

**ALISO VIEJO MINUTES
CITY COUNCIL REGULAR MEETING
July 6, 2005**

CALL TO ORDER

The regular meeting of the City Council of the City of Aliso Viejo was called to order by Mayor Warkomski at 7:01 p.m. on Wednesday, July 6, 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 July 1, 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 Council Member Phillips had an excused absence from this meeting. She also stated 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

Absent: Council Member William A. Phillips

PLEDGE OF ALLEGIANCE

Boy Scout Josh Chazen from Troop 700 led the Pledge of Allegiance.

SPECIAL PRESENTATIONS

Bob Bunyan reported on the Aliso Viejo Community Foundation's Second Annual Golf Cup Tournament. He stated that the Family Resource Center would receive \$38,564.00 from the proceeds of the Tournament. Additionally, he described the research being conducted on the Aliso Viejo Ranch site.

PROCLAMATIONS PRESENTED ELSEWHERE

None.

ADDITIONS, DELETIONS, REORDERING TO THE AGENDA

Mayor Warkowski wanted Item Number 15, request of review of and possible amendment to Ordinance No. 2001 – 005 and Ordinance No. 2002 – 042 relating to City Manager's duties and contract, to be heard after the Closed Session Item.

CONSENT CALENDAR

A MOTION was made by Council Member Ficke and seconded by Council Member Adams, to approve the Consent Calendar as described below. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

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

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

2. **Minutes – June 15, 2005 Meeting**

Approved the Minutes as submitted.

3. **Warrants**

1. Ratified warrants for June 9, 2005 in the amount of \$180,277.37;
2. Ratified warrants for June 16, 2005 in the amount of \$385,152.49; and
3. Ratified warrants for June 23, 2005 in the amount of \$41,003.80.

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

Approved the May 2005 Treasurer's Statement.

5. **Revision to the Conflict of Interest Code**

RESOLUTION NO. 2005 – 040

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, AMENDING EXHIBIT "A" OF THE APPENDIX OF THE 2004 CONFLICT OF INTEREST CODE RELATING TO DESIGNATED POSITIONS

Adopted Resolution No. 2005 – 040 amending Exhibit "A" of the Appendix of the 2004 Conflict of Interest Code relating to designated positions.

6. **Appropriations Limit – Fiscal Year 2005-2006**

RESOLUTION NO. 2005 – 041

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, SETTING THE PROPOSITION 4 (GANN) APPROPRIATIONS LIMIT FOR FISCAL YEAR 2005-2006 FOR THE CITY OF ALISO VIEJO

Approved Resolution No. 2005 - 041, setting the Proposition 4 (Gann) appropriations limit for Fiscal Year 2005-2006 for the City of Aliso Viejo at \$12,795,601.

PUBLIC HEARING

7. **Adoption of Ordinances for Development Agreement and Specific Plan, and Adoption of Resolutions of Intent to Override and Notice of Intent to Override ALUC'S Findings of Inconsistency (Ventana Ridge Development Project)**

RESOLUTION NO. 2005 – 042

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADOPTING AN ADDENDUM TO THE GENERAL PLAN ENVIRONMENTAL IMPACT REPORT FOR THE VENTANA RIDGE PROJECT

ORDINANCE NO. 2005 – 074

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADOPTING THE VENTANA RIDGE SPECIFIC PLAN

ORDINANCE NO. 2005 – 075

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT FOR CERTAIN REAL PROPERTY LOCATED WITHIN THE CITY OF ALISO VIEJO BETWEEN THE CITY OF ALISO VIEJO AND BMR DEVELOPMENT, LLC PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65864 ET SEQ.

RESOLUTION NO. 2005 – 043

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, PROVIDING NOTICE OF ITS INTENT TO OVERRULE THE AIRPORT LAND USE COMMISSION'S FINDING OF INCONSISTENCY FOR THE VENTANA RIDGE SPECIFIC PLAN

Planning Director Garcia gave a brief overview of the item from the staff report. Elevations and views of the project were provided at the dais. Planning Director Garcia stated that the site had two alternatives in the General Plan. Alternative 1 was designated as recreational open space and Alternative 2 allowed for twenty-three allowable units. She stated that the Developer chose Alternative 2 with a smaller scale of twelve detached single-family residents.

Discussion ensued regarding the trail connection located at the northerly end of the site, who currently maintains the trail, the understanding that the Mormon Church owns the property, the funds allocated from the Developer being used for a portion of the design and implementation of the trail, the reason why the trail was not included in the Specific Plan and conflicting with other Specific Plans, the idea that the trail will be maintained by the Glenwood Homeowner's Association and not the City, the ADA requirements for city-owned property, if the property has filed with the Department of Real Estate, the procedures on tract map finalization, the cost for the trail being more than \$75,000, the fee being paid by the Developer was a portion of the costs, the lack of connectivity on the northern portion of the site, the possible exemptions from ADA requirements, the natural connection points if there was no access, the desire of Council to add into the Specific Plan regarding the access points, and the square footage listed being more than 4,000 square feet on one of the homes.

Applicant Bob Bunyan of Robert Bunyan & Associates, representing the property owners, introduced Ben Anderson, President of BMR Development. He answered the questions of Council. He added that they had been in contact with Emerald Venture Group and the Mormon Church.

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

Discussion ensued regarding the analysis on affordable housing, the in lieu fee of 15%, the Exhibit F, the options available to the Developer regarding affordable housing, the wrong Exhibit F, the estimated market price of the unit, the rear view of the project, the builder options for decks and balconies, the articulation from the golf course, the builder options to be made available to the home buyer, the relative ease of the negotiation process due to formulas created from previous agreements, the median and fee contribution, the median on Aliso Creek Road, the portion paid by the Developer on the Aliso Creek Road median, the proximity by Eastwing, the gate being

recessed with a two-car queue for safety issues, the fencing being rod iron, the examples of Plexiglas fencing at Laguna Audubon, the look and maintenance issue of rod iron fencing, the runoff plan, the proposed basin, the request from Staff on additional BMPs, the issue of no common area inside the gated community, the pocket park area for sitting and open areas, the area described actually being part of Lot 12, the necessity of concrete at the entrance, the stacking issues, the lack of a carwash area, the lack of an area for playing, the permeable surfaces being used, the constraints of the topography, the compromise needed because of the limited size of the parcel, the optional amenity of hot water on demand regarding water heaters, the list of design criteria relating to the green building residential ordinance, the recommendation to use Plexiglas versus wrought iron fencing for the interior fencing, the acceptance from the Developer to use material for more of a clear fencing to preserve views, the consideration of dog walking areas, the length of the parcel being small enough that it was not an unreasonable length to walk the dogs to the adjacent parks, the actual dimension of Lot 12 to be properly mapped, the possibility of three trash containers per unit, and the possibility of considering a common green waste area.

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Ficke, to Adopt Resolution No. 2005 – 042 adopting an Addendum to the General Plan Environmental Impact Report for the Ventana Ridge Project. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Adams, to introduce Ordinance No. 2005 – 074 adopting the Ventana Ridge Specific Plan with the following revisions: that page 3-15 Section 3.4.2 on interior fencing to include language of see through glass or Plexiglas fencing; that Section 3.3.1 to show a revise property line on Lot 12; that the builder options for balconies and decks being included in the design guidelines and be brought back in the appropriate document(s). Motion carried unanimously, 4-0 with Council Member Phillips being absent.

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Ficke, to introduce Ordinance No. 2005 – 075 approving a Development Agreement for certain real property located within the City of Aliso Viejo between the City of Aliso Viejo and BMR Development, LLC pursuant to California Government Code Section 65864 et seq. with the appropriate calculations on Exhibit F for affordable housing and with the clarification to the Developer that ALUC has not heard this item. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Adams, to adopt Resolution No. 2005 – 043 providing

Notice of its Intent to Overrule the Airport Land Use Commission's Finding of Inconsistency for the Ventana Ridge Specific Plan with the word change from overrule to override. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

8. **Interim Urgency Ordinance No. 2005 - 076, Extending a Temporary Moratorium on the Establishment and Operation of Medical Marijuana Dispensaries**

ORDINANCE NO. 2005 – 076

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, EXTENDING FOR TEN MONTHS AND FIFTEEN DAYS ORDINANCE NO. 2005 – 076 RELATING TO A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

City Attorney Smith 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.

A MOTION was made by Council Member Ficke and seconded by Mayor Pro Tem Vali-Cave, to adopt Interim Urgency Ordinance No. 2005 – 076 extending the temporary moratorium on the establishment and operation of medical marijuana dispensaries for an additional ten (10) months and fifteen (15) days. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

9. **Request by Aliso Viejo Police Services Changing the Street Name of Horizon to City Lights Drive**

RESOLUTION NO. 2005 – 044

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, CHANGING THE STREET NAME OF HORIZON TO CITY LIGHTS DRIVE

Chief of Police Services Lieutenant Paddock 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.

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Adams, to approve Resolution No. 2005 – 044 changing the street name of Horizon to City Lights Drive. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

COUNCIL BUSINESS

10. Proposed Low Water Plant Palette

City Engineer Whitman gave a brief background from the staff report.

Discussion ensued regarding if the City was recommending or requiring this plant palette on development, the fact that the Development Agreements included low water drought tolerant plants, the fact that the City was already doing a fairly comprehensive job to reduce watering on landscape, the education process to the public, the information being shared with the homeowner associations, the process of handling the necessary permits on landscaping, the review of site development process, the list not being comprehensive, the need to include for larger plants on this list for slopes and larger sites, the need to include more tree and shrub species to broaden the selection, the desire to bring the item back at the next Council Meeting, the need for the list to include themes, the recommendation to add the alder and sycamore to the list, the suggestion that the list was a recommended and that there was Staff discretion for plants to be included on this list, the ability to continue to add to the list, and that Staff could submit the updated list through Council correspondence in a three to six month period.

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

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Adams, to adopt the proposed low water plant palette as the City's Standard Plant Palette to be used for all future public and private improvement projects undertaken within the City of Aliso Viejo and direct Staff to assure that all future projects in the City incorporate the adopted plant palette. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

11. Voting Delegate for Orange County Council of Governments (OCCOG) Annual General Assembly

Assistant to the City Manager/City Clerk Robinson gave a brief background from the staff report.

Council Member Ficke volunteered to serve as the Delegate,

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

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Adams, to designate Council Member Ficke as the Voting Delegate for the OCCOG Annual General Assembly to be held on August 25, 2005 at the Lake Forest II Sun & Sail Club. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

12. Aliso Creek Watershed Agreement No. D04-050

City Engineer Whitman gave a brief background from the staff report.

Discussion ensued regarding the directive, when the item would be heard by the Board of Supervisors, the need to attend the hearing to express the City's position, the accounting process clause in the agreement, the options not to sign the agreement, the surrounding cities as co-permittees in this process, the fact that the County has operated without an agreement since 2001, the City's water quality policy, the small measurable results in the Creek, the desire to have documentation on the results, the "pay to pollute" theory of this agreement, the number of studies and research conducted by professors from UCI, whether the City was getting their money's worth on this agreement, the fact that there was no Plan B, and the reduce amount of the agreement due to asking questions to County Staff.

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

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Ficke, to approve the agreement to fund bacteriological monitoring, reporting, research and studies in the Aliso Creek Watershed (Agreement No. D04-050) and authorize the Mayor to execute the agreement. It was further directed that there be representation at the Board of Supervisor hearing on this item. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

13. Parking on Collector Streets

This item was pulled from the agenda by the Ad Hoc Working Group.

14. Ordinance Adopting the California Electrical Code

ORDINANCE NO. 2005 – 077

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALISO VIEJO, CALIFORNIA, ADOPTING BY REFERENCE AND AMENDING PART 3 OF TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS, COMPRISING THE 2004 CALIFORNIA ELECTRICAL CODE; AMENDING ARTICLE 2 OF DIVISION 1 OF TITLE 7 OF THE ALISO VIEJO MUNICIPAL CODE

City Engineer Whitman gave a brief background from the staff report. He stated that the purpose of bring this item forward was at the City Clerk's request for codification purposes.

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

A MOTION was made by Mayor Pro Tem Vali-Cave and seconded by Council Member Ficke, to introduce Ordinance No. 2005 – 077 adopting by reference and amending Part 3 of Title 24 of the California Code of Regulations, comprising the 2004 California Electrical Code and amending Article 2 of Division 1 of Title 7 of the County Code as adopted by the City Council of the City of Aliso Viejo. Motion carried unanimously, 4-0 with Council Member Phillips being absent.

COMMUNITY INPUT

There were no speakers.

CITY MANAGER'S REPORT

City Manager Norman gave a report on fire in the Iglesia Park area and that the Community Services & Special Projects Manager Wilson was assisting as a resource to the Community.

City Manager Norman reported that the State Budget would soon be passed and that the City will be the recipient of road funds and vehicle in lieu fees that were not calculated in the City's approved Budget for FY 2005-06.

City Manager Norman mentioned that Assistant to the City Manager/City Clerk Robinson was accepted in the International Institute of Municipal Clerk Association

in their Master Municipal Clerk (MMC) Academy for her continuation of professional designation in her industry.

ANNOUNCEMENTS/COUNCIL COMMENTS/COMMITTEE UPDATES

Council Member Ficke

Nothing to report.

Council Member Adams

Council Member Adams stated that OCFA adopted their two-year budget for FY 2005-07.

Council Member Adams stated that she attended a ETPRA meeting and the worst case scenario for the City's contribution this fiscal year would be \$90,000. She stated that ETPRA would remain in existence until the runways were chopped up, hopefully next year.

Mayor Pro Tem Vali-Cave

Mayor Pro Tem Vali-Cave reported that the TCA Finance and Operation Committee met. She stated that there was no response from the Foothill Eastern to date although the subcommittee reviewed and agreed on documents submitted. Lastly, she mentioned that the CFO of the Agency has resigned.

Mayor Pro Tem Vali-Cave stated she was appointed to the League's Measure M Super Committee on the infrastructure committee. She requested Council allow her to speak directly with Staff on pertinent projects that would qualify for Measure M funding. Mayor Warkomski requested a time line. Mayor Pro Tem Vali-Cave stated that she would check the meetings and deadline, but though a time in August would not be appropriate. There were no objections from the Council, therefore it was so directed.

Mayor Warkomski

Mayor Warkomski stated that all Council Members, with the exception of Council Member Phillips who was out of town, attended the Fourth of July event.

CLOSED SESSION

At the hour of 9:06 p.m. the City Council recessed to Closed Session regarding:

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(b)

Significant exposure to litigation – 1 case

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(c)

Significant exposure to litigation – 1 case

PUBLIC EMPLOYEE APPOINTMENT

Pursuant to Government Code Section 54957

Title: City Manager

At the hour of 10:34 p.m. the City Council reconvened, with all Council Members present.

Mayor Warkowski announced that there were no reportable actions taken in Closed Session on the first two items. He reported that Council was requesting all interested parties in the Interim City Manager and permanent position of the City Manager send their letter of interest and resumes to City Attorney Scott C. Smith. It was stated that interviews would be held on July 12, 2005 at a Special Meeting commencing at 4:00 p.m.

City Manager Norman requested and was excused from the Special Meeting.

COUNCIL BUSINESS

15. **Request of Mayor Karl Warkowski: Request of Review of and Possible Amendment to Ordinance No. 2001 – 005 and Ordinance No. 2002 – 042 Relating to City Manager’s Duties and Contract**

Mayor Warkowski wanted to know the interest of Council on any changes in the ordinances relating to the City Manager’s contract and duties.

Discussion ensued regarding reviewing with the Interim City Manager, waiting until the return of Council Member Philips for his input, hiring an Interim City Manager first, and agendizing the item on August 3, 2005.

The consensus of the Council was to add this item to the August 3, 2005 agenda.

ADJOURNMENT at 10:40 p.m. to July 20 at 5:00 p.m.

Submitted By:

Approved By:

Susan Robinson, CMC
City Clerk

Karl P. Warkomski
Mayor