

MINUTES OF THE CITY COUNCIL

Moorpark, California

August 2, 2006

A Regular Meeting of the City Council of the City of Moorpark was held on August 2, 2006, 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 7:18 p.m.

2. PLEDGE OF ALLEGIANCE:

Yugal Lall, City Engineer/Public Works Director, led the Pledge of Allegiance.

3. ROLL CALL:

Present: Councilmembers Harper, Mikos, Parvin, and Mayor Hunter.

Absent: Councilmember Millhouse.

Staff Present: Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Mary Lindley, Parks/Recreation and Community Services Director; Barry Hogan, Community Development Director; Johnny Ea, Finance Director; Yugal Lall, City Engineer/Public Works Director; Captain Jeff Matson, Sheriff's Department; Maureen Benson, Deputy City Clerk; and Blanca Garza, Deputy City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

None.

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 7:19 p.m. The City Council meeting reconvened at 7:46 p.m.

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

CONSENSUS: It was the consensus of Council to hear Item 9.A. at the end of the agenda at the recommendation of Mayor Hunter and to pull Item 10.K. from the Consent Calendar to be rescheduled at the request of Mr. Kueny.

7. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS:

Councilmember Parvin discussed a promotion on Channel 10 notifying small business owners they can receive no-cost business assistance through the City's partnership with the Ventura County Economic Collaborative.

Councilmember Mikos announced she had attended a Santa Monica Mountains Conservancy meeting on July 31 where discussion concerned preparation of a Public Works Plan to develop the rest of the coastal slope trail within Los Angeles County and in Malibu.

Councilmember Harper announced Mary Lindley, Parks/Recreation and Community Services Director, gave a report at the July 20, Library Commission meeting on the City of Moorpark's plans to withdraw from the Library System. The Commission discussed how to minimize and share costs associated with the withdrawal.

8. PUBLIC HEARINGS:

CONSENSUS: It was the consensus of the Council to hear Items 8.A. and 8.B. concurrently.

- A. Consider General Plan Amendment No. 2003-04, Zone Change No. 2003-03, Development Agreement No. 2004-01, Tentative Tract Map No. 5463, and Residential Planned Development Permit No. 2003-04 for Fifty-One (51) Single-Family Homes on 43.04 Acres North of Championship Drive and East of Grimes Canyon Road, on the Application of Toll Brothers, Inc. (continued public hearing open from July 19, 2006) Staff Recommendation: 1) Continue to receive public testimony, and close the public hearing; 2) Adopt Resolution No. 2006-___ adopting a Mitigated Negative Declaration and approving General Plan Amendment No. 2003-04; 3) Introduce, for first reading, Ordinance No. ___ approving zone Change No. 2003-03, and set August 16, 2006, for second reading; 4) Introduce, for first reading, Ordinance No. ___ to adopt the Development Agreement No. 2004-01, and set August 16, 2006, for second reading; 5) Adopt Resolution No. 2006-___ approving Tentative Map No. 5463 and Residential Planned Development Permit No. 2003-04, subject to Conditions of Approval.
- B. Consider General Plan Amendment No. 2003-04, Zone Change No. 2003-03, Development Agreement No. 2004-02, Tentative Tract Map No. 5464, and Residential Planned Development Permit No. 1994-01; Modification No. 6 for Thirty-Six (36) Single-Family Homes on 28.69 Acres North of Championship Drive and West of Walnut Canyon Road, on the Application of Toll Brothers, Inc. (continued public hearing open from July 19, 2006) Staff Recommendation: 1) Continue to receive public testimony, and

close the public hearing; 2) Adopt Resolution No. 2006-____, adopting a Mitigated Negative Declaration and approving General Plan Amendment No. 2003-04; 3) Introduce, for first reading, Ordinance No. ____ approving Zone Change No. 2003-03, and set August 16, 2006, for second reading; 4) Introduce, for first reading, Ordinance No. ____ to adopt the Development Agreement No. 2004-02, and set August 16, 2006, for second reading; and 5) Adopt Resolution No. 2006-____ approving Tentative Map No. 5464 and Residential Planned Development Permit No. 1994-01, Modification No. 6, subject to Conditions of Approval.

Mr. Hogan gave the staff reports, answered questions posed at the last meeting or received by email, and proposed an additional condition for both tracts to indicate, prior to or concurrent with the completion of street improvements along Grimes Canyon and Walnut Canyon Roads, the developer shall provide 12-foot wide multi-purpose trails to stub out the City's system to the northern end.

Mr. Kueny provided information on the unique features of the development agreements requiring implementation of the Public Facilities Fee and open space compensation requirements.

In response to Councilmember Mikos, Mr. Hogan stated the mitigation measure missing from the Mitigated Negative Declaration dealing with PCB contamination will be added to the document and editorial changes will be made to clarify the language for Mitigation Measure 6.2 dealing with landslide remediation.

Mayor Hunter announced the public hearings remain open.

Craig Messi, representing Toll Brothers, Inc, 301 Science Drive, Moorpark, California, described Toll's community outreach to provide information to the residents and to respond to concerns regarding the projects. He presented a new proposal for developing a recreational facility in Tract 5463 if the Homeowner's Association agrees to sell that land to Toll; and discussed other components of the projects.

Rob Talmadge, planning and engineering consultant for Toll Brothers, Inc. from Jensen Designs and Survey, Inc, 4171 Market Street, Suite 4A, Ventura, California, compared the new developments to the existing Toll community; discussed the trail system; and clarified the number of view lots.

David Schwabauer, Gregory Horton, Tucker Brown, and Tracy Ourhaan offered comments on the projects including: 1) The need for a requirement for fencing or a buffer between the developments and agricultural land on the north border; 2) Making the proposal more attractive to the HOA by providing more amenities; 3) The need for

mandated landscaping on slopes adjacent to streets; 4) Providing separate construction entrances away from the existing development; 5) Eliminating tactics now being used to force closings without all warranty work being completed; 6) Providing each gated section of the development with its own parks so children do not have to cross Championship Drive; 7) Disallowing Toll to sell another house before all warranty work is completed in the existing development; 8) Installing access from Championship Drive rather than bisecting Trevino Drive; 9) Questioning the number of votes Toll has on the HOA; 10) Identifying benefits to the City from a tax situation, the additional parks, and the straightening of the street; and 11) Requiring Toll to give \$100,000 to the City to hire a project manager to correct all warranty issues.

Keith Palmquist, Mike Sullivan, Patrick Leyden, Christopher Worstell, Mark Nizdil, Kerri McCoy, Brian Hennessy, Abur Arastu, and David Jacobs spoke in opposition to the projects and expressed a variety of concerns including: 1) Loss of mountain vista views due to increased density; 2) Cutting off the crown of the hillside; 3) The delayed release of the common areas to the Homeowners Association on the Husted property; 4) Violation of the CC&R's by allowing ingress/egress without the HOA approval; 5) Less than fair market value being offered for the property; 6) Increase in the total number of homes than originally approved for this area; 6) Potential slope failures; 7) Saturating the market with unneeded homes; 8) More time needed to investigate HOA legal rights to the land and consult with legal advisors; 9) Noise from early morning construction traffic; 10) Headlights shining into homes; 11) Road-paving rescheduled several times; 12) Another four years of construction requiring the gates to remain open so children cannot play safely; 13) Quality of life impacts from moving 1.5 million tons of dirt; 14) Warranty work for existing homes is not completed in a timely manner; 15) Need to clarify ownership of property in question; and 16) Whether acres have been double-counted from current development to be included toward the calculations for the new development.

Sherri Standage, Kevin McConnell, Dianna Ferguson, Ken Josing, Richard Taylor, and Eric Grable spoke in favor of the projects and expressed similar views that only Toll should be the developer of these projects in order to maintain the same high quality of homes; Toll has gone out of its way to accommodate the homeowners; and the approval of these projects will bring development up to the County line with a product in which the City is familiar.

Roseann Stevenson, President of the Toll Homeowners Association, clarified the membership of the association and the members' voting rights. Speaking in her capacity as a resident, Ms. Stevenson requested a condition of approval requiring the four entrances to the developments be dedicated to the HOA for consistency of landscaping and maintenance.

In response to Douglas Aberle who requested information on who currently owns the open space land in question north of Trevino Drive and if the project is turned down what happens to the land, Mayor Hunter stated staff would address these questions later in the meeting.

In response to Mayor Hunter, Ms. Benson summarized three Written Statements cards; one in favor of the projects from Lynda Rummelhoff requesting lower density and pocket parks for each tract; and two Written Statements in opposition to the projects with the first from Rick and Kris Hansen expressing concerns regarding the already existing overcrowding at Moorpark High School and additional traffic on Walnut Canyon Road. The second opposing Written Statement from Dan and Terry Cardin stated Toll must satisfy warranty issues for existing homeowners before being allowed to build additional homes.

AT THIS POINT in the meeting a recess was declared. The time was 10:03 p.m. The meeting reconvened at 10:28 p.m.

AT THIS POINT in the meeting Mayor Hunter reordered the agenda to continue Items 9.A, 9.B, 9.C, and 9.G. to August 16, 2006. The meeting continued with Items 8.A. and 8.B. The time was 10:30 p.m.

Mr. Messi responded to the public comments, outlined the improvements the project will bring to Moorpark, and clarified the ownership of the parcel of land in question and when it will be turned over to the HOA.

In response to Mayor Hunter and Councilmember Mikos' concerns, Mr. Montes stated the City Council has the authority to make decisions regarding the General Plan Amendment and Zone Change, and has the authority to deal with the current owner of the parcel in question. He continued by stating the Council may want to explore future ownership and future access rights to this parcel.

In response to Councilmember Mikos' suggestion that, if the project is approved, the Development Agreement contain a condition to deal with the access road to ensure the project can be completed, Mr. Messi stated he would agree to such a condition.

Mr. Kueny stated the applicant should be required to produce proof of ownership and to show when the requirement for transfer of the parcel to the HOA is to take place for the City Attorney to review and discuss with the applicant's attorney, which would require continuing the hearing with the public hearing open to September 20, 2006.

Mr. Messi responded to Council questions regarding other project-related issues including other recreational amenities to be inserted in the project,

annexation of the new areas into existing HOA, elimination of Lots 1 and 2 to provide a community recreation area, providing documentation on outstanding service and warranty problems along with a chronology of how the issues have been reduced, attempting to accommodate retention of the large Heritage oak tree in place, and complying with providing non-invasive native plant materials.

MOTION: Councilmember Mikos moved and Councilmember Harper seconded a motion to continue the open public hearings to September 20, 2006 with direction for Toll Brothers representatives to meet with staff, and as needed with the City Attorney, to resolve issues raised during this meeting. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider Mission Statement, Priorities, Goals, and Objectives for Fiscal Year 2006/2007. (continued from July 19, 2006) Staff Recommendation: Approve the Mission Statement, Priorities, Goals, and Objectives for Fiscal Year 2006/2007.

This item was continued to August 16, 2006.

- B. Consider the Establishment of an Ad-Hoc Committee to Develop a Draft Development Agreement between Centex Homes and the City of Moorpark for General Plan Amendment No. 2004-02, Zone Change No. 2004-02, Tentative Tract Map No. 5505, and Residential Planned Development Permit No. 2004-04. Staff Recommendation: Appoint two (2) Councilmembers to an Ad-Hoc Committee.

This item was continued to August 16, 2006.

- C. Consider Underground Utility Project Priorities. Staff Recommendation: Approve the work plan set forth in Section K of the agenda report.

This item was continued to August 16, 2006.

- D. Consider Designation of a Site for New Veterans Memorial for Moorpark. Staff Recommendation: Approve recommendation of the Veterans Memorial Advisory Group for the development of a new Moorpark Veterans Memorial at the remnant parcel across from the Moorpark Police Services Center at the southeast corner of Flinn Avenue and Spring Road.

Mr. Riley gave the staff report.

James Carpenter, Vice Commander of Post 502 of the American Legion, spoke in favor of the proposed site for the new Veterans memorial.

Councilmember Parvin recommended tying the new memorial site to the Police Services Center site with a coordinated use of artwork.

MOTION: Councilmember Parvin moved and Councilmember Harper seconded a motion to approve the recommendation of the Veterans Memorial Advisory Group for the development of a new Moorpark Veterans Memorial at the remnant parcel across from the Moorpark Police Services Center at the southeast corner of Flinn Avenue and Spring Road, as amended, for art in public places to be coordinated with the Police Services site. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

- E. Consider Formation of the Moorpark Library Task Force. Staff Recommendation: Approve the formation of the Moorpark Library Task Force as outlined in the agenda report.

Ms. Lindley gave the staff report.

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

MOTION: Councilmember Harper moved and Councilmember Parvin seconded a motion to approve the formation of the Moorpark Library Task Force as outlined in the agenda report. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

- F. Consider Rescinding Prior Council Decision to Cancel Regular Meeting of August 16, 2006, and Consider Cancellation of September 6, 2006, Regular Meeting. Staff Recommendation: Direct staff to post a notice rescinding the cancellation of the August 16, 2006, regular meeting and to post a notice of meeting cancellation for September 6, 2006.

Mr. Kueny gave the staff report.

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

MOTION: Councilmember Mikos moved and Councilmember Harper seconded a motion to direct staff to post a notice rescinding the cancellation of the August 16, 2006, regular meeting and to post a notice of meeting cancellation for September 6, 2006. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

- G. Consider Ordinance to Amend Titles 1 and 15 of the Moorpark Municipal Code by Adding Chapter 1.10, "Code Violations, Penalties and Enforcement"; Amending Chapter 1.12 and Changing the Title from "Enforcement and Penalties" to "Nuisances"; Adding Chapter 1.16, "Administrative Citations"; and Amending Section 15.04.060, "Violations and Penalties". Staff Recommendation: 1) Introduce Ordinance No. 338 for first reading; 2) Schedule second reading and adoption for August 16,

2006; and 3) Direct staff to prepare a fee resolution for City Council consideration on September 20, 2006.

This item was continued to August 16, 2006.

- H. Consider Ordinance to Amend Title 9 of the Moorpark Municipal Code by Adding Chapter 9.32, "Social Host Ordinance". Staff Recommendation: 1) Introduce Ordinance No. 338 for first reading.

Captain Matson gave the staff report.

A discussion among the Councilmembers and staff focused on expanding the definition of areas where drinking would be prohibited to be inclusionary, not exclusionary.

Dan Hicks, Program Administrator for Ventura County Limits, a part of the Ventura County Behavioral Health Department, stated the County has budgeted to assist local governments with implementation costs.

Mr. Montes read the title of Ordinance No. 338.

Mr. Kueny requested this item be scheduled for second reading on September 20, 2006, to coincide with the Item 9.G. which was continued.

MOTION: Councilmember Parvin moved and Councilmember Harper seconded a motion to waive further reading, declare Ordinance No. 338 amending Title 9 of the Moorpark Municipal Code read for the first time, as amended, and schedule second reading and adoption for September 20, 2006. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

- I. Consider Ordinance to Amend Title 12 of the Moorpark Municipal Code by Adding Chapter 12.26, "Street Dedication and Improvements". Staff Recommendation: 1) Introduce Ordinance No. 339 for first reading; and 2) Schedule second reading and adoption for August 16, 2006.

Mr. Hogan discussed changes to the wording of Ordinance No. 339.

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

Mr. Montes read the title of Ordinance No. 339.

MOTION: Councilmember Harper moved and Councilmember Parvin seconded a motion to waive further reading, declare Ordinance No. 339 amending Title 12 of the Moorpark Municipal Code read for the first time, as amended, waive further reading, and schedule second reading and adoption for August 16, 2006. The motion carried by voice vote 4-0, Councilmember Millhouse absent.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

MOTION: Councilmember Harper moved and Councilmember Parvin seconded a motion to approve the Consent Calendar with the exception of Item 10.K, which was pulled for individual consideration. The motion carried by roll call vote 4-0, Councilmember Millhouse absent.

- A. Consider Approval of Warrant Register for Fiscal Year 2005-2006 – August 2, 2006. Staff Recommendation: Approve the warrant register.
- B. Consider Approval of Warrant Register for Fiscal Year 2006-2007 – August 2, 2006. Staff Recommendation: Approve the warrant register.
- C. Consider Cash Deposit Refund for M & M Development Ltd, L.P. (Campus Plaza, Parcel Map 5264). Staff Recommendation: Authorize the City Clerk to refund the cash deposit in the amount of \$179,252.60 for M & M Development Ltd, L.P.
- D. Consider Bond Exoneration for Pardee Homes, Moorpark Highlands, Tract 5045, Phase 8, Planning Areas 8 and 9. Staff Recommendation: Authorize the City Clerk to fully exonerate the above referenced Surety Bond – Improvements, Performance and Payment, for Pardee Homes, Moorpark Highlands, Tract 5045, Phase 8, Planning Areas 8 and 9. (Staff: Yugal Lall)
- E. Consider Status Report on Building Design for Ruben Castro Human Services Center. Staff Recommendation: Receive and file report. (Staff: Hugh Riley)
- F. Consider Final Map Approval for Tract Map Nos. 5045-6 and 5045-7 (Pardee Homes), and 5045-8 (KB Homes). Staff Recommendation: Authorize the Mayor and City Clerk to sign the maps and the City Clerk to cause Tract Maps 5045-6, 5045-7, and 5045-8 to be recorded in the office of the Ventura County Recorder.
- G. Consider Resolution Amending the Fiscal Year 2006/07 Budget for Park Restroom Repairs. Staff Recommendation: Adopt Resolution No. 2006 - 2505. (ROLL CALL VOTE REQUIRED)
- H. Consider Resolution Amending Fiscal Year 2006/07 Budget to Appropriate Funds for Construction of Raised Median on Princeton Avenue at Campus Park Drive. Staff Recommendation: 1) Approve “Concept” and direct staff to complete the design plans; and 2) Adopt Resolution No. 2006-2506. ROLL CALL VOTE REQUIRED
- I. Consider Approval of Consultant, Tetra Tech, Inc. to Provide Design Engineering Services for Raised Landscaped Median Project on Los

Angeles Avenue from State Route 23 to Tierra Rejada Road; and a Resolution Amending the Fiscal Year 2006/07 Budget to Appropriate funds for Design/Engineering Costs. Staff Recommendation: 1) Approve selection of Tetra Tech, Inc. and authorize the City Manager to execute Professional Consultant Agreement with Tetra Tech, Inc, and to proceed with the preparation of design plans and environmental document; and 2) Adopt Resolution No. 2006-2507. ROLL CALL VOTE REQUIRED

- J. Consider Bids Received for the Construction of the 2006 Pavement Rehabilitation Project. Staff Recommendation: Reject all bids and direct staff to redesign the project to lower project costs.

- L. Consider a Two-Year Contract with Videomax Productions, Inc. for Provision of Cable Government Channel Production, Operations, Maintenance, and Related Services. Staff Recommendation: Approve a two-year agreement with Videomax Productions, Inc, effective July 1, 2006, subject to final language approval by the City Manager and City Attorney.

The following item was pulled for individual consideration.

- K. Consider Approval of the 2006-2007 Agreement for Services with the Moorpark Chamber of Commerce. Approve the 2006-2007 Agreement for Services between the City of Moorpark and the Moorpark Chamber of Commerce, subject to final language approval by the City Manager.

Mr. Kueny requested this item be rescheduled to the next meeting.

CONSENSUS: It was the consensus of the Council to reschedule Item 10.K. for August 16, 2006.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

None.

12. CLOSED SESSION:

Mr. Kueny requested the City Council go into closed session for discussion of Items 12.B. (one case) and 12.C. on the agenda.

MOTION: Councilmember Parvin moved and Councilmember Parvin seconded a motion to adjourn to closed session for a discussion of Items 12.B. (one case) and 12.C. on the agenda. The motion carried by voice vote 4-0, Councilmember Millhouse absent. The time was 11:42 p.m.

- B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code: (Number of cases to be discussed – 4)
- C. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
(Pursuant to Government Code Section 54956.8)
Property: Lots 111, 112, and 113 of the Colonia Virginia Tract. (AP Nos. 513-0-031-025 and -035)
City Negotiator: Steven Kueny, City Manager
Negotiating Parties: The City of Moorpark and Apostolic Assembly of the Faith in Christ Jesus Church
Under Negotiation: Price and terms of payment

Present in closed session were Councilmembers Harper, Mikos, Parvin, and Mayor Hunter; Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Barry Hogan, Community Development Director; and Yugal Lall, City Engineer/Public Works Director.

The Council reconvened into open session at 12:20 a.m., Thursday, August 3, 2006. Mr. Kueny stated one case under Item 12.B. and Item 12.C. were discussed and there was no action to report.

13. ADJOURNMENT:

Mayor Hunter adjourned the meeting at 12:20 a.m, Thursday, August 3, 2006.

Patrick Hunter, Mayor

ATTEST:

Deborah S. Traffenstedt
City Clerk