

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

April 17, 2007

Mayor Waldman called the regular meeting of the La Palma City Council to order at 7:00 p.m. on Tuesday, April 17, 2007, in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Charoen

INVOCATION: Pastor Sandra Heer, A Fountain of Living Water Methodist Church

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  
Jan Hobson, Director of Recreation & Community Services  
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

PRESENTATIONS

1. The City Council presented Public Works Director Noorbaksh with a Proclamation designating the week of May 20-26, 2007 as National Public Works Week 2007.

ORAL COMMUNICATIONS

Sylvia Woodside and Peter Chow of the American Cancer Society addressed the City Council regarding the Relay for Life event and asked the Council to participate in two awareness campaigns. The first is a Paint The Town Purple event to be held on May 1, 2007; everyone is invited to participate by wearing the color purple. The second is the actual Relay for Life event, scheduled for June 9 and 10 at the Buena Park Junior High School.

Kenneth Blake, 7801 Westra, stated that as a former Councilmember and in light of her upcoming retirement, he would like to publicly thank Pastor Sandra Heer for her many years of service to the City of La Palma.

RECESS THE CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION: 7:11 p.m.

CONSENT CALENDAR

- A. Approval of Community Development Commission Minutes

April 3, 2007 Minutes of the Regular Meeting of the Community Development Commission

- B. Approval of Register of Demands

Resolution Number CDC 2007-07

Commissionmember Herman made a motion to approve Consent Calendar Items A and B.

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

AYES: Commissionmember Barnes, Chairman Pro Tem Charoen, Commissionmember Herman, Commissionmember Rodriguez, and Chairman Waldman

NOES: None

ADJOURN COMMUNITY DEVELOPMENT COMMISSION AND CONVENE AS PLANNING COMMISSION: 7:11 p.m.

PL-1 Amendment to Conditional Use Permit 336, Requesting Approval to Omit Required Landscaping Conditions 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) Chairman Waldman re-opened the public hearing at 7:12 p.m.
- b) Interim Executive Director/Community Development Director Lazzaretto gave a brief overview of the Conditional Use Permit and asked to continue the public hearing to May 15, 2007.
- c) No public input was received.
- d) Chairman Waldman closed the public hearing at 6:13 p.m. and continued the item to May 15, 2007.

Commissionmember Rodriguez asked if ongoing negotiations are currently between the applicant (T-Mobile) and Southern California Edison (SCE).

Interim Executive/Community Development Director Lazzaretto answered that negotiations are occurring between the applicant and the City. He explained that the City has also met with Edison to facilitate an acceptable solution.

Commissionmember Rodriguez asked for clarification that there is only communication between the applicant and the City.

Interim Executive Director/Community Development Director Lazzaretto replied that there was a three way conversation that resulted in mixed messages. The City went directly to SCE to find out what their standards and practices were and SCE provided those specifications to the applicant.

ADJOURN PLANNING COMMISSION AND CONVENE AS THE CITY COUNCIL: 7:14 p.m.

CONSENT CALENDAR

1. Waive the Reading of All Ordinances

2. Approval of Council Minutes

April 3, 2007 Minutes of the Regular Meeting of the City Council

Councilmember Barnes made a motion to approve Consent Calendar Items 1 and 2.

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 Rodriguez requested to pull this item and asked about page number five of seven, check number 88951, regarding a logo for the Fourth of July Run. He inquired if this is a service that has been used before or if it is new.

Recreation and Community Services Director Hobson replied that it is a service that has been provided to the City for many years.

Councilmember Rodriguez made a motion to adopt Resolution Number 2007-12 of the April 17, 2007 Register of Demands.

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

4. Award of Contract to Newtech Engineering & Construction, Inc., for the Removal and Replacement of Curb and Gutter and Sidewalk on Various City Streets, City Project No. ST-280

Councilmember Rodriguez requested to pull this item and asked why the pavement plan shows completed work in the project timeline along with current work that is to be done.

Public Works Director Noorbaksh replied that last July the curb, gutter, and pavement management plans were discussed with additional areas to be inspected and repaired. He stated that some of the additional areas were not repaired in accordance to the plan due to difficulties with the contractors. Therefore, the areas that were not completed were added to the next phase of the seven year plan including the new street areas bordered by Houston, Moody, Orangethorpe, and Walker.

Councilmember Rodriguez asked if the completed areas of street resurfacing are affected by the curb and gutter projects.

Public Works Director Noorbaksh replied that the streets should not be affected. The contractor will only remove the curb and gutter to the edge of the gutter and will replace it in the same location. If there are any damages to the slurry sealing the contractor will slurry coat the area to fix the damages.

Councilmember Barnes asked for an explanation of the bid at 26% above the engineer's estimate.

Public Works Director Noorbaksh replied that staff solicits bids for a project and estimates contract costs. The contract cost helps guide the contractors in evaluating what the project entails. A comparison of bid prices includes plus or minus percentages, from both the contractor and the City.

Councilmember Barnes asked Mr. Noorbaksh if the 26% difference is satisfactory.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Barnes made a motion to approve and authorize a contract to Newtech Engineering & Construction, Inc., for the Removal and Replacement of Curb and Gutter and Sidewalk on Various City Streets, City Project No. ST-280.

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

5. Resolution Supporting the Orange County Groundwater Replenishment System

Councilmember Rodriguez requested to pull this item and asked if Mayor Waldman directed that the Resolution on groundwater replenishment to be placed on the agenda.

Mayor Waldman replied he did not make the request for the Resolution regarding groundwater replenishment to be placed on the agenda.

Councilmember Rodriguez asked Public Works Director Noorbaksh if he placed this Resolution on the agenda.

Public Works Director Noorbaksh answered affirmatively. He stated that the request was from the Orange County Water District and the Orange County Sanitation District, who are seeking support for the groundwater replenishment system.

Councilmember Rodriguez asked which communities are injected with treated water.

Public Works Director Noorbaksh replied most of the treated communities are those that are closest to the ocean, but include some inland areas, such as Anaheim. La Palma is not treated because it is nearer to the Los Angeles County Ground Water Basin, which has not opted to inject water into the ground.

Councilmember Rodriguez asked what the reasoning is behind the Resolution.

Mayor Waldman replied that the project is close to being completed and will be fully operational by 2008.

Councilmember Rodriguez asked if there is an ongoing campaign regarding the groundwater Resolution.

Public Works Director Noorbaksh replied that this Resolution is for the City of La Palma to give its support for the use of recycled water.

Councilmember Rodriguez made a motion to adopt Resolution Number 2007-14 supporting the Orange County Groundwater Replenishment System.

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

6. Appointments to Citizen Committees

Councilmember Rodriguez requested to pull this item to thank the Council Committee for adding more information on the Committee appointments.

Mayor Pro Tem Charoen made a motion to approve the appointment of Dwayne Gaither and Jashbhai Pater to the Community Activities and Beautification Committee, and the appointment of Kenneth Blake and Carl Johnson to the Traffic Safety Committee.

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

REGULAR ITEMS

7. Introduction of an Ordinance Implementing Assembly Bill 2987 (AB 2987) Regarding State and City Video Franchises

Administrative Services Manager/City Clerk Murray gave the staff report.

Mayor Pro Tem Charoen asked what the financial impact will be from this Resolution.

Administrative Services Manager/City Clerk Murray replied that the current fiscal impact is unknown. However, calculations at this time indicate that the City

would receive more Public, Educational, and Government (PEG) fees as more people migrate from the current franchisee to new franchisees.

Mayor Pro Tem Charoen asked if the City will end up with more revenue than what is currently being generated.

Administrative Services Manager/City Clerk Murray answered affirmatively.

Councilmember Rodriguez asked if the current Time Warner contract is structured in the same way as this Ordinance – with a five percent (5%) Franchise Fee and a one percent (1%) PEG Fee.

Interim City Manager/Community Development Director Lazzaretto replied that the PEG portion for the City's current franchisee is \$.50 per subscriber per month and the PEG portion for new franchisees, based on AB 2987, is one percent (1%) of the customer's bill.

Councilmember Rodriguez asked staff to define PEG.

Administrative Services Manager/City Clerk Murray replied that PEG is Public, Educational, and Governmental programming.

Councilmember Rodriguez asked where the City would expend PEG funds specifically or where the City has expended it historically.

Interim City Manager/Community Development Director Lazzaretto replied that the funds can be used for things such as purchasing video cameras; setting up studios for hosting programs and producing shows on behalf of the public; providing grants to local schools in order to produce shows; and for providing cable drops in community areas.

Councilmember Rodriguez asked how the City has spent PEG funds in the past.

Interim City Manager/Community Development Director Lazzaretto replied that staff could not answer regarding specific expenditures at this time. However, there is City-owned equipment that was previously housed in Cypress that is now being transferred to La Palma.

Councilmember Rodriguez asked if all municipalities are adopting the same Resolution agreement of one percent (1%) for PEG Fees and five percent (5%) for Franchise Fees.

Interim City Manager/Community Development Director replied affirmatively, with the possible exception of the one percent (1%). At a city's discretion, they could adopt any amount up to one percent (1%) for their PEG fee.



Councilmember Rodriguez asked if some cites are forgoing the one percent (1%) PEG Fee.

Interim City Manager/Community Development Director Lazzaretto replied that it is possible.

Councilmember Rodriguez asked if there are statistics available on whether other cities are accepting one percent (1%) to half a percent (1/2%).

Interim City Manager/Community Development Director Lazzaretto replied that staff does not have those statistics at this time.

Councilmember Rodriguez asked to have statistics of how PEG fees are being implemented throughout the State at the Ordinance's second reading.

Councilmember Barnes made a motion to approve the introduction of an Ordinance implementing Assembly Bill 2987 regarding the regulation of State Video Franchises and City Video Franchises.

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

8. Resolution Regarding Funding for the Iraq War

Councilmember Herman gave a brief presentation on the Resolution that he requested for funding for the Iraq War.

Mayor Waldman asked for a motion and a second on the resolution so discussion can begin.

Councilmember Herman made a motion to adopt a Resolution regarding the funding for the Iraq War.

Councilmember Rodriguez asked Mayor Waldman if he was looking for both a motion and a second prior to public input.

Mayor Waldman answered affirmatively, stating that it would be more appropriate and that he is asking for a second, but will not require one.

Councilmember Rodriguez seconded the motion so the City Council can hear public input.

Mayor Waldman stated for the record that the Resolution may have been supported by only one person. He stated that he will not stop the public from speaking.

Mayor Waldman asked for the Resolution to be read in its entirety.

Councilmember Herman read the proposed Resolution regarding funding for the Iraq War.

### Oral Communications

Idilio Gonzalez, 7791 Jennifer, spoke in opposition of the Resolution.

Larry Caballero, 5052 Pine, spoke in support of the Resolution.

Delta Elaine Duvali, 17415 Graystone, Cerritos, spoke in support of the Resolution.

In response to inquiries from the audience, City Attorney Kuperberg explained that, by law, anyone can speak on any item regardless of their place of residence.

James Bugher, 11242 Park Street, Cerritos, spoke in support of the Resolution.

Peggy Lee, 17907 Pires, Cerritos, spoke in support for the Resolution.

Darryl Powers, 4611 Amberwood, spoke in opposition to the Resolution.

Andrew Williams, 6741 Lincoln Avenue, Buena Park, spoke in support of the Resolution.

Charlie Ara, 11215 Park Street, Cerritos, spoke in support of the Resolution.

Frank Montera, 5141 La Luna, spoke in opposition to the Resolution.

Nikki Noushkam, 20141 Mapes, Cerritos, spoke in support of the Resolution.

Dr. Alon Barlevy, 13567 Beach Street, Cerritos, spoke in support of the Resolution.

Tim Severin, 4752 Elben, spoke in support of the Resolution.

Austina Cho, 12949 Oak Crest, Cerritos, spoke in support of the Resolution.

Kevin MacDonald, La Palma resident, spoke in opposition to the Resolution.

Jim Lacombe, La Palma resident, spoke in opposition to the Resolution.

Janelle Frese, 5438 Andrew, spoke in opposition to the Resolution.

Linda Frese, 4552 Sharon, spoke in opposition to the Resolution.

Keith Nelson, 5311 La Luna, commended the City Council for conducting the discussion.

The motion failed on the following vote:

AYES: Councilmember Herman

NOES: Councilmember Barnes, Mayor Pro Tem Charoen, Councilmember Rodriguez, and Mayor Waldman

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

Councilmember Barnes attended at the Southern California Association of Governments (SCAG) meeting and the League of California Cities dinner. She invited fellow Councilmembers to a SCAG event on May 17, 2007.

Mayor Pro Tem Charoen attended the Korean American Coalition dinner.

Councilmember Herman attended the Korean American Coalition dinner.

Councilmember Rodriguez attended the Korean American Coalition dinner and a Symposium by Sempra Energy on the use of green building materials.

Mayor Waldman attended the Korean American Coalition dinner; the Orange County Advocacy Committee meeting; and the Orange County Sanitation District meeting.

Councilmember Barnes stated that local legislators will be discussing the bylaws of the Orange County Division of the League of California Cities (OCLOCC) as it interacts with the State League of Cities at the OCLOCC's next meeting.

Mayor Pro Tem Charoen reminded everyone that on the weekend of April 21, 2007, John F. Kennedy High School will have an open house from 12-4 p.m. for its new Performing Arts Center.

CITY MANAGER REMARKS

Interim City Manager/Community Development Director Lazzaretto asked Police Chief Ethell to update the Council on the John F. Kennedy High School tuberculosis case.

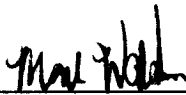
Police Chief Ethell replied that there was one active case of tuberculosis at the high school and that the Anaheim School District held an informational meeting for parents and staff. Because of confidentiality issues, the district cannot disclose if the case involves a teacher or a student. However, the individual is no longer at the school and the school is currently conducting tests on individuals who may have been exposed. No other cases have been identified.

CITY ATTORNEY REMARKS

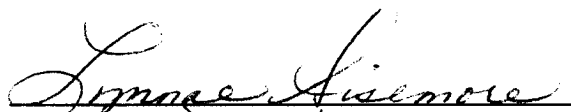
None

ADJOURNMENT

Mayor Waldman adjourned the meeting at 9:09 p.m.

  
\_\_\_\_\_  
Mayor

Attest:

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