

CITY OF ALISO VIEJO  
CITY COUNCIL MINUTES  
REGULAR MEETING  
JANUARY 20, 2010, 7:00 P.M.  
Council Chambers, City Hall, 12 Journey  
Aliso Viejo, California

CALL TO ORDER: Convened closed session at 6:35 p.m.

PRESENT: COUNCIL MEMBERS: PHILLIP B. TSUNODA  
CARMEN CAVE  
GREG FICKE  
WILLIAM A. PHILLIPS

ABSENT: COUNCIL MEMBERS: DONALD A. GARCIA

STAFF PRESENT: MARK A. PULONE, CITY MANAGER  
SCOTT SMITH, CITY ATTORNEY

PUBLIC COMMENT: There was no public comment.

1. CONFERENCE WITH LEGAL COUNSEL – ANITICIPATED LITIGATION  
Pursuant to Government Code Section 54956.9(b)(1)  
Significant Exposure to Litigation  
Number of potential cases: One (1)

CALL TO ORDER: Mayor Tsunoda called the open session of the Regular Meeting of the City Council of the City of Aliso Viejo to order at 7:05 p.m.

ROLL CALL:

PRESENT: COUNCIL MEMBERS: PHILLIP B. TSUNODA  
CARMEN CAVE  
GREG FICKE  
DONALD A. GARCIA  
WILLIAM A. PHILLIPS

ABSENT: COUNCIL MEMBERS: NONE

STAFF PRESENT: MARK A. PULONE, CITY MANAGER  
SCOTT SMITH, CITY ATTORNEY  
SUSAN A. RAMOS, CITY CLERK  
GINA THARANI, FINANCE DIRECTOR  
HELEN WILSON, COMMUNITY SERVICES DIRECTOR

JOHN WHITMAN, PUBLIC WORKS DIRECTOR  
SHAWN PELLETIER, ASSISTANT CITY ENGINEER  
ALBERT ARMIJO, PLANNING DIRECTOR  
LT. BOB OSBORNE, CHIEF, POLICE SERVICES

PLEDGE OF ALLEGIANCE TO THE FLAG: Cub Scout Pack 700 Den 3 led the pledge of allegiance.

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION – No reportable action taken at this time.

SPECIAL PRESENTATIONS

A. RECOGNITION – JACK SONGER, DEPUTY OF THE YEAR

Mayor Tsunoda introduced Deputy Songer and presented him with the certificate of recognition. Lt. Osborne gave a commendation and presented him with the Deputy of the Year Award. Deputy Songer expressed his thanks.

B. RECOGNITION – JILL JELNICK, ORANGE COUNTY AFFILIATE OF SUSAN G. KOMEN FOR THE CURE'S OUTSTANDING YOUTH VOLUNTEER OF THE YEAR

Mayor Tsunoda introduced Ms. Jelnick and provided some background about her accomplishments and presented her with a certificate of recognition. Ms. Jelnick accepted with thanks and appreciation.

ADDITIONS, DELETIONS, REORDERING TO THE AGENDA

City Manager Pulone announced that due to heavy road damage on Woodfield Drive caused by the current storm system in Southern California, staff is requesting Council to add the following urgent matter to tonight's agenda for consideration:

URGENCY ITEM: EMERGENCY ANALYSIS AND REPAIRS TO WOODFIELD DRIVE

RECOMMENDED ACTION:

1. Authorize the use of funds from Gas Tax, Unreserved Fund Balance to perform the work; and
2. Authorize the City Manager to negotiate and execute an agreement(s) to analyze and/or make repairs to Woodfield Drive up to a maximum of \$150,000.

MOTION: MAYOR TSUNODA MOVED AND COUNCILMEMBER PHILLIPS SECONDED TO ADD THE ABOVE ITEM TO THIS EVENING'S AGENDA PURSUANT TO GOVERNMENT CODE SECTION 54954.2(B)(2), THAT THERE IS A NEED TO TAKE IMMEDIATE ACTION AND THAT THE NEED FOR ACTION CAME TO THE ATTENTION OF THE LOCAL AGENCY SUBSEQUENT TO THE AGENDA BEING

**POSTED. MOTION UNANIMOUSLY CARRIED.**

City Manager Pulone presented the staff report. Copies of the report were distributed to Council and placed on the back table for the public. The damage to Woodfield Drive caused by the recent severe rainstorms required full closure of a portion of Woodfield Drive, which is the main access route to Woodfield Park and other uses. Immediate action is necessary to repair the damage to Woodfield Drive to prevent further erosion and deterioration of the street and to open Woodfield Drive to through traffic. Due to the emergency nature of the repairs, there is insufficient time to competitively bid the work. Staff responded to questions regarding street ownership, source of funds for reimbursement, and the source of the problem.

Mayor Tsunoda opened public comments. No comments were received.

**MOTION: COUNCILMEMBER PHILLIPS MOVED AND COUNCILMEMBER FICKE SECONDED TO AUTHORIZE THE USE OF FUNDS FROM GAS TAX, UNRESERVED FUND BALANCE TO PERFORM THE WORK AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT TO ANALYZE AND/OR MAKE REPAIRS TO WOODFIELD DRIVE UP TO A MAXIMUM OF \$150,000. MOTION UNANIMOUSLY CARRIED.**

**CONSENT CALENDAR**

Mayor Tsunoda asked if any member of the City Council or the public wished to remove an item from the Consent Calendar. There were no requests from the Council or the public to remove any items.

**MOTION: MAYOR PRO TEM CAVE MOVED AND COUNCILMEMBER PHILLIPS SECONDED TO APPROVE CONSENT CALENDAR ITEMS 1 - 5, AS FOLLOWS:**

1. **WAIVE THE READING OF ALL ORDINANCES AND RESOLUTIONS**

Approved the reading by title only of all ordinances and resolutions wherein the titles appear on the public agenda; said titles shall be determined to have been read by title, and further reading is waived.

2. **MINUTES – REGULAR MEETING OF JANUARY 6, 2010**

Approved the Minutes as amended to correct the word “dicentennial” to “decennial” as reflected under Mayor Tsunoda’s comments.

3. ACCOUNTS PAYABLE

Ratified Accounts Payable checks issued December 24, 2009 in the amount of \$45,910.66; Accounts Payable checks issued December 31, 2009 in the amount of \$204,507.90; and, Accounts Payable checks issues January 7, 2010 in the amount of \$867,664.19.

4. ADOPT ORDINANCE 2010-121 REGARDING TRANSIENT OCCUPANCY TAX

Conducted second reading and adopted Ordinance No. 2010-121, entitled as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO TEMPORARILY EXEMPTING FEDERAL GOVERNMENT OFFICERS AND EMPLOYEES FROM PAYMENT OF THE TRANSIENT OCCUPANCY TAX WHILE CONDUCTING OFFICIAL GOVERNMENT BUSINESS.

5. ADOPT ORDINANCE 2010-122 REGARDING ZONING CODE AMENDMENT ZOA AV09-03

Conducted second reading and adopted Ordinance No. 2010-122, entitled as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA ADOPTING ZONING CODE AMENDMENT ZOA AV09-03.

**MOTION UNANIMOUSLY CARRIED.**

**END OF CONSENT CALENDAR**

**PUBLIC HEARING ITEM NO. 6**

6. A REQUEST FOR A CONDITIONAL USE PERMIT TO ESTABLISH A RELIGIOUS, FRATERNAL, OR SERVICE ORGANIZATION OF A NON-PROFIT NATURE WITHIN PACIFIC PARK PLAZA BUSINESS PARK AT 27111 ALISO CREEK ROAD

Al Armijo, Director of Planning, presented the staff report and noted that a revised Condition of Approval No. 7 has been submitted to Council for consideration. Copies have been made available for the public at the back table. He responded to questions regarding occupancy rate and number of regular church staff, attendance limits and enforcement if needed.

Mayor Pro Tem Cave requested continuance to allow time for staff to research some of her questions.

Bob Bunyan, Bunyan and Associates, spoke on behalf of the applicant noting that the pastor and some of the church staff are present to answer any questions, provided information about parking, and asked for Council support and approval.

Mayor Tsunoda opened public comments. No comments were received.

**MOTION: MAYOR PRO TEM CAVE MOVED AND MAYOR TSUNODA SECONDED (FOR DISCUSSION) TO CONTINUE TO FEBRUARY 3, 2010. MOTION UNANIMOUSLY CARRIED.**

## **DISCUSSION ITEMS NOS. 7 THROUGH 10**

### **7. REPORT ON PLANNING COMMISSION**

Al Armijo, Director of Planning, presented the staff report.

Questions and discussion ensued regarding the education aspect, other options including Option 4 lifting the suspension and meeting on an as needed basis, Option 5 continuing the suspension and coming back in six months to re-evaluate, and the cost savings factor.

Mayor Tsunoda opened public comments. No comments were received.

Mayor Tsunoda suggested bifurcating the motion as follows:

**FIRST MOTION: MAYOR PRO TEM CAVE MOVED AND COUNCILMEMBER GARCIA SECONDED TO MOVE FORWARD WITH SCHEDULING TRAINING FOR THE PLANNING COMMISSIONERS WITH THE UNIVERSITY OF CALIFORNIA IN LOS ANGELES (UCLA) EXTENSION PROGRAM. MOTION UNANIMOUSLY CARRIED.**

**SECOND MOTION (WITHDRAWN): MAYOR TSUNODA MOVED AND COUNCILMEMBER PHILLIPS SECONDED (FOR DISCUSSION) TO APPROVE OPTION NO. 4 TO LIFT THE SUSPENSION AND SCHEDULE PLANNING COMMISSION MEETINGS ON AN AS NEEDED BASIS TO BE DETERMINED BY THE CITY MANAGER, CITY ATTORNEY AND MAYOR.**

Discussion ensued regarding process for the as needed meetings, types of projects for Planning Commission review, short and long term Planning projects, the timing for scheduling training for the Planning Commissioners, and cost savings measure for suspending said body.

Following discussion, the maker of the second motion (Mayor Tsunoda) and the second (Councilmember Phillips) agreed to withdraw their motion regarding Option no. 4.

**MOTION: COUNCILMEMBER FICKE MOVED AND MAYOR PRO TEM CAVE SECONDED TO APPROVE OPTION 5 TO CONTINUE WITH THE SUSPENSION FOR AN ADDITIONAL SIX (6) MONTHS. MOTION UNANIMOUSLY CARRIED.**

8. **RESOLUTION ESTABLISHING 2010 AS THE YEAR OF THE YOUTH**

Mayor Tsunoda noted this item was presented to Council under his Top Ten List for 2010.

Mayor Pro Tem Cave suggested amending the proposed resolution to strike out the third whereas clause which reads, "the innocence and curiosity of our youth are characteristics we should all embrace".

Mayor Tsunoda opened public comments. No comments were received.

**MOTION: COUNCILMEMBER PHILLIPS MOVED AND COUNCILMEMBER GARCIA SECONDED TO ADOPT RESOLUTION NO. 2010-03, AS AMENDED, ENTITLED:**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ESTABLISHING 2010 AS THE YEAR OF THE YOUTH**

**MOTION UNANIMOUSLY CARRIED.**

9. **AWARD CONTRACT TO ALL AMERICAN ASPHALT FOR THE PACIFIC PARK DRIVE REHABILITATION - CHEYENNE TO ALISO VIEJO PARKWAY**

Council dispensed with the staff report.

Mayor Tsunoda opened public comments. No comments were received.

**MOTION: MAYOR PRO TEM CAVE MOVED AND COUNCILMEMBER GARCIA SECONDED TO AWARD A CONTRACT IN THE AMOUNT OF \$411,631.25 TO ALL AMERICAN ASPHALT AS THE LOWEST RESPONSIBLE BIDDER FOR THE PACIFIC PARK DRIVE REHABILITATION PROJECT; AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT WITH ALL AMERICAN ASPHALT; AND, AUTHORIZE CITY STAFF TO MAKE TOTAL COMPENSATION TO ALL AMERICAN ASPHALT UP TO \$452,795 (TEN PERCENT (10%) ABOVE THE ADJUSTED CONTRACT AMOUNT) TO**

**ALLOW FOR CONTINGENCIES. MOTION UNANIMOUSLY CARRIED.**

10. **AWARD CONTRACT TO ALL AMERICAN ASPHALT FOR THE PROPOSITION 1B PROJECTS**

Council dispensed with the staff report.

Mayor Tsunoda opened public comments. No comments were received.

**MOTION: MAYOR PRO TEM CAVE MOVED AND COUNCILMEMBER GARCIA SECONDED TO AWARD A CONTRACT IN THE AMOUNT OF \$216,000 TO ALL AMERICAN ASPHALT AS THE LOWEST RESPONSIBLE BIDDER FOR THE PROPOSITION 1B PROJECTS; AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT WITH ALL AMERICAN ASPHALT; AND, AUTHORIZE CITY STAFF TO MAKE TOTAL COMPENSATION TO ALL AMERICAN ASPHALT UP TO \$259,200 TO ALLOW FOR TREE REMOVAL AND A TEN PERCENT (10%) CONTINGENCY. MOTION UNANIMOUSLY CARRIED.**

**COMMUNITY INPUT**

None at this time.

**CITY MANAGER'S REPORT**

None at this time.

**ANNOUNCEMENTS/COUNCIL COMMENTS/COMMITTEE UPDATES**

Ficke

- None at this time.

Garcia

- Expressed thanks to staff for their generous gifts.

Phillips

- None at this time.

Cave

- Asked staff to circulate copies to Council of the Traffic and Revenue Update materials from the Toll Roads that she brought back.

Tsunoda

- Asked staff to report back to Council the impact to Aliso Viejo from the Governor's budget item to replace the excise tax on gasoline with more sales tax.

**ADJOURNMENT:** The Mayor adjourned the meeting at 8:10 p.m. to the regularly scheduled Council meeting of February 3, 2010.

Respectfully submitted,

Approved by:

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SUSAN A. RAMOS  
CITY CLERK

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PHILLIP B. TSUNODA  
MAYOR