

MINUTES OF THE CITY COUNCIL

Moorpark, California

July 18, 2007

A Regular Meeting of the City Council of the City of Moorpark was held on July 18, 2007, in the Council Chambers of said City located at 799 Moorpark Avenue, Moorpark, California.

1. CALL TO ORDER:

Mayor Pro Tempore Millhouse called the meeting to order at 7:14 p.m.

2. PLEDGE OF ALLEGIANCE:

Mayor Pro Tempore Millhouse led the Pledge of Allegiance.

3. ROLL CALL:

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

Absent: Mayor Hunter.

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; Shaun Kroes, Management Analyst; Captain Jeff Matson, Sheriff's Department; Deborah Traffenstedt, Administrative Services Director/City Clerk; and Maureen Benson, Deputy City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

A. Ventura County Fair Poster Presentation.

Ginger Gherhardi, member of the Board of Directors for the Ventura County Fair, presented the 2007 Ventura County Fair poster.

B. City Manager's Monthly Report

Mr. Kueny deferred the monthly report.

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 7:20 p.m. The City Council meeting reconvened at 7:21 p.m.

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

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

CONSENSUS: It was the consensus of the Council to pull Item 10.G. from the Consent Calendar to correct the title of the item upon the request of Mr. Kueny.

7. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS:

Councilmember Van Dam announced the Moorpark Kiwanis Club will hold a fund raiser at Gardens of the World in Thousand Oaks at 5:30 p.m. on Saturday, July 21.

Councilmember Van Dam and Mayor Pro Tempore Millhouse discussed Money Magazine's ranking of the City of Moorpark as the 62nd best place to live in the U.S.

8. PUBLIC HEARINGS:

A. Consider Southern California Edison's Objection to Recordation of Final Map 5147 (AB Properties). Staff Recommendation: Open the public hearing and direct staff as deemed appropriate.

Mr. Montes stated correspondence from Southern California Edison has been received objecting to the timing of this public hearing, and prior to opening the public hearing, Council may wish to hear from Southern California Edison and the applicant subdivider.

CONSENSUS: It was the consensus of the Council to defer opening the public hearing, to take discussion from Southern California Edison and representatives of AB Properties regarding continuing the public hearing.

Anna Frutos-Sanchez, Regional Manager, Southern California Edison (Edison), 25625 W. Rye Canyon Road, Valencia, California, requested a continuance of the public hearing to August 1, 2007, to allow Edison more time to work with AB Properties.

In response to Council questions, George Fettus from the Corporate Real Estate Department for Edison, stated there are still issues regarding drainage: and George Breas, Right-of-Way Agent for Edison, stated there are concerns regarding impacts to the major sub-station in this area.

A discussion among the Councilmembers and staff focused on whether hydrology questions will be answered by August 1; AB Property improvements encumbering 14-feet of the major sub-station property; and options for re-noticing, continuing, or opening the public hearing.

John Newton, representing the applicant, AB Properties, 505 Thousand Oaks Boulevard, Thousand Oaks California, stated Edison's objection to the hearing is based on a technical noticing requirement.

Paul Burns, representative for AB Properties, 505 Thousand Oaks Boulevard, Thousand Oaks California, stated he had hand-delivered the required notice to Edison, but acknowledges the Government Code does specify the notice should be sent by certified mail. He was in agreement with a continuance to August 1, 2007.

**MOTION:** Councilmember Mikos moved and Councilmember Parvin seconded a motion to continue the public hearing to August 1, 2007. The motion carried by voice vote 4-0, Mayor Hunter absent.

- B. Consider General Plan Amendment No. 2004-05, Zone Change No. 2004-04, Development Agreement No. 2004-03 and Residential Planned Development No. 2004-06 for a 200-Unit Apartment Project on Approximately 10.57 Acres with 8.84 Acres of Public/Institutional Land South of Casey Road and West of Walnut Canyon Road and Moorpark Avenue on the Application of Essex Portfolio, L.P. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; 2) Adopt Resolution No. 2007-2611, adopting a Mitigated Negative Declaration and Approving General Plan Amendment No. 2004-05; 3) Introduce for first reading, Ordinance No. 354 approving Zone Change No. 2004-04, and set August 1, 2007, for second reading; 4) Introduce for first reading, Ordinance No. 355, adopting the Development Agreement No. 2004-03, and set August 1, 2007, for second reading; and 5) Adopt Resolution No. 2007-2612 approving Residential Planned Development Permit No. 2004-06, subject to Conditions of Approval.

Mr. Bobardt presented the details of the project and indicated the following change should be made to add language to Special Condition No. 18. on stamped page 103 of the agenda report to indicate the public trail must extend between Casey Road and High Street and be open to the public without gates.

Mr. Hogan gave a presentation on the Development Agreement and stated the Affordable Housing Agreement will be a stand-alone agreement. He clarified the following changes to the Development Agreement: 1) On stamped page 72 of the agenda report, the first full paragraph should be replaced with "Developer further agrees that no

grading permit shall be issued and no TEFRA (Tax Equity and Fiscal Responsibility Act) hearing shall be scheduled until the Affordable Housing Agreement is executed by the City and Developer. The Affordable Housing Agreement shall include, but not be limited to, all terms addressed in section 6.9"; 2) All references to bond financing shall be changed throughout the document to indicate "City issued bond financing"; and 3) On stamped page 81 of the agenda report in the second line of Section 7.13, add the word "such" in front of the word "bond".

In response to Council questions, Mr. Hogan stated: 1) On stamped page 108 of the agenda report, Standard Condition No. 27 does not apply and should be deleted; 2) Special Condition No. 11 on stamped page 102 of the agenda report will be modified to indicate accessible areas above the first floor on the southern side of the four 20-unit buildings along the southern property line must be constructed out of durable materials, may not have foam cores, and must be to the satisfaction of the Community Development Director; and 3) Special Condition No. 17. on stamped page 103 of the agenda report will be modified to include "Native trees, including but not limited to Sycamores and other native trees, must be incorporated into the landscape plan, especially along the trail."

Mayor Pro Tempore Millhouse opened the public hearing.

Councilmember Mikos stated for the record she had met with the applicants at the project site to discuss the proposal.

Maura Lederer, First Vice President with Essex Portfolio, L.P, 22120 Clarendon Street, Suite 200, Woodland Hills, California, described the attributes of the project and concurred with Mr. Hogan's changes to the Development Agreement. She requested the City provide an Inducement Resolution at the August 1 meeting to facilitate the bond application, which would allow them to provide an additional ten affordable units; and in Section 6.9 of the Development Agreement on stamped page 70 of the agenda report, Ms. Lederer sought clarification of the City's use of the term "underwriter", as their legal counsel is concerned the City may generalize this to include "lender" and Essex would like the ability to select their own lender.

In response to Council concerns, Ms. Lederer described the location of the entry gate; expressed a willingness to work with staff regarding alternate materials to foam surrounds in the patio areas; and if possible, would try to find space for a half sport court.

In response to Council questions, James Dean, landscape architect for Essex, stated the swimming pool is 23-feet by 45-feet, and native California trees will be included in the plant palette wherever feasible.

Wayne Colmer, a local developer, spoke in support of the project, which brings public benefits in the form of affordable housing, 8.8-acres to the City for the Civic Center expansion, and Essex is financially sound and retains ownership of their product.

John Newton, a local consultant at 5152 Moorpark Avenue, Moorpark, California, spoke in support of the project and described his efforts along with Mr. Colmer's in acquiring the property from the Moorpark Unified School District.

A discussion followed among the Councilmembers and staff focusing on: the use of the term "underwriter" and the request for an Inducement Resolution. Mr. Kueny stated the development agreement is written in the City's standard language; it is not the City's intent to select a lender; and without consulting with the City's financial advisor, he is not comfortable making a change. In regard to the Inducement Resolution, Mr. Kueny stated additional staff time would be needed to research this subject.

In response to Mayor Pro Tempore Millhouse, Ms. Lederer stated Essex would prefer action tonight without the Inducement Resolution as opposed to a continuance and requested the City do what it can to expedite it in the future. She accepted the term "underwriter" and appreciates the City's explanation that it is not the City's intent to select a lender, but if possible would request clarification of that language at the next hearing.

Mayor Pro Tempore closed the public hearing.

MOTION: Councilmember Parvin moved and Councilmember Van Dam seconded a motion to adopt Resolution No. 2007-2611, adopting a Mitigated Negative Declaration and Approving General Plan Amendment No. 2004-05. The motion carried by voice vote 4-0, Mayor Hunter absent.

Mr. Montes read the title of Ordinance No. 354.

MOTION: Councilmember Mikos and Councilmember Van Dam seconded a motion to waive further reading, declare Ordinance No. 354 approving Zone Change No. 2004-04, read for the first time, and schedule second reading and adoption for August 1, 2007. The motion carried by voice vote 4-0, Mayor Hunter absent.

Mr. Montes read the title of Ordinance No. 355.

MOTION: Councilmember Parvin and Councilmember Van Dam seconded a motion to waive further reading, declare Ordinance No. 355 adopting the Development Agreement No. 2004-03, read for the first time, as amended to: 1) Replace the first full paragraph on stamped page 72 of the agenda report, to read, "Developer further agrees that no grading permit shall be issued and no

TEFRA (Tax Equity and Fiscal Responsibility Act) hearing shall be scheduled until the Affordable Housing Agreement is executed by City and Developer. The Affordable Housing Agreement shall include, but not be limited to all terms addressed in section 6.9"; 2) Change all references to bond financing throughout the document to indicate "City issued bond financing"; and 3) Add the word "such" in front of the word "bond" on stamped page 81 of the agenda report in the second line of Section 7.13; and schedule second reading and adoption for August 1, 2007. The motion carried by voice vote 4-0, Mayor Hunter absent.

MOTION: Councilmember Mikos moved and Councilmember Parvin seconded a motion to adopt Resolution No. 2007-2612 approving Residential Planned Development Permit No. 2004-06, subject to Conditions of Approval, as amended to: 1) Add language to Special Condition No. 18. on stamped page 103 of the agenda report to indicate the public trail must extend between Casey Road and High Street, and be open to the public without gates; 2) Delete Standard Condition No. 27 on stamped page 108 of the agenda report; 3) Modify Special Condition No. 11 on stamped page 102 of the agenda report to indicate accessible areas above the first floor on the southern side of the four 20-unit buildings along the southern property line must be constructed out of durable materials, may not have foam cores, and must be to the satisfaction of the Community Development Director; 4) Modify Special Condition No. 17. on stamped page 103 of the agenda report to include "Native trees, including but not limited to Sycamores and other native trees must be incorporated into the landscape plan, especially along the trail"; and 5) Add a half sport court, if possible. The motion carried by voice vote 4-0, Mayor Hunter absent.

- C. Consider Resolution to Update the Parking In-Lieu Fee for High Street in the Downtown Specific Plan. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Adopt Resolution No. 2007-2613. ROLL CALL VOTE REQUIRED

Mr. Hogan gave the staff report.

Mayor Pro Tempore Millhouse opened the public hearing.

Bill Amador, of Amador Whittle Architects, Inc, 17 East High Street, Moorpark, California, spoke in support of the resolution and requested clarification of whether this would be a one-time transaction that would be transferable with the sale of property. He provided a handout to Council of other changes for consideration including sharing the proposed location(s) of public parking with the community as the plan unfolds, establishing a milestone to be achieved with in-lieu fees for building the public parking, and adding language to the resolution to guarantee the in-lieu fees will be spent only on parking improvements to High Street with no borrowing of funds for other purposes.

Mayor Pro Tempore Millhouse closed the public hearing.

Mr. Kueny recommended Mr. Amador's suggestions and any other related comments from this hearing be forwarded to the Community and Economic Development Committee for review.

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to adopt Resolution No. 2007-2613 updating the parking in-lieu fee for High Street in the Downtown Specific Plan and to forward suggestions heard during public testimony and any other comments from this hearing to the Community and Economic Development Committee for review. The motion carried by roll call vote 4-0, Mayor Hunter absent.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider Resolution Designating the Intersections of Second Street and Bard Street, and Third Street and Flory Avenue to be Stop Intersections, and Directing the Placement of a Stop Sign at All Entrances Thereto. Staff Recommendation: Adopt Resolution No. 2007-2614.

Mr. Lall gave the staff report.

In response to Mayor Pro Tempore Millhouse, Ms. Traffenstedt stated there were no speakers.

MOTION: Councilmember Mikos moved and Councilmember Parvin seconded a motion to adopt Resolution No. 2007-2614, designating the intersections of Second Street and Bard Street, and Third Street and Flory Avenue to be stop intersections and directing the placement of a stop sign at all entrances thereto. The motion carried by voice vote 4-0, Mayor Hunter absent.

- B. Consider Resolution Establishing Revised Parking Restrictions on Miller Parkway and that Portion of Peach Hill Road East of Spring Road and Rescinding Resolution No. 2005-2352. Staff Recommendation: Adopt Resolution No. 2007-2615.

Mr. Lall gave the staff report.

In response to Mayor Pro Tempore Millhouse, Ms. Traffenstedt stated there were no speakers.

MOTION: Councilmember Parvin moved and Councilmember Van Dam seconded a motion to adopt Resolution No. 2007-2615, establishing revised parking restrictions on Miller Parkway and that portion of Peach Hill Road east of Spring Road and rescinding Resolution No. 2005-2352. The motion carried by voice vote 4-0, Mayor Hunter absent.

- C. Consider Conducting Organizational Study for the Finance Department. Staff Recommendation: Approve conduction of the organizational study as generally outlined in the agenda report, subject to final approval of the City Manager, and authorize the City Manager to sign an agreement with a qualified consultant not to exceed \$25,000.

Mr. Riley gave the staff report.

In response to Mayor Pro Tempore Millhouse, Ms. Traffenstedt stated there were no speakers.

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to approve conduction of the organizational study as generally outlined in the agenda report, subject to final approval of the City Manager, and authorize the City Manager to sign an agreement with a qualified consultant not to exceed \$25,000. The motion carried by voice vote 4-0, Mayor Hunter absent.

- D. Consider Additional Design Fees for the City Hall, Library, and Civic Center and Resolution Amending the Fiscal Year 2007/08 Budget. Staff Recommendation: 1) Approve amendment to GKK Works agreement authorizing the additional \$1,140,031 request for additional fees to perform expanded design and construction services for the Civic Center, City Hall, and Library; 2) Authorize the City Manager to approve the addition of the optional fee categories outlined in the agenda report, totaling \$191,750, at a later date; and 3) Adopt Resolution No. 20072616  
VOTE REQUIRED

Mr. Riley gave the staff report and corrected the dollar amount in the staff recommendation shown on the agenda to reflect the correct amount of \$168,705 for the optional fee categories.

A discussion followed among the Councilmembers and staff regarding the increase in the cost of the project; disappointment with the process, which did not follow their wishes; and the LEED Certification to be considered as part of the proposal rather than an option.

Juan Caldente and Steve Wagner of GKK Works responded to Council questions regarding the increase in cost of the project; and the benefits of the LEED Certification.

MOTION: Councilmember Mikos moved and Councilmember Millhouse seconded a motion to: 1) Approve amendment to GKK Works agreement authorizing the additional \$1,140,031 request for additional fees to perform expanded design and construction services for the Civic Center, City Hall, and Library; 2) Include the LEED Certification for Sustainable Design as part of the proposal; 3) Authorize the City Manager to approve the addition of the optional

fee categories at a later date as outlined in the agenda report; and 3) Adopt Resolution No. 2007-2616, amending the 2007/2008 Capital Improvement Budget. The motion carried by roll call vote 4-0, Mayor Hunter absent.

- E. Consider Re-Introduction of Ordinance No. 353 Approving Zoning Ordinance Amendment No. 2006-02, Amending Chapter 17.32, Including Amendment to the Title of the Chapter to Off-Street Parking of Title 17 (Zoning) of the Moorpark Municipal Code. Staff Recommendation: Waive full reading, declare Ordinance No. 353 re-introduced for the first time, and schedule second reading and adoption for August 1, 2007.

Mr. Hogan gave the staff report.

In response to Mayor Pro Tempore Millhouse, Ms. Traffenstedt stated there were no speakers.

Mr. Montes read the title of Ordinance No. 353.

MOTION: Councilmember Van Dam moved and Councilmember Parvin seconded a motion to waive further reading, declare Ordinance No. 353 re-introduced for the first time, and schedule second reading and adoption for August 1, 2007. The motion carried by voice vote 4-0, Mayor Hunter absent.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

MOTION: Councilmember Parvin moved and Councilmember Mikos seconded a motion to approve the Consent Calendar with the exception of Items 10.G. and 10.K, which were pulled for individual consideration. The motion carried by roll call vote 4-0, Mayor Hunter absent.

- A. Consider Approval of the Special Meeting Minutes of June 20, 2007. Staff Recommendation: Approve the minutes.
- B. Consider Approval of the Regular Meeting Minutes of June 20, 2007. Staff Recommendation: Approve the minutes.
- C. Consider Approval of Warrant Register for Fiscal Year 2006-2007 – July 18, 2007. Staff Recommendation: Approve the warrant register.
- D. Consider Resolution Determining and Levying the Special Assessment for Assessment District (AD) No. 92-1 for Fiscal Year 2007-2008. Staff Recommendation: Adopt Resolution No. 2007-2617. ROLL CALL VOTE REQUIRED
- E. Consider Resolution Determining and Levying the Special Tax in Community Facilities District (CFD) 97-1 for Fiscal Year 2007-2008. Staff

Recommendation: Adopt Resolution No. 2007-2618. ROLL CALL VOTE REQUIRED

- F. Consider Notice of Completion for the Construction of the Los Angeles/Tierra Rejada Road Parkway Improvement Project (Project 8033). Staff Recommendation: Accept the work as complete and direct the City Clerk to record the Notice of Completion.
- H. Consider Approval of an Increase in the Hourly Rate for Kenneth Gilbert, Consultant. Staff Recommendation: Approve an increase in the hourly rate as specified in the agenda report effective July 1, 2007.
- I. Consider Approval of an Increase in the Hourly Rate for Richard A. Diaz, Consultant. Staff Recommendation: Approve an increase in the hourly rate as specified in the agenda report effective July 1, 2007.
- J. Consider Approval of a Subordination Agreement for the Refinancing of Industrial Planned Development Permit No. 2000-10, Casino Self Storage, Located at 875 and 879 West Los Angeles Avenue, at the Request of Asadurian Investments. Staff Recommendation: 1) Authorize the Mayor to sign the Subordination Agreement once the Settlement Agreement payments and review costs have been paid; and 2) Authorize the City Manager to sign any future Subordination Agreements authorized by the Settlement Agreement for this project.
- L. Consider Use Agreements with Moorpark Packer Football, Moorpark American Youth Soccer Organization, and Moorpark Soccer Club. Staff Recommendation: Approve five-year Use Agreements with each organization, subject to final language approval of the City Manager and City Attorney, and authorize the City Manager to execute the agreements on behalf of the City.
- M. Consider Approval of Resolution Adopting a Revised Benefit Program for Management Employees and Rescinding Resolution No. 2007-2559. Staff Recommendation: Adopt Resolution No. 2007-2619, rescinding Resolution No. 2007-2559.

The following items were pulled for individual consideration.

- G. Consider Ventura County Transportation Commission Memorandum of Understanding (MOU) for Commuter Bus Services. Staff Recommendation: Authorize the City Manager to sign the MOU.

Mr. Kroes gave the staff report and corrected the title of the agenda report to read: "Consider Ventura County Transportation Commission Memorandum of Understanding (MOU) for a Trapeze Paratransit Scheduling and Dispatch Project".

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to authorize the City Manager to sign the Ventura County Transportation Commission Memorandum of Understanding for a Trapeze Paratransit Scheduling and Dispatch project. The motion carried by roll call vote 4-0, Mayor Hunter absent.

- K. Consider Donation of Moorpark Mammoth Fossil Collection to Santa Barbara Museum of Natural History. Staff Recommendation: 1) Approve donation of Moorpark Mammoth Fossil Collection and other small mammal and fauna fossils to the Santa Barbara Museum of Natural History; and 2) Authorize the City Manager to sign a Memorandum of Understanding with the Museum, subject to final language approval by the City Manager and the City Attorney

Councilmember Mikos stated she pulled this item to respond to public comments that the City did not work to keep the fossils in Moorpark. She described the City's efforts to retain the fossils until an appropriate place to preserve and make them available for public viewing could be located.

MOTION: Councilmember Mikos moved and Councilmember Van Dam seconded a motion to: 1) Approve donation of Moorpark Mammoth Fossil Collection and other small mammal and fauna fossils to the Santa Barbara Museum of Natural History; and 2) Authorize the City Manager to sign a Memorandum of Understanding with the Museum, subject to final language approval by the City Manager and the City Attorney. The motion carried by voice vote 4-0, Mayor Hunter absent.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

- A. Consider Ordinance No. 352 Approving Amendment No. 1 to Development Agreement No. 2004-01 with Toll Land XX Limited Partnership in Connection with Residential Planned Development Permit No. 2003-04, General Plan Amendment No. 2003-04, Zone Change No. 2003-03, and Tentative Map No. 5463 for Forty-Nine (49) Single-family Homes on 43.04 Acres North of Championship Drive and East of Grimes Canyon Road. Staff Recommendation: Waive full reading and declare Ordinance No. 352 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

Mr. Montes read the title of Ordinance No. 352.

MOTION: Councilmember Parvin moved and Councilmember Van Dam seconded a motion to waive further reading and declare Ordinance No. 352 read for the second time and adopted as read. The motion carried by roll call vote 4-0, Mayor Hunter absent.

12. CLOSED SESSION:

None was held.

13. ADJOURNMENT:

Mayor Pro Tempore Millhouse adjourned the meeting at 10:09 p.m.

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Patrick Hunter, Mayor

ATTEST:

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Deborah S. Traffenstedt  
City Clerk