

**City of Fountain Valley City Council
And
Agency for Community Development
Minutes
November 3, 2009**

CLOSED SESSION 6:30 P.M.

City Attorney Alan Burns reported that pursuant to Government Code, Section 54956.8, the Agency met in closed session with the Agency's property negotiator, City Manager Ray Kromer, to discuss real property located at 18095 Mt. Shay St. and property located at 18325 Mt. Baldy Circle. Council provided further direction with no reportable action to disclose.

CALL TO ORDER

Mayor Carrozzo called the Fountain Valley Council meeting to order at 6:58 p.m.

INVOCATION

Pastor Brent Wagner of the Voyage Church gave the invocation.

SALUTE TO THE FLAG

Council Member Collins gave the salute to the flag of the United States.

ROLL CALL

Council Members Present: Nagel, Crandall, Carrozzo Collins, Brothers
Council Members Absent: None

ALSO PRESENT: Management Analyst Matt Mogensen, Community Services Manager Mark Nix, Planning and Building Director Andy Perea, Fire Chief Bill Walker, Police Chief Paul Sorrell, Deputy Fire Marshall Adria Paesani, Finance Director/City Treasurer Liz Fox, City Planner Steven Ayers, and Public Works Director /City Engineer Mark Lewis, City Manager Ray Kromer, Deputy City Clerk Kathy Heard

ANNOUNCEMENT OF LATE COMMUNICATIONS

Deputy City Clerk Kathy Heard confirmed that the following late communications were received and distributed to Council, staff and made available to the public:

- Addition of a presentation of a proclamation to the VFW 9557 Post for Buddy Poppy Month, November 2009.
- Late communication from the City Manager Ray Kromer to the council members regarding closed session information.
- Changes were made to the staff report on Consent Calendar Item #5, pages 58 and 59.

APPROVAL OF MINUTES

(Council/Agency) Consideration of approval of the minutes of the City Council/Agency for Community Development meeting held on October 20, 2009 as distributed.

- *Motion by Council Member Collins, second by Council Member Brothers to approve the minutes of the City Council/Agency for Community Development meeting held on October 20, 2009 as distributed.*

AYES: Nagel, Crandall, Collins, Brothers, Carrozzo
NOES: None

Motion Passed 5-0

PRESENTATIONS

- Mayor Carrozzo and Council Member Collins presented the 2009 Disability Friendly Business Award to Jim Whitehall of Sam's Club #6615 in honor of *National Disability Awareness Month*.
- Presentation of a proclamation by Council to VFW Post 9557 in recognition of *Buddy Poppy Month*, November 2009.

PUBLIC HEARING

1. **(Council)** A Public Hearing to consider an appeal filed by T-Mobile West Corporation, regarding the Planning Commission's denial of Conditional Use Permit No. 1678 to construct a wireless telecommunication facility at 8675 Bluebird Avenue.

Andy Perea Planning/Building Director gave a brief report of the information provided in the staff report submitted with the agenda packet. Mr. Perea stated that the Planning Commission denied Conditional Use Permit No. 1678 requested by T-Mobile to construct a wireless communication facility at 8675 Bluebird Avenue (Harper Park) due to aesthetic concerns. T-Mobile appealed the Planning Commission's denial of CUP No. 1678 on September 29, 2009 stating the location was selected after considering certain variables such as network needs, zoning requirements, etc. Mr. Perea stated that the decision was at the pleasure of council with the requirement to direct staff to return with a confirming resolution memorializing the City Council's decision.

City Attorney Alan Burns addressed the Mayor and Council stating the applicant (T-Mobile) must meet all of the City's criteria regarding the installation of a wireless telecommunications facility. In addition, Mr. Burns also stated that if council were to deny the applicant installation, federal law would require additional findings such as the City did not unfairly discriminate against the cell tower provider, noting that it would be the provider's responsibility to establish this element and carry the burden of proof. Also, if the council were to deny the CUP, the City must also make a finding that the City did not effectively prohibit wireless service, and that would again be the burden of the applicant to prove. Lastly, Mr. Burns reminded council that the Telecommunications Act of 1996

preempts local jurisdictions from denying a wireless communications facility based solely on health concerns.

Comments ensued by council stating that they had made site visits to the proposed cell tower location prior to the meeting.

Joe Thompson, Zoning and Government Affairs Manager for T-Mobile, gave a presentation to Council on the criteria and reasoning for the choice of location for the cell tower stating T-Mobile's willingness to be sensitive to the community's objections and still provide cell phone service to their customers.

Mayor Carrozzo opened the public hearing.

The following residents of Fountain Valley spoke in opposition to the proposed T-Mobile wireless communication facility to be located at 8675 Bluebird Avenue (Harper Park) due to aesthetic concerns:

- Craig Carter, 18675 Santa Isadora St., Fountain Valley,
- Lyle Scheppele of 18692 Santa Mariana St., Fountain Valley,
- Steven Rhoten of 18691 Santa Isadora, Fountain Valley, CA
- Tom Rimdzius of 18751 Tomahawk St., Fountain Valley, CA
- Richard Goehring of 18658 Santa Isadora St., Fountain Valley, CA
- Chris Beck 18663 Santa Mariana St., Fountain Valley, CA
- Eladio Correa, 18671 Santa Mariana St., Fountain Valley, CA
- Rick Reis 8848 Canary Ave., Fountain Valley, CA
- Libby Frolichman, 18687 Diddy Circle, Fountain Valley, CA
- Bob Knust-Graichen 18596 Santa Isadora, Fountain Valley, CA
- Jim Kinny, 18684 Santa Mariana St., Fountain Valley, CA
- Sheri Henderson, 8719 Hummingbird Ave., Fountain Valley, CA

Joe Thompson, representative of T-Mobile returned to the podium to give rebuttal to resident's opposition to the placement of the cell tower and to field questions from council regarding same.

Questions and concerns ensued by council members regarding the construction schedule and the notification process to residents.

Mayor Carrozzo closed the public hearing.

- *Motion by Council Member Brothers, second by Mayor Pro Tem Crandall to approve the appeal filed by T-Mobile West Corporation, regarding the Planning Commission's denial of Conditional Use Permit No. 1678 to construct a wireless telecommunication facility at 8675 Bluebird Avenue and direct staff to return with a confirming resolution memorializing the decision of the Council.*

AYES: Crandall, Collins, Brothers
NOES: Nagel, Carrozzo

Motion Passed 3-2

READING OF ORDINANCES

Council Action: *If desired, motion to waive the reading in full of all ordinances under consideration and direct the Mayor to read by titles only.*

- *Motion by Mayor Pro Tem Crandall, second by Council Member Nagel to waive the reading in full of all ordinances under consideration and direct the Mayor to read by titles only.*

AYES: Nagel, Crandall, Collins, Brothers, Carrozzo
NOES: None

Motion Passed 5-0

ORDINANCES FOR ADOPTION

The following ordinances presented for adoption were introduced at the October 20, 2009 City Council meeting.

2. **Ordinance No. 1438** An Ordinance of the Fountain Valley City Council Repealing and Reenacting Chapter 8.16 and adding Section 18.33.060 to the Fountain Valley Municipal Code Pertaining To Swimming Pools

- *Motion by Council Member Collins, second Mayor Pro Tem Crandall by adopt Ordinance No. 1438 repealing and reenacting Chapter 8.16 and adding Section 18.33.060 to the Fountain Valley Municipal Code pertaining to swimming pools.*

AYES: Nagel, Crandall, Collins, Brothers, Carrozzo
NOES: None

Motion Passed 5-0

3. **Ordinance No. 1439** An Ordinance of the Fountain Valley City Council Abolishing the Community Services Commission and the Traffic Advisory Committee and Making Related Changes

- *Motion by Council Member Collins, second by Council Member Brothers to adopt Ordinance No. 1439 abolishing the Community Services Commission and the Traffic Advisory Committee and making related changes.*

AYES: Nagel, Crandall, Collins, Brothers, Carrozzo
NOES: None

Motion Passed 5-0

CONSENT CALENDAR

Action: *If desired, motion to approve Council Items 4 through 5.*

4. **(Council)** Adoption of a resolution of the City of Fountain Valley City Council designating signature authority for the appropriation of grant funds from the 2009 Emergency Management Performance Grant (EMPG) Program.

Resolution No. 9231 A resolution of the Fountain Valley City Council designating signature authority for the appropriation of grant funds from the 2009 Emergency Management Performance Grant (EMPG) Program

5. **(Council)** Authorization to execute a Ten-Year Promissory Note between the General Fund and the Water Utility Fund in the amount of \$2,500,000 for the purpose of drilling and constructing Well No. 9, Project Number WU 804.

➤ *Motion by Council Member Brothers, second by Council Member Collins to approve Consent Calendar Items 4 through 5.*

➤

AYES: Nagel, Crandall, Collins, Brothers, Carozzo

NOES: None

Motion Passed 5-0

PRESENTATION OF DEMANDS

(Council) Ratification of Payroll:

Payroll Checks and Direct Deposit Vouchers as listed in the report.

➤ *Motion by Mayor Pro Tem Crandall, second by Council Member Nagel to ratify the payroll listed in the report provided by the Finance Department by the following roll call vote:*

AYES: Nagel, Crandall, Collins, Brothers, Carozzo

NOES: None

Motion Passed 5-0

(Council) Consideration of Register of Demands:

Checks, ACH Vendor Payment, and Electronic Transfers as listed in the report.

➤ *Motion by Mayor Pro Tem Crandall, second by Council Member Nagel to approve the Register of Demands listed in the report provided by the Finance Department by the following roll call vote:*

AYES: Nagel, Crandall, Collins, Brothers, Carozzo

NOES: None

Motion Passed 5-0

COUNCIL/AGENCY COMMENTS (Outside Committee Activities, AB1234 Reporting and General Comments)

Mayor Pro Tem Crandall announced his attendance at the Orange County Sanitation District planning session meeting and his intention of attending the Operations and Administration Committee of the OCSD the next day.

Council Member Nagel announced his attendance at the Orange County Sanitation District Planning Session meeting and his attendance at the Joint Powers Insurance Authority Conference on risk management in San Francisco, CA the previous week.


Council Member Collins announced his attendance at the Historical Society Luncheon on October 25, his attendance at the R.S.V.P. Graduation on October 28, and his participation at the State Water Task Force approving the League's recommendations to the Legislature.

ADJOURNMENT

Mayor Carrozzo adjourned the City of Fountain Valley City Council and Agency for Community Development meeting at 8:38 p.m. to the next scheduled meeting of November 17, 2009.



Mayor, Guy Carrozzo



Kathleen Heard, Deputy City Clerk/Agency Secretary