

**CITY OF FOUNTAIN VALLEY CITY COUNCIL
And
AGENCY FOR COMMUNITY DEVELOPMENT
Minutes
November 17, 2009**

CLOSED SESSION 6:15 P.M.

City Attorney Alan Burns reported on the closed session item stating that pursuant to Government Code, Section 54956.8 to provide direction to the Agency's real property negotiator City Manager Raymond Kromer and authorized and ratified the purchase of real property located at 11913 Heil Avenue, Fountain Valley, CA for the purchase price of \$135,000.

STUDY SESSION 6:30 P.M.

Craig Swanson representative of VHB Associates gave a brief informational presentation on the option of the City of Fountain Valley Redevelopment Agency to fund a new digital sign at the City owned Water Tank property off Ellis Ave. Mr. Swanson stated VHB would be responsible for the capital cost to construct and install the sign structure, stating the approximate size, and the necessary zoning modifications if necessary. Mr. Swanson also stated the Redevelopment Agency would receive 10% of the net/gross revenue from the sign after taxes and VHB would provide all electrical power, maintenance and management for the sign.

Questions and comments ensued by Council members with apprehension about the size of the sign and the possibility of the foundation intruding into public underground utility lines.

CALL TO ORDER

Mayor Carrozzo called the Fountain Valley Council meeting to order at 7:00 P.M.

INVOCATION

Pastor Tim Phillips of the King of Glory Church gave the invocation.

SALUTE TO THE FLAG

Council Member Brothers 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, Finance Director/City Treasurer Elizabeth Fox, Public Works Director/City Engineer Mark Lewis, IS Manager Lee Pratt, Personnel Manager Jean Hirai, Housing Coordinator Brent Hoff, City Attorney Alan Burns, City Manager Raymond Kromer, and Deputy City Clerk Kathleen Heard

ANNOUNCEMENT OF LATE COMMUNICATIONS

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

- Late communication from Housing and Community Development to the members of the city council with reference to the closed session item.
- Changes to the November 3, 2009 Agency/Council Minutes on Page 2.
- Changes made to the staff report on the Public Protest Hearing on pages 1, 2, & 3.
- Changes made to the staff report under Consent Calendar Item #6 Page 125 under City Attorney Review.
- Informational item given to the council concerning Administrative Item #9.
- Three (3) additional protest letters received after the distribution of the agenda to the council.

APPROVAL OF MINUTES

(Council/Agency) Consideration of approval of the minutes of the City Council/Agency for Community Development meeting held on November 3, 2009 as corrected.

- *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 November 3, 2009 as corrected.*

Ayes: Nagel, Crandall, Collins, Brothers, Carrozzo

Noes:

Motion Passed 5-0

PUBLIC HEARING

1. Conduct a public protest hearing regarding the proposed water rate and sewer rate increases in compliance with Proposition 218; and adopt a resolution establishing the proposed water and sewer rate structure.

RESOLUTION NO. 9234 A Resolution of the Fountain Valley City Council Establishing the Fiscal Year 2009/2010 and 2010/2011 Water and Sewer Rate Structure for the Operation, Maintenance, and Capital Improvement of the City Water and Sewer Utility Enterprise.

Mayor Carrozzo announced that pursuant to Proposition 218, as recently interpreted by the *Bighorn* case, this public hearing is to consider imposing water and sewer rate fees and an increase for the City of Fountain Valley water rate payers.

City Attorney Alan Burns gave a legal overview of the Proposition 218 Protest Hearing procedure with respect to the substantive and procedural requirements imposed on the City with regard to increasing any fees, including the following test that must be met:

- Revenues derived from the fee or charge must not exceed the funds required to provide the property related service.
- Revenue from the fee or charge cannot be used for any purpose other than that for which the fee or charge is imposed.
- The amount of a fee or charge imposed upon any parcel or person as an incident of property ownership must not exceed the proportional cost of the service attributable to the parcel.
- The fee or charge may not be imposed for service unless the service is actually used by, or immediately available to, the owner of the property in question.
- No fee or charge may be imposed for general governmental services, such as police, fire, ambulance, or libraries, where the service is available to the public in substantially the same manner as it is to property owners.

Mr. Burns noted that the City's consultant, TischlerBise, would be presenting a report for the water and sewer rates in which it will document how each of these tests has been met. Mr. Burns concluded by providing information on the public review and noticing requirements, stating that if there is not a sufficient protest, the Council may consider whether or not to impose the charge and adopt the proposed resolution.

Brian Jewett, representative of TischlerBise provided a PowerPoint presentation titled "*City of Fountain Valley Water and Wastewater Rate Analysis and Reports – Public Hearing*" which included discussion of the increasing cost to supply water. Factors discussed included increased cost from the Metropolitan Water District of Orange County and Orange County Water District, drought conditions both locally and nationally, environmental judgments on import water including the Delta Smelt issue, the *Bighorn* case and Proposition 218 compliancy, the aging water systems need for upgrades and new construction both locally and nationally. He reported that the study and the proposed increase comply with the substantive provision of Proposition 218 and that the Level Utility Rate Model Development addresses financial sustainability, social responsibility, environmental soundness, and administrative ease. He provided substantial evidence that each of the Proposition 218 tests were met, which was more particularly described in the written report that was made a part of these proceedings.

Discussion and questions ensued by the members of the council with regard to concerns with the reduction of the non-dedicated reserves and whether there had ever been a cost analysis completed.

At the Mayor's inquiry, Deputy City Clerk Kathy Heard reported that all the appropriate mailings and publishing of the notice for this hearing occurred, that the City had received a total of sixteen (16) written protests prior to the public hearing and that there were 17,000 mailings to Fountain Valley water and sewer rate payers.

Mayor Carrozzo opened the public hearing.

Steve Grimm, 18514 Santa Cruz Circle, Fountain Valley spoke in favor of the water and sewer rate structure increase.

Edward Ludford, 9646 La Granda Avenue, Fountain Valley spoke in opposition of the water and sewer rate increase.

Doug Hughes, 9828 Petunia Avenue, Fountain Valley spoke in opposition of the water/sewer rate increases.

Bob Boring, 18410 Gifford St., Fountain Valley spoke in opposition of the water/sewer rate increase.

Mayor Carrozzo closed the public hearing.

Ms. Heard then reiterated that the City had received sixteen (16) written protests out of the 17,000 mailings provided to Fountain Valley water and sewer ratepayers.

Mayor Carrozzo announced that the water/sewer rate structure protest had failed and stated the Council would now consider the resolution imposing the charges.

Comments ensued by council members as to their reasoning for supporting the water sewer rate increase such as it being the prudent thing to carry out due to the Metropolitan Water District increase in fees and the need to pass on fees to the consumer which could help promote conservation. It was also noted that the City of Fountain Valley still has the eighth lowest water/sewer rate in Orange County.

- *Motion by Council Member Collins, second by Council Member Nagel to approve Resolution 9243 establishing the Fiscal Year 2009/2010 and 2010/2100 Water and Sewer Rate Structure for the Operation, Maintenance, and Capital Improvement of the City Water and Sewer Utility Enterprise.*

*Ayes: Nagel, Crandall, Collins, Brothers, Carrozzo
Noes: None*

Motion Passed 5-0

CONSENT CALENDAR

Action: *If desired, motion to approve Council Items 2 through 8.*

Council Member Brothers requested to pull Consent Calendar Items 2, 5, & 6 for further discussion.

3. **(Council)** Review of the status of the emergency repair of the Police Department heating, ventilation, and air conditioning system.

4. **(Council)** Approval to renew the annual Enterprise Software agreement with Microsoft Corporation in the amount of \$21,314.83.

7. **(Council)** Revised Orange county Taxi Administration Program (OCTAP) Regulations.

RESOLUTION NO. 9233 A Resolution of the Fountain Valley City Council Adopting Revised Orange County Taxi Administration Program Regulations

8. **(Council)** Adoption of a resolution regarding the permit parking system for the holiday display vicinity.

RESOLUTION NO. 9232 A Resolution of the Fountain Valley City Council Implementing the City's Designated Permit Parking System, Designating the Area Subject to those Restrictions and Specifying the Date and Time it will be in Effect

- *Motion by Council Member Brothers, second by Council Member Collins to approve Consent Calendar Items 3, 4, 7 & 8.*

Ayes: Nagel, Crandall, Collins, Brothers, Carozzo

Noes: None

Motion Passed 5-0

2. **(Council)** Approval of the: 1) amended and restated agreement for administrative services with the Public Agency Retirement Services Alternate Retirement System; 2) amendment to the City of Fountain Valley PARS alternative retirement system; and 3) Internal Revenue Service required amendment and restatement of the PARS-ARS Plan.

Council Member Brothers voiced her aversion to the City being required to sign a contract with a 2% annual cost of living increase each year.

- *Motion by Council Member Brothers, second by Council Member Collins to approve Consent Calendar Item 2.*

Ayes: Nagel, Crandall, Collins, Brothers, Carozzo

Noes: None

Motion Passed 5-0

5. **(Council)** Approval of the Fountain Valley Summerfest Festival Operator Agreement.

Council Member Brothers voiced her view and questions regarding the funds that support Summerfest and possible other alternatives for funding such as through the Foundation.

- *Motion by Council Member Brothers, second by Council Member Crandall to approve Consent Calendar Item 5.*

*Ayes: Nagel, Crandall, Collins, Brothers, Carrozzo
Noes: None*

Motion Passed 5-0

6. **(Council)** Approval to waive bidding requirements per FVMC 2.36.120 (3) and authorization to issue a purchase order to Yale Chase for two new Taylor Dunn electric trucks in the amount of \$40,461; and amend the 2009/2010 Pollution Reduction Fund budget and appropriate \$40,461 to transfer to the Fleet Fund for the purchase of the vehicles

Council Member Brothers inquired whether Fund 26 was grant money and if there was a possibility to acquire additional funding through other sources such as Southern California Edison or the Southern California Gas Company.

- *Motion by Council Member Brothers, second by Council Member Collins to approve Consent Calendar Item 6.*

*Ayes: Nagel, Crandall, Collins, Brothers, Carrozzo
Noes: None*

Motion Passed 5-0

ADMINISTRATIVE ITEM

9. **(Council)** Commission and committee reorganization options for 2010.

Management Analyst Matt Mogensen gave a brief account of the staff report that was submitted in the agenda packet.

Motion by Council Member Collins, second by Mayor Carrozzo to approve Option #2 in the staff report.

Council member discussion ensued as to the appropriate action to be taken with regard to the appointment process and the options to be considered for the members whose terms will be expiring and how to facilitate the appointments for the coming year.

- *Substitute Motion by Mayor Pro Tem Crandall, second by Council Member Brothers to support Option #1 outlined in the staff report removing all committee/commission members, re-interview, and appoint five (5) members each. The Council would either assign a term as the appointment is made or names would be pulled and assignments made randomly. Any new applicants would be thrown into the mix for consideration.*

*Ayes: Nagel, Crandall, Collins, Brothers, Carrozzo
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, Carrozzo

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 Brothers 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, Carrozzo

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 Administration and Operations Committee meeting at the Orange County Sanitation District, his meeting with a writer who is doing an article on Ground Water Replenishment for *National Geographic*, and his participation in a video on Ground Water Replenishment produced by a group from England that is now available for viewing.

Council Member Nagel announced his attendance at the Ground Water Replacement System Tour and Prado Dam Tour, his attendance at the Water Advisory Committee Meeting on November 6, 2009, and his attendance at the Orange Coast Memorial ribbon cutting.

Council Member Brothers announced her attendance at the Water District Tour on Ground Water Replenishment, her attendance at the Orange County League of Cities general meeting on pension reform stating it was recorded by PCTA camera crew and will make it available for viewing.

Council Member Collins announced his attendance at the OCTA Forum meeting, the WACO meeting, the GRWS meeting, the Veterans Memorial meeting and the Orange Coast Memorial

Hospital ribbon cutting, and his attendance at the SARFP Agency where he proposed using SAR funds to pay for improvements to the Withersberg Channel to help take it out of the 100-year floodplain.


Mayor Carrozzo announced his attendance at the Orange Coast Memorial Hospital ribbon cutting.

ADJOURNMENT

Mayor Carrozzo adjourned the City of Fountain Valley City Council and Agency for Community Development meeting at 8:40 p.m. to the next scheduled meeting of December 1, 2009.



Mayor Guy Carrozzo



Kathleen Heard, Deputy City Clerk/Agency Secretary