

**MINUTES OF THE
CITY COUNCIL OF THE CITY OF DOWNEY
REGULAR MEETING
SEPTEMBER 9, 2003**

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**MINUTES OF THE
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REGULAR MEETING
SEPTEMBER 9, 2003**

The City Council of the City of Downey held a Regular Meeting at 7:38 p.m., September 9, 2003, in the Council Chamber of the Downey City Hall, Mayor Rick Trejo presiding.

PRESENT: Council Members:

Rick Trejo	Mayor
Kirk O. Cartozian	Mayor Pro Tempore
Anne M. Bayer	
Keith McCarthy	
Meredith H. Perkins	

ALSO PRESENT: Gerald M. Caton, City Manager
Charles Vose, City Attorney
Kathleen L. Midstokke, City Clerk
Lee Powell, Assistant City Manger
Desi Alvarez, Director of Public Works
John Finch, Chief of Police
Mark Sauter, Fire Chief
Darrell George, Director of Community & Economic Development
Bonnie Kehoe, Director of Community Services
John Michicoff, Director of Finance
Kevin O'Connor, Theater Manager
Ron Yoshiki, Asst. Director of Community Dev./City Planner
Susan Domen, Executive Secretary

PRESENTATIONS

Council Member Bayer presented to **Raul Lopez**, a Certificate of Appointment to the **Parking Place Commission for District 4**.

Council Member McCarthy presented to **Thomas Lucas**, a Certificate of Appointment to the **Recreation and Community Services Commission for District 1**.

Mayor Trejo read a **Proclamation designating September 17 – 23, 2003 as Constitution Week**.

PUBLIC HEARINGS

1. APPEAL OF TENTATIVE TRACT MAP NO. 03-60035 AND ZONE VARIANCE NO. 03-43 – REQUEST FOR A TRACT MAP TO DEVELOP A ONE-LOT SUBDIVISION FOR A 16-UNIT DETACHED CONDOMINIUM COMPLEX AND A ZONE VARIANCE TO SECTION 9132 OF THE MUNICIPAL CODE TO REDUCE BUILDING SEPARATION AND COMMON OPEN SPACE REQUIREMENTS ON PROPERTY AT 8335-41 AND 8349 FONTANA (APPLICANT/APPELLANT: DONALD JERVIS).

Mayor Trejo **opened the Public Hearing** at 7:45 p.m. City Clerk Midstokke affirmed receipt of the Proof of Publication. It was moved by Council Member Perkins, seconded by Council Member McCarthy and so ordered to **receive and file**. There was no correspondence received on this item.

A staff report was given by Ron Yoshiki, Assistant Director of Community Development/City Planner which included a Power Point presentation. He explained that there are two applications before the City Council tonight that are under appeal the first being a request to create a one-lot subdivision for development of 16 units and the second being a variance for a reduction in building separation between units and common open space. The plan deficiencies include proposed 10 foot building separations, instead of the required 15 feet; and proposed common open space of 4,106 square feet instead of the required 6,400 square feet. The site plan and proposed design were then reviewed.

Assistant Director Yoshiki emphasized that one of the main concepts of a Planned Unit development is to put units together to create greater open space; rather than individual detached units as proposed. This was one of the main concerns of the Planning Commission and both staff and the Planning Commission felt the findings for a variance could not be met and would set a precedent for this type of development.

Don Jervis, applicant/appellant, submitted a hand-out and 9 color pictures which were distributed to the City Council. He explained that originally he planned to build 18 attached condominiums. After visiting Sierra Madre, he wanted to design Craftsman like detached units with private open spaces. He described the project as a higher quality condominium project with the similarities of single family detached units, which over time will have a higher pride of ownership and less turnover than attached condominium units. He expressed that this is a new style of condominium project that does not exactly fit the Municipal Code, but he feels it does fit the property and the neighborhood.

Mayor Pro Tempore Cartozian questioned Mr. Jervis on 7 recently approved developments in the City that had met the Code provisions and why he felt this project would not be economically feasible if the number of units were 14 instead of 16. Mr. Jervis responded that the larger the project, the easier it is to give up more units with less financial impacts and there are a lot of other factors to consider including the price paid for the property, the location, size of lots, etc.

Council Member McCarthy questioned the floor plans and lack of windows on some sides of the units. Mr. Jervis explained that this was designed so that one could not look into another's window for privacy reasons and that there are windows in all of the rooms.

Council Member Perkins asked Mr. Jervis about the 4 suggestions made by the Planning Commission and he indicated he was able to only accommodate 2 of the suggestions by the adding of 1 guest parking space and the widening of the walkway areas along the driveway from 3 to 4 feet. He stated he was not able to provide the 15 feet between units or increase the common open space as suggested by the Planning Commission.

In response to Council Member McCarthy, Mr. Jervis indicated that he had seen a project similar to his proposed project, on Florence near Lakewood, a detached condo project with about 5 five feet between the buildings, that must have been granted a variance.

Robin Murray, designer for the project, explained that she had designed the project pursuant to the Planned Unit Development standards of innovative and imaginative lands complementing and harmonizing with the existing developments. She tried to create charm with indoor/outdoor living spaces without being up against a rear fence.

Michael Stephanovich (sp.?), attorney for Don Jervis addressed the issue raised by the Planning Commission of the precedent setting possibilities of a variance and raised the question of where do the regulations control over the aesthetics. He referenced Downey Municipal Code Section 9132.26 stating: "It is the intent of this section to ensure optimum separation between buildings in order to maximize light, air and privacy for residents of a Planned Unit Development." He feels this design does maximize the amount of light, air and privacy of the residents.

There being no further speakers, it was moved by Council Member Perkins, seconded by Council Member McCarthy and so ordered to **close the Public Hearing** at 8:50 p.m.

In response to questions from Council Member McCarthy, Assistant Director Yoshiki indicated that it *may* be possible that 18 units could be built on this site if they were attached and that the 15 foot separation requirement between units is so the open space is usable and not so small that it is not functional.

Council Member McCarthy stated that he thinks the project presents a benefit. It was moved by Council Member McCarthy, seconded by Council Member Bayer, and **failed** by the dissenting votes of Council Member Perkins, Mayor Pro Tempore Cartozian and Mayor Trejo, to **direct staff to bring back a Resolution of approval**.

Council Member Perkins referenced the staff report, page number 4, Table 2, noting that there are many projects of this nature in the City and that the building separation has been 15 feet on all of those that were approved. He noted that the Planned Unit Development allows certain provisions to be set aside. In exchange, the developer should *maximize* open space and provide excellence in design. He further noted the open space is lacking in this proposed development.

Mayor Pro Tempore Cartozian concurred in Council Member Perkins' comments noting the

Planned Unit Development itself is established to have some flexibility for developments. He noted that there is not only the concern of the 10 feet between the units but also the deficient open space.

Mayor Trejo expressed that his points have already been stated and that the Planned Unit Development is intended to optimize open space. He also noted that the Planning Commission had voted 4-0 on this matter with some strong findings and he supports them.

RESOLUTION NO. 6699

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY DENYING THE APPEAL AND DENYING A TENTATIVE TRACT MAP TO DEVELOP A ONE-LOT SUBDIVISION FOR A 16-UNIT DETACHED CONDOMINIUM COMPLEX ON PROPERTY AT 8335-41 AND 8349 FONTANA STREET, ZONED R-2-SUD (TWO-FAMILY RESIDENTIAL – SECOND UNIT DEVELOPMENT AREA No. 8).

City Clerk Midstokke read the title of the Resolution. It was moved by Council Member Perkins, seconded by Mayor Pro Tempore Cartozian, and carried by the following vote to **waive further reading and adopt the Resolution:**

AYES: Bayer, Cartozian, Perkins, Mayor Trejo
NOES: McCarthy

RESOLUTION NO. 6700

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY DENYING THE APPEAL AND DENYING A ZONE VARIANCE TO SECTION 9132 OF THE DOWNEY MUNICIPAL CODE (PLANNED UNIT DEVELOPMENTS) TO REDUCE BUILDING SEPARATION AND COMMON OPEN SPACE REQUIREMENTS FOR A DETACHED CONDOMINIUM COMPLEX ON PROPERTY AT 8335-41 AND 8349 FONTANA STREET, ZONED R-2-SUD (TWO-FAMILY RESIDENTIAL – SECOND UNIT DEVELOPMENT AREA No. 8).

City Clerk Midstokke read the title of the Resolution. It was moved by Mayor Pro Tempore Cartozian, seconded by Council Member Perkins, and carried by the following vote to **waive further reading and adopt the Resolution:**

AYES: Bayer, Cartozian, Perkins, Mayor Trejo
NOES: McCarthy

ORAL COMMUNICATIONS

Lennie Whittington, resident of Downey, mentioned that he had attended the grand opening of the Home Avenue Adult Health Care Center located on Telegraph Rd. and that no one from the City had attended, although he knows they were invited. He also mentioned that the City required ADA construction compliance, although the State has limited the license to no patients in wheelchairs.

Maria Larkin, resident of Downey and President of the Chamber of Commerce, announced and invited the City Council to attend the Business Expo on Thursday, Sept. 18, being held in the parking lot of Bank of the West.

Richard Pridham, resident of Downey, thanked the Chief of Police for taking care of the street vendor problem and said he appreciated a telephone call from Council Member Bayer about the oil behind Pep Boys. He requested that the street lights out along Firestone Blvd. be replaced.

CORRESPONDENCE

2. **REQUEST FROM DOWNEY ROSE FLOAT ASSN. CHAPERONE JOYCE PROKOP FOR CITY FUNDING IN THE AMOUNT OF \$397 TO COVER MISS TEEN DOWNEY'S AIRFARE FOR GUADALAJARA SISTER CITY TRIP.**

City Manager Caton indicated he had received a call from the President of the Rose Float Assn., Gary DeRemer, and is requesting that this item be pulled from the agenda. It was **so ordered** by Mayor Trejo and the item was withdrawn.

CONSENT CALENDAR – ITEMS FOR REMOVAL

6. **I-105 BENEFICIAL REUSE OF GROUNDWATER PROJECT: AMENDMENT TO AGREEMENT WITH STATE OF CALIFORNIA (CALTRANS) TO ACCEPT ADDITIONAL \$40,000 FROM STATE FOR INCREASED COST**, was removed at the request of Mayor Trejo and is listed under Other Business below.
8. **ORDINANCE PROHIBITING LOITERING BY CRIMINAL STREET GANGS**, was pulled at the request of Mayor Trejo and is listed under Other Business below.

CONSENT CALENDAR

It was moved by Mayor Pro Tempore Cartozian, seconded by Council Member Perkins and unanimously carried to **waive further reading of the Resolutions and approve the remainder of the Consent Calendar** items as recommended:

3. **COUNCIL MINUTES: ADJOURNED REGULAR MEETING AUGUST 26, 2003:**
Approve.
4. **COUNCIL MINUTES: REGULAR MEETING, AUGUST 26, 2003:** Approve.
5. **WARRANTS ISSUED: 188538 – 188888; WIRE NUMBERS 30000641-648;**
\$2,082,173.72: Approve.
7. **(NUMBER NOT USED)**

9.

ORDINANCE NO. 1153 (ADOPT)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY
AMENDING SECTION 3186 OF THE DOWNEY MUNICIPAL CODE RELATING
TO SPEED LIMITS FOR ROSECRANS AVENUE.**

ADMINISTRATIVE REPORTS

10. LAKEWOOD BOULEVARD IMPROVEMENT PROJECT OVERVIEW.

A staff report was presented by Desi Alvarez, Director of Public Works, which included a Power Point presentation. He reviewed the history of Lakewood Boulevard, indicating that it was constructed over 60 years ago, extends from Long Beach to Pasadena and was formerly State Route 19. The portion in Downey is 4.5 miles and was relinquished by the State to the City of Downey in 2001. It serves as a critical north/south arterial in the City and is a designated truck corridor.

Director Alvarez indicated the reasons for improving Lakewood Boulevard include traffic safety, existing traffic congestion, poor roadway and drainage conditions, future traffic impacts due to NASA development and regional growth effects. The project goals include mitigating traffic safety concerns, alleviate traffic congestion, accommodate future growth, beautify the corridor, encourage pedestrian activities and buffer nearby residential homes.

Director Alvarez explained that enhancements to reduce congestion include the addition of turn lanes, increased turn-pocket storage lengths, larger turning radius to facilitate movement, three through lanes in each direction, medians to channelize traffic flow, left-turn and right-turn signals, synchronization of traffic signals and centralized traffic control. The project is planned for 3 phases, with phase I running from south of Imperial Highway to Fifth Street; and phases II and III from south of Imperial Highway to Gardendale Street and from Fifth Street to Telegraph Road. The preliminary project schedule is: November 12, 2003: Public Hearing for eminent domain; November 25, 2003: approval of plans and specifications; January 27, 2004: award of construction contract and complete right-of-way negotiations and purchases; and November, 2004: complete construction.

Council Member Perkins thanked Director Alvarez for the staff report and City Council subcommittee members Bayer and McCarthy for their diligent work on this project.

Harold Tseklenis, resident of Downey, questioned whether a grade crossing is being considered as part of this project and Director Alvarez responded that it was not.

Lennie Whittington, resident of Downey, hopes that the new crosswalks will be smoother than the ones recently installed near City Hall that are very rough.

Richard Pridham, resident of Downey, questioned the boundary at Telegraph and whether the

City has the right-of-way up to Gallatin. Director Alvarez indicated that the only property remaining in the control of the State is between the on-ramps and off-ramps on either side of I-5. Mr. Pridham noted that the plants appear to be high maintenance and water intensive.

Mayor Pro Tempore Cartozian commended the subcommittee for their work and thanked Director Alvarez and his staff.

Mayor Trejo thanked the subcommittee and inquired regarding the number of accidents occurring at Cecilia & 5th Street. Director Alvarez responded that Cecilia has a high volume of traffic for a collector street and there is a lot of cut-thru traffic rushing across the intersection.

Council Member McCarthy thanked the staff including Principal Engineer Hector Bordas and Deputy Director of Public Works Anthony La.

OTHER BUSINESS – Consent Calendar – Items removed by Council Approval:

6. **I-105 BENEFICIAL REUSE OF GROUNDWATER PROJECT: AMENDMENT TO AGREEMENT WITH STATE OF CALIFORNIA (CALTRANS) TO ACCEPT ADDITIONAL \$40,000 FROM STATE FOR INCREASED COST**, was removed at the request of Mayor Trejo and is listed under Other Business below.

Mayor Trejo indicated he had pulled this item to question where the pumped water is currently going. Public Works Director Alvarez responded that it is flowing to the Los Angeles river and then to the ocean. It is estimated to be about 2,000 acre feet a year.

It was moved by Mayor Trejo, seconded by Council Member Perkins and unanimously carried to **approve an amendment to the Contribution Agreement between the City of Downey and the State of California Department of Transportation to adjust for the increased costs of constructing a groundwater well and completing a Feasibility Study for the beneficial use of the Interstate 105 groundwater.**

8. **ORDINANCE PROHIBITING LOITERING BY CRIMINAL STREET GANGS**, was pulled at the request of Mayor Trejo and is listed under Other Business below.

Mayor Trejo stated that he has received a lot of positive feedback from the community in regards to these new regulations indicating that they are in full support of the new Ordinance.

Mayor Pro Tempore Cartozian thanked Chief of Police Finch and staff for attending the Gangs Out of Downey meeting last week and informing this group of the new Ordinance.

ORDINANCE NO. 1152

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY

**AMENDING THE DOWNEY MUNICIPAL CODE BY ADDING SECTION 4107.6
THERE TO RELATING TO LOITERING BY CRIMINAL STREET GANGS.**

City Clerk Midstokke read the title of the Ordinance. It was moved by Mayor Trejo, seconded by Mayor Pro Tempore Cartozian and unanimously carried to **adopt**.

OTHER BUSINESS - Council Members Comments

Council Member Perkins mentioned an emergency that occurred during the recent holiday weekend regarding the City's water in particular areas and commended Public Works Director Alvarez and his staff for their excellent work.

Council Member McCarthy complimented City staff, specifically Stephen Yanez of Public Works and Code Enforcement Officer Ed Walker, for their response to citizen complaints regarding the condition of the Caltrans yard near the I-105 Freeway; and emphasized the importance of the U.S. Constitution and the celebration on September 17 of Constitutional Day.

Mayor Pro Tempore Cartozian noted the upcoming 2nd year memorial of the September 11, 2001 attack on the United States and urged everyone to remember those who lost their lives and those affected by this tragedy.

Mayor Trejo thanked the Council for their participation and support in the NASA ceremony. He explained that Congresswoman Lucille Roybal-Allard had an emergency that day and could not attend, but she toured the site with him the following week and received an update of the project.

Council Member Bayer recognized Emergency Preparedness Committee member for District 4, Lee Ann Sears, in attendance in the audience.

ADJOURNMENT: 11:30 p.m.

The meeting **recessed** at 10:03 p.m. and **reconvened** at 11:29 p.m. with all Council Members present and was **adjourned** to 6:30 p.m., September 23, 2003, in the Council Chamber of Downey City Hall.

Kathleen L. Midstokke, City Clerk

Rick Trejo, Mayor