

MINUTES OF THE REGULAR MEETING
OF THE LA PALMA CITY COUNCIL

September 20, 2011

CALL TO ORDER: Mayor Rodriguez called the Regular Meeting of the La Palma City Council to order at 6:30 p.m. in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California, with all members present.

CLOSED SESSION

City Attorney Kuperberg announced that since the Agenda was posted the City received two new litigation matters that it would be advisable to discuss during Closed Session as follows:

Name of Case:	The La Palma Police Association (LPPA) versus the City of La Palma
Case Number:	Orange County Superior Court 00509037
Name of Case:	The La Palma Police Association (LPPA) versus the City of La Palma
Case Number:	Public Employment Relations Board (PERB) Unfair Practice Charge No. LA-CE-723-M

City Attorney Kuperberg asked the City Council to vote to put these items on the Agenda as urgency items so they may be discussed during Closed Session.

Council Member Waldman made a motion to add the two La Palma Police Association Litigation Matters to the Closed Session.

The motion was seconded by Council Member Shanahan and carried on the following vote:

AYES:	Charoen, Hwangbo, Rodriguez, Shanahan, and Waldman
NOES:	None

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Subdivision (a) of Section 54956.9) (Three Cases)

Name of case: Donald Sipple, John Simon, Karl Simonsen, and Christopher Jacobs, Settlement Class

Representatives: New Cingular Wireless PCS LLC, a Delaware limited liability company versus The City of Alameda, The City of La Palma, California et al.

Case Number: Los Angeles Superior Court BC462270

Name of Case: The La Palma Police Association (LPPA) versus the City of La Palma

Case Number: Orange County Superior Court 00509037

Name of Case: The La Palma Police Association (LPPA) versus the City of La Palma

Case Number: Public Employment Relations Board (PERB) Unfair Practice Charge No. LA-CE-723-M

Mayor Rodriguez recessed to Closed Session at 6:33 p.m.

OPEN SESSION

Mayor Rodriguez reconvened in Open Session at 7:04 p.m. with all members present.

City Attorney Kuperberg reported that the City Council, in accordance with the Brown Act, added two matters to the Agenda as urgency items as follows:

Name of Case: The La Palma Police Association (LPPA) versus the City of La Palma

Case Number: Orange County Superior Court 00509037

Name of Case: The La Palma Police Association (LPPA) versus the City of La Palma

Case Number: Public Employment Relations Board (PERB) Unfair Practice Charge No. LA-CE-723-M

He disclosed that the City Council had discussed the Sipple Case dealing with tax issues; and, believing that both LPPA lawsuits are unwarranted, voted unanimously to authorize the defense of the LPPA Lawsuit and Unfair Practice Charge.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Charoen

INVOCATION: Pastor Jerry Bennett, Faith Fellowship Church

ROLL CALL: Council and Commission Members

Council/Commission Members present: Mayor Pro Tem/Vice Chairperson Charoen, Council/Commission Member Hwangbo, Mayor/Chairperson Rodriguez, Council/Commission Member Shanahan, and Council/Commission Member Waldman

Council/Commission Members absent: None

City Officials present: Dominic Lazzaretto, City Manager/ Executive Director
Joel Kuperberg, City Attorney
Michael Belknap, Recreation & Community Services Director
Douglas Dumhart, Community Development Director
Jeff Moneda, Public Works Director/City Engineer
Keith Neves, Finance Director
Eric Nuñez, Police Chief
Laurie Murray, Administrative Services Manager/City Clerk
Kimberly Kenney, Minutes Clerk

PRESENTATIONS

1. Mayor Rodriguez presented Certificates of Recognition to Coach Richard Neder and athletes, Jessica Jackson, Natalie Ozawa, Lindsey Pike, Emily Sarashina, and Laura Wada for their achievements at the National Amateur Athletic Union (AAU) Junior Olympics. He also presented a Proclamation to Hallie Kaichi for achieving the Gold Medal in that competition.

ORAL COMMUNICATIONS

Jeff McCombs, 7212 Monterey Lane, addressed the City Council regarding the labor negotiations with the LPPA; the tactics that police associations in general have taken to improve their negotiation position; his support for a solution that is equitable to both employees and residents; support for the City Council to declare impasse; and his opposition to a defined benefit plan for public employees.

Robert Carruth, 7201 Monterey Lane, addressed the City Council regarding the two LPPA actions; requested that the proposed deal points be made public; read into the record articles regarding the LPPA's attorney's (Lackie, Dammeier & McGill) labor tactics that the LPPA's legal representation have used and touted; and his support for the City Council standing their ground in the negotiations.

Council Member Shanahan requested that Mr. Carruth provide the City with copies of the referenced articles.

Keith Nelson, 5331 La Luna Drive, addressed the City Council asking for clarification on the two lawsuits; what the City Council voted to do on the matter; whether the lawsuits can be posted onto the City's website; and that the residents have a right to see why the LPPA is suing their own City and residents.

City Attorney Kuperberg responded that the City was served with one lawsuit and an administrative lawsuit; that the City Council by unanimous decision voted to authorize defense of both matters; that the City Council voted on the urgent lawsuit items in order to review the case during the Closed Session; that the City Council could direct Staff to agendaize the matter so the public can be involved; and that there is no urgency in whether to provide the documents on the website if it can be provided to the public in paper form.

City Manager Lazzaretto noted that he will need time to review the lawsuit with the City Attorney and Labor Attorney before it can be made available to the public.

Mayor Rodriguez commented that the City does not have a policy or practice to post lawsuits on to the City's website and that the City Manager has been given the direction to make it available to the public.

City Attorney Kuperberg responded that the City Council would need to delegate clear authority to the City Manager to proceed in making the lawsuit available to the public.

City Manager Lazzaretto noted that he cannot post the lawsuit until it has been fully reviewed, but is in favor of full disclosure and requested that the City Council give him some time to conduct the legal research. He commented that his direction from the City Council supports that and he would make the documents available after they have been reviewed by legal experts.

City Manager Lazzaretto also disclosed that Lackie, Dammeier & McGill, on behalf of two City residents, had filed a Notice of Intent to circulate a petition to suspend the Utility Users Tax (UUT) under certain circumstances and that it will be posted to the website as soon as possible.

Larry Herman, 5122 Andrew Drive, addressed the City Council regarding the UUT petition being made available to the public.

Gerard Goedhart, 4922 Berton Circle, asked for clarification on the petition for the UUT Initiative.

City Manager Lazzaretto clarified that the petition to suspend the UUT reads that taxes cannot be collected unless there are 26 sworn Police Officers and they receive the average base salary and benefits of the surrounding area.

Cheryl Pappas, 5272 Duke Drive, addressed the City Council regarding her opposition to the LPPA lawsuit; her lack of trust for the La Palma Police Department; that the City should contract with the Cypress Police Department to save money; her support of the City Council being resolute; her opposition to the LPPA's labor tactics; and that the residents should be aware that their tax dollars are being spent on defense of the LPPA's actions.

Mr. Carruth asked for clarification on the ballot initiative process; if the real costs associated with each police officer will be part of the initiative; whether there are any other instances of municipalities that have employee groups that mandate minimum employee levels; if the City can recover the money spent on the lawsuit from the LPPA if they lose the lawsuit; and that the LPPA is pursuing these tactics to delay the negotiation proceedings and incur costs for the City of La Palma and its residents.

Discussion ensued regarding the petitioners being two residents of La Palma; that the initiative process includes a statement in opposition and support of the measure to fully explain the issue; that the City often hires a third party to conduct an impartial analysis on the impact of an initiative; that the City will provide factual information when an analysis is performed; that there have been several similar attempts by employee groups in some communities.

City Attorney Kuperberg clarified that the City cannot recover the costs spent on litigation if the lawsuit is in the City's favor; that Rutan and Tucker will not be representing the City in the labor lawsuit, but will in the lawsuit regarding public records; and that they will review the UUT initiative for frivolity. He also clarified that the City will incur all of the costs associated with the ballot initiative.

Discussion ensued regarding the total cost of the UUT initiative being between \$30,000 and \$50,000 and that the lawsuit defense costs are not known at this time.

Mr. Nelson asked when the UUT initiative will be on the ballot.

City Attorney Kuperberg responded that when a resident files a petition for an initiative, that starts a 15-day period where the City Attorney is required to draft an impartial title and summary; that the petitioners will have six months to gather the needed amount of signatures; that if the petitioners get the required signatures that the City Council can either adopt the Ordinance or put it on the ballot in a general or special election depending on the percentage of residents that signed the petition.

Larry Caballero, 5052 Pine Circle, addressed the City Manager asking how many residents make public records requests and how the public would even know what to ask for.

City Manager Lazzaretto responded that the public records requests have been significantly higher in the past year and that residents communicate with each other or contact City Hall and Staff helps direct them to appropriate departments to assist their public records requests. Administrative Services Manager Murray added that the City has been in receipt of anywhere from one to five public records requests a week during this past year.

RECESS THE CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION AT 7:55 P.M.

CONSENT CALENDAR

A. Approval of Community Development Commission Minutes

Minutes of the September 6, 2011, Regular Meeting of the La Palma Community Development Commission.

B. Approval of Register of Demands

Resolution No. CDC 2011-26 approving the Register of Demands for September 20, 2011.

C. Preliminary Draft of the Initial Recognizable Obligations Payment Schedule (PDROPS)

Resolution No. CDC 2011-27 approving a preliminary draft of the Initial Recognizable Obligation Payment Schedule (PDROPS).

Vice Chairperson Charoen made a motion to approve Consent Calendar Items A, B, and C.

The motion was seconded by Commission Member Waldman and carried on the following vote:

AYES: Vice Chairperson Charoen, Commission Member Hwangbo, Chairperson Rodriguez, Commission Member Shanahan, and Commission Member Waldman

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE COMMUNITY DEVELOPMENT COMMISSION, AND CONVENE AS THE PLANNING COMMISSION AT 7:56 P.M.

CONSENT CALENDAR

PL-1. Approval of Planning Commission Minutes

Minutes of the September 6, 2011, Regular Meeting of the La Palma Planning Commission.

Commission Member Waldman made a motion to approve Consent Calendar Item PL-1.

The motion was seconded by Commission Member Shanahan and carried on the following vote:

AYES: Vice Chairperson Charoen, Commission Member Hwangbo, Chairperson Rodriguez, Commission Member Shanahan, and Commission Member Waldman

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE PLANNING COMMISSION, AND RECONVENE AS THE CITY COUNCIL AT 7:57 P.M.

CONSENT CALENDAR

Mayor Rodriguez announced that City Manager Lazzaretto requested that Item 4 be tabled to a future agenda.

City Manager Lazzaretto reported that Staff felt it would be prudent to provide the City Council with more research and other alternatives before presenting the item.

4. Amendment to Legal Services Agreement with Rutan and Tucker, LLP

Approve and authorize the Mayor to execute an amendment to the Legal Services Agreement with Rutan and Tucker, LLP.

Public Comment:

Gerard Goedhart, 4922 Berton Circle, addressed the City Council expressing his concern about increasing City Attorney fees in a time when City employees have been asked to make concessions; and his support for the City going out to bid for City Attorney services.

Mayor Pro Tem Charoen announced his support for going out to bid on attorney services and asked when the most recent attorney service review was completed.

City Manager Lazzaretto responded that City Attorney Kuperberg has been the City Attorney for numerous years and was given a positive performance review in 2005.

Mayor Rodriguez expressed his support for going out to bid.

1. Waive the Reading of All Ordinances

Waive the reading of all Ordinances in their entirety and read by title only.

2. Approval of Council Minutes

Minutes of the September 6, 2011, Regular Meeting of the La Palma City Council and the September 8, 2011, Special Meeting of the La Palma City Council.

3. Approval of Register of Demands

Resolution No. 2011-47 approving the Register of Demands for September 20, 2011.

5. Destruction of Obsolete Police Department Records

Resolution No. 2011-48 approving the destruction of obsolete Police Department records pursuant to the California Government Code Section 34090.

6. California Joint Powers Insurance Authority Annual Risk Management Educational Forum

Approve the attendance of Mayor Ralph Rodriguez at the California Joint Powers Insurance Authority Annual Risk Management Education Forum, October 26-28, 2011, in Indian Wells.

Council Member Waldman made a motion to approve Consent Calendar Items 1, 2, 3, 5, and 6.

The motion was seconded by Mayor Pro Tem Charoen and carried on the following vote:

AYES: Mayor Pro Tem Charoen, Council Member Hwangbo, Mayor Rodriguez, Council Member Shanahan, and Council Member Waldman

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

7. Update on Traffic Conditions of Previously Installed Traffic Improvements

Public Works Director Moneda gave the Staff Report.

Council Comments and Questions:

Discussion ensued regarding placing the speed limit on the roadway; the placement of speed limits on arterial roadways but not on residential roadways; conducting a new speed study at the intersection; and drivers accelerating after the stop sign on Puerto Rico Drive.

Larry Herman, 5122 Andrew Drive, addressed the City Council asking if the improvements on Santa Margarita and La Luna Drive had made any impact.

Further discussion ensued regarding the decrease in speed being an improvement; that the goal for the 85th percentile speed on Santa Margarita is 30 miles per hour and drivers have been adhering to that; that drivers on La Luna Drive are doing better, but not meeting the desired 85th percentile speed; that Public Works will continue to monitor the area with each street improvement; and that Public Works will work with the Police Department to ensure compliance with posted speed limits.

Mr. Herman further suggested that the City mark the south side of Maroon Drive as a no parking area.

By consensus, the City Council received and filed the report.

8. Update to the Employee Computer Purchase Program

City Manager Lazzaretto gave the Staff Report.

Public Comment:

Jeff McCombs, 7212 Monterey Lane, addressed the City Council regarding his support for the program for entry level employees only and his opposition to allowing repeat loans.

Robert Carruth, 7201 Monterey Lane, addressed the City Council regarding his opposition to repeat computer loan borrowers; that the benefit should be available to all La Palma residents; using the median wage of La Palma's residents as the cap in order to qualify for the computer loan; and that the interest-free loan should be paid back in one year.

Gerard Goedhart, 4922 Berton Circle, addressed the City Council regarding his opposition to the Employee Computer Loan Program.

Cheryl Pappas, 5272 Duke Drive, addressed the City Council regarding her opposition to the Employee Computer Loan Program.

Council Comments and Questions:

Discussion ensued regarding the program having been in place for numerous years; and that the City Council has the discretion to remove the program completely.

Council Member Waldman made a motion to eliminate the Employee Computer Purchase Program. The motion was seconded by Mayor Pro Tem Charoen.

Further discussion ensued regarding whether the City has a requirement for all employee positions to be computer literate; that the City does not have a

requirement for all positions but that the majority require a minimum amount of computer proficiency; that this program was created to help advance those that wish to pursue career advancement with the City of La Palma; that the City provides computer training programs to employees; that discontinuing this program would not impact the hiring process, but will impact the in-house training process; that most employees can acquire computer literacy on their own time; that this program was also created for the convenience of employees that need to work at home; that Mayor Pro Tem Charoen supports providing a computer loan program to residents; that the public is not allowed use of City vehicles; that the City should not be responsible for improving the computer skills of their employees, that private companies also provide computer loan programs; the benefits with technology and reduction in paper; that certain positions have mobile computers; that five years is the appropriate time to upgrade computer technology; that many employees have not used the Computer Loan Program; that the majority of the City Council supports the program; that the City Council also invests in the community's education with the scholarship program; that the City could look at ways to increase the community's computer technology issues in the future; and that the City can collect the full reimbursement amount from employees through payroll deductions whereas it would be difficult to collect from the public.

The motion failed on the following vote:

AYES: Mayor Pro Tem Charoen, and Council Member Waldman.

NOES: Council Member Hwangbo, Mayor Rodriguez, and Council Member Shanahan.

Council Member Hwangbo made a motion to approve Staff's recommendation of the Employee Computer Purchase Program with the reduction of the cap limit from \$1,500, as originally proposed, to \$1,000.

The motion failed for lack of a second.

Council Member Shanahan made a motion to approve the Update to the Employee Computer Purchase Program as recommended by Staff. The motion was seconded by Mayor Rodriguez.

Discussion ensued regarding previous loan amounts being approximately \$1,500 per purchase; that software purchases are the larger portion of the computer cost; that employees are not purchasing computers for gaming use; and that most computers that require the full Microsoft and Adobe suite cost well over \$1,500.

The motion carried on the following vote:

AYES: Council Member Hwangbo, Mayor Rodriguez,
and Council Member Shanahan

NOES: Mayor Pro Tem Charoen, and Council Member
Waldman

COUNCILMEMBER AB1234 REPORTS, REPORTS FROM CITY-AFFILIATED
COMMITTEES, AND COUNCIL REMARKS

Keith Nelson addressed the City Council regarding the upcoming La Palma Days Parade on November 12, 2011, and that band and parade submission applications are available. He closed by announcing that this will be the 27th Annual La Palma Days Parade.

Council Member Waldman attended the Steven Luther Elementary PTA; the Association of California Cities-Orange County (ACC-OC) monthly meeting; the Orange County Sanitation District (OCSD) Finance Committee meeting; and the ACC-OC Strategic Planning Meeting.

Council Member Shanahan attended the Orange County Fire Authority (OCFA) 9/11 Memorial Ceremony at the La Palma Civic Center Flag.

Council Member Hwangbo attended the OCFA 9/11 Memorial Ceremony at the La Palma Civic Center Flag; the American Moo Doo Kwan Tai Kwan Do exam; the ACC-OC monthly meeting; and the Orange County League of California Cities (LOCC) Election Meeting where he was elected to represent District Two. He announced that he plans to attend the LOCC Annual Conference where he will attend the Employee Policy Committee meeting.

Mayor Pro Tem Charoen attended the ACC-OC monthly meeting.

Mayor Rodriguez attended the ACC-OC Monthly Meeting; the Anaheim Union High School District (AUHSD) Board Meeting; the OCSD meeting with City Manager Lazzaretto; the OCFA 9/11 Memorial Ceremony at the La Palma Civic Center Flag; the AUHSD Sports Foundation Board of Directors Meeting; Assembly Member Jim Silva's Mayors' Breakfast; the LOCC Election Meeting; the American Moo Doo Kwan Tai Kwon Do exam; and Devin Larscheid's Eagle Scout Court of Honor Ceremony. He announced that he plans to attend the LOCC Annual Conference.

Orange County Vector Control District representative, Larry Herman, gave a report on the Executive Committee Meeting outcome and announced that he plans to attend an upcoming meeting in October.

CITY MANAGER REMARKS

City Manager Lazzaretto reported that upcoming City Council agenda items will include the Unocal/76 Station Conditional Use Permit (CUP) review and a request for a CUP for wireless facilities at the La Palma Christian Center. He announced that he will be attending the LOCC Annual Conference and that Public Works Director Moneda will be acting City Manager in his absence. He closed by noting that Finance Director Neves will be leaving La Palma on October 14, 2011, and that Staff is working to replace his position.

CITY ATTORNEY REMARKS

City Attorney Kuperberg reported that there are several legislative actions regarding redevelopment, employer relations, and government finance, and that he will be reporting back to the City Council on the outcome of the Assembly Bills that will affect the City of La Palma. He closed by announcing that he plans to attend a portion of the LOCC Annual Conference.

ADJOURNMENT

Mayor Rodriguez adjourned the Regular Meeting of the La Palma City Council at 9:00 p.m. in memory of those who lost their lives on 9/11 and in memory of long time La Palma resident, Donald Kemen.

Ralph D. Rodriguez
Mayor

Attest:

Laurie A. Murray, CMC
City Clerk