

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

February 20, 2007

Mayor Waldman called the regular meeting of the La Palma City Council to order at 6:00 p.m. on Tuesday, February 20, 2007 in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

ROLL CALL: Council and Commission Members

ROLL CALL:

Councilmembers present: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

City Officials present: Dominic Lazzaretto, Interim City Manager  
Laurie Murray, Administrative Services Manager/City Clerk  
Joel Kuperberg, City Attorney

Mayor Waldman recessed to a Closed Session at 6:01 p.m. to discuss the following matters:

PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Government Code Section 54957  
Position Title: Interim City Manager

The City Council reconvened in Open Session at 6:48 p.m. and announced that there were no reportable actions.

The City Council recessed at 6:50 for a short break.

The City Council reconvened at 7:03 p.m. with all members present.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Charoen

INVOCATION: Councilmember Barnes

ROLL CALL: Council and Commission Members

ROLL CALL:

Councilmembers present: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

Councilmembers absent: None

City Officials present: Dominic Lazzaretto, Interim City Manager/Director of Community Development  
Ed Ethell, Chief of Police  
Ismile Noorbaksh, Director of Public Works/City Engineer  
Laurie Murray, Administrative Services Manager/City Clerk  
Deborah Moreno, Director of Finance  
Joel Kuperberg, City Attorney  
Lynnae Sisemore, Minutes Clerk

ORAL COMMUNICATIONS

None.

RECESS CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION: 7:05 p.m.

CONSENT CALENDAR

A. Approval of Community Development Commission Minutes

February 6, 2007 Regular Meeting of the Community Development Minutes

B. Approval of Register of Demands

Resolution Number CDC 2007-04

Councilmember Barnes made a motion to approve Consent Calendar Items A and B.

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

AYES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

NOES: None

ADJOURN COMMUNITY DEVELOPMENT COMMISSION AND CONVENE AS THE PLANNING COMMISSION: 7:06 p.m.

PL-1 Amendment to Conditional Use Permit 336, Requesting to Omit Required Landscaping Adjacent to the Equipment Shelter for a Telecommunications Facility in the Southern California Edison Right-of-Way 435 Feet West of Moody Street (APN: 263-155-01)

- a) Mayor Waldman opened the public hearing at 7:06 p.m.
- b) Interim City Manager/Community Development Director Lazzaretto stated that staff received a letter from T-Mobile requesting a thirty day continuance of this item so that T-Mobile, the City, and Southern California Edison can continue their negotiations on this matter. Staff requests to continue the item to the regular meeting on March 20, 2007.
- c) No one from the public wished to speak.
- d) City Attorney Kuperberg stated that rather than closing the public hearing, Council should make a motion to continue the public hearing to March 20, 2007, so that staff will not have to re-notice the public hearing.

Councilmember Herman made a motion to continue the public hearing to March 20, 2007.

The motion was seconded by Councilmember Rodriguez and carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

NOES: None

ADJOURN PLANNING COMMISSION AND CONVENE AS CITY COUNCIL:  
7:07 p.m.

CONSENT CALENDAR

1. Waive the Reading of All Ordinances
  
5. Amendment of the Plans and Specifications for the Addition to the Evidence Storage Room at the City's Police Department, City Project No. 04-BLDG-01

Councilmember Barnes made a motion to approve Consent Calendar Items 1 and 5.

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

AYES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

NOES: None

2. Approval of Council Minutes

Councilmember Rodriguez requested to pull this item in error and had no further comment.

Councilmember Rodriguez made a motion to approve the February 6, 2007 Minutes of the Regular Meeting of the City Council.

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

AYES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

NOES: None

3. Approval of Register of Demands

Councilmember Herman requested to pull this item and asked for clarification of items 88506, 88507, and 88509 for tax increment pass-through's on page five of the register of demands.

Interim City Manager/Community Development Director Lazzaretto replied that the tax increments are being paid by the Community Development Commission and appear on the City's Register of Demands because of the accounts they are budgeted from. The tax increments are required because of the redevelopment project that was adopted in 1982 and amended in subsequent years in order to add territory. Agreements were made with the tax entities at that time, requiring an annual payment to offset the tax increments received by the Community Development Commission. The City is required to make payments every year until the redevelopment ends.

Councilmember Herman made a motion to approve Resolution Number 2007-04 of the Register of Demands for February 20, 2007.

The motion was seconded by Councilmember Rodriguez and carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen,  
Councilmember Herman, Councilmember Rodriguez,  
and Mayor Waldman

NOES: None

4. Approval of a Cooperative Agreement No. C-6-0800 between Orange County Transportation Authority and City of La Palma for City Initiated Transit Extensions to Metrolink - Go Local Program

Mayor Pro Tem Charoen requested to pull this item and asked how the estimated cost of \$80,000 was determined for the study in concurrence with the City of Buena Park.

Public Works Director Noorbaksh replied that the estimated cost was discussed with the cities of Buena Park and Cypress. He stated that it is not a confirmed amount; the consultant's fees will be based on the amount of time they have invested in the study. Staff will be able to determine the fair share between the three cities once a proposal is received.

Mayor Pro Tem Charoen asked if the letter received from the City of Buena Park regarding terms and conditions is the proposal or is there a separate document.

Public Works Director Noorbaksh replied neither. The City of Buena Park will be soliciting a consultant proposal and the final amount will be based on that proposal.

Mayor Pro Tem Charoen asked if the letter from the City of Buena Park is binding, or is it an estimated cost that could change.

Interim City Manager/Community Development Director Lazzaretto replied that the agreement that was written is a maximum amount of \$80,000 of the total \$100,000 that is allocated to the City of La Palma. The City is agreeing to put a maximum of \$80,000 towards the study, and if during the course of the study the Request for Proposal (RFP) is sent out with a lower amount – for example, \$60,000 – that the City would only transfer that specific amount to the City of Buena Park to cover the cost of the consultant. The remaining cost would be available for use by the City for costs associated with staff time.

Councilmember Herman asked if the City Attorney has reviewed the document.

City Attorney Kuperberg replied that the agreement has a binding affect if approved by the City Council and can be augmented in terms of the dollars by stating an "up to" or "not-to-exceed" amount. He stated that depending on what the Council's concerns are, staff can modify the language now and adopt as amended, or bring back the document to the Council once the agreement's language is modified.

Councilmember Rodriguez asked if all of the cities involved will contribute the same amount of funds toward the study.

Interim City Manager/Community Development Director Lazzaretto replied that the cities would eventually concur. It is difficult to allot an amount to each City at this time as neither non-stops nor background studies have not been conducted yet. However, La Palma's allotment is fairly smaller than Cypress'.

Councilmember Rodriguez asked if Council asked staff to propose a "not-to-exceed" amount of \$80,000, would the defined strategy be brought back to the City Council for review.

Interim City Manager/Community Development Director Lazzaretto replied that with that direction, staff would be able to propose the request and the City would be fairly represented up to \$80,000. The City of Buena Park will conduct the research and provide the City of La Palma with reports for review.

Councilmember Herman asked if there will be an expected schedule of feedback on this investment.

Interim City Manager/Community Development Director Lazzaretto answered affirmatively. The study has to be completed by the end of the calendar year, and there will be some specific project deadlines and milestones after the RFP process.

Mayor Waldman asked if the Council has a seat at the table to determine the scope of this project.

Interim City Manager/Community Development Director Lazzaretto answered affirmatively. The agreement is written such that the City of La Palma can review and comment on the scope of work on the entire work product.

Mayor Waldman asked if the Council does not find the scope of work reasonable, could the City void the agreement at that time.

Interim City Manager/Community Development Director Lazzaretto replied that the City can void the agreement and not go forward after Phase I. However, if during Phase I the City feels the direction is completely different than what was intended, then staff would revisit the options with the City Council to do something to stop the agreement.

City Attorney Kuperberg replied the letter of agreement does not have any unilateral termination provisions. The Orange County Transportation Authority (OCTA) agreement does not address this kind of an issue; without the expressed language in the agreement, the Council would not have the ability to stop the flow of funds once it has agreed what fair share is. He stated that Council can choose not to participate in the next phase and allow the cities to use funds allocated on behalf of the City of La Palma, if the Council so chooses.

Councilmember Herman asked for City Attorney Kuperberg to suggest the re-written language for the agreement.

City Attorney Kuperberg replied that one alternative would be to add a statement to review reports and studies produced as a result of this effort. Also, to add a clause stating that "the City of Buena Park shall seriously consider any comments submitted by La Palma with respect as to such reports and studies." This statement would put an obligation towards the City of Buena Park.

Councilmember Barnes made a motion to incorporate the amendments as the City Attorney stated with the up to \$80,000 study allotment and the consideration of comments submitted by the City of La Palma with the respect as to the reports and studies.

Councilmember Herman asked if two motions need to be made on this item.

City Attorney Kuperberg stated that the Council can move two motions or move to staff recommendation with the stated amendments to the letter agreement.

Councilmember Rodriguez seconded the motion and stated that this item has nothing to do with the Pacific Electric right-of-way, Maglev, or trains; the item proposed is on buses.

Councilmember Herman stated that there is a resolution regarding issues of the area of the Pacific Electric right-of-way, and asked staff to bring back the resolution to Council at a later date for Mayor Pro Tem Charoen to review.

Interim City Manager/Community Development Director Lazzaretto replied staff will comply with his request.

Mayor Waldman stated that Mayor Pro Tem Charoen can review what the Council has previously decided and if he decides to address the issues; he can do so at a later date.

Mayor Pro Tem Charoen replied that he will review the resolution on his own time.

Councilmember Herman asked for a point of clarification on whether the resolution will be brought back to Council for review.

Interim City Manager/Community Development Director Lazzaretto replied that staff will submit the resolution to Mayor Pro Charoen and if he is interested in making changes it will be brought back to Council; otherwise it will not be brought back to Council for review.

Councilmember Herman stated that he would like to bring back the resolution and will agendize it for a future meeting.

The motion was carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen,  
Councilmember Herman, Councilmember Rodriguez,  
and Mayor Waldman

NOES: None

#### 6. Destruction of Tapes of City Council Meetings

Councilmember Rodriguez requested to pull this item and asked how long the audiowebcasting recordings are retained versus the audio tapes.

Administrative Services Manager/City Clerk Murray replied that the audio recordings are destroyed at three year intervals, and that it does not affect what is currently on the website today.

Councilmember Herman asked if the paper trails of the minutes are still retained.

Administrative Services Manager/City Clerk Murray replied the paper trail of records for agendas and minutes are retained forever.



Councilmember Rodriguez made a motion to approve destruction of tapes of City Council Meetings from January 2003 to December 2003.

The motion was seconded by Councilmember Herman and carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Herman, Councilmember Rodriguez, and Mayor Waldman

NOES: None

### PUBLIC HEARING

7. Introduction of an Ordinance Amending Section 18-7.8 Related to Graffiti Removal along Public Rights-of-Way

a) Mayor Waldman opened the public hearing at 7:34 p.m.

City Attorney Kuperberg stated that the ordinance presented tonight does not relate to specific locations in the City. It is a citywide ordinance that is related to a process of going onto public right-of-ways, while it could at some point in the future be applied to specific locations; it is not referenced to specific locations. There is no conflict of interest that arises from this resolution unless any Councilmember is in the business of graffiti removal.

b) Interim City Manager/Community Development Director Lazzaretto gave the staff report.

Mayor Pro Tem Charoen asked how much the Public Works department has spent on graffiti removal in the last few years.

Interim City Manager/Community Development Director Lazzaretto replied that the records indicate in fiscal year 2004-05 the amount spent on the graffiti abatement program, including equipment and supplies was \$98; in fiscal year 2005-06 the amount spent on graffiti removal was \$346; and year-to-date expenses for fiscal year 2006-07 have been \$291. Staff time was not tracked for this program.

Mayor Pro Tem Charoen asked if the budget is \$600.

Interim City Manager/Community Development Director Lazzaretto replied the annual budget is currently \$600.

Councilmember Herman asked if the photos shown in the staff presentation are current graffiti or if they are from prior graffiti.

Interim City Manager/Community Development Director Lazzaretto replied most of the graffiti photos were taken in August 2006. He stated that most of the areas have been abated, but some areas of graffiti still exist.

Councilmember Rodriguez asked if Pacific Electric has taken care of graffiti in their right-of-way.

Interim City Manager/Community Development Director Lazzaretto replied that staff initially tried to work with Pacific Electric to resolve the graffiti problems, but Pacific Electric was non-receptive to maintaining unused areas.

Councilmember Rodriguez asked if Pacific Electric has a graffiti policy on used public right-of-ways.

Interim City Manager/Community Development Director Lazzaretto replied he was not certain if Pacific Electric has a graffiti policy and that staff will research the request.

Councilmember Rodriguez stated that one of the block walls faces the City of Cypress, and asked if they are monitoring their graffiti removal service for that wall.

Interim City Manager/Community Development Director Lazzaretto replied that the City of Cypress has a \$75,000 per year proactive graffiti removal service, which includes their side of the public right-of-way.

Councilmember Rodriguez asked if this graffiti removal service will include the Southern California Edison right-of-way and blockwalls.

Interim City Manager/Community Development Director Lazzaretto replied that the Southern California right-of-way, the drainage channels, the Pacific Electric right-of-way, and the Orange County Transportation Authority (OCTA) right-of-ways will all be included in the ordinance for graffiti removal.

City Attorney Kuperberg stated that the ordinance currently allows the graffiti program for structures or property owned by a private person or entity. Southern California Edison is considered a private entity, which is most likely already covered.

Councilmember Rodriguez asked how often the \$54 fee is charged to residents for graffiti removal.

Interim City Manager/Community Development Director Lazzaretto replied that there are one or two properties that participate in the \$54 abatement program.

Councilmember Rodriguez asked why the City charges for graffiti removal when there are only a few properties that participate each year.

Interim City Manager/Community Development Director Lazzaretto replied that if the City Council wanted to remove the \$54 abatement fee and could make the finding that it is a community-wide benefit, the Council could remove the fee component from the ordinance. The way the ordinance is written takes into account that a private block wall owned by a private person offsets the cost of revenue.

Mayor Waldman asked how much staff time is utilized to remove graffiti.

Public Works Director Noorbaksh replied that graffiti removal on arterial streets is easy to access, and can take between ten to fifteen minutes, unless it has to be water blasted. He stated that it will take longer if the access points are difficult to get to. He stated that the intent and purpose of the graffiti fees were based on the costs associated with the paperwork involved in acquiring the homeowner's release of liability and waiver.

Mayor Waldman asked if \$54 is a reasonable cost to process an application.

Interim City Manager/Community Development Director Lazzaretto replied it is a reasonable cost to process the application, but it does not offset the staff time for removing the graffiti.

c) No public input was received.

Councilmember Herman asked what types of walls the public works staff currently removes graffiti from without involving the homeowner.

Public Works Director Noorbaksh replied on all arterial streets.

Councilmember Herman asked if Houston Avenue was included as an arterial street.

Public Works Director Noorbaksh replied Houston Avenue is not included because it is a collector street.

Councilmember Herman asked if the City has to get permission from owners of private properties like the Pacific Electric or OCTA right-of-ways before removing graffiti.

Interim City Manager/Community Development Director Lazzaretto answered affirmatively. The ordinance states that the City would have to obtain approval from all entities involved before performing graffiti abatement.

Councilmember Herman asked if obtaining approval is a simple or complicated process.

Interim City Manager/Community Development Director Lazzaretto replied it might take some time and initial effort to get someone to sign a piece of paper allowing the removal. He stated that the agreements would need to be evergreen so the City can maintain the effort rather than having to ask for constant permission.

Councilmember Herman asked how big a problem graffiti is on the Edison right-of-way.

Public Works Director Noorbaksh replied that the Edison agreement requires the City to maintain graffiti clean-up that is standard to the City; which requires immediate removal.

Mayor Waldman asked if graffiti removal is charged when it is being removed from the Edison right-of-way.

Public Works Director Noorbaksh replied no because it is an area that has a lot of foot traffic.

Councilmember Barnes asked how much staff time will be utilized in using the Police Department's Explorer Scouts.

Police Chief Ethell replied that the staff time will include the Explorer Advisor Officer every time an Explorer is out in the field and management of how often the explorers are utilized for the graffiti abatement program.

Councilmember Barnes asked what type of equipment the Explorers will use.

Police Chief Ethell replied that any equipment used will have to be supplied by the Public Works Department.

Councilmember Herman asked if the process to remove graffiti is to first sand blast and then paint.

Public Works Director Noorbaksh replied no. The first process is to water blast which easily removes paint; if that doesn't work the next step is to paint over the graffiti.

Councilmember Herman asked how difficult it would be to get the equipment in the rough areas of the right-of-way and would that equipment have to be operated by qualified workers.

Public Works Director Noorbaksh replied that a licensed driver and qualified worker are recommended. He stated that he has not observed the terrain to detect what difficulties there are.

Councilmember Herman asked who removes the graffiti from the flood control channels.

Public Works Director Noorbaksh replied that Flood Control Channel Services should remove the graffiti in that area, but they do not.

Councilmember Herman asked who will do the water blasting of the graffiti in the rough terrain; the Police Explorers or Public Works staff.

Public Works Director Noorbaksh replied that the Police Explorers can be trained to use the water blaster; however a Public Works employee will have to be present to operate the vehicle in the rough terrain.

Councilmember Herman made a motion to close the public hearing at 8:12 p.m.

The motion was seconded by Councilmember Barnes and carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen,  
Councilmember Herman, Councilmember Rodriguez,  
and Mayor Waldman

NOES: None

Councilmember Rodriguez made a motion to introduce an Ordinance amending Section 18-7.8 of the La Palma City Code, to address the issue of graffiti abatement along the edges of public right-of-ways that are not City-owned streets and highways, and provide additional policy guidance.

Councilmember Herman asked for Mayor Waldman's amendments to be added to the motion on the floor.

Mayor Waldman stated that he suggested that staff broaden the scope of this ordinance to include all of the public right-of-ways in the City and include the discontinuation of the \$54 graffiti abatement fee.

City Attorney Kuperberg stated that the ordinance as presented already deals with any public structures in the right-of-ways, and that it is best if staff addresses

the fee issue later as it is unknown at this time if the fees are a code provision or a separate resolution.

Councilmember Rodriguez asked if the direction at this time regarding the fees is enough.

Interim City Manager/Community Development Director Lazzaretto replied that staff will research the fee to ascertain whether it is in a resolution or in City code.

Councilmember Herman stated that once the ordinance is adopted, could Council direct the Police Explorers to abate graffiti issues.

City Attorney Kuperberg replied that the Police Chief and Interim City Manager understand the direction of what should be done in the graffiti removal.

The motion was seconded by Councilmember Herman and carried on the following vote:

AYES: Councilmember Barnes, Mayor Pro Tem Charoen,  
Councilmember Herman, Councilmember Rodriguez,  
and Mayor Waldman

NOES: None

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

Councilmember Rodriguez attended the League of California Cities (LOCC) dinner and the La Palma Neighborhood Watch dinner.

Councilmember Herman asked Police Chief Ethell to repeat his review of the statistics on the impact of the Recreational Vehicle (RV) parking ordinance as discussed at the Neighborhood Watch dinner.

Police Chief Ethell replied that La Palma has had the lowest number of automobile thefts in the history of the City, largely due to officers being present in neighborhoods because of RV enforcement.

Councilmember Herman attended the LOCC dinner; the La Palma Neighborhood Watch dinner; and the Mosquito and Vector Control Association of California 75th Annual Conference in Fresno.

Mayor Pro Tem Charoen attended the LOCC dinner and the La Palma Neighborhood Watch dinner.

Councilmember Barnes attended the LOCC dinner, the La Palma Neighborhood Watch dinner; and the Magnetic Levitation (Maglev) meeting.

Mayor Waldman attended the LOCC dinner and the La Palma Neighborhood Watch dinner. He announced that he will be hosting a "Meet the Mayor" event at La Capilla Restaurant on March 13, 2007 from 6:00 p.m. to 9:00 p.m.

CITY MANAGER REMARKS

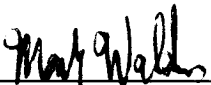
Interim City Manager/Community Development Director Lazzaretto reminded Mayor Waldman to adjourn to a February 27, 2007 Town Hall meeting.

CITY ATTORNEY REMARKS

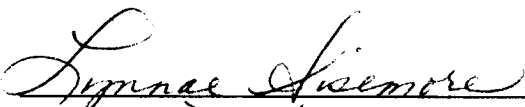
None

ADJOURNMENT

Mayor Waldman adjourned the meeting at 8:30 p.m. to a Special Town Hall meeting on February 27, 2007.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk, Deputy