

**MINUTES
CITY COUNCIL
SPECIAL MEETING
August 11, 2009
City Council Chamber
One Civic Center Plaza**

CALL TO ORDER

A special meeting of the Irvine City Council was called to order at 3:03 p.m. on August 11, 2009, in the City Council Chamber, Irvine Civic Center, One Civic Center Plaza, Irvine, California; Mayor Kang presiding.

ROLL CALL

Present:	5	Councilmember:	Steven Choi
		Councilmember:	Beth Krom
		Councilmember:	Christina Shea
		Mayor Pro Tempore:	Larry Agran
		Mayor:	Sukhee Kang

1. CLOSED SESSION

**1.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
(Pursuant to Government Code Section 54956.9(a)(4 cases)):**

CASE NAME AND NUMBER:

- 1) Allergan, Inc. v. City of Irvine, et al. (Orange County Superior Court Case No. 06CC11295)
- 2) Allergan, Inc. v. City of Irvine, et al. (Orange County Superior Court Case No. 07CC01267)
- 3) Allergan, Inc. v. City of Irvine, et al. (Orange County Superior Court Case No. 07CC01268)
- 4) Allergan, Inc. v. City of Irvine, et al. (Orange County Superior Court Case No. 07CC01282)

1.2 CONFERENCE WITH LABOR NEGOTIATORS (Pursuant to Government Code Section 54957.6) Agency Negotiators: Rick Paikoff, Director of Administrative Services; Jan Walden, Manager of Human Resources; and Brian King, Human Resources Administrator. Employee Organization: Irvine Police Association (IPA).

City Attorney Phil Kohn announced the Closed Session items to be discussed, following which Mayor Kang convened to Closed Session at 3:05 p.m.

RECONVENED TO CITY COUNCIL MEETING

Mayor Kang reconvened the City Council meeting at 4:40 p.m.

City Attorney Phil Kohn, on behalf of the City Council, announced the following:

With respect to Item 1.1, the City Council voted unanimously 5-0 to:

- 1) Approve a settlement of the litigation with Allergan, Inc. Upon execution of the agreement with the City, the document will become a public record, available in the City Clerk's office. The core points of the agreement are as follows:
 - a) The city would agree to consider a general plan amendment and zone change as part of the IBC Vision Process that restrict residential development south of the 405 Freeway. That proposal would afford a one-parcel nonresidential buffer around Allergan's existing campus.
 - b) The parties would jointly request that the litigation be stayed during dependency of the City's environmental analysis and processing and consideration of that land use plan.
 - c) If the land use plan is ultimately approved, takes effect, and survives legal challenge from a third party, all the litigation would be dismissed and each party will bear their own fees and costs.
 - d) Finally, because the City cannot and does not bind itself to actually approve the land use plan being processed, either side may opt out of the settlement agreement at any time.

- 2) Authorize the City Attorney's office to file a Notice of Appeal in connection with the Superior Court's denial of the City's Motion to Dismiss under the State anti-SLAPP (Strategic Lawsuit Against Public Participation) statutes in Orange County Superior Court Case No. 06CC11295.

With respect to Item 1.2, the City Council voted 3-2, with Councilmembers Choi and Shea dissenting, to waive the Closed Session confidentiality privilege for the limited and sole purpose of disclosing that the City's last, best, and final offer was confirmed by unanimous 5-0 vote of the City Council on July 21, 2009.

PLEDGE OF ALLEGIANCE

Mayor Kang led the Pledge of Allegiance.

MOMENT OF SILENCE

Mayor Kang requested a moment of silence.

MUSICAL PRESENTATION

Mayor Kang introduced the Christ Our Redeemer Chorale, who sang "America the Beautiful" and "King Jesus is A-Listening."

2. PRESENTATIONS

The following presentation was made:

2.1 RECOGNITION OF IRVINE PONY LEAGUE BASEBALL ALL STAR TEAMS

Mayor Kang recognized the Bronco All Stars, 2009 District and Section Champions; Mustang All Stars, 2009 District Champions; Pinto All Stars, 2009 District and Section Runner-Ups; and Shetland All Stars, 2009 World Series Participants, and congratulated them on their accomplishments.

INTRODUCTIONS

There were no introductions.

CITY MANAGER'S REPORT

City Manager Joyce expressed his appreciation to staff for their collaborative efforts in preparing staff reports and distributing agenda packets for tonight's meeting.

ANNOUNCEMENTS/COMMITTEE REPORTS/COUNCIL REPORTS

Mayor Kang made the following announcements:

- The City of Irvine is hosting its 3rd annual Youth Skate Jam at Harvard Skate Park on Saturday, August 15 from 10:30 a.m. to 2:00 p.m. The event is free, co-sponsored by Active Ride Shop. For information, call (949) 724-6715 or visit www.IrvineAthletics.org.
- Irvine's annual Sizzlin' Summer Sunday's concert series will conclude with musical performances by the Undercover Girls on August 16, and a special concert featuring

three Irvine rock bands on August 23. For more information, please call (949) 724-6606 or visit the City's website at www.cityofirvine.org.

- The Irvine Child Care Project is currently seeking community members interested in serving on its Program Assessment and Review Committee. Meetings are held the third Thursday of each month from 9:15 – 11:00 a.m. at the Irvine Child Resource Center. Completed applications must be received no later than 5:00 p.m. on August 31. For more information, call (949) 724-6697.

ADDITIONS AND DELETIONS

There were none.

COUNCIL BUSINESS

Mayor Kang noted that Item No. 5.1 would be considered prior to the adoption of the Consent Calendar. Refer to Item No. 5.1 below.

3. CONSENT CALENDAR

Consent Calendar Items consist of Item Nos. 3.1 through 3.12.

ACTION: Moved by Councilmember Choi, seconded by Councilmember Krom, and unanimously carried to approve Consent Calendar Item Nos. 3.1 through 3.12, with the exception of Item Nos. 3.5 and 3.8, which were removed for separate discussion.

3.1 MINUTES

ACTION: Approved the minutes of a regular meeting of the Irvine City Council held on July 28, 2009.

Councilmember Shea abstained due to being absent from the meeting.

3.2 WARRANT AND WIRE TRANSFER RESOLUTION

ACTION: Adopted RESOLUTION NO. 09-82 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ALLOWING CERTAIN CLAIMS AND DEMANDS AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID

3.3 WARRANT AND WIRE TRANSFER RESOLUTION - AT&T

ACTION: Adopted RESOLUTION NO. 09-83 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ALLOWING

CERTAIN CLAIMS AND DEMANDS OF AT&T AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID

Councilmember Krom abstained.

3.4 WARRANT AND WIRE TRANSFER RESOLUTION - BANK OF AMERICA

ACTION: Adopted RESOLUTION NO. 09-84 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ALLOWING CERTAIN CLAIMS AND DEMANDS OF BANK OF AMERICA AND SPECIFYING THE FUNDS OUT OF WHICH THE SAME ARE TO BE PAID

Mayor Pro Tempore Agran abstained.

3.5 AGREEMENT WITH SECOND HARVEST FOOD BANK OF ORANGE COUNTY TO MANAGE THE INCREDIBLE EDIBLE PARK

This item was removed by Councilmember Choi, who requested clarification on why the City is paying the lessee annually to maintain the park in addition to donating the land.

City Manager Joyce introduced Manuel Gomez, Director of Public Works, who clarified that the park is considered an amenity that includes an educational component that the City would ordinarily support as a program at any other community park. City Manager Joyce added that 100 percent of production goes toward fighting hunger.

City Council discussion included: the organization's ability to maintain sustainability without funding from the City; the park's benefits to the community aesthetically and educationally; the significant amount of volunteer hours that contribute to the park's success; the charitable component of growing and donating 100 percent of the produce to the Second Harvest Food Bank, which has resulted in over one million pounds of food to date; duplication of similar efforts at the Orange County Great Park; and funding for park maintenance.

ACTION: Moved by Councilmember Choi, seconded by Councilmember Shea, to:

ACTION: Reject a new five year agreement with Second Harvest Food Bank of Orange County for the management of the Incredible Edible Park.

ACTION: A substitute motion was made by Councilmember Krom, seconded by Mayor Kang, to:

ACTION: Authorize the Mayor to execute a new five year agreement with Second Harvest Food Bank of Orange County for the management of the Incredible Edible Park.

The motion carried as follows:

AYES: 3 COUNCILMEMBERS: Agran, Krom and Kang

NOES: 2 COUNCILMEMBERS: Choi and Shea

ABSENT: 0 COUNCILMEMBERS: None

3.6 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND

ACTION:

- 1) Accepted a Supplemental Law Enforcement Services Fund award in the amount of \$300,000.
- 2) Approved proposed expenditures and budget adjustment request in the amount of \$300,000 for Fiscal Year 2009-10, increasing revenues and authorizing appropriation of the award funding.

3.7 TARGET GRANT DONATION

ACTION:

- 1) Accepted a \$1,500 grant donation from Target.
- 2) Approved a budget adjustment request in the amount of \$1,500, reflecting an increase in revenues and appropriations.

3.8 COLLECTION OF DELINQUENT SPECIAL TAXES AND ASSESSMENTS

This item was removed for separate discussion by Councilmember Shea, who expressed concern about authorizing foreclosure on the parcels in question.

City Manager Joyce introduced Donna Mullally, Manager of Fiscal Services, and Valaya Chitchakkol, Finance Administrator, who clarified that the City was not proceeding with foreclosure at this time, but merely asking for authorization from the City Council to proceed if necessary, which is a required obligation to bond holders. They also clarified that the staff will continue to work with homeowners and explore every possible option to avoid foreclosure prior to taking action. Last year, six parcels in

Columbus Grove were facing foreclosure; however, all fees were collected prior foreclosure and no further action by the City was necessary.

City Council discussion included: contacting Legal Aide Society and requesting homeowner assistance for those facing foreclosure; and continuing City efforts to work with homeowners to avoid the foreclosure process.

ACTION: Moved by Councilmember Krom, seconded by Mayor Pro Tempore Agran, and unanimously carried to:

ACTION:

- 1) Adopt RESOLUTION NO. 09-85 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ACTING AS THE GOVERNING BODY OF COMMUNITY FACILITIES DISTRICT NO. 2005-2 (COLUMBUS GROVE) AUTHORIZING AND ORDERING JUDICIAL FORECLOSURE OF CURRENT AND FUTURE DELINQUENT SPECIAL TAXES IN SAID DISTRICT PURSUANT TO THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982 AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH
- 2) Adopt RESOLUTION NO. 09-86 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ACTING AS THE GOVERNING BODY OF THE ASSESSMENT DISTRICTS SET FORTH HEREIN AUTHORIZING AND ORDERING JUDICIAL FORECLOSURE OF CURRENT AND FUTURE DELINQUENT SPECIAL ASSESSMENTS IN SAID DISTRICTS PURSUANT TO THE IMPROVEMENT BOND ACT OF 1915 AND TAKING CERTAIN ACTIONS IN CONNECTION THEREWITH
- 3) Authorize and order the City Attorney to prosecute the foreclosure actions and to collect, in the name of the City and on behalf of the owners of the Bonds, all amounts due on account of the delinquent special taxes and special assessments with respect to the property identified in the submitted resolutions.
- 4) Authorize and order City personnel, in conjunction with the City Attorney and other City consultants, pursuant to Government Code Section 53356.2(a) and Section 8833(a)(1) to record notices of intent to remove the delinquent special taxes and special assessments from the tax rolls, and Section 53356.2(b) and Section 8833(a)(1)(A) to request that the applicable County officials remove current and future delinquent special taxes and special assessments from the tax rolls.

3.9 LEASE AGREEMENT - IRVINE COMMUNITY NURSERY SCHOOL, PRESCHOOL PROGRAM

ACTION: Authorized the Mayor to execute a Lease Agreement between the City of Irvine and Irvine Community Nursery School.

3.10 STATE GRANT FUNDING FOR USED OIL RECYCLING AND HOUSEHOLD HAZARDOUS WASTE EDUCATION PROGRAMS

ACTION: Adopted RESOLUTION NO. 09-87 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ACCEPTING FUNDS FROM THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR ALL AVAILABLE USED OIL RECYCLING GRANTS AND HAZARDOUS WASTE GRANTS UNDER THE CALIFORNIA INTEGRATED WASTE MANAGEMENT ACT

3.11 FINAL TRACT MAP NOS. 17319 AND 17320, NOTICE OF REVIEW FOR RESIDENTIAL CONDOMINIUMS IN WOODBURY EAST

ACTION: Received and filed.

3.12 REQUEST FOR IN-KIND CITY SUPPORT OF THE HEALTH KICK 2009 FUNDRAISER EVENT ON SEPTEMBER 26, 2009

ACTION: Approved in-kind City support to allow use of a public facility and use of the City name and logo on participant T-shirts for the Health Kick 2009 Fundraiser Event on September 26, 2009.

END CONSENT CALENDAR

4. PUBLIC HEARINGS

4.1 REVISION OF DIVISION 5 OF TITLE 4 RELATING TO REGULATIONS GOVERNING ANIMALS AND AMENDING THE IRVINE MUNICIPAL CODE

Mayor Kang declared the public hearing open at 6:50 p.m.

ACTION: Moved by Councilmember Krom, seconded by Councilmember Choi, to continue the public hearing to September 8, 2009 at 4:00 p.m.

The motion carried as follows:

AYES: 4 COUNCILMEMBERS: Agran, Choi, Krom and Kang
NOES: 0 COUNCILMEMBERS: None
ABSENT: 1 COUNCILMEMBERS: Shea (not present for vote)

4.2 APPEAL OF THE PLANNING COMMISSION ACTION DENYING A CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS NETWORK LOCATED IN THE PUBLIC RIGHTS-OF-WAY AND/OR PUBLIC UTILITY EASEMENTS IN THE VILLAGE OF TURTLE ROCK (PLANNING AREA 21) - NEWPATH NETWORKS, LLC.

Tim Gehrich, Manager of Development Services; Bill Rodrigues, Senior Planner; Steven Higa, Principal Planner; and Jeff Melching, Assistant City Attorney, presented the staff report.

City Attorney Kohn noted for the record that although Councilmember Shea was absent at the July 28, 2009 City Council meeting, an audio recording of that meeting with all supporting documentation was provided to her prior to tonight's meeting. He also confirmed that Councilmember Shea has reviewed the material and as such, would be participating in the continued proceedings.

Mayor Kang noted that two town hall meetings were held prior to tonight's hearing, which included both residents and representatives from Newpath Networks, to discuss possible alternatives. He also expressed his appreciation to Newpath Networks and Irvine residents for coming together and providing a better understanding of all issues concerning all interested parties.

Mayor Kang reopened the public hearing at 7:00 p.m. in order to hear public testimony not offered on July 28.

The following individual spoke in support of the proposed resolution:

Dr. Mark Bronstein
Michael Cavanaugh, representing Newpath Networks

The following individuals spoke in opposition to the proposed resolution:

Tanya Zaveri
Cindy Liebeck
Barbara Weiner
John Clinard

Ray Bukatz
Alex Hillenbrand
Esat Kadaster

ACTION: Moved by Councilmember Krom, seconded by Councilmember Shea, and unanimously carried to close the public hearing at 7:41 p.m.

City Council discussion included: alternatives proposed by Newpath Networks on pole locations and the elimination of one node; potential microcells similar to those located near UC Irvine and the Irvine Spectrum Center; lack of significant coverage gap if Newpath's application is denied; aesthetic concerns with proposed locations of poles and nodes; working with Irvine Company to identify alternative locations in existing open space; exploring other alternatives such as in-home extenders; antenna classifications; ability to add additional antennas administratively at a later date by the applicant; possibility of utilizing satellites instead of neighborhood antennas; and the potential creation of a community committee to find an acceptable solution to meet the needs of the community. Mayor Pro Tempore Agran also proposed additional findings to incorporate into the resolution.

ACTION: Moved by Mayor Kang, seconded by Mayor Pro Tempore Agran, and unanimously carried to:

ACTION: Adopt RESOLUTION NO. 09-88 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE DENYING AN APPEAL THEREBY UPHOLDING THE PLANNING COMMISSION'S DECISION TO DENY CONDITIONAL USE PERMIT 00456321-PCPU FOR THE INSTALLATION OF A WIRELESS TELECOMMUNICATIONS NETWORK WITH APPURTENANT AND ASSOCIATED MECHANICAL EQUIPMENT AT 23 LOCATIONS, AND THE PLACEMENT OF APPROXIMATELY 22,000-LINEAR FEET OF NEW FIBER-OPTIC CABLES, IN THE PUBLIC RIGHT-OF-WAY AND/OR NON-EXCLUSIVE PUBLIC UTILITY EASEMENTS IN THE VILLAGE OF TURTLE ROCK (PLANNING AREA 21); FILED BY NEWPATH NETWORKS, LLC.

As amended to incorporate the findings proposed by Mayor Pro Tempore Agran.

4.3 PREFERENTIAL PARKING DISTRICTS

Mayor Kang noted that the public hearing for Item No. 4.4 would be opened to allow certain individuals to speak prior to the consideration of Item No. 4.3. Refer to Item No. 4.4 below.

City Manager Joyce introduced Manuel Gomez, Director of Public Works, and Rick Handfield, Police Lieutenant, who presented the staff report.

Mayor Kang opened the public hearing at 8:37 p.m.

The following individuals spoke in support of preferential parking districts:

Jan Rainbird
Christopher Karjala
Donna Krebs
James Quiroja
Jon Swallow

ACTION: Moved by Mayor Pro Tempore Agran, seconded by Councilmember Krom, and unanimously carried to close the public hearing at 8:48 p.m.

City Council discussion included: fee schedule for violations; how time restrictions for parking were determined; length of the trial period; including homeowners' associations in the program; extension and modification of the program based on success of the trial period; whether or not specific permits will be assigned to specific vehicles; and number of permits assigned per household.

ACTION: Moved by Mayor Kang, seconded by Mayor Pro Tempore Agran, and unanimously carried to:

ACTION: Introduce for first reading, and read by title only ORDINANCE NO. 09-07 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADDING A CHAPTER TO THE IRVINE MUNICIPAL CODE ESTABLISHING A POLICY FOR THE CREATION OF PREFERENTIAL PARKING DISTRICTS.

4.4 CITY-INITIATED GENERAL PLAN AMENDMENT, ZONE CHANGE, DEVELOPMENT AGREEMENT AMENDMENT (including rate and method of apportionment), MASTER IMPLEMENTATION AGREEMENT AMENDMENT, AND TRI-PARTY AGREEMENT AMENDMENT FOR THE CITY OF IRVINE AND HERITAGE FIELDS EL TORO LLC, LOCATED IN PLANNING AREAS 30 AND 51

Mayor Kang reopened the public hearing at 8:19 p.m.

The following individuals spoke in support of the recommended actions:

Rob Ferguson
Matt Kamamura
Marian Bergeson, Great Park Conservancy
Joe Schoeningh, Second Harvest Food Bank

The public hearing remained open while Mayor Kang tabled the item at 8:30 p.m. to consider Item No. 4.3. Discussion resumed at the conclusion of Item No. 4.3.

City Manager Joyce introduced Douglas Williford, Director of Community Development; Kurt Mowery, Great Park Manager of Finance; and Jeff Melching, Assistant City Attorney, who presented the staff report.

The following individuals also spoke in support of the recommended actions:

Emile Haddad, Five Point Communities
Mary Ann Gaido, Planning Commissioner
Peggy Gaido, Art & Design Advocacy Coalition

The following individuals spoke in opposition to the recommended actions:

Shalom Elcott, President, Jewish Federation of Orange County
David Waite, representing Forest Lawn Memorial Parks

Mayor Pro Tempore Agran noted that additional communications were received from California State University, Fullerton, Orange County Building Industry Association (OC BIA), and the Orange County Business Council.

ACTION: Moved by Councilmember Krom, seconded by Mayor Pro Tempore Agran, and unanimously carried to close the public hearing at 9:40 p.m.

City Council discussion included: inclusion of an additional 500 acres of land; clarification that development of projects still occurs through the public hearing process; effects of a golf course being integrated with the wildlife corridor; financial benefits of the amendments to the City; concerns over major changes within the Development Agreement ("Agreement"); continuing the item to allow further review of the Agreement; whether or not the Agreement should go through all Commissions for review, including the Orange County Great Park Board, prior to the City Council and providing the community an opportunity to review; amount of homes being proposed; removal of a cemetery; clarification on the relationship between Lennar, Heritage Fields, LLC, and Five Point Communities and the legal impacts of the Agreement, if any, to the City; additional 131 acres received by the City resulting from the amended Agreement; funds paid by Lennar for infrastructure, the schedule of payments to the City, and whether or not it will coincide with the construction schedule of the park; identifying the responsible party for the demolition of the runway; components of Measure W; development of a hotel and whether or not the responsibility belongs to the City; and whether or not Trabuco Road will remain as the main entry to the Great Park.

ACTION: Moved by Mayor Pro Tempore Agran, seconded by Councilmember Krom, to:

ACTION:

- 1) Adopt RESOLUTION NO. 09-89 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING CITY-INITIATED GENERAL PLAN AMENDMENT 00470036-PGA TO AMEND THE GENERAL PLAN LAND USE ELEMENT AND THE CIRCULATION ELEMENT FOR PLANNING AREAS 30 AND 51
- 2) Introduce for first reading and read by title only ORDINANCE NO. 09-08 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING CITY-INITIATED ZONE CHANGE 00470039-PZC TO MODIFY DEVELOPMENT STANDARDS IN SECTION 3-37-39 AND TEXT AND THE STATISTICAL ANALYSIS IN CHAPTERS 2-9, 9-30, AND 9-51 OF THE ZONING ORDINANCE FOR PLANNING AREAS 30 AND 51
- 3) Introduce for first reading and read by title only ORDINANCE NO. 09-09 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING A CITY-INITIATED AMENDMENT TO ORANGE COUNTY GREAT PARK DEVELOPMENT AGREEMENT 00470035-PDA BETWEEN THE CITY OF IRVINE AND HERITAGE FIELDS EL TORO LLC; PERTAINING TO PROPERTY IN PLANNING AREAS 30 AND 51
- 4) Approve and authorize the Mayor to sign an Amended and Restated Master Implementation Agreement between the City of Irvine and Heritage Fields El Toro LLC.

The motion carried as follows:

AYES: 3 COUNCILMEMBERS: Agran, Krom and Kang
 NOES: 2 COUNCILMEMBERS: Choi and Shea
 ABSENT: 0 COUNCILMEMBERS: None

4.5 DEVELOPMENT AGREEMENT STATUS REPORT

City Manager Joyce introduced John Ernst, Principal Planner; Stephanie Keys, Senior Planner; and Tim Gehrich, Manager of Planning and Development, who presented the staff report.

Mayor Kang reopened the public hearing at 11:16 p.m. There were no public comments.

ACTION: Moved by Councilmember Krom, seconded by Councilmember Shea, and unanimously carried to close the public hearing at 11:17 p.m.

City Council discussion included: the bankruptcy of Maguire properties and the impacts to current projects and properties now in possession of the bank; status of the approximately \$10 million dollars due to the City based on the settlement agreement with Maguire Properties; and whether or not the City received funds in advance for Park Place.

ACTION: Moved by Councilmember Shea, seconded by Councilmember Choi, to:

ACTION: Find that the applicants have complied in good faith with the terms and conditions of Development Agreements.

The motion carried as follows:

AYES: 4 COUNCILMEMBERS: Agran, Choi, Shea and Kang
 NOES: 0 COUNCILMEMBERS: None
 ABSENT: 1 COUNCILMEMBERS: Krom (not present for vote)

5. COUNCIL BUSINESS

5.1 RESOLUTION CONTAINING TERMS AND CONDITIONS OF EMPLOYMENT FOR REPRESENTED EMPLOYEES

This item was considered prior to the adoption of the Consent Calendar.

City Manager Joyce introduced Rick Paikoff, Director of Administrative Services; and Dave Larsen, Rutan and Tucker, who presented the staff report.

Mayor Kang read a statement into the record prior to City Council discussion, which included reassurance that public safety continues to be the City Council's top priority.

The following individuals spoke in opposition to the proposed resolution:

Gary Wyatt, Irvine Police Association
Pat Rodgers, Irvine Resident

Mayor Kang read into the record an e-mail submitted by John McCoy, Irvine resident, supporting the proposed resolution.

Councilmember Shea noted that additional communications were received opposing the resolution.

City Council discussion included: public safety being a top priority of the City; the waiving of the Closed Session confidentiality privilege for the limited and sole purpose of disclosing that the City's last, best, and final offer was confirmed by unanimous 5-0 vote of the City Council on July 21, 2009; clarification on what statistical data was used to compare Irvine with other cities; recitals in the proposed resolution; clarification on how the "3% at 50" retirement formula works and whether or not there are any impacts based on the proposed resolution; and avoidance of layoffs and furloughs.

ACTION: Moved by Mayor Pro Tempore Agran, seconded by Councilmember Krom, to:

ACTION: Adopt RESOLUTION NO. 09-90 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE ADOPTING THE TERMS AND CONDITIONS OF EMPLOYMENT FOR THE IRVINE POLICE ASSOCIATION (IPA) EFFECTIVE THE PAY PERIOD THAT INCLUDES JULY 1, 2009

The motion carried as follows:

AYES: 3 COUNCILMEMBERS: Agran, Krom and Kang

NOES: 2 COUNCILMEMBERS: Choi and Shea

ABSENT: 0 COUNCILMEMBERS: None

5.2 HERITAGE FIELDS DENSITY BONUS AGREEMENT

City Manager Joyce introduced Mark Asturias, Housing Manager; and Bill Ihrke, Rutan and Tucker, who presented the staff report.

City Council discussion included: how the Agreement possibly deviates from City standards on affordable housing (5% very low-income, 5% low-income, and 5% moderate-income); whether or not the proposed units will be permanently affordable if those units could be transferred to the Irvine Community Land Trust; how the Avalon Bay project triggered a State density bonus agreement; how the density bonus will utilize the trips cap; whether or not a density bonus agreement is required by State law; whether or not State law requires developers to develop 11 percent of affordable housing as part of a density bonus agreement; and whether or not an environmental impact report (EIR) is required prior to a density bonus agreement.

ACTION: Moved by Mayor Kang, seconded by Councilmember Krom, to:

ACTION: Adopt RESOLUTION NO. 09-91 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING THE DENSITY BONUS AGREEMENT FOR HERITAGE FIELDS; FILED BY HERITAGE FIELDS, LLC.

The motion carried as follows:

AYES: 4 COUNCILMEMBERS: Agran, Choi, Krom and Kang

NOES: 1 COUNCILMEMBERS: Shea

ABSENT: 0 COUNCILMEMBERS: None

END COUNCIL BUSINESS

PUBLIC COMMENTS

Iris Nguyen, Kids Who Care Foundation, introduced the City Council to the organization and provided a summary of the organization's mission.

Alan Woo, Orange County Food Bank, spoke about increased hunger in the County of Orange.

ADJOURNMENT

Moved by Councilmember Krom, seconded by Councilmember Choi, and unanimously carried to adjourn at 11:48 p.m.



MAYOR OF THE CITY OF IRVINE



CITY CLERK OF THE CITY OF IRVINE

September 8, 2009