

**MINUTES OF THE CITY COUNCIL
OF THE CITY OF FONTANA
REGULAR MEETING
SEPTEMBER 9, 2008**

A workshop meeting of the Fontana City Council was held on Tuesday, September 9, 2008 in the City of Fontana Executive Conference Room, 8353 Sierra Avenue, Fontana, CA. Council Member Roberts opened the meeting at 5:04 p.m.

ROLL CALL: Present: Mayor Pro Tem Warren (arrived at 5:29 p.m.), ROLL CALL
Council Members Roberts, Rutherford,
and Scialdone.

Absent: Mayor Nuaimi.

A presentation was given by Christian Nelson, Gerald Wilson, Brian Thorson, and Genie Sanders, of Southern California Edison.

Following agenda review and City Manager comments, the meeting adjourned to a Closed Session at 6:05 p.m.

The Regular Meeting of the City of Fontana City Council was held on Tuesday, September 9, 2008 in the City of Fontana Council Chambers, 8353 Sierra Avenue, Fontana, CA. Mayor Nuaimi called the meeting to order at 7:08 p.m.

ROLL CALL: Present: Mayor Nuaimi, Mayor Pro Tem Warren ROLL CALL
Council Members Roberts, Rutherford,
and Scialdone.

Absent: None.

Following the Invocation by Pastor Enrique Mulgado, of Pilgrim's Progress, the Pledge of Allegiance was led by Boy Scout Troop 2000.

The City Attorney reported the following items were discussed in the C S
Closed Session:

CONFERENCE WITH LEGAL COUNCEL – ANTICIPATED LITIGATION:
Significant exposure to litigation pursuant to subdivision (b) of Section
54956.9: One (1) case

CONFERENCE WITH LEGAL COUNCEL – ANTICIPATED LITIGATION:
Significant exposure to litigation pursuant to subdivision (b) of Section
54956.9: Claim #2007-02, Zackery Brewer

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CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a):
City of Fontana, a Municipal Corporation vs. Henry Wilson, et al. –
Case No. SCVSS 135346.

There was no reportable action.

The following Special Presentations were made:

S P

Mayor and City Council presented a proclamation on National Preparedness Month – “Be a Survivor – Get Ready Now”, accepted by Chief Rod Jones and Laura Wolbert.

“BE A SURVIVOR-GET READY NOW”

Mayor and City Council recognized the Fontana Aquatics Club 2008 Junior Olympic Team, introduced by Coach Garcia.

AQUATICS CLUB

Mayor and City Council recognized Phillip Cothran, Jr., for receiving the Youth Community Hero Award and Don Lewis, for receiving the Adult Community Hero Award at the LA Fair.

YOUTH/ADULT HERO AWARD

The following Public Communications were received:

P C

Pastor Emory James, Ephesian’s New Testament Church, 17169 Athol Street, spoke regarding their 23rd Anniversary Celebration.

CELEBRATION

Frank Ellis, Citizens for a Safe Fourth of July, 10583 Oleander, spoke regarding fireworks petition filed in the City Clerk’s Office

FIREWORKS

Tony Orlich, Randall Avenue, spoke regarding a Cruise Night complaint.

CRUISE NIGHT

Gerald Fogelson, American Legion, 7734 Newport Court, spoke regarding a streetlight meeting.

STREETLIGHT

Eric Bishop, Chaffey College, 16855 Merrill Avenue, spoke regarding fall update and response to Council Member Rutherford.

CHAFFEY COLL.

ACTION: Motion was made by Mayor Pro Tem Warren, seconded by Council Member Scialdone, approving Consent Calendar Items “A-I” as follows:

C C

A. Approving the minutes of the August 26, 2008 Regular City Council meeting.

MINUTES

B. (1) Adopting **Ordinance No. 1579**, amending Article 11, Section 17-61, of Chapter 17, of the Fontana Municipal Code of the City of Fontana pertaining to the Office of the Traffic Engineer.

ADPT ORD 1579
CODE CH 17

- C. Adopting **Resolution No. 2008-114**, approving an addendum to the Home Depot USA Inc., Final Environmental Impact Report (State Clearing House No. 2005111065) and adopting the Findings therein, and adopting the Revised Mitigation Monitoring and Reporting Plan. ADPT RES 08-114
HOME DEPOT
EIR ADDENDUM
- D. Approving Tolling Agreement between the City of Fontana and the County of San Bernardino regarding Property Tax Administration Fees and authorizing the City Manager to execute same. PROP TAX ADM
PROP TAX FEES
- E. Adopting **Resolution No. 2008-115**, declaring the City’s participation in the Great Southern California Shake Out working towards becoming a safer community. ADPT RES 08-115
GR. AMER. SHAKE
OUT
- F. Accepting donation in the amount of \$200 from the Fontana Police Management Association for use in the Child Safety Fair. DONATION
- G. Awarding bid and authorizing the City Manager to enter into an Agreement with BDL Alarms for Security Alarm Maintenance Services for a period of two (2) years renewable with three additional one-year increments at the City’s sole discretion. AWARD BID
BDL ALARM
- H. Authorizing the Management Services Department to piggy back off the City of Corona’s bid for the purchase of two (2) Wanco Mini Full Matrix Message Boards in the amount of \$37,497. WANCO BID
- I. Approving and authorizing the City Manager to execute Amendment No. 2 to the Engineering Services Agreement between the Fontana Redevelopment Agency and Boyle Engineering Corporation in the amount of \$30,000.00 with a not to exceed amount contract of \$831,110.00. AMEND #2
BOYLE ENG.

Motion carried unanimously.

Public hearing was opened regarding declaring the Public Right of Way known as a segment of Highland Avenue as unnecessary for present and prospective public use and vacating the same pursuant to Streets Highway Code Section 8320 et. seq.

PH-A
ADOPT RES.
08-116 VACATE
RIGHT OF WAY
HIGHLAND

No written communication was received.

Staff presentation was given by Jane Harris, and Salvador Quintanilla. No one spoke in favor or opposition. The public hearing was closed.

ACTION: Motion was made by Council Member Roberts, seconded by Mayor Pro Tem Warren, adopting **Resolution No. 2008-116**, declaring the public right of way known as a segment of Highland Avenue as unnecessary for present and prospective public use and vacating the

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same pursuant to Streets and Highway Code Sec. 8320 et. seq.

Motion carried unanimously.

Public hearing was opened regarding new user fees for previously approved discretionary applications, reducing the fee for the Temporary Use Permit (TUP) application and updating State Department of Fish and Game filing fee.

PH-B
ADOPT RES
08-117
USER FEES

No written communication was received.

Staff presentation was given by Dawn Clement and Stephanie Hall.

No one spoke in favor or opposition. The hearing was closed.

ACTION: Motion was made by Council Member Scialdone, seconded by Council Member Rutherford, finding that the project has been reviewed pursuant to the local guidelines for implementing the California Environmental Quality Act (CEQA) and adopting a Negative Declaration and directing staff to file the Notice of Determination; and adopting **Resolution No. 2008-117**, adopting new user fees for previously approved discretionary applications, reducing the fee for the Temporary Use Permit Applications, and updating the State of California Department of Fish and Game filing fee. Motion carried unanimously.

Public hearing was opened regarding Community Facilities District No. 61M, located on the northwest corner of Miller Avenue and Mango Avenue.

PH-C
ADOPT RES
08-118/08-119
ANNEX TO
CFD NO. 61M

No written communication was received.

Staff presentation was given by Jeff Moriarty, and Mel Drown.

No one spoke in favor or opposition. The hearing was closed.

ACTION: Motion was made by Council Member Roberts, seconded by Council Member Scialdone, adopting **Resolution No. 2008-118**, calling a special election and submitting to the qualified electors of territory proposed to be annexed to the Community Facilities District No. 61M of the City of Fontana the question of levying special taxes within the territory proposed to be annexed (Annexation No. 2). Motion carried unanimously.

City Clerk Tonia Lewis stated there were 3 (three) votes in favor.

ACTION: Motion was made by Council Member Scialdone, seconded by Mayor Pro Tem Warren, adopting **Resolution No. 2008-119**, declaring the results of the special election for Community Facilities District No. 61M of the City of Fontana on the proposition of the Annual Levy of Special Taxes within the territory proposed to be annexed to said Community Facilities District to pay the costs of certain services to be provided by the Communities Facilities District, determining that the territory proposed to be annexed is added to and part of said Community Facilities District with full legal effect, and ordering the recording of an amendment to the Notice of Special Tax Lien for said Community

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Facilities District including the territory annexed thereto (Annexation No. 2). Motion carried unanimously.

Public hearing was opened regarding Appeal of Planning Commission's "no decision" for Conditional Use Permit (CUP) No. 08-009 to operate a new Alcoholic Beverage Control (ABC) Type 20 (Off-Sale Beer and Wine) License within an existing Wal-Mart store of approximately 128,258 square feet, resulting in the denial of that CUP.

PH-D
GRANT
APPEAL
APPROVE
CUP 08-009

Written communication was received from Alicen Clark Wong, Gresham, Savage, Nolan & Tilden, 550 East Hospitality Lane, Suite 300, San Bernardino.

Staff presentation was given by Arely Monarez, and Don Williams, AICP. Speaking for the applicant was Alicen Clark Wong, G, S, N & T. No one spoke in favor or opposition. The hearing was closed.

ACTION: Motion was made by Council Member Rutherford, seconded by Council Member Roberts, 1) Determining that the project is Categorically Exempt pursuant to Section 3.16, Class 1 of the Local Guidelines for Implementing the California Environmental Quality Act (2006), and direct staff to file a Notice of Exemption; 2) Making a Finding of Public Convenience and Necessity; and, 3) approving **CONDITIONAL USE PERMIT NO. 08-009**, subject to the attached Findings (as stated on Attachment No. 4), and Conditions of Approval. Motion carried unanimously.

Public hearing was opened regarding request to amend Chapter 15, Article XII, developing regulations and procedures that pertain to massage establishments and massage technicians. No written communications were received. Staff presentation was given by Dawn Clement, Stephanie Hall, and Don Williams, AICP. No one spoke in favor or opposition. The hearing was closed.

PH-E INTRO ORD
1581, ADPT RES
08-120 CH.15,
ART XII,
MASSAGE REGS

ACTION: Motion was made by Council Member Scialdone, seconded by Council Member Roberts, (1) finding that the project has been reviewed pursuant to the local guidelines for implementing the California Environmental Quality Act (CEQA) and adopting a Negative Declaration and Fish and Game De Minimis Impact and directing staff to file the Notice of Determination; (2) waiving further reading of and introducing **Ordinance No. 1581**, amending Chapter 15, Article XII, of the Fontana Municipal Code, that will update existing regulations and establish new regulations and procedures that pertain to massage establishments and massage technicians, and that the reading of the title constitutes the first reading thereof; and (3) adopting **Resolution No. 2008-120**, pursuant to the amendment to Chapter 15, Article XII, of the Fontana Municipal Code, and adopting new user fees for massage establishments and massage technicians. Motion carried unanimously.

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Public hearing was opened regarding General Plan Amendment No. 07-009, Zone Change No. 07-007, Tentative Parcel Map No. 18963, Design Review No. 07-045, and Administrative Variance No. 07-001 (Juniper Apartments, Affordable Housing).
No written communication was received
No staff reports given.
No one spoke in favor or opposition.

PH-F GPA 07-009,
ZC 07-007,
TPM 18963,
DR 07-045, AND
ADM VAR.07-001
CONT TO 9/23/08

ACTION Motion was made by Council Member Scialdone, seconded by Mayor Pro Tem Warren, continuing the public hearing to the next regularly scheduled meeting of September 23, 2008. Motion carried unanimously.

Public hearing was opened regarding General Plan Amendment No. 07-010, Zone Change No. 07-008, Conditional Use Permit No. 07-045, and Tentative Parcel Map No. 18676 (Young Homes, Planned Unit Development).
No written communication was received
No staff reports given.
No one spoke in favor or opposition.

PH-G GPA 07-010
ZC 07-008
CUP 07-045 AND
TPM 18676 CONT
TO 9/23/08

ACTION Motion was made by Mayor Pro Tem Warren, seconded by Council Member Scialdone, continuing the public hearing to the next regularly scheduled meeting of September 23, 2008. Motion carried unanimously.

Staff presentation was given by Alan Hostetter, regarding Police response to false alarms.
Written communication was received from Karl H. McField, 14513 El Contento Avenue.
Speaking in opposition were Larry Rudolph, 7241 Rockridge, Riverside; Shirley A. Mend, Home Security, 9118 Alder Avenue; Mike Harris, 9914 Lemon; Tona K. Epperson, 9949 Lemon Avenue; Marian Wilson, 5800 Karl Court; and, Morgan Hertel, 1705 Rimpan Avenue, #101, IEAA.

UB-A ADPT ORD
1580 P.D. RESP.
FALSE ALARMS

ACTION: Motion was made by Council Member Scialdone, seconded by Mayor Pro Tem Warren, adopting **Ordinance No. 1580**, relating to Police response to false alarms; recovering costs related to responses to false alarms, and amending Article IV of the Fontana Municipal Code titled Burglar Alarms. Motion carried unanimously.

Council Member Roberts left the dais at 8:41 p.m. returned at 8:43 p.m.

The following Elected Officials Communications were received:

E O C

By consensus, the City Council appointed Mayor Nuaimi and Council Member Scialdone to an Annexation Sub-Committee.

ANNEX SUB
COMMITTEE

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Council Member Rutherford congratulated Phillip Cothran, Jr., and Don Lewis on receiving the Community Hero's Awards at the LA County Fair. He stated they had a great time honoring them at the fair.	HERO AWARDS
Council Member Rutherford encouraged the community to think ahead for next year's community hero's nominees.	HERO NOM.
Council Member Rutherford stated she attended the "Hot" Chili Cook Off with City of Fontana Staff, with many hot and tasty chilis, and commented on what a wonderful moral builder it was.	CHILI COOK OFF
Council Member Rutherford stated this Friday, Kaiser High School will be dedicating the Football Stadium in memory of former Principal Bryan Malloy.	KAISER STADIUM
Council Member Rutherford encouraged residents to report graffiti as soon as they spot it, and commended the City Staff on their quick clean up.	GRAFFITI
Council Member Rutherford encouraged everyone to remember the anniversary of September 11, 2001 and those innocent people who lost their lives in that event and also those who have lost their life while serving in our armed forces since the event.	REMEMBER 9-11-01
Mayor Pro Tem Warren stated she was glad to be home from the Republican Convention, but she was very please to be part of the process.	REP. CONV.
Mayor Pro Tem Warren stated our soldiers need to be remembered in on thoughts, prayers and with supplies from home.	US SOLDIERS
Mayor Pro Tem Warren encouraged everyone to fly their flags in memory of September 11, and to thank God for our freedom.	FLAGS 9/11
Mayor Pro Tem Warren stated with many people out of work right now, that San Bernardino County and the EDD Office are working together to offer retraining for many people, with the work force investment program.	WORK RETRAIN
Council Member Scialdone commended the community for the very successful race weekend, thanked all the volunteers and stated that it showcased Fontana very well.	RACE WEEKEND
Council Member Scialdone stated Ceres Court Apartments will host their Grand Opening on September 12, 2008, at 10:00 a.m.	CERES CT APTS
Council Member Scialdone reminded everyone of the Fontana Police Department's upcoming Children's Safety Fair to be held on September	SAFETY FAIR

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20, 2008, from 10:00 a.m. to 3:00 p.m.

Mayor Nuaimi brought his Colton Colleagues to view Ceres Court, the Senior Phase housing, and other City of Fontana housing projects. He stated they were quite impressed. HOUSING PROJECTS

Mayor Nuaimi mentioned that our troops are also in need of Gatorade. TROOPS

Mayor Nuaimi stated we should remember September 11th and how “united” Americans became after the event. 9-11

Mayor Nuaimi stated football and soccer seasons are in full swing, and Fontana fields are wonderful. SPORTS FIELDS

Mayor Nuaimi commended his son Davis for playing hard for his Pop Warner Football Team last Sunday even with the flu, and stated he is very proud of all three of his children. CHILDREN

The following City Manager Communication was received: CMC

City Manager Hunt had no comments

The City Council meeting adjourned by consensus, at 9:10 p.m. to the next Regular City Council Workshop on Tuesday, September 23, 2008 at 5:00 p.m. in the Executive Conference Room, and then to the regular City Council meeting at 7:00 p.m. in the City Hall Council Chambers, 8353 Sierra Avenue, Fontana, CA. ADJOURN

Orvene Steenbock
City Clerk Assistant

THE FOREGOING MINUTES WERE APPROVED BY THE CITY COUNCIL ON THE 23RD DAY OF SEPTEMBER. 2008.

Tonia Lewis
City Clerk