

March 24, 2009

**MINUTES OF AN ADJOURNED REGULAR  
MEETING OF THE TORRANCE CITY COUNCIL**

**1. CALL TO ORDER**

The Torrance City Council convened in a joint meeting with the Torrance Library Commission at 5:30 p.m. on Tuesday, March 24, 2009 in the West Annex Commission Meeting Room.

**ROLL CALL**

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland, and Mayor Scotto.

Absent: None.

Also Present: City Manager Jackson, City Attorney Fellows, City Clerk Herbers, and other staff representatives.

Topics of discussion included the following: Sunday service at the library; Katy Geissert Civic Center Library main floor remodel; branch library refurbishment; *Live Homework Help* and other homework assistance programs; and Torrance Public Library LINK (Lifelong Information Networks & Knowledge) Project. The Library Commission meeting was adjourned and the City Council recessed to Council Chambers for the regular meeting.

The City Council reconvened in City Council Chambers at 7:07 p.m. with all members present.

**2. FLAG SALUTE/INVOCATION**

The flag salute was led by Councilmember Furey.

Councilmember Rhilinger gave the non-sectarian invocation.

**3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA / MOTION TO WAIVE FURTHER READING**

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, March 19, 2009.

**MOTION:** Councilmember Brewer moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

**4. WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS**

Supplemental material available for Agenda Item 10A and Questions and Answers available for Items 8C, 8E, 8F, 8K, 8L, 8O, 13B, and Public Housing Item 5A.

**5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS**

Councilmember Brewer announced that a joint meeting of the Citizen Development and Enrichment Committee and the Torrance Unified School District would be held on Wednesday, March 25 at 4:00 p.m. at the district office, 2335 Plaza del Amo, with topics to include athletic field refurbishment and joint cooperative projects.

Councilmember Brewer announced that the Citizen Development and Enrichment Committee would also be meeting jointly with the Torrance Rose Float Association on Tuesday, April 14, at 4:30 p.m. in the third floor assembly room to discuss the 2010 Torrance Rose Float design.

Councilmember Rhilinger announced that the Ad Hoc Legislative Committee would be meeting on Tuesday, April 7, at 4:00 p.m. in the third floor assembly room to discuss ballot measures for the May 19, 2009 statewide election.

City Clerk Herbers announced that a Commissioner Certification training class would be held on Wednesday, March 25, at 6:00 p.m. She noted that appointments will be made to the Torrance Ethics and Integrity Committee on Tuesday, April 7, with applications due to the City Clerk no later than 5:30 p.m. on Wednesday, April 1.

Fire Chief Racowski announced that ExxonMobil would be conducting their monthly Community Alert siren testing on Wednesday, April 1, at approximately 11:30 a.m. For more information call (310) 212-4756.

Councilmember Barnett asked that the meeting be adjourned in memory of Bob Jones, father of City Treasurer Linda Barnett and Community Services Director John Jones.

**6. COMMUNITY MATTERS**

**6A. RESOLUTION NO. 2009-23 RE FIRE ENGINEER DARRELL AUXIER**

**RESOLUTION NO. 2009-23**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE  
HONORING FIRE ENGINEER DARRELL AUXIER UPON HIS RETIREMENT  
FROM THE CITY AFTER THIRTY YEARS OF SERVICE

**MOTION:** Councilmember Brewer moved for the adoption of Resolution No. 2009-23. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

*To be presented at a later date.*

**6B. RESOLUTION NO. 2009-21 RE SALLY HOWARD**

**RESOLUTION NO. 2009-21**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE  
HONORING SALLY HOWARD UPON HER RETIREMENT FROM THE  
CITY AFTER TWENTY YEARS OF SERVICE

**MOTION:** Councilmember Brewer moved for the adoption of Resolution No. 2009-21. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

*To be presented at a later date.*

**6C. PROCLAMATION RE “AMERICAN CANCER SOCIETY RELAY FOR LIFE – TORRANCE DAYS**

Mayor Scotto presented a proclamation declaring Saturday, April 25, and Sunday, April 26, 2009 as **American Cancer Society Relay for Life – Torrance Days** to Dr. John Schmitt and Katie Holmes. Dr. Schmitt invited everyone to participate in the Torrance Relay for Life to be held on April 25 and 26 at Wilson Park, with information available at [www.relayforlife.org/torranceca](http://www.relayforlife.org/torranceca).

**6D. PROCLAMATION RE “SHANNON BOXX DAY”**

Mayor Scotto presented Shannon Boxx with a key to the City and a proclamation declaring March 24, 2009 as **Shannon Boxx Day** in the City of Torrance in recognition of her many achievements, including winning gold medals at the 2004 and 2008 Summer Olympic Games as part of the U.S. Women’s Soccer Team.

**6E. RECOGNITION OF SOUTH HIGH GIRLS SOCCER TEAM**

Mayor Scotto presented certificates to the following coaches/members of the **South High School Girls Soccer Team** in recognition of their winning the CIF-SS Division 5 Championship: Head Coach Brad Gomez, Assistant Coaches Alyssa Congdon and Shawna Carroll and Team members: Sammy Archambault, Casey Atamaniuk, Natalie Bullock, Tori Cooper, Elizabeth Esquivel, Alyssa Golden, Alyssa Heely, Lauren Hein, Cali Hokkaf, Kelly Keenan, Mackenzie Kirts, Alex Kossoff, Lenna Lamas, Audrey Medlock, Sarah Miller, Isabelle Nastaskin, Jenny O’Connell, Hali Oughton, Kailyn Provin, Alisa Redgriff, Michelle Rushton, Myla Senff, Jackie Sieder, Ellen Vicelja, Tina Yeghiyan, and Cristin Yoern.

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The City Council recessed from 7:41 p.m. to 7:50 p.m.

Consent Calendar Item 8I was considered out of order at this time.

**8I. ACCEPTANCE OF DONATION FROM TORRANCE AIRPORT ASSOCIATION**

**Recommendation**

Recommendation of the Community Development Director that City Council accept a donation from the Torrance Airport Association in the amount of \$15,000 to reimburse the new landscaping in the median on Zamperini Way.

Nancy Clinton, Torrance Airport Association, presented the \$15,000 check to Finance Director Tsao for the Zamperini Way beautification project.

**7. ORAL COMMUNICATIONS**

**7A.** Michael Wermers, Torrance, provided information about the South Bay Enrichment Academy, a new summer school program offered by the Torrance Unified School District in conjunction with the Torrance Education Foundation, which will focus on enrichment and grade improvement.

**7B.** Janet Payne, Torrance Historical Society, announced that the Torrance Historical Society in partnership with the Torrance Library will be offering a program examining the experience of Japanese-American immigrants after World War II, featuring Jack Fujimoto, the author of *Sawtelle: West Los Angeles Japantown* on Saturday, March 28, 2:00 p.m., at the Torrance Historical Museum, 1345 Post Avenue.

**7C.** Nancy Clinton, Torrance Air Fair Association, invited the public to attend the Experimental Aircraft Association's "B-17 Bomber Salute to Veterans Tour" on April 10 through April 12 at Torrance Airport Zamperini Field. She noted that rides and ground tours of the B-17 will be offered, with additional information available at 1.800.359.6217 or [www.B17.org](http://www.B17.org).

**8. CONSENT CALENDAR**

**8A. APPROVAL OF MINUTES**

**Recommendation**

Recommendation of the City Clerk that City Council approve the City Council minutes of February 3, February 10, and February 24, 2009.

**8B. LIVING DEDICATION TREE PROGRAM REPORT – JANUARY THROUGH DECEMBER 2008**

**Recommendation**

Recommendation of the Parks and Recreation Commission and the Community Services Director that City Council accept and file the Living Dedication Tree Program Report for January through December 2008.

**8C. REVISED TREE DEDICATION BROCHURE AND RATES**

Considered separately, see page 9.

**8D. FEE AGREEMENT AMENDMENT FOR LEGAL SERVICES**

**Recommendation**

Recommendation of the City Attorney that City Council approve the second amendment to the fee agreement with the law firm of Liebert Cassidy Whitmore (C2008-123) to provide legal services relating to a police personnel matter for an additional \$20,000 for a total contract amount not to exceed \$50,000.

**8E. FEE AGREEMENT AMENDMENT FOR INDEPENDENT COUNSEL FOR CIVIL SERVICE COMMISSION**

**Recommendation**

Recommendation of the City Attorney that City Council approve the fifth amendment to the fee agreement with Jenkins & Hugin (C2007-155) to provide independent counsel to the Civil Service Commission, by extending the term of the agreement through June 30, 2009.

**8F. PURCHASE ORDER INCREASE FOR AUDIO/VISUAL EQUIPMENT AT KATY GEISSERT LIBRARY**

**Recommendation**

Recommendation of the City Manager that City Council:

- 1) Authorize an increase to purchase order by \$8,813 to Bill's Sound & Security, Costa Mesa, CA for additional audio/visual equipment at Katy Geissert Library for a new not to exceed total of \$68,908.77; and
- 2) Transfer \$8,813 from FEAP #327 Katy Geissert Civic Center Library Main Level Remodel project to FEAP #694 Audio/Visual Equipment project at Katy Geissert.

**8G. PURCHASE ORDER FOR TELECOMMUNICATIONS ACCESSORIES**

**Recommendation**

Recommendation of the Information Technology Director that City Council authorize a purchase order be issued to Anixter, Anaheim, CA, for a not to exceed amount of \$67,500 to purchase telecommunications/data cable, accessories, and supplies on an as needed basis for one year (Bid B2008-56).

**8H. AGREEMENT EXTENSION FOR TELEPHONE SERVICE SUPPORT**

**Recommendation**

Recommendation of the Information Technology Director that City Council authorize an extension to the agreement with NEC Unified Solutions, Inc. of Irvine, TX (C2008-053) for technical support services for the term of one year in the amount of \$100,427.52.

**8I. DONATION FROM TORRANCE AIRPORT ASSOCIATION**

**Recommendation**

Recommendation of the Community Development Director that City Council accept a donation from the Torrance Airport Association in the amount of \$15,000 to reimburse the new landscaping in the median on Zamperini Way.

**8J. AGREEMENT FOR ZAMPERINI FIELD ENTRY SIGN**

**Recommendation**

Recommendation of the Community Development Director that City Council:

- 1) Approve the plans and specifications for the fabrication and installation of the Zamperini Field Entry Sign (B2009-06);
- 2) Award a public works agreement to Fluoresco Lighting – Sign Maintenance Corporation in the amount of \$48,900; and
- 3) Authorize a 5% contingency in the amount of \$2,445 for this project.

**8K. AGREEMENT AMENDMENT FOR INDUSTRIAL/COMMERCIAL INSPECTION SERVICES**

**Recommendation**

Recommendation of the Community Development Director that City Council approve a first amendment to the contract services agreement with Charles Abbott Associates, Inc. (C2008-152) to provide additional industrial and commercial facility inspection services in the amount of \$30,000.

**8L. AGREEMENT FOR DESIGN SERVICES FOR WESTERN AVENUE MEDIAN LANDSCAPING**

**Recommendation**

Recommendation of the Community Development Director that City Council approve a contract services agreement with Albert Grover & Associates in the amount of \$35,841 for design services for median landscaping on Western Avenue between Del Amo Boulevard and Carson Street and assistance with any revisions with two other landscape projects that were currently being reviewed by Caltrans (Hawthorne Boulevard between Del Amo Boulevard and Torrance Boulevard and Western Avenue between 190<sup>th</sup> and Western Way).

**8M. PURCHASE ORDER RE CHEMICALS FOR BENSTEAD PLUNGE**

**Recommendation**

Recommendation of the Community Services Director that City Council award a purchase order to JCI Jones Chemicals, Inc., Torrance, CA to furnish and deliver chemicals to the Victor E. Benstead Plunge (B2009-08) for an annual not to exceed amount of \$44,812.63.

**8N. PURCHASE ORDER FOR FORD 450 CHASSIS WITH ROADLINE STENCIL BODY**

**Recommendation**

Recommendation of the General Services Director that City Council:

- 1) Authorize a purchase order in the amount of \$91,104 including sales tax to Roadline Products, Inc. of Downey, CA, for a special opportunity purchase of one (1) new and unused 2008 Ford F450 Gasoline Cab and Chassis with Roadline stencil body; and
- 2) Appropriate \$91,104 from the Fleet Services Vehicle and Equipment Replacement Fund.

**80. APPROPRIATION OF ASSET FORFEITURE FUNDS FOR MAJOR INVESTIGATION UNIT**

**Recommendation**

Recommendation of the Police Chief that City Council appropriate and allocate \$60,000 from the U.S. Department of Justice (DOJ) Unappropriated Asset Forfeiture account for the establishment of a major investigation account.

**8P. CHANGE ORDER FOR PURCHASE OF TRAINING AMMUNITION**

**Recommendation**

Recommendation of the Police Chief that City Council authorize a change order to increase Purchase Order 2009-00000326 to San Diego Police Equipment from \$35,200 to \$45,200 for the purchase of training ammunition.

**8Q. AGREEMENT FOR RELOCATION OF SEWER/WATER PIPELINES RE DEL AMO BOULEVARD EXTENSION PROJECT**

**Recommendation**

Recommendation of the Public Works Director that City Council approve a Right of Entry agreement for Construction Purposes with ExxonMobil Oil Corporation for the relocation of a 24-inch sewer pipeline, an 18-inch water pipeline, and a driveway modification for the Del Amo Blvd Extension Project, T-30.

**8R. AGREEMENT FOR CONVEYANCE OF 2807 OREGON COURT**

**Recommendation**

Recommendation of the Public Works Director that City Council:

- 1) Approve an agreement for conveyance of property with TMT South Bay Business Park, Inc. for the purchase and sale of a non-exclusive permanent utility easement and a non-exclusive temporary construction easement located at 2807 Oregon Court (Assessor Parcel No. 7352-009-027) for the installation of underground utilities related to the Del Amo Boulevard Extension, T-30;
- 2) Authorize the expenditure and deposit of \$56,000 for said easements into escrow with Fidelity National Title Company;
- 3) Authorize the Mayor and City Clerk to execute the agreement for conveyance of property and any and all other documents related to the purchase and sale of said easements located at 2807 Oregon Court, without further action by the City Council; and
- 4) Authorize the not to exceed expenditure of \$10,000 to pay the cost of the Title Policy, all Escrow fees, recording costs and other administrative costs related to the agreement for conveyance of property with TMT South Bay Business Park, Inc.

**8S. AGREEMENT AMENDMENT FOR PRE-DESIGN OF OCEAN AND BISHOP MONTGOMERY RETENTION BASINS**

Considered separately, see page 9.

**8T. RELOCATION OF CITY-OWNED WATER PIPELINE FOR DEL AMO BLVD. EXTENSION PROJECT**

**Recommendation**

Recommendation of the Public Works Director that City Council approve a 25-year pipeline license with BNSF Railway Company for the relocation and maintenance of a City of Torrance 24-inch water pipeline for the Del Amo Boulevard Extension Project, T-30. Expenditure: \$3,500.

**8U. RELOCATION OF CITY-OWNED SEWER PIPELINE FOR DEL AMO BLVD. EXTENSION PROJECT**

**Recommendation**

Recommendation of the Public Works Director that City Council approve a 25-year pipeline license with BNSF Railway Company for the relocation and maintenance of a City of Torrance 10-inch sewer pipeline for the Del Amo Boulevard Extension Project, T-30. Expenditure: \$3,500.

**8V. AGREEMENT RE SANTA MONICA BAY BEACHES OUTREACH PROGRAMS**

**Recommendation**

Recommendation of the Public Works Director that City Council approve a multi-agency memorandum of agreement with South Bay cities to fund \$146,877 for joint public outreach programs and sewer source identification studies to address bacteria loads to Santa Monica Bay.

**8W. AGREEMENT AMENDMENT FOR WATER WELL NO. 9**

**Recommendation**

Recommendation of the Public Works Director that City Council:

- 1) Appropriate \$21,000 from the Water Enterprise Fund to increase the total project amount of I-105, Well 9 ; and
- 2) Approve a second amendment to consulting services agreement with Boyle Engineering (C2008-012) to increase the amount by \$21,000 for an amended not to exceed amount of \$409,508, and extend the term of the agreement an additional six (6) months, through February 5, 2010.

**8X. PURCHASE ORDER FOR TRANSIT BUS SECURITY CAMERA UPGRADES**

**Recommendation**

Recommendation of the Transit Director that City Council authorize a purchase order in an amount not to exceed \$115,470, to Transmark of Boulder, CO to implement phase one upgrades of security cameras on Torrance Transit System buses.

**MOTION:** Councilmember Furey moved for the approval of Consent Calendar Items 8A through 8X, with the exception of Items 8C and 8S. The motion was seconded by Councilmember Numark and passed by unanimous roll call vote.

Consent Calendar Items 8C and 8S were considered separately at this time.

**8C. REVISED TREE DEDICATION BROCHURE AND RATES**

**Recommendation**

Recommendation of the Parks and Recreation Commission and Community Services Director that City Council approve a new Living Dedication Tree Program brochure and rates.

Business Manager Minter reported that the Living Dedication Tree Program has been in place for 17 years; that over 300 trees have been in planted in City parks as a result: and that staff has designed a new brochure and updated prices.

**MOTION:** Councilmember Brewer moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

**8S. AGREEMENT AMENDMENT FOR PRE-DESIGN OF OCEAN AND BISHOP MONTGOMERY RETENTION BASINS**

**Recommendation**

Recommendation of the Public Works Director that City Council approve an amendment to consulting services agreement with Carollo Engineers, (C2007-058) in the amount of \$74,988, for a revised not to exceed amount of \$296,590, and extend the term through April 24, 2010, for pre-design of the Ocean and Bishop-Montgomery retention basins to convert them to joint use facilities for open space and sports fields.

Acting City Engineer Dettle reported that this agreement would provide for design concepts and cost estimates necessary for a grant application, which would provide funding for the conversion of retention basins for use as open space and sports fields.

**MOTION:** Councilmember Barnett moved to concur with the staff recommendation. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

**10. PLANNING AND ECONOMIC DEVELOPMENT**

**10A. RECONSIDERATION OF COUNCIL'S DECISION RE PRE07-00030 – 602 PASEO DE LA PLAYA: JAMES MEYER/MICHAEL GUZMAN**

Considered out of order see pages 12-19.

**12. ADMINISTRATIVE MATTERS**

**12A. RESOLUTION RE POLICE COMMANDERS ASSOCIATION**

**Recommendation**

Recommendation of the City Manager that City Council adopt a Resolution pursuant to a Memorandum of Understanding setting forth hours, wages and working conditions for employees represented by the Torrance Police Commanders Association (TPCA) for the period March 15, 2009 to December 31, 2011, and approve a Merit Pay Plan as part of the Team Policing plan implementation.

Steve Unglaub, president of Torrance Police Commanders Association, thanked the Council for supporting the TPCA and also thanked City Manager and Finance Department staff for their assistance in drafting this agreement.

**MOTION:** Councilmember Barnett moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

#### **RESOLUTION NO. 2009-25**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE SETTING FORTH HOURS, WAGES, AND WORKING CONDITIONS FOR EMPLOYEES REPRESENTED BY THE TORRANCE POLICE COMMANDERS ASSOCIATION (TPCA), AND REPEALING RESOLUTION NO. 2005-61

**MOTION:** Councilmember Brewer moved for the adoption of Resolution No. 2009-25. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

#### **12B. GRANT APPLICATION – AMERICAN RECOVERY & REINVESTMENT ACT**

##### **Recommendation**

Recommendation of the Transit Director that City Council authorize the City Manager to submit on behalf of the Torrance Transit System the American Recovery and Reinvestment Act of 2009 Federal Section 5307 Capital Grant application for \$4,526,566.

Transit Administration Manager Mills reported that the grant will be used to purchase up to eight hybrid gas/electric buses.

**MOTION:** Councilmember Barnett moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

#### **13. HEARINGS**

##### **13A. VACATION OF PORTION OF STREET EASEMENT ON 242<sup>ND</sup> STREET**

##### **Recommendation**

Recommendation of the Community Development Director and City Manager that City Council conduct a public hearing and adopt a Resolution ordering the vacation of a portion of the street easement on 242<sup>nd</sup> Street between Hawthorne Boulevard and Pacific Coast Highway.

Mayor Scotto announced that this was the time and place for a public hearing on this matter. City Clerk Herbers confirmed that the hearing was properly advertised.

Transportation Planning Manager Semaan reported that the proposed vacation was necessary to facilitate the construction of the new commercial center at the southeast corner of Hawthorne Boulevard and Pacific Coast Highway, which was approved by the Council on January 19, 2009.

As no one from the public came forward to speak, the public hearing was closed.

**MOTION:** Councilmember Barnett moved to close the public hearing. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

**MOTION:** Councilmember Barnett moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhilinger and passed by unanimous roll call vote.

### **RESOLUTION NO. 2009-26**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE  
ORDERING THE VACATION OF A PORTION OF STREET EASEMENT ON  
242<sup>ND</sup> STREET BETWEEN HAWTHORNE BOULEVARD AND PACIFIC COAST  
HIGHWAY IN THE CITY OF TORRANCE

**MOTION:** Councilmember Brewer moved for the adoption of Resolution No. 2009-26. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

### **13B. WATER CONSERVATION ORDINANCE**

#### **Recommendation**

Recommendation of the Water Commission and the Public Works Director that City Council adopt a Water Conservation Ordinance establishing a water conservation/supply shortage and sustainability program and water use regulations and restrictions. This Ordinance promotes efficient use of potable water supplies by establishing permanent water standards and prohibitions regarding certain wasteful uses of water to enhance the City's water supply reliability.

Mayor Scotto announced that this was the time and place for a public hearing on this matter. City Clerk Herbers confirmed that the hearing was properly advertised.

Public Works Director Beste provided an overview of the proposed Water Conservation Ordinance. He explained that the ordinance was meant to encourage the judicious use of water by both residents and businesses on a long-term basis in order to address the on-going drought and potential water shortages in the future. He noted that there will be outreach efforts to inform the public about the ordinance, including enclosures in water bills, notification to homeowner associations, and newspaper ads, and advised that water audits will be offered to residents to help them identify areas where they can potentially conserve water.

Councilmember Numark commended Public Works staff and the Water Commission for their work in drafting the ordinance and stressed the need to educate the public about water conservation.

Rick Marshall, Torrance, requested clarification regarding how baselines for residents will be determined. He noted that the initial goal of the ordinance is to achieve

a 10% reduction in water use and questioned how such a reduction would impact City revenues.

Public Works Director Beste advised that the ordinance does not deal with the method for establishing baselines and that this issue will be addressed if water rationing becomes necessary.

City Manager Jackson reported that revenues from Torrance Municipal Water Department go into the Water Enterprise Fund therefore the General Fund would not be impacted by any reduction in revenues from water service.

Robert Thompson, president of Madrona Homeowners Association, urged the City to do its part to conserve water by not approving new residential developments.

Michael Wermers, Torrance, wanted to clarify for the benefit of residents in the Hillside area that they will not be prohibited from watering vegetation necessary to control soil erosion.

**MOTION:** Councilmember Barnett moved to close the public hearing. The motion was seconded by Councilmember Brewer and passed by unanimous roll call vote.

**MOTION:** Councilmember Barnett moved to concur with the staff recommendation. The motion was seconded by Councilmember Rhlinger and passed by unanimous roll call vote.

#### **ORDINANCE NO. 3717**

#### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE ESTABLISHING A WATER CONSERVATION AND WATER SUPPLY SHORTAGE AND SUSTAINABILITY PROGRAM AND REGULATIONS**

**MOTION:** Councilmember Brewer moved for the adoption of Ordinance No. 3717. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

Agenda Item 10A was considered out of order at this time.

#### **10A. RECONSIDERATION OF COUNCIL'S DECISION RE PRE07-00030 – 602 PASEO DE LA PLAYA: JAMES MEYER/MICHAEL GUZMAN**

##### **Recommendation**

Recommendation of the Community Development Director that City Council reconsider the impacts of air, light, and privacy and adopt a new Resolution in which findings (c) and (d) properly reflect the evidence contained in the Administrative Record.

**PRE07-00030: James Meyer (Michael Guzman)**

Mayor Scotto asked if each Councilmember had reviewed the administrative record and was prepared to participate in this discussion.

Councilmember Numark announced that he was abstaining from consideration of this item because he took office after the Precise Plan was approved and he did not have an opportunity to review the case, as he had with other Hillside cases, by viewing the property with the silhouette, questioning witnesses at the time of the hearing, and deliberating with the Council, therefore, he felt it was inappropriate for him to take a position on this issue.

Councilmember Barnett, Councilmember Sutherland and Councilmember Brewer indicated that they were prepared to participate in this hearing as they had participated in the original hearing and had reviewed the administrative record.

Councilmember Rhilinger stated that she was not a member of the Council at the time of the initial hearing but, she was present in the audience for the entire hearing; and that she had reviewed the administrative record and was prepared to participate in this hearing.

Councilmember Furey stated that he was prepared to participate in this hearing, noting that he had reviewed the administrative record and viewed the videotape of the City Council meeting of May 13, 2008.

Mayor Scotto indicated that he also was prepared to participate in the hearing.

*Councilmember Numark exited Council Chambers.*

Mayor Scotto advised that a lawsuit was filed challenging the Council's decision to approve a Precise Plan of Development at 602 Paseo de la Playa; and that the judge in the case ruled that the hearing before the City Council was fair and another hearing was not required, however, the judge did conclude that two findings in the original resolution of approval were inadequate. He explained that the Council must now determine whether or not there was sufficient evidence in the administrative record to support a conclusion that the project would have no adverse impact on air, light or privacy. He outlined the procedure for the hearing.

Richard Buckley, Jr., 2049 Century Park East, Los Angeles, legal counsel for Tim and Corey Youngern, 536 Paseo de la Playa, voiced his opinion that this hearing should not be confined to matters in the administrative record and that the Council was obligated to reconsider the project's impact. Using slides to illustrate, he contended that the project would have a significant and substantial adverse impact on the air, light and privacy of the Youngerns' property and provided a list of page numbers from the administrative record which he believes support this conclusion. He noted that even though the maximum height is lower, most of the new home will be taller than the existing home so it will block sunlight and cooling breezes from the Youngerns' property; that the second floor will have more windows with a view into the Youngerns' property; and that the front balcony would look directly into an enclosed area in the Youngerns' front yard, where they have an expectation of privacy. He stated that the May 13, 2008 hearing got sidetracked by discussions of trees and not enough time was spent on the impact on air, light and privacy and whether the project was designed to cause the least intrusion and urged the Council to allow speakers to fully address these topics.

Councilmember Brewer, echoed by Mayor Scotto, pointed out that the judge determined that the May 2008 hearing was fair and that there was no need to conduct another hearing.

Eduardo Guzman, representing his son, Michael Guzman, 602 Paseo de la Playa, related his belief that there was sufficient evidence in the administrative record to support the Council's decision. He stated that there was not much discussion about the project's impact on air, light and privacy at the original hearing because opponents focused on the view impact, however, his son covered these issues in his presentation at the hearing and they were also thoroughly covered in the staff report.

The Council recessed from 9:06 p.m. to 9:19 p.m.

Tim Youngern, 636 Paseo de la Playa, stated that the proposed project would have an enormous and devastating effect on his property. He explained that the project would double the size of the existing second floor and the raised roofline would block sunlight from his backyard and kitchen window, as well as block cooling ocean breezes. With regard to privacy impact, he reported that the large deck on front of the house will look directly into the courtyard in his front yard, which has been landscaped to provide privacy, and that it would create visual and noise intrusions that currently do not exist. He noted that the new home will have more windows and larger windows overlooking his backyard and any protection afforded by obscured glass will be negated when the windows are open. He disputed the claim that the project was designed to cause the least intrusion on surrounding properties, maintaining that the roofline could be lowered by reducing dead attic space and that the front deck could be downsized or eliminated.

Councilmember Brewer questioned whether Mr. Youngern had discussed his concerns with Mr. Guzman.

Mr. Youngern reported that he scheduled a meeting to discuss the revised project at his lawyer's office, but Mr. Guzman did not bring along the plans. He noted that his concerns were detailed in letters to Mr. Guzman.

Councilmember Furey expressed concerns about the lack of communication, relating his understanding that a letter was sent to Mr. Guzman from Mr. Youngern's attorney directing Mr. Guzman not to speak to his client unless he was present.

Mr. Youngern stated that he and his wife felt it was necessary to have an attorney to protect their interests and because Mr. Guzman already had legal representation since his father is an attorney. He contended that Mr. Guzman disregarded his recommendations for revising the project and did not take neighbors' concerns seriously.

Roberta Blowers, 621 Camino de Encanto, reported that neighbors had suggested that Mr. Guzman utilize a subterranean design instead of expanding the second floor, but the suggestion was ignored, noting that she provided photographs of other homes on this street as examples of this type of design. She stated that Mr. Guzman visited her home and saw the view impact but was not willing to alter his plans.

Voc Gregorian, 625 Camino de Encanto, expressed concerns that the project would intrude on the privacy of the Youngerns' backyard and damage the lush landscaping due to the blockage of sunlight. He related his belief that minor revisions could make the project acceptable to everyone involved and proposed that neighbors get together with the Guzmans to discuss potential solutions.

Diane Miltimore, 621 Camino de Encanto, noted that this is a primarily one-story neighborhood, with only one two-story home within the notification area other than Mr. Guzman's. She reported that Mr. Guzman did not communicate with any of the affected neighbors before commencing the design process and urged the Council to delay taking any action until all Councilmembers have personally observed the impact on neighbors.

Pamela Maran, 5501 Via de Valle, noted that she had earlier requested that the Council reconsider their decision because she felt that an inordinate amount of time was spent on a peripheral issue at the May 2008 hearing, which deflected the Council's focus as to whether the project complied with the Hillside Ordinance. She related her understanding that according to TMC §91.41.10, an applicant cannot increase the size of an existing second story until it has been demonstrated that it is not feasible to increase the size of the structure by other means. She urged the Council to err on the side of caution and hold a new public hearing on the project, requiring it to be re-silhouetted so new Councilmembers could personally view the impact rather than relying on photographs.

Gene Kusion, 523 Camino de Encanto, stated that he is an attorney and read the judge's tentative decision three times and still found it confusing. He voiced his opinion that the only fair thing to do was to hold a new public hearing, particularly since three Councilmembers were not involved in the original decision and did not have an opportunity to visit the site and make their own first-hand observations.

Councilmember Brewer took issue with the implication that the May 2008 hearing was not fair, noting that the judge specifically stated that he had no doubt that the May 2008 hearing was fair.

Mr. Kusion stated that a determination that a hearing was fair only means that people had an opportunity to be heard, but it does not mean that the proper decision was made based on all the information. He reiterated his call for a new hearing.

Councilmember Sutherland stated that even though he did not vote to approve the project, he believed the May 2008 hearing was fair and suggested that just because someone does not like the outcome does not make a hearing unfair.

Mayor Scotto noted that Mr. Kusion is several houses away from the project and on another street and doubted that he would be impacted by it.

Mr. Kusion stated that he was not personally impacted but was opposed to the project because he was concerned that it would encourage other two-story projects and have a domino effect.

Mayor Scotto recalled that Mr. Kusion spoke in opposition to another project on Via El Toro and in that case the Council sided with the opposition and denied the project.

Mr. Kusion explained that his call for a new hearing was related to the fact there are three new Councilmembers so the Council was no longer the same body that made the original decision and that he was not questioning the fairness of the May 2008 hearing.

Martin Burke, 533 Paseo de la Playa, stated that the May 2008 hearing was absolutely fair, however, he believed the Council got sidetracked by a "red herring." He contended that the administrative record was full of evidence that the project would have a substantial negative impact on light, air and privacy of surrounding properties, noting that the Planning Commission voted to deny the project twice based on this impact. He reported that he was never contacted by Mr. Guzman about the plans and his suggestion that the expansion be confined to the rear yard was ignored.

Corey Youngern, 536 Paseo de la Playa, stated that she purchased her home with the knowledge that the Hillside Ordinance was in place to protect her property and Mr. Guzman was aware of the limits of the Hillside Ordinance because he formerly lived on Camino de Encanto. Submitting photographs to illustrate, she contended that Mr. Guzman's enlarged second floor would greatly intrude on the privacy of her kitchen and backyard; that it would block ocean breezes from her home and backyard; and that it would substantially diminish the sunlight in the main living area of her home, as well as in her backyard garden. She explained that the backyard is her sanctuary from her job in law enforcement and privacy is important because she often gardens in her nightgown. She reported that noise from Mr. Guzman's existing second story amplifies and echoes through skylights in her home and maintained that the proposed project will exacerbate this problem due to the large deck. She suggested that there are other options for expanding the Guzmans' home without impacting neighbors, including extending the house into the backyard and going subterranean. She urged the Council to conduct a new hearing on the project.

Referring to photographs submitted by Ms. Youngern, Mayor Scotto pointed out that there are existing windows that look directly into Ms. Youngern's backyard and noted that the windows in the second-floor addition will be obscured for privacy.

Ms. Youngern reported that the Guzmans frequently have their windows open, so the obscured glass would not be effective in protecting privacy.

Ruth Vogel, 114 Via la Soledad, objected to the interpretation that front yards do not enjoy a reasonable expectation of privacy, noting that the Youngerns and other residents have patios in the front yard that are shielded from the street by walls and/or vegetation as a means of providing refuges in densely populated neighborhoods. She expressed concerns about the large front deck and the impact on the Youngerns' privacy and about the precedent that would be set by allowing the Guzmans to expand a second floor that was built before the Hillside Ordinance was adopted.

Returning to the podium, Eduardo Guzman stated that he thought some of the speakers had strayed from the purpose of this hearing by offering new observations and evidence and he was not prepared to respond to these issues. He wanted to make clear that his son attempted to speak with everyone who had concerns about the project and went out of his way to compromise, revising the project three times. He voiced his opinion that it would be preposterous to disregard the Council's decision from the May

2008 hearing, noting that the judge found that the Council had conducted a competent, comprehensive and deliberate hearing.

Councilmember Furey disclosed that he is an attorney and reiterated that he thoroughly reviewed the record, as well as the videotape from the May 2008 hearing. He stated that while he is comparatively new to the Council, he is not new to the hearing process and had attended countless Planning Commission and City Council hearings. He explained that tonight's procedure was not a blank slate but rather a review of past evidence and arguments. He quoted from the Tentative Decision in which the Council was directed to, "reconsider its decision on the impacts of air, light and privacy and, if it upholds Guzman's appeal, issue a new decision in which findings (c) and (d) are set forth in a manner sufficient to bridge the analytical gap between the raw evidence and the ultimate decision." He suggested that the list of page numbers Mr. Buckley provided in support of the Youngerns' claims of adverse impact would have been more helpful if the pertinent sections on the pages had been highlighted.

Councilmember Furey also quoted another portion of the Tentative Decision in which the judge rejected the Youngerns' argument that the Hillside Ordinance precludes development if the project would have any effect on the view, light, air and privacy of neighboring properties because this interpretation would effectively prohibit all development since every development has some impact on the view, light, air and privacy of the properties around it. He noted that the judge determined that the City Council's interpretation of "adverse impact" to mean "substantial impact" was the only reasonable interpretation.

Councilmember Furey expressed concerns about the lack of direct communication between Mr. Guzman and his neighbors and related his belief that the best resolution to this case would be to have a meeting of the parties outside of a court of law. He stated that this is a beautiful neighborhood and he understood why residents are so passionate about this issue.

Councilmember Rhilinger reported that she read the entire record from the judge in order to determine whether or not to participate in this matter and decided to do so when it became clear that it involves the review of the administrative record. She noted that some speakers suggested that those not on the Council at the time of the May 2008 hearing should have visited the site to make personal observations, however, it has been her experience that appeals court judges rarely make on-site visits for matters like this. She stated that some have urged that another hearing be conducted because the May 2008 hearing became sidetracked, however, she was not sure the same thing wouldn't happen again if another hearing was held as several speakers this evening made comments that were off-track. She expressed concerns that should another hearing be held with a different outcome, the Guzmans would appeal and this process could go on indefinitely. She stated that the fact that the Planning Commission saw this case differently does not make either body right or wrong, but the City Council has the final word.

Councilmember Brewer disclosed that he visited the site before the May 2008 hearing and again this weekend. He explained that, in considering whether to conduct a new hearing, he felt it would be important if any new evidence was presented this evening, however, the testimony was along the same lines as at the May 2008 hearing. Commenting on the lack of communication, he stated that he thought the letter from the

Youngerns' attorney telling Mr. Guzman not to contact his client was inflammatory, and pointed out that when Mr. Guzman responded, it took the attorney more than two months to get back to him. He voiced his opinion that the fact that the project was designed three times was evidence that Mr. Guzman had made an effort to address neighbors' concerns. Noting that he voted to approve the appeal and approve the project at the May 2008 hearing, he stated that he believed that there was evidence in the record to support the Council's decision and he favored adopting a new resolution with modified findings.

Councilmember Barnett noted that the Council spent over three hours listening to testimony at the May 2008 hearing and another two hours this evening, which has bordered on a re-hearing of the case rather than considering whether there is evidence in the record to substantiate certain findings. He stated that he had not heard anything this evening that would cause him to change his original opinion and he believed the references to the administrative record cited in the staff report show that an effort was made to address the impact on light, air and privacy thereby substantiating findings (c) and (d).

Councilmember Sutherland commented on the difficulty of interpreting the Hillside Ordinance, noting that the judge even states that, "the ordinance is poorly written," and suggested that consideration be given to rewriting it to eliminate some of the ambiguity. He voiced his opinion that correcting the resolution was the only fair way to resolve this matter.

Mayor Scotto stated that while he has sympathy for the Youngerns, no evidence has been presented that would lead him to believe the outcome would be any different should a new hearing be held. For the benefit of the audience, he wanted to make clear that this Council has no intention of rubber-stamping every Hillside project that comes before them and that Councilmembers will continue to deny a project if they believe it would have an adverse impact on neighbors. He commented on the subjectivity involved in judging view impact.

City Attorney Fellows provided clarification regarding the Council's action this evening. He explained that this was not an evidentiary hearing, but rather the focus was on the administrative record to determine whether or not there is sufficient evidence to support findings (c) and (d). He noted that staff has cited portions of the administrative record which they believe support this conclusion and these citations also included in the new resolution.

Deputy City Attorney Whitham advised that it was indisputable that the judge found that the Council had conducted a fair hearing in May 2008 as he specifically stated, "there is no doubt in my mind that there was a fair hearing," and with regard to the hearing getting sidetracked, the judge stated that he did not believe the Council was impermissibly sidetracked by the tree issue. She reported that the judge ordered that the Council determine whether there is sufficient evidence to support findings (c) and (d), therefore, staff examined the entire administrative record and cited specific portions that support these findings so the Council could review them. She explained that during the hearing in May 2008, Mr. Youngern acknowledged that Mr. Guzman had reduced the size of the project considerably, especially in the back, and the remainder of his testimony focused on privacy impacts to his front yard, however, the Hillside Ordinance has never been interpreted to protect privacy impacts in the front yard because anyone

walking or driving down the street has a view into front yards. She noted that Mr. Youngern also brought up noise intrusion, but the Hillside Ordinance does not protect against noise intrusion as this is covered city-wide under the City's Noise Ordinance.

The Council recessed from 11:04 p.m. to 11:10 p.m.

**MOTION:** Councilmember Brewer moved to uphold the appeal and adopt a new resolution in which findings (c) and (d) properly reflect the evidence contained in the administrative record. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote, with Councilmember Numark abstaining.

#### **RESOLUTION NO. 2009-24**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE APPROVING A PRECISE PLAN OF DEVELOPMENT AS PROVIDED FOR IN DIVISION 9, CHAPTER 1, ARTICLE 41 OF THE TORRANCE MUNICIPAL CODE TO ALLOW FIRST AND SECOND STORY SINGLE FAMILY RESIDENCE ON PROPERTY LOCATED IN THE HILLSIDE OVERLAY DISTRICT IN THE R-1 ZONE AT 602 PASEO DE LA PLAYA.

**PRE07-00030: JAMES MEYER (MICHAEL GUZMAN)**

**MOTION:** Councilmember Brewer moved for the adoption of Resolution No. 2009-24. The motion was seconded by Councilmember Sutherland and passed by unanimous roll call vote.

Councilmember Numark returned to the dais.

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The Council met as the Redevelopment Agency from 11:15 p.m. to 11:18 p.m.

The Council met as the Public Housing Agency from 11:18 p.m. to 11:21 p.m.

#### **17. ORAL COMMUNICATIONS #2**

**17A.** Councilmember Sutherland reported that the Tip-a-Cop fundraiser at the Claim Jumper raised \$5,050 last week, and he also reported that the Torrance Fire Fighter Association served 900 spaghetti dinners at their fundraiser for the Alisa Ann Ruch Burn Foundation on March 14.

**17B.** Councilmember Sutherland commented on thank you notes he received from the 4<sup>th</sup> grade class at Anza Elementary School.

**17C.** Councilmember Furey noted that the Tip-a-Cop fundraiser helps support the South Bay Special Olympics and encouraged everyone to cheer on participants at the Special Olympics South Bay area games to be held on Saturday, April 4, at Wilson Park, with opening ceremonies beginning at 9:00 a.m.

**17D.** Councilmember Furey announced that the Los Angeles Sol women's soccer team will be playing its inaugural match against the Washington Freedom on Saturday,

March 29, in the Home Depot Center on the Cal State Dominguez campus, with additional information at [www.losangelessol.com](http://www.losangelessol.com).

**17E.** Councilmember Barnett congratulated Michael Smith and CitiCABLE staff on achieving top ranking for government webcasts, noting that Torrance is the first local government in the nation to stream its channel live on the web.

**17F.** Councilmember Numark noted that a survey was being conducted to determine how residents would like to receive information from the City and encouraged residents to take the survey on the City's website [www.torrcnet.com](http://www.torrcnet.com) in order to make their views known on this issue.

**17G.** Councilmember Numark encouraged everyone to attend the Youth Council's Pancake Breakfast to be held at the ATTIC on Saturday, April 4.

**17H.** Councilmember Numark encouraged the public to participate in "Lights Out America, Earth Hour," by turning off all non-essential lights between 8:30 and 9:30 p.m. on Saturday, March 28, thereby making a global statement of concern about climate change and demonstrating a commitment to finding solutions.

**17I.** Councilmember Numark noted that residents have expressed concerns about people living in trailers adjacent to residences; reported that a staff investigation of this issue revealed that there may be difficulty in enforcing the Torrance Municipal Code as currently written; and requested that the Environmental Quality and Energy Conservation Commission work with staff to consider developing an ordinance that governs the occupation of trailers next to residences.

Hearing no objection, Mayor Scotto so ordered.

**17J.** Councilmember Numark noted that he was recently appointed vice-chair of the Administrative Services Policy Committee of the League of California Cities.

**17K.** Mayor Scotto thanked Shannon Boxx for attending tonight's meeting.

**17L.** Councilmember Brewer reported on the trip he recently took to Washington, D.C., along with Councilmember Numark, Mayor Scotto, Assistant City Manager Giordano and Transit Director Turner to meet with various elected officials to discuss the proposed Torrance Transit Center, along with the proposed Redondo Beach Transit Center.

**17M.** Councilmember Numark noted that the purpose of the meetings was to make sure that Torrance gets its fair share of the federal budget and stimulus funds, and complimented Councilmember Brewer and Mayor Scotto on their ability to communicate persuasively.

**17O.** Mayor Scotto stated that he thought the meetings were very productive and thanked Assistant City Manager Giordano and Transit Director Turner for compiling all the information needed to communicate effectively at the meetings.

17P. Councilmember Sutherland reported on his attendance at a recent conference in Washington, D.C., noting that speakers included the Attorney General and the Secretaries of the Department of Energy, Department of Housing and Urban Development, Department of Transportation, and Department of Homeland Security.

18. **EXECUTIVE SESSION**

At 11:32 p.m., the City Council recessed to closed session to confer with the City Manager and City Attorney on agenda matters listed under 18A) Conference with Labor Negotiator, pursuant to California Government Code § 54957.6.

The City Council reconvened in open session at 11:41 p.m. No formal action was taken on any matter considered in closed session.

19. **ADJOURNMENT**

At 11:41 p.m., the meeting was adjourned to Tuesday, April 7, 2009 at 5:30 p.m. for an executive session, with the regular meeting commencing at 7:00 p.m. in the Council Chambers. **Tuesday, March 31, 2009 will be a Council dark night.**

*Adjourned in Memory of  
Robert Jones*

Attest:

/s/ Frank Scotto

Mayor of the City of Torrance

/s/ Sue Herbers

Sue Herbers,  
City Clerk of the City of Torrance

Approved on June 2, 2009