

**ALISO VIEJO MINUTES  
CITY COUNCIL REGULAR MEETING  
November 15, 2006**

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**CALL TO ORDER**

The regular meeting of the City Council of the City of Aliso Viejo was called to order by Mayor Vali-Cave at 7:04 p.m. on Wednesday, November 15, 2006, at the Aliso Viejo City Hall Council Chambers, 12 Journey, Aliso Viejo, California.

A complete copy of the agenda for the meeting containing all items as shown herein was posted by 6:00 p.m. on November 9, 2006, on the outdoor bulletin board at City Hall. Copies were also posted at the Aliso Viejo Library, 1 Journey, and the Aliso Viejo Sheriff's Substation, 11 Journey.

**PLEDGE OF ALLEGIANCE**

Boy Scout Ian Chiu from Troop 700 led the Pledge of Allegiance.

**ROLL CALL**

Present: Mayor Carmen Vali-Cave  
Mayor Pro Tem Cynthia D. Adams  
Council Member Greg Ficke  
Council Member William A. Phillips  
Council Member Karl P. Warkomski

Absent: None.

**SPECIAL PRESENTATIONS**

Mayor Vali-Cave requested Scoutmaster Mike Thompson to describe the accomplishments of the Boy Scout Troop 700 for their participation on the Design and Construction of the Kiosk located at the City's Wetlands site. Mayor Vali-Cave gave each volunteer their Certificate of Recognition.

Mayor Vali-Cave requested Jennifer Okabayashi to describe her accomplishments in obtaining the Gold Star. Jennifer explained her efforts in coordinating a program for teenage girls to learn self-defense techniques. Mayor Vali-Cave presented Jennifer Okabayashi with her Certificate of Recognition.

Mayor Vali-Cave requested Kim Maxwell, Executive Director of the Laguna Beach Boys & Girls Club, to the podium. Executive Director Maxwell gave a presentation on the activities of the Laguna Beach Boys & Girls Club. Executive Director Maxwell presented the Mayor with a token of their appreciation for the support given by the Council.

## **PROCLAMATIONS PRESENTED ELSEWHERE**

None.

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

None.

## **CONSENT CALENDAR**

**A MOTION** was made by Council Member Phillips and seconded by Council Member Ficke, to approve the Consent Calendar as described below. Motion carried unanimously, 5-0.

### **1. Waive the Reading of All Ordinances**

Waived the reading of all Ordinances in their entirety and read by title only.

### **2. Minutes – October 18, 2006 Meeting**

Approved the Minutes as submitted.

### **3. Warrants**

1. Ratified warrants issued October 26, 2006, in the amount of \$47,138.23 and
2. Ratified warrants issued November 2, 2006, in the amount of \$282,895.06.

4. **Adoption of Ordinance on CFD No. 2005-01 (Glenwood at Aliso Viejo)**

ORDINANCE NO. 2006 - 086

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING ORDINANCE NO. 2005-068 AND AUTHORIZING THE LEVY OF A SPECIAL TAX IN COMMUNITY FACILITIES DISTRICT NO. 2005-01 (GLENWOOD AT ALISO VIEJO) PURSUANT TO A MODIFIED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

Adopted Ordinance No. 2006 - 085, amending Ordinance No. 2005 - 068 and authorizing the levy of a Special Tax in Community Facilities District No. 2005-01 (Glenwood at Aliso Viejo) pursuant to a Modified Rate and Method of Apportionment of Special Tax.

5. **Adoption of Oversized/Overweight Commercial Vehicle Permit Fees**

RESOLUTION NO. 2006 - 050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADOPTING CERTAIN FEES ASSOCIATED WITH OVERSIZED/OVERWEIGHT COMMERCIAL VEHICLE PERMITS

Adopted Resolution No. 2006 – 050 adopting oversized/overweight commercial vehicle permit fees.

**PUBLIC HEARING**

6. **An Ordinance of the City Council of the City of Aliso Viejo, California, approving Zoning Ordinance Amendment ZOA AV06-01 for a Massage Ordinance**

ORDINANCE NO. 2006 - 087

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADDING ARTICLE 24 TO DIVISION 3 OF TITLE 5 OF THE ORANGE COUNTY CODE, AS ADOPTED BY THE CITY OF ALISO VIEJO, REGARDING THE REGULATION OF MASSAGE ESTABLISHMENTS, MASSAGE TECHNICIANS AND MASSAGE PRACTITIONERS

City Manager Pulone introduced the item. Senior Planner Roess gave a brief background from the staff report.

Mayor Vali-Cave opened the item for public testimony.

Carol Warren, Regional Developer for Massage Envy, stated that her job with Massage Envy is to develop a presence in Orange County and to oversee the franchises. She is also the owner of the Costa Mesa office. She stated that it was important for Massage Envy that this industry be regulated and regulated effectively. She thanked Council for the opportunity to work with them on this ordinance.

Drew Garber addressed the concerns he had with the proposed ordinance and stated that he has discussed these concerns with City Staff. He distributed information to Council. He suggested the following: a two tier approach that allowed massage technicians to work prior to passing the national test; establish a permit process to allow a six month internship prior to passing the national test; or create a temporary permit process while waiting for the fingerprint and background screening that has been prescreened by a qualified third party.

Jan Hemerson read the letter from Jean Robinson, Governmental Relations Director for the Association Bodywork & Massage Professional (ABMP), which was distributed to Council. She stated that ABMP is a professional membership with over 60,000 members.

Debra Stell, Massage Program Chair for Bryman College, stated the rigorous training involved in their program. She desired strict regulations at the City level. She described the various techniques and knowledge required and that Bryman College abides by the accreditation standards in issuing certificate of completions.

Renee Fabig, Director of Development for Massage Envy, stated that all franchisees were carefully selected. She explained the franchisee requirements for each individual massage therapist, such as, minimum 500 hours of education, background check, maintain professional liability insurance regardless of City and State regulations. She stated other factors involved in selection of a massage therapist such as technique, conduct with the client, and an in-depth interview process.

Bonnie Elder, landlord representative for Massage Envy, thanked the City for the massage ordinance. She stated that Massage Envy would make a nice addition to the shopping center. She stated that Massage Envy was ready to occupy their site.

Phyllis Chichester, Clinical Administrator for Massage Envy, stated her concerns about the proposed ordinance: recertification after four years; which agency(s) would be processing the licensing requirement; the hours of operation; the NEC transcript taking additional weeks after testing; the recommendation to use Thomson Prometric for proctoring services which

gives immediate test results; the amount of fees already paid to get a massage license without establishing any new proposed fees; and having reciprocal fees with other municipalities.

Rich Ratkelis stated the underlining philosophy that was driving this ordinance. He wanted to have balance between strict regulations and being able to operate a business. He reported on the surrounding cities that have balance with their ordinance.

There being no further speakers, Mayor Vali-Cave closed the item for public testimony.

Discussion ensued regarding comments made by the speakers that Massage Envy cannot open their business because of this proposed ordinance; the recommended changes from the speakers; the similarities and difference between the massage ordinance with surrounding municipalities; the concerns about the testing requirements being similar to the national test; the change of the CUP for Massage Envy to allow alternative sites for testing; the global ramifications of the ordinance that applies to all type of massage industries and not just one applicant; the municipality's responsibility; why the jurisdiction is not the State of California's Consumer Affairs Office; the standards varying from City to City; the competence level that the person is qualified; the various schools and testing facilities; the review of the proposed ordinance by the Orange County Sheriff's Department's Vice Division; changes recommended by the Vice Division; the lack of support on temporary permitting or relaxing the restrictions; the mom and pop shops; the ordinance may be geared more towards a corporation entity; the standard of national certification exam of 500 education hours in addition to the test requirements; the difference of the two tiers being the required amount of educational hours; the rational for the alternative sites and not using the national tests; the language written in the amended CUP for Massage Envy on licensing; the baseline for education hours; research to be conducted on surrounding cities' specific requirements for testing; and the timeframe of the Sheriff's Department to process fingerprinting and background being approximately two weeks unless the applicant is from outside of the State.

**A MOTION** was made by Council Member Ficke and seconded by Council Member Phillips, to introduce Ordinance No. 2006 – 087 adding Article 24 to Division 3 of Title 5 of the Orange County Code, as adopted by the City of Aliso Viejo, to establish a comprehensive regulatory scheme for Massage Establishments, Massage Technicians and Massage Practitioners. Motion carried unanimously, 5-0.

There was consensus from Council to have Staff research surrounding South Orange County Cities on the possibility of having reciprocity with other municipalities on licensing requirements if licensing requirements were the same and report results back to Council.

7. **A Request for Site Development Permit, SDP06-02, to install Access Gates at the Entrances of Tract 15259 (Orleans) Homeowners Association, an Existing Private Community**

RESOLUTION NO. 2006 - 051

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, APPROVING SITE DEVELOPMENT PERMIT, SDP06-02, TO INSTALL ACCESS GATES AT THE ENTRANCES OF TRACT 15259 (ORLEANS) HOMEOWNERS ASSOCIATION, AN EXISTING PRIVATE COMMUNITY

Assistant Planner Lowe gave a brief background from the staff report.

Discussion ensued regarding if gates without an emblem will be sufficiently visible for security and safety especially at night; the conditions placed on this project by City Engineer Whitman; the problem with cars parking in front of the emergency access gate; posting of signage on Sanborn; the recommendation to paint the curb red to avoid children being dropped off in front of the emergency access gate; the City having direct enforcement; and the request that the outdated traffic report dated 2001 not be part of the permanent record to future reference.

Mayor Vali-Cave opened the item for public testimony. There being none, Mayor Vali-Cave closed the item for public testimony.

**A MOTION** was made by Council Member Ficke and seconded by Council Member Phillips, to adopt Resolution No. 2006 – 051 approving Site Development Permit, SDP06-02, to install access gates at the entrances of Tract 15259 (Orleans) Homeowners Association, subject to the Conditions of Approval, as amended and incorporated by reference in Resolution No. 2006 – 051. Motion carried unanimously, 5-0.

## **COUNCIL BUSINESS**

8. **Citizen of the Year Policy**

City Manager Pulone gave a brief background from the staff report.

Mayor Vali-Cave opened the item for public comment.

Greg Gantman, President of the Aliso Viejo Chamber of Commerce, stated that he supported a program recognizing outstanding citizens in the community.

There being no further speakers, Mayor Vali-Cave closed the item for public comment.

Discussion ensued regarding that qualified candidates are those previously recognized by the Council on the Walk of Fame; the Senior of the Year being age restrictive; that there is no Student or Youth of the Year; the appropriate age of Youth of the Year; and the criteria to include being a resident of the City.

**A MOTION** was made by Mayor Vali-Cave and seconded by Council Member Phillips, to approve the Policy for the Citizen and Senior of the Year program with the added conditions: must be a resident of the City and to add a category of Youth of the Year for those who are 23 years and younger. Motion carried unanimously, 5-0.

## **COMMUNITY INPUT**

John Steward congratulated Mayor Vali-Cave and Mayor Pro Tem Adams on their re-election to Council. He stated that he was recently searching for items to be included in the Memory Book. He found documents dated 1995 when Mayor Vali-Cave and Mayor Pro Tem Adams were actively involved in the Aliso Viejo Citizen's Action League and the feasibility study for City incorporation. He commended each Council Member on their dedication to the service to the City. He spoke about the Council Member's compensation and benefits. He suggested forming a committee to review the Council's compensation and benefits to be more comparable to the surrounding cities.

## **CITY MANAGER'S REPORT**

None.

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

### **Council Member Ficke**

Council Member Ficke thanked Staff for their quick response for the additional turn lane from the 73 onto the northbound of 133 Laguna Beach Road.

### **Council Member Phillips**

None.

### **Council Member Warkomski**

Council Member Warkomski stated that he attended a water run-off meeting today in Laguna Hills. He spoke of the County's Super Committee being formed on this issue.

Council Member Warkomski stated that he will attend the Coastal Greenbelt Authority meeting on the Aliso Canyon Wood Canyon Wildness Park Resource Management Plan. He hoped that Staff would be in attendance.

Council Member Warkomski stated that he will attend the Grand Opening of the Vantis' Live/Work and the Kettle One's fundraiser for Leukemia & Lymphoma Society.

Council Member Warkomski stated that he will attend the Vector Control's Memorial Event honoring Steve Ambriz. In addition, he reported that the Vector Control will be reviewing the proposed compensation package of 2% at 55%.

### **Mayor Pro Tem Adams**

Mayor Pro Tem Adams stated that OCFA tomorrow night. She mentioned that OCFA will be losing ten Board Members.

### **Mayor Vali-Cave**

Mayor Vali-Cave stated that she attended the League of California Cities Orange County Division meeting.

Mayor Vali-Cave stated that there was reportable action from the TCA' Closed Session to recruit a COO to work under the TCA's CEO, Bill Woollett.

Mayor Vali-Cave stated that the City was one of six Cities to receive the Go Local \$100,000 grant to explore the Metrolink connection. She thanked Staff for doing the work to obtain the grant.

### **CLOSED SESSION**

At the hour of 8:50 p.m. the City Council recessed to Closed Session regarding:

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code Section 54956.8

Property: APN 632-133-03  
Agency negotiator: Mark A. Pulone, City Manager and Scott C. Smith, City Attorney  
Negotiating parties: City of Aliso Viejo and Capistrano Unified School District  
Under Negotiation: Price and Terms of Payment

At the hour of 9:40 p.m. the City Council reconvened, with all Council Members present.

Mayor Vali-Cave announced that there were no reportable actions taken in Closed Session.

**ADJOURNMENT** at 9:40 p.m.

Submitted By:

Approved By:

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Susan Robinson, CMC  
City Clerk

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Carmen Vali-Cave  
Mayor