

CITY OF ALISO VIEJO  
CITY COUNCIL MINUTES  
REGULAR MEETING  
MAY 2, 2012, 7:00 P.M.  
Council Chambers, City Hall, 12 Journey  
Aliso Viejo, California

**CALL TO ORDER:** Closed Session convened at 6:30 p.m.

PRESENT: MAYOR PRO TEM WILLIAM A. PHILLIPS  
COUNCILMEMBER CARMEN CAVE  
COUNCILMEMBER GREG A. FICKE  
COUNCILMEMBER PHILLIP B. TSUNODA

ABSENT: MAYOR DONALD A. GARCIA

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

**CLOSED SESSION**

1. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957  
Title: City Manager
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957  
Title: City Attorney

**PUBLIC COMMENT:** There was no public comment.

**CALL TO ORDER:** Mayor Pro Tem Phillips called the Regular Meeting of the City Council of the City of Aliso Viejo to order at 7:05 p.m.

PRESENT: MAYOR PRO TEM WILLIAM A. PHILLIPS  
COUNCILMEMBER CARMEN CAVE  
COUNCILMEMBER GREG A. FICKE  
COUNCILMEMBER PHILLIP B. TSUNODA

ABSENT: MAYOR DONALD A. GARCIA

STAFF PRESENT: MARK A. PULONE, CITY MANAGER  
SCOTT C. SMITH, CITY ATTORNEY  
SUSAN A. RAMOS, CITY CLERK  
GLENN YASUI, ADMINISTRATIVE SERVICES DIRECTOR  
KAREN CROCKER, COMMUNITY SERVICES DIRECTOR

SHAUN PELLETIER, ASSISTANT CITY ENGINEER  
ALBERT ARMIJO, PLANNING DIRECTOR  
LT. ROBERT OSBORNE, CHIEF, POLICE SERVICES  
SGT. DJ HALDEMAN, POLICE SERVICES

**PLEDGE OF ALLEGIANCE TO THE FLAG:** Led by Brownie Troops 2414 and 2158.

**ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION**

No reportable action at this time.

**SPECIAL PRESENTATIONS**

A. COUNCIL RECOGNITION AND PRESENTATION TO GREG HOWIT, A RETIRING PHYSICAL EDUCATION TEACHER AT DON JUAN AVILA MIDDLE SCHOOL, FOR HIS OUTSTANDING CONTRIBUTIONS TO THE SCHOOL AND COMMUNITY–

Mayor Pro Tem Phillips invited Mr. Howit and CUSD Board President, Dr. Pritchard, who was also present, to come forward. Dr. Pritchard, on behalf of the School District, commended Mr. Howit for his contributions and thanked him for his service. He also thanked the City for their continued partnership and support. Mayor Pro Tem Phillips also expressed commendation and thanks and presented Mr. Howit with a Certificate of Recognition from the City and a certificate from Assemblywoman Diane Harkey's office. Mr. Howit said a few words and expressed thanks and appreciation.

B. COUNCIL RECOGNITION AND PRESENTATION TO ORANGE COUNTY SHERIFF'S DEPARTMENT INVESTIGATOR CRUZ ALDAY FOR 7 YEARS OF DEDICATED SERVICE

Mayor Pro Tem Phillips provided commendation and thanks and presented Mr. Cruz with a City Tile Plaque for his contributions and service. Lt. Robert Osborne, Police Chief, also gave remarks and presented him with a glass plaque for his contributions and service. Investigator Alday expressed thanks and appreciation.

C. PROCLAMATION DECLARING THE WEEK OF MAY 6 – 12 AS WILDFIRE AWARENESS WEEK

Pro Tem Phillips presented this item and read the proclamation in the absence of OCFA Battalion Chief Ron Roberts who had to leave the meeting to respond to an emergency call. Mayor Pro Tem Phillips encouraged residents to take fire prevention and safety measures.

D. PRESENTATION BY AYSO REGION 889 OF A CHECK TO THE CITY OF ALISO VIEJO FOR THE FOXBOROUGH LIGHTING AND RESTROOM PROJECT

Darryl Ross, outgoing AYSO Regional Commissioner, expressed thanks and

appreciation to the Council, staff, and the Recreation Ad Hoc Committee for their efforts with regards to the Foxborough Lighting and Restroom project. He introduced Roberta Mann, incoming AYSO Regional Commissioner, and noted a check has been forwarded to the City representing 50% of AYSO's financial contribution for said project pursuant to the agreement. He also presented the Council, City Manager, Director of Administrative Services and Director of Planning Services with an AYSO shirt as a token of their appreciation.

### **ADDITIONS, DELETIONS, REORDERING TO THE AGENDA**

None

### **CONSENT CALENDAR**

Mayor Garcia asked if any member of the City Council or the public wished to remove an item from the Consent Calendar. No member of the City Council and the public requested that an item be removed for discussion.

### **MOTION: COUNCILMEMBER TSUNODA MOVED AND COUNCILMEMBER CAVE SECONDED TO APPROVE CONSENT CALENDAR ITEMS 1 – 12, 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 APRIL 18, 2012

Approved the Minutes as submitted.

#### 3. ACCOUNTS PAYABLE

Ratified Accounts Payable checks issued April 12, 2012 in the amount of \$167,679.57 and Accounts Payable checks issued April 19, 2012 in the amount of \$600.00.

#### 4. TREASURER'S STATEMENT - MARCH

Approved the March Treasurer's Statement.

#### 5. CLAIM FOR DAMAGES – MERCURY INSURANCE AS SUBROGEE OF JEREMY DAVIS

Rejected said claim pursuant to the City's claims adjuster, Carl Warren & Company.

6. AGREEMENT WITH WINTER VISUALS FOR BULLETIN BOARD AND VIDEO PLAYBACK SERVICES

Approved said Agreement and authorized the City Manager to execute same.

7. SECOND AMENDMENT TO AGREEMENT WITH PREFERRED PROPERTY MAINTENANCE FOR CITY HALL INTERIOR AND EXTERIOR LIGHTING MAINTENANCE

Approved said Second Amendment to Agreement and authorized the City Manager to execute same.

8. FIRST AMENDMENT TO AGREEMENT WITH ZUVICH CORPORATE ADVISORS FOR PROPERTY LEASING SERVICES

Approved said First Amendment to Agreement and authorized the City Manager to execute same.

9. FIFTH AMENDMENT TO AGREEMENT WITH TEAM ONE JANITORIAL FOR JANITORIAL SERVICES

Approved said Fifth Amendment to Agreement and authorized the City Manager to execute same.

10. AGREEMENT WITH PSG ENTERPRISES, INC. FOR PROPERTY MANAGEMENT SERVICES AT 12 JOURNEY

Approved said Agreement and authorized the City Manager to execute same.

11. SECOND AMENDMENT TO AGREEMENT FOR LANDSCAPE PLAN CHECK SERVICES WITH RJM DESIGN GROUP

Approved said Second Amendment to Agreement and authorized the City Manager to execute same in an amount not to exceed \$25,000 and extend the contract term by one year to June 30, 2013.

12. ADOPT ORDINANCE NO. 2012-141

Conducted second reading and adopted Ordinance No. 2012-141 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA ABOLISHING THE PLANNING COMMISSION AND AMENDING VARIOUS PROVISIONS OF THE ALISO VIEJO MUNICIPAL CODE TO ELIMINATE REFERENCES TO THE PLANNING COMMISSION

**MOTION CARRIED 4-0 WITH MAYOR GARCIA ABSENT FOR CONSENT ITEMS 1 – 11; MOTION CARRIED 3-1 WITH COUNCILMEMBER TSUNODA DISSENTING AND MAYOR GARCIA ABSENT ON CONSENT ITEM 12.**

**END OF CONSENT CALENDAR**

**DISCUSSION ITEMS NOS. 13 THROUGH 17**

**13. STATE-LOCAL PARTNERSHIP PROGRAM FORMULA GRANT CALL FOR PROJECTS – ALISO CREEK ROAD REHABILITATION**

Assistant City Engineer Shaun Pelletier presented the report.

Mayor Pro Tem Phillips opened public comment and there was none.

**MOTION: COUNCILMEMBER FICKE MOVED AND COUNCILMEMBER TSUNODA SECONDED TO ADOPT RESOLUTION NO. 2012-13 ENTITLED:**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AUTHORIZING AN APPLICATION FOR FUNDS FOR THE STATE-LOCAL PARTNERSHIP PROGRAM FORMULA GRANT UNDER PROPOSITION 1B HIGHWAY SAFETY, TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006 FOR THE ALISO CREEK ROAD REHABILITATION – ENTERPRISE TO PACIFIC PARK PROJECT**

**MOTION CARRIED 4-0, MAYOR GARCIA ABSENT.**

**14. BOYS AND GIRLS CLUB AD HOC COMMITTEE**

City Manager Mark Pulone presented the report.

Mayor Pro Tem Phillips opened public comment and there was none.

Councilmember Tsunoda recommended the appointment of Mayor Garcia and Mayor Pro Tem Phillips noting they have previously been in discussion with the Boys and Girls Club of Capistrano Valley regarding the matter.

Councilmember Cave suggested if the needs assessment concludes there is a need for a new facility in Aliso Viejo, to ask the ad hoc committee and staff to consider if it is appropriate for the Club and the City to share costs since this project would be a benefit to the City.

**MOTION: COUNCILMEMBER CAVE MOVED AND COUNCILMEMBER FICKE SECONDED TO ESTABLISH A BOYS AND GIRLS CLUB OF CAPISTRANO VALLEY AD HOC COMMITTEE AND APPOINT MAYOR GARCIA AND MAYOR PRO TEM PHILLIPS TO SERVE ON IT FOR THE PURPOSE OF WORKING WITH THE BOYS AND GIRLS CLUB OF CAPISTRANO VALLEY AND GRIFFIN STRUCTURES INC. TO CONDUCT A NEEDS ASSESSMENT FOR A POTENTIAL NEW FACILITY IN ALISO VIEJO. MOTION CARRIED 4-0 WITH MAYOR GARCIA ABSENT.**

15. FOURTH AMENDMENT TO AGREEMENT FOR STREET AND STORM DRAIN MAINTENANCE – PV MAINTENANCE

City Manager Mark Pulone presented the report and responded to questions regarding the bid process for next year.

Mayor Pro Tem Phillips opened public comment and there was none.

**MOTION: COUNCILMEMBER FICKE MOVED AND COUNCILMEMBER TSUNODA SECONDED TO APPROVE A FOURTH AMENDMENT TO THE AGREEMENT FOR STREET AND STORM DRAIN MAINTENANCE WITH PV MAINTENANCE AND AUTHORIZE THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$710,000 AND EXTEND THE CONTRACT BY ONE YEAR TO JUNE 30, 2013. MOTION CARRIED 4-0 WITH MAYOR GARCIA ABSENT.**

16. DRAFT ANNUAL BUDGET FOR FISCAL YEAR 2012-13

City Manager Mark Pulone presented the budget report including the following:

- Inclusion of \$25,000 funding for Community Assistance Groups in the proposed budget
- Receipt of a funding request from Discovery Science Center for their Eco Challenge recycling education program
- Receipt of a funding request for the Gift of History annual event for \$5,000 to cover transportation and other expenses for the event
- Receipt of a funding request for 211 non profit referral service group. Based on residents served, etc. staff is recommending a funding of \$500.00 from the Community Services budget.
- Options for deployment of the City's electronic agenda packet on iPads

Questions and discussion ensued regarding the law enforcement services contract with Orange County, utilization of Prop. 172 revenues to offset law enforcement costs and the cost allocation methodology change, status of reserves, reserves for City facility maintenance, marketing and promotion of the Conference Center, funding for economic development studies, assistance resource for Laguna Canyon Foundation to help promote use of the park, funding for Planning special projects such as smart street and bike plan concepts, and clarification on options for use of iPads for electronic agendas.

Councilmember Tsunoda suggested staff contact the County to look into and further discuss the Prop. 172 revenues to help offset law enforcement costs, and provide a clarification on the cost allocation methodology change as stated in the report.

Mayor Pro Tem Phillips opened public comment and the following person spoke:

1. Elizabeth Goldsmith, inquired about budgeting for damage occurring in the City from natural disasters.

City Manager Pulone replied the budget includes funding for emergency preparedness such as emergency responders and supplies. He indicated funding for infrastructure damage and like items is funded by the State.

There was no additional public comment received.

Councilmember Cave suggested considering looking at the Eco Challenge recycling education program as an ongoing support item in conjunction with the City's Green Initiative program. She also noted relative to the City's healthy reserves, she suggested it might be timely for staff to look into the strategic initiative wish list and re-evaluate some of the items listed for potential implementation if it is appropriate.

City Manager Pulone asked for clarification on Council direction regarding going paperless and utilizing iPads. Following discussion, City Manager Pulone suggested at this time staff can move forward with the implementation of the iPads as described in the options presented, on a case by case basis, based on each Councilmember's preference and need. Council concurred.

## 17. ANIMAL WELFARE ORDINANCE

City Manager Mark Pulone gave an overview and Director of Administrative Services Glenn Yasui presented the proposed ordinance. Mr. Yasui noted there was a correction made to page 17-8 of the report and copies have been placed on the dais, staff and the public packet. Additionally, written public comments have been received by staff and copies are also available on the dais and the public packet.

Mayor Pro Tem Phillips opened public comments and the following persons spoke:

- 1) Elizabeth Oreck, representing Best Friends Animal Society, expressed support for the ordinance and in particular the pet store and puppy mills issue, commenting about the lack of care for the animals.
- 2) Dave Simon, expressed support and provided comments about the unfair treatment of animals that compete/participate in rodeos and circuses.
- 3) Laura Cooley, expressed support noting this will urge residents to adopt. She also commented about the cruel treatment to animals such as elephants that are used for entertainment.

- 4) Cindy Schonholtz, representing Professional Rodeo Cowboys Association, expressed opposition and provided comments about the top care of the rodeo livestock and community programs sponsored by rodeo associations throughout the state. She invited Council to consider attending one of their events and talking with the veterinarians about the care of the animals.
- 5) Ken McMeans, Western Fairs Association Boardmember, expressed opposition to the proposal to ban rodeos and wild and exotic animal attractions. He commented owners of these livestock love their animals and care for them. He noted he is also speaking for Animal Attractions and Fairs, 4H Clubs, and other similar clubs.
- 6) Dina Kourda, OC Chair of Animal Protection and Rescue League, expressed support and noted the entities that use the animals do so for profit.
- 7) Sherri Cronin, opposed the ordinance and commented the lack of facilities and community support in Aliso Viejo and the excessive cost to produce a rodeo completely eliminates the possibility of any proposals for a rodeo in this city. She stated if it isn't broke don't fix it.
- 8) Brenda Calvillo, volunteer of the Animal Protection and Rescue League, expressed support of the ordinance for the protection of animals.
- 9) Peggy Rankin, Rodeo volunteer, expressed support for rodeos for the history and community spirit it brings but opposes puppy mills. She commented that majority of people take care of their animals whether as pets or for other uses. She suggested modifying the ordinance because it is too broad based.

Mayor Pro Tem Phillips closed public comments.

Questions ensued regarding interstate laws, high school 4H Clubs, and land use restrictions and prohibitions.

Councilmember Cave recommended separating the issue of pet store/puppy mills (section 6) from rodeos and circuses and ceremonial uses (sections 7 and 8). She suggested keeping the prohibition for the sale of dogs and cats and strike out sections 7 and 8. She also suggested staff to re-evaluate the provisions for rodeos and circuses and whether there are other regulatory agencies for these types of animal use.

City Attorney Smith clarified for the record the following sections/provisions will not be part of the Ordinance that will be introduced this evening:

- Page 17-4, title of Ordinance will exclude the words ..."circuses displaying or exhibiting wild or exotic animal acts and rodeos".
- Page 17-5, definition for "circus" will be excluded
- Pg 17-6, definition for "rodeo" and "zoo" will be excluded
- Sections 7 and 8 will be excluded in its entirety



**MOTION: COUNCILMEMBER CAVE MOVED AND MAYOR PRO TEM PHILLIPS SECONDED TO CONDUCT FIRST READING AND INTRODUCE THE ORDINANCE ENTITLED BELOW AS AMENDED TO EXCLUDE SECTIONS 7 AND 8 AND RELATED REFERENCES THEREOF AS DESCRIBED IN THE AFOREMENTIONED PARAGRAPH.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING CHAPTER 6.02 OF THE ALISO VIEJO MUNICIPAL CODE TO PROHIBIT THE RETAIL SALE OF DOGS AND CATS IN COMMERCIAL ESTABLISHMENTS**

**MOTION CARRIED 4-0, MAYOR GARCIA ABSENT.**

### **COMMUNITY INPUT**

None at this time.

### **CITY MANAGER'S REPORT**

City Manager Pulone reported the Aquatics Center will open for the season this weekend.

### **ANNOUNCEMENTS/COUNCIL COMMENTS/COMMITTEE UPDATES**

Ficke

- He will be attending the SOCMWA executive committee meeting tomorrow and will give a report at the next Council meeting.

Tsunoda

- Expressed congratulations to Gina Tharani, Finance Director, who is the incoming President of the California Municipal Treasurer's Association for 2012-13.
- Gave an update on the Creekside Park project noting the construction contract award is scheduled to be on the AVCA agenda in May and asked staff to monitor this to ensure it is on their agenda since he received information that Pop Warner is anticipating to start their season on August 1 at Creekside Park.

Phillips

- Attended the Medal of Valor event, noting the recognition of a couple of local officers and suggested recognizing them at a future Council meeting.
- Mountain Bike Race this Saturday at 9 a.m. at the south entry way of the park.
- Aquatics Center pool season opening this Saturday.
- The Soka International Festival Day is this Saturday.

Council Minutes  
May 2, 2012

**ADJOURNMENT:** Mayor Pro Tem Phillips adjourned the meeting at 9:30 p.m. to the regular Council Meeting of May 16, 2012.

Respectfully submitted,

Approved by:

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SUSAN A. RAMOS  
CITY CLERK

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WILLIAM B. PHILLIPS  
MAYOR PRO TEM