

CITY OF ALISO VIEJO  
CITY COUNCIL MINUTES  
REGULAR MEETING  
DECEMBER 3, 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 - 33 Santa Barbara  
Agency Negotiator: City Manager and City Attorney  
Negotiating Parties: ClubCorp  
Under Negotiation: Price and terms of payment for  
community center use/lease

AFTER CLOSED SESSION: The Mayor reconvened the meeting at 7:10 p.m.,

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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  
GLENN YASUI, DIRECTOR OF ADMINISTRATIVE SERVICES  
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: Zachary Ficke, son of Councilmember Greg Ficke, led the pledge.

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

Mayor Phillips presented the following updates:

- USPS comments are scheduled to be released next month
- City is continuing to work towards finding a more suitable site for the proposed facility
- City is continuing to work with federal legislators to ensure the City's concerns are addressed
- Public is encouraged to 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.

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2. ORANGE COUNTY HUMAN RELATIONS ANNUAL REPORT – Presented by Judy Iannaccone, President, Orange County Human Relations Board of Directors.

Judy Iannaccone, President, Board of Directors, gave the annual report and the importance of investing in human relations infrastructure. She presented the Mayor with a certificate of appreciation for the City's ongoing support. She also recognized Sgt. Robert Osborne who received the department level community policing award this year.

3. OATH TAKING OF NEWLY-APPOINTED CITY COUNCILMEMBERS: WILLIAM A. PHILLIPS, DONALD A. GARCIA, AND GREG A. FICKE

City Clerk Ramos administered the oaths of office to the appointed City Councilmembers Phillips, Garcia and Ficke, to serve another full term of four years on the City Council.

### **ADDITIONS, DELETIONS, AND REORDERING OF THE AGENDA**

Mayor Pro Tem Garcia requested to move Agenda Item No.18, Presentation of Gavel Plaque to Outgoing Mayor, up after the consent calendar. Staff requested to withdraw Agenda Item No. 13, Easement Agreement and Memorandum of Understanding with the AlisoViejo Community Association (AVCA) regarding the Trail Grant Program, 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 Tsunoda requested to pull Agenda Item No. 9, Auditing Services Contract, for comments. No member of the public requested that an item be removed for discussion.

**MOTION: COUNCILMEMBER FICKE MOVED AND MAYOR PRO TEM GARCIA SECONDED TO APPROVE THE FOLLOWING CONSENT CALENDAR ITEMS NO. 4 THROUGH 13 EXCEPT FOR ITEMS NO. 9 AND 13:**

4. 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.

5. MINUTES – REGULAR MEETING OF NOVEMBER 19, 2008

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Approved the Minutes as submitted.

6. ACCOUNTS PAYABLE

Ratified Accounts Payable checks issued November 13, 2008 in the amount of \$633,094.32; and Accounts Payable checks issued November 20, 2008 in the amount of \$433,141.36.

7. TREASURER'S STATEMENT – OCTOBER, 2008

Approved the October 2008 Treasurer's Statement.

8. COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

Received for filing the CAFR for year ended June 30, 2008.

10. CAFETERIA PLAN BENEFITS

Adopted Resolution 2008-034 entitled as follows:

RESOLUTION NO. 2008-034, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO RELATING TO THE BENEFIT SCHEDULE FOR NON-REPRESENTED EMPLOYEES.

11. ADOPT ORDINANCES PERTAINING TO THE 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

(1) Adopted and conducted second reading of Ordinance No. 2008-100 entitled:

“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”

(2) Adopt and conduct second reading of Ordinance No. 2008-101 entitled:

“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.”

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12. AWARD CONTRACT TO BUREAU VERITAS FOR CONSTRUCTION INSPECTION SERVICES

Awarded a contract to Bureau Veritas (BV) to perform construction inspection services of roadway construction projects citywide, and authorize the City Manager to execute a professional services contract with BV for an amount not to exceed \$150,000.00.

**MOTION UNANIMOUSLY CARRIED FOR CONSENT ITEMS 4 – 8, 10 AND 12, AND A 4-1 VOTE ON AGENDA ITEM NO. 11, *ORDINANCES PERTAINING TO 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*, WITH COUNCILMEMBER CAVE DISSENTING.**

**AT THIS TIME, CITY ATTORNEY SMITH REPORTED THAT AT TONIGHT'S CLOSED SESSION, THE CITY COUNCIL APPROVED THE SEVENTH OPERATING MEMORANDUM TO THE DEVELOPMENT AGREEMENT BETWEEN GLENWOOD CLUBCORP PARTNERSHIP AND THE CITY OF ALISO VIEJO. MOTION WAS MADE BY MAYOR PRO TEM GARCIA, SECONDED BY COUNCILMEMBER FICKE AND UNANIMOUSLY CARRIED 4-1, COUNCILMEMBER CAVE DISSENTING.**

**END OF CONSENT CALENDAR**

**REMOVED FROM CONSENT CALENDAR**

9. AUDITING SERVICES CONTRACT

Councilmember Tsunoda requested to pull this item from consent to clarify the term of the contract. Gina Tharani clarified that the contractor is the same contractor that has provided this service to the City for the previous years and staff felt it best to recommend the longer term of three years with two renewal options.

**MOTION: COUNCILMEMBER TSUNODA MOVED TO APPROVE THE REQUEST FOR PROPOSALS FOR AUDITING SERVICES AND AUTHORIZE STAFF TO SOLICIT AND RECEIVE PROPOSALS FROM QUALIFIED CERTIFIED PUBLIC ACCOUNTANT FIRMS FOR AUDITING SERVICES. MOTION UNANIMOUSLY CARRIED.**

13. EASEMENT AGREEMENT AND MEMORANDUM OF UNDERSTANDING WITH THE ALISO VIEJO COMMUNITY ASSOCIATION (AVCA) REGARDING THE TRAIL GRANT PROGRAM

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This agenda item was withdrawn by City Manager Pulone at this time.

**THIS ITEM WAS MOVED UP TO THIS PART OF THE AGENDA**

18. PRESENTATION OF GAVEL PLAQUE TO OUTGOING MAYOR

Mayor Pro Tem Garcia expressed remarks and comments about Mayor Phillips and his leadership and commitment by participating, leading and serving in various capacities including as Mayor three times in Aliso Viejo, the Laguna Canyon Foundation Board of Directors, the Great Park Advisory Council, Saddleback Memorial Board of Directors, Beta Foster Care, and St. Mary and All Angels School. He was honored as this year's Community Leader by Saddleback Memorial Hospital on November 7, 2008. He expressed thanks and appreciation for all of his time and efforts.

City Manager Pulone expressed words of appreciation for his leadership and support and presented him with a gift from the City's management team.

Mayor Phillips expressed thanks to staff for their hard work, the Council for their strong leadership, and the community volunteers for their time and energy.

**DISCUSSION**

14. INFORMATION TECHNOLOGY SERVICES

Gina Tharani, Director of Finance Services, briefed the staff report dated December 3, 2008. She noted that Eric Codorniz, a representative from Synoptek is available for questions.

Staff responded to questions and discussion ensued regarding spending money that is unnecessary, flexibility provisions for the contractor, maximizing on the City's current resources, advantages of taking a dual process for the RFP for IT and website services, and contingency funding for emergency purposes only and evaluating the City's current infrastructure first before proposing additional contingency funding.

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

**MOTION: COUNCILMEMBER CAVE MOVED AND COUNCILMEMBER TSUNODA SECONDED TO APPROVE THE THREE YEAR AGREEMENT WITH SYNOPTEK, INC. FOR INFORMATION TECHNOLOGY SERVICES FOR THE FIXED AMOUNT OF \$35,400 PER YEAR FOR EACH OF THE CONTRACTING YEARS TOTALING \$106,200.00 AND APPROVE AN EMERGENCY CONTINGENCY FUND OF 15 PERCENT FOR THE FIRST YEAR. MOTION UNANIMOUSLY CARRIED.**

Councilmember Cave requested clarification and staff replied that the requested budget

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adjustment of \$8,500.00 is for the 15 percent contingency fund for the first year plus any unbudgeted amount for the contract.

**MOTION: COUNCILMEMBER CAVE MOVED AND MAYOR PRO TEM GARCIA SECONDED TO APPROVE A BUDGET ADJUSTMENT FOR \$8,500.00 FROM THE UNRESERVED GENERAL FUND FUND BALANCE. MOTION UNANIMOUSLY CARRIED.**

15. CONSIDERATION OF FINAL BUDGETS AND OPERATING ASSUMPTIONS FOR THE ALISO VIEJO AQUATIC AND CONFERENCE CENTERS (CONTINUED FROM NOVEMBER 19, 2008 MEETING)

City Manager Pulone briefed the staff report dated December 3, 2008 and referenced the supplemental information that was submitted by staff this evening which included information pertaining to financial projections for various options, pricing assumptions for the Aquatic Center, Glossary of budget terms, sample wedding menu and packages and wedding food and beverage competitive analysis.

Scott Lester, ClubCorp representative, and staff responded to questions and discussion regarding alcohol licensing, annual re-evaluation of the aquatic center, the proposed operating options for both facilities, pricing, projected trends and assumptions, economic changes, and the proposed reservation calendar for the Conference Center.

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

Councilmember Cave asked for clarification and staff responded regarding the review and approval process and timelines for the operational policies. Discussion ensued regarding purchasing of supplies and reimbursement.

**MOTION: COUNCILMEMBER FICKE MOVED AND MAYOR PRO TEM GARCIA SECONDED TO APPROVE THE FINANCIAL PROJECTIONS FOR THE COMBINED FACILITIES UNDER OPTION NO. 1 – PEAK SEASON AS PRESENTED BY STAFF IN THE SUPPLEMENTAL INFORMATION SUBMITTED THIS EVENING WHICH INCLUDES THE OPERATING ASSUMPTIONS AND THE FEE STRUCTURE INCLUDING BIFURCATION OF FEES, WITH AN ANNUAL COUNCIL REVIEW OF THE BUDGET FOR BOTH FACILITIES AND A RE-EVALUATION OF THE OPERATING SCHEDULE FOR THE AQUATIC CENTER AS THE OPERATING REVENUES CHANGE. MOTION UNANIMOUSLY CARRIED.**

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16. ACCEPTANCE OF ALISO VIEJO AQUATIC CENTER, CONFERENCE CENTER AND VISTA PARK (CONTINUED FROM NOVEMBER 19, 2008 MEETING)

City Attorney Scott Smith briefed the staff report dated December 3, 2008.

Questions and discussion ensued regarding a punch list, dead landscaping in the project site and landscaping warranty and landscaping maintenance.

Director of Public Works John Whitman confirmed the punch list is complete and the dead plants will be replaced.

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

**MOTION: MAYOR PRO TEM GARCIA MOVED AND COUNCILMEMBER FICKE SECONDED TO ADOPT THE RESOLUTION ENTITLED BELOW:**

**RESOLUTION NO. 2008-033, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO ACCEPTING THE CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS COMMONLY REFERRED TO AS THE ALISO VIEJO AQUATIC CENTER, THE ALISO VIEJO CONFERENCE CENTER, AND VISTA PARK FOR PUBLIC RECREATION PURPOSES.**

**MOTION UNANIMOUSLY CARRIED.**

COUNCIL DIRECTED STAFF TO ENSURE THAT ALL DEAD PLANTS ARE REPLACED AND THEIR REPLACEMENTS ARE UNDER WARRANTY.

17. CITY COUNCIL REORGANIZATION

City Clerk Ramos briefed the report dated December 3, 2008.

Mayor Phillips opened nominations for Mayor. Councilmember Cave nominated Mayor Pro Tem Garcia for Mayor. Councilmember Ficke nominated himself for Mayor. Nominations closed.

A roll call vote was taken for Mayor Pro Tem Garcia as Mayor and passed with a 4-1 vote, with Councilmember Ficke dissenting.

Mayor Phillips opened nominations for Mayor Pro Tem. Councilmember Ficke nominated himself for Mayor Pro Tem. Councilmember Cave nominated Councilmember Tsunoda for Mayor. Nominations closed.

A roll call vote was taken for Councilmember Ficke as Mayor Pro Tem and failed with a 1-4 vote, with Mayor Phillips, Mayor Pro Tem Garcia, Councilmembers Cave and



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Tsunoda dissenting.

A roll call vote was taken for Councilmember Tsunoda as Mayor Pro Tem and passed with a 4-1 vote, with Councilmember Ficke dissenting.

Mayor Phillips announced Donald Garcia as the new Mayor and Phillip Tsunoda as the new Mayor Pro Tem effective January 1, 2009.

### 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. Hearing no response, Mayor Phillips closed community input.

### CITY MANAGER'S REPORT

City Manager Pulone expressed thanks to the Finance Department and the Council for the completion and approval of the City's CAFR.

### ANNOUNCEMENTS/COUNCIL COMMENTS/COMMITTEE UPDATES

#### Ficke

- None at this time.

#### Tsunoda:

- Expressed thanks to his colleagues for selecting him as Mayor Pro Tem.

#### Cave:

- None at this time.

#### Garcia:

- Thanked staff and volunteers for a good event at Snow Fest.
- Thanked the Council selecting him as Mayor.

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Phillips:

- Thanked staff and volunteers for a good event at Snow Fest.
- Expressed congratulations to the Sheriff's Department for passing their first inspection
- Attended the afternoon with the Sheriff Department and PALS. David Murphy was introduced as a new officer.
- Announced Santa's arrival at Grand Park this Saturday.
- Announced Santa's arrival at the FRC Boys and Girls Club next Saturday.

ADJOURNMENT: The Mayor adjourned the meeting at 8:40 p.m. and announced that the regularly scheduled meeting of December 17, 2008 is canceled and the next regularly scheduled meeting is on January 7, 2009.

Respectfully submitted,

Approved by:

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SUSAN A. RAMOS  
CITY CLERK

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WILLIAM A. PHILLIPS  
MAYOR