

**MINUTES OF THE CITY COUNCIL  
OF THE CITY OF LOS ALAMITOS**

**REGULAR MEETING – January 21, 2014**

**1. CALL TO ORDER**

The City Council met in Regular Session at 5:01 p.m., Monday, January 21, 2014, in the Council Chamber, 3191 Katella Avenue, Mayor Graham-Mejia presiding.

**2. ROLL CALL**

**Present:** Council Members: Grose, Kusumoto, Mayor Pro Tem Murphy,  
Mayor Graham-Mejia

**Absent:** Council Member: Edgar (excused)

City Clerk Quintanar indicated Council Member Edgar had notified the Council and Staff prior to his absence and was therefore excused.

**Present:** Staff: Bret M. Plumlee, City Manager  
Cary Reisman, City Attorney  
Tony Brandyberry, Public Works Superintendent  
Dave Hunt, City Engineer  
Corey Lakin, Community Services Director  
Todd Mattern, Police Chief  
Linda Magnuson, Interim Finance Director  
Steven Mendoza, Community Development Director  
Cassandra Palmer, Support Services Manager  
Windmera Quintanar, CMC, City Clerk

**3. CLOSED SESSION**

**A. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9. One potential case.

**B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (c) of Section 54956.9. Two potential cases.

City Clerk Quintanar read items 3A and 3B aloud.

**RECESS**

The City Council recessed into Closed Session at 5:03 p.m.

**RECONVENE**

The City Council reconvened in Regular Session at 6:03 p.m.

City Attorney Reisman stated there was no reportable action. He advised Council Member Edgar was absent and Council Member Grose recused himself due to a conflict of interest as he lived within 300 feet of the subject.

**4. PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Murphy led the Pledge of Allegiance.

**5. INVOCATION**

Mayor Graham-Mejia gave the invocation.

**6. PRESENTATIONS**

**A. Presentation by Marilynn Poe Highlighting the Life of Esther Mejia**

Marilyn Poe spoke in memory of Esther Mejia and recognized her family in the audience. She spoke in memory of Frank DeLeone.

**B. Presentation of a Commendation to Rony Jordan for his Community and International Humanitarian Services**

Mayor Graham-Mejia and the City Council presented a Commendation to Rony Jordan and recognized the Wickstrom family for their involvement. Mr. Jordan spoke briefly. Danny Wickstrom spoke briefly regarding his service with Mr. Jordan.

**C. Presentation of Certificates of Recognition to the Los Alamitos High School Girls Volleyball Team for 2013 Championships**

Mayor Graham-Mejia and the City Council presented Certificates of Recognition to Coach Huber and the Los Alamitos High School Girls Volleyball Team. School Board representatives Diane Hill and Meg Cutuli were recognized. Coach Huber spoke briefly.

**D. Presentation of Proclamation to North Orange County Regional Occupational Program Representative for Career and Technical Education Month, February 2014**

Mayor Graham-Mejia and the City Council presented a Proclamation to Meg Cutuli for Career and Technical Education Month. Ms. Cutuli spoke briefly and introduced Linda Skipper, Education Specialist for Los Alamitos High School.

**7. ORAL COMMUNICATIONS**

Mayor Graham-Mejia opened Oral Communications.

Candy Drucker, resident, spoke regarding St. Isidore Historical Plaza and its upcoming Monte Carlos Night on February 8, 2014.

Diana Hill, Sugarbeet Co-Chair, spoke regarding the 2<sup>nd</sup> Annual Southland Credit Union Sugarbeet festival on June 7, 2014.

Shelly Henderson, business owner, spoke regarding the opening of Spin Neapolitan Pizza and the upcoming Cypress Festival on the last Saturday of July.

JM Ivler, resident, referred to the solid waste contract that he felt failed to protect the people and asked the City Council consider a means to recover funds used to write the contract that was not well written.

Mayor Graham-Mejia closed Oral Communications.

## 8. REGISTER OF MAJOR EXPENDITURES

Motion/Second: Grose/Kusumoto

Unanimously Carried: The City Council approved the Register of Major Expenditures for January 21, 2014, in the amount of \$126,343.75, ratified the Register of Major Expenditures for December 17, 2013, to January 20, 2014, in the amount of \$917,488.39, and authorized the City Manager to approve such expenditures as are legally due and within an unexhausted balance of an appropriation against which the same may be charged for the time period January 22, 2014, to February 17, 2014.

### ROLL CALL

Council Member Edgar	Excused Absence
Council Member Grose	Aye
Council Member Kusumoto	Aye
Mayor Pro Tem Murphy	Aye
Mayor Graham-Mejia	Aye

## 9. CONSENT CALENDAR

All Consent Calendar items may be acted upon by one motion unless a Council Member requests separate action on a specific item.

Council Member Grose pulled items 9E, 9H, and 9I.

Council Member Kusumoto pulled items 9F and 9G.

Motion/Second: Grose/Murphy

Unanimously Carried: The City Council approved the following Consent Calendar items:

- A. Approval of Minutes** **(City Clerk)**
1. Approved the Minutes of the Special Meeting of December 2, 2013.
  2. Approved the Minutes of the Special Meeting of December 16, 2013.
  3. Approved the Minutes of the Regular Meeting of December 16, 2013.

**B. Warrants (Finance)**  
Approved the Warrants for January 21, 2014, in the amount of \$77,643.49, and ratified the Warrants for the time period for December 17, 2013, to January 20, 2014, in the amount of \$102,008.18, and authorized the City Manager to approve such expenditures as are legally due and within an unexhausted balance of an appropriation against which the same may be charged for the time period of January 22, 2014, to February 17, 2014.

**C. Adoption of the Legislative Platform for 2014 (City Manager)**  
The Legislative Action Report identified the City's Legislative Platform for 2014 and provides program procedures for the City to effectively participate in the legislative process.

The City Council adopted Resolution 2014-01, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING THE 2014 LEGISLATIVE PLATFORM."

**D. Approval of the Fiscal Year 2014-15 Budget Calendar (Finance)**  
This report sought City Council approval of the Fiscal Year 2014-15 Budget Calendar.

The City Council approved the recommended Budget Calendar for Fiscal Year 2014-15.

### **End of Consent Calendar**

### **Items pulled from the Consent Calendar**

**E. Letter of Agreement to Participate in 800 MHz Migration Project (Police)**  
The County of Orange 800 MHz Countywide Coordinated Communications System will be implementing Phase 3 of the migration to a 700 MHz - P25 compliant system in Fiscal Year 2014-15. To proceed, the County is requesting a Letter of Agreement from each City.

City Manager Plumlee summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Grose indicated he had spoken with Staff regarding his concerns and advised Council he was concerned signing a letter of intent without having a funding source. He gave a brief background of the project and stated it was necessary to maintain police services; however, he was concerned there was no funding mechanism. He referred to the Garage and Technology fund and indicated this was a known cost and money

should have been set aside every year instead of trying to settle a large bill at once. He stated he would move approval, but wanted to see this project included in the budget process moving forward. He stated he felt it was prudent to have money set aside instead of waiting and not having a savings. He indicated support for the recommendation, but wanted Council's thoughts on the process.

Council Member Kusumoto indicated support for earmarking future funds in the budget. He agreed the project was known and should have been budgeted along the way. He indicated the cost would not be detrimental, but needed to be planned for in the future.

Mayor Pro Tem Murphy agreed and pointed out this was an example of pushing off a decision that is not easy, but necessary. He supported future budgeting.

Mayor Pro Tem Graham-Mejia stated financial planning for the future is a benefit and indicated Staff should have a good idea of what Council wants for the upcoming budget meetings.

Motion/Second: Grose/Murphy

Unanimously Carried: The City Council authorized the City Manager to execute the Letter of Agreement to Proceed with the 800 MHz Next Generation Project with the intention to allocate resources during the next budget process to fund the fiscal installment.

**F. Request for Temporary Sign Permit - 10881 Reagan Street  
(Community Development)**

This is a request for an extension of a temporary sign (banner) at 10881 Reagan Street (Theresa Murphy - Precious Life Shelter, Inc.).

Community Development Director Mendoza summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Kusumoto recalled a BBQ business on Los Alamitos Blvd. that had requested a waiver in September 2009 wherein the Council approved a yearlong waiver. He inquired if this request was similar.

Community Development Director Mendoza answered in the negative and stated this section of the code was in regards to non-profit organizations, not businesses.

Council Member Kusumoto inquired if the section for business was 45 days.

Community Development Director Mendoza indicated businesses were allowed 30 days, three times a year. Potentially business could have a sign for 90 days, but are encouraged to spread them throughout the year.

Council Member Kusumoto inquired if the previous waiver was done by resolution.

Community Development Director Mendoza indicated he did not recall.

Council Member Kusumoto inquired why this item had not gone to the Planning Commission first and then appealed to Council.

Community Development Director Mendoza indicated if they had applied for a variance, then it would go to the Planning Commission. He stated a variance was not needed as the Director could approve up to 30 days. He indicated he was uncomfortable approving a year without the Council's approval.

Council Member Grose recommended approval and stated this was not on a business thoroughfare and did not see an issue as it was on "non-profit row".

Mayor Pro Tem Murphy supported Staff's recommendation.

Mayor Graham-Mejia recalled businesses that had requested banners for extended periods of time during tough economic times and they were not approved. She indicated it would be difficult giving an extension for a year as it was not consistent with past practice and she was not opposed to a shorter amount of time. She recalled businesses were not allowed extensions for economic stimulus and urged Council to be fair and consistent.

Motion/Second: Grose/Murphy  
Approve Staff recommendation.

Council Member Kusumoto asked for clarification that this request was in celebration of Precious Life and they had previously received a similar approval.

Community Development Director Mendoza clarified the facility and store had different anniversary dates.

Council Member Kusumoto inquired how the year long extension was approved before.

Community Development Director Mendoza indicated by the same method being proposed now.

Council Member Kusumoto inquired how businesses that applied were treated.

Community Development Director Mendoza reiterated this request was in regards to non-profits which was a different section of the Municipal Code than businesses. He gave a brief overview.

Council Member Kusumoto inquired if a business wanted to hang a banner on Los Alamitos Blvd. if they would be cited.

Community Development Director Mendoza stated flags and banners were not permitted in parking lots. He indicated proportional temporary banners hanging from the store front were allowed.

Council Member Kusumoto recalled an incident from 2009, and stated fan blown figures were not allowed.

Community Development Director Mendoza stated the City did not have a problem with such and pointed out flags were not permitted in the Municipal Code at all.

Council Member Kusumoto acknowledged the difference in regards to for profit businesses.

Council Member Grose encouraged Council to support the item. He stated the non-profit has been a part of the community for 25 years and provide a tremendous service to their clientele. He did not believe the comparison to business was the same.

Mayor Pro Tem Murphy thanked Council Member Kusumoto for his insight and was thankful fan blown signs were not permitted and felt banners were less intrusive.

Mayor Graham-Mejia inquired if Staff had approved a yearlong sign for businesses in the past.

Community Development Director Mendoza stated the Director did not have the authority to do so. He stated the request would go before the Planning Commission and if appealed, to the City Council.

Mayor Graham-Mejia inquired if it had been done before.

Community Development Director Mendoza did not recall. He indicated banners were usually to celebrate Grand Openings or events.

Mayor Graham-Mejia asked how much an appeal cost.

Community Development Director Mendoza stated \$1,000.00.

Mayor Graham-Mejia stated that was cost prohibitive. She expressed concern that businesses were not allowed to have the same opportunity as other entities and it gives the appearance of favoritism. She stated support for being fair.

Motion/Second: Grose/Murphy

Carried 3/1 (Graham-Mejia cast the dissenting vote): The City Council approved the Temporary Banner Permit application at 10881 Reagan Street for one (1) year.

**G. Developer Deposit with Highland Pointe Partners  
(Community Development)**

This agenda item recommended approval of an agreement with Highland Pointe Partners to provide a deposit to cover the cost related to the preparation of CEQA documents, Contract Planning Staff, legal, and engineering related costs.

It was recommended the City Council:

1. Approve the Agreement between the City of Los Alamitos and Highland Pointe Partners for funding of necessary consultants; and,
2. Authorize the City Manager to enter into a Professional Services Agreement with Keeton Kreitzer Consulting to prepare necessary work to comply with the California Environmental Quality Act (CEQA); and,
3. Authorize the City Manager to enter into a Professional Services Agreement with MIG, a consulting firm, for the contract staffing devoted to processing of the development application.

Community Development Director Mendoza summarized the Staff report referring to the information contained therein, and answered questions from the City Council.

Mayor Graham-Mejia requested the item be postponed until Council Member Edgar was present.

Mayor Pro Tem Murphy was agreeable.

Council Member Kusumoto indicated he had some generic questions and inquired if there was an urgency to the item.

Community Development Director Mendoza stated there was no urgency on Staff's behalf; however, there was a sense of urgency from the applicant.

Council Member Kusumoto referred to Mayor Graham-Mejia's request and inquired if it would be acceptable to postpone to an upcoming meeting.

Community Development Director Mendoza stated no objection.

City Manager Plumlee stated it could be added to the January 27, or February 3, Council meetings.

Mayor Graham-Mejia stated a preference for January 27, in the interest of providing information as quickly as possible.

City Manager Plumlee confirmed.

Council Member Grose asked for clarification on the item. He was sensitive to Council Member Edgar's absence, but pointed out the decision was regarding holding money. He stated the project would still have to go to the Planning Commission and City Council. He indicated it was clear the Council was not committing to anything. He stated he was not opposed to holding the item, but wanted to ensure the Council was being business friendly. He stated this action would help the developer in the process and did not guarantee approval. He reiterated his concern of sending a dual message to the community. He wanted to ensure the Council was helping in the process and felt this did with no loss to the City or tax payers.

Mayor Graham-Mejia indicated there was a risk as it was a large property with possible contamination problems. She reiterated the desire to wait for Council Member Edgar and continued the item to January 27, 2014.

Council Member Grose stated he was not in favor of such.

**H. Approval of Plans and Specifications, and Authorization to Bid for the Standby Generator (CIP No. 13/14-03) (Public Works)**

This report recommended actions to facilitate the replacement of the standby generator at the City Hall facility. The proposed project includes installation of a 200 kilowatt diesel generator with a 200 gallon fuel tank that has a 12-hour running capacity.

City Engineer Hunt summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Grose expressed concern that City Hall is located on a portion of property that is not generating sales tax and is not being used to its fullest capacity. He indicated Council and Staff needed to have a strategy to move off this property in case an offer was made on the property. He gave a brief overview of the history of the generator and stated during the budget review Staff indicated the generator would be portable enough to move to another location if needed and asked for clarification that was still the plan. He stated the capacity of the generator being able to operate the Police Department and Council Chamber and referred to the September generator test that failed. He inquired if all outdated parts were being replaced.

City Engineer Hunt stated this did not replace the circuit breakers. He added they had been tested and two of the six were faulty and have since been replaced. He stated the generator is moveable and includes a new generator that takes the power from the generator to the panel at City Hall. He stated the entire panel was not being replaced.

Council Member Grose asked for clarification that generating capability was being increased to take care of the entire property.

City Engineer Hunt answered in the affirmative.

Council Member Grose expressed concern additional funds may be asked for later and for spending money on the property that he hoped to vacate within five years.

City Engineer Hunt stated the vulnerable parts were the circuit breakers which were inexpensive to replace if needed. He pointed out unnecessary spending was not occurring, \$100,000 was included in the budget, and the rest of the facility was still operational. He stated replacements were not being recommended unless it was apparent they were needed.

Council Member Grose stated he understood and hoped Council was aware of his desire to move.

Council Member Kusumoto inquired if the current circuit breaker panel could handle the upgraded electrical load.

City Engineer Hunt answered in the affirmative and gave a brief explanation.

Council Member Kusumoto inquired if the wires and gauge were sufficient to handle the electrical load.

City Engineer Hunt indicated the wires inside were in good shape and the electrical load would match what is currently being used.

Council Member Kusumoto indicated opposition to investing more than needed and wanted to ensure the right things were being done with the available funding.

Mayor Graham-Mejia indicated Staff had recommended approval for quite some time and felt the generator needed to be replaced. She stated Staff had done their due diligence and stated support.

Motion/Second: Grose/Kusumoto  
Unanimously Carried: The City Council:

1. Approved the plans and specifications for the construction of the standby generator (CIP No. 13/14-03); and,
2. Authorized Staff to advertise and solicit bid proposals.

**I. Selection of Solid Waste Contract Auditor (Community Development)**

This report summarizes the selection of an Auditor to perform an audit on the Solid Waste contract.

City Manager Plumlee summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Grose indicated he did not have any real issues with the process or that an audit was needed and indicated support. He gave an overview of the scope of work and indicated support. He indicated as a contractual requirement wherein Consolidated provided the City with \$10,000 per year for audit services and Muni Services came in at approximately \$22,000, leaving available funds. He referred to a past discussion wherein a resident had complained that green waste was being picked up by a regular trash truck and the public had weighed in regarding customer service issues. He inquired if it would be appropriate to include customer service complaints and resolutions as an item. He indicated support for the community being able to weigh in on the services they are receiving. He stated support for Council approval and adding a customer service element to the evaluation.

City Manager Plumlee indicated if Council wanted to move forward that could be done with additional authorization to negotiate with Muni

Services up to a certain amount. He indicated the professional services agreement could be drafted to that effect addressing customer service aspect.

Council Member Kusumoto cautioned adding on to the scope of work and wanted to ensure that doing such would not unnecessarily tilt the scope of work such that a different bidder would have a better skill set or cost factor. He did not want the appearance that the lowest bidder was not awarded. He stated he was supportive of Council Member Grose's concern.

Mayor Pro Tem Murphy was supportive of Council Member Grose's proposal with a \$5,000 limit. He indicated one company had already excluded itself which left two companies.

Mayor Graham-Mejia indicated she had the same concerns after speaking with the City Manager and felt the response to complaints, number of complaints, time of response, outcome, and number of "no actions taken" should be reviewed. She inquired if it would be pertinent to check the number of complaints before starting. If the complaints were minimal it might be in the City's best interest to invest.

Council Member Grose believed Staff would have an idea of the complaints received. He inquired if the City Attorney was comfortable as he did not want to expose the City to complaint or concern. He inquired if Consolidated was keeping track of complaints and indicated he was unsure if that was a contract requirement.

Mayor Graham-Mejia stated her desire to be fiscally prudent.

Mike Sole, Muni Services, indicated the Council concerns were included in the Scope of Work already. He stated operational review, compliance review, and certain customer service standards were investigated. He gave a brief overview of the included services.

Mayor Graham-Mejia confirmed customer service was already covered in the Scope of Work and the Council would receive a report on how many complaints were responded to.

Mr. Sole stated any issues the Council is aware of would only assist in the process.

Mayor Graham-Mejia indicated the biggest complaint received from the Chamber of Commerce was a lack of response.

Mr. Sole indicated haulers attempt to make up money and it helps to

understand business routes and corners that may be cut. He indicated the City should get what it's paying for and the hauler should meet the standards.

Motion/Second: Grose/Murphy

Unanimously Carried: The City Council authorized the City Manager to execute the City's Standard Professional Services Agreement with Muni Services to perform an audit on the Solid Waste Contract in an amount not to exceed \$22,400.00.

## 10. PUBLIC HEARINGS

- A. Transient Occupancy Tax (TOT) Appeal (City Attorney)**  
Best Western has appealed from an assessment of penalties and interest regarding its transmittal of transient occupancy tax payments to the City.

Mayor Graham-Mejia opened the Public Hearing.

City Attorney Reisman summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Dan Bhakta, President, spoke regarding the following topics: paid over \$1 million in over 15 years; never late; received the letter two days ago regarding decision not able to appeal 2012 assessment; not used to the process since never paid late; indicated never received notice and made the payment the same day he was made aware; indicated he was not informed of late assessment or an appeal process; was notified in April, six weeks before payment was due, that City had not received payment at which time no one acknowledged a late assessment; sent an email in April and spoke with Kim Engel explaining why he believed the penalty should be waived; Ms. Engel advised him to email "jbrooks" and never received a response regarding the email or from Ms. Engel so did not pay the penalty; received an email from the City six months later indicating the penalty had not been paid and 2012 fees were final and no longer subject to appeal; reiterated he was not informed of the appeal process and paid fees as soon as he was aware; filed two appeal letters; no communication from the City advising of process; and, hopes that penalties would be waived since he has been in the City for 15 years and has a good reputation.

Council Member Grose indicated Mr. Bhakta has been in business for a long time and is well aware the TOT is an industry standard. He referred to the fee being similar to sales tax wherein occupants are charged the fee and Mr. Bhakta collects the money and gets refunded back.

Mr. Bhakta stated that was correct.

Mr. Grose indicated he had wanted the development of the hotel and was aware of the improvements and efforts made. He stated the hotel was cooperative with the City when issues with occupants arose. He stated that ignorance was not an excuse or defense. He added there had been some internal transitions and would weigh in favor to Mr. Bhakta. He referred to the \$5,312.21 appeal.

City Attorney Resiman advised that appeal was not filed in a timely manner.

Council Member Grose indicated it was still owed in theory.

Mr. Bhakta stated he had filed both appeals the first time he was told about the appeal process.

Council Member Grose stated there was no indication he had not paid or been late in the past.

Interim Finance Director Magnuson stated that was correct.

Council Member Grose clarified there was approximately \$8,000, due; \$5,312.21 which is not subject to appeal unless council made the decision to waive the process. He indicated the hotel had been an asset to the community and was one of the few hotels the City had access to. He stated the hotel had been helpful to the Chamber during Wings, Wheels, and Rotors and Chamber Mixers. He stated a preference to waive the \$5,312.21 and negotiate a compromise for the remaining \$2,846.08. He cautioned he did not want to set precedence that anyone could come and have their fees waived. He reiterated the hotel had been a good community partner, upgraded the property, and worked with the City and Police. He stated support for waiving the \$5,312.21, and negotiating the \$2,846.08.

Council Member Kusumoto asked if the TOT was remitted on an annual basis.

Interim Finance Director Magnuson indicated it was remitted quarterly and was due 30 days after the end of the quarter.

Council Member Kusumoto stated the business had an excellent record of remitting on time.

Interim Finance Director Magnuson stated that was correct with this exception.

Council Member Kusumoto agreed ignorance is not an excuse and stated perhaps there was a breakdown in communication.

Interim Finance Director Magnuson indicated the smaller hotel was late on a few occasions and the City had received the fees and fines.

Council Member Kusumoto inquired what the damage to the City was and stated this was a penalty for performance. He stated the City did not incur approximately \$8,000 of damage and had received the TOT.

Interim Finance Director Magnuson stated that was correct.

Council Member Kusumoto stated he did not feel the City was damaged and this was to ensure the performance of a business.

Interim Finance Director Magnuson stated that was correct and added Staff was following the City Code.

Council Member Kusumoto stated he understood this was a mechanism for performance and questioned how much loss the City incurred.

Mayor Pro Tem Murphy inquired how the penalty and interest are calculated.

Interim Finance Director Magnuson stated the penalty was 10% in the first month and an additional 10% every 30 days, in addition to the interest factor.

Mayor Pro Tem Murphy inquired if interest was still accruing on the \$2,846.08, and how often it was updated.

Interim Finance Director Magnuson indicated it was still accruing and was based on when the actual tax was paid. She stated the tax was paid five days late.

Mayor Pro Tem Murphy stated Mr. Bhakta had missed the payment of \$5,312.21, but favored an attempt for a payment schedule. He stated support for negotiation of the \$2,846.08. He referred to his experience with the Assessor's Office where he was late on payment and informed there was no chance for an appeal.

Mr. Bhakta stated he had not forgotten and had mailed the payment. As soon as he was informed the payment had not been received, he made an immediate effort to pay it.

Mayor Graham-Mejia asked Mr. Bhakta to allow Mayor Pro Tem Murphy to finish his comments.

Mayor Pro Tem Murphy stated the \$5,312.21 was not appealable and stated the advice from the City Attorney indicated those were City regulations. He inquired if the missed payment of \$2,846.08 was due to management changes.

Mr. Bhakta answered in the affirmative and stated Los Alamitos was the only City where payments were due every three months. He indicated other cities were due once a month and a reminder was sent.

Mayor Pro Tem Murphy stated support for some relief on the second bill due to the turnover in Finance.

Mayor Graham-Mejia inquired if TOT reminders were sent out.

Interim Finance Director Magnuson indicated they were sent out on an annual basis at the beginning of the year.

Mayor Graham-Mejia stated there were four opportunities to be late during the year.

Interim Finance Director Magnuson stated that was correct and pointed out monthly payments allowed for late payments 12 times a year.

Mayor Graham-Mejia stated payment was not received on the first. She stated concern he was not advised of the appeal process. She stated support for removing interest and penalties from the \$5,312.21 invoice. She referred to the Staff turnover and lack of response. She stated support for waiving the \$2,846.08 in full as a show of good faith since the hotel had been a good tenant and improved the property. She added moving forward she would like to see reminders sent out to assist the hotels in being good remitters of the TOT.

City Attorney Reisman clarified the amount of \$5,312.21 was all interest and penalties and suggested removing the interest portion.

Mayor Graham-Mejia indicated he was now aware he could appeal and was never given the opportunity. She indicated Staff could have provided the information to help mitigate the issue. She did believe some penalties were appropriate and supported negotiating the amount of \$2,846.08.

City Attorney Reisman asked Staff to clarify the timeline.

Interim Finance Director Magnuson stated it was noticed by Staff in January the original payment was due the end of October, and Staff notified the hotel. At that point, penalties and interest were not calculated because they are based off when the tax is paid. The hotel was notified the payment was due and given the section of the Municipal Code related to TOT payments, penalties, and interest.

City Attorney Reisman asked if he had been notified of the appeal process.

Interim Finance Director Magnuson stated the appeal process was defined in that information.

Mayor Graham-Mejia asked the time frame to file an appeal.

Interim Finance Director Magnuson stated it was 15 days after notification.

Mayor Graham-Mejia noted the October fees that were due were recognized in January. She asked if it was customary to take that long to realize payments had not been received.

Interim Finance Director Magnuson stated not necessarily and pointed out the Finance Staff has been in transition and she is back on a temporary basis. She indicated it came to her attention during the mid-year budget process and Finance Staff has been understaffed for over a year.

Mayor Graham-Mejia indicated this was not a reflection on Staff and Council was not pointing the finger. She stated she wanted to be fair to Staff and the appellant.

City Attorney Reisman clarified the hotel was verbally notified by Staff in January and an invoice was sent on February 20, after the penalties were calculated. He indicated the hotel had 15 days to appeal from the invoice and did not appeal until April even though they had a copy of the Municipal Code.

Mr. Bhakta referred to the October 31<sup>st</sup> payment where the City had notified him a few days after it was due. He then referred to the February 20 invoice where it took the City four months to notice. He indicated it was never mailed to him and he had never received it. He stated his track record showed he made payments as soon as he was made aware they had not been received. He assured the Council he did not receive an appeal process letter.

Interim Finance Director Magnuson indicated Staff had a meeting in November with Mr. Bhakta's representative where current and previous taxes were discussed. She stated the appeal process may not have been specifically discussed; however, a copy of the Code was provided which clearly states the appeal process.

Mayor Graham-Mejia indicated there were inconsistencies with procedure and payment and brought the item back to Council.

Mr. Bhakta indicated he had not received a form in his first 10 years and had manually changed the year. He stated he had only received a form in the last two years after he had requested such. He pointed out forms had only been mailed the last 2 years, and the previous 10-12 years he had mailed payment himself.

Mayor Graham-Mejia stated the process needed to be addressed so the process was clear to remitters and consist with Staff.

Council Member Grose inquired how many properties Mr. Bhatka owned and if they were all subject to TOT.

Mr. Bhakta indicated he owned 10 properties and TOT was due on a monthly basis. He stated Los Alamitos was the only City that required quarterly payments and notification was not received.

Council Member Grose suggested sending out notices certified return receipt requested. He indicated Finance had concurred this was an anomaly in the process. He stated support for being fair and referenced the sales tax he pays on a quarterly basis where interest accrues if one day late. He agreed with Mayor Graham-Mejia. He indicated the invoice for \$5,312.21 were penalties and fees for not performing and paying on time and was not a hard cost loss to the City. He believed Mayor Pro Tem Murphy felt the same, but the appeal was not debatable and that's where the confusion arises. He indicated the appeal for \$2,846.08 was filed in a timely manner. He stated he would like to make a motion to waive \$5,312.21 and request Staff make an offer on the \$2,846.08 currently due. He believed Mr. Bhakta has received the message. He suggested splitting the difference 50/50 and supported Staff notifying the hotels.

Motion: Grose

Waive the invoice in the amount of \$5,312.21 dated December 20, 2013, and require 50% payment for the invoice dated November 6, 2013, in the amount of \$2,846.08. Died for lack of a second.

Council Member Kusumoto indicated he'd like to make a motion to waive the penalties. He stated the fees were to get business to perform and this business was performing. He stated mistakes happen and the appellant has demonstrated good performance over the time he's been in the City. He stated support for waiving the \$5,312.21, and requesting the appellant pay ½ of the remaining \$2,846.08, wherein the City would hold the payment for good performance over the next four quarters. The payment would be refunded back after four quarters. He believed the City had received the appellant's attention and understood mistakes happen and did not feel the City should be punitive as it had not incurred a loss. He indicated should the hotel be late in the future that would be a different discussion. The hotel was a member of the business community and had shown willingness to work in the system to make good faith effort.

Motion/Second: Kusumoto/Grose

Motion: Waive the invoice in the amount of \$5,312.21. Reduce the invoice in the amount of \$2,486.08, to the amount of \$1,423.04, as an incentive to perform. The amount would be returned to him after four quarters of on time performance.

City Attorney Reisman inquired if this was satisfactory to the appellant.

Mr. Bhakta stated yes and indicated appreciation for the Council looking at the facts to make a decision.

Mayor Pro Tem Murphy inquired which portions of the invoices were penalties and interest and the process in which it's calculated.

Interim Finance Director Magnuson went over the invoices and explained the process.

Mayor Pro Tem Murphy thanked Interim Finance Director Magnuson for the explanation.

Council Member Grose stated if you were late paying your business license fee you had to pay the penalty.

Substitute Motion: Graham-Mejia/Murphy

Motion: Waive the invoice in the amount of \$5,312.21 and allow for 12 month payment plan for the invoice in the amount of \$2,846.08.

Motion failed. Council Member Kusumoto and Grose voted in opposition.

Motion/Second: Kusumoto/Grose

Motion: Waive the invoice in the amount of \$5,312.21. Reduce the invoice in the amount of \$2,486.08, to the amount of \$1,423.04, as an incentive to perform. The amount would be returned to him after four quarters of on time performance.

Motion failed. Mayor Graham-Mejia and Mayor Pro Tem Murphy voted in opposition.

Motion/Second: Murphy/Graham-Mejia

Motion: Settle both invoices in the amount of \$1,355.28.

Mayor Pro Tem Murphy indicated by Mr. Bhatka's own omission he was late due to an oversight. He believed Mr. Bhatka's involvement tonight would ensure he would not need to be reminded of TOT again.

Motion/Second: Murphy/Graham-Mejia

Unanimously Carried: The City Council settled both invoices in the amount of \$1,355.28.

Mayor Graham-Mejia reiterated her desire to have Staff streamline the process.

Mr. Bhatka inquired if he would receive an invoice to pay.

City Manager Plumlee answered in the affirmative.

Mayor Pro Tem Murphy thanked Mr. Bhatka for working with Council and indicated his hotel was an asset to the community.

Council Member Grose referred to the business license software and stated support for an automated system. He spoke briefly regarding complaints he had received. He referred to issuing notices that would inform owners of the deadline and fees to be processed. He indicated the system needed to be improved and suggested sending out notices certified mail, return receipt requested.

City Manager Plumlee indicated Staff had received feedback and direction from Council and believed the process for the TOT hotels would be an easy fix to improve and tighten. He indicated the business license database would be an additional research project.

Mayor Graham-Mejia expressed concern it would not be cost effective to send things return receipt requested.

Accountant Engel stated initial notices were sent through bulk mail for cost savings and delinquent notices were sent out registered mail and were usually 100 or less. She stated it was not expensive and registered mail was part of the process.

Mayor Graham-Mejia inquired the duration of time it generally takes before Staff is aware a TOT has not been received and what could be done to assist in identifying missed payments sooner.

Accountant Engel indicated the business license process included over 1,500 businesses and had recently been streamlined. Owners were notified 2-3 times before they were late. After which they are notified monthly due to increasing penalties. She stated Staff was more responsive with business licenses. She referred to TOT payments and indicated a quarterly payment schedule is sent out in January and that has been the process for the last six years. She stated copies of the notice were mailed with the payments. She stated if it was Council's preference quarterly notices could be sent.

Mayor Graham-Mejia inquired if there was a large amount of delinquent payers for other licenses and taxes due to the City.

Accountant Engel answered in the negative and indicated it was a small percentage.

Council Member Kusumoto called a point of order and stated the discussion was straying from TOT.

Mayor Graham-Mejia indicated there were only two hotels remitting and stated a preference for sending out quarterly and 30 day reminders.

Interim Finance Director Magnuson clarified it was at the City's discretion to require quarterly payments and that could be changed to monthly.

Council Member Kusumoto stated the discussion regarding business license was straying. He stated the City Manager and Staff had a system in place and was aware of Council's expectations. He indicated he did not want dictate how to run the business.

Mayor Graham-Mejia agreed and stated she wanted to ensure there wasn't a larger procedural problem.

## 11. ORDINANCES

### A. **Amend Los Alamitos Municipal Code to Increase Maximum Fines and Allow Prosecutorial Discretion to Treat Misdemeanors as Infractions** (City Attorney)

Most of Los Alamitos' misdemeanor fines are limited to a maximum of five hundred dollars (\$500.00). California State Law was amended in 1984 to allow cities to increase the maximum misdemeanor fines to \$1,000.00. This Ordinance increases the maximum fines to \$1,000.00, and allows prosecutors to charge misdemeanors as infractions in appropriate cases.

City Attorney Reisman summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Mayor Graham-Mejia asked for clarification if the fee wasn't raised to \$1,000, would it still allow for the option of misdemeanor or infraction.

City Attorney Reisman stated those were two separate things.

Mayor Graham-Mejia stated this item had come to Council previously and she was not in support of raising the fine. She indicated \$500 was sufficient. She stated she did support allowing the option of misdemeanors or infractions.

Council Member Kusumoto asked for clarification that this would allow leeway for the prosecutor or judge and was consistent with California law and other municipalities.

City Attorney Reisman answered in the affirmative and stated it had been law for the past 30 years.

Council Member Kusumoto inquired if City Attorney Reisman's other clientele had adopted similar changes or if they were already in place.

City Attorney Reisman indicated they had or they were already in place when he became City Attorney.

Council Member Kusumoto asked if the judge determines prosecution as a misdemeanor or a fine.

City Attorney Reisman stated it allowed for prosecution recommendation. He gave a short example and stated judges preferred to have the ability to offer some leeway if needed.

Council Member Grose agreed with the Mayor and stated opposition to raising fines and penalties. He stated it was apparent the City was behind the times and was supportive of giving the court/prosecutors the tools needed for modern day prosecution. He stated he was in favor; however, did not want to raise rates and fees. He asked for clarification and stated his understanding you could not allow infractions versus misdemeanors without raising the fee to \$1,000.

City Attorney Reisman stated woblets versus the maximum fine were independent of each other.

Council Member Grose stated he did not have any concerns raising taxes and fees if it gave the court greater discretion.

Mayor Pro Tem Murphy stated he was not in favor of raising taxes and fees, but would like to give the courts more discretion.

Mayor Graham-Mejia asked for some examples of misdemeanors that would be seen in Los Alamitos.

City Attorney Reisman indicated the majority were code enforcement situations (i.e. sub-standard properties). He pointed out the incidents that get to court are people who refuse to comply. He outlined the process that leads up to a case going to court. He added the City prosecutor does not have many cases because of voluntary compliance.

Mayor Graham-Mejia stated during her campaign walks many residents had complaints about Code Enforcement. She stated concern noncompliance could be due to being out of work or disabled and was opposed to making criminals out of the residents. She stated the amount could be more than \$1,000 because of multiple instances and felt there were inconsistencies in code enforcement. She stated residents were getting cited because they could not afford to water their grass. She was cautious about raising the fine that could potentially be thousands of dollars depending on the number of violations.

City Attorney Reisman agreed and pointed out people who don't water their lawn are not fined the full \$1,000.

Mayor Graham-Mejia stated it was just an example of how residents could not afford certain things. She reiterated opposition to turning residents into criminals for code enforcement violations; but, stated understanding code enforcement is a large job and problem faced by the City.

Mayor Graham-Mejia opened the item for public comment. There being no

one present wishing to speak, Mayor Graham-Mejia closed the item for public comment.

Motion/Second: Grose/Murphy

Carried 3/1 (Graham-Mejia cast the dissenting vote): The City Council:

1. Introduced, waived reading in full and authorized reading by title only of Ordinance No. 14-01, and set for second reading; and,
2. City Attorney Reisman read the title of Ordinance No. 14-01, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, AMENDING VARIOUS PROVISIONS OF THE LOS ALAMITOS MUNICIPAL CODE TO UPDATE MISDEMEANOR FINE AMOUNTS AND PROVIDE FOR TREATMENT OF SOME MISDEMEANORS AS INFRACTIONS."

## 12. DISCUSSION ITEMS

### A. **Review of Council Meeting Time Limits** **(City Clerk)**

On June 17, 2013, the City Council adopted Resolution 2013-09, establishing Council meeting time limits and directed Staff to bring a follow up report in four months. Provided here is a summary of Council meeting times for the last six months. This item was continued from the November 18, 2013, meeting.

City Clerk Quintanar summarized the Staff report referring to the information contained therein, and answered questions from the City Council.

Council Member Grose stated he had originally recommended this item and believed it has been working and Council had been diligently trying to push items to the late hours. He stated support for continuing with the time limits.

Mayor Pro Tem Murphy stated he would like to see it expanded to include facilitating a more efficient meeting. He inquired if that could be discussed now.

City Attorney Reisman answered in the affirmative.

Mayor Pro Tem Murphy indicated he had three items he believed would assist in expediting the meeting: 1) unnecessary to read aloud the Staff reports; 2) if you do not pull an item, you have already indicated support. He pointed out there was voluminous additional discussion when items were pulled; and, 3) if there is general consent on an item, extraneous speaking should be limited and the item should be voted upon.

Council Member Grose stated he felt reading the Staff reports was important for the public as it provides additional information. He stated there had been a number of occasions where hearing other Council Members' input had changed his outlook. He stated Council was tasked to come to meetings with an open mind and no preconceived direction. He agreed that Council Members have read the information, but felt it was a method to start the dialogue and discussion. He indicated appreciation for Mayor Pro Tem Murphy's intent and agreed votes can be taken if there are no questions. He stated his practice of calling Staff ahead of time to have questions answered and stated his belief if items are not being discussed Council is not doing its job. He stated support for not delaying meetings. He could support not reading staff reports and believed it was not legally required.

City Attorney Reisman indicated there was no legal requirement that Staff reports be read aloud and stated they were part of the record and available.

City Manager Plumlee stated it was at the Council's discretion if they'd like a full Staff report or just ask questions.

Mayor Pro Tem Murphy stated his intent was not to take away the right to have Staff report read, but pointed out many times it was not needed.

Council Member Kusumoto asked for clarification on Mayor Pro Tem Murphy's intent. He inquired according to the proposal, since he had pulled item G he should be the only one to ask questions and there should not be any debate.

Mayor Pro Tem Murphy clarified he wanted Council to be cautious the item was pulled to ask a question. Once the question is asked, if the Council Member is satisfied additional debate is not necessary.

Council Member Kusumoto inquired if that meant only the Council Member who pulled an item could vote yes.

Mayor Pro Tem Murphy stated he was not looking for a concrete ruling. He stated his hope that Council would only ask questions if needed.

Council Member Kusumoto indicated asking questions were at the core of gathering information and understanding.

Mayor Pro Tem Murphy stated his intent was not to limit questions.

Council Member Kusumoto stated Staff reports did not require a lot of time and they set the stage for debate if needed. He stated the goal should be

for Council to police themselves and make an attempt to take care of business as efficiently as possible. He stated support for continuing with the process and required an informal report be provided in the weekly after an additional six months.

Mayor Graham-Mejia stated Staff reports provide an explanation of what is being discussed. She indicated there were several items she would have pulled if another Council Member had not and disagreed not pulling an item equated a vote of support. She believed the issue the Council is facing is interaction time and that could be addressed. She stated responses become lengthy with background information and framing the issue. She agreed with Council Member Grose that other comments may bring up questions of your own. She asked for clarification regarding item number 3.

Mayor Pro Tem Murphy stated his goal of calling for a vote once consensus was reached. He hoped to steer away from debating every issue. He indicated it may not be necessary for everyone to speak on all issues.

Council Member Grose indicated Council had the right to pass on their turn. He pointed out the Brown Act did not allow for discussion of items ahead of time and other members comments could bring up additional questions. He felt there were going to be situations where additional dialogue was needed; however, if it got to what appeared like debating back and forth a Council Member could call for the questions.

Mayor Graham-Mejia cautioned use of calling for the question as it could be strategically used so only one view point is heard.

Mayor Pro Tem Murphy stated his intent was to ensure once Council Members come to agreement, a motion should be made. He indicated currently once a motion was made everyone has an additional chance to speak. He requested Mayor Graham-Mejia call for a vote if she senses consensus. He expressed frustration a three minute conversation turns into a 45 minute conversation.

Council Member Kusumoto appreciated Mayor Pro Tem Murphy's attempt to tighten the discussion and suggested the format of motion, second, and then debate. He indicated Council discussion and public weigh in may or may not change a Council Member's mind.

Mayor Pro Tem Murphy stated that format had been used previously.

Mayor Graham-Mejia directed staff to bring back a short report on a way to streamline the process.

**B. Procedure for Appointments to City Commissions/Boards**

**(City Clerk)**

On January 16, 2007, the City Council adopted the current process for appointments to City Commissions/Boards. At its December 16, 2013, meeting Council requested Staff bring forth an item to review the current process and address items including term limits and possible Council appointees. This report reviews the current procedure for the appointment of residents to City Commissions/Boards and proposes appointment alternatives.

City Clerk Quintanar summarized the Staff report referring to the information contained therein, and answered questions from the City Council.

Mayor Pro Tem Murphy stated support for having the Commissioners weigh in on the discussion. He indicated interest in hearing their ideas regarding how they are governed, term limits, and appointments. He believed input could be received within a month before coming back to Council.

Council Member Kusumoto was supportive. He indicated this was an appointment process and the Council would still govern the Commissioners. He favored the idea of getting their input.

Council Member Grose complimented City Clerk Quintanar and stated the report achieved what Council was looking for. He agreed the Council is the one that provides governance. He stated concern for asking the Commissioners for feedback on every item. He provided the following feedback: supported the application process staying with the City Clerk; stated a preference for alternate #2 under Appointment and believed a 4/5 vote against a nomination was not needed as the Council should work together in the process; preference for the alternate process under Term and agreed the term should mirror the Council appointee; stated concern in limiting the Chairman term as the group made the decision; indicated not all Commissioners were comfortable being Chair; and, felt limiting the term to not more than twice should suffice. He felt it would be more beneficial to decide on the process before having the Commissioners provide feedback. He stated ideally implementation would be done in December after the election. He indicated some modification to election of other two Commissioners could use modification. He appreciated the effort and felt it was exactly what was asked.

Mayor Graham-Mejia was supportive of keeping the application and appointment process the same. She stated concern that appointment would not allow for a cross selection of community members. She stated the process worked as is and provided a fair and balanced way for anyone

in the community to serve without having to have a direct connection to a Council Member. She was supportive of limiting terms to three terms of three years. She believed that was a good amount of time to serve the community and allowed new people to apply. She believed the Council had a tendency to lean toward incumbents and this allowed more people to serve. She supported a Chair term of one year and indicated she had received concerns from Commissioners when the Chair had remained for several years. She stated support for a one year term and then rotating amongst the Commissioners so everyone gets a chance. She stated vacancies not being included in the term limit. She supported absences from three meetings in a row noting there have been several times where Commissions don't meet due to lack of a quorum.

Council Member Grose requested the item be postponed until Council Member Edgar could participate. He indicated it appeared everything was to be left the same except for a term limit on the Chair. He pointed out there were five Council Members who represented the community.

Mayor Graham-Mejia clarified Chairman Term Limits were not the only thing being proposed and indicated term limits and time frames were also being proposed. She cautioned against having Council appointees. She was supportive of having independent commissioners who brought forward recommendations for Council to address if necessary.

Mayor Pro Tem Murphy inquired if the item was to be sent back to the Commissioners.

Mayor Graham-Mejia indicated support for revising the item and then sending it to the Commissioners.

Mayor Pro Tem Murphy stated his intention was to send all alternatives and ask the Commissioners for their opinions.

Council Member Grose indicated one section had more than one alternative. He reiterated support for the whole Council to hear and discuss the item and once a consensus is reached, then forward it on. He stated opposition to forwarding it to the Commissioners with all options as opinions would be all over the board. He was supportive of hearing the positives and negatives of Council's final decision.

Mayor Graham-Mejia stated support for addressing now versus having the item return several times. She referred to the recent discussion regarding expediting meetings. She stated a preference for bringing up request to postpone an item at the beginning so discussion could be held. She stated if the request had been made at the beginning she would have been supportive of such, but now time has been spent on discussion. She

indicated she would go with Council consensus to postpone the item or move forward.

Council Member Kusumoto inquired what issue was trying to be solved. He asked if the process would apply to all Commissions or if there was one Commission in particular this would impact.

Council Member Grose stated a preference for all Commissions. He pointed out nine cities used a Council appointee process and referred to instances where only incumbents apply so they are reappointed. He believed an appointment process would get more people in the community involved and would hold the elected official responsible for the Commissioner. He stated he had encouraged applicants to apply and they had not received the votes. An appointment process would allow Council Members to appoint Commissioners responsible to them. He clarified they would operate independently and would not carry the Council Members issues forward. He referred to instances where there were no applicants for openings. He presented examples of how a new Council Member could bring in a fresh perspective with new Commission appointees. He pointed out on a commission of 7 there would be two members approved by the entire Council. He stated if a Commissioner missed a meeting it would be the Council Member's responsibility to find out why. He apologized for not making his request to postpone the item before discussion ensued. He continued that a commission appointment should be used as mechanism to reward members who helped on with a campaign. He stated Commissioners should have expertise in the field and allowing Council appointees would give the Commissions a better quality and view point. He asked if there was Council consensus to postpone the item.

Mayor Pro Tem Graham-Mejia agreed there were instances when there were no Commission applicants. She believed it had more to do with no term limits and incumbents being reappointed. She indicated Council could encourage applicants to apply now and they come before the entire Council for an interview and are collectively appointed. She believed that was the best process and held all Council Members responsible. She asked for a motion.

Motion/Second: Kusumoto/Grose

Postpone the time to allow Council Member Edgar to weigh in.

Motion failed. Mayor Pro Tem Murphy and Mayor Graham-Mejia cast the dissenting votes.

Mayor Pro Tem Murphy asked Council Member Kusumoto if he had a preference for the appointment process.

Council Member Kusumoto indicated the current process works. He stated support for way to improve efficiencies. He believed Council appointments would politicize the Commissions. He inquired if there was a combination of the two processes. He understood the desire to modify the process because of his experience as a commissioner. He stated he was not comfortable implementing with all the Commissions and suggested starting with one commission so focus could be given and honest feedback could be received. He stated the Commissioners are tasked to do their job faithfully and without bias and reiterated he was not supportive of implementing a new process with all commissioners.

Mayor Pro Tem Murphy suggested voting on each item individually.

Council Member Kusumoto stated opposition.

#### **TIME LIMITS**

Per Resolution 2013-09 "Council Meeting Time Limits", City Council consensus was reached to waive time limits and continue with agendized items.

Council Member Grose stated he did not feel that was necessary and believed consensus would not be reached with an even numbered Council.

Mayor Graham-Mejia disagreed.

Mayor Pro Tem Murphy proposed a motion to keep the current appointment process; implementing a three, three year term limit with the caveat if no interested parties apply, the Commissioner Member shall be allowed to reapply; and, allow Commissioners termed out on one Commission to serve on a different commission.

Mayor Graham-Mejia asked for clarification if no other interested parties apply, a termed out Commission Member can serve an additional term.

Mayor Pro Tem Murphy clarified if opposed, a Commissioner could serve no more than 3 terms. He stated a one year Chairman term and clarified not everyone has to serve, but it should be rotated. He stated support for vacancies remaining the same and indicated the Charter dictated absences, but felt it could be improved.

Motion/Second: Murphy/Graham-Mejia

Motion: Retain current appointment process; implement three, three year term limit with the caveat if no interested parties apply, the Commissioner Member shall be allowed to reapply; and, allow Commissioners termed out on one Commission to serve on a different commission; and, one year term limit for Chair man.

Council Member Kusumoto stated concern commissioners who haven't served full terms were being limited. He felt Chairman term limits was not a concern and indicated concern the appointment process was remaining the same and reiterated his question about what was issue was being corrected.

Mayor Graham-Mejia stated there were Commissioners who served over 11 years and the intent was not to discourage that, but to allow people interested in giving back a chance to apply. She believed there was a benefit.

Council Member Kusumoto requested the floor back and referred to the Personnel Appeals Commission. He indicated the Commission had little activity and an incumbent could serve nine years with no activity. This proposal would require them to stop service.

Mayor Graham-Mejia clarified they had the opportunity to serve on another Commission. She believed everyone should have the opportunity to serve. She reiterated it was common for incumbents to be reappointed. She referred to a past request where she has asked to increase the Commissioners to allow for more community involvement. She felt this allowed for more involvement.

Council Member Kusumoto referred to limiting the Chairman to one year and stated concern that should be a Commission policy and not dictated by the Council. He referred to his term on the Traffic Commission and felt it was beneficial to have the same Chairman during that time.

Mayor Graham-Mejia indicated Commissioners had asked for assistance in the past because the Chairman did not rotate. She indicated by requiring rotation it give others equal opportunity.

Council Member Kusumoto indicated the election of chair and vice chair was a democratic process for the Commissions and stated opposition to changing such.

Mayor Graham-Mejia stated there was a motion on the floor and inquired if the maker would like to modify the Chairman term.

Mayor Pro Tem Murphy indicated he would be agreeable to a two year term.

Council Member Kusumoto stated opposition and called for the question.

Motion/Second: Murphy/Graham-Mejia

Motion Failed (Council Member Grose and Kusumoto cast the dissenting vote): Retain current appointment process; implement three, three year term limit with the caveat if no interested parties apply, the Commissioner Member shall be allowed to reapply; and, allow Commissioners termed out on one Commission to serve on a different commission; and, one year term limit for Chairman.

Mayor Graham-Mejia stated support for term limits similar to Council term limits. She believed it allowed individuals to come forward once a member was termed out.

Council Member Grose referred to Council appointees and pointed out Council would appoint a member and if they weren't reelected the Commission seat would be available. He referred to a Commissioner who had served on Parks and Recreation for several years before switching to Planning Commission whose attendance was not consistent and believed other Commissioners fit the same category. He spoke regarding Commissioner absences and did not believe Council had the relevant information to discuss such. He indicated the process being attempted now was piece meal, when the intent was to implement a better way to select commissioners to increase participation. He indicated when appointments are made the decisions had to do with the applicants ability to function and perform. He provided examples of past appointments.

Mayor Graham-Mejia indicated there was consensus on some items and she did not feel the process was piece meal. She stated support for going section by section an additional time, unless the Council consensus was now to wait for Council Member Edgar.

Council Member Grose referred to the current process where a "ballot" is used and indications of support were read aloud. He did not believe this allowed for transparency.

City Attorney Reisman stated secret ballots were permissible for appointments such as this. He indicated Council could change the process if desired.

Mayor Graham-Mejia asked if there was Council consensus.

Council Member Kusumoto stated the vote was to keep the current process and indicated the vote did not change the process.

City Attorney Reisman confirmed.

Council Member Kusumoto believed the process was being piece meal and indicated he could not support the proposed action.

Mayor Graham-Mejia stated support for postponing the item.

Council Member Grose requested Staff bring forward a modification based on Council comments.

Council Member Kusumoto indicated there were some good ideas that needed to be thought out further. He suggested additional input be provided to the City Clerk.

City Clerk Quintanar recommended an Ad Hoc Committee to fully vet the process.

Mayor Graham-Mejia stated she did not believe that was necessary.

Mayor Pro Tem Murphy indicated why it needed to come back. There was Council consensus to keep the appointment process as is.

Council Member Gorse suggested looking at the cities that use a mixture of the process as a starting point.

City Manager Plumlee indicated samples could be gathered and Staff could expand upon such.

Mayor Graham-Mejia stated support for leaving the process as is. She indicated the process was working and stated opposition to further lengthy discussion. She inquired what the current terms were.

City Clerk Quintanar stated current terms are for three years.

Council consensus was received to receive and file.

### **13. MAYOR AND COUNCIL INITIATED BUSINESS**

#### **A. Council Announcements**

**Council Member Kusumoto** spoke regarding the following topics: attendance at Orange County Fire Authority preliminary labor negotiations; attended the State of the City; attended Spin Pizza Grand Opening; and, attended the Grand Opening of 7-11.

**Council Member Grose** spoke regarding the following topics: a list of meetings attended is available at [www.losal.net](http://www.losal.net); participated in the interview process for CJPIA; visit with resident Ed Bremmel; resident Marv

Jempsa was currently admitted in the hospital; requested a presentation regarding the Sugarbeet Festival; requested a status on labor negotiations with employee groups; and, requested the meeting be closed in honor of Esther Mejia and Frank DeLeone.

**Mayor Pro Tem Murphy** spoke regarding the following topics: congratulated St. Isidore for reaching their goal; attendance at the State of the City; attendance at the Garden Grove State of the City; thanked Spin Pizza for its hospitality; congratulated the Girls Volleyball Team on State Finals; and, requested a public comment regarding the City's goals be heard before the next meeting's Closed Session item.

**Mayor Graham-Mejia** spoke regarding the following topics: closing in memory of Esther Mejia and Frank DeLeone; attended the Grand Opening of 7-11; attended Spin Pizza Grand Opening; attended OC Vector Control meeting; thanked OCFA for the quick response to the fire on Katella; attended the State of the City; and, requested the Chief of Police give a brief summary of criminal activity at the end of every meeting.

#### **14. ITEMS FROM THE CITY MANAGER**

City Manager Plumlee thanked the Council and community for its involvement with the State of the City and stated The Race on the Base will be held on February 22.

Mayor Graham-Mejia thanked City Manager Plumlee for State of the City.

City Manager Plumlee thanked Staff and Community Development Director Mendoza for putting it together and doing great work.

City Attorney Reisman stated the Council would be adjourning into closed session to discuss item 3B. He indicated the meeting would be adjourned to January 27, 2014, at 6:00 p.m.

#### **RECESS**

The City Council recessed into Closed Session at 10:10 p.m.

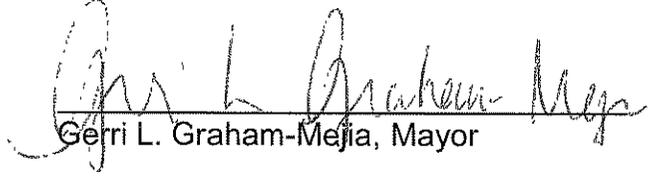
#### **RECONVENE**

The City Council reconvened in Regular Session at 11:45 p.m.

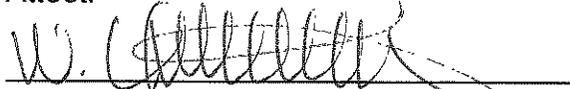
There was no reportable action.

15. **ADJOURNMENT**

The City Council adjourned at 11:45 p.m. in memory of Esther Mejia and Frank Deleon to Monday, January 27, 2014.

  
Gerri L. Graham-Mejia, Mayor

Attest:

  
Windmera Quintanar, CMC, City Clerk