



MISSION VIEJO MINUTES

City Council, Community Development Agency,
Community Development Financing Authority,
Public Improvement Corporation,
and Library Board of Trustees*

October 6, 2008

A Regular Meeting of the City Council, the Community Development Agency, the Community Development Financing Authority, the Public Improvement Corporation, and the Library Board of Trustees of the City of Mission Viejo, California, was called to order by Mayor Kelley at 5:03 pm, on October 6, 2008, at 200 Civic Center, Mission Viejo, California.

A complete copy of the agenda for the meeting containing all items as shown herein was posted by 5:00 p.m. on October 3, 2008, on the outdoor bulletin board at City Hall. Copies were also posted at the Montanoso Recreation and Fitness Center, 25800 Montanoso Drive, and the Norman P. Murray Community and Senior Center, 24932 Veterans Way.

*All Board and Agency memberships are reflected in the title "Council Member."

Present: Mayor Kelley
Mayor Pro Tem Ury
Council Member Ledesma
Council Member MacLean
Council Member Reavis
Council Member Ledesma (arrived at 5:06 p.m.)

Absent: None

Staff Present: Dennis Wilberg, City Manager
Irwin Bornstein, Assistant City Manager/Director of Admin. Services
William P. Curley III, City Attorney
Karen Hamman, City Clerk

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Ury

INVOCATION: Council Member MacLean

CLOSED SESSION

CS1. Conference with City Attorney Concerning One Matter of Existing Litigation Pursuant to Government Code Section 54956.9(a). The Litigation is City of Mission Viejo v. CUSD, Case No. 00180049; Companion Case, Rancho Santa Margarita v. CUSD, Case No. 00207543.

RECESS TO CLOSED SESSION AND RECONVENE

At the hour of 5:05 p.m., Mayor Kelley recessed the meeting to closed session. The City Council reconvened in open session at 6:03 p.m.

REPORT OF CLOSED SESSION

City Attorney Bill Curley announced that he provided an update on the litigation but there was no reportable action from Closed Session Item CS1.

PRESENTATIONS

P1. Presentation of Community of Character Award to Sharon Campbell

Mayor Kelley presented the Community of Character Award to Capistrano Valley High School PTA President Sharon Campbell.

P2. Proclaim October 5 through October 11, 2008 to be Fire Prevention Week

Mayor Kelley presented the Proclamation to OCFA Division Chief Rick Robinson.

P3. Recognize the Mission Viejo Nadadores on Their 40th Anniversary

Mayor Kelley presented the Proclamation to Mike Lewis, General Manager of the Mission Viejo Nadadores.

P4. Community of Character Award and Certificate of Commendation for Nadadores Coach Bill Rose

Mayor Kelley presented the Community of Character Award to Nadadores Coach Bill Rose and a Certificate of Commendation for being selected as an Olympic Coach in the 2008 Summer Olympics.

Mayor Kelley announced that the City is seeking residents for the "Once-in-a-Lifetime" opportunity to ride on the City's 2009 Rose Parade Float. Director of Recreation and Community Services Kelly Doyle noted that residents can visit the City's website beginning Wednesday, October 8, 2008, to find more information and to submit an entry. Youth residents will be represented in baseball, soccer and softball; adult residents will be represented in golf, tennis, and Veterans. The deadline to submit an entry to ride atop the float is Friday, October 31, 2008. Winners will be randomly selected at the City Council Meeting on Monday, November 3, 2008 at 6:00 p.m. Selected float riders will be introduced at the City Council Meeting on Monday, November 17, 2008.

P5. 2008 Community Opinion Survey

Dr. Timothy McLarney presented the results and methodology of the Resident Satisfaction Study conducted for the City of Mission Viejo by his firm, True North Research.

Motion made by Council Member Ledesma, seconded by Council Member MacLean, to concur with top service needs and priorities identified in the report for staff to use as a basis for developing follow-up action plans.

On roll call, said motion carried by the following vote:

AYES: Kelley, Ledesma, MacLean, Reavis, and Ury
NOES: None
ABSENT: None

PUBLIC COMMENTS

Larry Gilbert, M.V.: questioned the comparison of results between the 2006 and 2008 True North Community Opinion Surveys. Mr. Gilbert challenged Council Member Ury's Candidate Statement whereby he asserts that the Crown Valley Parkway traffic improvements have been completed.

Valerie Maginnis, M.V.: speaking on behalf of the Kiwanis Club of Mission Viejo, thanked the City Council for co-sponsoring their annual fundraising event "The Taste of Saddleback Valley." She also noted that the Mission Viejo Library will begin offering its LiveScan Fingerprinting service beginning on Tuesday, October 14th. More information is available at (949) 470-8420.

Joe Holtzman, M.V.: stated that the Crown Valley Parkway improvements are not complete and Council Member Ury's Candidate Statement is incorrect. He expressed concern with EMF in the community and asked the Council to post signs in City parks to warn residents of high EMF levels.

Cathy Schlicht, M.V.: asked the City Council to remove items 8, 9, and 10 from the Consent Calendar and to vote no until the budget crisis is resolved. Questioned the Council's spending and stated that if she is elected on November 4th, she will allow public participation at the Council Meetings.

Connie Lee, M.V.: announced that a group of residents have filed complaints with the District Attorney, the Grand Jury, and the FPPC alleging that the City of Mission Viejo, City employees, and Council Members used taxpayer funds to interfere with an election to benefit one City Council candidate.

CONSENT CALENDAR

Items 8 and 9 were removed from the Consent Calendar for separate discussion.

Motion made by Council Member Ledesma, seconded by Mayor Pro Tem Ury, to approve the Consent Calendar as described below.

On roll call, said motion carried by the following vote:

AYES: Kelley, Ledesma, MacLean, Reavis and Ury
NOES: None
ABSENT: None

1. Waive Reading of Ordinances and Resolutions

Approved the reading by title of all ordinances and resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

2. City Council Minutes

Approved the Open Session Minutes for the Regular Meeting of September 15, 2008, as presented.

3. Check Register dated September 5, 2008, in the amount of \$895,282.00

Ratified the accompanying check register.

4. Check Register dated September 12, 2008, in the amount of \$1,382,371.42

Ratified the accompanying check register.

5. Check Register dated September 19, 2008, in the amount of \$2,312,302.21

Ratified the accompanying check register.

6. Time-Limit Parking on Obrero Drive

Adopted *Resolution 08-48* to Install Parking Restrictions on Obrero Drive.

7. Site Security Lighting (CIP 300)

Approved the bid specifications and authorized staff to advertise for construction bids for the subject project.

10. Road Closure Request from Trabuco Hills High School Music Booster Club

Approved the Special Events Permit submitted by the Trabuco Hills High School Music Booster Club authorizing the closure of Mustang Run between Los Alisos Boulevard and Aguilar on Saturday, November 15, 2008.

PUBLIC HEARINGS

OLD BUSINESS

11. Animal Services Contract and Memorandum of Understanding with the City of Aliso Viejo

Director of Public Services Keith Rattay presented the staff report and recommended that the Council allow the City Attorney to change the wording in the Memorandum of Understanding to make it a more binding document.

Carmen Cave, City Council Member, Aliso Viejo: expressed support for the MOU as it is currently written and stated that Aliso Viejo is more than willing to pay its fair share of necessary improvements at the Animal Services Center.

Sharon Cody, M.V.: expressed concern with Section 2.2 of the MOU for funding the expansion of the Mission Viejo Cattery which states, in part, that "the parties have determined that it may be necessary to expand and improve certain portions of the Mission Viejo Cattery."

Motion made by Council Member Ledesma, seconded by Council Member Reavis, to (1) approve the Contract with the City of Aliso Viejo (A08-22) to provide annual animal services to the residents of Aliso Viejo. The agreement is subject to final approval by the City Attorney in substantially the same form and the City Manager is authorized to sign the agreement; (2) approved the Memorandum of Understanding with the City of Aliso Viejo pertaining to the expansion of the cattery facility and the Animal Services Center with revisions. The MOU is subject to final approval by the City Attorney in substantially the same form and the City Manager is authorized to sign the final Memorandum of Understanding; (3) adopted **Resolution 08-49** Amending the 2008-09 Budget to Provide Animal Control Services to the City of Aliso Viejo; and (4) approved the proposed revisions to the FY2008-09 Authorized Position Schedule.

On roll call, said motion carried by the following vote:

AYES: Kelley, Ledesma, MacLean, Reavis and Ury
NOES: None
ABSENT: None

12. Development Impact Fee Ordinance

City Attorney Bill Curley presented the staff report and announced that he will return with the first reading of the Development Impact Fee Ordinance at the next City Council Meeting. The ordinance is intended to allow more flexibility for builders and developers by allowing them to pay fees later in the process, and closer to issuance of the Certificate of Occupancy.

NEW BUSINESS

ITEMS REMOVED FROM THE CONSENT CALENDAR

8. Montanoso Locker Rooms Renovation Project

Director of Recreation and Community Services Kelly Doyle presented the staff report.

Motion made by Mayor Pro Tem Ury, seconded by Council Member Ledesma, to approve issuing a purchase order for design services with RJM Design Group, Inc. in the amount of \$79,800 for the Montanoso Locker Rooms Renovation Project

On roll call, said motion carried by the following vote:

AYES: Kelley, Ledesma, MacLean and Ury
NOES: Reavis
ABSENT: None

9. **Montanoso and Sierra Recreation Centers Tennis Court Lights Replacement Project (CIP #316)**

Director of Recreation and Community Services Kelly Doyle presented the staff report.

Motion made by Council Member Ledesma, seconded by Mayor Pro Tem Ury, to approve entering into a contract agreement for the Montanoso and Sierra Recreation Centers Tennis Court Lights replacement project (CIP #316) with Ace Electric, Inc in the amount of \$168,400.

On roll call, said motion carried by the following vote:

AYES: Kelley, Ledesma, MacLean and Ury
NOES: Reavis
ABSENT: None

RECESS

At the hour of 8:01 p.m., Mayor Kelley declared a recess. The City Council reconvened at 8:13 p.m. with all five City Council Members present.

MAYOR'S, COMMISSION, AND COMMITTEE REPORTS

13. **Investment Advisory Commission Report Regarding the Evaluation of New Proposal for the Sale of Certain Cell Site Leases**

Assistant City Manager/Director of Administrative Services Irwin Bornstein presented the staff report and outlined the work that staff has undertaken over the past seven weeks to obtain a revised offer that focuses on selling those leases that present the highest risk of termination. Mr. Bornstein also discussed the results of the recent special meeting of the Investment Advisory Commission and stated that staff does not have a recommended action at this time.

The following spoke in opposition to the sale of cell site leases as outlined in the ATS offer: Larry Gilbert, M.V.; Cathy Schlicht, M.V.; Haya Sakadjian, Laguna Niguel; and Deril Schmitt, M.V.

Jay Standish, Chairman of the Investment Advisory Commission, M.V.: stated that the

Commission voted on this matter two days ago and both motions did not pass. One motion was in favor of the agreement and one was in favor of rejecting the offer to buy the leases, even in the revised form. There were only four Commissioners present at the meeting and both motions failed with a vote of 2-2.

Tony Ingegneri, ATS Communications: discussed the process for identifying which cell site leases carry the most risk.

Motion made by Mayor Pro Tem Ury, seconded by Mayor Kelley, to (1) approve staff's recommendation of October 2, 2008, to the Investment Advisory Commission to sell eight of the City's 22 cell site leases to Communications Capital Group (CCG) and to accept ATS Communications' offer to cap their commission on the eight leases at \$200,000, and (2) continue the negotiation and authorize the City Attorney to present a counter offer to CCG with the intent of protecting the City, and return to the City Council with something very near to the current proposal.

On roll call, said motion carried by the following vote:

AYES: Kelley, MacLean and Ury
NOES: Ledesma and Reavis
ABSENT: None

14. Orange County Fire Authority (OCFA) Report

Received the report from Mayor Kelley.

15. Foothill/Eastern Transportation Corridor Agency Report

Received the report from Council Member MacLean.

16. San Joaquin Hills Transportation Corridor Agency Report

Council Member Ledesma stated that there has not been a recent meeting of the San Joaquin Hills TCA.

17. Vector Control Board Report

Received the report from Council Member Reavis.

STAFF REPORTS

City Manager's Report

18. Alicia Park Parking Lot

This item was continued to the next City Council Meeting.

City Attorney's Report

19. Update on Joint Representation/Cost Sharing Agreement with the City of Rancho Santa Margarita and Update on CUSD Performing Arts Center

City Attorney Bill Curley provided an update on actions taken at the Special Meeting of September 30, 2008 with respect to the Mission Viejo and Rancho Santa Margarita lawsuits against CUSD regarding school busing. He noted that on September 30th, the Council also took action to send a letter in support of a Performing Arts Center at Capistrano Valley High School.

20. Consideration of Introduction of Ordinance, City Council Salary Amendment Pursuant to Statute

City Attorney Bill Curley presented the staff report and reviewed the survey results for Council Member stipends in other Orange County cities.

Council Member Ledesma departed the meeting at 10:16 p.m. and returned at 10:19 p.m.

Cathy Schlicht, M.V.: asked each City Council Member to publicly disclose their place of employment before voting on this item.

Motion made by Mayor Kelley, seconded by Mayor Pro Tem Ury, to introduce *Ordinance 08-272*, Amending Section 2.04.050 of the Mission Viejo Municipal Code.

Substitute Motion made by Council Member Reavis to make the stipend increase 5% per year and making it retroactive. The substitute motion died for lack of a second.

On roll call, said motion carried by the following vote:

AYES:	Kelley, Ledesma, MacLean and Ury
NOES:	Reavis
ABSENT:	None

COUNCIL MEMBER COMMENTS

21. Council Member Reports of Events and Activities Attended

The City Council Members acknowledged their event and activities calendars as presented in the staff report and agreed to provide any changes to the City Clerk for the public record.

Council Member Ledesma

Council Member MacLean

Council Member Reavis

Council Member Reavis stated that she would be willing to eliminate discussion of her agenda items if she can get a commitment from the City Manager to answer her questions this week.

22. CUSD, 87-1 and Options for Financing Performing Arts Theater

This item was addressed during the discussion for item #19.

23. Mission Viejo Community Foundation

City Manager Wilberg stated that he will ask staff to provide a memo to the City Council with an update on the Mission Viejo Community Foundation.

24. Item removed at the request of Council Member Reavis

This item was not addressed.

25. City Council Retiree Healthcare and Compensation

This item was not addressed.

26. Employee Retirement and Financial Obligations with Respect to the Recent Financial Meltdown on Wall Street

City Manager Wilberg indicated that the Finance Department will provide the City Council Members with a report on the City's financial situation with respect to all savings, bonds, holdings, and retiree obligations.

Mayor Pro Tem Ury


Mayor Kelley

Mayor Kelley congratulated the City Council and City staff for a 99% resident approval rating as shown by the Community Survey results. She outlined her attendance at recent meetings and events, including the League of California Cities Conference, the California Alliance for Arts Education meeting, the Orange County Car Dealership event and the Taste of Saddleback Valley. She commended staff member Dru Maurer who is known throughout the County for her work and expertise in the arts and Mayor Kelley stated that Dru is an asset to the City of Mission Viejo. She also thanked Matt Gunderson, Mission Viejo Audi and Infiniti owner and President of the Orange County Car Dealerships. Their recent event raised over \$80,000 for Children's Hospital of Orange County (CHOC) and

Mayor Kelley stated that it is great to see business partners working to make our City and community a better place. Reminded residents that the Walk Against Drugs will be held on Saturday, October 18, 2008, beginning at 8:00 a.m. at Mission Viejo High School. Also, the same day, the City's adopted Marines will hold a car wash in the civic center parking lot from noon to 4:00 p.m.

ADJOURNMENT

At the hour of 11:08 p.m., there being no further business to come before the City Council at this session, Mayor Kelley adjourned the meeting in memory of James Allen Fornwalt to Monday, October 20, 2008, at 5:00 p.m.



Karen Hamman, City Clerk

Approved at the meeting of October 20, 2008