

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

December 19, 2006

Mayor Waldman called the regular meeting of the La Palma City Council to order at 7:00 p.m. on Tuesday, December 19, 2006 in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE: Councilmember Herman

INVOCATION: G. Henry Charoen

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. Mayor Waldman presented a proclamation to the John F. Kennedy High School Varsity Football team and their head coach, Mitch Olson.
2. Mayor Waldman read a proclamation in recognition of the Orange County Fire Authority's Alcohol and Drug Abuse Awareness Month.
3. Richard Lutz and Councilmember Rodriguez presented awards to the

Kiwanis Holiday Home Decorating Contest winners.

ORAL COMMUNICATIONS

Duane Schuster, 8272 El Pescador, invited the City Council's spouses and Interim City Manager to the Cypress College Americana Awards.

Ernie Guardado, 8142 Suffield, asked for the raised center portion of the curbs at the corner of Walker and La Palma and similar intersections to be marked with red or blue paint to ensure public safety.

RECESS CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION: 7:20 p.m.

CONSENT CALENDAR

A. Approval of Community Development Commission Minutes

Mayor Pro Tem Charoen requested this item be pulled because he did not attend the November 20th meeting, and abstained from voting on this item.

Councilmember Herman made a motion to approve the minutes of the November 20, 2006 regular meeting of the Community Development Commission.

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

AYES: Councilmember Barnes, Councilmember Herman,  
Councilmember Rodriguez, and Mayor Waldman

NOES: None

ABSTAINED: Mayor Pro Tem Charoen

B. Approval of Community Development Commission Minutes

December 5, 2006 Regular Meeting of the Community Development Commission.

C. Approval of Register of Demands

Resolution No. CDC 2006-29

Councilmember Herman made a motion to approve Consent Calendar Items B and C.

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

D. Annual Financial and Compliance Audit Reports and Annual Financial Transactions Report of the La Palma Community Development Commission for the Fiscal Year Ended June 30, 2006

Councilmember Herman requested to pull this item and asked if page 42 on the financial report was considered a confidential document.

City Attorney Kuperberg replied the report is a public record, part of the agenda packet, and is available to anyone who wants to view it.

Councilmember Herman stated he was referring to the last paragraph in the financial statement on page 42 that specifies that the report is for only certain members to view.

City Attorney Kuperberg replied the paragraph is a reference to an accountant's letter to specify that the public cannot rely on the information stated. If the member of the public or someone other than the City would take action or make an investment based on the information stated they cannot pursue legal action.

Councilmember Herman asked if a citizen can obtain a copy of the letter or report upon request.

City Attorney Kuperberg answered affirmatively.

Councilmember Herman made a motion to receive and file the annual financial and compliance audit reports and annual financial transactions report of the La Palma Community Development Commission for the Fiscal Year Ended June 30, 2006.

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: 8:22 p.m.

PL-1 Approval of Planning Commission Minutes

Councilmember Barnes made a motion to approve the Planning Commission Minutes of the November 20, 2006 of the Regular Meeting of the Planning Commission.

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

AYES: Councilmember Barnes, Councilmember Herman,  
Councilmember Rodriguez, and Mayor Waldman

NOES: None

ABSTAINED: Mayor Pro Tem Charoen

ADJOURN PLANNING COMMISSION AND CONVENE AS THE CITY  
COUNCIL: 8:22 p.m.

CONSENT CALENDAR

1. Waive the Reading of All Ordinances
3. Approval of Council Minutes

City Council Minutes of the December 5, 2006 regular meeting of the City Council.

4. Approval of Register of Demands

Resolution No. 2006-56

5. Resolution Authorizing Signatories for the Deposit, Investment, and Payment of Public Funds

Resolution No. 2006-57

6. Approval of Program Supplement No. 007-N to Administer the Agency-State Agreement for Federally Funded Project No. 12-5319R for the Rehabilitation of La Palma Avenue from Valley View Street to Walker Street, City Project No. ST-271

Resolution No. 2006-58

8. Resolution Amending the Salary Schedule for Part-time Employees

Resolution No. 2006-60

Councilmember Barnes made a motion to approve Consent Calendar Items 1, 3, 4, 5, 6, and 8.

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

2. Approval of Council Minutes

Mayor Pro Tem Charoen requested this item be pulled because he did not attend the November 20th meeting, and abstained from voting on this item.

Councilmember Herman made a motion to approve the minutes of the November 20, 2006 regular meeting of the City Council.

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

AYES: Councilmember Barnes, Councilmember Herman,  
Councilmember Rodriguez, and Mayor Waldman

NOES: None

ABSTAINED: Mayor Pro Tem Charoen

7. Purchase of Three (3) Replacement Law Enforcement Vehicles

Councilmember Herman requested to pull this item and asked if two Ford Crown Victoria vehicles were the only police cars available.

Police Chief Ethell replied it is the least expensive vehicle made for patrol cars.

Councilmember Herman asked what other brands of vehicles are offered for patrol cars.

Police Chief Ethell replied that Dodge has introduced a Dodge Charger, but it is expensive and too new to try at this time.

Councilmember Herman asked if there is a limit to what cars and equipment can be utilized for police vehicles.

Police Chief Ethell answered affirmatively.

Councilmember Herman made a motion to adopt Resolution No. 2006-59 for the purchase of three (3) Replacement Law Enforcement Vehicles for the Police Department.

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

9. Cancellation of January 2, 2007 Meeting

Councilmember Rodriguez requested to pull this item to discuss different approaches to cancelling City Council meetings. He recommended a study session on the Community Center materials or various projects around the City.

Councilmember Rodriguez made a motion to approve the cancellation of the January 2, 2007 City Council Meeting.

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

10. Adoption of an Ordinance Amending the City's Utility Users Tax to Maintain its Consistent Interpretation and Application to Long Distance Cellular Telephone Service

City Attorney Kuperberg gave a brief summary on the amendment to the Utility Users Tax (UUT) Ordinance.

Mayor Pro Tem Charoen asked Interim City Manager/Community Development Director Lazzaretto what the financial impact would be if the Council decides not to make the recommended changes.

Interim City Manager/Community Development Director Lazzaretto stated it is ambiguous as to whether it will be all of the cell phone tax or only a portion that will be diminished. It could account for approximately 25% of the City's UUT, which for 2006-07, is budgeted at \$360,000.

Councilmember Rodriguez asked if any other City has been approached with litigation regarding the application as opposed to Proposition 218.

City Attorney Kuperberg replied that cities are approaching the problems in a variety of ways. Depending on how the problems are approached, different cell providers may react differently. All of the cell providers have raised questions. Cingular and Verizon have indicated they are going to pay under protest. The League of California Cities participated in a meeting that was hosted by a group called CalTax. League of California Cities representatives met with cell providers in reference to a lawsuit being filed in the near future. As that litigation is not yet public, he was not aware of the circumstances of that city.

Councilmember Rodriguez asked if the lawsuit is being proposed by the providers or a consumers group.

City Attorney Kuperberg replied that the matter was raised by a cell provider.

Mayor Pro Tem Charoen made a motion to introduce an Ordinance amending the City's Utility Users Tax to maintain its consistent interpretation and application to long distance cellular telephone service.

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

11. Introduction of Ordinance Adding Section 21-11.1 Related to Sewer Maintenance, Repair, Design and Restriction of Deposit into Sewers

Public Works Director Noorbaksh gave the staff report.

Councilmember Rodriguez asked if the sewer lateral connects with the City main line, either in the middle of the street or on the other side of the street, and if it is

the responsibility of the homeowner for the condition of that lateral line even as it passes through the City right-of-way.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Rodriguez asked if a repair need occurs, requiring removal and replacement of sidewalk, curb, gutter, and the paved road, would it be the homeowner's responsibility to make the repairs.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Rodriguez asked if this policy has been in place for a long time.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Herman asked if a resident will have to obtain a permit prior to any repairs of the lateral.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Herman asked if City staff or a private contractor would perform the repair work.

Public Works Director Noorbaksh replied the work would have to be done by a private contractor.

Councilmember Herman asked if it is legal to dump paint, cleaners, and similar chemicals down a drain.

Public Works Director Noorbaksh answered affirmatively.

Mayor Waldman asked Public Works Director Noorbaksh for confirmation that this Ordinance simply codifies existing policy.

Public Works Director Noorbaksh answered affirmatively.

Councilmember Rodriguez asked how the El Rancho Verde claims were resolved for the mainline and lateral problem.

Public Works Director Noorbaksh replied that the allegation was that the City's line had subsided and sat directly on the lateral which caused a kink in the lateral and the sewer line to back up. The City of Cerritos repaired damages to the street where the damages occurred and confirmed that the waterline was not sitting directly on the lateral.



Councilmember Rodriguez asked if it is the City's responsibility if the case involved subsidence.

Public Works Director Noorbaksh replied not necessarily, because one would have to prove that the subsidence of the line did cause the lateral to kink and create a leak.

City Attorney Kuperberg replied that even if the City's line had put pressure on a lateral, it wouldn't necessarily mean that the City of La Palma would be held liable.

Councilmember Herman asked if any claims or lawsuits have come about from the lateral damage.

Interim City Manager/Community Development Director Lazzaretto answered that he was not aware of any.

Councilmember Barnes made a motion to approve an introduction of an Ordinance adding Section 21-11.1 Related to Sewer Maintenance, Repair, Design and Restriction of Deposit into Sewers.

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

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

Mayor Pro Tem Charoen attended the Employee Recognition luncheon and the Builders Institute Association dinner for newly elected City Officials.

Councilmember Herman attended the Orange County Vector Control Holiday Party; the Chamber Mixer at Amazing Flowers; and the Employee Recognition luncheon.

Councilmember Rodriguez attended the Employee Recognition luncheon; the Chamber Mixer at Amazing Flowers; the Orange County Inaugural Prayer Breakfast in Garden Grove; and the La Palma Tree Lighting.

Councilmember Barnes attended the Employee Recognition luncheon; the La Palma Tree Lighting; and the Southern California Association of Governments (SCAG) meeting.

Mayor Waldman attended the Orange County Sanitation District meeting; the Employee Recognition luncheon; the Chamber Mixer at Amazing Flowers; and the Orange County League of Cities Bylaws Committee meeting.

Councilmember Herman asked for an update of the crossing guard direction at La Palma Avenue and Moody Street.

Police Chief Ethell stated that La Palma Avenue and Moody Street have very few children that cross in either direction, and no changes have been made.

Councilmember Herman asked if a recommendation will come back to the Council regarding this matter.

Police Chief Ethell answered affirmatively.

Councilmember Barnes suggested that staff speak with school principals prior to making recommendations.

Councilmember Herman asked staff to subscribe to Capitol Weekly on behalf of the City Council.

Interim City Manager/Community Development Director Lazzaretto replied that staff will research the subscription request.

Councilmember Herman asked when the City's missing trees will be replaced.

Public Works Director Noorbaksh replied that the trees will be planted in early January.

#### CITY MANAGER REMARKS

Interim City Manager/Community Development Director Lazzaretto asked Council to leave their agenda binders at the dais so they can be updated. He also reported that staff is still seeking citizen committee applications for the Traffic Safety Committee (TSC) and for Community Activities and Beautification (CAB) Committees. The original deadline of December 20, 2006 will have to be extended due to a lack of applications.

Councilmember Rodriguez asked if the openings were for both the TSC and the CAB Committees.

Interim City Manager/Community Development Director Lazzaretto replied that there are three openings on each committee.

Councilmember Rodriguez asked how many applications have been received for

the Traffic Safety Committee.

Interim City Manager/Community Development Director Lazzaretto replied that only two applications have been received, one for each committee.

Interim City Manager/Community Development Director Lazzaretto reminded Council to adjourn to the January 16 regular City Council meeting.

Councilmember Herman asked if issues relating to CAB Committee attendance will be reviewed.

Interim City Manager/Community Development Director Lazzaretto replied it will be addressed when the Council Sub-committee meets to review applications.

#### CITY ATTORNEY REMARKS

City Attorney Kuperberg thanked Council for inviting him to the Employee Recognition luncheon and wished everyone happy holidays.

#### ADJOURNMENT

City Attorney Kuperberg mentioned to recess the City Council meeting to a closed session to complete the discussion on personnel matters.

Councilmember Barnes made a motion to recess to a closed session to continue personnel matters.

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

Mayor Waldman recessed to a closed session at 8:06 p.m.

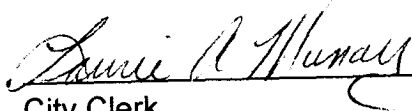
Mayor Waldman reconvened the meeting with all members present at 8:44 p.m., and declared that there was nothing to report.

Mayor Waldman adjourned the meeting at 8:45 p.m. to a regular City Council meeting on January 16, 2006.

  
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Mayor

Attest:

  
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City Clerk