

MINUTES OF THE CITY COUNCIL

Moorpark, California

August 1, 2007

A Regular Meeting of the City Council of the City of Moorpark was held on August 1, 2007, 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 7:21 p.m.

2. PLEDGE OF ALLEGIANCE:

Joseph Montes, City Attorney, led the Pledge of Allegiance.

3. ROLL CALL:

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

Staff Present: Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Mary Lindley, Parks, Recreation and Community Services Director; Johnny Ea, Finance Director; Yugal Lall, City Engineer/Public Works Director; David Bobardt, Planning Director; John Brand, Senior Management Analyst; Nancy Burns, Senior Management Analyst; Shaun Kroes, Management Analyst; Sergeant Craig Smith, Sheriff's Department; Maureen Benson, Deputy City Clerk; and Blanca Garza, Deputy City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

None.

5. PUBLIC COMMENT:

None.

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

None.

7. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS:

Councilmember Mikos reported she attended the "High Street Broadcast" presented by the High Street Arts Center this past Sunday and encouraged

attending this free one hour live comedy sketch called "Radio Show" based on the radio shows of the 1940's. The final three presentations are scheduled for the last Sunday of each month through October 2007.

Councilmember Van Dam announced the City's Beach Bus, which is a summer event taking place each Tuesday and Thursday, is a great way to travel to the beach and recommended boarding early to get seats on the bus as the ride is very popular.

Councilmember Millhouse announced the Ventura County Fair has begun and is running through August 12, 2007. He indicated Metrolink will provide train service to and from the Fair and encouraged all to participate. Metrolink train tickets are available for purchase at City Hall. For additional information contact the City of Moorpark or Metrolink.

Councilmember Parvin announced the Moorpark Chamber of Commerce's Moorpark BBQ cook-off is scheduled for September 8, 2007, from 10 a.m. to 4 p.m. at Tierra Rejada Ranch. They plan to have fun for the entire family: rides, attractions, vendor booths, arts and crafts, entertainment, and the rib competition. For additional information contact the Moorpark Chamber of Commerce at 529-0322 or refer to the Chamber's web site: <http://www.moorparkchamber.com/>

8. PUBLIC HEARINGS:

- A. Consider Southern California Edison's Objection to Recordation of Final Map 5147 (AB Properties). (continued unopened public hearing from July 18, 2007). Staff Recommendation: Open the public hearing and following testimony and evidence presented at the hearing, determine whether or not the map will unreasonably interfere with Southern California Edison's easement and/or right of way.

Mr. Lall gave the staff report.

Mayor Hunter opened the public hearing.

John Newton, representing the applicant, AB Properties, 505 Thousand Oaks Boulevard, Thousand Oaks, California, distributed a packet of material related to easements, the access roads, and related correspondence; and provided an overview of the timeline dating back to 1995 and events leading up to this hearing disputing the recordation of Final Map 5147. In response to Mayor Hunter, Mr. Newton confirmed the non-exclusive easement is automatically transferable and runs with the land.

Paul Burns, applicant for AB Properties, 505 Thousand Oaks Boulevard, Thousand Oaks, California, presented an overview of the development of

his project and indicated he is experiencing funding issues causing a financial hardship due to the Final Map 5147 not yet being recorded. He requested Council approve the recordation of Final Map 5147.

Leon Bass, Jr., Senior Attorney, Southern California Edison (SCE), 2244 Walnut Grove Avenue, Rosemead, California, provided background information leading up to SCE's objection, pursuant to the California Government Code Section 66346 which is the Subdivision Map Act, of the recordation of Final Map 5147. He stated the Map contains material errors and if the actual development proceeds as planned it will unreasonably interfere with SCE's easement and fee property.

A discussion among the Councilmembers and staff focused on the recorded instruments; the access road; provisions of Section 6.20 and Section 15 of the development agreement;

In response to Council questions, Mr. Bass stated the Tract Map does not identify SCE's properties; the 30-foot paved road may prevent SCE from adding facilities; they prefer the 10-foot dirt road; SCE intends to negotiate with Mr. Burns so long as his development does not interfere with their property interest; and they request the City Council deny the recordation of Tract Map 5147.

In response to Councilmember Mikos, Mr. Kueny stated the development agreements for both properties resulting from discussions in 1999, relied on the road being constructed within SCE's property. It is now clear SCE representatives no longer wish to develop their property and don't want the previously proposed road. He further stated moving the road to the Hitch Property would probably violate the Hillside Protection Ordinance.

MOTION: Mayor Hunter moved and Councilmember Parvin seconded a motion to discuss this item in closed session.

Mr. Montes announced the Council would be going into closed session under Item 12.A. on the agenda, as the facts and circumstances creating significant exposure to potential litigation are based upon the testimony of both Southern California Edison and Mr. Burns, representing AB Properties.

The motion carried by unanimous voice vote.

AT THIS POINT in the meeting, the City Council recessed for closed session discussion of one case under Item. 12. A. The time was 8:19 p.m.

Present in closed session were Councilmembers Mikos, Millhouse, Parvin, Van Dam, and Mayor Hunter; Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Yugal Lall,

City Engineer/Public Works Director; David Bobardt, Planning Director; and Maureen Benson, Deputy City Clerk.

The Council reconvened with all Councilmembers present at 8:49 p.m. with no action to report.

In response to Mayor Hunter, Mr. Burns concurred that AB Properties would be willing to modify the Street Improvement Plan to relocate Goldbar Drive to be contained entirely within AB Properties' tract boundary.

Mayor Hunter closed the public hearing.

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to direct staff to record Final Map 5147 as approved on March 21, 2007, and with Paul Burns', developer of AB Properties, concurrence, directed staff to modify the Street Improvement Plan to relocate Goldbar Drive to be contained within the tract boundary where it will not unreasonably interfere with Southern California Edison's easement and/or right of way.

Mr. Montes clarified the approval of Final Map 5147 does not in fact impair any of the rights that either of these parties may have with respect to the underlying documents. The Council action does not create an easement if any easement did not exist nor does it eliminate an easement if it did exist.

The motion carried by unanimous roll call vote.

- B. Consider the Amendment of Title 16 of the Moorpark Municipal Code, Subdivisions, to Add Chapter 16.30, Conversion Projects, Establishing Requirements for the Conversion of Rental Apartments to Condominium Ownership. Staff Recommendation: 1) Open the public hearing and take testimony; and 2) Continue the agenda item with the public hearing open to the regular City Council meeting of September 19, 2007.

Mr. Bobardt requested the public hearing be opened and continued to September 19, 2007.

Mayor Hunter opened the public hearing.

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

MOTION: Councilmember Parvin moved and Councilmember Mikos seconded a motion to continue the agenda item with the public hearing open to the regular City Council meeting of September 19, 2007. The motion carried by unanimous voice vote.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider Appointment of Two City Representatives to the Ventura County Area Housing Authority (AHA). Staff Recommendation: Appoint two City representatives to the Ventura County AHA for a four-year term ending August 31, 2011.

Ms. Benson gave the staff report.

Jorgen Nielsen, current City Commissioner on the Area Housing Authority, requested reappointment.

CONSENSUS: It was the consensus of the Council to waive Council policy for putting forth each individual name to be approved for appointment and instead take the appointments collectively.

MOTION: Mayor Hunter moved and Councilmember Millhouse seconded a motion to nominate Jorgen Nielsen and Darius Lawrence as representatives to the Ventura County Area Housing Authority for a four-year term ending August 31, 2011. The motion carried by unanimous voice vote.

- B. Consider Presentation by Eve Liebman of United Way in Appreciation of City Employee Contributions.

Eve Liebman of United Way, presented City employees with a plaque in appreciation of their contributions to United Way.

- C. Consider an Interim Urgency Ordinance Prohibiting Condominium Conversions for a Period of 45 Days. Staff Recommendation: 1) Adopt Interim Ordinance No. 356 to establish a 45-day moratorium on condominium conversions; and 2) Direct to staff to schedule and notice a public hearing for September 5, 2007, or at a special meeting prior to September 14, 2007, to consider extending the Interim Ordinance. ROLL CALL VOTE REQUIRED: 4/5THS AFFIRMATION

Mr. Bobardt gave the staff report.

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

In response to Council, Mr. Kueny clarified it is presently known that at least two members will not be in attendance at the September 5 meeting and an extension of the moratorium would require a 4/5<sup>th</sup> vote so it is recommended the hearing be set for a Special Meeting on September 12, 2007.

Mr. Montes read the title of Interim Urgency Ordinance No. 356.

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to waive further reading and adopt Interim Urgency Ordinance No. 356 to establish a 45-day moratorium on condominium conversions. The motion carried by unanimous roll call vote.

MOTION: Councilmember Mikos moved and Councilmember Millhouse seconded a motion to direct staff to schedule and notice a public hearing for a Special Meeting to be scheduled on September 12, 2007, at 7:00 p.m. to consider extending Interim Urgency Ordinance No. 356. The motion carried by unanimous voice vote.

- D. Consider Professional Services Agreement with Godbe Research as Consultant for Community Opinion Poll. Staff Recommendation: 1) Approve Agreement for Professional Services and authorize the City Manager to sign, subject to final language approval by the City Manager and City Attorney; and 2) Appoint City Council Ad Hoc Committee.

Mr. Riley gave the staff report.

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

MOTION: Councilmember Millhouse moved and Mayor Hunter seconded a motion to approve Agreement for Professional Services with Godbe Research as consultant for the community opinion poll and authorize the City Manager to sign, subject to final language approval by the City Manager and City Attorney. The motion carried by unanimous voice vote.

Councilmembers Mikos and Parvin volunteered to serve on the ad hoc committee.

MOTION: Councilmember Millhouse moved and Mayor Hunter seconded a motion to appoint Councilmembers Mikos and Parvin to serve on a City Council Community Opinion Poll Ad Hoc Committee. The motion carried by unanimous voice vote.

- E. Consider Response to Grand Jury Report: "Ventura County Disaster Evacuation Plan." Approve the letter of response to the Grand Jury report.

Mr. Brand gave the staff report.

Mayor Hunter suggested alerting the Grand Jury as to the important endeavor Ventura County Organization of Governments has undertaken with respect to multi-jurisdictional evacuation and emergency preparedness response.

In response to Councilmember Parvin, Mr. Brand confirmed the language for future documentation will be updated in regard to a "recommended evacuation order" as opposed to a "mandatory evacuation order".

Councilmember Millhouse encouraged staff, the Sheriff's Department, and the California Highway Patrol to speak with Caltrans in regard to pre-planning emergency evacuation routes such as adjusting the direction of the freeway.

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

MOTION: Councilmember Parvin moved and Councilmember Mikos seconded a motion to approve the letter of response to the Grand Jury report. The motion carried by unanimous voice vote.

- F. Consider Resolution Appointing Voting Delegates for League of California Cities Annual Conference – September 5-8, 2007 and Rescinding Resolution No. 2006-2498. Staff Recommendation: Adopt Resolution No. 2007-2620, rescinding Resolution No. 2006-2498.

Ms. Benson gave the staff report.

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

MOTION: Councilmember Parvin moved and Councilmember Millhouse seconded a motion to adopt Resolution No. 2007-2620, designating Mayor Hunter as voting delegate and Councilmembers Millhouse and Parvin as alternate voting delegates for the League of California Cities Annual Conference on September 5 through 8, 2007, and rescinding Resolution No. 2006-2498. The motion carried by unanimous voice vote.

- G. Consider Cancellation of September 5 City Council Meeting. Staff Recommendation: Direct staff to post a notice of meeting cancellation for September 5, 2007.

Mr. Kueny deferred the staff report as the item was previously discussed.

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

MOTION: Councilmember Parvin moved and Councilmember Millhouse seconded a motion to direct staff to post a notice of meeting cancellation for September 5, 2007, due to the conflict of the League of California Cities Annual Conference. The motion carried by unanimous voice vote.

- H. Consider League of California Cities Grassroots Network Program. Staff Recommendation: Approve continuation of Grassroots Network Program.

Mr. Brand gave the staff report.

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

MOTION: Councilmember Parvin moved and Councilmember Mikos seconded a motion to approve continuation of Grassroots Network Program. The motion carried by unanimous voice vote.

- I. Consider Opening Round 3 of the City's First Time Home Buyer Program. Staff Recommendation: Authorize staff to proceed with plans for Round 3 of the City's First Time Home Buyer Program, with provisions as stated in this report and applicable to the Pardee Waverly Place development, resale units or other City/Redevelopment Agency Affordable Housing units; advertise the program; schedule a lottery for October 17, 2007; and approve provisions stated herein to become modifications to Policy 27.

Ms. Burns gave the staff report.

A discussion among the Councilmembers and staff focused on the length of time the lottery group remains in place, workshop requirements, residency accommodations, and retaining the integrity and fairness of this Program.

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

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to authorize staff to proceed with plans for Round 3 of the City's First Time Home Buyer Program, with provisions as stated in the agenda report and applicable to the Pardee Waverly Place development, resale units or other City/Redevelopment Agency Affordable Housing units; advertise the program; schedule a lottery for October 17, 2007; and approve provisions stated herein to become modifications to Policy 27. The motion carried by unanimous voice vote.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

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

- A. Consider Approval of the Special Meeting Minutes of July 10, 2007. Staff Recommendation: Approve the minutes.
- B. Consider Approval of Warrant Register for Fiscal Year 2006-2007 – August 1, 2007. Staff Recommendation: Approve the warrant register.

- C. Consider Approval of Warrant Register for Fiscal Year 2007-2008 – August 1, 2007. Staff Recommendation: Approve the warrant register.
- D. Consider Resolution Amending the Conflict of Interest Code of the City of Moorpark and Rescinding Resolution No. 2007-2571. Staff Recommendation: Adopt Resolution No. 2007-2621, rescinding Resolution No. 2007-2571.
- E. Consider Approval of Amended Household Hazardous Waste Event Agreement Between the City of Moorpark and the City of Camarillo. Staff Recommendation: Approve Amended Household Hazardous Waste Event Agreement between the City of Moorpark and the City of Camarillo, subject to final language approval by the City Manager and the City Attorney, and authorize the Mayor to sign the amendment.
- F. Consider Amendment to Agreement for Bus Excursion and Charter Bus Transit Services with CUSA CC, LLC, Extending Agreement for One-Year. Staff Recommendation: Approve a one-year extension with CUSA with a rate increase and authorize the City Manager to sign the Amendment.
- G. Consider Resolution Amending the Fiscal Year 2007/08 Budget for Purchase of an Unmarked Police Vehicle. Staff Recommendation: Adopt Resolution No. 2007-2622. ROLL CALL VOTE REQUIRED
- H. Consider Resolution Amending the Fiscal Year 2007/08 Budget for Improvements at the Moorpark Public Services Facility. Staff Recommendation: Adopt Resolution No. 2007-2623. ROLL CALL VOTE REQUIRED
- I. Consider Rejection of Claim: Richard Sasenick. Staff Recommendation: Reject the claim and direct staff to send a standard rejection letter to the claimant.
- J. Consider Agreement Between City of Moorpark and Moorpark Unified School District for Provision of Law Enforcement Services at Moorpark High School. Staff Recommendation: Approve the agreement subject to final language approval of the City Manager and City Attorney and authorize the City Manager to sign.
- K. Consider a Professional Services Agreement to Prepare an Update to the City's Housing Element of the General Plan. Staff Recommendation: Authorize the City Manager to negotiate and execute a Professional Services Agreement with CONEXUS for the preparation of the 2008 Housing Element update.
- L. Consider Resolution Amending Resolution No. 2004-2174 and Resolution No. 2005-2373, the City's ICMA Retirement Corporation Governmental

Money Purchase Plan & Trust Adoption Agreement for 401(a) Plan. Staff Recommendation: Adopt Resolution No. 2007-2624, approving an amendment to Resolution Nos. 2004-2174 and 2005-2373, the City's 401(a) Plan, and authorize the City Manager to sign the Loan Guidelines Agreement for a Retirement Plan and the Amendment to ICMA-RC Governmental Section 401 Plan & Trust Adoption Agreement for the City of Moorpark.

- M. Consider Resolution Amending the City's Classification Plan and Rescinding Resolution No. 2007-2558. Staff Recommendation: Adopt Resolution No. 2007-2625, consistent with the agenda report, and rescinding Resolution No. 2007-2558.

11. ORDINANCES: (ROLL CALL VOTE REQUIRED)

- A. Consider 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 and declare Ordinance No. 353 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

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

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to waive full reading and to adopt Ordinance No. 353. The motion carried by roll call vote 4-0, Mayor Hunter abstained.

- B. Consider Ordinance No. 354 Approving Zone Change No. 2004-04, for a Change of Zoning on 10.57 Acres South of Casey Road and West of Walnut Canyon Road and Moorpark Avenue on the Application of Essex Portfolio, L.P. Staff Recommendation: Waive full reading and declare Ordinance No. 354 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

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

MOTION: Councilmember Mikos moved and Councilmember Millhouse seconded a motion to waive full reading and to adopt Ordinance No. 354. The motion carried by roll call vote 4-0, Mayor Hunter abstained.

- C. Consider Ordinance No. 355 Adopting a Development Agreement Between the City of Moorpark and Essex Portfolio Limited Partnership (L.P.) for 19.41 Acres South of Casey Road and West of Walnut Canyon Road and Moorpark Avenue. Staff Recommendation: Waive full reading and declare Ordinance No. 355 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

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

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to waive full reading and to adopt Ordinance No. 355. The motion carried by roll call vote 4-0, Mayor Hunter abstained.

AT THIS POINT in the meeting Mayor Hunter requested reconsideration of Item 9.I.

MOTION: Mayor Hunter moved and Councilmember Millhouse seconded a motion to reconsider Item 9.I. for a proposed amendment. The motion carried by unanimous voice vote.

9. I. Consider Opening Round 3 of the City's First Time Home Buyer Program.  
Staff Recommendation: Authorize staff to proceed with plans for Round 3 of the City's First Time Home Buyer Program, with provisions as stated in this report and applicable to the Pardee Waverly Place development, resale units or other City/Redevelopment Agency Affordable Housing units; advertise the program; schedule a lottery for October 17, 2007; and approve provisions stated herein to become modifications to Policy 27.

In response to Mayor Hunter's request to amend the requirement for attendance at all workshops for individuals who have previously participated in this program, Ms. Burns clarified, prior to the lottery drawing, only one official workshop, which covers valuable new information, is required of interested participants.

Mayor Hunter withdrew his request to amend Item 9.I.

12. CLOSED SESSION:

Mr. Kueny requested the City Council go into closed session for discussion of two cases under Item 12.B. and Item 12.C. on the agenda.

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to adjourn to closed session for a discussion of two cases under Item 12.B. and Item 12.C. on the agenda. The motion carried by unanimous voice vote. The time was 9:30 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 LEGAL COUNSEL – EXISTING LITIGATION  
(Pursuant to Subdivision (a) of Section 54956.9 of the Government Code)  
4X Projects Co, a California Corporation, Richard Gray, an individual vs. City of Moorpark and Does 1 through 50, inclusive (Case No. SC048687)

The Council reconvened into closed session at 9:34 p.m.

Present in closed session were Councilmembers Mikos, Millhouse, Parvin, Van Dam, and Mayor Hunter; Steven Kueny, City Manager; Joseph Montes, City Attorney; Hugh Riley, Assistant City Manager; Yugal Lall, City Engineer/Public Works Director; David Bobardt, Planning Director and Maureen Benson, Deputy City Clerk.

The Council reconvened into open session at 9:50 p.m. Mr. Kueny stated two cases 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 9:50 p.m.

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Patrick Hunter, Mayor

ATTEST:

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Deborah S. Traffenstedt  
City Clerk