

ACTION MINUTES OF THE CITY COUNCIL
CITY OF VILLA PARK, CALIFORNIA

May 24, 2016
Regular Meeting

<p>GENERAL SESSION 6:30 p.m. – City Council Chambers</p>

ROLL CALL - Mayor Mills called the General Session to order at 6:31 p.m.

COUNCILMEMBERS

PRESENT: Barnett, Collacott, Fascenelli, Nelson and Mills

ABSENT: None

PLEDGE OF ALLEGIANCE TO THE FLAG – Community Member John Whitman

PRESENTATIONS/ ANNOUNCEMENTS/ INTRODUCTIONS

- Orange County Fair Presentation
- Cerro Villa Middle School 50th Anniversary Proclamation
- Orange County Sheriff's Department
- Orange County Fire Authority was presented with a proclamation for Drowning Prevention Awareness.
- OC Mosquito & Vector Control
- OC Sanitation District
- Community Development & Public Safety
- Human Resources
- Law Enforcement Advisory
- VP Community Services Foundation
- Friends of the VP Library

ORAL COMMUNICATIONS

Mayor Mills opened public comments.

Karen Christensen, Villa Park resident, showed pictures of the past band members at Cerro Villa Middle School. She said her children attended school there and that she has enjoyed living across the street from the school.

Mr. Bob Wolfe, Villa Park resident, expressed concern about the condition of the street on Dodson Way. He said a City Engineer promised two years ago that a patch crew

would address the issues on this street. Mr. Wolfe suggested the City Council take a strong look at the city street to ensure small problems do not turn into large ones in the future.

Mayor Mills closed public comments.

PUBLIC HEARINGS

1. [Waive reading in full of all ordinances and resolutions on the agenda.](#)

A motion was made by Councilman Nelson, seconded by Mayor Pro Tem Barnett, and approved by the following roll call vote to, waive reading in full of the ordinances and resolutions on the agenda.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

2. Resolution No. 2016-3361, a resolution of the City Council of the City of Villa Park Declaring Conditions Present at 18011 Wellington Circle, Villa Park, California to Constitute a Public Nuisance.

City Manager Hildenbrand gave a presentation on this item. The city is requesting the property owner installs a self-closing and self-latching gate mechanism on the front gate of his property. The Building Official will determine if the changes meet code requirements.

Councilwoman Fascenelli asked if complaints were received regarding this issue. City Manager Hildenbrand replied this is in response of complaints from nearby neighbors.

Councilwoman Fascenelli inquired if the City Manager looks for other open gates in the neighborhood when responding to this issue. City Manager Hildenbrand replied he responds to the specific complaint but if he sees there is an issue at another residence, he would follow up with that as well.

Mayor Pro Tem Barnett asked if there is a more efficient way to address this issue. City Attorney Todd Liftin replied this is a standard nuisance procedure and is designed to give people time and due process to be able to address the issue. In regards to health and safety situations, staff could sometimes act quicker. He said this is a health and safety issue and that the city could be more proactive, under the direction of the

City Council. This is the process the city has to abate these types of nuisances. Mr. Liftin spoke about the administrative citation process not working in the city in this instance.

Mayor Mills opened public comments.

Mr. Barry Falk, property owner at 18011 Wellington Circle, stated he was just notified about this issue on May 12th. He said the resolution alleges lack of good faith on his part. Mr. Falk stated he has been working with the City Manager regarding many complaints that are primarily coming from one neighbor. He feels that he has responded to every single one of the complaints. Mr. Falk stated some of the complaints are factually inaccurate and that he has had disagreements with the City Manager. He has gone to his house to address the garbage can issues by marking his garbage cans but now his neighbors are doing the same.

Mr. Falk stated he has four young college age kids as tenants in his home. He stated if he had to do it again, he would clearly not have made the same decision. Mr. Falk said he and the City Manager have an agreement regarding the gate. If the City Manager were made aware that the gate is open, he would then contact Mr. Falk so that he can address it. His son has been to the home many times to respond to the gate issue as well. Mr. Falk has received a stack of emails from his tenants stating the gate is not open. He stated there is a second gate that is fully legal that does not provide free and clear access to the pool. This second gate is a self-closing, self-latching gate with a childproof lock. Mr. Falk stated he has a video that shows the second gate on his property. He said none of the pictures the City Manager has taken shows the second gate. Currently, the front gate goes to a side yard where there is no pool. Mr. Falk stated he would fix the front gate if its necessary but asked to see where in the law it states he needs two gates.

City Attorney Liftin replied California Building Code requires gating. He stated City Manager Hildenbrand was never made aware that there is a second gate on the property that meets the requirements. City Attorney Liftin asked that Mr. Falk submit the evidence of the second gate. He had hoped that staff would have been made aware of this earlier.

Mr. Falk stated he does not want problems with the City. He does not like inaccuracies and facts that are not real. Mr. Falk talked about the issue with the garbage cans saying there have been complaints about them being left out but when he responds, they are not out.

City Attorney Liftin stated the item brought forward to discuss is the swimming pool gate. He said Mr. Falk should submit any additional evidence showing the gate being in compliance with the building code. Mr. Falk replied he has a video. City Attorney Liftin stated the video needs to be made available for the public to view.

City Manager Hildenbrand stated he has been dealing with this issue since February and that Mr. Falk has not responded to him since then. He was not aware of the second gate.

Mr. Falk stated he wanted to please the city and that he was told they wanted the gate closed. He would call his tenants to make sure the gate is closed and have his son address the issue if he was not available. Mr. Falk said he is not trying to prove the gate was not closed, he is just asking what is required by law. He stated the issues he is having with his neighbor would have to be resolved in a courtroom soon. Mr. Falk wants to do whatever the city tells him to do that is legally required.

Mayor Mills said the City Manager has been in contact with Mr. Falk since February in regards to this gate issue. It could have been remedied for a minimum amount of money.

Mr. Falk said the front gate provides access to the side yard and not the pool. He stated if the city is asking him to have two latching gates then he will but does not know if law requires it.

City Manager Hildenbrand commented he would have liked to know two months ago that there was a second gate that satisfies the requirements.

Councilman Collacott inquired if the citations noted that restrictive access to the pool is needed. City Manager Hildenbrand replied yes, each citation stated this.

Mr. Falk stated that he has been in contact with the tenants and they said the gate has been closed. He said he has responded to every email the City Manager sent.

Councilman Nelson asked why Mr. Falk did not install a self-closing and self-latching gate on the front gate. Mr. Falk replied the request was not made by the city until the creation of the resolution.

William Kincaid, Villa Park resident, spoke about his neighbor Mr. Falk and issues that followed when he rented out his home. He had contacted Mr. Falk regarding the tenants ruining his home but Mr. Falk took this gesture as harassment. Mr. Kincaid is not aware there is a second gate. He spoke about the issues with trash and vermin in the back yard and along the fence line. Mr. Kincaid said there are several neighbors who are complaining about the issues at this home.

Ellen Kincaid, Villa Park resident, stated she did not issue a complaint about the open side gate. She has brought the issues with the state of the pool and that vector control had to come out to remedy it. Ms. Kincaid said there is a direct line to the pool from the front gate. She expressed concern with her grandchildren playing in her yard and having access to the pool because of the open gate. She was not aware there was a second gate. Ms. Kincaid did some research regarding codes and said a latch is

needed if a gate is at least 52 inches tall. She said the front gate is always open and stated she has not been placing Mr. Falk's trash cans out on the curb. Ms. Kincaid spoke about her husband's health as well as issues with getting in and out of her driveway. She said the tenants at this home are now displaying very bright lights in the back yard. Ms. Kincaid stated she has not made any complaints regarding this. She said Mr. Falk should have some type of control over his tenants. Ms. Kincaid spoke about the issues with trash and vermin at the home. She asked why Mr. Falk does not take care of these issues if he comes to the home once a week. Ms. Kincaid has asked the city to create codes to address these issues. She spoke about the safety issues regarding the open gate for not just children but for elderly adults as well. Ms. Kincaid said her pool gate has latches and security codes. She asks that this issue be fixed.

City Manager Hildenbrand relayed he received an email from the rear yard neighbor on February 19th at 1:02 p.m. stating they peaked over the fence and that there is no gate.

Donna Buxom, Villa Park resident, stated she is not directly affected by this property but that this particular location has been in discussion for many months. She has driven by the property many times and has seen the gate open and noticed a lot of garbage through that gate.

Mayor Mills closed public comments.

Mr. Falk's son brought his phone up to the dais and showed the video of the property to the City Council.

City Manager Hildenbrand stated he could set up an inspection for tomorrow between 11:00 am and 2:00 pm.

Mr. Falk replied the only new item on the gate is the childproof latch. He said this is the only access to the backyard on the property and that there are eight-foot walls surrounding the property.

Mayor Mills reiterated there is documentation that Mr. Falk has been notified on several occasions regarding the front gate.

A motion was made by Councilman Collacott and seconded by Mayor Pro Tem Barnett, to continue this item to the next City Council meeting so staff and Council can review the information gathered from the inspection.

Councilwoman Fascenelli does not think this item needs to be continued since the resolution states this is a safety issue.

City Attorney Liftin stated the motion is to continue this item, which is appropriate if the Council thinks they need the additional information. If the Council decides from the

information they heard tonight that the findings for the nuisance are there, they can establish the nuisance tonight.

Councilwoman Fascenelli stated she is disappointed that so much time was spent on this issue when all Mr. Falk had to do was tell the city there was a second gate that met all the requirements. All the staff time and expense to follow through with this issue has now gone to waste because we have to continue this item because she can not vote on something until it can be verified. She said if the findings are not exactly how Mr. Falk stated they were, then this item would have to come back next month.

Councilman Nelson said all Mr. Falk had to do to solve this issue was to install a self-closing, self-latching gate in the front. He said this is a hazard and that the only way you can tell if there is access to the pool is if the front gate is open.

Mayor Pro Tem Barnett agreed with the rest of the City Council that this was a waste of time over the last few months. He said all the homeowner had to do was tell the city there was a second gate. Mayor Pro Tem Barnett would like to declare this a nuisance because Mr. Falk's conduct was outrageous and this was a waste of time. He is not going to vote in favor of this because there is evidence that makes it clear there is apparently a second gate that meets the requirements. Mayor Pro Tem Barnett does not think legally he can find this a nuisance at this point. He wanted to let Mr. Falk know that his conduct is ridiculous, that he is being inconsiderate and to have put the city through this time rather than indicating there is a second gate or to just install some basic hardware on the front gate. Mayor Pro Tem Barnett stated from a legal perspective, you cannot snoop around someone's home to see what is going on.

City Attorney Liftin asked if the property owner would be available to have an inspector come tomorrow between 10:00 am and 11:00 am. Mr. Falk replied if the city would like him to be, he would. City Attorney Liftin replied that time will be set to address this issue immediately.

A substitute motion was made by Councilman Nelson, seconded by Mayor Mills, and approved by the following roll call vote to, adopt Resolution No. 2016-3361, declaring conditions present at 18011 Wellington Circle, Villa Park, California, to constitute a Public Nuisance, and ordering the abatement of said nuisance.

AYES: Collacott, Nelson and Mills

NOES: Fascenelli and Barnett

ABSENT: None

ABSTAIN: None

3. Consideration of adopting the salaries and benefits resolutions for FY 2016-17.

City Manager Hildenbrand gave the staff report. There are several changes from the previous years that have been summarized in the written staff report.

Councilman Collacott inquired about Section 2, III, regarding insurance coverage and asked what the fiscal impact will be due to the increase from 33% to 66% coverage. Finance Director Michelle Danagher replied she does not have a specific break down currently for this item. Councilman Collacott replied he could not take action to approve this without knowing what the fiscal impact will be to the city.

Councilman Collacott commented on the proposed changes for sick leave and vacation time and asked on separation from the city, would an employee's sick leave also be paid out? City Manager Hildenbrand replied currently, all vacation and sick leave is paid out up to 28 days. Councilman Collacott asked if staff has taken into consideration the fiscal impact if an employee has accumulated a large amount of sick and vacation leave that needs to be paid out? What would be the fiscal impact from converting anything over 28 days? City Manager Hildenbrand replied there is a designated reserve for accrued leave that is funded up to 75%, or \$54,000. If the city were to fund it to the maximum 100%, it would be around \$75,000. The HR Committee has significantly reduced the amount, which is now at 30 days.

Councilman Collacott inquired what the full cost would be if the additional sick leave and vacation hours in excess of 28 days were converted into PTO. City Manager Hildenbrand replied it would cost \$75,000.

Councilman Nelson stated under the old system, staff would get 28-days paid. The new recommendation would allow 30-days because that is the most they would be able to accrue. Before, staff would be able to accrue up to 60-days but that they could only be paid up to 28-days when they left the city. Since vacation and sick leave has been combined, the maximum amount they could accrue would be 30-days.

Councilman Collacott asked what is the real fiscal impact on the proposed resolution? Councilman Nelson replied it would cost the city much less than before. This is due to cutting back on the amount of vacation days and sick days staff can accrue. He said this is a significant saving to the city. Councilman Nelson stated city staff that is currently over the 28 days maximum, would be paid off to bring them down to this amount.

Councilman Collacott asked if the increase to 66% of health benefits is a state mandate. City Manager Hildenbrand replied it has been something the city has done prior to 2008. The benefit for employees hired before 2008 was that the city would pick up 66% of the coverage for their dependents. In 2008, which was adjusted for all employees hired after 2008, the city would only pick up 33%. The HR Committee has recommended removing the 33% and including all the employees into the 66%. Finance

Director Michelle Danagher calculated the fiscal impact, which was only \$1,000 for the year.

Mayor Pro Tem Barnett asked if Item 1, Section 2-1 in the resolution regarding retirement reflects any change. City Manager Hildenbrand replied it is just restating what it is. Councilman Nelson commented on Section 3, saying it talks about new employees will come under new pension legislation and would receive 2% at 62.

Mayor Pro Tem Barnett asked if the 7% of all classic members pay into PERS is the statutory max. City Manager Hildenbrand replied yes. Mayor Pro Tem Barnett inquired about employee's contribution to PEPR. City Manager Hildenbrand stated the 50% of the employee contribution is the retired member contribution rate, which is set by PERS.

Mayor Pro Tem Barnett inquired about the percentage of the required member retirement contribution. City Manager Hildenbrand replied PERS set the percentage, which is currently 12.5% of the employee's salary. Mayor Pro Tem Barnett talked about underfunding of PERS saying he was not aware that employees were picking up the allocation of the underfunded liability. He thought it would carry on with a set rate and have a second tier.

Mayor Pro Tem Barnett asked what the city's obligation was to pay for medical insurance for retirees. Finance Director Michelle Danagher replied it changes every year but that the city is at the minimal PEPR rate. Currently, it is at \$119, but is not fully funded because the city came into PEPR at a rate of \$106 this year.

Mayor Pro Tem Barnett asked what the range was the range for a retiree individual medical? Ms. Danagher replied \$6,000 a year. City Manager Hildenbrand stated this is a post employment benefit that consists mainly of past council members who have elected to receive insurance from the city. Ms. Danagher said a spouse is included in this amount. She stated the PEPR increases by a small percentage every year. Last year it was at \$115 per month and this year it is \$119 per month.

Mayor Pro Tem Barnett asked if an exemption could be made and broad form medical be chosen. City Manager Hildenbrand replied by law, the city is required to provide this. City Attorney Liftin stated with PERS, the city is required to provide medical as well, even for a retiree. There are legal requirements that all employers need to provide.

Councilwoman Fascenelli noted vision coverage was added for a minimal amount. Ms. Danagher replied it raised the cost by \$10.

Mayor Pro Tem Barnett commented on Item 3, State Disability, saying generally government agencies do not have this type of payment. Councilwoman Fascenelli replied this item was discussed at the last council meeting. Councilman Nelson said discussion took place on this item at the budget meeting.

Mayor Pro Tem Barnett inquired if it would make sense to continue paying it. He would like to get input from the City Council to see if it makes sense to pay the additional amount to overlap the existing coverage. It would allow for double coverage. Councilwoman Fascenelli replied she does not think this will provide double coverage. The main part of the state disability is maternity leave. She expressed concern of possible discriminatory problems arising if the city chooses to not participate.

Mayor Pro Tem Barnett stated he had done some research online, which showed most government agencies do not have this coverage and have a government plan. He commented it would make sense to pay for the entire staff with that percentage in hopes to fill in that need if it arises. Mayor Pro Tem Barnett asked if there was another way.

Councilman Nelson replied he is not aware of other coverage.

Ms. Danagher commented in the PERS contract, there is a disability retirement option. The standard coverage is for an injury that occurred on the job or off that does not allow the employee to work anymore.

Mayor Pro Tem Barnett asked if this is the most cost efficient way to fill the gap. Ms. Danagher replied they pay between \$4,000 and \$5,000 per year. Mayor Pro Tem Barnett asked if staff is sure there are no interim benefits in any other government programs. Ms. Danagher replied she is not aware of any.

Mayor Pro Tem Barnett inquired about workers compensating reimbursements. Ms. Danagher stated an employee could opt to pay into this reimbursable option. The city started with this option when the first employee was hired. Ms. Danagher said the city does not pay anything until a claim is processed, then the city will make the maximum payment that is required from EDD. Mayor Pro Tem Barnett asked if other government programs covers it. Ms. Danagher replied no.

Mayor Pro Tem Barnett spoke about the issue whether the city should be paying the premium and participating on a conventional basis for unemployment with EDD or if they should be opting out. Councilman Nelson said if the city terminates an employee without cause, that employee would receive unemployment. Mayor Pro Tem Barnett asked how long does the unemployment funding last. Ms. Danagher replied it would depend on how long the employee worked for the city and on how many quarters the employee paid into. Councilman Nelson replied it usually runs about six months unless a federal emergency is declared, then it would be extended.

Mayor Pro Tem Barnett inquired about the section regarding promoting an employee to a higher classification and how this is done since the city does not have steps, but ranges in its classifications. City Manager Hildenbrand replied most cities have adopted a step system. Typically, there would be a 5% increase. The HR Committee reviewed these changes. Mayor Pro Tem Barnett suggested a change in the wording to say: "The salary shall be increased over the prior salary as authorized by the HR Committee."

Councilwoman Fascenelli spoke about the one-year probationary period when an employee is promoted, saying it was not discussed with the HR Committee. City Manager Hildenbrand replied a new employee is placed on a six-month probationary period. City Attorney Liftin said the employee is probationary for that position and would be moved back to their previous position by law if they did not perform the duties. Councilman Collacott suggested the language be clarified to indicate it.

Councilwoman Fascenelli stated the proposed Assistant to the City Manager position will need to be discussed since it is a part of the resolution.

Councilman Collacott spoke in support of the conversion of sick leave and vacation leave to PTO. He suggested having a 50% annual pay off to bring all the employees within the 400-hour level. Councilman Nelson stated everyone over 400-hours will be paid out. City Manager Hildenbrand relayed this was discussed at the committee level and is for all current employees that were grandfathered into the system. All new employees hired after July 1, 2016 can accrue up to 400 hours.

Mayor Pro Tem Barnett suggested bringing all the employees PTO down to 400-hours and pay them out. Councilman Collacott would like to see it done in a step fashion. Mayor Pro Tem Barnett asked what the cost would be if the city paid everyone and took their balances to 400 hours. City Manager Hildenbrand replied to bring them down to the current level would cost \$20,000.

The City Council recessed at 8:13 p.m. and resumed at 8:23 p.m.

Councilman Collacott agreed with Mayor Pro Tem Barnett's suggestion to pay everyone down to 400-hours. City Manager Hildenbrand replied it would cost an additional \$2,000 to bring everyone down to the 400-hour balance.

Councilman Collacott spoke about the miscellaneous benefit section and suggested the wording for tuition reimbursement include: "...books for classes and programs of specific benefit to the City and approved in advanced by the City Manager."

Councilman Collacott suggested the wording in miscellaneous benefits and cell phones to read: "The City will reimburse at the rate of \$50 for employees to use a cellular telephone." Councilwoman Fascenelli replied there are some legal issues with that. She said some employees may not want to use their phone for legal issues such as subpoenas and that is why they choose to carry two phones. City Manager Hildenbrand has chosen not to carry two phones. City Attorney Liftin stated the issue is if it is a public record. If the city reimburses an employee for their phone, a public records request can be done on the phone.

Mayor Pro Tem Barnett suggested providing a phone up to the maximum of \$50 per month. Councilman Nelson stated the City Manager's phone would cost more then \$50.

Councilwoman Fascenelli relayed she had brought it up to provide the City Council with city cell phones for legal reasons.

Councilman Collacott asked if the City Manager's cell phone is subject to subpoena. City Attorney Liftin replied as long as the city does not pay for his cell phone, it is not under control of the city.

City Manager Hildenbrand stated he has been with the city for a long time and has used the same phone number. He said the Maintenance Supervisor and Building Official do not carry a city issued cell phone. Councilwoman Fascenelli stated a new employee hired in the future might want one. Mayor Mills suggested keeping it under the purview of the City Manager to see what is needed.

Councilwoman Fascenelli spoke about the Assistant to the City Manager position that the City Manager requested. She said Councilman Nelson brought this item up at the HR Committee meeting regarding having a succession plan in place. At the time, the City Manager said he did not need one, but since then he has developed a job plan and description of job duties. She said the HR Committee is not recommending either way but is bringing this item to the City Council for review and recommendation. Councilwoman Fascenelli said originally she and the City Manager did not want the Assistant to the City Manager position. Councilman Nelson suggested this position be looked at for a succession plan.

City Manager Hildenbrand stated action could be taken at a later date on the Assistant to the City Manager position.

City Manager Hildenbrand reiterated the amendments and changes discussed. These include: page 1, changes to the City Manager salary range. The current salary amount will be written there under the direction of the City Attorney. City Attorney Liftin relayed PERS is going out of their way to not give people retirement benefits unless actual dollar amounts are written. The City Manager does not have a salary range but his pay is determined by contract and the annual rate is written there. The amount that is effective on July 1, 2016 will be written in the contract.

City Manager Hildenbrand relayed the change to page 3, Section 4, Paid Time Off, to eliminate anything above 400 hours. On page 5, the following wording will be added: "leave without pay of benefits to the extent by the law." In the Miscellaneous Benefits section 9.1, wording will be included "...books for classes and programs of specific benefit to the city and approved in advanced by the City Manager." On page 6, when an employee is promoted to a higher classification, the employee shall be assigned a range in the new classification that provides an increase over the salary received immediately prior to such promotion. In addition, promoted full time employees will be subject to a one-year probationary period in that position. Councilman Collacott recommended the probationary period to be changed to six-months.

A motion was made by Councilman Nelson, seconded by Mayor Pro Tem Barnett, and approved by the following roll call vote to, adopt Resolution No. 2016-3355, a Resolution of the City Council of the City of Villa Park establishing salary and benefit rates for all classes of employment and superseding Resolution No. 2015-3328 with the amendments discussed by City Council and City staff.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

Councilwoman Fascenelli stated the Assistant to the City Manager position has been discussed with the HR Committee. She said Councilman Nelson directed the City Manager to come back with documentation on this position to the City Council. Councilwoman Fascenelli expressed concern that the City Manager has been performing code enforcement duties but does not know if there is a need for an Assistant to the City Manager position but possibly a different one. There has been discussion about the need for a succession plan. City Manager Hildenbrand stated there is not a shortage of work but that the suggested salary of \$106,000 is high.

Mayor Pro Tem Barnett expressed his concerns regarding succession.

City Manager Hildenbrand stated he could hire a part-time code enforcement employee to work three days a week to assist with this need. He does not think there is a need for the Assistant to the City Manager position and is not in support of it. City Manager Hildenbrand said he could make a case to fill the position because it does provide the succession planning benefit.

Councilman Collacott stated looking at the policy and procedures of the City Manager could smooth the succession issue out. He would like to see any additional money be spent on providing more law enforcement support. Councilwoman Fascenelli replied there is not a lot of crime in the city and does not want to see an abundance of police cars in the city. Councilman Collacott stated there is a need to address infrastructure issues within the city if the Council decides to not spend the additional funds on law enforcement.

Councilwoman Fascenelli stated the City Manager should not be performing code enforcement duties and that a position could be created to address this issue.

Mayor Pro Tem Barnett stated the Assistant to the City position could be created for succession purposes or City Manager Hildenbrand could get additional assistance for

the duties that he currently performs. He said as an intermediate step, the city could budget for the Assistant to the City Manager position and place it in the reserve.

Councilwoman Fascenelli stated the HR Committee does have a valid concern regarding succession.

Councilman Nelson commented when City Manager Hildenbrand was promoted to his current position; he did not replace his old one. He suggested the City Manager provide justification for the Assistant to the City Manager position. Councilman Nelson said a job description is not justification.

A motion was made by Mayor Pro Tem Barnett, seconded by Councilman Collacott, and approved by the follow roll call vote, to reject the proposed Assistant to the City Manager position.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

Mayor Pro Tem Barnett suggested the City Manager look into getting some assistance and come back with a proposal to the City Council.

Councilman Nelson stated he does see some issues with the succession plan.

CONSENT CALENDAR (ITEMS #4-14)

Mayor Pro Tem Barnett requested to remove Item 6, Monthly Financial and Capital Project Status reports.

Councilwoman Fascenelli requested to remove Item 11, Approval of new four-year agreement with Civil Source, Inc. for the provision of City Engineer/General Engineering Services.

A motion was made by Councilman Nelson, seconded by Mayor Mills, and approved by the following roll call vote, to approve Consent Calendar Items 4, 5, 7-10, 12-14.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

4. [Warrants and disbursements from April 12, 2016 through May 11, 2016.](#)

ACTION: Approved warrants and disbursements in the amount of \$1,015,081.23.

5. [Monthly Cash and Investment Transparency.](#)

ACTION: Received and filed.

7. [Request approval of City Council Minutes of April 26, 2016.](#)

ACTION: Approved.

8. [Approval of Annual Statement of Investment Policy.](#)

ACTION: Adopted Resolution No. 2016-3357 approving the Statement of Investment Policy.

9. [Support of AB 2403 \(Bloom\) Alcohol and Drug Abuse Recovery or Treatment Facilities.](#)

ACTION: Directed the City Manager to send letter of support for AB 2403.

10. [Opposition of SB 1387 \(de Leon\) South Coast Air Quality Management District.](#)

ACTION: Directed the City Manager to send letter of opposition for SB 1387.

12. [Consideration of FY 2016-17 Recommended Level of Service and Third Amendment to the Five-Year Agreement for Law Enforcement services with the Orange County Sheriff-Coroner.](#)

ACTION: Approved the new Five-Year Agreement for Law Enforcement Services with the Orange County Sheriff-Coroner and approve the proposed service levels for Fiscal Year 2016-17.

13. Notice of Completion FY 15/16 Street Rehabilitation Project.

ACTION:

1. Approved the plans and specifications for the "FY 15/16 Street Rehabilitation Project," and
2. Authorized the Mayor to execute a contract with Hardy & Harper, Inc., in the amount of \$501,000 for the "FY 15/16 Street Rehabilitation Project," and
3. Authorized the Mayor to execute a contract with CivilSource, Inc., in the amount of \$38,050 to provide inspection services for the "FY 15/16 Street Rehabilitation Project."

14. Consideration of Resolutions Pertaining to the General Municipal Election on Tuesday, November 8, 2016.

ACTION: Adopted the resolutions as presented in the staff report.

PULLED ITEMS

6. Monthly Financial and Capital Project Status reports.

Mayor Pro Tem Barnett inquired about the property tax in-lieu in the general fund monthly revenue variance report. Ms. Danagher stated the city had just received \$262,000 that was not included in the report. Mayor Pro Tem Barnett asked if there was a discrepancy in the miscellaneous section. Ms. Danagher replied the city pays for items such as Parker Larsen and accidents, which results in a lower balance before they are paid back.

A motion was made by Mayor Pro Tem Barnett, seconded by Mayor Mills, and approved on the following roll call vote, to receive and file the Monthly Financial and Capital Project Status reports.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

11. Approval of new four-year agreement with Civil Source, Inc. for the provision of City Engineer/General Engineering Services.

Councilwoman Fascenelli inquired on page 14, Item 10.19. It reads that Civil Source, Inc. cannot hire any City of Villa Park employees or public officials for one-year after the contract. She asked if this is done with all of the city contracts. City Attorney Liftin replied it is common in most consultant contracts for the purposes of a potential conflict of interest. He said for public works contracts or contracts of that nature, it is not included since it is a different type of contract. The current contract has consultants working very closely with the city. This may cause a carry over of people from the public sector to the private and vice versa. City Attorney Liftin stated is a contractual requirement.

Councilwoman Fascenelli asked if there is any language in the contract regarding sexual harassment training is required for consultants. City Attorney Liftin replied consultants are required to comply with all applicable laws. He said AB-1234 is a law that requires all supervisory employees take the sexual harassment training. Councilwoman Fascenelli suggested the city follow-up with the consultants to ensure they have participated in the training if required by law.

A motion was made by Councilwoman Fascenelli, seconded by Mayor Mills, and approved by the follow roll call vote to, approve a professional services agreement for the provision of a City Engineer and General Engineering Services with Civil Source, Inc. for a four-year period in the amount of \$84,240, and reappointed Mr. Akram Hindiye as the City's contract City Engineer.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

MAYOR AND COUNCILMEMBER MATTERS

15. Councilmember Requested Matter (Nelson/Barnett): Internal Control Audit.

Councilman Nelson spoke about concerns he, along with Mayor Pro Tem Barnett had regarding internal control in light of the events that occurred with the City of Placentia and the City of Beaumont. He would like to have an opinion on the internal control or to somehow ensure the City Council can look at the internal controls to determine if they are adequate. Councilman Nelson stated it is prudent that the Council does not look at internal controls. He, along with Mayor Pro Tem Barnett, has agreed to work on this

issue. Councilman Nelson is recommending an AD Hoc Committee be created to look at this issue and bring back a solution to the City Council.

Mayor Pro Tem Barnett said discussion on this issue was going to be very informal. He stated it is appropriate for the city to have some review of internal control. The city will have audits conducted but the internal control is always waved off.

Councilwoman Fascenelli stated she discussed this issue with City Manager Hildenbrand in April. She received an email from Councilman Nelson and Councilwoman Fascenelli responded that she already has ideas in motion and that City Manager Hildenbrand was taking care of it. Councilwoman Fascenelli said she had a continued conversation via email about internal control with Councilman Nelson. She asked how the transition took place from she and Councilman Nelson discussing it to now Councilman Nelson and Mayor Pro Tem Barnett following through with it.

Councilman Nelson replied while he was having discussion with Councilwoman Fascenelli via email, Mayor Pro Tem Barnett emailed him about this issue. Councilman Nelson stated he answered back to Mayor Pro Tem Barnett's email saying he had the same concerns.

Councilwoman Fascenelli stated she and Mayor Pro Tem Barnett had tried to get an internal audit last year. She thought the Budget and Finance Committee was taking care of it. Mayor Pro Tem Barnett understood that the internal audit was going to happen this time but it did not. He stated Councilman Nelson sent him and email about discussing this issue. Mayor Pro Tem Barnett said he is ok with not having an AD Hoc Committee formed.

Councilwoman Fascenelli stated she does not want projects that have already been formed and discussed to be moved over to somebody else that Councilman Nelson would like to work with. This issue has already been worked on and has supported documents. She does not think there is a need for another committee. Councilwoman Fascenelli reiterated that she was the one that brought up discussion on this item to the City Manager, not Councilman Nelson.

Councilman Nelson stated Mayor Pro Tem Barnett brought it up to him.

Mayor Mills said this item belongs with the Budget and Finance Committee.

Councilwoman Fascenelli spoke in support of creating an Ad Hoc Committee. City Manager Hildenbrand concurred and spoke in support as well.

A motion was made by Mayor Mills, seconded by Councilman Nelson, and approved by the following roll call vote to, establish an Internal Controls AD Hoc Committee for the purpose of reviewing internal controls and appoint Mayor Pro Tem Barnett and Councilman Nelson to such committee.

AYES: Barnett, Collacott, Fascenelli, Nelson and Mills

NOES: None

ABSENT: None

ABSTAIN: None

City Attorney Liftin stated the Ad Hoc Committee would need to bring a report back to the City Council to discuss their findings.

Mayor Pro Tem Barnett asked if the city received a quote for an internal control review. City Manager Hildenbrand replied the full internal control is around \$48,000 to \$50,000. Ms. Danagher stated the opinion of the auditor is what costs the most money. She said an AUP to test controls would cost a lot less but does not include their opinion.

Mayor Pro Tem Barnett said the first step was to get a quote and if it was too high, then research should be made to look for a firm to contract to review and provide suggestions. The firm could give us suggestions and not their opinion, which could alleviate the \$50,000 fee for their opinion.

Councilman Nelson stated he is always irritated that auditors review the controls but will not give an opinion on it. He said all the cities with great audits still end up with some issues.

16. [Individual councilmember information items and/or required meeting attendance reports.](#)

Councilman Collacott along with Councilwoman Fascenelli and Mayor Mills attended the recent Rotary event. He attended the ACCOC meeting on May 19th.

Mayor Pro Tem Barnett did not attend the Fire Authority meeting last month. He asked to agendaize addressing Dodson Way and any other particular streets with issues such as the ones that Councilman Collacott had discussed in the past. City Manager Hildenbrand stated the city is in the middle of the pavement management program update right now. A contract was approved with Dynastar who is currently working on the street. The report for that will be brought back at the June or July City Council meetings.

City Engineer Akram Hindiyeh relayed Dynastar is collecting data for pavement distress which calculates the square footage or linear footage of the type of cracks and the severity of them. The other part of the project will take place in July. This will entail Dynastar placing loads onto the actual pavement to see the actual deflection on the

pavement itself. This will tell how strong the actual base underneath the pavement is and if it requires construction. In order to remain eligible for Measure M funds through the OCTA, the first part of the project needs to be completed before June.

Mayor Pro Tem Barnett asked what the time frame would be to fix the issues on Dodson Way? Mr. HindiyeH replied Dodson Way is not in a bad situation. There are some cracks and a small dip. He said the actual pavement is not falling apart and coming out. There are other locations in Villa Park that are in worse condition. Mr. HindiyeH stated they recently completed 23 streets of repaving, partial reconstruction and some street with overlay and slurry seal. He said every year the city has a budgeted amount for certain streets. It is just a matter of catching up with all the streets.

Mayor Mills asked how big is the issue on Dodson Way? Councilman Collacott replied it is around 300 feet-long with about four to five inches of subsidence. The entire east lane has crumbled and alligatored. He said you can drive over it right now but once it starts raining, issues may occur which could become an expensive repair or result in an emergency situation.

Mayor Mills asked if the survey would be looking at that particular section. Mr. HindiyeH replied yes.

Councilman Collacott spoke about the importance of fixing the small sections of streets before they become a large and expensive project in the future.

Councilwoman Fascenelli talked about a section of her road that Councilman Collacott expressed concern about. She said there have been no complaints made about it.

Councilman Collacott said the issue is cost containment. He stated there are a number of places in town where the whole street is not falling apart but there are some sections that could cause issues in the future if you do not get a head of it now.

Mr. HindiyeH stated the pavement management plan would be looking at the whole street. It collects all the distresses on the street and will give a rating for the entire street. He said the rating might be skewed if there are some potholes in some areas of the street but the rest of it is in good condition. Mr. HindiyeH stated he, along with the Maintenance Supervisor, would either drive or walk the streets to look for issues. If repairs were needed, they would have the contractor come out and make repairs. He said Dodson Way could be included in the next project list. It was not included in the current project list due to other streets that took precedent because of their condition.

Mayor Pro Tem Barnett asked if there is a safety or wheel alignment issue on Dodson Way. Mr. HindiyeH replied he does not think so. Mayor Mills stated 300-feet is not a small section.

Councilman Nelson stated the city promised the residents on Dodson Way two years ago that their street would be fixed. Mr. Hindiyeh replied the city did not promise their street will be fixed. He had told them the city would try to add it to the project lists when it could. There was no specific date promised to fix the street.

Councilman Nelson suggested the City Manager look into what could be done to fix the street, including cost, and to bring it back to the City Council.

City Manager Hildenbrand stated he has received three complaints regarding Dodson Way. He has received a couple complaints regarding other streets as well. City Manager Hildenbrand stated the Council could allocate funds for these repairs.

Councilman Nelson stated one of the primary responsibilities of the City Council is infrastructure.

Councilwoman Fascenelli suggested letting residents know that they could express their concerns about their streets and be added to the list.

Mayor Mills said residents could look at the street report in July or August and comment on it.

Councilman Nelson stated the street maintenance plan would prioritize what needs to be done. The Council can choose to move Dodson Way up on the list. He would like to have the City Manager look at this complaint and other complaints and bring it back for the Council to discuss at the next meeting.

Mayor Mills asked how often is patching done? City Manager Hildenbrand replied it is done once a year unless there is an emergency. He said they just completed work on 23 streets and would not be doing another project until early next year.

Councilman Collacott asked if funds from TAFT could be used to make the repairs. City Manager Hildenbrand replied TAFT is used for federally funded projects. It would be available for city projects only. He said a side letter agreement could be created with a contractor if the Council chooses to fund these additional projects.

Councilman Nelson would like to address the resident on Dodson Way's complaint.

Mayor Mills announced August 3rd is Villa Park Day at the Orange County Fair. He reminded the public about the blast concert at Villa Park High School. Mayor Mills announced the grand opening of Dunkin' Donuts would take place on June 1st at 9:00 a.m. Councilwoman Fascenelli said the first person in line will receive \$250 worth of donuts.

City Manager Hildenbrand announced the Villa Park picnic would be this Sunday at Villa Park High School.

ADJOURNMENT

The City Council adjourned at 9:14 p.m. The next regular meeting will be held on Tuesday, June 28, 2016 at 6:30 p.m.

Greg Mills, Mayor
City of Villa Park

ATTEST:

Jarad L. Hildenbrand, City Clerk
City of Villa Park

Note: The above minutes are a summary of actions. A DVD recording of this meeting additionally serves as an official record and is available upon request from City Hall.