

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

December 1, 2009

CALL TO ORDER: Mayor Waldman called the Regular Meeting of the City Council to order at 6:36 p.m. in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

CLOSED SESSION

Mayor Waldman recessed the City Council to a Closed Session at 6:36 p.m.

CS-1. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED  
LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: One Case

Parties: Construct 1 One Corporation

City of La Palma

OPEN SESSION

Mayor Waldman reconvened the City Council in Open Session at 7:01 p.m. with all members present.

City Attorney Kuperberg stated that there were no reportable actions.

PLEDGE OF ALLEGIANCE: Mayor Pro Tem Shanahan

INVOCATION: Pastor Jose "Paddy" Padilla Jr., United Methodist Church

ROLL CALL: Council and Commission Members

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

Councilmembers  
absent: None

City Officials present: Dominic Lazzaretto, City Manager/ Executive Director  
Joel Kuperberg, City Attorney  
John Di Mario, Community Development Director  
Ed Ethell, Chief of Police  
Jan Hobson, Recreation & Community Services Director  
Jeff Moneda, Public Works Director/City Engineer  
Keith Neves, Finance Director  
Chet Corbin, Management Analyst  
Kimberly Kenney, Minutes Clerk

### PRESENTATIONS

1. Will Kempton introduced himself to the City Council as the new Chief Executive Officer of the Orange County Fire Authority (OCFA) and reported on his objectives.
2. Keith Richter introduced himself to the City Council as the new Fire Chief of the OCFA.
3. Returning Veteran Major Phillip Oster presented Mayor Waldman and the City Council an American Flag that was flown on four aircraft during combat missions and at the Army Materiel Command 401<sup>st</sup> Army Field Support Brigade at Bagrow Airfield in Afghanistan.

### ORAL COMMUNICATIONS

Craig Tomooka, 4971 Sharon Drive, addressed the City Council regarding his opposition to the closure of Luther Elementary School and requested that the City of La Palma consider entering financial negotiations with the Cypress Elementary School District.

RECESS THE CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION AT 7:19 P.M.

CONSENT CALENDAR

A. Approval of Community Development Commission Minutes

Minutes of the November 17, 2009, Regular Meeting of the La Palma Community Development Commission.

B. Approval of Register of Demands

Resolution No. CDC 2009-25 approving the Register of Demands for December 1, 2009.

Commission Member Charoen made a motion to approve Consent Calendar Items A and B.

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

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

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE COMMUNITY DEVELOPMENT COMMISSION AND CONVENE AS THE PLANNING COMMISSION AT 7:20 P.M.

CONSENT CALENDAR

PL-1. Approval of Planning Commission Minutes

Minutes of the November 17, 2009, Regular Meeting of the La Palma Planning Commission.

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

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

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

NOES: None

### PUBLIC HEARINGS

None Scheduled.

### REGULAR ITEMS

None Scheduled.

### ADJOURN THE PLANNING COMMISSION AND RECONVENE THE CITY COUNCIL AT 7:21 P.M.

### CONSENT CALENDAR

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 November 10, 2009, Special Joint Meeting with the Traffic Safety Committee, and the Minutes of the November 17, 2009, Regular Meeting of the La Palma City Council.

3. Approval of Register of Demands

Resolution No. 2009-58 approving the Register of Demands for December 1, 2009.

4. Property Tax Exchange Agreement with the County of Orange with Regard to the Detachment of Territory from the Cypress Recreation and Park District

Resolution No. 2009-59 approving a property tax exchange agreement between the City of La Palma and the County of Orange with regard to the detachment of certain territory within the City of La Palma from the Cypress Recreation and Park District.

Councilmember Rodriguez made a motion to approve Consent Calendar Items 1 through 4.

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

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

NOES: None

#### PUBLIC HEARINGS

5. Ordinance Repealing and Replacing in its Entirety Chapter 5 (Animal Control) of the La Palma City Code

- a) Mayor Waldman opened the Public Hearing at 7:21 p.m.
- b) Management Analyst Corbin gave the Staff Report.
- c) Public Input

No members of the public wished to speak.

- d) Council Comments and Questions

The City Council requested South East Area Animal Control Authority (SEAACA) Director of Operations, Captain Aaron Reyes, come forward to answer questions.

Discussion ensued regarding the process of licensing dogs; canvassing; whether SEAACA will receive Orange County Animal Care (OCAC) records; the current number of animals in the City; SEAACA's barking dog administrative process; the statutory hold time for animals being three days, SEAACA keeping animals a

minimum of five days or longer if possible; the differences in the City approved agreement and the SEAACA Board approved agreement; differences in the SEAACA administrative citation barking dog program versus the County's; the SEAACA program including counseling and increasing fines; the limitation on the number of pets allowed per residence and that fish are excluded from the limitations; having a dedicated officer and truck in the City; and updating the website.

- e) Mayor Waldman closed the Public Hearing at 7:37 p.m.
- f) Introduce an Ordinance of the City Council of La Palma repealing and replacing in its entirety Chapter 5 (Animal Control) of the La Palma City Code.

Councilmember Rodriguez made a motion to introduce an Ordinance of the City Council of La Palma repealing and replacing in its entirety Chapter 5 (Animal Control) of the La Palma City Code.

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

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

NOES: None

6. Continuation of a Public Hearing to Ascertain Whether a Public Nuisance Exists at 8182 Santa Margarita Lane

- a) Mayor Waldman reopened the Public Hearing at 7:38 p.m.
- b) Community Development Director Di Mario gave the Staff Report
- c) Public Input\_

Shelly Henderson, a freelance writer for the local newspapers, inquired how the public can donate funds to the project.

Community Development Director Di Mario indicated that donations for the project can be directed to the City.

- d) Council Comments and Questions\_

Discussion ensued regarding what time the clean would begin.

Community Development Director Di Mario stated that it would start at 8:00 a.m.

- e) Continue the Public Hearing to January 5, 2010

Mayor Waldman made a motion to continue the Public Hearing to January 5, 2010.

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

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

NOES: None

Councilmember Rodriguez made a motion to approve an expenditure not to exceed \$5,000 through the City's Code Enforcement Relief Program.

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

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

NOES: None

## REGULAR ITEMS

7. Interim Ordinance Prohibiting the Processing or Approval of Development Entitlements, Permits, or Approvals on Designated Properties in the Neighborhood Commercial (NC) Zone

Community Development Director Di Mario gave the Staff Report.

Councilmember Charoen made a motion to adopt Interim Ordinance No. 2009-07 prohibiting the processing or approval of Development Entitlements, Permits, or Approvals on designated properties in the Neighborhood Commercial (NC) Zone

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

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

NOES: None

Mayor Waldman called for short recess at 7:47: p.m.

Mayor Waldman reconvened the City Council at 7:53 p.m. with all members present.

8. Consideration of Options for Block Walls Fronting Major Arterial Streets

- a) Community Development Director Di Mario gave the Staff Report
- b) Public Input

Debra Sumrow, 5001 Sharon Drive, addressed the City Council regarding the vines on her block wall and whether she has to pull the vines off in order for the City to paint them. She also commented that the block walls further down on Moody Street are deteriorating and that the paint will decay.

Leo Dhauw, 8012 Dawn Circle, addressed the City Council regarding the lattice that he has on his block wall and that he does not want to remove it because it provides privacy and noise reduction for his residence.

City Manager Lazzaretto commented that City Code prohibits anything from being attached to the block walls, but that homeowners could build a free standing structure inside the block walls.

Gerard Goedhart, 4922 Berton Circle, addressed the City Council regarding why the City is getting involved in the process of painting and maintaining of block walls it does not own; and that the City should not ask homeowners to remove lattices from their block walls after the lattices have been there numerous years.

- c) Council Comments and Questions

Councilmember Herman asked City Attorney Kuperberg about his interpretation of the current block wall Ordinance.

City Attorney Kuperberg stated that the City has the authority to paint the walls as part of a beautification project, but has no responsibility to maintain them. He added that there could be liability claims from construction, however, the City will ask residents to sign waivers before work begins.

Councilmember Herman asked City Attorney Kuperberg about the procedure to address current violators of block wall extensions.

City Attorney Kuperberg responded that failure to comply with City Code is deemed as a continuing violation and that the City is not precluded from enforcing the provisions today although the City has not enforced them in the past twenty-five years.

Discussion ensued regarding the details of the Arterial Vine Project; whether residents were notified prior to this City Council meeting; the length of time it took to complete the Crescent Avenue Block Wall beautification project; whether the cement block wall extensions would come off easily; which block wall fences were built under current code and which were not; the intent to have some aesthetic consistency; the strength of the block walls; the variety of lattice extensions available at retailers; what other cities are doing regarding this issue in their neighborhoods; the total cost of the Citywide block wall painting project; whether the City would require homeowners to cut ivy from the exterior of the walls, and if it could require them to keep it trimmed; not painting the walls that are currently covered with vines; collection of homeowner approvals prior to starting this project; ownership of the housing tract signs; removing the tract signs altogether; the time frame to collect homeowners' approval prior to commencement of the project; routine maintenance strategy; having to repaint the walls in 3 to 5 years; plans to paint the walls on Houston Avenue; and the negative impact of the City not addressing the extended lattice on these walls.

Mayor Pro Tem Shanahan asked City Attorney Kuperberg if painting the block walls with deterioration underneath puts the City at risk for a claim.

City Attorney Kuperberg responded that it is conceivable that a resident could claim that the City's painting prevented maintenance that could have eliminated a risk.

City Manager Lazzaretto noted that prior to starting the project, the City will have property owners sign a waiver agreeing to allow the City to paint the wall and to not sue the City for painting their wall.

Debra Sumrow, 5001 Sharon, addressed the City Council regarding her vines being well maintained and if she cut the vines on the exterior wall, the vines would die because they cannot maintain their weight. She closed by noting her opposition to cutting her vines.

Further discussion ensued regarding not having residents cut their vines; addressing safety issues first as it could be unsafe to other residents; and giving some discretion to homeowners as to what they want to have growing on the block walls.

Leo Dhauw, 8012 Dawn Circle, addressed the City Council regarding his opposition to having to remove lattice or vines from the block walls because they add beauty and privacy.

Further discussion ensued regarding the City not being able to plant vines on all the block walls within the City; the Crescent Wall Project having started because of graffiti; leaving walls with vines or lattice alone altogether; not spending \$12,000 to replace or fix the housing tract signs; having housing tract signs be uniform; working with homeowners to maintain healthy vined walls; notifying residents of the upcoming changes and requirements; and proceeding with a Municipal Code change to allow lattice extensions.

- d) Select Option 4 for addressing the extensions to block walls fronting major arterial streets

By consensus, the City Council directed Staff to proceed with an Ordinance change to allow lattice extensions and vine growth on block walls; move forward with the Totally Tan colored paint to cover designated block walls; ensure that the health and safety issues are addressed prior to painting the block walls; and work with property owners regarding upgrading or removing the housing tract signs on their block walls.

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

**Councilmember Charoen** attended the OCFA meeting.

**Councilmember Herman** attended the Cypress College Americana Awards Kick-Off event; the Buena Park Prayer Breakfast; the HOPE Food Bank Foundation Dinner; the Orange County Vector Control District (OCVCD) meeting; and the La Palma Days wrap up event. He announced that he plans to attend the upcoming Holiday Tree Lighting ceremony; the Water Conservation Workshop; and the Kiwanis Home Decorating Contest. He reported on Orange County Supervisor Moorlach's draft White Paper regarding the OCVCD and closed by commenting on a letter from Senator Barbara Boxer regarding available Public Works funds from Senate Bill 2778 and asked if Staff could research the matter.

**Councilmember Rodriguez** attended the Cypress College Americana Awards Kick-Off event; the Buena Park Prayer breakfast; the HOPE Food Bank Foundation Dinner; the La Palma Days parade meetings; and the La Palma Days wrap up event. He closed by commenting on the upcoming La Palma Christmas Home Decorating Contest.

**Mayor Pro Tem Shanahan** attended the Cypress College Americana Awards Kick-Off event; the Buena Park Prayer Breakfast; the "We Give Thanks" Thanksgiving event at the Honda Center for disadvantaged people; and the La Palma Days wrap up event. He announced that he plans to attend the upcoming Holiday Tree Lighting ceremony.

**Mayor Waldman** attended the Orange County Council of Governments (OCCOG) meeting; the Orange County Sanitation District (OCSD) meeting; the Buena Park Prayer Breakfast; and the American Association of University Women event where he was auctioned off for a day with a La Palma resident.

#### CITY MANAGER REMARKS

**City Manager Lazzaretto** announced that Texas Loosey's has closed and announced that the City Council Reorganization will be on the December 15 City Council Meeting Agenda.

#### CITY ATTORNEY REMARKS

**City Attorney Kuperberg** had nothing to report.

#### ADJOURNMENT

Mayor Waldman adjourned the Regular Meeting of the La Palma City Council at 9:28 p.m.

*/s/*

Mayor

Attest:

*/s/*

Laurie A. Murray, City Clerk