

MINUTES OF THE REGULAR MEETING
OF THE LA PALMA CITY COUNCIL

April 15, 2003

Mayor Barnes called the regular meeting of the La Palma City Council to order at 7:00 p.m. on Tuesday, April 15, 2003, in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE

Councilmember Blake led the Pledge of Allegiance to the United States Flag.

INVOCATION

Pastor Michael Heher with St. Irenaeus Catholic Church gave the Invocation.

ROLL CALL:

Councilmembers present: Christine M. Barnes, Kenneth A. Blake, Alta E. Duke,
Larry A. Herman, Paul F. Walker

Councilmembers absent: None

City Officials present: Catherine Standiford, City Manager
Vince Giampa, Chief of Police
Ismile Noorbaksh, Director of Public Works/City Engineer
Robbeyn Bird, Director of Finance
Jan Hobson, Director of Recreation & Community Services
Dominic Lazzaretto, Director of Community Development
Joel Kuperberg, City Attorney
Crystal Wilkerson, Administrative Secretary

PRESENTATIONS

Police Chief, Vince Giampa, introduced Dispatcher, Tracy Nolan, who received a proclamation on behalf of the La Palma Police Department, from Mayor Barnes, recognizing April 13-19, 2003 as National Public Safety Telecommunications Week.

Mayor Barnes presented a proclamation to the Director of Public Works, Ismile Noorbaksh, recognizing May 18-24, 2003 as National Public Works Week.

ORAL COMMUNICATIONS

Robert Klemer, 7860 Valley View, Buena Park, CA 90620, spoke in regards to the man holes in the street in front of Johnnie Jr's. He stated that the man holes rattle his windows and make a very loud noise in the middle of the night when large heavy trucks drive over them. He asked if the City of La Palma could look into fixing them.

Richard Polis, 4932 Partridge, mentioned his concerns with the high volume of parking at Walker Junior High. He stated that motorists are being forced to park at Kennedy High and the church next door. He asked if staff could look into re-stripping the Walker Jr. High parking lot to increase the volume of parking spaces and maybe to relocate the driveway entrance.

RECESS

Mayor Barnes recessed the City Council to convene as the Community Development Commission at 7:15 p.m. (See separate Community Development Commission Minutes.)

RECONVENING

Mayor Barnes reconvened the meeting in regular session at 7:17 p.m.

CONSENT CALENDAR

Councilmember Walker made a motion to approve the following items on the Consent Calendar:

APPROVED THE APRIL 1, 2003 CITY COUNCIL MEETING MINUTES

The motion was seconded by Councilmember Blake and carried on the following roll call vote:

AYES: Barnes, Duke, Herman, Walker

NOES: None

ABSTAIN: Blake

Councilmember Walker made a motion to approve the following item on the Consent Calendar:

ADOPTED RESOLUTION NO. 2003-15 APPROVING A REGISTER OF DEMANDS FOR APRIL 15, 2003

AUTHORIZE THE DIRECTOR OF PUBLIC WORKS TO SOLICIT COMPETITIVE BIDS FOR THE PURCHASE OF A 2003 BACKHOE LOADER TRACTOR

APPROVED THE FINAL MAP OF TRACT NO. 16437 SUBJECT TO THE DEVELOPER PAYING THE REMAINING BALANCE OF FEES, I.E. PARK IN-LIEU FEES AND FINAL MAP PLAN CHECK FEES

ADOPTED RESOLUTION NO. 2003-16 APPROVING A PROGRAM SUPPLEMENT NO. 006-M TO ADMINISTERING-AGENCY STATE AGREEMENT NO. 12-5319 FOR THE REHABILITATION OF WALKER STREET FROM COYOTE CREEK TO 183RD STREET, CITY PROJECT NO. ST-249

ADOPTED RESOLUTION NO. 2003-17 APPROVING PROGRAM SUPPLEMENT NO. 005-M TO ADMINISTERING-AGENCY STATE AGREEMENT NO. 12-5319 FOR THE REHABILITATION OF MOODY STREET SOUTH FROM THE CITY LIMITS TO MALAGA DRIVE & CRESCENT AVENUE FROM MOODY STREET TO THE WEST CITY LIMITS, CITY PROJECT NO. ST-237

APPROVED THE FY 2003-04 CITIZENS OPTION FOR PUBLIC SAFETY (COPS) EXPENDITURE PLAN AND ADOPTED A RESOLUTION 2003-19 AUTHORIZING ACCEPTANCE OF COPS GRANT FUNDS FROM THE STATE OF CALIFORNIA

The motion was seconded by Councilmember Blake and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

PUBLIC HEARING

City Council Direction Related to the Capital Outlay Reserve

Councilmember Herman stated that the COR Fund was established in 1999 by a Resolution adopted by the La Palma City Council. The funding was exclusively based on sales tax generated by one business in the City. This business is still the only sales tax contributor to the COR Fund. The adopted resolution stated that the funds were to be used for future capital projects exceeding \$100,000. Approximately four weeks ago, at a study session related to this Capital Outlay Reserve Fund, the City Council majority gave the City Manager direction to use 50% of the COR Revenues to balance the FY 2003-2004 budget. Also, staff was requested to review the ongoing maintenance costs related to capital improvement projects funded by COR and to consider paying for such ongoing maintenance with COR Funds. Councilmember Herman said he requested this item be pulled and brought back to the City Council for further review and discussion. He feels that giving direction regarding such an important issue is a most significant change in City Council Policy. The City Council direction four weeks ago would allow 50% of the sales tax generated by this one business, approximately \$500,000, to go into the COR Fund to be used for capital improvements when no other funds are available to support them. The remaining 50%, approximately \$500,000, would be transferred into the General Fund for ongoing operational needs.

Councilmember Herman went on to say that staff is implementing a 5% expenditure reduction in the FY 2003-2004 Budget. After several conversations with the City Manager, he has been

informed of a shortfall in the FY 2003-2004 Budget of around \$375,000; this is the amount still needed after Staff makes the 5% budget reduction. The reason for this \$375,000 budget shortfall is the increased costs related to Workers Compensation and General Liability Insurances, as well as salary and benefit enhancements. Councilmember Herman recommended that the City continue to fund capital improvement projects with COR Funds as intended by the 1999 Resolution, but consider allocating only the needed \$375,000 to balance the FY 2003-2004 budget at this time. He said he feels the COR Capital Outlay Reserve is a reserve fund, one that should be used only with the utmost responsibility. In the future, staff may bring to the Council any one item justifiable for the use of COR Funds. The City Council's duty is to adhere to responsible financial policies. Councilmember Herman summarized by stating that he wanted to treat the COR Fund as a reserve, follow the initial City Council direction in the 1999 Resolution to use the COR Fund for Capital Improvement Projects, and use the COR Fund, when justified, for emergency and budget shortfalls on a case-by-case basis.

Councilmember Blake stated that the reason the Council initially set up the COR Fund in 1999 was because the accounting method used by this one business generative the sales tax was in question. Subsequent to that date, the State of California has ratified the method this business is using, so it becomes like any other sales tax generating business. Councilmember Blake stated that the sales tax can be used as general revenue. He has verified this with an auditor from the State Board of Equalization, and once the State makes the ruling, they cannot go back on it. He stated that it is a regular revenue source and the only way the City would lose this source would be if the business was to move out of the City. Based on this information, Councilmember Blake said he agrees with the City Manager's request in using 50% of this revenue source to balance the FY 2003-2004 budget. He stated that historically less than 50% of the funds have been used every year, eventually resulting in a reserve of a substantial amount, up to 50-70%. He said he is concerned the City will be asking its citizens to cut programs, while we have a 50% reserve sitting in COR. He also stated that the Council should think of long-term planning and put 50% into the COR Fund to keep projects going, but that the City can fund and use the rest of the 50% it in the General Fund so the City doesn't have to cut any programs or positions. He said he believes that if the COR money isn't used, then City will be looking into an 11 to 15% General Fund cut instead of a 5% cut, and he feels it is necessary for this fiscal year. Councilmember Blake stated that the Workers Compensation and General Liability is not going to go down and the pension costs are

not going to go down, so it is necessary for the City to use 50% of the COR money for General Fund needs.

Mayor Pro Tem Duke agreed with Councilmember Blake in respect to Council being wary of the longevity of this source of money coming from the one business and the way it was computed. But, that is not the case now. She stated that the fact is the sales tax dollars should be treated the same way other sales tax coming into the City is treated. Mayor Pro Tem Duke said that leaving the money sitting in a fund being underutilized and projects not being completed does not make a whole lot of sense given the current FY 2003-2004 deficit that the City is facing. She agreed that the 50% should be used to balance the FY 2003-2004 Budget and clarified that the balance will be put away for the future. She explained that the City has a certain comfort level now that this sales tax can be considered an ongoing revenue source and that the company is not going to move out of the City.

Mayor Barnes agreed that the City Council should allocate the 50% to ongoing General Fund needs and stated that it is a prudent and conservative approach to meet the City's current and ongoing expenses. She feels taking the specific amount needed, \$375,000, is not logical. Giving 50% keeps staff from having to come back to Council if more than this amount is needed. She explained that with the State crisis right now, the City will be lucky if just a 5% budget cut is needed. Mayor Barnes stated that she feels comfortable with the method to pay for the current expenses facing the City, and feels comfortable with the plan that was presented four weeks ago at the Study Session.

City Manager Standiford stated that she knows that this is a change of direction and change in policy, and said that Councilmember Herman can rest assured that if she had some other way of trying to address the City's structural budget deficit issue for next fiscal year, without even considering what the State is going to do, she would have made different recommendations. She updated the Council by commenting that staff has finalized the City's revenue projections for next fiscal year and the current revenues were projected at \$7,880,000. Next year's revenues are projected now to be 2.6% less at \$7,669,800. She stated that this figure takes into account one new business that will provide sales tax that the City did not have last fiscal year. Most of the decline is due to significantly lower interest revenue where the interest rate used to be 6% and

now is at 2%. The City will lose about \$200,000 just in interest revenue. In addition, the City has seen a decline in sales tax and the City is not yet seeing any gains from higher gasoline prices. City Manager Standiford stated that she has been reviewing revenues on a monthly basis with the City's Finance Director, and the Finance Director informed her that sales tax receipts for last month were \$70,000 less than the same month a year ago. She concluded by stating that residents have been paying higher gasoline prices, but the City hasn't seen an associated increase in these sales tax receipts.

City Manager Standiford mentioned that projected base expenditures for FY 2003-2004, including the 5% across the board reduction in all departments, are \$7,670,360. This amount does not include supplemental budget requests that the City is going to have to address due to mandates that are still being imposed, and does not include the costs for some of the negotiated benefits or increased insurance costs. She explained that from a practical standpoint what happens to COR is that the money comes into the General Fund as sales tax. It is transmitted by the State as sales tax in one big chunk and then, on a quarterly basis, the City's Finance Director receives a report that identifies all of the individual sales tax contributions by the individual businesses in the City. The City cannot disclose the nature of the business or the amount of sales tax, because it is proprietary information.

The Finance Director, on a quarterly basis, then transfers the amount of sales tax generated by the one business into the COR Fund; so staff is not recommending transferring the money from COR back into the General Fund account. Staff is talking about transferring less money from the General Fund into COR. She stated that Councilmember Blake was correct; since the inception of COR, the City has never spent more than 47% of the money that has been allocated for that Fund. In next fiscal year's, Capital Improvement Program, the City projects needing only \$269,000 in COR Funds to build new projects. Due to this, there is a likelihood that the COR Fund will continue to build up. The bottom line is that the 5% cut is not going to be enough. It will need to be 6 - 10%, and that is with the State not doing anything.

City Manager Standiford stated that it is her professional opinion that, in times like this, the City must take a second look to see how it is allocating revenues, must look at possible cuts or implement a combination of both. A month ago, staff presented a combination approach to the

City Council. For every dollar that is kept in COR and is unused, another dollar needs to be cut from the organization. It is a policy choice that the City Council has to make.

City Manager Standiford stated that her recommendation still stands and she has to look at both the "macro" and "micro" perspectives. The "macro" perspective is that if the City does not allow sales tax money that has been allocated to COR to stay in the General Fund to be allocated for basic services, then there will be significant cuts in the organization that will significantly affect the services delivered.

Councilmember Herman stated that if the \$375,000 isn't the right number to balance the budget for the upcoming year, he would be happy to hear what the correct number needed is and support it.

City Manager Standiford stated that staff is going through the process in developing a budget that incorporates a 5 - 7% cut in the organization, keeping in mind that it will be coming back to Council for formal action as part of the adoption of the budget process. This cut would grow to 11-15% without the use of 50% of the sales currently going to COR.

Keith Nelson, 5311 La Luna Drive, explained that he has reviewed the presentation that the City Manager had put together and spoke with her regarding some of his questions. He stated that since he wasn't on the City Council in 1999, when the COR program was created, he didn't know the source of the revenue and the amount of money that was being set aside, which he stated is a significant amount. He stated that he was a little disappointed that a year ago, when the City was being faced with Measure JJ and the City was talking about financial needs, that the money in this account could not be touched, as it now is apparently going to be touched. He also expressed concern with the need to set aside money for ongoing operating expenses in the future; the issue being possibility the increase of operating expenses for Recreation. He stated that if the City starts to spend that money, it will never stop. Recognizing that the City does not know what the State is going to do, but looking around and seeing the County of Los Angeles talking about 4,000 layoffs and the County of Orange talking about \$130 million for increased pension benefits, perhaps the more prudent approach is to establish the budget as Councilmember Herman indicated. The City has talked about a 5% reduction, so create the budget and look at it, asking

what the shortfall is and what are the items that the City can't control (workers comp, liabilities, and pension benefits). If it is \$375,000 that is needed, then don't commit any more money to anything else. Instead, step back and look to see what the State does to the City. He stated that it is the City Council's responsibility to make as many approvals necessary when staff comes to them for more money. He feels that it is interesting that the Council is so quick to make a policy change of 180 degrees. He feels that this is a lot of money to give up control of. He said that once the money is given, staff will get comfortable living on it. He stated that Councilmember Walker expressed his concerns regarding of the operating expenses of a potential park project. He asked the Council if they still want to go forward with that, does the community need it, or should the City say it just can't afford it in today's world. He feels the City should commit to paying the current bills and give staff what they need for the shortfall. It is better to look at and make the decision as they go along then to give the money up because the Council will never get it back. Mr. Nelson stated that he doesn't feel that staff should look at an 11-16% budget reduction. If the \$375,000 is correct for the shortfall, then that is all the staff needs, but come July the City may need more if the State takes away something that the City doesn't know about. He asked the Council to be more cautious letting loose with this money. He feels that Council needs to slow down and make staff come to them with the budget.

Councilmember Duke made a motion to affirm the direction it provided the City Manager during a Study Session held on Tuesday, March 18, 2003 related to the Capital Outlay Reserve. The motion was seconded by Councilmember Blake and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Walker

NOES: Herman

ABSENT: None

Transportation Enhancement Activity (TEA) Program

Councilmember Herman asked Mr. Noorbaksh to summarize the scope of the project.

Mr. Noorbaksh explained that the City Council has budgeted, under the Capital Improvement Program, about \$225,000 for the block wall enhancement on La Palma Avenue from Walker Street to the West City Limits. This includes trees and vines on the block walls. The City Council has also approved \$75,000, which is part of the \$225,000, for replacement of the trees on La Palma Avenue from Walker to the West City Limits. The Orange County Transportation Authority made a call for projects under the TEA program of the federal government. One of the items that are eligible would be the median on La Palma Avenue since it is the only section left on La Palma Avenue that goes from the West to the East City Limits. The scope of the work would be to complete the vine on the block wall, replace the trees on La Palma Avenue, and install the new medians on La Palma Avenue from about 350 feet from Moody Street to Dennis Street. This will complete the section of La Palma Avenue within the City from the West City Limits to East City Limits.

Councilmember Herman asked if the vines on the block wall and the tree replacement started from Walker Street to the West City Limits.

Mr. Noorbaksh said yes. He continued to explain that this is fundamentally the scope and staff is offering to participate with the federal government or Orange County Transportation Authority. He stated that if the City offers 50% participation, that would increase the City's chances in receiving the funds, as he understands a lot of the other cities are almost offering the same.

Councilmember Herman asked how much federal money is available.

Mr. Noorbaksh stated that six million is available for the whole county and staff is asking for \$290,000.

Councilmember Herman asked if the \$225,000 in the capital improvements was included in the \$580,000.

Mr. Noorbaksh stated yes.

Councilmember Herman asked if the City has used this program before.

Mr. Noorbaksh said no, that this was the City's first time.

Councilmember Herman asked Mr. Noorbaksh if he felt that the City had a better opportunity if they ask for the 50% rather than 60 to 70%.

Mr. Noorbaksh stated that this is the highest the City can go.

Councilmember Herman asked what the timing was for the City to receive this money.

Mr. Noorbaksh explained that the City should hear within the next two or three months, whether the City's application was approved. If it is approved the City will need to immediately proceed with the completion of design and, hopefully, at the end of next fiscal year try to be under construction.

Councilmember Herman explained his concern on the center median from Moody Street and how the median will be constructed in front of Luther School. He expressed that staff needs to make sure they are aware of what the City is proposing to do and make sure the City receives their input on traffic circulation so the City doesn't create a problem for them.

Mr. Noorbaksh stated that staff would be conducting a traffic study which will be presented to the Traffic Safety Committee to make sure the school is accommodated, especially those who are making left turns out of side streets.

Councilmember Herman asked if the City doesn't receive the money, will staff proceed with the other two projects that were approved in previous budgets with COR funds.

Mr. Noorbaksh stated yes.

Councilmember Herman made a motion to approve the submittal of an application to the Orange County Transportation Authority for funding under the Transportation Enhancement Activity Grant Program to enhance landscape and install a landscape median island on La Palma Avenue from

Walker Street to Denni Street. The motion was seconded by Councilmember Duke and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

COUNCILMEMBER REPORTS FROM CITY-AFFILIATED COMMITTEES/COUNCIL REMARKS

Councilmember Walker mentioned that all Orange County cities will be responsible for going to restaurants, companies and factories that deal with sewer disposal on an annual basis to make sure that the Fats, Oil, Grease (FOG) are recovered through filter traps before the product goes into the sewer system. Full implementation will occur in eighteen months (2005).

Mayor Pro Tem Duke mentioned that she will be attending the General Assembly for the Southern California Council of Governments on May 1, 2003.

Councilmember Herman mentioned that the JFK scholarship banquet was very nice. There was a nice speaker from the Los Angeles Angels and the Winton sisters, who formerly went to Kennedy, spoke. He stated that a resident located at Indigo/Andrew asked him what the status of the storm water drains in that area due to the large amounts of water that puddle when there are heavy rains. He mentioned that he hasn't seen it among the list of capital improvement projects.

Mr. Noorbaksh stated that the City looked into this issue three or four years ago. The storm drain cannot accommodate the storm water that comes from the rain due to the cross gutter that gets flooded along with a portion of the street. Under the MPDS program, you will see a capital improvement project which discusses and talks about some nuisance water to be picked up. This nuisance water should be able to dry up the cross gutter except in the rainy season where there will still be a lot of water. When there is a lot of water, the drain still drains the water, but it will not flood the street.

Councilmember Herman asked Mr. Noorbaksh to give him something in writing that summarizes his comments made this evening so Mr. Herman could give it to the concerned resident. Mr. Herman asked what the small blue sign entering the driveway of City Hall states. Mr. Noorbaksh said that it pertains to parking properly in the parking stalls and specifically dealing with the handicap vehicles and states that a vehicle may be towed at the owner's expense.

Councilmember Herman reported that through Vector Control, there was an article in the Orange County register that stated fire ants are losing the war in Orange County. Orange County could be become the first heavily infested area in the nation to wipe out the ants.

Councilmember Blake reminded Council about the Division wide Legislative breakfast on Friday, April 18, 2003. He mentioned that the parking lot is small and the room accommodates 130 people so they might want to show up a little early.

Mayor Barnes attended the Orange County League of Cities meeting which provided an Anti Terrorism briefing. The pamphlet will be left in the Mayor's Conference room if the Council is interested in looking at it. She mentioned that the configuration representative for OCTA board was put on hold due to a need for further research. She stated that a man from Huntington Beach was passing out a letter regarding "Yellow Ribbon America", a non profit group asking support for our troops. The letter states that this organization is making yellow ribbons and bumper stickers available, free of charge, to support our troops. Mayor Barnes asked what Council policy is for showing support like this throughout the City. She wanted to know if there have been any requests from citizens.

City Manager Standiford mentioned that the City has not received any requests of any type of support for our troops, either for yellow ribbons or patriotic banners. She said it is up to Council to make this recommendation.

City Attorney Kuperberg commented that the case law is very uncertain with regard to putting up ribbons, posters, flags or other items on public property supporting a political act which can create a public forum and thereby having to allow anyone who wants to put up their political statement.

These statements may or may not be as attractive or the sort of thing that the City would want on its major thoroughfares.

Mayor Pro Tem Duke asked if the red ribbons that the City ties throughout the community during Red Ribbon Week were considered a political act.


City Attorney Kuperberg stated that the distinction isn't necessarily political versus non political. He stated that he mentioned his comments in regards to Red Ribbon Week in the past. He stated that there really isn't a big difference between yellow or red ribbons.

CITY MANAGER COMMENTS

City Manager Standiford reminded the City Council that there will be a Study Session on May 6, 2003 at 5:30 pm, prior to the next City Council meeting, to discuss User Fees.

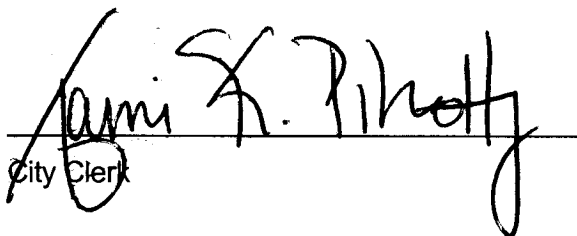
ADJOURNMENT

The City Council adjourned at 9:05 p.m.



Mayor

ATTEST:



City Clerk