

CITY OF ALISO VIEJO
CITY COUNCIL MINUTES
REGULAR MEETING
NOVEMBER 19, 2008, 6:00 P.M.
Council Chambers, City Hall, 12 Journey
Aliso Viejo, California

CALL TO ORDER: Mayor Phillips called the Regular Meeting of the City Council of the City of Aliso Viejo to order at 6:00 p.m.

ROLL CALL:

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

ABSENT: COUNCIL MEMBERS: NONE

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

PUBLIC COMMENT: There was no public comment.

CLOSED SESSION: The City Council convened Closed Session at 6:00 p.m., to consider the following matters:

1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(c)
Initiation of Litigation
Number of potential case: One

2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8

Property: 632-141-06
Agency Negotiator: City Manager and City Attorney
Negotiating Parties: United States Postal Service
Under Negotiation: Price and terms of payment

Property: 29 and 31 Santa Barbara
Agency Negotiator: City Manager and City Attorney
Negotiating Parties: Clubcorp
Under Negotiation: Price and terms of payment for
community center use/lease

NOVEMBER 19, 2008

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(b)
Significant Exposure to Litigation/Potential Initiation of Litigation
Number of potential cases: (1)
Adverse: ClubCorp
Glenwood at Aliso Viejo Development Agreement Public/Private Golf
Dispute
4. CONFERENCE WITH LABOR NEGOTIATORS
Pursuant to Government Code Section 54957.6
Agency designated representatives: City Manager
Unrepresented employee(s): All City Employees

AFTER CLOSED SESSION: The Mayor reconvened the meeting at 7:05 p.m., welcomed the public to the meeting, and requested the City Clerk to call the roll.

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

ABSENT: COUNCIL MEMBERS: NONE

STAFF PRESENT: MARK A. PULONE, CITY MANAGER
SCOTT SMITH, CITY ATTORNEY
SUSAN A. RAMOS, CITY CLERK
GINA THARANI, DIRECTOR OF FINANCE
GENIA GARCIA, DIRECTOR OF PLANNING SERVICES
HELEN WILSON, DIRECTOR OF COMMUNITY SERVICES
JOHN WHITMAN, CITY ENGINEER/PUBLIC WORKS DIR.
LT. RICH PADDOCK, DIRECTOR OF POLICE SERVICES

PLEDGE OF ALLEGIANCE TO THE FLAG: Lt. Rich Paddock, Police Services, led the pledge of allegiance.

ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION:

City Attorney Smith stated there was no reportable action at this time.

SPECIAL PRESENTATIONS

1. UPDATE ON UNITED STATES POSTAL SERVICE (USPS) PROPOSED DISTRIBUTION CENTER

NOVEMBER 19, 2008

Mayor Phillips presented the following updates:

- The deadline for submitting comments on the draft Environmental Impact Statement or EIS was October 23, 2008. The City and over 200 residents sent comments to the USPS outlining concerns over the impacts of the proposed facility.
- Due to the deficiencies identified in the EIS, the City recommended that USPS undertake a new study. Last week, the USPS indicated responses to comments will be released in mid to late December.
- Strongly encourage residents to continue to contact their federal representatives along with the Post Master General. Contact information is posted on the City's website. The City is working with its federal representatives to help ensure the City's concerns are addressed.
- Check the City's website and subscribe to E-News for updates. In addition, updates will be provided at the City Council and Planning Commission meetings.

2. COUNCIL RECOGNITION AND PRESENTATION TO GRACE HILLS CHURCH FOR ITS VOLUNTEER EFFORTS IN HELPING PAINT THE CITY'S FAMILY RESOURCE CENTER AT IGLESIA PARK

Staff presented a brief video clip of the volunteers painting the FRC. Mayor Phillips presented the certificate of appreciation to John Aldridge, who accepted it for Pastor Mike who was out of town and was not available to attend the meeting. Mr. Aldridge expressed thanks and appreciation for the opportunity to help and for the recognition.

3. COUNCIL RECOGNITION AND PRESENTATION TO THE FALL 2008 CITIZENS' LEADERSHIP ACADEMY

Glenn Yasui, Director of Administrative Services, presented a program overview and assisted the Mayor is presenting the Certificates of Appreciation to the following graduates:

Anne Bogdan	Scott Keach
Vivian De Leon	Virginia Keach
Millie Gess	Eric Kingsbury
Kathleen Goldberg	Karl Kraus
Paul Grusche	Sara Ng
Eva Iniguez	Annie Wright
Raymond Jackson	Gloria Zahradnik

Some of the graduates were not able to attend the meeting and will receive their certificates in the mail.

NOVEMBER 19, 2008

4. PRESENTATION OF NEW SOUTH COAST WILDERNESS GUIDES

Karl Warkomski, Executive Director, Laguna Canyon Foundation, presented the South Coast Wilderness Guides to Council and staff to provide to general public. He presented information regarding the acres of protected open space in Orange County and a brief video clip regarding the award winning Nix Nature Center located at the Laguna Coast Wilderness Park. Mr. Warkomski noted that the Nature Center also serves as a portal into the wilderness and encouraged everyone to check it out. He expressed thanks and appreciation for the opportunity to give this presentation this evening.

ADDITIONS, DELETIONS, AND REORDERING OF THE AGENDA

None at this time.

CONSENT CALENDAR

Mayor Phillips asked if any member of the City Council or the public wished to remove an item from the Consent Calendar. Councilmember Cave requested to pull Agenda Item No. 8, Planning Commission Decisions of October 6 and October 14, 2008, for comments. No member of the public requested that an item be removed for discussion.

MOTION: MAYOR PRO TEM GARCIA MOVED AND COUNCILMEMBER FICKE SECONDED TO APPROVE THE FOLLOWING CONSENT CALENDAR ITEMS NO. 5, 6, 7 AND 9:

5. 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.

6. MINUTES – REGULAR MEETING OF NOVEMBER 5, 2008

Approved the Minutes as submitted.

7. ACCOUNTS PAYABLE

Ratified Accounts Payable checks issued October 30, 2008 in the amount of \$543,894.58 and Accounts Payable checks issued November 6, 2008 in the amount of \$36,869.85.

9. PLANNING COMMISSION ITEMS OF OCTOBER 28, 2008 MEETING

Reviewed and approved the October 28, 2008 decisions.

NOVEMBER 19, 2008

MOTION UNANIMOUSLY CARRIED.

REMOVED FROM CONSENT CALENDAR

8. **PLANNING COMMISSION ITEMS OF OCTOBER 6 AND OCTOBER 14, 2008 MEETING (CONTINUED FROM NOVEMBER 5, 2008 MEETING)**

Councilmember Cave requested to remove this item from the consent calendar because of concerns she received from some members of the Planning Commission regarding the manner in which Agenda item no. 5 of the October 14, 2008 meeting, regarding the approval of a second amendment to the Glenwood at Aliso Viejo Development Agreement and Specific Plan, was presented and the lack of information. She noted that if information is not complete or made available, it would be difficult to make a decision. She clarified she is not disapproving the actions taken by the Planning Commission but expressed that the process is flawed and should be revisited to correct the deficiencies.

Mayor Pro Tem Garcia expressed similar concerns. He noted that when the DRC was in place, these problems did not exist. He felt that somehow some of the processes failed in the transition.

Director of Planning Genia Garcia clarified about the Planning Commission meeting and the item in question. She also noted some differences in the Planning Commission process and the DRC process.

Discussion ensued regarding the Planning Commission review and meeting process, and education and training for the Commissioners.

Councilmember Cave suggested directing staff to re-evaluate the process with at least the Chairperson of the Planning Commission and the City Manager by this year's end. The City Manager will determine if there is a need for Council involvement.

Councilmember Tsunoda suggested surveying other cities and agencies about their Planning Commission process for best practices.

MOTION: COUNCILMEMBER TSUNODA MOVED AND MAYOR PRO TEM GARCIA SECONDED TO APPROVE THE OCTOBER 6 AND OCTOBER 14, 2008 PLANNING COMMISSION DECISIONS. MOTION CARRIED 4-1, COUNCILMEMBER CAVE DISSENTED.

END OF CONSENT CALENDAR

NOVEMBER 19, 2008

PUBLIC HEARING ITEM NOS. 10 AND 11

10. REVIEW OF DRAFT HOUSING ELEMENT (CONTINUED FROM NOVEMBER 5, 2008 COUNCIL MEETING)

Staff recommended continuance of this hearing to January 7, 2009.

Mayor Phillips opened the public hearing. There being no public testimony, the public hearing was continued.

MOTION: COUNCILMEMBER FICKE MOVED AND MAYOR PRO TEM GARCIA SECONDED TO CONTINUE THIS ITEM TO THE JANUARY 7, 2009 COUNCIL MEETING. MOTION UNANIMOUSLY CARRIED.

11. SECOND AMENDMENT TO GLENWOOD AT ALISO VIEJO DEVELOPMENT AGREEMENT AND AMENDMENT TO THE GLENWOOD AT ALISO VIEJO SPECIFIC PLAN REGARDING PUBLIC PLAY AT THE GOLF COURSE (CONTINUED FROM NOVEMBER 5, 2008 COUNCIL MEETING)

Scott Smith, City Attorney, briefed the staff report dated November 19, 2008.

Mayor Phillips opened the public hearing. There being no public testimony, the public hearing was closed.

MOTION: COUNCILMEMBER FICKE MOVED AND MAYOR PRO TEM GARCIA SECONDED TO INTRODUCE AND ACCEPT FOR FIRST READING THE FOLLOWING ORDINANCES ENTITLED:

ORDINANCE NO. 2008-100, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, APPROVING AN AMENDMENT TO THE GLENWOOD AT ALISO VIEJO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ALISO VIEJO AND ALISO VIEJO GOLF CLUB JOINT VENTURE AND ALISO VIEJO COMMERCIAL PROPERTY JOINT VENTURE TO PROVIDE A CITY MEMBERSHIP TO THE GOLF COURSE ON TERMS AND CONDITIONS ESTABLISHED IN A SEPARATE OPERATING MEMORANDUM; and

ORDINANCE NO. 2008-101, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING THE GLENWOOD AT ALISO VIEJO SPECIFIC PLAN TO PROVIDE A CITY MEMBERSHIP TO THE GOLF COURSE ON TERMS AND CONDITIONS ESTABLISHED IN A SEPARATE OPERATING MEMORANDUM.

NOVEMBER 19, 2008

Councilmember Cave stated she cannot support this item because she is concerned that the project has become a private country club which is contrary to what was originally discussed and is not consistent with the City's General Plan.

MOTION CARRIED 4-1, COUNCILMEMBER CAVE DISSENTED.

DISCUSSION ITEM NOS. 12 THROUGH 15

12. LOCATION OF 35 NEW UTILITY CABINETS THROUGHOUT THE CITY FOR AT&T'S PROJECT LIGHTSPEED

John Whitman, Director of Public Works, briefed the staff report dated November 19, 2008 and introduced Carol Tagayun, AT & T representative, who gave a visual presentation highlighting AT&T's broadband infrastructure network upgrades, Internet Protocol (IP) platform including the U-verse TV, above ground cabinet specifications for public right of way and private property, the 35 proposed sites, and a list of current customers in California.

Councilmember Cave commented about conflict of interest. Mr. Whitman left the room to check on the conflict provisions. Upon returning to the meeting, he noted that the conflict of interest provision is for property located within 500 feet and in this case would conflict out Mayor Pro Tem Garcia for the proposed site at #2 Oak View Drive.

City Attorney Smith suggested bifurcating the motion due to the potential conflict of interest on the proposed site at #2 Oak View Drive, and have two separate discussions to allow Mayor Pro Tem Garcia to leave the room for the conflict and to return to participate in the discussion for the other 34 proposed sites.

Questions and discussion ensued regarding all of the proposed sites except for the site at #2 Oak View Drive, pertaining to certain provisions in the state franchise agreement regarding the equipment cabinets, current conditions of the proposed sites as it relates to other utility equipments in place, the process of locating equipment on private property outside an existing easement, franchise fees, wireless technology, mitigation measures for cabinet aesthetics, noise, graffiti and on and off site mitigation for planting, and maintenance of the cabinets.

Mayor Phillips asked if anyone wished to address the City Council on this matter. Hearing no response, public comment was closed.

NOVEMBER 19, 2008

BIFURCATED MOTION: COUNCILMEMBER CAVE MOVED AND COUNCILMEMBER FICKE SECONDED TO APPROVE THE PLACEMENT OF 34 UTILITY CABINETS BY AT&T THROUGHOUT THE CITY OF ALISO VIEJO LISTED ON PAGE 12-3 OF THE STAFF REPORT WITH THE EXCEPTION OF PRIVATE PROPERTY LOCATED AT #2 OAK VIEW DRIVE, USING THE ENCROACHMENT PERMIT PROCESS FOR 17 LOCATIONS ON PUBLIC RIGHT OF WAY AND ADMINISTRATIVE APPROVAL OF A SITE DEVELOPMENT PERMIT FOR 13 LOCATIONS ON PRIVATE PROPERTY (4 CEV UNDERGROUND VAULT SITES REQUIRE NO PERMITS AND EASEMENTS). IF ANY SITES ARE PROPOSED TO BE MODIFIED FROM PRIVATE PROPERTY TO PUBLIC PROPERTY, THOSE SITES WILL BE PLACED ON A FUTURE CITY COUNCIL AGENDA. MOTION UNANIMOUSLY CARRIED.

At 8:45 p.m., Mayor Pro Tem Garcia left the room due to a potential conflict of interest.

Mayor Phillips asked if anyone wished to address the City Council on this matter. Hearing no response, public comment was closed.

BIFURCATED MOTION: COUNCILMEMBER CAVE MOVED AND COUNCILMEMBER FICKE SECONDED TO APPROVE THE PLACEMENT OF ONE (1) UTILITY CABINET BY AT&T IN THE CITY OF ALISO VIEJO ON PRIVATE PROPERTY LOCATED AT #2 OAK VIEW DRIVE, AS LISTED ON PAGE 12-3 OF THE STAFF REPORT, USING THE ENCROACHMENT PERMIT PROCESS FOR ADMINISTRATIVE APPROVAL OF A SITE DEVELOPMENT PERMIT. MOTION CARRIED 4-0, MAYOR PRO TEM GARCIA ABSTAINED DUE TO A POTENTIAL CONFLICT OF INTEREST.

Mayor Pro Tem Garcia re-entered the meeting and returned to the dais at 8:50 p.m.

13. FIRST AMENDMENT TO THE MANAGEMENT SERVICES AGREEMENT WITH ALISO COMMUNITY CENTER MANAGEMENT INC.

City Manager Mark Pulone briefed the staff report dated November 19, 2008.

Questions and discussion ensued regarding liquor licensing and permitting fees, sales of alcohol at events, and the intrinsic value of liquor licenses.

Scott Lester, ClubCorp representative and staff responded to Council questions pertaining to fees and the budget.

Mayor Phillips asked if anyone wished to address the City Council on this matter. Hearing no response, public comment was closed.

NOVEMBER 19, 2008

MOTION: COUNCILMEMBER FICKE MOVED AND COUNCILMEMBER TSUNODA SECONDED TO AUTHORIZE THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE MANAGEMENT SERVICES AGREEMENT WITH ALISO COMMUNITY CENTER MANAGEMENT INC., A SUBSIDIARY OF CLUBCORP, USA, INC. MOTION UNANIMOUSLY CARRIED.

14. CONSIDERATION OF DRAFT BUDGET FOR THE ALISO VIEJO AQUATIC CENTER AND CONFERENCE CENTER

City Manager Mark Pulone briefed the staff report dated November 19, 2008. He noted that based on the Development Agreement, ClubCorp is responsible for funding the \$250K budget for the Aquatic and the Conference Center to be submitted in two equal payments---the first payment of \$125K is due approximately thirty days prior to the opening of the facilities and the second equal payment is due thirty days after the opening of the facilities.

Operating Assumptions of the Aquatic Center:

City Manager Mark Pulone presented the information regarding hours of operation, pricing, programming/facility uses, and other responsibilities.

Questions and discussion ensued regarding rate for lap swim, pricing, operating hours and usage, the pool area diagram, peak and non-peak times, provisions for private parties, resident and non-resident fees, holiday hours and staffing, housekeeping management, and year-round passes and daily users.

City Manager Pulone clarified that lap and recreational swim would be part of the admission rate.

Scott Lester, ClubCorp representative, responded to questions.

Council expressed concerns regarding the proposed projections in the budget being in the red.

Councilmember Cave expressed concerns about managing the year round passes against the daily users when the pool reaches capacity. She suggested staff bring back a draft written agreement for the annual pass users requiring them to sign a disclosure that states the annual pass does not guarantee pool entry.

Operating Assumptions of the Conference Center:

City Manager Mark Pulone presented the information regarding hours of operation.

Councilmember Cave suggested continuing agenda item no. 14 in the interest of time.

NOVEMBER 19, 2008

Mayor Pro Tem Garcia suggested directing staff to rework and lowering the numbers particularly the items that are in the red and resubmit for Council consideration.

Councilmember Cave concurred and stated that the numbers presented are not the same numbers originally discussed during the negotiation of the Development Agreement.

Mayor Phillips suggested proceeding with the discussion of the Conference Center operating assumptions tonight so that Council direction to staff would encompass both facilities. There was no opposition from the Council.

Questions and concerns continued on the Conference Center rental fees, community user groups, number of events and the basis of the assumptions for sales.

Mayor Phillips asked if anyone wished to address the City Council on this matter. Hearing no response, public comment was closed.

MOTION: COUNCILMEMBER TSUNODA MOVED AND COUNCILMEMBER CAVE SECONDED TO CONTINUE THIS ITEM AND DIRECT STAFF TO REWORK THE NUMBERS AND SCENARIOS AND PROVIDE A DETAILED AND USER FRIENDLY FORMAT REGARDING PRICING AND OTHER DETAILS AS DISCUSSED INCLUDING BIFURCATING THE FEE STRUCTURE FOR RESIDENTS AND NON RESIDENTS, A NARRATIVE TO DESCRIBE THE BASIS OF THE ASSUMPTIONS, A LIST OF COMMUNITY USER GROUPS AND A SPECIAL BROCHURE FOR THEIR EVENTS. MOTION UNANIMOUSLY CARRIED.

15. ACCEPTANCE OF ALISO VIEJO AQUATIC CENTER, CONFERENCE CENTER AND VISTA PARK

City Attorney Smith stated that with the continuance of item no. 14, it would be best to also continue this item, as it is a related item.

Mayor Phillips asked if anyone wished to address the City Council on this matter. Hearing no response, public comment was closed.

MOTION: COUNCILMEMBER CAVE MOVED AND COUNCILMEMBER TSUNODA SECONDED TO CONTINUE THIS ITEM ALONGSIDE ITEM NO. 14, CONSIDERATION OF A DRAFT BUDGET FOR THE ALISO VIEJO AQUATIC CENTER AND CONFERENCE CENTER. MOTION UNANIMOUSLY CARRIED.

NOVEMBER 19, 2008

COMMUNITY INPUT

Mayor Phillips asked if anyone wished to address the City Council on any matter within the subject matter jurisdiction of the City Council.

1. David Shevel, expressed concerns regarding enforcement of his banner signs by the City for his business called the Knotstop at 26711 Aliso Creek Road, #100. After checking out other businesses and their signs in the area, he felt that his business was singled out and the enforcement was discriminatory. He provided staff with his photos of the subject signs and asked for an explanation.

Mayor Phillips requested staff to conduct a review and report back to Council.

2. Dean Ossola, resident, provided information about the Aliso Sports Foundation (ASF), a working group established to support youth athletic programs to function in strategic partnership with existing club, league, school and other volunteer and private organizations. The Foundation intends to develop local resources to support and grow community based football, lacrosse and other potential team sporting leagues that would have local City presence to practice, play and host significant local tournaments. He also commented about the launching of the Aliso Football Federation (AFF) and its intent to develop and maintain Aliso-based football programs including flag football as well as tackle football with Pop Warner/Junior All American chapters and continuing on to high school level programs.

Hearing no further response, Mayor Phillips closed community input.

CITY MANAGER'S REPORT

City Manager Pulone commented that staff will be in contact with David Shevel regarding his enforcement concerns and review the situation of his signs. Mr. Pulone ensured the Council that the City does not practice selective enforcement.

ANNOUNCEMENTS/COUNCIL COMMENTS/COMMITTEE UPDATES

Ficke

- None at this time.

Tsunoda:

- None at this time.

Cave:

- Announced the TCA toll road meeting last week was delayed for one day due to the "Shake out" day. She received the Traffic and Revenue report which reflected a decrease in toll revenues.
- Commended CR& R on their services for e-waste and u-waste pick ups.

NOVEMBER 19, 2008

Garcia:

- Announced that Snow Fest is this Saturday and has become the event of the year. He encouraged everyone to attend.

Phillips:

- Thanked staff for a successful Citizen Leadership Academy.
- Announced Snow Fest tickets are sold out.
- Wished everyone a Happy Thanksgiving.

ADJOURNMENT: The Mayor adjourned the meeting at 10:00 p.m. The next regularly scheduled Council meeting is on December 3, 2008.

Respectfully submitted,

Approved by:

SUSAN A. RAMOS, CITY CLERK

WILLIAM A. PHILLIPS, MAYOR