

MINUTES OF THE CITY COUNCIL

Moorpark, California

November 17, 2010

A Regular Meeting of the City Council of the City of Moorpark was held on November 17, 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 7:20 p.m.

2. PLEDGE OF ALLEGIANCE:

Deborah Traffenstedt, Deputy City Manager, led the Pledge of Allegiance.

3. ROLL CALL:

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

Staff Present: Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Deborah Traffenstedt, Deputy City Manager; David Bobardt, Community Development Director; Ron Ahlers, Finance Director; Joseph Fiss, Principal Planner; Joseph Vacca, Principal Planner; Captain Ron Nelson, Sheriff's Department; and Maureen Benson, City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

- A. Recognition of Sheriff Bob Brooks Upon the Occasion of His Retirement after Thirty-Seven Years of Service to Law Enforcement and as Sheriff of Ventura County from June 1998 to January 2011.

Mayor Parvin presented Sheriff Bob Brooks with a City of Moorpark plaque in honor of his retirement after 37-years of service to law enforcement and as Sheriff of Ventura County from June 1998 to January 2011.

5. PUBLIC COMMENT:

Ted Mackel, a member of the Moorpark real estate industry, spoke in regard to Item 10.D. on the agenda concerning real estate open house signs and recommended coordinating open house signage requirements for all of east Ventura County cities.

Peter Greer, President of the Conejo Simi Moorpark Association of Realtors and Manager of Troop Real Estate in Moorpark, spoke in regard to Item 10.D. on the agenda concerning real estate open house signs and stated he has no problem with fees or enforcement. He requested the Council consider coordinating issuance of stickers and fees with other Ventura County cities to avoid duplication for brokers who work in more than one city; and requested more and better information be circulated to the realtors.

Fred Priebe, a resident of Thousand Oaks, spoke on behalf of the Conejo Simi Moorpark Association of Realtors and the Local Government Relations Political Action Committee in regard to Item 10.D. on the agenda concerning real estate open house signs. He requested consideration for signage that would be compatible everywhere in Ventura County with perhaps one sticker required for the life of the sign.

AT THIS POINT in the meeting, the City Council recessed to convene a meeting of the Moorpark Redevelopment Agency. The time was 7:32 p.m. The City Council meeting reconvened at 7:33 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 Mikos stated she had attended two meetings of the Economic Development Collaborative of Ventura County held at the Moorpark Community Center on November 9 and 16, which focused on small businesses.

Councilmember Van Dam thanked the local Veterans for the Veterans Day ceremony on November 11th at the Flory Avenue site. He spoke about the banner program to be discussed later on the agenda.

Councilmember Van Dam stated he had attended the Civil War Reenactment during the weekend of November 13 and 14.

Councilmember Van Dam announced the Moorpark High School Band is having their annual Christmas tree lot sale in Staples parking lot following the Thanksgiving holiday and continuing up until Christmas.

Councilmember Millhouse requested Item 9.D. be heard first under Presentation/Action/Discussion due to the number of speakers present.

CONSENSUS: It was the consensus of the Council to hear Item 9.D. first under Presentation/Action/Discussion.

Councilmember Pollock stated he had been honored to speak at the Veterans' Day ceremony. He complimented the American Legion for their involvement in promoting the banner program, which will be discussed later in the meeting.

Councilmember Pollock stated he also attended the Civil War Reenactment sponsored by the Moorpark Rotary Club over the weekend of November 13 and 14.

Councilmember Pollock announced he would be attending the Annual Conference for the California School Board Association held during the first week in December and that this work-related responsibility would preclude his attending the regular City Council meeting on December 1 to be sworn in.

Mayor Parvin stated on November 4, she had attended the Ventura Council of Governments meeting in Santa Paula. VCOG is asking city councils to discuss how to implement a program for inmate release. VCOG is also asking for opinions on the use of plastic grocery bags.

Mayor Parvin stated she attended the City Select Committee meeting in Camarillo on November 5 where a recommendation was made to have the alternate representative for Coastal Commissioner be from Ventura County.

Mayor Parvin stated along with Councilmember Mikos she also attended the small business forum sponsored by the Economic Development Collaborative on November 9.

Mayor Parvin stated she attended the Veterans ceremony on November 11 where all the services were represented.

Mayor Parvin congratulated the Moorpark Rotary Club on their 10th Anniversary Civil War Reenactment held November 13 and 14.

Mayor Parvin announced she had attended a Local Agency Formation Commission meeting this morning.

8. PUBLIC HEARINGS:

- A. Consider: 1) Resolution Adopting a Revised Fee Schedule for Services Rendered Pursuant to the Moorpark Municipal Code Related to Building and Safety and Rescinding Resolution No. 2008-2669; and 2) Resolution Updating Staff Billing Rates, Deposits, and Fees for Development Processing and Rescinding Resolution No. 2010-2896, in Order to Implement the California Green Building Standards Code. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; 2) Adopt Resolution No. 2010-2971, adopting a revised fee schedule for services rendered pursuant to the

Moorpark Municipal Code and rescinding Resolution No. 2008-2669; and 3) Adopt Resolution No. 2010-2972, updating staff billing rates, deposits, and fees for development processing and rescinding Resolution No. 2010-2896. 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.

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to: 1) Adopt Resolution No. 2010-2971, adopting a revised fee schedule for services rendered pursuant to the Moorpark Municipal Code and rescinding Resolution No. 2008-2669; and 2) Adopt Resolution No. 2010-2972, updating staff billing rates, deposits, and fees for development processing and rescinding Resolution No. 2010-2896. The motion carried by unanimous roll call vote.

- B. Consider Resolution Approving Modification No. 1 to Residential Planned Development Permit Nos. 2004-02 and 2004-03, a Request for Three Additional House Plans and Changes to the Overall Plotting of 132 Single-Family Houses in the Planning Areas 8 and 9 of the Moorpark Highlands Specific Plan, Tract 5045-8, on Approximately 67.7 Acres Northeast of Ridgecrest Drive and Elk Run Way, on the Application of Kevin E. Rosinski for Toll Brothers, Inc. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Adopt Resolution No. 2010-2973, approving Modification No. 1 to Residential Planned Development Permit Nos. 2004-02 and 2004-03, subject to Conditions of Approval.

Mr. Vacca gave the staff report.

In response to Mayor Parvin, Mr. Vacca stated a Special Condition will be added to require the architecture of side or rear elevations of two-story homes adjacent to streets, or clearly visible from streets, must be enhanced with additional architectural treatments to the satisfaction of the Community Development Director.

Mayor Parvin opened the public hearing.

Kevin Rosinski, representing Toll Brothers, 725 W. Town and Country, Orange, California, described the project and accepted the new Special Condition to provide enhanced architectural treatments to the sides of homes visible from the street view.

A. DeeWayne Jones, DDS, a Moorpark resident, spoke in support of the project.

Mayor Parvin closed the public hearing.

MOTION: Councilmember Millhouse moved and Councilmember Mikos seconded a motion to adopt Resolution No. 2010-2973, approving Modification No. 1 to Residential Planned Development Permit Nos. 2004-02 and 2004-03, subject to Conditions of Approval, as amended for the addition of a Special Condition for enhanced architectural treatments on side and rear elevations of two-story homes visible from the street. The motion carried by unanimous voice vote.

AT THIS POINT in the meeting, Item 9.D. was heard.

9. PRESENTATION/ACTION/DISCUSSION:

D. Consider Request from American Legion Post 502 for the Placement of Banners on Southern California Edison (SCE)-Owned Street Lights. Staff Recommendation: 1) Approve SCE License Agreement and authorize the City Manager to sign subject to final language approval by the City Manager and City Attorney; 2) Authorize the City Manager to sign and Agreement with American Legion Post 502 to install, maintain, and remove banners consistent with the City Banner Policy and the SCE License Agreement and at their sole cost and expense, subject to final language approval by the City Manager and the City Attorney; 3) Make exception to Banner Policy allowing display for up to two years; and 4) Waive Encroachment Permit Fee.

Mr. Riley gave the staff report.

The following issues were discussed by the Councilmembers and staff: 1) Importance of safety in selection of hardware to hang banners; 2) Conditions for banner maintenance and standard of appearance; and 3) Waiving the Condition for defense and indemnification hold harmless clause due to the cost to the American Legion.

Mr. Montes stated the defense and indemnification obligation is separate from the insurance obligation; if the insurance is not sufficient for a liability created, then the other party would have to make up the difference, and in this case that other party would be the City. He further stated in regard to whether a precedent would be set for future requests from either the Legion or another City co-sponsored event, that the City would still have a choice as to granting a waiver or not.

Pete Duncan, member of the American Legion Post 502, described the banner program.

James Carpenter, Post Commander of the America Legion Post 502, explained the banners will cost approximately \$200-\$250 not including the cost to hang them. Donations to this program are being accepted throughout the City and checks payable to American Legion Post 502 and marked for the banner program may be mailed to P.O. Box 156, Moorpark, California 93020.

Gary Cabriales, member of American Legion Post 502 encouraged the Council to become a sponsor of the banner program.

MOTION: Councilmember Millhouse moved and Councilmember Van Dam seconded a motion to: 1) Approve SCE License Agreement and authorize the City Manager to sign subject to final language approval by the City Manager and City Attorney; 2) Authorize the City Manager to sign an Agreement with American Legion Post 502 to install, maintain, and remove banners consistent with the City Banner Policy and the SCE License Agreement and at their sole cost and expense, subject to final language approval by the City Manager and the City Attorney and as amended to eliminate the requirement for American Legion Post 502 to execute a defense, indemnity and hold harmless agreement with the City; 3) Make exception to Banner Policy allowing display for up to two years from date of installation; and 4) Waive Encroachment Permit Fee.

Mr. Montes stated if the intent was to limit liability exposure to the amount of the insurance policy the City would still need to include a defense, indemnity provision in the agreement; it would just be capped at the amount of insurance.

In response to Mr. Kueny, Mr. Duncan stated they anticipate the banner program would run for four years. In response to Mayor Parvin, Mr. Kueny stated the City's sponsorship of the project would be to donate funds for the installation of the banners.

AMENDED MOTION: Councilmember Millhouse amended the motion and Councilmember Van Dam seconded the amended motion to: 1) Approve SCE License Agreement and authorize the City Manager to sign subject to final language approval by the City Manager and City Attorney; 2) Authorize the City Manager to sign an Agreement with American Legion Post 502 to install, maintain, and remove banners consistent with the City Banner Policy and the SCE License Agreement and at their sole cost and expense, subject to final language approval by the City Manager and the City Attorney and as amended to cap the requirement for American Legion Post 502 for the defense, indemnity and hold harmless agreement with the City at the amount of the insurance to be provided; 3) Make exception to Banner Policy allowing display for up to two years from date of installation with the program to last for four years; 4) Waive

Encroachment Permit Fee; and 5) City sponsorship of the program to include City funding for the installation of the banners. The amended motion carried by unanimous voice vote.

- A. Consider Appointment to Fill One Vacancy on the Board of Commissioners to the Area Housing Authority of the County of Ventura. Staff Recommendation: Appoint one City representative to fill a vacancy on the Board of Commissioners for the Area Housing Authority of Ventura County for a term ending August 31, 2011.

Ms. Benson gave the staff report.

There were no speakers.

Mayor Parvin solicited nominations from the Council.

Councilmember Pollock nominated Natalie Panossian.

MOTION: Mayor Parvin moved to nominate and Councilmember Van Dam seconded the nomination of Natalie Panossian to fill a vacancy on the Board of Commissioners for the Area Housing Authority of Ventura County for a term ending August 31, 2011. The motion carried by unanimous voice vote.

- B. Consider Agenda Scheduling for 2010 Municipal Election Certification and Installation of Newly Elected Mayor and Councilmembers. Staff Recommendation: Direct staff as deemed appropriate.

Ms. Benson gave the staff report.

Councilmember Pollock stated he did not feel the need to schedule a special City Council meeting due to his absence on December 1 as he could be sworn in at the December 15 meeting.

There were no speakers.

CONSENSUS: It was the consensus of the Council to schedule the 2010 Municipal Election certification and installation of newly elected Mayor and Councilmember for the December 1, regular meeting.

- C. Consider Scheduling Interviews for Moorpark Arts, Parks & Recreation, and Planning Commission Candidates. Staff Recommendation: Direct staff as deemed appropriate.

Ms. Benson gave the staff report.

There were no speakers.

Mayor Parvin recommended Planning Commission candidate interviews for the December 15, 2010 regular meeting and Parks and Recreation Commission candidate interviews for the January 5, 2011 meeting, with any candidates having a scheduling conflict to attend the opposite meeting date.

Councilmember Millhouse stated there is no reason to interview the Moorpark Arts Commission candidates and Mayor Parvin concurred there is no reason to open another recruitment for additional applications for the as there are five qualified applicants for the five vacancies.

MOTION: Councilmember Millhouse moved and Mayor Parvin seconded a motion to: 1) Schedule Planning Commission candidate interviews for the December 15, 2010 with any scheduling conflicts for January 5, 2011; 2) Schedule Parks and Recreation Commission candidate interviews for January 5, 2011 with any scheduling conflicts for December 15, 2010; and 3) Waive the Council rule requiring interviews of the Moorpark Arts Commission candidates since there are five qualified applicants; and 4) Schedule appointments to all Commissions for the January 5, 2011 meeting. The motion carried by unanimous voice vote.

- E. Consider Status of Rental Housing Inspection Program. Staff Recommendation: Direct staff as deemed appropriate.

Mr. Fiss gave the staff report.

The following issues were discussed by the Councilmembers: 1) The ordinance establishing the rental housing inspection program was in response to an instance in Ventura County where rental units were not being maintained or inspected and there were tragic consequences; and 2) Reevaluation of the fairness of the program may be required.

Will Whitaker, a Moorpark resident, spoke in opposition to the ordinance which founded the Rental Housing Inspection Program citing it as a violation of freedom from search and seizure and asked the Council to rescind the ordinance.

Alex Menas, Sr., Moorpark Chairman of the Conejo Simi Moorpark Local Government Committee stated his concerns that single-family residences are included in this ordinance; not all residences are inspected; and the fee might be considered taxation in violation of Proposition 13.

Fred Priebe, representing the Conejo Simi Moorpark Association of Realtors, stated this ordinance should be discontinued for single-family residences or condominiums as there are sufficient California State laws to provide tenants with protections and to impose requirements on landlords.

Debra Tash, a Tea Party Observer, spoke in opposition to the ordinance stating due to the hard economic times she has become a reluctant landlord by purchasing a short-sale home and renting it back to a family who could no longer afford the inflated price. She stated this is not a business for her.

Peter Greer, President of the Conejo Simi Moorpark Association of Realtors and Manager of Troop Real Estate in Moorpark described the negative impacts this ordinance has on business when it is disclosed to investors.

Ted Mackel, real estate agent and owner of rental property in other cities and Moorpark, questioned the need for this ordinance and described mandatory state requirements that must be met before a home may be sold. He questioned the uneven enforcement of this ordinance due to the large number of homes not inspected under this program.

Nelson Carrillo, a Moorpark real estate agent and member of the Conejo Simi Moorpark Association of Realtors, spoke in opposition to the ordinance as it unfairly targets a specific group.

Pat Miranda, an insurance agent, stated insurance companies have strict guidelines for rental properties.

In response to Council, Mr. Montes stated the justification for entering a home is in regard to consumer protection to look for safety issues; in regard to unreasonable search and seizure; the City is treating this as a business regulation and the ordinance would, therefore, be defensible; to the extent that the fee does not exceed the cost to perform the service then it is simply a fee and is exempt from the provisions of California Constitution and Propositions 13 and 218, which determine a tax; and the rationale for the inspection of rental properties is not only the safety concern, but to protect a class of consumers who do not have as much protection as they are not the owner of the property.

**MOTION:** Councilmember Pollock moved and Councilmember Van Dam seconded a motion to suspend enforcement of the Rental Housing Inspection Program until staff can present possible alternatives. The motion carried by unanimous voice vote.

- F. Consider Ordinance Amending Title 15, Buildings and Construction, 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: Introduce Ordinance No. 395 for first reading, waive

full reading, and direct staff to schedule a public hearing and second reading for December 15, 2010.

Mr. Bobardt gave the staff report.

There were no speakers.

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

MOTION: Councilmember Millhouse moved and Councilmember Mikos seconded a motion to waive full reading, and direct staff to schedule a public hearing and second reading for December 15, 2010. The motion carried by unanimous voice vote.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

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

- A. Consider Warrant Register for Fiscal Year 2010-2011 – November 17, 2010. Staff Recommendation: Approve the warrant register.
- B. Consider Report Titled “Accounting of Fund Information as Required by Section 66006 of the California Government Code for Fiscal Year 2009/2010”. Staff Recommendation: Receive and file report.
- C. Consider Resolution Amending the Fiscal Year 2010/11 Budget and Authorizing the Transfer of Gas Tax and General Funds to Cover Fiscal Year 2009/10 Year-End Deficits in Certain Funds for the City’s Landscaping and Lighting Assessment Districts. Staff Recommendation: Adopt Resolution No. 2010-2974. ROLL CALL VOTE REQUIRED
- D. Consider Update on Encroachment Permit Process for Real Estate Open House Directional Signs in the Public Right-of-Way. Staff Recommendation: Receive and file report.
- E. Consider Moorpark High School Band and Color Guard’s Request for Parking Lot and Gate Closure at Arroyo Vista Community Park at 10:30 p.m. on November 20 for Battle of the Bands Event. Staff Recommendation: Authorize the City Manager to approve the closure of parking lots and gates at Arroyo Vista Community Park at 10:30 p.m. on November 20, 2010, as a condition of the rental permit for Moorpark High School Band and Color Guard’s Battle of the Bands event.
- F. Consider Release of Surety (Letter of Credit) for A-B Properties (TM 5147). Staff Recommendation: Authorize the City Clerk to release the

Letter of Credit surety referenced in the agenda report for A-B Properties and to bill no more than \$15,000.00 of administrative cost related to the reimbursement agreement.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

- A. Consider Ordinance No. 394 Amending and Restating, in its Entirety, Chapter 8.36, Solid Waste, of Title 8, Health and Safety, of the Moorpark Municipal Code. Staff Recommendation: Waive full reading and declare Ordinance No. 394 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

Mr. Montes read the title of Ordinance No. 394.

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to waive full reading and declare Ordinance No. 394 read for the second time and adopted as read. The motion carried by unanimous roll call vote.

12. CLOSED SESSION:

Mr. Kueny requested the City Council go into closed session for discussion of one case under Item 12.B. on the agenda.

MOTION: Councilmember Millhouse moved and Councilmember Van Dam seconded a motion to adjourn to closed session for a discussion of one case under Item 12. B. on the agenda. The motion carried by unanimous voice vote. The time was 10:29 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)

Present in closed session were Councilmembers Mikos, Millhouse, Pollock, Van Dam, and Mayor Parvin; Steven Kueny, City Manager; Joseph Montes, City Attorney; Deborah Traffenstedt, Deputy City Manager; and David Bobardt, Community Development Director.

The Council reconvened into open session at 11:04 p.m. Mr. Kueny stated one case under Item 12. B. was discussed and there was no action to report.

13. ADJOURNMENT:

Mayor Parvin adjourned the meeting at 11:04 p.m.

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Janice S. Parvin, Mayor

ATTEST:

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Maureen Benson, City Clerk