

**ALISO VIEJO MINUTES  
CITY COUNCIL REGULAR MEETING  
March 2, 2005**

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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 Warkomski at 7:05 p.m. on Wednesday, March 2, 2005 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 7:00 p.m. on February 25, 2005 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.

**ROLL CALL**

Assistant to the City Manager / City Clerk Robinson announced that speakers' slips were available by the front door and should be given to the City Clerk.

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

Absent: None.

**PLEDGE OF ALLEGIANCE**

Karen Awad led the Pledge of Allegiance.

**SPECIAL PRESENTATIONS**

Mayor Warkomski presented a Certificate of Appreciation to outgoing DRC Member Julie Fitch for her service to the City. Julie Fitch thanked the Council for the opportunity to serve and the recognition.

Cheryl Russell made a presentation from Orange County Human Relations Council and the service given to the City of Aliso Viejo. She distributed the annual report for 2003 – 2004 and the most recent newsletter to the Council. She presented a Certificate of Recognition to the Council, which Mayor Warkomski accepted.

Jim Fabian of Fieldman, Rolapp and Associates and Warren Diven of Best, Best & Krieger gave a PowerPoint presentation on the proposed Community Facilities District Formation and Mello-Roos Bonds for the Glenwood at Aliso Viejo Development.

Discussion ensued regarding the process on handling the bonds should the housing market plummet, the disclosure to prospective property owners, the obvious disclosure of Mello-Roos costs during the showing of homes, why the County was included in the bond calculations, the road fees that the Developer must pay to the County that were included in the bond calculation, the execution of bonds, the bond rating, the process when someone does not pay their special tax, the foreclosure process on delinquent taxes, the float time from paying the tax to the County and the City receiving the money, how management costs will be paid, the annual administrative cost of \$30,000 with a 2% increase, if the County will be charging for the services provided, the Community Facilities District administration's annual and event costs, the difficulty in retrieving accounting information in the past from the County and School District, the City's reporting requirements and accounting responsibilities, the Joint Facilities District with Moulton Niguel, the allocation and reporting requirements for the County portion, the annual reporting cost being covered in the administrative costs, the need to have additional monies in the case of additional reporting requirements, the process if bonds had to be extended from 30 years to 40 years, how such bond extensions would be communicated to the homeowners, and the example given on extending the payment of bonds.

#### **PROCLAMATIONS PRESENTED ELSEWHERE**

None.

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

Council accepted City Manager Norman's request to move Item Number 7, Amend Design and Build Professional Services Agreement with TV Magic for Bulletin Board and Video Playback System, prior to the Public Hearing Section.

#### **CONSENT CALENDAR**

**A MOTION** was made by Council Member Phillips and seconded by Council Member Ficke, to approve the Consent Calendar as described below, with the exception of Item Number 2, Minutes – February 16, 2005 Meeting. 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.

3. **Warrants**

1. Ratified warrants for February 10, 2005 in the amount of \$53,375.59; and
2. Ratified warrants for February 17, 2005 in the amount of \$434,936.01.

4. **Treasurer's Statement – January 2005**

Approved the January 2005 Treasurer's Statement.

**REMOVED FOR THE CONSENT CALENDAR**

2. **Minutes – February 16, 2005 Meeting**

Council Member Adams made two date corrections on the minutes in her section of Council Comments and Announcements.

**A MOTION** was made by Council Member Adams and seconded by Mayor Pro Tem Vali-Cave, to approve the minutes of February 16, 2005 as amended. Motion carried 4-0, with Council Member Phillips abstaining due to his absence at that meeting.

**REORDER OF COUNCIL BUSINESS ITEM**

7. **Amend Design and Build Professional Services Agreement with TV Magic for Bulletin Board and Video Playback System**

Administrative Services Supervisor Murray gave a brief background from the staff report.

Mayor Warkowski opened the item for public testimony. There being none, Mayor Warkowski closed the item for public testimony.

Discussion ensued regarding consulting rates and operating costs as projected on the matrix, which Department would be overseeing the service, the type of programming content, who makes the decision on the content, whether public service announcements would be utilized, how the bulletin board would be envisioned, what type of announcements would be listed, the advertising of City events and announcements displayed were at the discretion of the Council, the assurance that there would be coordination amongst the Departments for content, the technology being "tried and true",

the level of expertise of the Consultant, the Consultant's familiarity with the equipment, the concern that the technology or equipment will become outdated in a short period of time, the specifics of the Consultant's agreement, requesting that the labor rates be static over the entire contract period, whether the Consultant's contract could be locked into a five-year rate, the Consultant's contract being a two-year agreement with an option to renew for two years with a CPI increase, whether the Request for Qualifications specified the possibility of a fixed rate for five years, if the contract could be negotiated for a longer period of time and not compromise the bid progress, the fact that the proposals were Request for Qualifications, the ability to share experiences from other cities, the cost savings as stated in the matrix, the uncertainty of the Consultant's costs in year 3, the five year calculations not being accurate, the potential savings of Option 2 and option 3, the original contract not included in the agenda item, the request that future agenda items include the entire scenario, the expertise varying amongst consultants, the recommended technology being standard equipment, the possibility of amending the Consultant's agreement for more than two years, whether to approve the Consultant's Agreement and the new technology agreement at the same time, the breakdowns of the two agreements, the need to move forward on this item, and that the technology is not propriety.

**A MOTION** was made by Council Member Phillips and seconded by Council Member Ficke, to approve and authorize the Mayor to amend and execute the professional services agreement with TV Magic, Inc., for design and building of a bulletin board and video playback system per option 3; and appropriate \$83,323 from the Cox Communications Technology Grant to pay for the additional costs of the amended system; electrical changes to the room; and for required auxiliary air conditioning. Motion carried unanimously, 5-0.

## **PUBLIC HEARING**

### **5. Amendment to Emerald Venture Development Agreement (Glenwood at Aliso Viejo)**

ORDINANCE NO. 2005 - 071

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF ALISO VIEJO BETWEEN THE CITY OF ALISO VIEJO AND ALISO VIEJO GOLF CLUB JOINT VENTURE AND ALISO VIEJO COMMERCIAL PROPERTY JOINT VENTURE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65864 ET SEQ.

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

Mayor Warkowski opened the item for public testimony. There being none, Mayor Warkowski closed the item for public testimony. Mayor Warkowski closed the Public Hearing portion of this item.

Discussion ensued regarding the purpose of keeping the Public Hearing open and the background of this item for the benefit of Council Member Phillips who was absent at the last meeting, the in-lieu fee regarding the Development Agreement negotiations, the concern that the money was not applied to active recreation purposes in the parks as intended, the process of in-lieu gifts, the written acknowledgement from AVCA, whether the word "written description" was defined in the Development Agreement, the intent of the Development Agreement, the intent of the Development Agreement Negotiation Team, the two-party contract, the intent of the Agreement being a tri-lingual agreement between parties, the Owner being defined as Emerald Ventures, the process of events to date, the legitimacy of a three party agreement, the gift recipient, who was the responsible party for permits and design – the Developer or Owner of the Parks, the intent of the Agreement being active recreation use and the spirit of the original Agreement, the purpose of the gift to be a positive amenity for the community and offset costs, the intent of the gift not being there, the changing of the rules, the problem of holding up the Developer, and the process not being taken as stated on the Agreement.

**A MOTION** was made by Council Member Phillips and seconded by Mayor Pro Tem Vali-Cave, to adopt Ordinance No. 2005 – 071 approving an amendment to the Development Agreement between the City of Aliso Viejo and Aliso Viejo Golf Club Joint Venture and Aliso Viejo Commercial Property Joint Venture (Glenwood at Aliso Viejo). Motion carried unanimously, 5-0.

Further direction was requested on providing direction to Staff on the Developer's Gift to Ridgecrest Park. Mayor Pro Tem Vali-Cave wanted to have clearer language on Section 6.8.1 and bring back to Council. She requested clarification of the process with the third party and whether a new Amendment to the Development Agreement was needed. She wanted this item to be resolved quickly as to not hold up the Developer. There was further discussion on the direction to Staff. Discussion ensued regarding the precise scope of work, whether the two parties agree or disagree as stated in the Development Agreement language, whether the proper vehicle was an amendment or a Memorandum of Understanding between the Developer and the City, the original intent between the two parties, whether this item could be brought back on March 16, the example given regarding Quimby Fees, the issue of private and public ownership of the land, how the process should work, the intent of the in-lieu fees, the actual language in the Development

Agreement, the discussions at the negotiation table, the gift of tennis courts being chosen as a benefit to the Golf Course residents, the need for active adult recreation amenities in the parks, requesting documentation on the next \$70,000 dollars of improvements in the park, the bathroom being purchased and received, the need for tennis courts in the park, the original intent of the Agreement, the need to change the dates of the Agreement, the need to give AVCA thirty days to decide what improvements would be requested, the process designed being that the request from AVCA would be accepted or denied by the two parties, and the fact that the process was not following in accordance to the Development Agreement. Staff stated that they have enough direction to bring back an Agenda Item to Council.

At the hour of 8:51 p.m. Mayor Warkomski declared a recess.

At the hour of 9:05 p.m. the City Council reconvened, with all Council Members present except Council Member Ficke.

Council Member Ficke returned to the dais at 9:06 p.m.

## **COUNCIL BUSINESS**

### **6. Environmental Conservation Measures Amending Building Ordinance**

ORDINANCE NO. 2005 - 068

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADDING ARTICLE 9 TO DIVISION 1 OF TITLE 7 OF THE ORANGE COUNTY CODE, AS ADOPTED BY THE CITY OF ALISO VIEJO, REQUIRING THE IMPLEMENTATION OF ENVIRONMENTAL CONSERVATION MEASURES FOR RESIDENTIAL CONSTRUCTION

#### **Recommendation:**

City Engineer Whitman gave a brief background from the staff report. He mentioned that new building amendments would be adopted around October of 2005.

Mike Balasmo representing the BIA had concerns about not being involved in the initial process and the extra mandates placed on residential buildings. He stated that the Association and the Industry was moving towards green development, but he still had difficulty understanding all the parameters of the Ordinance. He stated that this Ordinance would be the first of its kind and set precedence. He was concerned about compliance. He wanted a more complete account and to explore other point systems. He stated that the BIA showed leadership at the State level on this issue as well as locally.

He provided examples of the Ladera Ranch project.

Tom Grable identified himself as a homebuilder and a BIA Board Member. He stated that while he is not an expert, we worked with consultants with expertise in this field. He stated he was not opposed to green building, but wanted to take initiative on the Ordinance and offered his Consultants to help in its design. He requested more detailed information and clarification. He urged Council to open the item up for further discussions.

Scott Larson, an AV homeowner, recently increased his home by 500 square feet in order to stay in Aliso Viejo. He stated that the Ordinance was cumbersome and confusing.

Rick Fitch stated that he was a homeowner and may want to possibly expand his house in the future, but now was concerned about the additional costs. He requested that the Ordinance be clearer especially when calculating the additional costs. He concurred with the previous speaker, Scott Larson.

Tara Morenc also concurred with the previous speakers, Scott Larson and Rick Fitch. She stated that she heard about this issue just today. She questioned some of the guidelines and the logistics of the point system on certain pieces of properties, such as photovoltaic on south facing properties.

Discussion ensued regarding if consideration was given on new and existing residents, the point system on remodels, the demarcation between remodels and new development, the process during the Ad Hoc meetings, the point system for new development, the ability to obtain 10 points for each square foot, the maximum points of 150 with a requirement of 50 points needed, the understanding of the point system, the review of a typical remodel or adding a loft, whether current material can be applied into the point system for credit, the creativity factor of receiving 5 points in 6 areas thus obtaining 30 points for creative alternatives, the reevaluation of the building standards in October of 2005, the condition in the implementation, the need to have a professional in the design of more than 120 square feet, the typographic error in the Ordinance, the concern about going above the State mandated standards, the examples given on the point system, the point system being applicable to the remodel, the example given on paint choice and green certified paint, the guidelines already given by the HOA, the mandatory standards, the example given on photovoltaic and south facing properties, the requirements involved to understanding whether the resident wanted to hire a professional, the need to have guidelines more user-friendly, which section of Article 9 are being amended, the points for existing features being a loophole, the mandatory requirements for creating a loft on the interior of the residence, the plans of a cookie cutter loft not always conforming to the City's standards, the point switching issues, the purpose of the green building originally designed for new construction, the need to split the Ordinance between new

and remodeled standards, the need to review the standards for remodels, the need to make clearer explanations for the layman, the issue of mandatory standards, especially without compliance, and the need to bring back to the Ad Hoc Working Group for further review.

The consensus of the Council was to direct Staff to table the item, return to the Ad Hoc Working Group for further discussion and reintroduce the ordinance at a later date.

**8. Solid Waste Hauling – Projected Timeline for Franchising**

City Engineer Whitman gave a brief background from the staff report. City Engineer Whitman made a correction on the Staff Report to state \$13,000 as actual costs annually instead of \$30,000.

Mayor Warkowski opened the item for public testimony. There being none, Mayor Warkowski closed the item for public testimony.

Discussion ensued regarding the best estimate on the timeline, the process to bid, the cooperation with the existing vendor on renegotiating, the direction given by Council, the parameters of services as designed by Staff regardless of vendor, meeting the timeframe proposed, the development of scope of work and rates, the State deadline for compliance to AB939, how Council wants to pursue the goals, the gathering of basic guidelines and recent franchises from other cities including Santa Cruz, the possibility of conducting a workshop, the negotiation with the current vendor, the need to move quickly on the timeline, the need to research and bring back an Agenda Item within forty-five days, and the request that Council provide their input within a week of desired amenities.

The consensus of the Council was to direct Staff to gather basic amenities requested from Council and research other cities, such as Santa Cruz, and obtain recent copies of franchises to provide direction to Council in an Agenda Item within forty-five days.

**9. Parks Watch Program**

Chief of Police Services Lieutenant Paddock gave a brief background from the staff report. He introduced Crime Prevention Specialist Beauchamp who described the Neighborhood Watch Program and the two subsets being Business Watch and Park Watch. She stated the Parks Watch Program was designed for reduction of vandalism and crime in the parks. The Program consists of placing signage in the Parks and to educate the neighborhood, such as the Neighborhood Watch Program.

Mayor Warkowski opened the item for public testimony. There being none,

Mayor Warkomski closed the item for public testimony.

Discussion ensued regarding citizens acting as cops and performing citizens' arrest, the tattle telling of dogs without leashes, the process that the Sheriff conducts when screening and dispatching calls, the example given of teenagers driving at the park doing donuts, the need for the Program, the possibility that good people are already practicing Park Watch, the fact that the paper quoted the wrong facts --\$46,000 dollars of vandalism was not all park-related, the phenomenal job done by the Sheriffs already, the number of minor incidents, the concern that AVCA wants to spend \$300,000 for patrol care and armed personnel, the presentation at AVCA's Parks and Recreation Committee, the need to educate AVCA on park enforcement efforts of the Sheriffs, the presentation to AVCA on signage, the issue of who was paying for signage, the precedent set that the City pays for the signs and maintenance, but installation is paid by the land owner, the fact that Crime Prevention Specialist Beauchamp directs where the signage would be placed and be most effective, and the desire for AVCA to have specialty advertised items, and the scope of the Parks Watch Program being a very simple two step process of signage and education.

The consensus of the Council was to direct Staff to present the Parks Watch Program to the AVCA Parks and Recreation Committee at their next meeting in April and possibly to the AVCA Board, and to discuss the parameters and scope of the Park Watch Program being signage and education such as designed in the Neighborhood Watch Program.

## **COMMUNITY INPUT**

There were no speakers.

## **CITY MANAGER'S REPORT**

City Manager Norman reported that the Automatic External Defibrillators (AED) were purchased and delivered. He stated training would occur in March and equipment would be deployed in the vehicles by April.

City Manager Norman gave a status on the slide activity behind 43 and 45 Hollyleaf.

City Manager Norman stated that the bike rodeo at Don Avila would be held on Friday. Lastly, he mentioned that a \$15,000 seat belt safety grant would be received in May.

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

### **Council Member Ficke**

Council Member Ficke stated that the Council was in attendance at the Opening Day of Little League.

### **Council Member Adams**

Council Member Adams reported on the OCFA meeting held on February 24. She indicated that 7 of the 11 cities allowed OCFA to decide whether to amend the ambulance contract with Medix; the Board decided to enforce the original Agreement.

Council Member Adams stated that she would be a guest reader at Oakgrove on Friday.

### **Council Member Phillips**

Council Member Phillips stated he will also be reading at Oakgrove on Friday and invited the public.

Council Member Phillips mentioned the city services in demand during the winter season as he observed visiting Canada.

### **Mayor Pro Tem Vali-Cave**

Mayor Pro Tem Vali-Cave mentioned her recent activities: attending Opening Day for the Little League; Kiwanis pancake breakfast; meetings regarding the Glenwood at Aliso Viejo Conference Center; meetings regarding the Glenwood at Aliso Viejo Community Facilities District; the transportation seminar that focused on the upcoming Measure M ballot initiative; and the Committee meetings for the upcoming AV Golf Cup.

Mayor Pro Tem Vali-Cave stated last Friday the San Joaquin TCA had three offers on the table to the Eastern Foothill TCA. The Eastern Foothill TCA was discussing the offers in Closed Session.

Lastly, Mayor Pro Tem Vali-Cave stated she would be attending the Advocacy Committee prior to the General Meeting of the Division's League of CA Cities Division on March 10.

**Mayor Warkowski**

Mayor Warkowski stated that he and Mayor Pro Tem Vali-Cave would be attending the Leadership Symposium this weekend.

**CLOSED SESSION**

None.

**ADJOURNMENT** at 10:45 p.m.

Submitted By:

Approved By:

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Susan A. Robinson, CMC  
City Clerk

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Karl P. Warkowski  
Mayor