

MINUTES OF THE CITY COUNCIL

CITY OF VILLA PARK, CALIFORNIA

The City Council of the City of Villa Park met in regular session Tuesday, July 27, 2004 at 7:30 PM in the City Council Chambers, 17855 Santiago Boulevard, Villa Park, California.

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

ROLL CALL:

COUNCILMEMBERS PRESENT:

Patricia Bortle	Mayor
Bill MacAloney	Mayor Pro Tem
Bob Bell	Councilmember
Bob Fauteux	Councilmember

COUNCILMEMBERS ABSENT:

Rich Freschi	Councilmember
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STAFF PRESENT:

George Rodericks	City Manager
Cristina Sundstrom	Deputy City Clerk
Leonard Hampel	City Attorney
Warren Repke	City Engineer

FLAG SALUTE:

Pam Dunn, Hazel Circle, led the flag salute.

INTRODUCTIONS AND PRESENTATIONS:

1. Presentation of Recognition Plaque to Community Emergency Response Team (CERT) Graduate – Don Lamb.

Councilmember Bell presented the newest and fourth CERT graduate, Mr. Donald Lamb, 10211 Robin Hood Circle, with a City tile on which his name was engraved as a CERT graduate, July 27, 2004. A 28-year resident of Villa park, he was present with his family and thanked the Fire Authority for the excellent training he received. He encouraged residents in the television audience to step up to the challenge and help their community in this worthwhile program.

ORAL COMMUNICATIONS:

Pam Dunn, Hazel Circle, gave the Council an update on the clock tower project. She reported that the granite is being fabricated and that the engraving is next. She congratulated three donors: Hart Construction; Herb Gallegly; and Ben's Asphalt. She

noted that there have been many hurdles to overcome so far, including relocation of the Plaza's palm tree twice.

Erik Kuli, 9102 El Rito Drive, spoke on behalf of the Community Services Foundation, Inc. He presented a check to Paula Burton's Celebration U.S.A. for \$1,000. Mrs. Burton thanked the Foundation for their continued support. She stated that her group traveled to Washington, D.C. to participate in their annual Fourth of July Parade and carried a "Celebration America" banner which proudly touted the Villa Park Rotary Club and the City of Villa Park. The Celebration U.S.A. singers also performed in Constitution Hall and at the WWII Memorial dedication.

Erik reminded the public that the Community Services Foundation, Inc. has monthly meetings, open to the public, on the third Monday of each month at 12 noon in the City Council Chambers. He announced that a Villa Park High School student with the most community service hours will be awarded a scholarship from the Foundation next year. A second announcement was that the Halloween Fest will take place this year on Saturday, October 30, 2004.

CONSENT AGENDA:

Mayor Bortle pulled item #2 because she was absent from the Town Hall meeting on June 15, 2004.

It was moved by Councilmember Bell, seconded by Councilmember Fauteux, and carried by the following roll call vote to approve Consent Agenda Items 1, 3, 4, 5 and 6:

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

It was moved by Councilmember Bell, seconded by Mayor Pro Tem MacAloney, and carried by the following roll call vote to approve Consent Agenda Item #2:

AYES:	COUNCILMEMBERS:	Bell, Fauteux, MacAloney
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Freschi
ABSTAIN:	COUNCILMEMBERS:	Bortle

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 Minutes of the Town Hall meeting on June 15, 2004. Approved Action: That the City Council approve the Minutes of the Town Hall meeting on June 15, 2004.
3. Consideration of City Council Minutes of June 22, 2004. Approved Action: That the City Council approve the Minutes of June 22, 2004.

4. Consideration of List of Demands for June 30, 2004. Approved Action: That the City Council approve the List of Demands for June 30, 2004, numbered 1 through 29 in the amount of \$20,166.63.
5. Consideration of List of Demands for July 27, 2004. Approved Action: That the City Council approve the List of Demands for July 27, 2004, numbered 1 through 43 in the amount of \$74,135.43.
6. Consideration of Water Quality Ordinance Implementation Agreement. Approved Action: That the City Council approve Amendment No. 1 to the Water Quality Ordinance Implementation Agreement with the County of Orange.

MATTERS PRESENTED BY COUNCILMEMBERS:

Mayor Pro Tem MacAloney gave an oral report on his helicopter tour with the Orange County Sheriff's personnel. He stated that the Orange County Sheriff's Department operates the quietest helicopters on the market. He encouraged residents to get involved in Neighborhood Watch.

Lt. Chris Visconti, Orange County Chief of Police, commented that the helicopters patrol as low as 2,500 to 3,000 feet in altitude and that they are engineered to be so silent that they are inaudible even at that low altitude. He responded to a question from Councilmember Bell regarding where the helicopters are stationed. He stated that they are stationed at John Wayne Airport.

Mayor Bortle gave an update on the West Nile Virus. She reported that the Orange County Vector Control District no longer wishes to receive requests to pick up dead birds because they have already collected enough to research in their laboratory. Residents are asked to discard dead birds, without touching them, in a plastic bag and throw them in their trash can.

A second announcement was that resident Matthew Miller, as an Eagle Scout project, is installing 16 pet litter collection stations throughout the City.

CITY COMMISSION AND COMMITTEE REPORTS OR REFERRALS:

Councilmember Fauteux gave an update on the Groundwater Replenishment plant that will be started in September, 2004 with a groundbreaking celebration. **Mayor Bortle** added that she learned at an Orange County Sanitation District meeting that Orange County was able to secure \$80 million federal dollars, thanks to the House of Representatives, out of a total project cost of \$500 million to complete the Groundwater Replenishment plant by the year 2007. It is expected to provide water to about 144,000 Orange County households. She will be attending a 91 Corridor Project meeting with the Project Manager in early August. She extended an invitation to all Councilmembers interested in accompanying her to this meeting.

Councilmember Fauteux further reported that he attended an OCTA meeting to discuss the Route 91 Corridor Project. He stated that OCTA and Riverside

Transportation Authority set up a multi-agency task force to conduct a study to relieve the congestion. He cautioned that any solution will be costly.

Mayor Pro Tem MacAloney questioned Councilmember Fauteux about the possibility of the toll road opening for traffic flowing west to east on the 91 freeway.

Councilmember Fauteux stated that within ten years maximum the 91, 60 and the 10 freeways will be at an impasse.

The third item discussed by **Councilmember Fauteux** was his attendance at the annual CJPIA meeting (California Joint Powers Insurance Authority). City coverage of worker's compensation and liability insurance has been met by JPIA for more than twenty years.

Councilmember Bell spoke about his recent tour of the new Orange County Fire Authority's new facility located on Jamboree. He and his wife Charlotte attended a barbecue dinner there in July.

ITEMS FOR CONSIDERATION: None.

PUBLIC HEARINGS:

1. Continued Consideration of Resolution No. 2004-2760, Prado-Huntington Preferential Parking District.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that Ordinance No. 91-391 was established by the City Council to address on-street parking issues that substantially reduce or impair parking within a residential neighborhood for an extended period of time.

The City Council may, upon recommendation of the City Manager, consider the designation of a Preferential Parking District for those areas satisfying specific criteria.

This item was continued from the June 22, 2004 City Council meeting. The City Liaison Committee is coordinating a meeting with the Orange Unified School District to discuss the issues. This meeting has not yet been held.

Portions of Prado Woods Drive and Huntington Circle are inundated with parking associated with Villa Park High School during school activities and events and during every day attendance.

All of the affected residents submitted a signed request, in compliance with the Ordinance, asking that their street be designated as a Preferential Parking District.

Establishment of the Preferential Parking District was properly noticed pursuant to Ordinance 91-391. Letters have been sent to all residents on the affected streets notifying them of the Public Hearing concerning the issue.

It is recommended that the City Council conduct a Public Hearing, and if appropriate, adopt Resolution No. 2004-2760, a Resolution of the City Council of the City

of Villa Park, establishing a Preferential Parking District on Huntington Circle and portions of Prado Woods Drive and establishing parking restrictions within said District.

Councilmember Bell stated that the City Liaison Committee is ready to meet first with Orange Unified School District before voting on the issue. He sees no problem with the parking situation in the Prado-Huntington neighborhood as it exists currently. He believes that if parking is restricted it will only get pushed further west and bother other residents.

Mayor Pro Tem MacAloney reported that a resident approached him before the meeting about this issue because she could not stay to speak. She did not believe that there was a reason to create a Preferential Parking District.

It was moved by Councilmember Bell, seconded by Mayor Pro Tem MacAloney, and carried by the following roll call vote to continue the Public Hearing to the August 24, 2004 City Council meeting:

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

2. Consideration of Resolution No. 2004-2773 Setting Forth Weed Abatement Charges to be Assessed to Property Listed Herein – Weed Abatement – Spring 2004.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the City has an annual weed abatement program whereby residents are contacted and requested to abate their weeds by a particular date, at which time the Street Superintendent goes by the properties and checks to make sure that the work has been done. If staff receives no response and/or the property does not check out by the date given in the notice sent to the property owner, the City orders the work done and then the property owner pays the charge via their property tax roll.

For the Spring 2004 weed abatement season, there was only one property, located at 9782 Crestview Circle, which did not comply by the date indicated on the notice since she did not receive notification via "certified mail". The notice was sent "certified mail" to the property owner of record on the 2003 tax roll list, which is updated once a year in the month of June. Two owners of record for parcel number 372-472-18 were listed: Patrick J. O'Brien and Richard R. Hartman. The letter was sent certified to both names and as such the second owner listed could not sign for it so it was returned to the sender (City). Mr. O'Brien sold the property to Richard and Eva Hartman some time around the beginning of 2004. Due to miscommunication between the property owner's daughter, who is living on the premises and managing the house for her parents, and staff, the property was abated before she had a chance to hire the work out to her gardener. Ms. Wyszowski-Burela indicated that she called the City and spoke to a staff member and a message was suppose to be relayed to the Street Superintendent not to have the property abated because she wanted to hire her gardener to do it. Unfortunately, the City moved too quickly and had a tree service clear her hillside. An invoice was sent to

her subsequently for the abatement charge of \$700 and for 34% administrative fee for a total bill of \$910.

It was recommended by City Manager Rodericks that the City waive the overhead charge of \$210 and split the cost of \$700 reflected on the invoice from B&J Tree Service. This amounts to a total cost to the property owners of \$350.

Ms. Joanna Wyszowski-Burela, 9782 Crestview Circle, provided a letter to the City Manager and City Councilmembers explaining her side of the story. She stated that she was willing to accept the City Manager Rodericks' offer to pay one-half the abatement charge (\$350) and to waive the overhead charge of \$210. She wanted to let the Council know that the same amount of work that was done by B&J Tree Service in 2003 was \$200 less than the 2004 invoice of \$700. She expressed her concern about the increase in cost to the City and asked that the Council look into other contractors in the future. She reported that her gardener did five times the clearing on a next-door property for the same price that B&J Tree Service cleared her property this year.

Councilmember Bell stated that it was a question of notification and that he is aware of the fact that the property tax rolls are issued once a year and that properties change hands frequently throughout the year. As such, it might be helpful for staff to telephone a title company to verify the name of property owners before sending out the annual weed abatement notices.

City Manager Rodericks commented that the City usually sends out between twenty and thirty notices annually and that this might be time-consuming to accomplish and often title companies charge for the information.

Mayor Pro Tem MacAloney asked City Manager Rodericks whether this miscommunication was a one-time situation and then pointed out that the City is interested in keeping property values up and thus weed abatement and property maintenance in general is important to accomplish this.

Mayor Bortle closed the Public Hearing.

It was moved by Mayor Pro Tem MacAloney, seconded by Councilmember Bell, and carried by the following roll call vote to adopt Resolution No. 2004-2773, a Resolution of the City Council of the City of Villa Park setting forth weed abatement charges to be assessed to the property if not paid directly to the City in 2004 listed at the location of 9782 Crestview Circle, in the amount of \$350 – Weed Abatement – Spring 2004:

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

3. Consideration of Declaration of a Public Nuisance at 19409 Mesa Drive.

Mayor Bortle opened the Public Hearing.

City Manager Rodericks reported that the City has been involved with the property and property owner(s) at 19409 Mesa Drive since the residence began construction several years ago. The City has made numerous attempts to contact the property owner to bring the property into compliance.

The property is maintained in violation of the various sections of the Villa Park Municipal Code. Corrections necessary on the property are outlined on a memorandum from City Engineer Repke. The property owner has been notified of all actions necessary to bring the property into compliance.

Section 6-1.7 of the Villa Park Municipal Code provides for a process for the City Council to conduct a public hearing to determine whether such conditions constitute a public nuisance. If the City Council determines that a public nuisance condition exists on the property, abatement is appropriate under the power and authority of the City. The property has been properly posted and noticed pursuant to Section 6-1.8 of the Villa Park Municipal Code.

The City also has other alternatives to force the property owner to bring the property into compliance. These alternatives will be outlined by the City Attorney.

If it becomes necessary for the City to order the abatement, the full costs, including administrative costs, constitute a special assessment against the property.

It is recommended that the City Council conduct a Public Hearing and, if appropriate, proceed with a selected alternative for bringing the property into compliance.

City Engineer Repke reported that an inspection of the property was made on July 17, 2004 to determine the items remaining to be completed to bring the property into compliance with City Codes. The following is the result of that inspection.

- The protection grate has been installed. This item is cleared.
- The sewer manhole has not been relocated or an easement obtained from the property at 19411 Mesa Drive. A draft easement document was received on July 15, 2004. However, it does not take into account the possible future extension of the sewer to the southeast. Additional new easement will be required to allow the extended sewer to get back to the existing easement located on the 19409 Mesa Drive property.
- The sewer easement deed over the property at 19316 Canyon Drive has not been submitted.

The results of the grading inspection are as follows:

- Due to the many site revisions, an updated grading plan is required to show the "as-built" condition as well as how grading and drainage will be addressed in the areas noted below. A plan must be submitted for review along with plan check fees of \$500 per sheet.
- Drainage on the northwest corner of the site must be addressed. Off-site runoff will enter the property and be directed toward the adjacent property to the north. This situation must be corrected and the drainage must be controlled. The slope must be covered with an erosion control material and also planted with ground

- cover. The runoff from the concrete walkway must be controlled so it does not drain onto the slope. The grading plans must show how these items are to be accomplished.
- The grading, drainage system and landscaping must be completed along the northerly portion of the property (terraced areas). This must show on the grading plan.
 - The entire drainage system along the easterly side of the property must be completed. All runoff from the site must be controlled on the site and discharged to the storm drain. The area that was graded on the property at 19411 Mesa Drive is incomplete. Drainage from the site is not permitted to drain on the slope. The slope must not exceed 2 to 1 and drainage must be properly controlled. Due to the height of the slope a terrace drain may be required. The slope must be covered with an erosion control material and planted. All these elements must show on the grading plan. Since some of the grading occurred off-site on the adjacent property, a letter from the property owner approving the grading must be submitted prior to approval of the grading plan.
 - The grading plan must show the drainage system that was installed along the southerly property line and where it discharges.
 - A certification from a soils engineer regarding compaction of the slopes and fill areas is required.
 - Upon approval of the grading plan and completion of the work, a final grading inspection will be made.
 - The access driveway has been completed. This item is cleared.
 - Due to the walls and hardscape constructed over the existing City sewer easement, an Encroachment Agreement will be required to be signed by the owner. The City will prepare the agreement and send it to the owner for his signature. A \$250 processing fee is required.
 - All accumulated grading inspection and site processing fees must be paid.
 - An Encroachment Agreement must be completed for the sewer easement.

Additionally, City Engineer Repke reported that he received a grading plan today, July 27, 2004, from a representative of the owner. He did not have time to study it so he could not say whether it adequately addresses the issues mentioned above. Also, an unsigned copy of an additional sewer easement was brought into City Hall.

City Attorney Hampel addressed the Council stating that he sent an initial enforcement letter to the property owner, Joe Wells, on May 3, 2004 which threatened legal action. Some work was done (delivery was completed). A follow-up letter was sent to Mr. Wells on June 4, 2004 advising him that he was in violation of the grading ordinance, which is technically a misdemeanor.

City Attorney Hampel stated that it would be advisable to not go through another rainy season without completing the grading on this project. He explained that the Council has three options, of which options 1 and 2 require filing a lawsuit: 1. Criminal charges; 2. Civil action for a Public Nuisance; and 3. Public Nuisance Statute (in which the City Council acts as a legislative body).

Public testimony was given by Mr. Wells' contractor, John Tharp, of Anaheim. He asked the Council for thirty days from the date he and City Engineer Repke finalize the grading plan. He stated that he wants to finish this project.

Mr. Joe Wells, 19409 Mesa Drive, addressed the Council about his intention to sell the house during a brief five months that he vacated it and when he returned to his residence he decided to hold on to the property and work on the problems. He stated that he had posted a \$10,000 bond and would like to resolve the outstanding issues and to attempt to do so within thirty days. He explained that when he acquired the property there had been communications between the previous owner and his neighbors to which he was not privy.

City Attorney Hampel stated that the City's responsibility is to make sure the grading plan is updated and approved by the City Engineer and so implemented. As to the easement issues, Mr. Wells needing a sewer easement is a private matter. He will need to negotiate this matter with his neighbor. Apparently Mr. Wells' sewer is currently located on a neighboring property.

City Engineer Repke stated that there was never a grading plan received by the City that showed the impact of the building improvements on drainage.

Mayor Pro Tem MacAloney asked that Mr. Wells please clarify how long ago the building started on his property. It was confirmed that construction first began in July of 2000.

Councilmember Fauteux made his concerns known about the upcoming rainy season. He surmised that if Mr. Wells could get the work completed within ninety days, then he would just miss the rainy season.

City Engineer Repke agreed with Councilmember Fauteux that the work could be completed in ninety days.

Further public testimony was received by several neighbors.

James Hack, 19411 Mesa Drive, addressed the Council about the fact that the project was initiated in 2000 without the owner knowing the property boundaries. The previous owner crossed his property with a water line, which he approved. He also consented to access to the storm drain and he resolved issues relating to construction of the sewer line. The certificate of occupancy was granted in April, 2003 and an agreement was signed by three or four of the surrounding neighbors.

He stated that drainage and grading problems due to storm drain construction and slope construction and erosion control are what impact his property. A sewer manhole was placed on his property by mistake, without an easement, and he would like it relocated.

Norbert Schalk, 19401 Mesa Drive, addressed the Council stating that Mr. Wells did not create all these problems, and that the builders did. He has had to endure a lot over the last four years since construction first started. Construction workers have trespassed on his property, etc. He urged the Council to resolve the issues with Mr. Wells in a timely manner.

Mary Calderwood, Yorba Linda, spoke on behalf of her parent who resides at 19312 Canyon Drive. Her father, Robert Calderwood, passed away recently. He had been in constant communication with City Engineer Repke regarding his concerns about the non-landscaped slope and what erosion would occur during the rainy season. Mrs. Calderwood stated that her mother's fence was already damaged from the erosion and

that she would appreciate the City revisiting her father's reports to Mr. Repke and taking some action to resolve the grading problem.

Larry Hack, son of James Hack, 19411 Mesa Drive, addressed the Council about the fact that the construction workers on Mr. Wells' property do not have a Port-a-Potty and have been urinating on the lot. Also he was concerned about the soil compaction being outstanding which results in dirt rolling over the hillside.

Jack Chorebagian, 19316 Canyon Drive, expressed his strong disappointment that this project has been allowed to continue for four years. He has had to put up with rodents and coyotes and looking at plastic sheathing. He has not signed an easement since he is owed \$1,300 from the contractor, John Tharp. He refuses to sign the easement agreement until Mr. Tharp settles up with him.

Mr. Tharp explained to the Council that he is committed to finishing the project in a timely manner and that the drainage situation is not putting any of the neighbors' properties in jeopardy.

It was moved by Councilmember Fauteux, seconded by Councilmember Bell, and carried by the following roll call vote for the following: (1) The City Engineer and the City Manager will prepare a report on the grading plan and bring that back to the Council thirty (30) days hence; (2) The Public Hearing is continued to the August 24, 2004 City Council meeting; and (3) The property owner will be present and his representation at the August 24, 2004 City Council meeting; and (4) The City Engineer will make a recommendation for any special monitoring costs of project construction and completion of project construction charged to the owner:

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

STAFF REPORTS:

City Manager: No report.

City Attorney: No report.

City Clerk: No report.

City Engineer: No report.

OTHER BUSINESS:

Mayor Pro Tem MacAloney discussed the surveys that were sent out to all residents in the July edition of the City newsletter. He encouraged all residents to take a few minutes to read it and fill it out. The City received about 135 completed surveys and the last date to turn them in to City Hall is July 31, 2004.

Mayor Bortle encouraged people from the community to file nomination papers for the position of City Councilmember by the August 6, 2004 deadline.

ORAL COMMUNICATIONS:

James Hack, 19411 Mesa Drive, informed the Council that the Port-a-Potty was removed from Mr. Wells' construction site last week, while construction is on-going. City Manager Rodericks assured him that staff would make sure it was replaced.

Regarding West Nile Virus, he stated that the drainage ditch that runs behind his property and connects to the storm drain is open, as discussed earlier in the Public Hearing, and that mosquitoes might be present because the run-off causes water to drain into the storm drain which is a possible source for stagnant water.

ORDINANCES:

1. Consideration of Second Reading and Adoption of Ordinance No. 2004-507 Prescribing and Levying Charges For Maintenance of a Sewage Pumping Station For Fiscal Year 2004-05 Approving and Adopting Report and Providing for Collection of Charges On the Tax Roll - Tracts 10523 and 13204.

It is recommended that the City Council approve the Second Reading and adopt Ordinance No. 2003-496 prescribing and levying charges for maintenance of a sewage pumping station for Fiscal Year 2003-04, approving and adopting the report and providing for collection of charges on the tax roll – Tracts 10523 and 13204.

It was moved by Councilmember Fauteux, seconded by Councilmember Bell, and carried by the following roll call vote to approve the Second Reading and adopt Ordinance No. 2004-507 prescribing and levying charges for maintenance of a sewage pumping station for Fiscal Year 2004-05, approving and adopting the report and providing for collection of charges on the tax roll – Tracts 10523 and 13204:

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

RESOLUTIONS: None.

ADJOURNMENT:

It was moved by Mayor Bortle and carried unanimously to adjourn the meeting at 9:45 PM.

Patricia L. Bortle, Mayor
City of Villa Park

ATTEST:

George J. Rodericks, City Clerk
City of Villa Park