

## MINUTES OF THE CITY COUNCIL

Moorpark, CaliforniaOctober 1 2008

A Regular Meeting of the City Council of the City of Moorpark was held on October 1, 2008, in the Council Chambers of said City located at 799 Moorpark Avenue, Moorpark, California.

## 1. CALL TO ORDER:

Mayor Hunter called the meeting to order at 7:27 p.m.

## 2. PLEDGE OF ALLEGIANCE:

Barry Hogan, Deputy City Manager, led the Pledge of Allegiance.

## 3. ROLL CALL:

Present: Councilmembers Mikos, Millhouse, Parvin, Van Dam, and Mayor Hunter.

Staff Present: Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Barry Hogan, Deputy City Manager; Mary Lindley, Parks/Recreation and Community Services Director; Yugal Lall, City Engineer/Public Works Director; David Bobardt, Planning Director; David Moe, Redevelopment Manager; Sergeant Paul Higgason, Sheriff's Department; Deborah Traffenstedt, Administrative Services Director/City Clerk; and Maureen Benson, Assistant City Clerk.

## 4. PROCLAMATIONS AND COMMENDATIONS:

None.

## 5. PUBLIC COMMENT:

Laura Rojas and family thanked the City Council for their opportunity to have a home here in Moorpark through the First Time Homebuyer Program. Mr. Rojas serenaded the audience with a song in honor of his new home.

Sandra Gutierrez thanked the City Council for the opportunity to move into a beautiful home because of the First Time Homebuyer Program.

AT THIS POINT in the meeting, the City Council recessed to convene a meeting of the Moorpark Redevelopment Agency. The time was 7:33 p.m. The City Council meeting reconvened at 7:34 p.m.

6. REORDERING OF, AND ADDITIONS TO, THE AGENDA:

CONSENSUS: It was the consensus of the Council to pull Item 10.A. and 10.B. from the Consent Calendar for individual consideration upon the request of Mayor Hunter.

CONSENSUS: It was the consensus of the Council to pull Item 10.D. from the Consent Calendar for individual consideration upon the request of Councilmember Millhouse.

7. ANNOUNCEMENTS, FUTURE AGENDA ITEMS, AND REPORTS ON MEETINGS/CONFERENCES ATTENDED BY COUNCILMEMBERS AND MAYOR:

Councilmember Mikos reported she had attended the League of California Cities Conference in Long Beach on September 24-27 where she participated in meeting sessions on solar power, solar energy, green building, and the arts; and that she attended a lecture by Doris Kearns Goodwin regarding her new book about Abraham Lincoln, which contains 10 points of leadership.

Councilmember Mikos reported on October 1st, she had attended the Seventh Annual Ventura County Housing Conference held at California Lutheran University where discussion included the current economic situation; green building; housing trust fund possibilities; and a new emphasis on renaming "affordable housing" as "housing that can be affordable to all".

Councilmember Parvin reported on attending the League of California Cities Annual Conference in Long Beach on September 24-27 where she listened to Governor Arnold Schwarzenegger speak about the economic challenges for the State.

Mayor Hunter announced Moorpark residents are invited to the groundbreaking ceremony for Mammoth Highlands Park on Wednesday, October 8th at the park site on Elk Run Way in the Moorpark Highlands development. The park will become the City's 17th park once completed.

Mayor Hunter announced the Moorpark Chamber of Commerce and the City of Moorpark are holding a mixer at Arroyo Vista on October 7th

8. PUBLIC HEARINGS:

None.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider Presentation by Barbara Wolfe, Moorpark City Librarian, Regarding "Ordinary Can Be Extraordinary" Teen Photography Project.

Ms. Wolfe gave a presentation on the teen photography project, "Ordinary Can Be Extraordinary" and Ms. Lindley presented Certificates of

Accomplishment to teen participants Spencer Anderson, Elyse Bianchi, Lizzy Cortez, Jonathan Gavino, Amy Harburg, Ryan Lasure, Malik Little, Peter Mazzeo, Tanya Puccio, Nikki Snook, and Anthony Sulpizio.

- B. Consider Resolution Approving the Use of Standard Conditions of Approval for Entitlement Projects. (continued from September 17, 2008)  
Staff Recommendation: Remove from the calendar and reschedule when adjustments have been completed.

Mr. Hogan requested this item be removed from the calendar to allow staff time to complete adjustments to the conditions.

In response to Mayor Hunter, Ms. Traffenstedt stated there were no speakers.

CONSENSUS: It was the consensus of the Council to remove this item from the calendar to be rescheduled when adjustments to the conditions have been completed.

- C. Consider Introduction and Adoption of an Ordinance to Repeal Moorpark Municipal Code Section 2.04.050 Entitled, "Filling of Vacancies". Staff Recommendation: Direct staff as deemed appropriate.

Mr. Montes gave the staff report and commented on additional information provided to Council under separate cover.

Chris Evans, a Moorpark resident, spoke in opposition to repealing Municipal Code Section 2.04.050 in order to allow the voters to make the choice for representation without a referendum and asked Council to appoint someone to fill the vacancy until a Special Election.

Dave Tuttle, Moorpark resident, spoke in favor of repealing Municipal Code Section 2.04.050, due to the financial crisis of the times; and stated any decision should be based on frugality and an appointment should be made.

Bernardo Perez, a Moorpark resident, spoke in opposition to repealing Municipal Code Section 2.04.050; and stated this process was followed when he was appointed to fill a vacancy on the Council and subsequently ran for office in a Special Election. He further stated there is no reason to change and there has not been enough public discussion of this matter including budget impacts.

Linda Shishino-Cruz, a Moorpark resident, spoke in opposition to repealing Municipal Code Section 2.04.050; and stated everyone has a right to vote. She offered to collect signatures to make this a referendum.

Philip Frank, a Moorpark resident, spoke in opposition to repealing Municipal Code Section 2.04.050 citing the lack of participation as represented by the limited number of speakers on this item. He cautioned fiscal responsibility and recommended consideration of the third highest candidate from the November 4th election to fill the vacancy.

MOTION: Councilmember Mikos moved and Mayor Hunter seconded a motion to retain Ordinance No. 77 (Municipal Code Section 2.04.050), which requires an election after an interim appointment to fill a vacancy.

Mayor Hunter stated for the record, a price cannot be placed on the public's right to vote; funding for a Special Election could come out of the General Fund Reserve; appointing the candidate with the third highest number of votes from the November 4 election is not an option as the voters may only cast two votes in that election and are not voting to fill the empty seat; the voters did not elect him to give him the right to pick colleagues, and that responsibility belongs to the voters.

Councilmember Mikos stated there has not been a full vetting process for the public to consider all the options, and she is still in favor of having a Special Election. She recommended, if her motion fails and the Ordinance is repealed, procedures for appointment to fill vacancies or allow the third runner-up to be seated, should be established to allow the public time to study this before they vote in November.

The motion was defeated by voice vote 2-3, Councilmembers Millhouse, Parvin and Van Dam dissenting.

Councilmember Van Dam stated: 1) Council was elected to make decisions and this is one; 2) Other cities have been successful in making appointments to fill vacancies; and 3) A clear and open process is needed.

MOTION: Councilmember Millhouse moved and Councilmember Van Dam seconded a motion to direct the City Attorney to read the title of the ordinance waive full reading, and declare the ordinance repealing Moorpark Municipal Code Section 2.04.050 Entitled, "Filling of Vacancies" read for the first time, and direct that when this October 1, 2008, meeting is adjourned it be adjourned to October 7, 2008 or later at a specified time as a regular adjourned regular meeting and that the second reading of this ordinance be continued to that regular adjourned meeting for consideration by the City Council.

Councilmember Mikos asked the maker of the motion, Councilmember Millhouse, if he would be interested in including in his motion that a specific process for appointment would need to be debated and decided upon before the November 4, 2008 election so that the public would know what that process would be before they voted.

Councilmember Millhouse questioned whether, procedurally there is enough time for that and that all this new ordinance does is give a future Council in December with four seated members, the ability to decide whether to proceed with an election or go through an appointment process.

Councilmember Parvin stated both Simi Valley and Thousand Oaks have had successful appointments to fill vacancies, this is not an affront to democracy, times are tough, dipping into the reserves is not conservative, and the City could need those funds for another fire, flood or other emergency.

Mr. Montes read the title of Ordinance No. 372.

Councilmember Van Dam as the second on the motion asked Councilmember Millhouse, the maker of the motion to include a process that is open and available for the public to review in the motion.

Mr. Montes stated if the appointment process being considered is to become part of the ordinance, the ordinance would have to be continued to be rewritten. If a separate motion is made regarding developing a process then the ordinance may move forward.

Mr. Kueny recommended the appointment process be considered by the newly organized Council at the first regular meeting in December. Mayor Hunter stated the County of Orange recently went through an appointment process for a new Sheriff, which was transparent and well received by the public.

Councilmember Van Dam withdrew his suggestion to add the process to the motion.

The motion carried by voice vote 3-2, Councilmember Mikos and Mayor Hunter dissenting.

Councilmember Mikos stated for the record that she voted no as it is inappropriate to potentially take away the power of the citizens of the City to vote for an open Council seat.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

**MOTION:** Councilmember Mikos moved and Councilmember Parvin seconded a motion to approve the Consent Calendar with the exception of Items 10.A, 10.B, and 10.D, which were pulled for individual consideration. The motion carried by unanimous roll call vote.

- C. Consider Warrant Register for Fiscal Year 2008-2009 – October 1, 2008.  
Staff Recommendation: Approve the warrant register.

- E. Consider Rejection of Claim from: Carla Rodriguez. Staff Recommendation: Reject the claim and direct staff to send a standard rejection letter to the claimant.
- F. Consider Waiving Contractor Pre-Qualification Policy for the Ruben Castro Human Services Center. Staff Recommendation: Authorize the City Manager to waive the requirements of the Contractor Pre-Qualification Policy (No. 15) for the Ruben Castro Human Services Center.
- G. Consider Resolution Amending the Fiscal Year 2008/09 Budget to Purchase a Submersible Water Pump for Arroyo Vista Community Park. Staff Recommendation: Adopt Resolution No. 2008-\_\_\_\_. ROLL CALL VOTE REQUIRED

The following items were pulled for individual consideration.

- A. Consider Minutes of Special Meeting of September 17, 2008. Staff Recommendation: Approve the minutes.
- B. Consider Minutes of Regular Meeting of September 17, 2008. Staff Recommendation: Approve the minutes.

Mayor Hunter stated he would abstain from voting on these minutes due to his absence from the September 17, 2008 meeting.

MOTION: Councilmember Mikos moved and Councilmember Parvin seconded a motion to approve the Special Meeting minutes of September 17, 2008 and the Regular Meeting Minutes of September 17, 2008. The motion carried by voice vote 4-0, Mayor Hunter abstaining.

- D. Consider Status Update on the Amended Implementation Plan for Improvements Associated with Tract Nos. 5187-1&2 and 5045, the Meridian Hills Residential Development Project, on the Application of Resmark Equity Partners, LLC, (ORA Ashford 94, LLC). Staff Recommendation: Receive and file the report.

Mr. Millhouse stated he pulled this item as the landscaping situation in Meridian Hills has not improved. He requested staff set up a Council ad hoc committee meeting with Resmark Equity Partners.

David Tuttle, a Meridian Hills resident, spoke about continuing issues with landscaping, irrigation system, bridal path, and litigation between Mr. Peters and William Lyon Homes regarding an easement.

Philip Frank, a Meridian Hills resident questioned the credibility of the developer in remedying the situation and stated the uncapped streets and unfinished curbs still remain a safety hazard.

Mr. Kueny stated staff would bring this item back at the November 5 meeting.

CONSENSUS: It was the consensus of the Council for the Ad Hoc Committee to meet with Resmark and to bring this item back for the November 5, 2008 meeting.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

- A. Consider Ordinance No. 371 Approving Zone Change No. 2008-01: Replacement of the Existing Zoning Map with an Electronic Digital Version Using the City's Geographic Information Systems (GIS) Database. Staff Recommendation: Waive full reading and declare Ordinance No. 371 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

Mr. Montes read the title of Ordinance No. 371.

MOTION: Councilmember Parvin moved and Councilmember Van Dam seconded a motion to waive full reading and declare Ordinance no. 371 read for the second time and adopted as read. The motion carried by roll call vote 4-0, Mayor Hunter abstaining.

12. CLOSED SESSION:

None was held.

13. ADJOURNMENT:

MOTION: Mayor Hunter moved and Councilmember Millhouse seconded a motion to adjourn to a regular adjourned meeting on Wednesday, October 8, 2008, at 7:00 p.m. to consider Item 9.C. The motion carried by unanimous voice vote. The time was 8:43 p.m.

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Patrick Hunter, Mayor

ATTEST:

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Maureen Benson, Assistant City Clerk