

MINUTES OF THE CITY COUNCIL

CITY OF VILLA PARK, CALIFORNIA

The City Council of the City of Villa Park met in regular session Tuesday, August 26, 2003 at 7:30 PM in the City Council Chambers, 17855 Santiago Boulevard, Villa Park, California.

CALL TO ORDER: Mayor Bell called the meeting to order.

ROLL CALL:

COUNCILMEMBERS PRESENT:

| | |
|-----------------|---------------|
| Bob Bell | Mayor |
| Patricia Bortle | Mayor Pro Tem |
| Rich Freschi | Councilmember |
| Robert McGowan | Councilmember |
| Bill MacAloney | Councilmember |

STAFF PRESENT:

| | |
|--------------------|--|
| George Rodericks | City Manager |
| Cristina Sundstrom | Administrative Secretary/Deputy City Clerk |
| Leonard Hampel | City Attorney |
| Warren Repke | City Engineer |

FLAG SALUTE:

Engineer, George Kerns of Salkin Engineering, led the flag salute.

INTRODUCTIONS AND PRESENTATIONS:

ORAL COMMUNICATIONS:

Teri Elmendorf, 10291 Camden Circle, spoke about three board of director appointments that will be made on September 23, 2003. The nominees must be 18 years of age, a resident of Villa Park, able to attend monthly board meetings (the first Wednesday of the month) and able to help with some productions. Interested parties should submit an application by September 3, 2003 or call Teri at 997-9288. She announced the joint VPCATV and City Council Meeting for dinner on Wednesday, September 3, 2003 at 6:30 PM.

Vito Canuso, Vice-President of Community Services Foundation, Inc., 9582 Featherhill Drive, spoke on behalf of the Villa Park Community Services Foundation, Inc. Mr. Canuso announced that the first planning meeting for the Annual Holiday Celebration and Boat Parade will take place on September 8, 2003 at 7:00 PM in the Council Chambers.

He introduced Villa Park Women's League member Julia Peterson, 10262 Camden Circle, who addressed the Council about the upcoming Halloween Fest at the Shopping

Center on Thursday, October 30th from 4:30 p.m. to 7:30 p.m. There will be fun activities for all children ages 12 and under: Hay rides; a coloring contest; costume parade and costume contest; and pumpkin carving. Food and drink will be served. Interested volunteers or organizations wishing to do a fundraiser, may contact Karen Adnams of the Women's League at 279-0376.

Councilman Rich Freschi spoke about the joint project between Villa Park Rotary and Villa Park Community Services Foundation, Inc. to install a beautiful clock tower (15 feet, 8 inches tall) on a three foot square marble base to be located in front of Villa Park Pharmacy and Dr. Furcolow's Optometry office. There is room for 40 to 48 names to be etched into the marble base at a cost of \$1,000 each. It is a tax deductible donation to Villa Park Community Services Foundation, Inc. Thus far, 22 people have committed to the project and several more are interested. Individuals and businesses can partake in this fundraiser.

Resident Ron Ritchie, 18821 Derek Drive, addressed the Council about an article that appeared in the Orange City News.

CONSENT AGENDA:

It was moved by Councilmember McGowan, seconded by Councilmember MacAloney, and carried by the following roll call vote to approve Consent Agenda Items 1 through 7:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

1. Consideration to Waive Reading in Full of All Ordinances on the Agenda. Approved Action: That the City Council waive the reading in full of all ordinances on the Agenda.
2. Consideration of City Council Minutes of July 8, 2003. Approved Action: That the City Council approve the City Council Minutes of July 8, 2003.
3. Consideration of City Council Minutes of July 22, 2003. Approved Action: That the City Council approve the City Council Minutes of July 22, 2003.
4. Consideration of List of Demands for July 31, 2003. Approved Action: That the City Council approve the List of Demands for July 31, 2003, numbered 1 through 38 in the amount of \$28,184.23.
5. Consideration of List of Demands for August 26, 2003. Approved Action: That the City Council approve the List of Demands for August 26, 2003, numbered 1 through 32 in the amount of \$226,958.94.
6. Consideration of Amendment to Agreement for Implementation and Operation of the 800 MHz Countywide Communications System. Approved Action: That the City Council approve the terms of the Amendment to the Joint Agreement for the Implementation and Operation of the Orange County 800 MHz Countywide Coordinated Communications System and authorize the Mayor and City Clerk to execute the Agreement on behalf of the City.

7. Consideration of Easement Acceptance for Valley Drive Storm Drain at Aubrey Circle. Approved Action: That the City Council approve Agreement Letters with Property Owners at: 9201 Aubrey Circle; 19081 Valley Drive; and 19120 Valley Drive; Accept the Permanent Storm Drain Easements for AP# 372-363-02, AP# 372-363-03, and AP# 372-362-14; and authorize the City Clerk to have the documents recorded by the Orange County Clerk-Recorder.

MATTERS PRESENTED BY COUNCILMEMBERS:

Announcement of Board Member Nominations for Villa Park Community Access Television - Public Utilities Committee Chairman, Councilmember Rich Freschi.

Councilmember Freschi urged the public to get involved with the Villa Park Community Access Television board of directors by applying for one of three open positions as Director. Current terms expire September 30, 2003 and appointees will service for 2 years, through September of 2005. The appointees will be recommended by the VPCATV board and approved by the City Council at its September 23, 2003 meeting.

CITY COMMISSION AND COMMITTEE REPORTS OR REFERRALS:

Councilmember MacAloney questioned City Manager Rodericks about the status of the C.E.R.T. list and the progress on Neighborhood Watch. Mr. Rodericks reported that a Block Captain meeting will be held at the City Council Chambers on October 21st at 6:30 PM.

ITEMS FOR CONSIDERATION: None.

PUBLIC HEARINGS:

1. Consideration of Landscape Plan for 19092 Mesa Drive; Applicant: Greg Meisner.

Mayor Bell opened the Public Hearing.

City Manager Rodericks reported that in September 2000 the City Council adopted Resolution No. 2000-2521 approving construction of a new single-family residence at 19092 Mesa Drive in which the following condition was added to the Resolution:

“A landscaping plan shall be approved by the City Council at a public hearing prior to issuance of a Certificate of Use and Occupancy.”

The Community Development Committee (Mayor Pro Tem Bortle and Councilmember McGowan) met with the property owner and a neighbor to discuss the landscape plan in detail prior to this Council meeting.

A letter was received from the upslope neighbors, Yvonne and George Briggeman, 18612 Mesa Drive for the City Council to consider restricting the height of the block wall and hedge to six feet. Comments also were received from a down slope property owner

and from an adjacent east side property owner who has visited City Hall and reviewed the landscape plan.

Public testimony was given by the neighbor, Dr. August Bianco, 19102 Mesa Drive concerning Mr. Meisner's trees blocking his and other neighbors' views, damage to the ecosystem due to removal of trees, his sewer lateral problems that he was responsible for maintaining, and the City's sewer main that was cracked and Meisner's cypress tree roots that caused sewage backup onto his property. He explained that his property is situated at the highest point of Mesa Drive and that families used to come from all over to this point to bird watch before Meisner moved there.

City Manager Rodericks told Dr. Bianco that Mr. Meisner will be putting in a root barrier on the southern border of his property to prevent any interference with sewer lines.

Mayor Bell clarified that any damage caused by a property owner's tree roots is that owner's responsibility, not the City's. He told Dr. Bianco that unless he had a view easement, which he acknowledged he does not, he would have to accept that Mr. Meisner has a right to develop his property. The Mayor stated that the sewer issues mentioned by Dr. Bianco were a separate issue. He reported that the City Council had an obligation to approve the Meisner Landscape Plan with conditions as worked out by the Community Development Committee and City Councilmembers.

Public testimony was given by Greg Meisner, 19092 Mesa Drive. He addressed the Council about a non-invasive tree that he will plant on the east side of his property. His priority is to start immediately by completing the front driveway. He argued that it was not necessary to require him to post a bond and that he would appreciate having the 90-day time frame extended.

Mr. Meisner acknowledged his neighbor to the south, Mr. Steve Roush, his concern about his view and assured him that the eight citrus trees will be planted on the slope, noting that this root system should not create a problem for the City's sewer easement at this location.

Steve Roush, 19085 Ridgeview Road, addressed the Council about his drainage concerns, but expressed his confidence in the City Engineer's ability to review this situation before issuance of Certificate of Occupancy. He said that it appears his privacy concerns, namely the leaves falling into his pool, may be resolved with the removal of the twenty-four ficus trees. Both parties will benefit from the addition of citrus trees. He said he would be in favor of Meisner forgoing the row of ficus trees at the bottom of the slope and adding root guards. Mr. Roush expressed his approval of the four conditions.

Mayor Pro Tem Bortle asked Mr. Meisner to be aware of the fact that if his tree roots cause damage to his neighbor's property, then it is his responsibility.

Councilmember McGowan said that the Community Development Committee spoke with neighbors and took into account many things. He was satisfied with the plan that was worked out with the neighbors. Their goal was to mitigate adverse effects on the neighbors. He cited roots interfering with sewer lines as an example of Mr. Meisner's responsibility.

Councilmember MacAloney questioned City Manager Rodericks regarding Conditions # 4 and 5. Mr. Rodericks said the wording in Condition #4 would be changed from "All rear yard landscaping shall be completed within 90 days of issuance of the Certificate of Occupancy" to "All identified landscaping..." Condition #5 (a bond posted) would be eliminated. Councilmember MacAloney pointed out that a bond was not put up initially.

Public testimony was given by Kimberly Roush, 19085 Ridgeview Road, addressed the Council expressing her desire that the City not require Mr. Meisner to put in ficus trees. She would like for the City to leave this optional.

Public testimony was given by Dr. August Bianco, 19102 Mesa Drive, on behalf of his neighbor to the east, Mr. Mohammed Irvani, who wanted read into the record that his gas pipe was broken by Mr. Meisner's activities and has not been repaired. He wanted it recorded that Mr. Meisner said he would repair the pipe prior to erecting a wall.

Public testimony was given by Greg Meisner to rebut Dr. Bianco's comment about the pipe. He said that it has been repaired for Mr. Irvani. He added that he will be starting work on the retaining wall in the front of his property immediately.

Mayor Pro Tem Bortle asked if a bond would be required by the applicant. She reiterated to Mr. Meisner that if the ficus trees cause problems to his neighbors then it will be his responsibility to remedy the problem, not the City's.

City Attorney Len Hampel replied that in the future the City could require a bond for landscape plan submittals.

Councilmember McGowan quoted part of Resolution No. 2000-2521 referring to the necessity of a Public Hearing for City Council approval of Meisner's Landscaping Plan prior to issuance of a Certificate of Occupancy.

City Attorney Hampel explained that a Conditional Use Permit would be lost by the applicant if he does not adhere to the conditions.

Councilmember McGowan agreed that the threat of losing his Conditional Use Permit should be enough, under the circumstances.

Councilmember MacAloney told City Manager Rodericks that he wanted the conditions to address Meisner's wall, which was requested in the letter submitted by the Briggemans.

City Manager Rodericks noted that prior to issuance of the Certificate of Occupancy all other Building and Engineering requirements must also be fulfilled. These include any requirements that the Building Inspector may have for completion and any requirements that may evolve out of the final grading and engineering review by the City Engineer – specifically to address the operation of onsite drainage.

Mayor Bell closed the Public Hearing.

It was moved by Councilmember Mayor Pro Tem Bortle, seconded by Councilmember McGowan, and carried by the following roll call vote to approve the Landscape Plan as

presented with conditions 1-4 delineated below; eliminating condition #5 listed on the Staff Report dated August 26, 2003:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

- Condition 1. The planting area adjacent to the proposed putting green shall include vegetation along its edge that will be allowed to grow to a minimum height of 42 inches.
- Condition 2. The proposed citrus trees adjacent and south of the proposed putting green shall be allowed to grow to a minimum height of 12 feet.
- Condition 3. If the southern border planting area is installed, a root barrier shall be installed.
- Condition 4. All identified landscaping (1 and 2 above) shall be completed within 90 days of issuance of the Certificate of Occupancy. Failure to complete the landscaping within the identified areas shall be grounds for revocation of the discretionary approval. Such revocation will place the property owner in violation of the City's Zoning Ordinance and subject the property owner to possible civil or criminal legal action by the City.

2. Consideration of Variance and Conditional Use Permit No. 0518 for Reduction in Side Yard Setback, Detached Pool House, Four or More Garage Spaces on the Property, and Dwelling Over 25 Feet in Height – Location: 18341 Valley Drive; Applicant: Vinh James Le.

Mayor Bell opened the Public Hearing.

City Manager Rodericks reported that the applicant is requesting permission for the following:

- A reduction in the required side yard setback of 19.85 feet to 15 feet resulting in a twenty-four percent (24%) reduction
- Construction of a detached pool house
- Construction of 4 or more garage spaces on the property for a total of 5 garage spaces
- Construction of a single-family residence over 25 feet in height

The subject property is located in the E4 Small Estate zoning district. The lot area is approximately 34,075 square feet and surrounding uses are residential.

The applicant is requesting permission to construct a new single-family residence on the property with a roof height of twenty-seven (27) feet. The rear of the structure is built into the slope and used as a retaining wall. Two separate six (6) foot retaining walls are proposed upslope from the new residence. These walls do not require Variance approval, but will require review and approval by the City Engineer and Building Inspector through submittal of a precise grading plan. The residence is proposed over twenty-five (25) feet in height and as such requires a Conditional Use Permit. Maximum height allowed under the Zoning Code is thirty-two (32) feet.

The applicant is also requesting a total of five (5) garage spaces on the property. A Conditional Use Permit is required for the addition of four (4) or more garage spaces.

The applicant has proposed a 666 square foot detached pool cabana on the property. The plans show a height of 15 feet 4 inches for the structure; however, a condition has been added to restrict the height to 15 feet.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, and height requirements. However, the project reduces the required side yard setback and therefore does not meet the Code requirements on the east side of the property in this area. This reduction is less than 25 percent and under the City's Zoning Code may be considered as an Adjustment. An Adjustment is a minor modification of the requirements of the Zoning Code where such requests constitute a reasonable use of the property not permissible under a strict literal interpretation of the regulations. Minor adjustments are subject to all the same findings of fact necessary for granting a Variance.

Staff recommends approval of this application and that the Council conduct a Public Hearing, review the application, and make appropriate findings thereto.

Public testimony was given by Vinh Le of Fountain Valley, who was present on behalf of the applicant James Li. He introduced Mr. John Nguyen, the designer of the project, who asked the Council for their approval of the application.

Public testimony was given by Mr. George Kerns of Salkin Engineering, on behalf of Mr. Todd Essenmacher, the applicant's neighbor to the east. Mr. Essenmacher was concerned with his view, the height of the project and the setbacks. Mr. Kerns explained that Mr. Essenmacher had gone to quite an expense several years ago to do a lot line adjustment along the east side of his property to protect his privacy.

Mayor Bell asked Mr. Kerns for clarification on the height of the structure and the setback reduction to 15 feet at one point.

Councilmember McGowan reported that this plan is much improved over the previous one submitted for Public Hearing with a height of only 27 feet.

Councilmembers MacAloney and Freschi agreed that there is nothing wrong with the setbacks in the new plan. Councilmember MacAloney expressed his concern about the narrow width of the road around the corner of Valley Drive and commented that he was surprised there has been no accident at this location while construction is being undertaken.

Discussion ensued about the possibility of requiring a flagman or flagmen to direct traffic during construction hours at the job site. City Engineer Repke, in response to amending condition # 11 to protect the job site and regarding traffic control, offered the fact that the City Engineer follows a Watch Manual which sets forth rules of Traffic Control as part of the Building and Safety Codes.

City Attorney Hampel concurred with City Engineer Repke that it was better to follow the Watch Manual of Traffic Control within the Building and Safety Codes than for the City to get involved with overseeing flagmen at the job site. After further discussion, Condition # 11 was changed to read, "Compliance with all Building and Safety regulations concerning protection of the job site and traffic control during construction shall be strictly adhered to, to include the storage of equipment and materials in the street." The beginning of Condition # 12 was changed to read, "A landscape and preliminary grading plan shall be submitted and approved..."

Mayor Bell closed the Public Hearing.

It was moved by Councilmember McGowan, seconded by Councilmember MacAloney, and carried by the following roll call vote to adopt Resolution No. 2003-2703 approving Variance and Conditional Use Permit No. 0518 for reduction in side yard setback, detached pool house, four or more garage spaces on the property, and for a dwelling over 25 feet in height, with conditions 1-12 and amending Conditions #11 and 12 – Location: 18341 Valley Drive; Applicant: Vinh James Le:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

3. Consideration of Conditional Use Permit No. 0550 for a Detached Pool House – Location: 9511 Lemon Street; Applicants: Mike and Janet Dante.

Mayor Bell opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct a detached pool house on the property.

The subject property is located in the E4 Small Estate zoning district. The lot area is approximately 26,709 square feet and surrounding uses are residential.

The applicant is requesting permission to construct a 936 square foot detached pool at the rear of the property. Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback, and height requirements.

Staff recommends approval of the application. City Manager Rodericks noted that Condition # 10 is a standard condition so that staff sees a Landscape Plan.

Public testimony was given by contractor Steve Hart, 18951 Mesa Drive, who told Council that this project meets all requirements for a detached structure.

Mayor Bell closed the Public Hearing.

It was moved by Councilmember MacAloney, seconded by Councilmember Freschi, and carried by the following roll call vote to adopt Resolution No. 2003-2704 approving Conditional Use Permit No. 0550 for a detached pool house, with conditions 1-9, eliminating condition 10 listed on the Staff Report dated August 26, 2003 – Location: 9511 Lemon Street; Applicants: Mike and Janet Dante:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

4. Consideration of Conditional Use Permit No. 0551 for a Large Family Day Care Home - Location: 9912 Colony Grove Lane; Applicants: Kaja and Don Donikowski.

Mayor Bell opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to operate a Large Family Day Care Home from a residential zone.

The California Health and Safety Code, Section 1597, regulates the operation and permitting of Large Family Day Care Homes. Specifically, the Code specifies that a city shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

1. Classify these homes as a permitted use of residential property for zoning purposes;
2. Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes; or
3. Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration of homes, traffic control, parking, and noise control relating to such homes. Any noise standards shall be consistent with local noise ordinances and shall take into consideration the noise levels generated by children. The City shall give notice of the proposed use by mail to all owners within a 100 foot radius of the exterior boundaries of the home.

The property owners are present to request permission under the Conditional Use Permit to continue operating this use. They are currently operating under the State guidelines as they are allowed to do, they have gone through the State process, they have gone through the State Fire Marshall, and they have obtained their permits through the State Health and Safety Agency.

The City's Zoning Code requires that any accessory use not expressly permitted may be permitted subject to a Conditional Use Permit. To be consistent with the City's Zoning Code, staff selected alternative three and required the applicant to submit a Conditional Use Permit application.

The subject property is located at 9912 Colony Grove Lane and is in the E4 Small Estate zoning district. The lot area is approximately 20,000 square feet and surrounding uses are residential.

The applicant is requesting permission to operate a Large Family Day Care Home from the residence. A city is expressly prohibited from denying such uses pursuant to the

California State Health and Safety Code. However, the Code allows the City to impose reasonable conditions to address spacing and concentration, traffic control, parking, and noise control. Any noise conditions shall be consistent with local noise ordinances affecting single-family homes and shall take into consideration the noise levels generated by children.

The applicant's facility operates on a twenty-four hour basis and accepts children for care during those hours. However, primary operation of the facility is from the hours of 6 a.m. to 6 p.m., seven days a week. The facility is licensed by the State and has met all State Fire and State Health and Safety inspection requirements. The capacity of the facility is 14 children. A Business License has been submitted concurrently with this application for a Conditional Use Permit. State law specifies that the facility may care for more than 12 and up to 14 children subject to the following:

- At least two of the children are at least six years of age.
- No more than three infants are cared for during any time when more than 12 children are being cared for.
- The licensee notifies a parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

City Manager Rodericks reported that the City has received some complaints and concerns expressed from neighboring property owners regarding the operation of this facility and the Council has received a couple of letters regarding those issues. Therefore, a Public Hearing has been scheduled this evening.

Staff recommends approval of this application only because we are required by State law not to prohibit this type of operation, but does recommend that several conditions be imposed. The following are the Conditions of Approval:

1. The use shall remain in compliance with the conditions of approval.
2. If the use is discontinued for a period of six months, the Conditional Use Permit shall lapse and become void.
3. This Conditional Use Permit shall be reviewed annually by the City Manager and Community Development Committee to determine if the use remains compliant with the conditions of approval. If it is determined that use is not compliant with the conditions of approval or the use has substantially changed, the Conditional Use Permit shall be revoked and/or resubmitted for review and approval.
4. Parking for any employees associated with the use shall be provided on the property and shall be utilized. There shall be no parking of employees allowed on the adjacent public street.
5. With the exception of any overriding conditions of approval through this Conditional Permit, all standards for operation of a Home Occupation under the City's Zoning Code shall apply.
6. Upon parking on the street for drop off purposes, clients shall be required to place a placard clearly visible in their window indicating their association with the Family Day Care Home.

Mayor Bell announced that he has spoken to numerous residents about their concerns regarding this business.

Public testimony was given by several parties.

Sherrie Underwood, 9885 Colony Grove Lane, requested that the Council address each of the six points made in her letter of opposition dated August 26, 2003.

Daniel Burns, 9892 Colony Grove Lane, addressed the Council in favor of dropping students off on Taft to control the noise of traffic on his street. He suggested requiring a fence or block wall as a condition of approval.

Steve Rites, 9911 Colony Grove Lane, spoke in opposition to the project because of speeding cars and he had a comment about the applicant using his garage to house the children. Also cars are not being parked in the garage; they are parked on the street instead.

Laurie Whitney, 9872 Colony Grove Lane, addressed her concern about speeding cars and stated that she would be in favor of a drop-off point on Taft Avenue.

Nancy Jenkins, 18212 Hillcrest Circle, addressed her concern about the noise level created by this business. She inquired about the possibility of the business opening at 7 AM instead of 6 AM.

City Attorney Hampel stated that the State does not allow restricting the hours of operation. To cut down on the noise, the City could impose requirements of notifying clients (parents of the children) to observe traffic and noise restrictions. Home Occupation Permit requirements treat the day care center as any other residential use. Two conditions in the home occupation ordinance give the City some leverage regarding parking requirements.

Don Donikowski explained that his business serves as a pre-school as well as after school care. He said he understands that the Conditional Use Permit would lapse and become void if it is not used for six (6) months. He told the Council that he has two employees, one who works in the morning and one in the afternoon, with a 30- minute overlap in time. Both employees park in the driveway. He told Council that the garage is not allowed to be a day care area; it is an accessory use to the normal area. He said he would not park his cars in his garage. He stated that he follows the State law to the letter. Regarding the use of a placard in the cars, he did not think that was right to impose on his customers. He said he would not park his cars in his garage. In summary, he noted that only about eight vehicles are dropping off children to his facility on a daily basis.

Mayor Bell called for a ten-minute recess at 9:40 PM.

The Council Meeting reconvened at 9:50 PM.

Bill Underwood, 9885 Colony Grove Lane, told the Council that he did not choose to move into the neighborhood with a day care business. He mentioned the fact that a neighboring street, Oakwood Circle, has No Parking signs. As a resident of Colony Grove Lane for twenty years, he is bothered by the sudden changes made on his street by a neighbor who has just purchased a home (Mr. Donikowski) on his street. He expressed his fear that property values may decrease with this type of business operating in a residential zone.

Sherrie Underwood, 9885 Colony Grove Lane, made some more comments regarding parking his car in his garage.

City Attorney Hampel reported that State law does not limit hours of operation. The City could require the applicant to notify parents to observe traffic and noise restrictions. He stated further that the City has gone a little farther by imposing a Conditional Use Permit and incorporating home-occupation conditions, which maximizes the City's area of control.

Councilmember MacAloney questioned the regulation of operating hours so as to avoid opening at 6:00 AM. He suggested Taft Avenue would be a good drop-off point for students. He added that the applicant should attempt to park his cars in his garage to cut down on the number of cars parked on Colony Grove Lane.

City Attorney Hampel responded that the hours of operation could be changed only if the applicant agrees to a change in hours. If not, the City must defer to State law, which does not limit hours of operation.

Mayor Pro Tem Bortle stated that she was furious that the State forces the City's hand. She spoke about the adult day care business down the street from her home and that she has no say in this just as the Colony Grove Lane residents have no say in a Large Family Day Care Home operating on their street. The State shows a disregard for Villa Park and all the other cities in California that it imposes upon residential areas. She said that the Orange County Sheriff's Department motorcycle policeman, Deputy Steve Taylor, would observe the parents driving habits. She clarified that Oakwood Circle has 2-hour parking and not completely restricted parking, as the speaker Bill Underwood had stated. She added that she prefers seeing cars parked in driveways, not on the street. She expressed her belief that the applicants were sincere and that they will work with the neighbors to compromise.

Councilmember McGowan addressed City Attorney Hampel as to whether these State-regulated changes apply to Charter cities as well as other cities. City Attorney Hampel responded in the affirmative.

Councilmember Rich Freschi stated that he, too, was frustrated by the State mandates and that a solution must be found for two sincere groups of people. He suggested a "drop-off zone" sign on Taft Avenue or possibly restricting or limiting parking on Colony Grove Lane so that the employees would be forced to park somewhere else.

City Attorney Hampel suggested to the Mayor that staff should be talking to the applicant to work out some compromises and continue the Public Hearing to the next Council Meeting, September 23, 2003.

Mayor Bell conferred with the City Attorney's suggestion.

Mr. Donikowski addressed Council about whether it would be permissible to park on Taft Avenue.

Mayor Bell noted that the bicycle lane on Taft Avenue is used by students and that options need to be explored.

Councilmember Freschi stated that he did not believe it was illegal to park in a bicycle lane temporarily.

Mayor Pro Tem Bortle urged the public to address their concerns directly to the applicants and vice versa.

Councilmember Freschi did not see any reason to continue the Public Hearing to next month.

Mayor Bell agreed with Mayor Pro Tem Bortle that the neighbors need to communicate their concerns to the applicant.

Mayor Bell closed the Public Hearing.

It was moved by Councilmember MacAloney, seconded by Councilmember McGowan, and carried by the following roll call vote to *continue* the application for Conditional Use Permit No. 0551 to the City Council meeting September 23, 2003 pending Public Safety Committee review to discuss the matter further:

| | | |
|---------|-----------------|----------------------------------|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | Freschi |
| ABSENT: | COUNCILMEMBERS: | None |

5. Consideration of Conditional Use Permit No. 0552 for the Construction of a Freestanding Patio Cover – Location: 18972 Mesa Drive; Applicants: Pravin and Anuradha Sharma.

Mayor Bell opened the Public Hearing.

City Manager Rodericks reported that the applicants are requesting permission to construct a freestanding patio cover.

The subject property is located at 18972 Mesa Drive and is in the E4 Small Estate zoning district. The lot area is approximately 23,590 square feet and surrounding uses are residential.

The applicant is proposing a freestanding patio cover in the rear yard with a height of nine (9) feet. Structures over seven (7) feet in height require a Conditional Use Permit and must abide by the ten (10) foot setback requirement.

Based on a review of the project application, the proposed project meets the objectives of the Villa Park Zoning Code and complies with lot coverage, floor area, setback, and height requirements.

Staff recommends approval of this application.

No public testimony was given.

Mayor Bell closed the Public Hearing.

It was moved by Councilmember McGowan, seconded by Mayor Pro Tem Bortle, and carried by the following roll call vote to adopt Resolution No. 2003-2706 approving Conditional Use Permit No. 0552, with conditions 1 - 8 – Freestanding Patio Cover – Location: 18972 Mesa Drive; Applicants: Pravin and Anuradha Sharma:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

6. Award of Construction Contract for Valley Drive Storm Drain at Aubrey Circle Project.

Mayor Bell opened the Public Hearing.

City Engineer Repke reported that the proposed Valley Drive/Aubrey Circle Storm Drain Project is included in the 2003-04 Fiscal Year Capital Improvement Fund budget. The project will intercept water runoff that is currently being carried in a private open channel concrete ditch located along the west side of the properties on Aubrey Circle that discharges to the ground surface and flows westerly across several properties toward Loma Street.

Authorization to advertise the project for construction bids was received from the City Council at its June 24, 2003 meeting. Temporary construction easements and permanent operation and maintenance easements have been obtained from the three properties impacted by the project.

Construction bids for the project were opened on August 14, 2003. A total of four bids were received as follows:

| | |
|----------------------------|--------------|
| 1. 4 Con Engineering, Inc. | \$ 88,748.00 |
| 2. Savala Construction | \$139,477.52 |
| 3. Vasily Company | \$166,560.00 |
| 4. Paulus Construction | \$186,280.00 |

The Engineer's estimate was \$96,110.00. Evaluation of the bids have been completed and the lowest responsible and responsive bid was received from 4 Con Engineering, Inc. in the amount of \$88,748.00

An initial environmental study has been prepared in accordance with CEQA requirements. The project has been found not to have a substantial adverse impact on the environment and a Negative Declaration has been prepared for adoption.

Estimated project costs are \$120,000 including construction, construction administration, construction survey, inspection, testing, and a 10% contingency. Project funding in the amount of \$86,000 was carried forward into the 2003-04 Fiscal Year Capital Project Account.

The additional project costs are due to some additional project requirements from the Right-of-Way negotiations, the fact that the budget amount had been carried over from prior years, as well as the construction administration, inspection, survey, and testing costs not being included in the budget amount as is the current policy. Construction administration costs are now included as part of the capital project amount; however, in

prior years, these costs were allocated separately in the Engineering Budget. It is recommended that \$34,000 be made available from the Unrestricted General Fund Reserve to fully fund the project.

Mayor Bell said he was contacted by the property owner of 19081 Valley Drive, regarding an encroachment on his fence.

City Engineer Repke replied that if fences are being removed they will be put back on the property lines.

Councilmember MacAloney questioned City Engineer Repke about 4 Con Engineering, Inc.'s reputation and Mr. Repke responded that he checked references with other cities and received acceptable comments about their performance.

Mayor Bell closed the Public Hearing.

It was moved by Councilmember McGowan, seconded by Councilmember MacAloney, and carried by the following roll call vote to adopt Resolution No. 2003-2710 approving the Negative Declaration regarding the proposed project to construct a 24" storm drain north of Valley Drive and west of Aubrey Circle; authorize staff to transfer \$34,000 from the Unrestricted General Fund Reserve to the Capital Projects Budget; and award a construction contract to 4 Con Engineering, Inc. in the amount of \$88,748.00 and authorize the Mayor and City Clerk to execute the Contract Agreement:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

STAFF REPORTS:

City Manager: No report.

City Attorney: No report.

City Clerk:

It was the consensus of the Council to designate October 14, 2003 at 7:30 PM as the next Town Hall Meeting.

City Engineer:

Authorization to Advertise Villa Isle/Canyon Drive Storm Drain Project.

At its July 22, 2003 meeting, the City Council directed staff to proceed with design and construction of a storm drain within the easement located in the rear of the properties on Villa Isle Drive that is parallel to and just south of Canyon Drive. The project was authorized for addition to the Capital Projects Budget as a cooperative project with the four property owners on a 60% property owner/40% City cost sharing basis.

In order to meet the request of the property owners and in an attempt to have the project completed prior to the rainy season, staff is expediting the project. The proposed

schedule anticipates the award of construction contract to occur at the September 23, 2003 Council Meeting. Construction would be completed by November 7, 2003.

Construction plans and specifications have been prepared and construction bids are ready for advertisement. Due to the potential of the property owner at 9492 Villa Isle Drive not participating, an alternative design has been prepared excluding this property but still providing for drainage. Construction bids will be obtained for the total project as well as for the alternate project.

A cooperative agreement with the property owners is required including a cash deposit for their share of the project costs. These documents must be in place prior to award of a construction contract at the September 23rd Council meeting.

An Initial Environmental Study has been prepared in accordance with CEQA requirements. The project has been found not to have a substantial adverse impact on the environmental and a Negative Declaration will be prepared for adoption at the time of contract award.

Estimated costs for the project are \$125,000, including preparation of the construction plans and specifications, construction, construction administration, inspection, and testing. The City's share, based on the 60%/40% split would be \$50,000. These funds were added to the Capital Projects Budget by the Council at the July 22, 2003 meeting.

It is recommended that the City Council approve the plans and specifications and contract documents entitled, "Villa Isle Drive/Canyon Drive Storm Drain Improvement" and authorize the City Engineer and City Clerk to advertise for construction bids.

Councilmember MacAloney asked City Attorney Hampel why the City cannot do a complete job even though one property owner does not want to participate. He asked if a lien against the property was an option.

City Attorney Hampel responded that a lien could be done by assessment, but not without additional administrative costs.

Councilmember Freschi said that the way the City Manager and Public Utilities Committee has approached this is a prudent one because the property owners will have a sizeable increase in the size of their lots which will increase the value of their property. This program is a way for the three property owners who are interested in receiving that benefit to share in the cost notwithstanding what the middle person does. He approves this plan.

Councilmember MacAloney and Mayor Pro Tem Bortle stated that they were in favor of a *complete* project.

Mayor Bell agreed with Councilmember Freschi.

It was moved by Councilmember Freschi, seconded by Councilmember McGowan, and carried by the following roll call vote to approve the plans and specifications and contract documents entitled, "Villa Isle Drive/Canyon Drive Storm Drain Improvement" and authorize the City Engineer and City Clerk to advertise for construction bids:

AYES: COUNCILMEMBERS: MacAloney, McGowan, Freschi, Bortle, Bell
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

OTHER BUSINESS: None.

ORAL COMMUNICATIONS: None.

ORDINANCES:

1. Consideration of First Reading of Ordinance No. 2003-497 Amending Section 8-2.11 of Chapter VIII of the Villa Park Municipal Code Pertaining to Professional Businesses and Services.

City Manager Rodericks explained that the business license ordinance is that it exempted transient businesses in nature that do not derive a significant part of their income from business in the City. The modifications attempt to regulate those businesses which have an established clientele, such as gardeners, housekeepers, and landscapers who have routine stops in town but do not derive a significant amount of their business from Villa Park.

Councilmember McGowan asked where one draws the line between significant and insignificant income?

City Manager Rodericks stated that "significant" was removed from the text of the ordinance and replaced with "who performs services on a regularly scheduled basis..."

Councilmember MacAloney asked who would monitor the enforcement.

City Manager Rodericks responded Code Enforcement and other City staff.

It was moved by Councilmember Freschi, seconded by Mayor Pro Tem Bortle, and carried by the following roll call vote to approve the first reading of Ordinance No. 2003-497 amending Section 8-2.11 of Chapter VIII of the Villa Park Municipal Code pertaining to Professional Businesses and Services:

AYES: COUNCILMEMBERS: MacAloney, McGowan, Freschi, Bortle, Bell
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

2. Consideration of First Reading of Ordinance No. 2003-498 Amending Sections 23.6.10.b.2 and 23-22.3 of Chapter XXIII of the Villa Park Municipal Code Pertaining to Second Units.

City Manager Rodericks stated that the modifications would bring the City back into compliance with State law regarding second dwelling unit ordinances. Currently the City requires a Conditional Use Permit. State law modifies City requirements to a ministerial permit through an over-the-counter Site Plan Review.

Mayor Bell requested that City Manager Rodericks make it known to the Council when such Site Plan Reviews occur so that they are all kept up to date on the second dwelling units being built in town.

It was moved by Councilmember MacAloney, seconded by Councilmember McGowan, and carried by the following roll call vote to approve the first reading of Ordinance No. 2003-498 amending Sections 23.6.10.b.2 and 23-22.3 of Chapter XXIII of the Villa Park Municipal Code pertaining to second units:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS | None |

RESOLUTIONS:

1. Consideration of 2002 Resources Bond Act – Roberti-Z’Berg Harris Block Grant Allocation.

City Manager Rodericks stated that last year under the Roberti-Z’Berg Harris Block Grant, Villa Park received \$19,726 which was used for trail improvements. For the Per Capita Allocation, Villa Park received \$62,000 which was also used for trail improvements. In 2002 we will receive \$16,721 from Roberti-Z’Berg Harris Block Grant and \$220,000 from the Per Capita Grant Program. The Roberti-Z’Berg Harris Block Grant requires matching funds of \$7,166.

It is recommended that the City Council adopt Resolution No. 2003-2707, a Resolution of the City Council of the City of Villa Park authorizing the application for these grant funds for Roberti-Z’Berg Harris Block Grant under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002.

It was moved by Councilmember Freschi, seconded by Councilmember McGowan, and carried by the following roll call vote to adopt Resolution No. 2003-2707 authorizing an application for grant funds for the Roberti-Z’Berg-Harris Block Grant Program under the California Clean Water, Clean Air, Safe Neighborhood, Parks, and Coastal Protection Act of 2002:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS | None |

2. Consideration of 2002 Resources Bond Act Per Capita Allocation.

City Manager Rodericks stated that this is a companion Resolution No. 2003-2708 for the Per Capita Allocation for \$220,000.

It was moved by Councilmember Freschi, seconded by Councilmember MacAloney, and carried by the following roll call vote to adopt Resolution No. 2003-2708 authorizing an application for grant funds for the Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood, parks, and Coastal Protection Act of 2002:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS | None |

3. Consideration of Budget Re-Appropriation for Uncompleted Projects.

City Manager Rodericks stated that the annual audit was just completed. The City budget is on a fiscal year basis. General Accepting Accounting Principles require that the City abide by established standards. One principle is the use of encumbrances. When the City conducts a particular project under contract and the project does not complete until the following fiscal year, the City must encumber those funds from the prior year's budget. If the project does not complete within 45 days of that new fiscal year, the auditors recommend that the City re-appropriate the budget numbers into the succeeding fiscal year.

It is recommended that the City re-allocate those two budget projects into the 2003-04 Budget in the amount of \$269,640 for the Pavement Management Program and \$87,000 for the sewer monitoring program and do so by adopting Resolution No. 2003-2709.

It was moved by Mayor Pro Tem Bortle, seconded by Councilmember Freschi, and carried by the following roll call vote to adopt Resolution No. 2003-2709 authorizing a budget amendment for various projects:

| | | |
|---------|-----------------|---|
| AYES: | COUNCILMEMBERS: | MacAloney, McGowan, Freschi, Bortle, Bell |
| NOES: | COUNCILMEMBERS: | None |
| ABSENT: | COUNCILMEMBERS: | None |

ADJOURNMENT:

It was moved by Mayor Bell and carried unanimously to adjourn the meeting at 10:45 PM to September 3, 2003 at 6:30 PM for a joint meeting with Villa Park Community Access Television board.

Bob Bell Mayor
City of Villa Park

ATTEST:

George J. Rodericks, City Clerk
City of Villa Park