPOINTMENT OF A REPRESENTATIVE TO THE ORANGE COUNTY VECTOR CONTROL DISTRICT BOARD OF TRUSTEES (F: 23.20)

It was moved by Council Member Broadwater, seconded by Mayor Dalton, and carried by unanimous vote that Mark Rosen be appointed to the Orange County Vector Control District Board of Trustees to fill the position vacated by the passing of Dr. Sheldon Singer to complete a four-year term ending December 2012, be and hereby is approved.

DISCUSSION OF THE WATER QUALITY REPORT, AS REQUESTED BY COUNCIL MEMBER NGUYEN (F: 112)

Following City Council discussion, Council Member Nguyen requested all matters relating to water rates and conservation be offered on the City's website in Vietnamese and Spanish.

CLARIFICATION OF POLICY AND PROCESS ON LEGAL QUESTIONS FROM COUNCIL MEMBERS, AS REQUESTED BY COUNCIL MEMBER DO (F: 127.3)

Following City Council discussion, it was the consensus of the Council Members that Council Members do not need to receive approval by the City Council before making information requests of staff or of the City Attorney. All Council Members will receive copies of questions and responses. Should requests become excessive and cause a strain on resources, the City Manager is to bring the matter to the City Council at a City Council meeting.

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

In response to Ms. Lambert's inquiry, Council Member Broadwater explained the budget process of redevelopment.

Council Member Nguyen praised the One More Productions' plays presented at the Gem Theater. She encouraged residents to continue to buy in Garden Grove, and requested a copy of the survey questions referenced this evening.

In response to Ms. Bergin's inquiry, Council Member Jones explained purchasing the Leda Lane property and using it for the hotel project would save the City/Agency money on the parking structure.

Mayor Dalton responded to questions about the survey being conducted, and the authority given to the City Manager to authorize such expenditures.

ADJOURN TO CLOSED SESSION

At 9:52 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 LEGAL COUNSEL – EXISTING LITIGATION
Government Code 54956.9(a)
Quiroz v. City of Garden Grove

RECONVENE IN OPEN SESSION

At 9:59 p.m., Mayor Dalton reconvened the meeting in the Council Chamber with all Council Members present.

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

ADJOURNMENT

At 10:01 p.m., the meeting was declared adjourned in memory of Barbara Sulzbach and Leonor Bolle. (F: 46.9)

KATHLEEN BAILOR
CITY CLERK