

MINUTES OF THE CITY COUNCIL

CITY OF VILLA PARK, CALIFORNIA

The City Council of the City of Villa Park met in regular session Tuesday, December 20, 2005 at 7:30 PM in the City Council Chambers, 17855 Santiago Boulevard, Villa Park, California.

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

ROLL CALL:

COUNCILMEMBERS PRESENT:

Rich Freschi	Mayor
Patricia Bortle	Mayor Pro Tem
Bob Bell	Councilmember
Bob Fauteux	Councilmember
Rich Ulmer	Councilmember

STAFF PRESENT:

Ken Domer	City Manager
Cristina Sundstrom	Deputy City Clerk
Leonard Hampel	City Attorney
Warren Repke	City Engineer
Nancy Desai	Finance/Administrative Manager

FLAG SALUTE:

Kim Fujita, sixth-grader from Serrano Elementary School, led the flag salute.

CITY COUNCIL REORGANIZATION:

Election of Mayor and Mayor Pro Tem by the City Council.

Mayor Freschi declared the Offices of Mayor and Mayor Pro Tem vacant. City Manager/City Clerk Domer conducted the election among the Council for Mayor.

City Manager/City Clerk Domer opened nominations for Mayor.

Councilmember Bell nominated Councilmember Fauteux.

The following roll call vote was taken for Councilmember Fauteux as Mayor:

AYES:	COUNCILMEMBERS:	Bell, Fauteux
NOES:	COUNCILMEMBERS:	Ulmer, Bortle, Freschi

ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None

Councilmember Ulmer nominated Mayor Pro Tem Bortle.

The following roll call vote was taken for Mayor Pro Tem Bortle as Mayor:

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

Hearing no further nominations, nominations for Mayor were closed.

City Manager/City Clerk Domer declared Mayor Pro Tem Bortle as the newly elected Mayor.

Mayor Bortle opened nominations for Mayor Pro Tem.

Councilmember Fauteux nominated Councilmember Bell.

The following roll call vote was taken for Councilmember Bell as Mayor Pro Tem:

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

Councilmember Freschi nominated Councilmember Ulmer.

The following roll call vote was taken for Councilmember Ulmer as Mayor Pro Tem:

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

Hearing no further nominations, nominations for Mayor Pro Tem were closed.

Mayor Bortle declared Councilmember Ulmer as the newly elected Mayor Pro Tem.

INTRODUCTIONS AND PRESENTATIONS

1. Presentation of Commendation for Outstanding Academic Achievement to Justin Woo, a Senior at Villa Park High School.

Mayor Bortle presented Justin Woo with a certificate of academic achievement, a City pin, and a certificate for First Class Pizza. She congratulated him and his parents, who joined them for a photograph. Justin thanked his parents for all their support.

2. Presentation of Plaque in Recognition of Marty Colleary and His Restaurant, Rockwell's Café.

Councilmember Freschi presented a plaque to Marty Colleary in recognition of his 19 years of doing business in the Towne Center. He is leaving Villa Park next month. He asked that the community support the new owners of Rockwell's Café, Robbie and Lori Cowle. Councilmember Freschi thanked him for all the donations he has made to various groups over the years.

3. Presentation of Proclamation to Captain Jeff Taylor for Recipient of Orange County Fire Authority's Battalion 3 Overall Department Career Firefighter of the Year Award.

Mayor Bortle presented a Proclamation to Captain Jeff Taylor announcing his OCFA award. He introduced his wife and three children to the Council.

4. Presentation of City Plaque to Robert Deiro for Recipient of Orange County Fire Authority's Battalion 3 Overall Department Volunteer Firefighter of the Year.

Councilmember Bell presented a City plaque to Volunteer Robert Deiro and introduced his wife, Tamara, and their two sons. He is a 17- year veteran volunteer firefighter for Station No. 23.

5. Presentation of Proclamation and Plaque to Battalion Chief Stanley Matthews in Recognition of His Thirty-Seven Years of Service to Orange County, to the Orange County Fire Authority and Acknowledgement of His Retirement.

6. Councilmember Bell presented a Proclamation and City plaque to retiring Battalion Chief Stanley Matthews. He was joined by his wife, Judy.

APPOINTMENTS

1. Villa Park Community Services Foundation, Inc. Board of Directors Appointments.

It was moved by Councilmember Freschi, seconded by Mayor Bortle, and carried by the following roll call vote to receive the recommendation of the Villa Park Foundation Board of Directors and re-appoint Robert Hunter and John Fader, and appoint Jeff Barens, Rondi Walsh, and Nicholaas Versteeg to serve on the Villa Park Foundation Board for a two-year (2) term, effective January 1, 2006:

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

2. Orange County Vector Control District – City Representative

City Manager Domer explained that former resident Bill Oliva moved out of Villa Park recently and will no longer be eligible to serve as the City's representative on the Orange County Vector Control District Board.

It was moved by Mayor Bortle, seconded by Mayor Pro Tem Ulmer, and carried by the following roll call vote to appoint Councilmember Fauteux to serve as the City's representative on the Orange County Vector Control District Board and thereby to serve out the unexpired term of Bill Oliva through 2007:

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

ORAL COMMUNICATIONS

1. Representative of the Villa Park Community Services Foundation, Inc.

City Manager Domer announced the upcoming New Year's Eve Gala at Towne Center from 8 p.m. to 1 a.m., which will benefit the Villa Park Community Services Foundation, Inc. He stated that the week after Christmas, when City Hall is closed, residents may drop their checks off into the mail slot to reserve space for the Gala. He will be checking the box throughout the week to retrieve the reservations. Tickets cost \$100 per member and \$130 per non-member.

Mayor Bortle asked City Manager Domer to state the changes to the Agenda. He stated that Ordinances #1 and #2 listed under the Ordinances section will be continued to the January 24, 2006 City Council meeting so that they can be listed properly under the Public Hearings section of the Agenda. Also, he stated that item #6 on the Consent Agenda would be pulled for discussion.

CONSENT AGENDA

1. Consideration to Waive Reading in Full of All Ordinances on the Agenda. Approved Action: That the City Council waive reading in full of all ordinances on the Agenda.
2. Consideration of City Council Minutes of November 15, 2005. Approved Action: That the City Council approve the Minutes of November 15, 2005.
3. Consideration of List of Demands for November 30, 2005. Approved Action: That the City Council approve the List of Demands for November 30, 2005, numbered 1 through 33 in the amount of \$27,475.38.
4. Consideration of List of Demands for December 20, 2005. Approved Action: That the City Council approve the List of Demands for December 20, 2005, numbered 1 through 34 in the amount of \$254,724.62.
5. Consideration of FY 2004-05 Annual Financial and Management Letter. Approved Action: That the City Council receive and file the FY 2004-05 Annual Financial and Management Letter.

6. Consideration of Street Easement Deeds For Residents Iving at 18921, 18941, and 18981 Valley Drive. Approved Action: That the City Council accept street easement deeds for 5 feet additional right-of-way at 18921, 18941, and 18981 Valley Drive.
7. Consideration of 2006 Calendar City Council Meeting. Approved Action: That the City Council approve the 2006 schedule of City Council meetings, exclusive of Town Hall or other Study Sessions scheduled during the year.
8. Consideration of Cooperative Projects Program Agreement No. 0416 Between Orange County Sanitation District (OCSD) and The City of Villa Park. Approved Action: That the City Council approve Amendment No. 1 to Cooperative Projects Program Contract No. 0416 with the Orange County Sanitation District and authorize the Mayor to sign.
9. Consideration of Orange County Sanitation District (OCSD) Cooperative Agreement for Fats, Oils, and Grease (FOG) Inspection Services. Approved Action: That the City Council approve the Agreement for FOG Inspection Services with the Orange County Sanitation District and authorize the mayor to sign.

Consent Agenda item # 5 was pulled by Councilmember Fauteux.

It was moved by Councilmember Bell, seconded by Councilmember Freschi, and carried by the following roll call vote to approve Consent Agenda items #1, 2, 3, 4, 7, 8, and 9:

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

It was moved by Councilmember Fauteux, seconded by Councilmember Bell, and carried by the following roll call vote to approve Consent Agenda item #5:

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

It was moved by Councilmember Bell, seconded by Councilmember Freschi, and carried by the following roll call vote to approve Consent Agenda item #6 excluding 18981 Valley Drive, which has not yet been received by the City Engineer:

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

MATTERS PRESENTED BY COUNCILMEMBERS

None.

CITY COMMISSION AND COMMITTEE REPORTS OR REFERRAL

City Manager Domer reported that the Finance Committee (Ulmer/Fauteux) met last week to discuss landscape maintenance workers and better enforcement and adherence to the business license regulations. They discussed the cost factors associated with actively seeking assistance of residents to get their gardeners to pay for business licenses. On the City's web site a request has been posted to direct landscapers to City Hall to fill out an application for a Business License. He stated that the Committee estimated that there are approximately 200 to 300 landscapers doing business here. The City's annual license fee is \$50.00. Cities of Orange and Tustin charge \$81.00 for such an annual business license.

Councilmember Fauteux stated that larger cities, such as Orange, pay staff to enforce the licenses. In his opinion, Villa Park needs to make do with what resources we have.

Mayor Pro Tem Ulmer stated that he would like to increase the residents' awareness during the month of January and see if residents can assist in getting landscapers to pay for business licenses.

Councilmember Fauteux stated that it is not an easy fix and that it must be phased in gradually.

In order to get the word out, the web site, City newsletter, and the E-Network will be used to accomplish this. Eventually, the City may wish to hire a parking control officer on street sweeping days who could help enforce business licensing of landscape maintenance workers.

ITEMS FOR CONSIDERATION

1. Consideration of Resolution No. 2005-2853, a Resolution of the City Council of the City of Villa Park, California That The Orange County Transportation Authority (OCTA) Study All Feasible Options to Facilitate Traffic Flows to and From Central and South Orange County Destinations.

Councilmember Fauteux introduced this Resolution in order to emphasize the appropriate stance for Villa Park vis-à-vis the OCTA Study. He stated that he thinks the northern Orange County cities need to get behind the tunnel issue and form a solid bond.

It was moved by Councilmember Freschi, seconded by Councilmember Bell, and carried by the following roll call vote to adopt Resolution No. 2005-2853, a Resolution of the City Council of the City of Villa Park that the Orange County Transportation Authority (OCTA) study all feasible options to facilitate traffic flow to and from Central and South Orange County destinations:

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

2. Project Management Services for City Hall Build-Out.

City Manager Domer reported that the City is utilizing the services of our contracted City Engineer, Norris-Repke, for the build-out of City Hall for the expansion of the Villa Park Community Access Television Corporation cable studio and Villa Park Library. The utilization of Norris-Repke provides the City with an in-house and professional project management service

to complete the project. Norris-Repke has conducted some preliminary work on the build-out, per previous Council action, and will finalize the plans and specifications as well as oversee the construction.

City Manager Domer explained that once the initial phase of the project is complete, the specifications will be brought back to the Council in March. The tentative schedule for this project is for it to be completed by August, 2006.

It was moved by Councilmember Freschi, seconded by Councilmember Fauteux, and carried by the following roll call vote to approve the Project Management Services Agreement with Norris Repke for an amount not to exceed \$19,500:

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

Mayor Bortle commented that Measure M will be up for extension in 2006 and that, as a Super Measure M Committee member, she believes it is necessary to support this measure in order to study the tunnel idea.

PUBLIC HEARINGS

1. Consideration of Conditional Use Permit No. 0636 (Location: 9661 Janice Circle; Applicants: Brad and Lorraine Etter).

Mayor Bortle opened the Public Hearing.

City Manager Domer reported that the applicants are constructing a new single family residence in place of a current residence. The applicant requires Conditional Use Permits for a maximum roof ridgeline height of 32 feet; a five car garage (two, two car garage doors and a separate garage door for recreational vehicle parking), and to exceed the 24% lot coverage ratio for a new ratio of 25%.

Councilmember Bell pointed out and asked for clarification of the lot size noted on the project plans as 20,884 square feet. The staff report mistakenly stated the square footage as 29,884 square feet and the correct figure is 20,884.

Councilmember Freschi asked the applicant, Brad Etter, if the garage would accommodate an R.V. He responded that the doors would be 14 feet tall, of which the top 3 feet would be glass.

Mayor Bortle commented that there are no windows on the second floor above 25 feet and that this project should not take away privacy from the neighbors.

Councilmember Bell remarked that the limitation of 24% lot coverage ratio is a good rule and that even though the request for this application is only 1% above that, he does not feel this is a positive direction for the City to be going in. Further, he stated that if residents cannot live within their means, then the rule should be changed.

Councilmember Freschi was asked about the drainage ditch behind the applicant's house. He asked if he had changed the flow of water to the detriment of residents down stream.

Mr. Etter responded that he has put in two berms and some temporary drains.

Mayor Bortle closed the Public Hearing.

It was moved by Councilmember Bell, seconded by Councilmember Freschi, and carried by the following roll call vote to adopt Resolution No. 2005-2855, a Resolution of the City Council of the City of Villa Park approving Conditional Use Permit No. 0636, request to exceed roof height for a new roof ridgeline height maximum of 32 feet; lot coverage not to exceed 25%; and construction of a five-car (5) garage (Location: 9661 Janice Circle; Applicants: Brad and Lorraine Etter):

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

STAFF REPORTS

City Manager:

1. Sewer Fee Update.

City Manager Domer reported that notices were mailed to the entire City on December 9, 2005 informing the public of the first Public Hearing on January 24, 2006 to discuss the possible implementation of a sewer service user charge.

City Manager Domer stated that Taormina (Villa Park Disposal) will be doing the quarterly billing.

Councilmember Fauteux stated that service fees are not tax deductible, according to Federal Code.

Councilmember Freschi stated that a "user fee" is in a different category than a tax and that septic tanks are not subject to a fee.

City Attorney Hampel stated that under Proposition 218 this proposed sewer charge is considered a real property user fee. A future court could view it as a tax, but for now sewer fees are exempt from election.

City Attorney:

1. Consideration of Resolution No. 2005-2851, a Resolution of the City Council of the City of Villa Park Rejecting and Denying Without Prejudice One or More FCC Forms 394

Relating to the Transfer of the Cable Television Franchise, And/Or Control Thereof, To An Entity Controlled by Time Warner, Inc. or Comcast Cable Communications, Inc.

City Attorney Hampel reported that he received a letter from Time Warner requesting an extension of time so the proposed Resolution, 2005-2851, can be continued to January 24, 2006.

City Attorney Hampel stated that there will be a Public Hearing on the January 24, 2006 City Council meeting Agenda to determine if there is a need for a view ordinance.

City Engineer:

1. Extension of Time For Variance Permit No. 0602, Tentative Tract No. 16783; Applicant: Leonard Savala. Consideration of Resolution No. 2005-2854, a Resolution of the City Council of the City of Villa Park, California Authorizing Extension of Time for Variance Permit No. 0602, Tentative Tract No. 16783 (Applicant: Leonard Savala).

City Engineer Repke clarified that the extension is only for the Variance Permit, not for the recording of the Tract map, which is still granted in two years.

It was moved by Councilmember Freschi, seconded by Mayor Pro Tem Ulmer, and carried by the following roll call vote to adopt Resolution No. 2005-2854, a Resolution of the City Council of the City of Villa Park, California approving the renewal of Variance Permit No. 0602 for a period of one year:

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

City Engineer Repke commented that currently videoed sewer assessments are being conducted throughout the City now through the month of January, 2006.

OTHER BUSINESS

Mayor Bortle thanked Councilmember Freschi for his service as Mayor in 2004-05.

ORAL COMMUNICATIONS

None.

ORDINANCES

1. Consideration of First Reading of Ordinance No. 2005-514 Amending Article 23 of Chapter XXIII of the Villa Park Municipal Code Relating to Second Dwelling Units.

City Attorney Hampel explained that consideration of this Ordinance would have to be continued to January 24, 2006 for a First Reading since it was not agendized as a Public Hearing.

Its introduction on December 20, 2005 was published in the Orange County Register, however.

It was moved by Councilmember Freschi, seconded by Councilmember Bell, and carried by the following roll call vote to continue consideration of Ordinance No. 2005-514 to the January 24, 2006 City Council meeting:

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

2. Consideration of First Reading of Ordinance No. 2005-515, an Ordinance of the City Council of the City of Villa Park, California Adding Article 23-23 to Chapter XXIII of the Villa Park Municipal Code Relating to Site Plan Review.

City Attorney Hampel explained that consideration of this Ordinance would have to be continued to January 24, 2006 for a First Reading since it was not agendized as a Public Hearing. Its introduction on December 20, 2005 was published in the Orange County Register, however.

It was moved by Councilmember Freschi, seconded by Councilmember Bell, and carried by the following roll call vote to continue consideration of Ordinance No. 2005-515 to the January 24, 2006 City Council meeting:

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

3. Consideration of First Reading of Ordinance No. 2005-516, an Ordinance of the City Council of the City of Villa Park, California Amending Article 19-16 to the Villa Park Municipal Code Relating to Turn Limitations.

After some discussion, the Council agreed to change the hours prohibiting left and right turns from Cannon to Loma from 6:30 to 8:00 A.M., Monday-Friday.

Public testimony was given by Birgit Miller, 19421 Mesa Drive, who told the Council that she was concerned about the left turn prohibition. She travels left from Cannon Street to Loma, but she believes left turns from Serrano to Cannon Street are more impacted. She believes that the majority of people traveling left from Cannon Street to Loma are residents who should not be subjected to this Ordinance. She would like the Deputies to focus on prohibiting right turns on Loma.

It was moved by Councilmember Freschi, seconded by Mayor Pro Tem Ulmer, and carried by the following roll call vote to approve the First Reading of Ordinance No. 2005-516, an Ordinance of the City Council of the City of Villa Park, California Amending Article 19-16 to the Villa Park Municipal Code Relating to Turn Limitations with the change of hours to 6:30 to 8:00 A.M., Monday – Friday:

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

RESOLUTIONS

None.

Mayor Bortle adjourned the meeting at 9:20 P.M. to Closed Session.

CLOSED SESSION

1. Conference with Legal Counsel Re: Anticipated Litigation/Decision to Initiate Litigation Involving Cannon Street Wall of Slope Failures, Govt. Code Section 54956.9[c].

The meeting reconvened at 9:40 P.M. City Attorney Hampel made the following statement regarding Closed Session discussions:

“The City Council has authorized, through a Closed Session, for the City Attorney and the City Manager to enter into a tolling agreement with the following parties: Hillcrest Contracting, Inc.; Petra Geotechnical, Inc.; and, Norris-Repke, Inc., tolling the statutes of limitations that may or may not apply to the failure of the Cannon Street Wall, in order to give the City of Villa Park the opportunity to appeal the denial of funding through FEMA and the Governor’s Office of Emergency Services. Furthermore, only if the three parties described prior do not sign, or refuse to sign the tolling agreement, the City of Villa Park has authorized the City Attorney to commence litigation against the above parties prior to January 11/12, 2006.”

ADJOURNMENT

It was moved by Mayor Bortle and carried unanimously to adjourn the meeting at 9:42 P.M. to the next regular session of the City Council on January 24, 2006 at 7:30 P.M.

Patricia L. Bortle, Mayor
City of Villa Park

ATTEST:

Kenneth A. Domer, City Clerk
City of Villa Park