

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

May 4, 2010

CALL TO ORDER: Mayor Shanahan called the Regular Meeting of the City Council to order at 6:47 p.m. in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

CLOSED SESSION

Mayor Shanahan recessed the City Council to a Closed Session at 6:45 p.m. with all members present.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

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

Section 54956.95: LIABILITY CLAIMS

Claimant: Song

Agency Claimed Against: City of La Palma

Mayor Shanahan recessed the Closed Session at 6:50 p.m.

OPEN SESSION

Mayor Shanahan reconvened the City Council in Open Session at 7:00 p.m. with all members present.

City Attorney Kuperberg reported that the City Council voted unanimously to deny the claim submitted by Mr. Song.

PLEDGE OF ALLEGIANCE: Councilmember Waldman

INVOCATION: Mayor Pro Tem Rodriguez

ROLL CALL: Council and Commission Members

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

Councilmembers absent: None

City Officials present: Dominic Lazzaretto, Executive Director/City Manager  
Joel Kuperberg, City Attorney  
Ed Ethell, Chief of Police  
Jan Hobson, Recreation & Community Services Director  
Jeff Moneda, Public Works Director/City Engineer  
Keith Neves, Finance Director  
Laurie Murray, Administrative Services Manager/ City Clerk  
Kimberly Kenney, Minutes Clerk

### PRESENTATIONS

1. Ed Fleming introduced himself as the New Orange County Fire Authority Division Chief.
2. Mayor Shanahan presented a Proclamation to Division One Chief Fleming in recognition of Arson Awareness Week.
3. Mayor Shanahan presented a Proclamation to Police Chief Ethell in honor of Peace Officer's Memorial Day.
4. Recreation Director Hobson introduced a brief presentation of the Youth Action Committee program.

Recreation Coordinator Bert Ferguson and Recreation Specialist Tamara York introduced Youth Action Committee Members: Kristen Bang, Joselyne Carpio, Priscilla Chan, Irene Chang, Victoria Chiu, Michael Chuang, Esther Chun, Connie Chung, Nicole Foust, Adriana Gonovich, Megan Hana, Gina Horiuchi, Cindy Huynh, Kenny Huynh, Jenny Jung, Maya Kantak, Deborah Kim, Gloria Kim, Iris Kim, Louis Kim, Monica Kweon, Annette Lee, Grace Lee, Hannah Lee, Samantha Lee, Taesoo Lee, Kalila Mckay, Melinda Nguyen, Phillip Oh, Jennifer Osaki, Trevor Osaki, Timothy Pei, Medha Raj, Aliyah Shaikh, Janet Song, Kristina Taing, Kylie Tierney, Kelsey Toyoda, Jasmine Wang, Joshua Williams, and Ashley Yang.

ORAL COMMUNICATIONS

Joe Pak, representing the National Unification Council, addressed the City Council regarding the Korean Free Trade Agreement. He asked the City Council to reconsider supporting the Agreement

RECESS THE CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION AT 7:27 P.M.

CONSENT CALENDAR

A. Approval of Register of Demands

Resolution No. CDC 2010-10 approving the Register of Demands for May 4, 2010.

B. Cash and Investment Report as of March 31, 2010

Receive and File the Cash and Investment Report as of March 31, 2010.

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

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

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

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE COMMUNITY DEVELOPMENT COMMISSION, AND  
CONVENE AS THE PLANNING COMMISSION AT 7:28 P.M.

CONSENT CALENDAR

None Scheduled.

PUBLIC HEARINGS

PL-1. Conditional Use Permit (CUP) 347, Request from Harshi Antony for Approval to Operate an In-House Child Day Care Use (Large Family 9 to 14 Children) at 5001 Cartagena Circle

- a) Chairperson Shanahan opened the Public Hearing at 7:28 p.m.
- b) City Manager Lazzaretto gave the Staff Report
- c) Public Input

Jonathan Loomis, 5021 Cartagena Circle, addressed the City Council regarding his support of the day care center, but noted concerns of the business' patrons not adhering to the speed limit. He also inquired about allowing nose-in parking at the end of the cul-de-sac.

Roger Grover, 5032 Cartagena Circle, addressed the City Council regarding his support for the day care.

- d) Chairperson Shanahan closed the Public Hearing at 7:39 p.m.
- e) Commission Comments and Questions

Discussion ensued regarding the legalities of parking nose-in in a cul-de-sac and that the traffic engineer would have to conduct a study in order to determine whether parking spaces could be inserted at the end of the cul-de-sac.

Chairperson Shanahan reopened the Public Hearing at 7:41 p.m.

Harshi Antony, 5001 Cartagena Circle, addressed the City Council stating that the current child count is 11 with ages ranging from 1 to 6 years old; that she did not know that her clients were not obeying the speed limit; and that her clients have adequate parking in her residential drive-way.

Discussion ensued regarding the amount of square feet required per child in a day care; that the State requires 35 square feet indoors and 75 square feet outdoors per child; that the State is the regulatory body of the day care center; that the stated square footage required is only for a commercial preschool and not a residential day care; that the business has been in operation since 2002; that the applicant was originally unaware that she needed to acquire a business license, but has applied for one; that there have been no further complaints; that the applicant will comply with the Conditions of Approval; the amount of vehicles that are regularly parked on the property; that the Police Department will be monitoring vehicle speeds along that street; that home based businesses require no impacts to the neighborhood; that City Staff does not have inspection authority except through the Conditional Use Permit process; and that the City will monitor the exterior impacts to the community while the State will regulate the interior impacts through spot inspections.

Chairperson Shanahan closed the Public Hearing at 7:52 p.m.

Chairperson Shanahan reopened the Public Hearing at 7:53 p.m.

Lizbeth Ozturk, 6742 Naomi Avenue, Buena Park, addressed the City Council regarding her support for the day care center. She noted that the applicant has asked all clients to watch their speeds, and has provided parking in her driveway.

Sonny Alexander, 11392 Larkin Drive, Garden Grove, addressed the City Council regarding her support for the day care center.

Erika Vaughn-Jones, 11540 East 186th Street, Artesia, addressed the City Council regarding her support for the day care center.

Joelle Laudazabal, 5142 Dumaine Drive, addressed the City Council regarding her support for the day care center.

Chairperson Shanahan closed the Public Hearing at 7:58 p.m.

- f) Adopt a Resolution approving Conditional Use Permit 347, a request to operate an in-house child day care use (large family 9-14 children) at 5001 Cartagena Circle.

Commission Member Waldman made a motion to adopt Resolution No. PC 2010-02 approving Conditional Use Permit 347, a request to operate

an in-house child day care use (large family 9-14 children) at 5001 Cartagena Circle.

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

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

NOES: None

### REGULAR ITEMS

None Scheduled.

ADJOURN THE PLANNING COMMISSION AND RECONVENE AS THE CITY COUNCIL AT 7:59 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 Register of Demands

Resolution No. 2010-19 approving the Register of Demands for May 4, 2010.

3. Cash and Investment Report as of March 31, 2010

Receive and file the Cash and Investment Report as of March 31, 2010.

6. Amendment to Council Policy 21 - Annual High School and Community College Scholarship and Community College Scholarship Awards

Adopt the proposed changes to Council Policy 21 to add one scholarship for La Palma residents currently enrolled in a community college.

Councilmember Herman made a motion to approve Consent Calendar Items 1, 2, 3, and 6.

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

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

NOES: None

#### ITEMS PULLED FROM CONSENT CALENDAR

4. Award of Contract to D.P. Mangan, Inc. dba Pave West, for the Pavement Rehabilitation of Residential Streets and Houston Avenue with Asphalt Rubber Overlay (ARHM), City Project No. ST-296
  - a) Award a contract in the amount of \$830,789.60 to the low responsible bidder, D.P. Mangan, Inc. dba Pave West, for the Pavement Rehabilitation of Residential Streets and Houston Avenue with Asphalt Rubber Overlay (AHRM), City Project No. ST-296.
  - b) Authorize the appropriation of funds, in the amount of \$97,368.56, from the Measure M Fund Balance.

Mayor Shanahan requested to have Item 4 pulled from the Agenda to allow for public comment.

Ismile Noorbaksh, 7541 Trabuco Lane, addressed the City Council regarding his opposition to awarding the contract to D.P. Mangan, Inc. dba Pave West because of the City's prior experience with them.

#### Council Comments and Questions:

Discussion ensued regarding the measures in place to ensure quality results; that the Public Works Director and Engineering Technician will conduct continual inspections; that the curb and gutter repairs to the tree lined area along Houston are not part of the project; removing the root system along Houston as part of the project; the number of handicap ramps included in the project; looking at options to rehabilitate the street adjacent to Houston as part of the project; the contractor's references; and the differences in the bid amounts.

Keith Nelson, 5311 La Luna, addressed the City Council regarding rehabilitating the entire north and south side of Houston at the same time.

Further discussion ensued regarding the reasoning for including Houston Avenue as part of the project; and that including the tree lined median would significantly increase the cost of the project.

City Attorney Kuperberg commented that adding the southern service street modifications and median upgrades would change the entire project, which would require the City to re-bid the project.

Further discussion ensued regarding not making changes to the project and directing staff to include the southern service street and median modifications in the next pavement project.

Mayor Pro Tem Rodriguez made a motion to award a contract in the amount of \$830,789.60 to the low responsible bidder, D.P. Mangan, Inc. dba Pave West of La Habra, California, and authorize the Mayor to execute the agreement for the Pavement Rehabilitation of Residential Streets and Houston Avenue with Asphalt Rubber Overlay (ARHM), City Project No. ST-296; and authorize the appropriation of funds, in the amount of \$97,368.56, from the Measure M Fund Balance.

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

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

NOES: None

5. Purchase of a Multi-Discipline Volunteer Management and Equipment Mutual Aid (CERT)Trailer

Adopt Resolution No. 2010-20 authorizing the purchase of a Multi-Discipline Volunteer Management and Equipment Mutual Aid CERT trailer. The total cost of the project will be reimbursed by the 2008 Urban Area Securities Initiative (UASI) grand, within 45 days of delivery.

Councilmember Herman requested to have Item 5 pulled to ask for clarification on how the City was selected to receive the trailer.

Police Chief Ethell responded that the Orange County California Citizen Corps Council (OCCCCC) selected La Palma because it is part of the West County CERT program.



Councilmember Herman made a motion to approve Consent Calendar Item 5.

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

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

NOES: None

### PUBLIC HEARINGS

None Scheduled.

### REGULAR ITEMS

#### 7. Third Quarter Financial Report - Fiscal Year 2009-10

City Manager Lazzaretto introduced the item.

Finance Director Neves gave the Staff Report.

Council Comments and Questions:

Discussion ensued regarding funding the permit fee holiday extension; that residents may pull permits once they realize the permit fee holiday is ending; an expiration date versus a dollar cap; the program being funded from reserves; deferring the decision regarding the Permit Fee Holiday until after the discussion of the Proposed Fiscal Year 2010-11 General Fund Budget; and the amount of the General Fund Reserve.

By consensus, the City Council agreed to receive and file the Third Quarter Financial Report for Fiscal Year 2009-10.

Mayor Shanahan called for a short recess at 8:44 p.m.

Mayor Shanahan reconvened the City Council at 8:50 p.m. with all members present.

8. Study Session: Proposed Fiscal Year 2010-11 General Fund Budget and Providing Direction on the Utility Users' Tax (UUT) Rate

- a) Conduct a Study Session and provide direction on the general content of the General Fund Budget, including Supplemental Budget Requets; and

City Manager Lazzaretto gave the presentation.

- b) Provide Staff direction on a Utility Users' Tax (UUT) Rate for Fiscal Year 2010-11.

Council Comments and Questions:

Discussion ensued regarding the financial impact of leaving the UUT at its current 4% level; funding the UUT driven \$250,000 shortfall from the General Fund Reserve; the City Attorney's legal fees being less for the proposed UUT Initiative; exploring non-salary items—that would not interrupt current service levels—that can be eliminated to fund the UUT reduction; delaying the UUT initiative for a future date; not reducing service levels in order to save money; pursuing the UUT Initiative because the economic future is uncertain; how the Grease Interceptor Grant Program will help La Palma's commercial restaurants; using Code Enforcement to get restaurant owners to comply; the Orange County Sanitation District being the governing body in charge of grease interceptor compliance; and consensus that the City Council wants to continue the Permit Fee Holiday to the end of the fiscal year.

Keith Nelson, 5311 La Luna Drive, addressed the City Council regarding his support for the extension of the Permit Fee Holiday to the end of the fiscal year, for leaving the current UUT rate at 4%, and for pursuing the UUT initiative on the November 2010 ballot.

Gerard Goedhart, 4922 Berton Circle, addressed the City Council regarding his support for the extension of the Permit Fee Holiday and leaving the current UUT rate at 4%. He also asked for clarification on projected sales tax and property tax revenues.

9. Councilmember Request: Mandatory Rotation of Mayor and Mayor Pro Tem Positions

Public Input:

Keith Nelson, 5311 La Luna Drive, addressed the City Council regarding his support for a mandatory rotation of the Mayor and Mayor Pro Tem

positions and that it should be implemented at the beginning of the 2011 calendar year.

Steve Hwangbo, 8372 Sparrow Lane, addressed the City Council regarding his support for the mandatory rotation of the Mayor and Mayor Pro Tem positions.

Councilmember Herman gave a brief report.

Council Comments and Questions:

Discussion ensued regarding support for the proposed policy; putting a policy in place that would allow staff and Council to amend the proposed rotation policy; that the policy would not go into effect until January 2011; a requirement of a 4/5 vote to remove a Mayor from their position; that the policy shouldn't impact current Councilmembers; that, in prior years, the annual reorganization has caused animosity that sometime lasts several months; not supporting a policy that eliminates a Councilmember's ability to vote; the proposed policy eliminating the ability to chose the best person for the position of Mayor; that the position of Mayor is to serve the citizens of La Palma, not for personal gain; that the position of Mayor should only be given from a democratic voting process; that the citizens of La Palma voted for each member of the City Council through the democratic process; and that the majority of the City Council is not in support of the proposed mandated rotation policy.

Councilmember Herman made a motion to go to a mandatory rotation of Mayor and Mayor Pro Tem beginning January 2011.

Mayor Pro Tem Rodriguez seconded the motion, but asked for an amended motion to direct staff to develop a policy that establishes a mandatory rotation of the Mayor and Mayor Pro Tem positions beginning January 2011, and would only apply to those elected after November 2010.

Councilmember Herman accepted the amended motion.

Discussion ensued regarding opposition to the proposed policy as it takes away decision making ability away from future Councilmembers; and that the numerous policies already in place are evidence that Councilmembers have the decision making ability and have the liberty to change the policies in the future.

The motion failed on the following vote:

AYES: Councilmember Herman and Mayor Pro Tem Rodriguez.

NOES: Councilmember Charoen, Mayor Shanahan, and Councilmember Waldman.

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

ORAL COMMUNICATION

Keith Nelson, 5311 La Luna Drive, addressed the City Council regarding a recent traffic accident and asked the City to file a claim against the responsible party for any expenses the City incurred. He also asked for the responsible party's name and address to be released to residents, who may want to file a claim for any losses incurred due to the power outage.

Police Chief Ethell reported that residents can purchase a copy of the Police Report.

City Manager Lazzaretto commented that the City of La Palma is not allowed to recover Police-related costs and that the Public Works Department's costs were minimal.

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

**Councilmember Herman** thanked the City Council for hearing the proposal on the rotation of Mayor and Mayor Pro Tem. He stated that he attended the State of the City Address; the Walker Junior High School Open House; the Donate Life event; and the American Cancer Society's event. He reported on a November ballot proposal that would add a one dollar tax on cigarettes and he commented that May 4 is World Asthma Day. He announced that he plans to attend the Toastmaster event on May 5; the upcoming Orange County Vector Control District (OCVCD) Operations meeting; and the John F. Kennedy Scholarship Fund Dinner. He reported on the Cerritos Newspaper article regarding keeping trash cans out of the sight of the public. He explained to the City Council why he does not participate in the invocation any longer. He asked the City Council to bring back the Korean Free Trade Agreement and closed by reading an article on the causes and effects of war.

**Councilmember Waldman** attended the Orange County Council of Governments (OCCOG) Sustainable Cities Strategy Subcommittee meeting; the State of the City Address; the Orange County Sanitation District (OCSD) meeting; and the Luther Elementary School Spring Festival. He closed by reporting that he will seek re-

election as the Second Supervisorial Representative to the Orange County Division League of California Cities (OCLOCC).

**Councilmember Charoen** attended the State of the City Address and the Center for Asian Americans United for Self Empowerment (CAUSE) event.

**Mayor Pro Tem Rodriguez** attended the State of the City Address; the Walker Junior High School Open house event; the Luther Elementary Spring Festival; the Donate Life event; the Library Advisory Board Operations and Executive Budget Committee meeting; and the American Cancer Society's event. He announced that he plans to attend an open enrollment lottery for the Anaheim Union High School District and the upcoming Toastmaster's chartering ceremony. He asked staff for an update on the Pacific Electric Right-of-Way (PEROW) study.

City Manager Lazzaretto reported that he and Public Works Director Moneda met with Pacific Electric's staff to receive information on the direction of the study and transmitted the information to the Southern California Association of Governments (SCAG). He added that Mayor Shanahan appointed Mayor Pro Tem Rodriguez to the PEROW Subcommittee and that he'll make the fact sheet available in the upcoming Friday Report. He closed by reporting that Pacific Electric is planning several rounds of public input at the local level and with steering committees.

**Mayor Shanahan** attended the State of the City Address; the League of California Cities (LOCC) meeting on cell phone towers management; the Donate Life event; the Walker Junior High School Open House; and the Luther Elementary School Spring Festival.

#### CITY MANAGER REMARKS

**City Manager Lazzaretto** reported that the City has received enough signatures to proceed with the Block Wall Project and announced that he will be out of the office next week for the Peace Officer's Memorial Bike Race. Police Chief Ethell will be acting City Manager in his absence. He reported that the California Redevelopment Association lost its lawsuit, which would have protected locals funds. He announced that upcoming agenda items would include the draft budget and a request for an amendment to an existing Conditional Use Permit at the Walker Well Site for a current cell phone tower.

#### CITY ATTORNEY REMARKS

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

ADJOURNMENT

Mayor Shanahan adjourned the Regular Meeting of the City Council at 10:18 p.m. in memory of Artesia Councilmember Larry Nelson, who lost his battle with cancer.

City Manager Lazzaretto announced that a donation is being made to the American Cancer Society in Mr. Nelson's memory.

*/s/*

Steve Shanahan, Mayor

Attest:

*/s/*

Laurie A. Murray, City Clerk