

MINUTES OF THE CITY COUNCIL

Moorpark, California

October 3, 2007

A Regular Meeting of the City Council of the City of Moorpark was held on October 3, 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 7:12 p.m.

2. PLEDGE OF ALLEGIANCE:

Johnny Ea, Finance Director, 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; Barry Hogan, Deputy City Manager; Johnny Ea, Finance Director; Yugal Lall, City Engineer/Public Works Director; David Bobardt, Planning Director; David Klotzle, Assistant City Engineer; Captain Jeff Matson, Sheriff's Department; Deborah Traffenstedt, Administrative Services Director/City Clerk; and Maureen Benson, Assistant City Clerk.

4. PROCLAMATIONS AND COMMENDATIONS:

A. Introduction of New City Employee Adam Burks, Assistant Engineer, in the City Engineer/Public Works Department.

Mayor Hunter introduced new City employee Adam Burks, Assistant Engineer, in the City Engineer/Public Works Department.

B. Introduction of New City Employee David Lasher, Senior Management Analyst, in the Community Development Department.

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C. Proclamation Declaring October 5, 2007, as California Arts Day.

Mayor Hunter presented L.J. Stevens, General Manager of the High Streets Art Center, with a proclamation declaring October 5, 2007, as California Arts Day.

5. PUBLIC COMMENT:

Oscar Barrera, a Moorpark resident, requested assistance with traffic and safety hazards at the corner of Sierra and Lassen Avenues at the exit of Mission Bell Plaza parking lot.

Councilmember Millhouse requested Captain Matson place additional patrol cars in this area and stated this situation will be agendized for a future meeting of the Transportation and Public Works Committee. Mayor Hunter requested Mr. Barrera supply Mr. Lall with his phone number so he may be notified of this meeting.

Maria Hagman complimented Mayor Hunter on his recent article in the Moorpark Acorn regarding ethics; and in regard to an opinion piece in the same edition, questioned the motives of those in the community who promote fear by circulating rumors about eminent domain, while doing nothing to help to improve the community.

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

None.

7. ANNOUNCEMENTS AND FUTURE AGENDA ITEMS:

Councilmember Van Dam reported on the City/Moorpark Unified School District Ad Hoc Committee meeting he and Councilmember Millhouse attended on October 2, 2007.

Councilmember Mikos requested a future agenda item to consider placing a measure on the nearest future ballot to allow Moorpark voters to vote on a question, "Shall the Moorpark Redevelopment Agency prohibit the use of eminent domain to acquire any properties in the Agency's Project Area for the life of the Agency, that as of January 2007, were zoned residential?"

Mayor Hunter announced the City of Moorpark invites residents to participate in the design process of the Moorpark Veteran's Memorial. Please join City staff at the future site of the Veteran's Memorial at the southeast corner of Spring Road and Flinn Avenue (across from the Police Services Center) on Tuesday, October 16, 2007 at 5:30 p.m. Subsequently, the public is invited to share their comments with the Arts Commission at their meeting at 6:00 p.m. held here in the Council Chamber.

Mayor Hunter announced the Metrolink north parking lot will be closed Saturday, October 6, 2007. Please remove your car before 6 a.m. Saturday, October 6. Vehicles remaining in the parking lot will be towed at the owner's expense. The parking lot will reopen on Sunday, October 7. Please use the Moorpark station south parking lot.

Mayor Hunter invited everyone to please join the Moorpark City Council for the dedication of Magnolia Park on Saturday, October 6, at approximately 11:30 a.m. (immediately after the Country Days Parade). Magnolia Park is at the intersection of Magnolia and Charles Streets.

Mayor Hunter announced the Moorpark City Library is proud to offer live homework assistance tutoring to students with a Moorpark City library card through "Brainfuse Helpnow". Access this free afternoon tutoring service by visiting the library website: www.moorparklibrary.org, entering your barcode number, and logging onto Helpnow. Spanish speaking tutors are also available.

Mayor Hunter asked everyone to please not throw away your household batteries as they contain hazardous material. Instead, drop them off for free at Moorpark City Hall, the Active Adult Center, Moorpark City Library, Arroyo Vista Recreation Center, or Radio Shack. For more information call 517-6247.

8. PUBLIC HEARINGS:

- A. Consider Zoning Ordinance Amendment 2007-02, Amending Section 17.20.060 to Add Medical Marijuana Dispensaries as a Prohibited Use in All Commercial, Industrial and Institutional Zones, and to Revise Use Restrictions on Body Piercing and/or Tattoo Shops, Tobacco Stores, Including but not Limited to Cigarette, Cigar and Smoking Paraphernalia Shops, Pawnshops, Thrift Stores, Consignment Stores, Secondhand Shops, Clubhouses, Social Clubs, and Service Clubs in the Commercial, Industrial, and Institutional Zones. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Introduce Ordinance No. 360 for first reading, waive full reading, and schedule second reading and adoption for October 17, 2007.

Mr. Hogan gave the staff report.

Mayor Hunter opened the public hearing.

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

Mayor Hunter closed the public hearing.

Mr. Montes read the title of Ordinance No. 360.

MOTION: Councilmember Parvin moved and Councilmember Van Dam seconded a motion to waive full reading, declare Ordinance No. 360 read for the first time, and schedule second reading and adoption for October 17, 2007. The motion carried by unanimous roll call vote.

Councilmember Millhouse stated it is unfortunate there are people who abuse medical marijuana dispensaries, since there are those who legitimately use this substance to ease their pain.

- B. Consider the: 1) Repeal of Ordinance No. 166; 2) Approval of Zoning Ordinance Amendment No. 2007-03, to Amend Chapter 17.20 Table 17.20.060(A)(1), Amend Section 17.24.040 by Adding Section 17.24.040(N) Adult Business Minimum Location Requirements, and Amend Chapter 17.28 by Adding Section 17.28.050 Adult Business Permit; and 3) Amendment to Title 5 Business Taxes, Licenses and Regulations, to Add Chapter 5.18 Adult Business Performer Permit. Staff Recommendation: 1) Open the public hearing, accept public testimony, and close the public hearing; and 2) Introduce Ordinance No. 361 for first reading, waive full reading, and schedule second reading and adoption for October 17, 2007.

Mr. Hogan gave the staff report.

A discussion followed among the Councilmembers, staff, and Mr. Montes regarding whether Mayor Hunter and Councilmember Van Dam's concerns regarding restrictions on limitations where these businesses may be located should be broadened to include the Moorpark Unified School District offices and other facilities that provide services to children; and whether this would provoke malicious lawsuits challenging the increased restrictions.

Mayor Hunter opened the public hearing.

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

Mayor Hunter closed the public hearing.

Mr. Montes read the title of Ordinance No. 361.

MOTION: Councilmember Millhouse moved and Councilmember Parvin seconded a motion to waive full reading, declare Ordinance No. 361 read for the first time, and schedule second reading and adoption for October 17, 2007. The motion carried by roll call vote, 4-1, with Councilmember Van Dam dissenting.

9. PRESENTATION/ACTION/DISCUSSION:

- A. Consider an Amendment to Title 1 – General Provisions of the Moorpark Municipal Code, Chapter 1.16 – Administrative Citations, of Chapter 1.16.040 A. – Notice of Violation, to Delete an Incorrect Reference. Staff Recommendation: Introduce Ordinance No. 362 for first reading, waive full reading, and schedule second reading and adoption for October 17, 2007.

Mr. Hogan gave the staff report.

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

Mr. Montes read the title of Ordinance No. 362.

MOTION: Councilmember Mikos moved and Councilmember Millhouse seconded a motion to waive full reading, declare Ordinance No. 362 read for the first time, and schedule second reading and adoption for October 17, 2007. The motion carried by unanimous roll call vote.

- B. Consider Award of Contract for the Construction for the Tierra Rejada Road and Second Street Asphalt Overlay Project and a Resolution Amending the Fiscal Year 2007/08 Budget to Revise the Funding Sources for the Project. Staff Recommendation: 1) Award a construction contract to Excel Paving Company and authorize the City Manager to execute the construction contract in the amount of \$3,198,364.49 for the subject project; 2) Authorize the City Manager to amend the construction contract for project contingencies in an amount not to exceed \$320,000, if and when the need arises for extra work and services; 3) Authorize the City Manager to award a consultant agreement for materials testing services in an amount not to exceed \$60,000; and 4) Adopt Resolution No. 2007-2639, revising the funding for the project. ROLL CALL VOTE REQUIRED

Mr. Klotzle gave the staff report and concurred with Mayor Hunter's direction to provide aggressive public outreach due to the inconvenience created by this project.

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

Councilmember Millhouse stated this expenditure could have been funded by approximately \$75.00 per citizen if the countywide sales tax Measure B had been approved by the voters in 2004.

MOTION: Councilmember Millhouse moved and Councilmember Mikos seconded a motion to 1) Award a construction contract to Excel Paving Company and authorize the City Manager to execute the construction contract in the amount of \$3,198,364.49 for the subject project; 2) Authorize the City Manager to amend the construction contract for project contingencies in an amount not to exceed \$320,000, if and when the need arises for extra work and services; 3) Authorize the City Manager to award a consultant agreement for materials testing services in an amount not to exceed \$60,000; and 4) Adopt Resolution No. 2007-2639, revising the funding for the project. The motion carried by unanimous roll call vote.

- C. Consider Cancellation of November 21 City Council Meeting. Staff Recommendation: Direct staff to post a notice of meeting cancellation for November 21, 2007.

Ms. Traffenstedt gave the staff report.

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

MOTION: Councilmember Mikos moved and Councilmember Millhouse seconded a motion to direct staff to post a notice of meeting cancellation for November 21, 2007. The motion carried by unanimous voice vote.

- D. Consider Resolution Declaring Intention to Reimburse Expenditures from the Proceeds of Tax-Exempt Obligations and Directing Certain Actions. Staff Recommendation: Adopt Resolution No. 2007-2640.

Mr. Riley gave the staff report.

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

MOTION: Councilmember Mikos moved and Councilmember Parvin seconded a motion to adopt Resolution No. 2007-2640, declaring intention to reimburse expenditures from the proceeds of tax-exempt obligations and directing certain actions. The motion carried by unanimous voice vote.

10. CONSENT CALENDAR: (ROLL CALL VOTE REQUIRED)

MOTION: Councilmember Mikos moved and Councilmember Parvin 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 September 12, 2007. Staff Recommendation: Approve the minutes.

- B. Consider Approval of the Regular Meeting Minutes of September 19, 2007. Staff Recommendation: Approve the minutes.
 - C. Consider Approval of Warrant Register for Fiscal Year 2007-2008 – October 3, 2007. Staff Recommendation: Approve the warrant register.
 - D. Consider Resolution Amending Fiscal Year 2007/08 Budget to Appropriate Funds for Traffic Signal Modifications at Campus Park Drive and Collins Drive. Staff Recommendation: 1) Adopt Resolution No. 2007-2641; and 2) Authorize the City Manager to reimburse M & M Development in an amount not to exceed \$75,000 for construction of traffic signal modifications. ROLL CALL VOTE REQUIRED
 - E. Consider Sponsorship of the Metrolink Holiday Toy Express. Staff Recommendation: Authorize \$1,000 sponsorship for the Metrolink Holiday Toy Express.
 - F. Consider Surety Bond Reduction for Toll CA L.P, Moorpark Country Club Estates (Tract 4928). Staff Recommendation: 1) Authorize the City Clerk to reduce Surety Bonds Nos. 929213834 and 929213835 to 10%; and 2) Authorize the City Clerk to fully exonerate these bonds one year after this approval of reduction upon written confirmation from the City Engineer that no warranty work is required.
 - G. Consider Resolution Approving the Administering Agency – State Master Agreement No. 07-5436R Pertaining to Federal Aid Projects and the Program Supplement Agreement No. N010 Pertaining to Surface Transportation Program Funding for the Tierra Rejada Road and Second Street Pavement Rehabilitation Project. Staff Recommendation: Adopt Resolution No. 2007-2642.
11. ORDINANCES: (ROLL CALL VOTE REQUIRED)
- A. Consider Ordinance No. 359 Amending Sections 12.16010 and 12.16.140 of Chapter 12.16, Parks, of Title 12, Streets, Sidewalks and Public Places. Staff Recommendation: Waive full reading and declare Ordinance No. 359 read for the second time and adopted as read. ROLL CALL VOTE REQUIRED

Mr. Montes read the title of Ordinance 359.

MOTION: Councilmember Parvin moved and Councilmember Van Dam a motion to waive full reading and declare Ordinance No. 359 read for the second time and adopted as read. The motion carried by voice vote 4-1, Councilmember Mikos dissenting.

12. CLOSED SESSION:

Mr. Montes requested the City Council go into closed session for discussion of one case under Item 12.A. as the facts and circumstances creating significant exposure to litigation consist of an ongoing investigation by the United States concerning the Voters' Rights Act.

MOTION: Mayor Hunter moved and Councilmember Millhouse seconded a motion to adjourn to closed session for a discussion of one case under Item 4.A. The motion carried by unanimous voice vote. The time was 8:41 p.m.

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Subdivision (b) of Section 54956.9 of the Government Code: (Number of cases to be discussed - 4)

Present in closed session were Councilmembers Mikos, Millhouse, Parvin, Van Dam, and Mayor Hunter; Steven Kueny, City Manager; Joseph Montes, City Attorney; and Deborah Traffenstedt, Administrative Services Director/City Clerk.

The Council reconvened into open session at 9:20 p.m. Mr. Kueny stated one case under Item 12.A. was discussed and there was no action to report.

13. ADJOURNMENT:

Mayor Hunter adjourned the meeting at 9:20 p.m.

Patrick Hunter, Mayor

ATTEST:

Maureen Benson, Assistant City Clerk

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