MINUTES
OF THE SPECIAL MEETING
OF THE TUSTIN CITY COUNCIL

MARCH 15, 2011

CALL TO ORDER – Meeting #2258 at 5:38 p.m.

ATTENDANCE
Present: Mayor Jerry Amante, Mayor Pro Tem John Nielsen, and
Councilmembers Deborah Gavello, Rebecca "Beckie" Gomez and Al
Murray
Absent: None
City Clerk: Patricia Estrella, City Clerk Services Supervisor
Others Present: Douglas C. Holland, City Attorney

PUBLIC INPUT – None

REGULAR BUSINESS ITEM

INTERVIEW AND APPOINT MEMBERS TO THE PLANNING, COMMUNITY SERVICES
AND AUDIT COMMISSIONS

The City Council will conduct interviews and appoint three (3) members to the Planning
Commission, three (3) members to the Community Services Commission, and three (3)
members to the Audit Commission. The Planning Commissioners selected will serve until
March 1, 2013 or until their respective successors are appointed and qualified. The
Community Services Commissioners selected will serve until March 1, 2013 or until their
respective successors are appointed and qualified. The Audit Commissioners will serve
until March 1, 2015 or until their respective successors are appointed and qualified.

The City Clerk's Office received applications for the Planning Commission, Community
Services Commission and Audit Commission as follows:

Audit Commission:
• Robert Ammann
• Donald G. Berkheimer
• Richard G. Hilde
- Kim Leason
- Craig Shimomura

Ballots were cast by Council to fill three seats on the Audit Commission as follows:

Amante: Hilde, Leason, Shimomura
Nielsen: Ammann, Hilde, Shimomura
Gavello: Berkheimer, Shimomura
Gomez: Ammann, Berkheimer, Shimomura
Murray: Hilde, Leason, Shimomura

City Clerk Services Supervisor Estrella reported the ballot tally as follows: Shimomura (5 votes); Hilde (3 votes); Leason (2 votes); Ammann (2 votes); Berkheimer (2 votes).

A subsequent vote between Leason, Ammann and Berkheimer was taken with the following results:

Amante: Leason
Nielsen: Ammann
Gavello: Berkheimer
Gomez: Berkheimer
Murray: Leason

City Clerk Services Supervisor Estrella reported the ballot tally as follows: Leason (2 votes); Berkheimer (2 votes); Ammann (1 vote).

A subsequent vote between Leason and Berkheimer was taken with the following results:

Amante: Leason
Nielsen: Leason
Gavello: Berkheimer
Gomez: Berkheimer
Murray: Leason

City Clerk Services Supervisor Estrella reported the ballot tally as follows: Leason (3 votes), Berkheimer (2 votes). Craig Shimomura, Richard Hilde and Kim Leason were appointed Audit Commissioners by majority vote.

Community Services Commission:
- Kenneth L. Eckman
- Erin Moore
- James K. Palmer
- Donna Marsh Peery
- Larry R. Sample

Ballots were cast by Council to fill three seats on the Community Services Commission, as follows:

Amante: Moore, Peery, Palmer
City Clerk Services Supervisor Estrella reported the ballot tally as follows: Peery (5 votes); Palmer (4 votes); Moore (3 votes); Sample (3 votes).

A subsequent vote between Moore and Sample was taken with the following results:

- **Amante**: Moore
- **Nielsen**: Moore
- **Gavello**: Sample
- **Gomez**: Sample
- **Murray**: Moore

City Clerk Services Supervisor Estrella reported the ballot tally as follows: Moore (3 votes), Sample (2 votes). Donna Marsh Peery, James K. Palmer and Erin Moore were appointed Community Services Commissioners by majority vote.

**Planning Commission:**
- Kenneth L. Eckman
- Steve Kozak
- Frederick C. Moore
- Larry R. Sample
- Paul Wasserman

Ballots were cast by Council to fill three seats on the Planning Commission as follows:

- **Amante**: Eckman, Kozak, Moore
- **Nielsen**: Eckman, Kozak, Moore
- **Gavello**: Kozak, Wasserman
- **Gomez**: Sample, Kozak, Wasserman
- **Murray**: Eckman, Kozak, Moore

City Clerk Services Supervisor Estrella reported the ballot tally as follows: Kozak (5 votes); Moore (3 votes); Eckman (3 votes); Sample (1 vote); Wasserman (2 votes). Steve Kozak, Fred Moore and Ken Eckman were appointed Planning Commissioners by majority vote.

**ADJOURNED TO CLOSED SESSION** at 7:02 pm.
CALL TO ORDER – Meeting #2258 at 7:02 p.m.

ATTENDANCE
Present: Mayor/Chair Jerry Amante, Mayor Pro Tem/Chair Pro Tem John Nielsen, and Councilmembers/Agencymembers Deborah Gavello, Rebecca “Beckie” Gomez and Al Murray
Absent: None
City Clerk: Pamela Stoker, City Clerk
Others Present: Douglas C. Holland, City Attorney

PUBLIC INPUT – None

CLOSED SESSION ITEMS - The Brown Act permits legislative bodies to discuss certain matters without members of the public present. The City Council finds, based on advice from the City Attorney, that discussion in open session of the following matters will prejudice the position of the City in existing and anticipated litigation:

A. CONFERENCE WITH LEGAL COUNSEL – EXPOSURE TO LITIGATION [Govt. Code § 54956.9(b)] – Two Cases

B. CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION [Govt. Code § 54956.9(c)] – Two Cases

C. LABOR NEGOTIATIONS [Government Code Section 54957.6]
   Agency Negotiators: Kristi Recchia, Director of Human Resources and Peter Brown, Liebert Cassidy Whitmore
   Employee Organization: Tustin Municipal Employees Association (TMEA)
   Employee Organization: Tustin Police Officers Association (TPOA)
   Employee Organization: Tustin Police Support Service Association (TPSSA)
   Employee Organization: Tustin Police Management Association (TPMA)
   Employee Organization: Part-Time Unrepresented Employees
   Employee Organization: Unrepresented Confidential Employees
   Employee Organization: Unrepresented Supervisory
Employee Organization: Executive Management and Management

D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION [Govt. Code § 54956.9(a)] – One Case
   • Tustin Unified School District v. City of Tustin et al., Case No. 30-2010-00345476, Orange County Superior Court

E. PUBLIC EMPLOYMENT: [Govt. Code § 54957] – Two Cases
   1. Termination of City Manager
   2. Appointment of Interim City Manager

F. CONFERENCE WITH REAL PROPERTY NEGOTIATOR [Govt. Code 54956.8] – One case

   Property Address/Description: Assessor Parcel Numbers (APN’s): 393-181-13, 393-181-14, 393-181-15, 393-181-16, 393-181-17, 393-181-18 and Cole Lane

   Agency: City of Tustin

   Agency/City Negotiator: Douglas Stack, Director of Public Works/City Engineer

   Negotiating Parties: Alan Trider, President, Oakhurst International, Inc.

   Under Negotiation: Price, Terms and Conditions
                    Right of Access Agreement

Recessed at 7:03 p.m.

Reconvened at 8:17 p.m.

JOINT REGULAR CITY COUNCIL AND REDEVELOPMENT AGENCY MEETING
7:00 P.M.

CALL TO ORDER – Meeting #2258 at 8:17 p.m.

INVOCATION – Mayor Amante

PLEDGE OF ALLEGIANCE – Mayor Amante

ROLL CALL – City Clerk

Present: Mayor/Chair Jerry Amante, Mayor Pro Tem/Chair Pro Tem John Nielsen, and Councilmembers/Agencymembers Rebecca “Beckie” Gomez and Al Murray
Absent: None
City Clerk: Pamela Stoker, City Clerk
Others Present: Douglas C. Holland, City Attorney

CLOSED SESSION REPORT – City Attorney Douglas C. Holland

The City Council met in closed session in regard to item E., Public Employment, on tonight’s Closed Agenda. City Council voted to terminate the employment of David Biggs, City Manager by a 4-1 vote, Councilmember Gavello dissenting. City Council also approved a Separation Agreement with Mr. Biggs and a Joint Statement that Mr. Biggs had previously signed, that both the Separation Agreement and Joint Statement were approved on a 5-0 vote. The Separation Agreement and Joint Statement will be available at the end of this meeting. The Joint Statement reads as follows:

"The City Council of the City of Tustin announces that it has terminated, without cause, the Employment Agreement of City Manager David C. Biggs, effective April 1, 2011, and Mr. Biggs is suspended, with pay, until April 1, 2011. The relationship between Mr. Biggs and the City Council was not satisfactory, as determined by the Tustin City Council.

As provided in Mr. Biggs’ Employment Agreement, no member of the City Council, the City management staff nor Mr. Biggs shall make any written, oral or electronic statement to any member of the public, the press or any City employee concerning the termination of Mr. Biggs’ employment, except as provided in this statement."

City Council also took under consideration the appointment of an interim city manager. The City Council voted to retain William A. Huston as Interim City Manager on a 3-1-1 vote, with Councilmember Gavello dissenting and Councilmember Gomez abstaining.

PRESENTATIONS

- 2010 CalRecycle Waste Reduction Awards Program recipients:
  - Eiko Risch on behalf of Ricoh
  - Brent Comerford on behalf of Victory Foam
- Rebate check to Ricoh on behalf of Department of Energy accepted by Eiko Risch

ANNOUNCEMENT OF COMMISSIONER SELECTION

Audit Commission: Richard Hilde, Kim Leason and Craig Shimomura
Community Services Commission: Erin Moore, James Palmer and Donna Marsh Peery
Planning Commission: Kenneth Eckman, Steve Kozak and Fred Moore
ORAL COMMUNICATION/PUBLIC INPUT

- Charles Horvath
- Lisa Speakman, Chairman, Relay for Life of Tustin
- Jennifer Coulson, Tustin Community Foundation

PUBLIC HEARING ITEM (1)

1. APPEAL OF THE PLANNING COMMISSION’S DECISION TO CONDITIONALLY APPROVE CONDITIONAL USE PERMIT 09-030 TO ALLOW FOR ANCILLARY BANQUET FACILITIES IN CONJUNCTION WITH AN EXISTING AUTOMOTIVE MUSEUM LOCATED AT 1302 INDUSTRIAL DRIVE.

A presentation was given by Elizabeth Binsack, Director of Community Development

On January 11, 2011, the City of Tustin Planning Commission adopted Resolution No. 4166, approving Conditional Use Permit (CUP) 09-030 to allow the Marconi Foundation for Kids to operate ancillary banquet facilities in conjunction with an existing automotive museum located at 1302 Industrial Drive.

On January 19, 2011, an appeal of the Planning Commission's decision to conditionally approve CUP 09-030 was filed by the applicant, Marconi Foundation for Kids. The appeal specifically requests the removal of Conditions 4.1 through 4.5 of Resolution No. 4166 which pertain to required off-site improvements (i.e., new sidewalks, ADA compliant driveways, curb, etc.) within the public right-of-way. Pursuant to Tustin City Code Section 9294b, the appeal hearing before the City Council is de novo.

Staff recommends that the City Council approve the project allowing ancillary banquet facilities in conjunction with the automotive museum use. The off-site public improvements are necessary for the following reasons:

- Approval of the request is intensification from a warehouse use to assembly use;
- The site uses adjacent parcels to meet its parking demand. Access to the project site without sidewalks will require people to walk in the street;
- There is not adequate disabled access to and from the site;
- The City Council set a policy in 1987 requiring construction of sidewalks in industrial areas.
- An agreement was signed by the Marconi Foundation in 1995 agreeing to install the sidewalk;
- Other businesses have been required to install off-site improvements when significant improvements, change in occupancy, and/or intensification of uses are proposed;
- A precedent would be set if the requirement is waived
The public hearing opened at 8:52 p.m.

Ex-parte Communications (Mayor Amante, Mayor Pro Tem Nielsen, Councilmember Murray, Councilmember Gavello)

The following spoke regarding Public Hearing Item 1:

- Priscilla Marconi
- Lori Pack
- Tim Bauer
- Cal Winslow
- John Luker

The public hearing closed at 9:11 p.m.

Motion: It was moved by Mayor Pro Tem Nielsen and seconded by Councilmember Murray that the City Council adopt Resolution No. 11-17, approving Conditional Use Permit 09-030 authorizing the use of ancillary banquet facilities in conjunction with an existing automotive museum located at 1302 Industrial Drive subject to certain conditions including the requirement to install off-site public improvements with implementation of items 4.1-4.5 to be installed prior to March 15, 2016 (five years).

Motion carried 3-2 (Councilmembers Gavello and Gomez dissenting)

RESOLUTION NO. 11-17
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, APPROVING CONDITIONAL USE PERMIT 09-030 AUTHORIZING THE USE OF ANCILLARY BANQUET FACILITIES IN CONJUNCTION WITH AN EXISTING AUTOMOTIVE MUSEUM LOCATED AT 1302 INDUSTRIAL DRIVE.

CONSENT CALENDAR ITEMS (2-13)

It was moved by Councilmember/Agencymember Gavello and seconded by Mayor Pro Tem/Chair Pro Tem Nielsen to pull consent item 12 and to approve the balance of the consent calendar items as recommended by staff.

Motion carried 5-0

2. APPROVAL OF MINUTES – REGULAR MEETING OF JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY HELD ON MARCH 1, 2011

Recommendation: Approve the Action Minutes of the Regular Meeting of the Joint City Council and Redevelopment Agency held on March 1, 2011.

3. APPROVAL OF DEMANDS AND RATIFICATION OF PAYROLL
Recommendation: Approve Demands in the amount of $3,434,037.03 and Payroll in the amount of $657,127.99.

4. 2010 GENERAL PLAN ANNUAL REPORT

The California Government Code requires that the Planning Commission provide a progress report to the City Council on the status of the City's General Plan and the progress in its implementation, including the progress in meeting our share of regional housing needs and efforts to remove governmental constraints to housing development, maintenance, and improvement. On March 8, 2011, the Planning Commission reviewed the annual report and authorized staff to forward the report to the City Council. With Council authorization, staff will forward the report to the State Office of Planning and Research and the State Department of Housing and Community Development in fulfillment of the State's requirement.

Recommendation: That the City Council review and authorize staff to forward this annual report to the State Office of Planning and Research and the State Department of Housing and Community Development.

5. STATUS REPORT ON REDEVELOPMENT AGENCY PROJECTS

Redevelopment Agency staff provides on a monthly basis an update of redevelopment related projects.

Recommendation: Receive and file.

6. RENTAL AGREEMENT BETWEEN THE CITY OF TUSTIN AND NATIONAL OFFICE LIQUIDATORS FOR A PORTION OF THE BUILDING LOCATED AT 15171 DEL AMO AVENUE

Approval is requested for a Rental Agreement between the City and National Office Liquidators, Inc. (Tenant), for a City-owned property located at 15171 Del Amo Avenue.

Recommendation: It is recommended that the City Council authorize the Assistant City Manager to execute the attached Rental Agreement with National Office Liquidator, Inc and to enter into any extension periods as may be authorized under the Rental Agreement, subject to any non-substantive modifications as may be deemed necessary by the City Attorney.

7. APPROVAL OF AMENDMENT NO. 1 TO CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY AND PACIFIC STATES ENVIRONMENTAL CONTRACTORS, INC.

Approval is requested for Amendment No. 1 to a Consultant Services Agreement between the City of Tustin and Pacific States Environmental Contractors, Inc. ("PSEC") for certain environmental assessment services at
Tustin Legacy. The Amendment will provide additional environmental services related to infrastructure design requirements for Tustin Ranch Road roadway improvements as well as other technical support.

Recommendation: It is recommended that the City Council and Redevelopment Agency:

1. Approve Amendment No. 1 to a Consultant Services Agreement for Tustin Legacy between the City of Tustin and Pacific States Environmental Contractors, Inc., increasing the not to exceed amount by $78,985 to $88,985 (the original agreement, approved November 16, 2010, was for $10,000), and authorize the City Manager and/or the Assistant City Manager to execute the document on behalf of the City of Tustin.

2. Appropriate from un-appropriated funds in the MCAS 2010 Tax Allocation Bond Proceeds Fund (561) $68,685 to the Tustin Ranch Road Extension Project Capital Improvement Program Fund (CIP No. 70100) and $10,300 in un-appropriated funds from the MCAS Tustin Redevelopment Fund (555) to 555-35-00-6010.

8. AUTHORIZATION TO PURCHASE DATACENTER UPS UNITS

The Information Technology (IT) Division is in process of relocating existing server and storage equipment to a new purpose-built datacenter in City Hall. Said server and storage equipment requires uninterruptible power supplies (UPS) to protect the equipment from power failures, surges, and sags. IT staff has determined the need to replace existing in-rack UPS units with redundant room UPS units.

Recommendation: It is recommended that the City Council authorize purchase of two (2) Eaton Powerware BladeUPS 36kVA/36kW uninterruptible power supply units from Ramtek, LLC of Tustin, CA in the amount of $51,909.88 (including tax and shipping).

9. AUTHORIZE NEGOTIATION OF A CONTRACT CHANGE ORDER WITH R.J. NOBLE COMPANY FOR THE TUSTIN RANCH ROAD PAVEMENT REHABILITATION PROJECT CIP 70195

Staff is requesting City Council authorization to negotiate a contract change order with R.J. Noble Company to extend the project limits of CIP 70195 to include construction of the Bryan Avenue Pavement Rehabilitation Project CIP 70199 by utilizing bid savings realized in the Tustin Ranch Road Project.

Recommendation: It is recommended that the City Council authorize staff to negotiate a contract change order with R.J. Noble Company to extend the project limits of the Tustin Ranch Road Pavement Rehabilitation Project CIP 70195 to include construction of the Bryan Avenue Pavement Rehabilitation Project CIP 70199 and utilize the bid savings in CIP 70195.
10. APPROVE PLANS AND SPECIFICATIONS AND AUTHORIZE
ADVERTISEMEN TO RECEIVE BIDS FOR THE PARK RE-LAMPING
PROJECT CIP NO. 20066

The plans and specifications for the Park Re-Lamping Project CIP No. 20066
have been prepared and the project is now ready to be bid.

Recommendation: It is recommended that the City Council adopt Resolution
No. 11-16 approving the plans and specifications for the Park Re-Lamping
Project CIP No. 20066 and authorize the City Clerk to advertise and receive
bids.

RESOLUTION NO. 11-16
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN,
CALIFORNIA APPROVING PLANS AND SPECIFICATIONS FOR THE
PARK RE-LAMPING PROJECT CIP NO. 20066, AND AUTHORIZING
ADVERTISEMEN FOR BIDS

11. ADOPT RESOLUTION NO. 11-11 APPROVING LOT LINE ADJUSTMENT NO.
2010-03

A lot line adjustment has been requested by the property owner to merge the
three (3) existing parcels into one (1) parcel at 200-220 El Camino Real. The
merger is required to ensure that the existing building meets the current
California Building Code (CBC) requirements. The proposed lot line adjustment
application has been submitted by Robert Douglas Feinstein, successor trustee
of the Nancy F. Feinstein Trust established January 11, 2002.

Recommendation: It is recommended that the City Council adopt Resolution
No. 11-11 approving Lot Line Adjustment No. 2010-03.

RESOLUTION NO. 11-11
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN,
CALIFORNIA, APPROVING LOT LINE ADJUSTMENT NO. 2010-03

12. CONSULTANT SERVICES AGREEMENT FOR A STRUCTURAL
ENGINEERING ASSESSMENT OF THE STEVENS SQUARE PARKING
STRUCTURE

Approval is requested of a Consultant Services Agreement to conduct a
structural engineering assessment of the Stevens Square Parking Structure.

Motion: It was moved by Mayor Pro Tem/Chair Pro Tem Nielsen and seconded
by CouncilMember/Agencymember Murray that:

1. The Redevelopment Agency approve a Consultant Services
Agreement with Hess Engineering, Inc. to conduct a structural
engineering assessment of the structural stability and architectural
and deferred maintenance needs of the Stevens Square Parking Structure, located at 445 South C Street, subject to any non-substantive modifications as may be determined necessary as recommended by the City Attorney, and authorize the Assistant City Manager to execute the document on behalf of the City; and

2. The Redevelopment Agency appropriate $15,950 from unappropriated funds in the Town Center Fund (558) to Town Center Account No. 558-35-00-6010 for services with Hess Engineering; and

3. The City Council and Redevelopment Agency authorize Agency and City staff to negotiate with Stevens Square, LLC, a cost-sharing agreement that outlines the sharing of any one-time and on-going repairs and maintenance costs in proportion to the ownership interests in the Parking Structure common area.

Motion carried 5-0

13. APPROVE AGREEMENT BETWEEN MUNICIPAL WATER DISTRICT OF ORANGE COUNTY (MWDOC) AND ITS MEMBER AGENCIES ON BUDGET, ACTIVITIES, CHARGES, AND OTHER ISSUES

The Municipal Water District of Orange County (MWDOC) has been working with its member agencies on changes to its business model which will enable them to better meet its member agencies' needs and resolve long standing causes of disagreement with several of their member agencies. Beginning in fiscal year 2011-12, MWDOC will adopt a new business model in which individual member agencies will have a choice as to whether they participate in certain MWDOC programs and the member agencies that elect to participate in those programs will be charged directly for those services. Under the agreement, MWDOC will also realign its rate structure to reflect the regional nature of MWDOC's services. Signatories to the agreement will be given the opportunity to nominate candidates to be appointed by MWDOC to the Metropolitan Water District of Southern California (MWD) Board of Directors when vacancies occur among MWDOC's delegation of four directors appointed to the MWD Board.

Recommendation: It is recommended that the City Council approve the agreement with the Municipal Water District of Orange County and authorize the Mayor and City Clerk to execute the agreement.

REGULAR BUSINESS ITEMS (14-20)

14. "NEIGHBORHOODS OF TUSTIN TOWN CENTER: A NEW BEGINNING" WORK PLAN

A presentation was given by Christine Shingleton, Assistant City Manager
The City Council recently endorsed "The Neighborhoods of Tustin Town Center: A New Beginning", A Strategic Guide for Development. The report identified immediate and short term action projects and programs. As requested by the City Council, staff is bringing back a proposed Work Plan outlining the steps City Departments are taking to implement immediate and short term strategies.

Motion: It was moved by Councilmember/Agencymember Gavello and seconded by Mayor Pro Tem/Chair Pro Tem Nielsen to receive and file.

Motion carried 5-0

Councilmember Gavello left the dais at 9:45 p.m.

15. DISCUSSION REGARDING THE CITY OF TUSTIN EMERGENCY PLAN

The City Council approved the City of Tustin Emergency Plan at the March 1, 2011 City Council meeting and requested an additional opportunity for comment and discussion.

Motion: It was moved by Councilmember Gomez and seconded by Mayor Pro Tem Nielsen to reaffirm the vote taken at the March 1, 2011 meeting.

Motion carried 4-0 (Councilmember Gavello absent)

Councilmember Gavello returned to the dais at 9:50 p.m.

16. AFFIRM NONCONFORMING STATUS AT 520 PACIFIC STREET

Mayor Amante distributed documents to Councilmembers

On March 1, 2011, the City Council held a de novo public hearing to consider the appeal by Mayor Amante which appealed the actions of the Planning Commission’s December 14, 2010, determination regarding the property located at 520 Pacific Street. The appeal further requested clarification that the Tustin City Code (TCC) require nonconforming buildings, structures, and uses be legally established at some point and to clarify the legal intent of prior and current definitions of nonconforming buildings, structures and uses and the appropriate application of the Code. At the hearing, the City Council denied the appeal and determined that structures and uses at 520 Pacific Street to be nonconforming and directed staff to revise the Tustin City Code as it relates to the term “nonconforming” to clarify, provide consistency in prior practice, and reduce ambiguity throughout the Code. Resolution No. 11-18 reflects the City Council action as to 520 Pacific Street. A separate resolution and draft ordinance revising the Tustin City Code as it relates to the term “nonconformance” will be addressed in a separate report.

Mayor Amante made a motion to uphold appeal; failed for lack of second

Councilmember Gavello made a motion to approve item; failed for lack of
second

The following spoke on Item 16:

- Deborah Rosenthal

Mayor Amante made a motion to continue item for two weeks; Mayor Pro Tem Nielsen seconded, no vote taken

Substitute Motion: It was moved by Councilmember Gavello and seconded by Councilmember Gomez that the City Council adopt Resolution No.11-18 affirming nonconforming status of certain buildings, structures, and uses at the property at 520 Pacific Street.

Motion carried 3-2 (Mayor Amante and Mayor Pro Tem Nielsen dissenting)

RESOLUTION NO. 11-18
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, AFFIRMING NONCONFORMING STATUS OF CERTAIN BUILDINGS, STRUCTURES, AND USES AT THE PROPERTY AT 520 PACIFIC STREET (ASSSESSOR'S PARCEL NO. APN 401-371-07)

17. INITIATION OF CODE AMENDMENT TO CLARIFY, PROVIDE CONSISTENCY, AND REDUCE AMBIGUITY OF THE TERM "NONCONFORMING" IN THE TUSTIN CITY CODE

A presentation was given by Elizabeth Binsack, Director of Community Development

The following spoke on Item 17:

- Deborah Rosenthal
- James W. Shumar, Jr.
- Markus Brown
- Bret Fairbanks
- Linda Jennings
- Lindburgh McPherson
- Nathan Menard

On March 1, 2011, the City Council directed staff to draft a code amendment to provide clarity, provide consistency with prior practice, and reduce ambiguity of the term "nonconforming" throughout the Tustin City Code. Pursuant to TCC 9295c, an amendment of the Zoning Code may be initiated by the City Council by filing a resolution with the Planning Commission of the intention thereof.

A move to deny the recommendation was made by Councilmember Gavello and seconded by Councilmember Gomez. Vote failed 2-3 (Mayor Amante, Mayor Pro Tem Nielsen and Councilmember Murray dissenting)
Motion: It was moved by Mayor Pro Tem Nielsen and seconded by Councilmember Murray that the City Council adopt Resolution No. 11-19 to initiate a code amendment (Draft Ordinance No. 1397) to provide clarity, provide consistency with prior practice, and reduce ambiguity of the term "nonconforming" throughout the Tustin City Code and to direct the Planning Commission to consider said code amendment for recommendation to City Council. A verbatim transcript of Item 17 on this agenda only to be provided to the Planning Commission.

Motion carried 5-0

RESOLUTION NO. 11-19
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN, INITIATING A CODE AMENDMENT (DRAFT ORDINANCE NO. 1397) TO AMEND THE TERM "NONCONFORMING" AS SET FORTH IN THE TUSTIN CITY CODE TO CLARIFY, PROVIDE CONSISTENCY, AND REDUCE AMBIGUITY THROUGHOUT THE CODE; AND DIRECTING THE PLANNING COMMISSION TO CONSIDER SAID CODE AMENDMENT FOR RECOMMENDATION TO CITY COUNCIL.

RECESSED at 11:15 p.m.

RECONVENED at 11:21 p.m.

18. ESTABLISHING A TUSTIN HOUSING AUTHORITY

An oral presentation was given by Christine Shingleton, Assistant City Manager

The purpose of this item is to request that the City Council consider establishing a Housing Authority to function in the City in order to provide safe and sanitary housing opportunities for the City residents.

Motion: It was moved by Councilmember Murray and seconded by Mayor Pro Tem Nielsen that the City Council approve Resolution No. 11-20 establishing a Housing Authority in accordance with the California Housing Authorities Law.

Motion carried 4-1 (Councilmember Gavello dissenting)

RESOLUTION NO. 11-20
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUSTIN ESTABLISHING A HOUSING AUTHORITY IN ACCORDANCE WITH THE CALIFORNIA HOUSING AUTHORITIES LAW.

19. LEGISLATIVE REPORT

At this time, the City Council may take the opportunity to discuss current legislation of interest.

None.
20. CALPERS RETIREMENT AND RETIREE MEDICAL PROGRAMS

The City has contracted with Bartel Associates to conduct our GASB 45 Actuarial Valuation regarding our Other Post Employment Benefits (OPEB) which specifically includes our Retiree Health Program. Additionally, the City contracted with Bartel Associates to provide a comprehensive review of our retirement program in several key areas. Mr. John Bartel will provide a presentation to the City Council on his review and analysis.

Item 20 continued to a future meeting.

OTHER BUSINESS/COMMITTEE REPORTS – City Manager, City Attorney, City Council

Councilmember Murray:
- Attended Association of California Cities legislative meeting
- Attended Water Advisory Committee of Orange County meeting
- Attended Orange County Vector Control meeting
- Read at Ladera Elementary School Read Across America for Mrs. Winter's class
- Attended Tustin Chamber of Commerce meeting
- Attended the Miss Tustin Contest
- Attended Tustin Area Council for Fine Arts Council (TACFA) event

Councilmember Gavello departed the meeting at 11:32 p.m.

Councilmember Gomez:
- Attended the Miss Tustin pageant
- Attended TACFA Broadway in the Park kickoff event for Oliver
- Visited Bowers Museum and exhibit on Benjamin Franklin

Mayor Pro Tem Nielsen:
- Attended Orange County Fire Authority new member orientation
- Attended new member board orientation and Board of Directors meeting for Orange County Sanitation District
- Attended Orange County Council of Governments meeting
- Attended Southern California Association of Governments Community Economic Human Development Committee and discussed Regional Housing Needs Assessment (RHNA)
- Attended TACFA Broadway in the Park event
- Attended the Miss Tustin scholarship pageant
- Attended City Arbor Day celebration

Mayor Amante
- Deferred committee reports until next meeting due to late hour of meeting
- Attended Miss Tustin scholarship event
- Attended TACFA event
RECESS TO CLOSED SESSION at 11:37 p.m.

RECONVENED at 12:04 a.m.

CLOSED SESSION REPORT – City Attorney Douglas C. Holland – No reportable action.

ADJOURNED at 12:05 p.m. – The next regular meeting is scheduled for Tuesday, April 5, 2011 at 5:30 p.m. for the Closed Session Meeting followed by the Regular Business Meeting at 7:00 p.m. in the Council Chamber, 300 Centennial Way, Tustin, California.