

MINUTES OF THE CITY COUNCIL

Moorpark, California

December 15, 2010

A Regular Meeting of the City Council of the City of Moorpark was held on December 15, 2010, in the Council Chambers of said City located at 799 Moorpark Avenue, Moorpark, California.

1. CALL TO ORDER:

Mayor Parvin called the meeting to order at 7:23 p.m.

2. PLEDGE OF ALLEGIANCE:

California Highway Patrol Captain, Cliff Williams, led the Pledge of Allegiance.

3. ROLL CALL:

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

Staff Present: Steven Kueny, City Manager; Greg Murphy, Assistant City Attorney; Attorney; Hugh Riley, Assistant City Manager; Deborah Traffenstedt, Deputy City Manager; David Bobardt, Community Development Director; Ron Ahlers, Finance Director; David Klotzle, Interim City Engineer/Public Works Director; Joseph Vacca, Principal Planner; Captain Ron Nelson, Sheriff's Department; and Maureen Benson, City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

A. City Clerk Administers Oath of Office to Councilmember David Pollock.

Ms. Benson administered the oath of office to Councilmember David Pollock.

B. Comments from Newly Seated Councilmember Pollock.

Councilmember Pollock extended his gratitude to the community for their support in the election and stated he looks forward to the next four years of service.

C. Nomination and Selection of Mayor Pro Tempore.

MOTION: Mayor Pro Tempore Mikos moved and Councilmember Van Dam seconded a motion to nominate Councilmember Millhouse to serve as Mayor Pro Tempore. The motion carried by unanimous voice vote.

- D. Presentation to Captain Cliff Williams upon the Occasion of His Retirement from the California Highway Patrol After 29-Years of Service.

Mayor Parvin presented Captain Cliff Williams with the City's engraved crystal plaque upon the occasion of his retirement from the California Highway Patrol after 29-years of services.

5. PUBLIC COMMENT:

None.

AT THIS POINT in the meeting, the City Council recessed to convene a meeting of the Moorpark Redevelopment Agency. The time was 7:31 p.m. The City Council meeting reconvened at 7:36 p.m.

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

None.

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

Councilmember Pollock stated he had missed the December 1st meeting due to a professional business obligation that required him to be in San Francisco.

Councilmember Pollock stated he had attended the League of California Cities meeting at the Ventura County Museum where council members from cities in Ventura, Santa Barbara and San Luis Obispo counties were in attendance.

Councilmember Pollock stated he had attended the swearing-in ceremony for Moorpark Unified School Board members Ron LaGuardia and Nathan Sweet.

Councilmember Mikos stated she too had attended the League of Cities event held at the Ventura County Museum.

Councilmember Mikos announced the January 20th meeting of the Economic Development Collaborative of Ventura County and the Ventura County Economic Development Association which will focus on entrepreneurship.

Mayor Parvin announced the Metrolink Holiday Express will arrive in Moorpark on Sunday, December 19th bringing Santa Claus and Mrs. Clause to Moorpark. The Moorpark High School Saxophone Quartet and Merry Minstrels will provide holiday music throughout the evening. Also on site will be the Firefighters' Spark of Love Toy Drive.

Mayor Parvin stated she had attended a Moorpark Hanukah Celebration as well as the December 5th Whistle Stop tour of Metrolink's new coaches.

Mayor Parvin announced on December 10th she attended the Moorpark Boys and Girls Club 25th Anniversary Recognition Dinner.

Mayor Parvin announced on December 11th she attended the League of California Cities Channel Counties Division Board meeting in Ventura.

8. PUBLIC HEARINGS:

- A. Consider Resolution Denying Appeal No. 2010-01 and Approving Conditional Use Permit No. 2010-07 (Hakam Barakat, Applicant) to Allow Sale of Beer and Wine for Off-site Consumption from an Existing Market at 496 Moorpark Avenue (Moorpark General Store), on the Appeal of Teresa Cortes. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Adopt Resolution No. 2010-2984, denying Appeal No. 2010-01 and approving Conditional Use Permit No. 2010-07.

Mr. Bobardt gave the staff report.

A discussion followed among the Councilmembers and staff concerning: 1) The square footage, number of cabinets, and location of the liquor on site as compared to other local stores; 2) Compliance with the Police Department's request for additional camera surveillance; 3) Permit renewals providing the opportunity to review and condition placement of liquor in stores, increased lighting and camera requirements for older store locations that sell liquor; and 4) Alcohol Beverage Control requirements and local agency determination for alcohol sales permits.

Mayor Parvin opened the public hearing.

Hakam Barakat, applicant of CUP 2010-07, 496 Moorpark Avenue, Moorpark, California, provided background information on the history of the improvements in services and renovations to the Moorpark General Store and his desire to offer the community the products and services they have requested and stated he had collected 672 signatures from customers in support of the CUP.

James Allen, counsel to the applicant Hakam Barakat, Allen Law Corporation, 275 E. Thousand Oaks Boulevard, Suite 105, Thousand Oaks, California, stated the Planning Commission held a thorough public hearing and after considering public testimony found in favor of the CUP. He stated this is an application to sell beer and wine; it is consistent with the use; and proper conditions have been imposed.

Stephen Jamieson, counsel for the appellant, Teresa Cortes, spoke in opposition to the CUP as a land use issue inconsistent with the General Plan and the fact that Council does not have the evidence before them tonight to make a decision. He provided signatures from 264 households opposed to the CUP and mentioned 55 previously provided protests filed with the Alcohol Beverage Control. Mr. Allen cited concerns over a potential increase in the crime rate and an over concentration of alcohol sales in this area if the CUP is approved.

Teresa Cortes, appellant, 12425 Villa Campesina Avenue, Moorpark, California, spoke in opposition to CUP as it over concentrates alcohol sales in the downtown area.

Jorge Espinoza, Principal of the Community High School in Moorpark, spoke in opposition to the CUP and stated this area of town as being over concentrated with alcohol sales and increased crime. He cited the number of children and families he works with concerning the abuse of alcohol.

Miriam Ramos, a Moorpark resident, spoke in opposition to the CUP stating her concern over impacts to the safety of children playing in the area.

Juanita Perez, a Simi Valley resident, spoke in opposition to the CUP and cited her own personal experiences with alcohol abuse within her family.

Jazmine Mendoza, a 7th grade student at Chaparral Middle School, spoke in opposition to the CUP expressing fear of walking to and from school in the presence of intoxicated people.

Jenni Martinez, a student at Mesa Verde Middle School, spoke in opposition to the CUP, citing the detrimental effects of more beer in the community.

Rudy Guevara, a Moorpark resident, spoke in support of the CUP and stated Mr. Barakat's clientele is very loyal to him.

Steve Lousen, a Moorpark resident, spoke in support of the CUP and stated the objections stem from fear of competition rather than over concentration of alcohol sales.

Patrick Ellis, President and CEO of the Moorpark Chamber of Commerce, spoke in support of the CUP, citing the many services Mr. Barakat has supplied in his market at the request of the community; his compliance with the Police Department and staff conditions, and the market providing an alternative to having to cross the very busy and dangerous Moorpark Avenue to buy beer or wine elsewhere.

Rick Wilson, a Moorpark resident, spoke in support of the CUP, citing Mr. Barakat's professional operation of his business.

Abel Aguilera, a Moorpark resident and manager of the Moorpark General Store, spoke in support of the CUP and cited Mr. Barakat's positive relationship with customers.

Sandy Sanders, a Moorpark resident, spoke in support of the CUP and Mr. Barakat.

Tania De Hoh, a Moorpark business owner, spoke in support of the CUP and Mr. Barakat and stated this is a business decision to expand services to the community.

Kevin Jackson, a Moorpark consumer, spoke in support of the CUP and stated Mr. Barakat can still run a safe business while selling beer and wine.

Stephen Jamieson, counsel to the appellant, Teresa Cortes, spoke in rebuttal to public comments citing the speakers in favor of the CUP spoke about personal traits of Mr. Barakat, but not the land use issues.

James Allen, counsel to the applicant Hakam Barakat, spoke in rebuttal to public comments stating staff has performed an in-depth report to all objections; no state law prohibits the issuance of a license to Mr. Barakat's store, every other grocery store in the city sells beer and wine, and not having to cross Moorpark Avenue to purchase beer and wine is convenient to customers.

A discussion followed among the Councilmembers and staff concerning: 1) Addressing alcohol abuse and higher crime in this area of the City as a subject of concern separate from this Appeal; 2) Keeping alcohol out of the reach of youth is the purpose of some of the project conditions; 3) Bringing other locations licensed under less strenuous rules into compliance as permits are renewed; 4) Selling beer and wine is an allowable use with a CUP in this location and is consistent with the General Plan and Zoning Ordinance; 5) Other businesses in the area have similar uses; 6) This census tract area contains approximately half of all commercially developed land in Moorpark; 7) The Moorpark General Store is in the C1 Neighborhood Commercial Zone; and 8) The sale of beer and wine is only 3% of the floor area of the store and is ancillary to the major use of the store.

Mayor Parvin closed the public hearing.

AT THIS POINT in the meeting a recess was declared. The time was 10:00 p.m. The Council meeting reconvened at 10:12 p.m.

A discussion followed among the Councilmembers concerning: 1) Renewed concerns over alcohol abuse and domestic violence alluded to by speakers and opportunities to offer assistance are separate from this CUP; 2) The Moorpark General Store is a convenience store to which most patrons walk, making not having to cross Moorpark Avenue a benefit; 3) Conditions applied to this permit including lighting, hours of operation, security, and prohibition of outdoor advertising are more stringent than those applicable to existing businesses; and if any of these conditions are violated the CUP will be revoked; and 4) The CUP meets the findings outlined in the Sections 2 and 3 of the proposed resolution.

MOTION: Councilmember Millhouse moved and Councilmember Van Dam seconded a motion to adopt Resolution No. 2010-2984, denying Appeal No. 2010-01 and approving Conditional Use Permit No. 2010-07. The motion carried by unanimous voice vote.

CONSENSUS: It was the consensus of the Council to hear Item 9.A. next on the agenda upon the request of Councilmember Millhouse.

AT THIS POINT in the meeting Item 9.A. was heard.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider Presentations from Applicants for Planning Commission. Staff Recommendation: Hear presentations from applicants and defer appointment until the January 5, 2011 regular meeting, following the remaining applicant presentation.

Mayor Parvin called the Planning Commission applicants to give their presentations in the order their names were drawn by the City Clerk prior to the start of the meeting.

The Council listened to presentations and conducted interviews of the Planning Commission applicants in the following order:

Mary Ann Hansen
Bruce Hamous
Daniel Groff
Mark Taillon
Kipp Landis
Diana Gould
Mark DiCecco

In response to Councilmember Millhouse, Ms. Benson stated Planning Commission applicant, Michael Lillis had contacted staff earlier in the week to indicate he would need to attend the January 5, 2011 meeting to give his presentation.

CONSENSUS: It was the consensus of the Council to defer appointments to the Planning Commission until the January 5, 2011 regular meeting, following the remaining applicants' presentations.

AT THIS POINT in the meeting the Council returned to the agenda as written with Item 8.B.

8. PUBLIC HEARINGS:

- B. Consider Ordinance No. 395 Amending Title 15 of the Moorpark Municipal Code by Replacing Chapters 15.04, 15.08, 15.12, 15.14, 15.16, 15.18, 15.20, and 15.22 and Section 15.28.060 in their Entirety and by Adding Chapter 15.10 as Well as Adopting by Reference and Amending the Current Editions of Certain Model Codes. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; 2) Waive full reading and declare Ordinance No. 395 read for the second time and adopted as read; and 3) Direct staff to send the changes to the Code to the California Building Standards Commission. ROLL CALL VOTE REQUIRED

Mr. Bobardt gave the staff report.

Mayor Parvin opened the public hearing.

There were no speakers.

Mayor Parvin closed the public hearing.

Mr. Murphy read the title of Ordinance No. 395.

MOTION: Councilmember Millhouse moved and Councilmember VanDam seconded a motion to: 1) Waive full reading and declare Ordinance No. 395 read for the second time and adopted as read; and 2) Direct staff to send the changes to the Code to the California Building Standards Commission. The motion carried by unanimous roll call vote.

- C. Consider Ordinance Approving Zoning Ordinance Amendment 2007-01 to Amend Chapter 17.20 (Uses by Zone) and Chapter 17.42 (Wireless Communications Facilities) to Update the Review Process and Ensure Consistency with Changes in State Law Regarding the Regulation of Wireless Communications Facilities. Staff Recommendation: 1) Open the public hearing; accept public testimony, and close the public hearing; and

2) Introduce Ordinance No. 396 for first reading, waive full reading, and schedule second reading and adoption for January 5, 2011.

Mr. Vacca gave the staff report.

Mayor Parvin opened the public hearing.

There were no speakers.

Mayor Parvin closed the public hearing.

Mr. Murphy read the title of Ordinance No. 396.

MOTION: Councilmember Millhouse moved and Councilmember Pollock seconded a motion to introduce Ordinance No. 396 for first reading, waive full reading, and schedule second reading and adoption for January 5, 2011. The motion carried by unanimous roll call vote.

9. PRESENTATION/ACTION/DISCUSSION:

B. Consider Update on Request for Letter of Map Revision (LOMR) to Federal Emergency Management Agency (FEMA) for the 2010 Digital Flood Insurance Rate Map (DFIRM). Staff Recommendation: Direct staff to schedule a public meeting within thirty days of the LOMR approval to discuss the final outcome of the LOMR and its effects on property owners regarding flood insurance requirements.

Mr. Klotzle gave the staff report and corrected stamped page 115 of the agenda report in the 4th full paragraph to be to 507 rather than 570 of the removed structures located north of Los Angeles Avenue and west of Spring Road; and in the 5th full paragraph corrected the number of residential and commercial structures expected to remain in the 100-year floodplain to be 433 not 370. He introduced the City's consultant, Massoud Rezakhani of MR Consulting, LLC, who responded to Council questions.

There were no speakers.

In response to Council questions, Mr. Klotzle stated staff would return to Council with a report within 30 days from FEMA's approval.

CONSENSUS: It was the consensus of the Council to direct staff to schedule a public meeting within thirty days of the LOMR approval to discuss the final outcome of the LOMR and its effects on property owners regarding flood insurance requirements.

- C. Consider Ad Hoc Committee Recommendation on Development Agreement No. 2009-02 with Los Angeles Avenue, LLC for Approximately 44.467 Acres North of Los Angeles Avenue and West of Gabbert Road. Staff Recommendation: Direct staff to set and advertise public hearings before the Planning Commission and City Council for consideration of the development agreement, concurrent with other related entitlements.

Mr. Bobardt gave the staff report and made corrections to stamped pages of the agenda report:

Section 5.4 – Term of Subsequent Approvals on stamped page 128

Change “term may be extended by the decision maker for two (2) additional one (1) year periods” to “term may be extended by the decision maker for four (4) additional one (1) year periods” so the entitlements could be valid for a total of five (5) years; and

Section 5.7 – Moratorium on Development on stamped page 129; and
Staff is recommending deletion of this provision; and

Section 6.4 – Development Agreements on stamped page 130

Correct the formula for Fee Per Square Foot of Building Area to be \$29,700.00 per gross acre rather than \$44,325.00

(Project Acres as Determined per Section 7.7) x \$29,700.00/Acre
559,450 Square Feet of Building Area; and

Section 6.12 – Development Agreements on stamped page 132

Change reference to subsection 6.25 in the seventh line to read subsection 6.24; and

Section 7.10 – City Agreements on stamped page 137

Add the following language after the word “road” in the third line to read “from North Hills Parkway parallel with Los Angeles Avenue to serve properties to the west”; and staff would want to add language indicating “To the extent provided by law, the City would provide for reimbursement for the extension of said road beyond the western property line”.

There were no speakers.

MOTION: Councilmember Pollock moved and Mayor Parvin seconded a motion to direct staff to set and advertise public hearings before Planning Commission and City Council for consideration of the development agreement, as amended on stamped pages 128, 129, 130, 132, and 137 of the agenda report, concurrent with other related entitlements. The motion carried by unanimous voice vote.

- D. Consider Resolution Ratifying Ventura County Fire Protection District Ordinance No. 27 Section 610 and Appendix L, Pertaining to Building

Standards for Application within the Jurisdictional Boundaries of the City of Moorpark and Rescinding Resolution No. 2007-2665. Staff Recommendation: 1) Adopt Resolution No. 2010-2985, rescinding Resolution No. 2007-2665; and 2) Direct the Building Official to file a copy of the findings of the Ventura County Fire Protection District together with a copy of Section 610 and Appendix L of Ordinance 27 to the California Department of Housing and Community Development and California Building Standards Commission.

Mr. Bobardt gave the staff report.

There were no speakers.

MOTION: Councilmember Millhouse moved and Councilmember Mikos seconded a motion to: 1) Adopt Resolution No. 2010-2985, rescinding Resolution No. 2007-2665; and 2) Direct the Building Official to file a copy of the findings of the Ventura County Fire Protection District together with a copy of Section 610 and Appendix L of Ordinance 27 to the California Department of Housing and Community Development and California Building Standards Commission. The motion carried by unanimous voice vote.

E. Consider City Council Standing Committee Appointments and Assignments for Calendar Year 2011. Staff Recommendation: Determine City Council and Moorpark Redevelopment Agency committee appointments and assignments.

Ms. Benson gave the staff report.

There were no speakers.

Mr. Kueny recommended deleting the Triliad Development Agreement Ad Hoc Committee as their work has been completed.

MOTION: Councilmember Millhouse moved and Mayor Parvin seconded a motion to approve the City Council Standing Committee Appointments to incorporate the change in the membership of the Finance, Administration and Public Safety Committee to reflect new Member Mayor Pro Tempore Millhouse and Immediate Past Mayor Pro Tempore Mikos as Alternate and to delete the Triliad Development Agreement Ad Hoc Committee from the list. The motion carried by unanimous voice vote.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

MOTION: Councilmember Van Dam moved and Councilmember Mikos seconded a motion to approve the Consent Calendar. The motion carried by unanimous roll call vote.

- A. Consider Minutes of Regular Meeting of November 17, 2010. Staff Recommendation: Approve the minutes.
 - B. Consider Minutes of Special Meeting of December 1, 2010. Staff Recommendation: Approve the minutes.
 - C. Consider Minutes of Regular Meeting of December 1, 2010. Staff Recommendation: Approve the minutes.
 - D. Consider Warrant Register for Fiscal Year 2010-2011 – December 15, 2010. Staff Recommendation: Approve the warrant register.
 - E. Consider Agreement with CVE Engineering, Inc. for Update and Expansion of Civic Center ALTA Survey and Resolution Amending the Fiscal Year 2010/11 Budget to Fund the Work from the Endowment Fund (2800). Staff Recommendation: 1) Approve Agreement with CVE, subject to final language approval by the City Manager and City Attorney; and 2) Adopt Resolution No. 2010-2986. ROLL CALL VOTE REQUIRED
 - F. Consider Agreement with Kelly Cleaning and Supplies, Inc. for Janitorial Services at the Moorpark Public Services Facility, Moorpark Library, and Arroyo Vista Recreation Center and Authorize the City Manager to Execute Contract. Staff Recommendation: Approve an agreement with Kelly Cleaning and Supplies, Inc. and authorize the City Manager to execute the contract, subject to final language approval by the City Manager and City Attorney.
 - G. Consider Revised Management Benefits Resolution Rescinding Resolution No. 2010-2945. Staff Recommendation: Adopt Resolution No. 2010-2987.
 - H. Consider Recordation of Notice of Completion for the Community Center Heating, Ventilation, and Air Conditioning (HVAC) Replacement Project and Release of Project Bonds. Staff Recommendation: Authorize the City Clerk to file the Notice of Completion for the project and authorize the release of project bonds as outlined in the agenda report.
 - I. Consider Amendment No. 3 to Agreement for Street Sweeping Services. Staff Recommendation: Authorize the City Manager to sign Amendment No. 3 to the Agreement, subject to final language approval of the City Manager and the City Attorney.
11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

None.

12. CLOSED SESSION:

None was held.

13. ADJOURNMENT:

Mayor Parvin adjourned the meeting at 11:17 p.m.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk