

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

**REGULAR MEETING – May 19, 2014**

**1. CALL TO ORDER**

The City Council met in Regular Session at 6:11 p.m., Monday, May 19, 2014, in the Council Chamber, 3191 Katella Avenue, Mayor Graham-Mejia presiding.

**2. ROLL CALL**

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

**Absent:** Council Members: None

**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  
Steven Mendoza, Community Development Director  
Cassandra Palmer, Support Services Manager  
Windmera Quintanar, CMC, City Clerk

**Sunburst Youth Academy Student Council**

Ignacio Trejo	Jacqueline Harris	Ariana Avila
Manuel Corrales	Jasmine Derisso	Jorge Martinez
Juan Bravo	Aaron Welch	David Garcia
Brian Escobar	Montea Rodgers	Juan Molina

**3. PLEDGE OF ALLEGIANCE**

Class President Ariana Avila led the Pledge of Allegiance.

**4. INVOCATION**

Cadet First Sergeant Juan Molina gave the invocation.

Lt. Col. Joel Armstrong, Director of Sunburst Youth Academy, spoke briefly regarding the program and its success rate.

Mayor Graham-Mejia thanked Lt. Col. Armstrong for his partnership.

## 5. PRESENTATIONS

- A. Presentation of a Certificate of Recognition to Edward Bremel for his Community Involvement**  
Mayor Graham-Mejia and the Council presented Mr. Bremel with a Certificate of Recognition. Mr. Bremel spoke briefly.
- B. Presentation of a Commendation to Nalani Dutro for the Rescue of Neighborhood Dog, Dante**  
Mayor Graham-Mejia and the Council presented a Commendation to Nalani Dutro. Ms. Dutro spoke briefly.
- C. Presentation of a Proclamation to Battalion Chief Marc Stone, Orange County Fire Authority, for Wildfire Awareness Week**  
Mayor Graham-Mejia and the Council presented a Proclamation to Battalion Chief Stone. Battalion Chief Stone spoke briefly.
- D. Presentation of a Proclamation to Anthony Brandyberry, Public Works Superintendent, for Public Works Week**  
Mayor Graham-Mejia and the Council presented a Proclamation to Public Works Superintendent Brandyberry. Public Works Superintendent Brandyberry spoke briefly.

## 6. ORAL COMMUNICATIONS

Mayor Graham-Mejia opened Oral Communications.

Miles Cole, Chamber of Commerce's Young Professionals Group, presented Rachel Sullivan and Kelly McComb with Youth Ambassador Scholarships.

Craig Durfey, Founder for Distracted Driving, spoke regarding raising awareness for distracted driving and spoke in favor of bike trails and safe routes to school.

Shelly Henderson, OC Breeze, spoke regarding the following upcoming events: Cypress Golf Tournament; fundraiser at Hoff's Hut for St. Irenaeus Parish; Cypress Police Officers Appreciation Lunch; Memorial Day Ceremony at Forest Lawn; Sugar Beet Festival; Cypress Chamber of Commerce Business Awards Recognition; St. Irenaeus Fiesta; Los Alamitos Chamber Golf Tournament; 4<sup>th</sup> of July Spectacular; and Cypress Community Festival.

Joel Block, resident, encouraged everyone to register and vote in the June 2, 2014, Primary Election.

Johnnie Strohmyer, Los Alamitos Chamber of Commerce, spoke regarding the Tri City Mixer on May 27.

JM Ivler, resident, spoke regarding the transition of the website Lets Fix Los Al to Los Al News.

Ed Bremmel, resident, thanked the Chief of Police for addressing his concern regarding speeding on Cherry St.

Mayor Graham-Mejia closed Oral Communications.

## 7. REGISTER OF MAJOR EXPENDITURES

Motion/Second: Edgar/Murphy

Unanimously Carried: The City Council approved the Register of Major Expenditures for May 19, 2014, in the amount of \$109,527.26, ratified the Register of Major Expenditures for April 22, 2014, to May 18, 2014, in the amount of \$755,663.77, 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 May 20, 2014, to June 15, 2014.

### ROLL CALL

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

## 8. CONSENT CALENDAR

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

Motion/Second: Grose/Edgar

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

### A. Approval of Minutes (City Clerk)

1. Approved the Minutes of the Regular Meeting of April 21, 2014.
2. Approved the Minutes of the Special Meeting of May 5, 2014.

### B. Warrants (Finance)

Approved the Warrants for May 19, 2014, in the amount of \$62,967.82, ratified the Register of Warrants for April 22, 2014, to May 18, 2014, in the amount of \$106,025.52, 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 May 20, 2014, to June 15, 2014.

**C. Resolutions Pertaining to the November 4, 2014, General Municipal Election (City Clerk)**

The City of Los Alamitos General Municipal Election will be held on Tuesday, November 4, 2014. It is City policy to consolidate the local election with the County of Orange. In order to enable such consolidation, it is necessary to adopt resolutions calling and giving notice of the election, requesting consolidation with the County, and adopting regulations pertaining to materials prepared by any candidate for a municipal election, including costs of candidates' statements.

The City Council:

1. Adopted Resolution No. 2014-10, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA"; and,
2. Adopted Resolution No. 2014-11, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2014, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE"; and,
3. Adopted Resolution No. 2014-12, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2014."

**D. Second Reading of Ordinance 14-02 - Zoning Ordinance Amendment (ZOA No. 14-01) – Adoption of Changes to the Los Alamitos Municipal Code Sections Relating to Curb Cuts, Driveways, Aprons and Landscape Standards (Community Development)**

At its Regular meeting of April 21, 2014, the City Council conducted a first reading of Ordinance No. 14-02. This ordinance will make changes to Los Alamitos Municipal Code sections pertaining to curb cuts, driveways, aprons, and landscape standards (Citywide) (City-initiated).

The City Council adopted Ordinance No. 14-02, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS

ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 14-01 TO AMEND SECTIONS 17.16.090 RELATING TO LANDSCAPING IN THE FRONT YARD SETBACK AND 17.26.060 RELATING TO CURB CUTS, DRIVEWAYS AND APRONS AS WELL AS AMEND SECTION 12.08.030 REGARDING PERMITS FOR THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY-INITIATED).”

**E. Payments Made to John Underwood for Services to LATV  
(City Manager)**

The City Council had requested information regarding payments and/or reimbursements made to John Underwood for services related to LATV.

The City Council received and filed the report.

**F. Southern California Association of Governments (SCAG) 2014 Regional Conference and General Assembly (Kusumoto)**

The Southern California Association of Governments (SCAG) Regional Conference was held May 1-2, 2014, at the Renaissance Esmeralda Resort and Spa in Indian Wells, California. The City Council appointed Council Member Kusumoto as the City’s voting delegate for the conference.

The City Council received and filed the report.

**G. Request for Restricted Loading/Unloading Parking on Lexington Drive from Katella Avenue to the First Southerly Alley (City Engineer)**

Staff received a request from the Traffic Commission to look into restricting parking, on the west side of Lexington Drive to a loading and unloading zone, from Katella Avenue to first southerly alley.

The City Council approved Resolution No. 2014-03, entitled, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ESTABLISHING A LOADING/UNLOADING ZONE FROM 7AM TO 4PM – WEST SIDE OF LEXINGTON DRIVE SOUTH OF KATELLA AVENUE.”

**H. Approval of Notice of Completion for On-Call Concrete Contractor (CIP No. 13/14-02) (City Engineer)**

The facilitation of the construction of various concrete work throughout the city to aid the Public Works Department in removal and replacement of curbs and gutters, cross gutters, ADA ramps, driveway aprons and sidewalk in various locations throughout the City is complete, and in compliance with the plans and specifications. Staff is, therefore, recommending that City Council accept the work as complete, direct filing

of the Notice of Completion, and authorize retention release as prescribed by the Public Contracts Codes.

The City Council:

1. Accepted as complete the construction contract by Ruiz Concrete and Paving, Inc. for the On-Call Concrete Improvement project; and,
2. Directed the City Clerk to record the Notice of Completion/Final Report with the County Recorder's office; and,
3. Authorized Staff to release the 5% retention to the contractor, in the amount of \$4,107.49, thirty-five (35) days after recordation of the Notice of Completion.

- I. Legislative Support – Proposition 13** **(City Manager)**  
Council Member Grose has requested Council adopt a Resolution in continued support of Proposition 13.

The City Council adopted Resolution 2014-13, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, HONORING PROPOSITION 13 FOR THE BENEFITS IT PROVIDES TO INDIVIDUAL HOMEOWNERS, RENTERS, LOCAL GOVERNMENTS AND TO THE STATE'S OVERALL ECONOMY."

- J. Ratify Professional Service Agreement with AdminSure, Inc., for Workers' Compensation Management** **(City Manager)**  
The City of Los Alamitos self-insures its Worker's Compensation obligation. On May 1, 2014, the City Manager entered into a Professional Service Agreement with AdminSure, Inc. to administer a Workers' Compensation Self-Insurance Program. Staff is requesting City Council ratify that agreement.

The City Council ratified the Professional Services Agreement with AdminSure, Inc., for the term of May 1, 2014, to June 30, 2017.

## **9. PUBLIC HEARING**

- A. Zoning Ordinance Amendment (ZOA) 13-05, Relating to Accessory Residential Uses and Accessory Structures** **(Community Development)**  
Consideration of a Zoning Ordinance Amendment to amend the Los Alamitos Code to make changes relating to accessory residential uses and accessory structures (Citywide) (City-initiated).

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

Council Member Grose advised his wife was a Planning Commissioner and asked if he had a conflict of interest.

City Attorney Reisman answered in the negative.

Mayor Graham-Mejia opened the Public Hearing. There being no one present wishing to speak, Mayor Graham-Mejia closed the Public Hearing.

Motion/Second: Grose/Edgar

Unanimously Carried: The City Council:

1. Opened the Public Hearing; and,
2. Determined a Categorical Exemption from California Environmental Quality Act (CEQA) per Section 15061(b)(3) of the CEQA Guidelines is appropriate because the Code Amendments will have no significant effect on the environment, and, pursuant to Section 15305, qualifies as a minor alteration in land use limitations.
3. Introduced, waived reading in full and authorized reading by title only of Ordinance No. 14-03, and set for second reading; and,
4. City Attorney Reisman read the title of Ordinance No. 14-03, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 13-05 AMENDING THE LOS ALAMITOS MUNICIPAL CODE RELATING TO ACCESSORY RESIDENTIAL USES AND ACCESSORY STRUCTURES (INCLUDING CHANGES TO DEFINITIONS, REMOVAL OF GUEST HOUSES AS AN ALLOWABLE LAND USE AND CHANGES TO ACCESSORY STRUCTURES) AND MAKING MINOR TECHNICAL CHANGES TO THE PROVISIONS RELATING TO SECONDARY RESIDENTIAL UNITS, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY-INITIATED)."

Council Member Kusumoto thanked the Planning Commission and stated this would help address issues on Marna.

## 10. DISCUSSION ITEMS

### A. **Rescission of City Council Action Against Council Member Warren Kusumoto and Reimbursement for Legal Fees Expended**

**(City Attorney)**

In 2011, the City Council voted to refer a claimed Brown Act violation to the appropriate authorities for criminal prosecution. The Statute of Limitations on any criminal violations expired and criminal prosecution would not be possible. Civil action would also be difficult and an unnecessary waste of municipal resources. Reimbursement of Council Member Kusumoto's legal fees is permissible but not mandatory. This item was continued from the February 18, March 17, and April 21, 2014, meetings.

Council Member Kusumoto recused himself and requested to be first speaker. He left the dais.

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

Mayor Graham-Mejia opened the item for public comment.

Warren Kusumoto, resident, thanked Council for its consideration and stated his belief the actions were unjust, unfair, and unwarranted. He stated there had not been a violation of the Brown Act and requested full and complete exoneration of the charges brought against him. He stated although ill advised, the letter he had written was sent after the second meeting when the information had been authorized for disclosure. He believed the City Attorney at the time had not wanted to move forward because there were no findings of fact in her written analysis and it would not have been upheld in a court of law. He stated the previous Council had taken action to hire a prosecutor which required permission to prosecute from the Orange County District Attorney and there was no record of such request. He stated he was denied his 6<sup>th</sup> Amendment right, had done nothing wrong, and requested complete exoneration.

JM Ivler, resident, gave a definition of defamation of character and stated his belief that was Council's intent when it provided detailed instruction to the City Attorney. He indicated something had gone wrong and everyone deserved a day in court. He supported full exoneration and Council requesting reimbursement from the prior City Attorney for services not rendered.

Mayor Graham-Mejia closed the item for public comment.

Mayor Graham-Mejia stated the situation was unfortunate and politics had gotten negative and personal. She agreed Council Member Kusumoto was denied the opportunity to have the matter tried in court due to inaction on the City's part even though the meeting minutes reflect the Council was clear in its direction. She believed the letter in question was very vague and not a direct Brown Act violation. She added Council Member Kusumoto was newly elected and should have been properly guided as had been done in the past and the level at which he was pursued was personal. She acknowledged the Council has since learned to work together and supported Council Member Kusumoto having the opportunity to clear his name and exonerate himself.

Council Member Grose indicated he had spoken to the City Manager and there were a total of six items that the Council had approved; only one of the six was done which was retaining a City Prosecutor. He stated himself and Murphy were not on Council at the time and believed the issue was never proven. He stated the statute of limitations to move forward on the charge had expired and believed the best course of action would be to moot all initial action taken by the Council in January 2012.

Mayor Pro Tem Murphy stated he had spoken against the item as a citizen in January 2012 because he did not feel it would be beneficial to the City to pursue the item. He indicated a letter had been written but there was not enough information to make an informed decision as to whether or not there was a Brown Act violation. He expressed disappointment Council Member Kusumoto had been attacked at work and supported assisting him. He asked for an explanation of exoneration and believed prior Council had settled the issue of legal fees. He recalled the events and indicated he did not want to rewrite history, but was supportive of finding a solution that would allow Council Member Kusumoto to move forward and not be subject to attacks.

Council Member Edgar stated he was on Council during this time and requested the situation be kept in context. He believed the Council now was not the same Council and was working together on important issues to move the City forward. He agreed he did not want to rewrite the issue and recognized it takes a lot to run for public office. He expressed frustration Council Member Kusumoto's place of work had been effected. He had personally worked hard to establish a better relationship with Council Member Kusumoto and supported assisting if possible. He pointed out the majority of Council had full time jobs. He recalled the infraction of the Brown Act violation was no longer pursuable and Council had already approved reimbursement of legal fees. He was unclear what action could be taken and asked the City Attorney for an explanation of exoneration.

City Attorney Reisman advised exoneration would require a factual determination there was no Brown Act violation. He indicated the Staff report called for recession of referral, but not a factual exoneration. He inquired if the Council would be comfortable with factually exonerating at this point.

Mayor Graham-Mejia acknowledged Council Member Edgar's efforts and indicated support for exoneration. She indicated Council Member Kusumoto had been requesting such since the beginning. She reiterated these actions went beyond the normal scheme of politics, became personal, and were capitalized on during the election. She believed Council Member Kusumoto was a good, honest man and necessary steps to clear his name should be taken.

Motion: Graham-Mejia

Exonerate Council Member Kusumoto from alleged Brown Act violations.

Substitute Motion: Grose

Council rescind the January 2012 action regarding steps to be taken against Council Member Kusumoto on the basis Council was unable to make any determination at this particular time that any of the charges were valid.

Council Member Grose indicated this would exonerate him without using technical term and the issue would no longer be valid.

Mayor Pro Tem Murphy clarified under the California definition of exoneration; he could not determine the incident did not happen. He was willing to explore other avenues.

Mayor Graham-Mejia stated the item could be looked at by a professional who could determine if a Brown Act violation had occurred or not. The Council would then have the opportunity to exonerate Council Member Kusumoto. She stated the situation could be negatively used in the upcoming election and the Council should do what it could to reverse prior action.

Council Member Edgar explained it was a complex issue and if it went through the court system it would be binary if the Council had an option or not. He stated a preference for removing the item versus having it reevaluated. He reiterated support for recession of the prior action.

Mayor Graham-Mejia stated if she was accused she would want the option to have her name cleared. She reiterated support for having the item evaluated and brought before Council for a final decision. She asked if the Council was legally able to do such.

City Attorney Reisman indicated the issue would be if a technical Brown Act violation was discovered by the independent attorney.

Mayor Graham-Mejia believed Council Member Kusumoto would agree to such.

City Attorney Reisman advised the Council should move forward without taking additional risks. He proposed Council rescind the prior actions to resolve the matter.

Mayor Graham-Mejia pointed out Council Member Kusumoto had previously stated he was comfortable having the opportunity to go to court and be exonerated or found guilty. She supported giving him the fullest means to exonerate himself and did not believe Council was doing the best it could. She urged Council to reconsider and not deny Council Member Kusumoto the opportunity.

Council Member Grose believed Council was doing its best based on the advice of the City Attorney. He agreed with Mayor Pro Tem Murphy that even if the issue was reevaluated he was not sure enough evidence could be gathered to say for certain it did not occur. He indicated it was unfortunate this item still exist, however, based on the advice of the City Attorney, the Council had the authority to rescind prior action against Council Member Kusumoto on the basis there was no evidence presented to justify the charges. He reiterated this was beyond the statute of limitations and believed the Council was trying to do the right thing.

Council Member Edgar expressed concern that Mayor Graham-Mejia's motion would reopen the alleged Brown Act violation and renew the statute of limitations. He indicated he was not confident the investigation would go smoothly based on evidence. He stated it presented a significant risk to evaluate the evidence in detail and the Council was trying to help.

Mayor Pro Tem Murphy inquired if there was a way to rescind the prior action based on no finding of guilt or fact.

Mayor Graham-Mejia stated the City had already hired legal counsel to investigate and no documentation was ever produced. She reiterated if Council Member Kusumoto was willing to take the risk and did not believe having the facts reviewed would reopen the case. She believed it would allow Council to feel comfortable making a decision to exonerate Council Member Kusumoto.

City Attorney Reisman advised even if the facts are not disputed and a legal violation of the Brown Act is determined, the Council could not legally exonerate him.

Council Member Grose asked if that was due to statute limitations.

City Attorney Reisman advised partially if the case is reopened. He advised Council not to take such action if it was looking to move forward. He supported Mayor Pro Tem Murphy's recommendation to rescind the action and determine no finding of fact, or guilt, to allow the Council to move forward without any additional risk.

Mayor Graham-Mejia asked if would be appropriate to ask Council Member Kusumoto if he was comfortable with the Council's direction.

City Attorney Reisman answered in the negative.

Council Member Grose stated Council Member Kusumoto was not allowed to participate and proposed a combination of his motion and Mayor Pro Tem Murphy's. He believed the Council was doing all it could under the circumstances to make the situation right by rescinding prior actions.

Mayor Pro Tem Murphy inquired if legal fees should be addressed since prior Council had already done so.

Council Member Grose pointed out a bill had not been submitted to date and reimbursement was approved up to \$10,000.

City Attorney Reisman advised the Council could vote to reaffirm a settlement up to \$10,000 subject to submission of proof.

Motion/Second: Murphy/Grose

Carried 3/1 (Graham-Mejia cast the dissenting vote): The City Council rescinded prior Council action from January 17, 2012, regarding alleged Brown Act Violations by Council Member Kusumoto, and determined there was no finding of fact and no finding of guilt.

City Attorney Reisman advised Council Member Kusumoto may participate in the question of reimbursement.

Warren Kusumoto addressed the Council from the podium.

Mayor Graham-Mejia indicated the Council was discussing reaffirming reimbursement of legal fees up to \$10,000.

Council Member Kusumoto indicated prior Council had done so and asked what the outcome was.

City Attorney Reisman indicated the Council had voted 3/1 to rescind prior Council action with no finding of fact and no finding of guilt.

Council Member Kusumoto asked what the instrument of rescission would be and how it would be handled.

Council Member Kusumoto expressed frustration he did not have his day in court and his belief the analysis was built on false information. He recalled the information was able to be dispersed and he had not leaked information. He expressed frustration the City Attorney had spun a violation of the Brown Act. He indicated he was aware of what information was allowed to be shared and with whom. He stated there were two negotiations sessions he was not a part of and was unsure of those details. He reiterated his belief his 6<sup>th</sup> Amendment right had been violated and would have prevailed in court when the facts were revealed. He thanked Council for its consideration; however he was dissatisfied with the results.

Motion/Second: Graham-Mejia/Murphy

Unanimously Carried: The City Council reaffirmed reimbursement of legal fees to Council Member Kusumoto up to \$10,000.

## **RECESS**

The City Council took a brief recess at 7:30 p.m.

## **RECONVENE**

The City Council reconvened at 7:51 p.m.

Council Member Kusumoto took his seat at the dais.

Mayor Graham-Mejia pulled item 10D forward.

**D. Consider Contribution Towards Townsend Public Affairs (TPA) Contract for Continued Advocacy Efforts Relating to the I-405 Improvement Project (City Manager)**

This item is in consideration of a proposal for the continuation of services for Townsend Public Affairs (TPA) for advocacy efforts relating to the I-405 Improvement Project. TPA's previous contract expired in April 2013. Since that time, TPA has remained engaged in the process and continues to help the Corridor Cities with the following objectives: prevent the reconsideration, adoption and implementation of Alternative 3 and promote the adoption and implementation of modified Alternative 2 as the locally preferred alternative for the I-405 Improvement Project. This item was continued from the April 21, 2014, Council meeting.

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

Mayor Graham-Mejia indicated it was not her intent to pay for past contracts, but wanted to ensure the City paid its fair share moving forward. She indicated Cori Williams, Townsend Public Affairs, had passed out a contract timeline and invited her to speak.

Cori Williams, Townsend Public Affairs President, provided an overview of the contract timeline.

Mayor Graham-Mejia pointed out the City had not contributed in the past and was supportive of a onetime investment of \$5,000. She stated the City had benefited from Townsend's advocacy efforts and advised of upcoming legislation. She indicated Townsend had been very effective and encouraged Council to seriously consider contribution.

Council Member Kusumoto asked for clarification that the City had not agreed to participate when Costa Mesa and Westminster had hired Townsend and this item was only in consideration of moving forward. He inquired the amount and status of each city.

Ms. Williams advised each city would be contracted with individually for \$5,000. She indicated four out of the six cities have committed.

Council Member Kusumoto stated support moving forward and indicated Townsend had been doing good work. He stated elected officials have been pulled together and everyone was allowed the opportunity to speak.

Council Member Edgar inquired if Council Member Kusumoto was supportive of just the \$5,000.

Council Member Kusumoto confirmed only \$5,000 at this point.

Council Member Edgar indicated this topic had been supported collectively by the Council. He gave a brief history and advised he was aware someone was getting paid. He stated support for looking at the entire period and asked Council Member Kusumoto if he was aware of Townsend during his year as Mayor.

Council Member Kusumoto advised he was not aware of any contractual agreements, but did recall a Council Member from Costa Mesa having a strong reaction. He recalled Council Member Edgar's hesitancy to invest at the time and reiterated support for moving forward. He inquired if Costa Mesa or Westminster had asked for reimbursement.

City Manager Plumlee stated invoices had not been received.

Council Member Edgar acknowledged Council Member Kusumoto's perspective and reiterated he would be supportive of all three payments.

Mayor Pro Tem Murphy indicated support for discussion of the item, but objected to it being considered outside the budget process. He expressed opposition to approving an expense from \$5,000 to \$15,000 as it would mean something else would go unfunded. He believed the proper place for discussion would be during the budget process. He stated he was open to an all encompassing future discussion as Townsend was being considered for future items.

Council Member Grose indicated he was not on the Council when this item began, but believed the Council's intent was to support neighboring cities without a monetary commitment. He believed it was a stretch to consider Los Alamitos a corridor city since it was not impacted by the project unless the 605 was taken into consideration. He stated the Staff report requested back payment and there was no proposal in terms of moving forward. He agreed with Mayor Pro Tem Murphy, Council needed to address expenditures of funds on a policy level. He questioned Townsend's ability to impact the process. He advised he had reviewed the material, believed it was premature to commit to anything, and stated opposition to paying past invoices.

Mayor Graham-Mejia asked for the payment due date.

Christopher Townsend, President, Townsend Public Affairs, clarified Townsend has been paid in full for the Costa Mesa and Westminster contracts. He stated Los Alamitos would be the fifth City to contribute if approved. He gave a brief project history and advised timing is relevant now for politics with Orange County Transportation Authority and CalTrans. He reiterated Townsend was not looking for past payment.

Mayor Graham-Mejia advised Council there had been an increase to the City's surplus and additional revenue could continue to come in.

City Manager Plumlee clarified the estimated surplus for Fiscal Year 2013/14 has gone up due to an updated revenue analysis through April. He advised there is a budget gap moving into Fiscal Year 2014/15.

Motion/Second: Graham-Mejia/Kusumoto

Carried 3/2 (Grose and Murphy cast the dissenting vote): The City Council authorized the City Manager to enter into an agreement with Townsend Public Affairs, in a form approved by the City Attorney, in an amount not to exceed \$5,000.

**B. Consideration of Remote Caller Bingo (Community Development)**

This item sought direction from the City Council to direct Staff and City Attorney resources on code amendments necessary to facilitate Remote Caller Bingo.

City Manager Plumlee introduced the item.

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

Mayor Graham-Mejia opened the item for public comment.

Bruce Murphy, St. Isidore Historical Plaza President, indicated the State had very strict guidelines and would not allow non-profits to exist for the sole purpose of bingo. He advised the facility would hold a maximum of 125 people and would be a key method to the mortgage on St. Isidore. He stated they would not be competing with casinos and this venue would only attract people interested in bingo.

Council Member Grose inquired how the Hawaiian Gardens bingo facility would impact the location.

Mr. Murphy stated the site would have bingo on Tuesdays with a maximum of three games per day, 125 people per game. He did not believe it would impact the casino at all.

Mayor Pro Tem Murphy asked if there was only one company that provided this service.

Mr. Murphy answered in the negative and stated this was the company he was comfortable with. He added the legislation was just reinstated on April 22 and clean up was still needed. He stated there were other companies that charged varying rates and he had previously worked with this company.

Mayor Pro Tem Murphy cautioned that he felt there were possible factual inaccuracies in the company's submittal. He stated support for the project and wanted to see it run well.

Council Member Kusumoto inquired if the ordinance language would restrict the use of companies.

Mr. Murphy indicated he needed to enter into an agreement.

Council Member Kusumoto clarified the question and stated he wanted to ensure they were not restricted to using one company. He stated concern the company provided factually incorrect information.

Community Development Director Mendoza advised the research has not begun and Staff would propose an ordinance that is acceptable to the City.

Mr. Murphy indicated he had proposed what other cities had in place and the City did not have to adopt as is.

Council Member Kusumoto inquired if this was approved, if the fundraising effort would be sufficient.

Mr. Murphy advised it was one of many events that would take place. He indicated if this was not approved, the debt would still be serviced.

Mayor Graham-Mejia closed the item for public comment.

Mayor Graham-Mejia indicated she ran the High School Bingo event. She referred to Chapter 5.1.6 and questioned if payouts would be greater than \$250.00.

Mr. Murphy indicated it was \$750.00 per game.

Mayor Graham-Mejia recalled this specific game was not allowed at the High School because the payout was too much.

City Attorney Reisman clarified remote caller bingo had a higher limit.

Mayor Graham-Mejia asked if any other cities had received negative input.

Mr. Murphy stated it was too early to report any issues and advised there were many rules regulating the activity and alcohol was not permitted.

Mayor Graham-Mejia indicated it was a good idea and cautioned Council to consider the ramifications and benefits.

Council Member Edgar stated he is a member of the St. Isidore Board. He indicated he had connected Shelly with Staff and has not had any further involvement in the process. He advised he conferred with the City Attorney and he was able to participate in the vote. He stated he was fully supportive of this item. He gave a brief description of the purchase history of St. Isidore. He believed Bingo was a creative idea and the Youth Center used to have a big event. He advised his building in Cypress had Bingo and the nuisance factors included front door congregation and smoking.

He believed this activity would be contained at St. Isidore and pointed out there would be a constraint on the number of people. He stated they would be able to raise money, it would be a great benefit, and it would be self contained. He asked Staff for the timeline to go through the Planning Commission and zoning process.

Community Development Director Mendoza indicated approximately 60 days.

Council Member Edgar inquired the change in zoning would be a Conditional Use Permit (CUP) for St. Isidore if it would be allowed to everyone city wide.

Community Development Director Mendoza clarified the zoning code authorizes where, how, and conditions of a CUP. If the desire is to restrict Remote Caller Bingo to complimentary zones acceptable for Remote Caller Bingo, then the use should be reflected in the Zoning Code.

City Attorney Reisman confirmed.

Community Development Director Mendoza indicated the Planning Commission could facilitate a speedier process.

Council Member Edgar inquired if it would be allowed in the Community zone and if the Community Center would be allowed a similar situation.

Community Development Director Mendoza stated the safest zone would be CF zone and added the item would need to go to the Planning Commission for review.

Council Member Edgar questioned the estimated amount.

Community Development Director Mendoza believed it was a good estimate and advised Staff would draft the majority of the language before sending it to the City Attorney to keep cost down.

City Attorney Reisman agreed and added the cost of regulation could be recovered as a fee imposed against proceeds. He referenced a court of appeals case.

Council Member Edgar referred to the location in Cypress and stated they had a private security company. He asked what the process was to balance the upfront cost and ongoing maintenance.

Community Development Director Mendoza stated the recommended action is to accept a deposit.

Council Member Grose referred to a similar situation where a deposit was required for an estimate of police services. He indicated it had not moved forward.

Council Member Edgar stated that was a different situation related to a pawn shop.

Community Development Director Mendoza indicated there is a fee for a Zoning Code Amendment, but there is not a fee for a Municipal Code Amendment. He stated the comparable fee was \$1,600 and was lower than the extent of the cost to produce the Staff report.

Council Member Edgar made a motion for Staff recommendation.

Mayor Graham-Mejia inquired if this item could wait until the next Special meeting. She stated she would like to call surrounding cities and see if there was support in the community. She wanted to ensure the City was protected before moving forward.

Mr. Murphy indicated that would not be a problem.

Council Member Edgar believed there was still time for due diligence and would appreciate Council's support tonight.

Council Member Grose indicated the item would still need to go to the Planning Commission and come before Council for approval. He seconded the motion.

Mayor Graham-Mejia indicated she wanted to make a few calls and wanted to ensure there wouldn't be any negative impacts.

City Attorney Reisman clarified the motion was for items 1, 2, and 3.

Council Member Kusumoto understood the Mayor's concerns.

Motion/Second: Edgar/Grose

Carried 4/1 (Graham-Mejia cast the dissenting vote): The City Council:

1. Authorized the City Manager to process Municipal Code Amendment and Zoning Code Amendment as necessary; and,
2. Authorized the City Manager to accept a deposit/fee sufficient to process such a request; and,
3. Direct the Planning Commission to process necessary Zoning Ordinance Amendments.

**C. Park Maintenance Discussion (Public Works)**

Discuss maintenance items at Labourdette Park as well as other parks within Los Alamitos. This item was continued from the April 21, 2014, meeting.

Public Works Superintendent Brandyberry summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Mayor Graham-Mejia thanked Staff for its speedy response and asked the process for addressing the woodchips.

Public Works Superintendent Brandyberry indicated there are monthly inspections. He indicated there are height requirements for woodchip levels and on average woodchip mulch was added once a year depending on the use of the park.

Mayor Graham-Mejia advised the woodchips worked and asked about the replacement factors for the quality of the wood chips.

Public Works Superintendent Brandyberry advised to his knowledge there was no formula. He speculated as the woodchips deteriorated the levels would decrease and new replacement chips would be added, eliminating the issue.

Mayor Graham-Mejia clarified chips had been added to Labourdette Park.

Public Works Superintendent Brandyberry confirmed.

Mayor Graham-Mejia indicated sand could not be used due to animal concerns but did not believe woodchips were the best option. She supported spending more money in the parks. She indicated the play equipment was of average condition and asked Staff if the whole playground would need to be replaced before adding rubberized product.

Public Works Superintendent Brandyberry believed considering older parks for replacement would be the best use of the City's resources.

Mayor Graham-Mejia indicated Little Cottonwood, Laurel, and Orville Lewis park had received a great deal of upgrading. She requested consideration of additional funding for the pocket parks. She indicated they were used more frequently due to the higher per capita in the neighborhoods and believed the City was obliged to provide a safe place to play.

The City Council received and filed the report.

**E. Discussion of Waste Hauler Ordinance (City Manager)**  
Staff was directed to place this item regarding the Waste Hauler Franchise on the agenda.

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

Mayor Graham-Mejia stated support for award for the Waste Hauler franchise to the lowest responsible bidder and supported having the people vote on such.

Council Member Kusumoto stated support for the item. He expressed frustration the ordinance was written to award to the lowest responsible bidder and was changed in November 2008. He expressed confusion the purchasing agreement was not fully supported by the ordinance and indicated he would like to see clarification so there would be no future misunderstandings. He supported a process similar to Public Works contracts that were awarded to the lowest responsible bidder.

Mayor Graham-Mejia opened the item for public comment.

Ed Bremmel indicated his bill had increased and asked what utility was combined with trash.

He was advised the trash bill was the only item billed.

JM Ivler, resident, gave his recollection of the award of the waste hauler franchise and stated support for rewriting the Code to ensure contracts over \$1 million, including the waste hauler franchise, are awarded to the lowest responsible bidder.

Mayor Graham-Mejia closed the item for public comments.

Mayor Graham-Mejia stated support for revising the ordinance to mandate award of the waste hauler franchise to the lowest responsible bidder. She wanted to ensure the service was not a professional service agreement and was bid as a Public Works contract.

Motion/Second: Graham-Mejia/Kusumoto  
Write an ordinance, and potentially a ballot measure, to award waste hauler franchise to the lowest bidder and should Council wish to award on subjective criteria it would be subject to a vote of the people.

Council Member Kusumoto added direction to Staff to craft a ballot measure for Council to act upon and find a consensus.

City Attorney Reisman advised against awarding to the lowest bidder and suggested the lowest responsible bidder. He added the bidder would need to be qualified. He indicated he would investigate it further and draft an ordinance.

Council Member Edgar asked if the current ordinance was legal and when the current waste hauler contract would expire.

City Attorney Reisman answered in the affirmative and advised the contract stated December 31, 2016; however, a five year contract was intended which would expire December 31, 2015. He advised the City was corresponding with Consolidated Disposal Services (CDS) who intends to continue enforcing the right to haul trash until December 21, 2016.

Council Member Edgar questioned adding a ballot measure to this election when the contract is not set to expire for two and a half years. He expressed opposition to another election revolving around waste hauling and believed the Council should move forward. He believed this was a contentious item that seemed to be politically driven versus pragmatic and he did not understand the sense of urgency. He supported working through the item with good open discussion, reviewing the financials, and working together after the election. He requested the item be tabled until 2015.

Mayor Graham-Mejia indicated this was not a political item and believed it would put safeguards in place for the future. She indicated there was no guarantee who will sit on the Council after the election. She stated if the elections did not benefit the Council Members up for re-election, she wanted to ensure the issue was brought up during her tenure. She added she was following through on what she said she would do.

Council Member Edgar cautioned about revisiting the past and stated support for moving forward. He indicated there were at least two to three items that the Council should be concentrating on that would be a benefit to the community. He believed this item was not in line with the current intent of the Council.

Mayor Graham-Mejia expressed frustration the item was being taken out of context and reiterated the same Council may not be present after the election to address the time. She stated this was a real issue as there were dissatisfied residents. She indicated the item was not controversial and she wanted to ensure the best interest of the City was taken care of.

Council Member Kusumoto stated from his perspective the item was not political and had to do with timing. It was unfortunate the item was not discussed before passing the resolutions to call the election. He indicated

it would be a time crunch similar to the Utility User Tax (UUT) ballot measure and stated the Council may be different in 2015. He wanted to ensure the next Council could award on facts and data and not subject to subjectivity. He agreed awarding similar to Public Works contracts would be best. He referred to the City of Irvine's evergreen clause and the incentive it gives trash haulers to lower prices. He reiterated the issue was timing and the item would fail without Council support. He urged Council to consider the item. The item was for the community and he believed it should be taken out of the equation for future Councils. He requested the City Attorney look at ballot measure language and bring it back to Council.

City Attorney Reisman suggested an alternative of amending the ordinance to address the concerns.

Mayor Graham-Mejia expressed concern an ordinance could be changed.

Mayor Pro Tem Murphy stated it was a big leap forward and questioned the potential.

City Attorney Reisman stated the request was for a ballot measure requiring future waste hauling franchises are awarded to the lowest responsible bidder.

Mayor Pro Tem Murphy stated this contract was the most divisive thing in the City and more information was needed. He did not see the need for a ballot measure but was willing to discuss such.

Mayor Graham-Mejia clarified her intent was to have it go to a vote of the people if Council did not go with the lowest responsible bidder. She recalled the trash lawsuit and wanted to take steps so that would not happen again. She reiterated it was not politically driven, it was time sensitive, and the language needed to be clarified so the City is not paying more for the same service.

Mayor Pro Tem Murphy stated a discussion regarding responsible bidder should be had before directing the City Attorney to write a ballot measure. He questioned how one would balance residential and commercial.

Mayor Graham-Mejia stated you would find the lowest price for both. She referred to the last Request for Proposals (RFP) and indicated there were lower bids providing the same service. She indicated the goal was to get the best service for residents and have a process that isn't based on subjective qualifications.

Mayor Pro Tem Murphy did not support or oppose the item and believed a discussion regarding the pros and cons needed to take place.

City Manager Plumlee stated the report was brief and only meant to show the three options of ballot measure, ordinance, or take no action. He indicated the item was for discussion only and direction could be given to do additional research.

Mayor Pro Tem Murphy questioned the method to have a discussion covering all aspects so that everything is clearly identified. There was not enough information at this time.

Council Member Kusumoto contemplated a substitute motion. He indicated the goal was to have a ballot measure on the November election that was debated and voted upon by the Council. He stated an ordinance was drafted in 2008, a contract was awarded in 2010, and the City was sued in 2011. He questioned the best vehicle to ensure that did not happen again. He stated if a ballot measure was not necessary the Council would decide such through its deliberations. He stated direction would be for Staff to come back with ballot measure options.

Mayor Pro Tem Murphy added he would like the pros and cons of changing the ordinance to awarding to the lowest responsible bidder.

Council Member Edgar agreed the ordinance needed to be addressed and was open to the discussion. He questioned the timeline for a November ballot measure.

City Manager Plumlee indicated preparing a ballot measure in time would labor intensive and still needed additional analysis and Council discussion.

City Clerk Quintanar advised the last day to submit a ballot measure for the November election is August 8.

Council Member Edgar stated there were other priorities the City is facing: labor negotiations with two groups and the budget. He questioned putting this as priority when the contract did not expire for two and a half years. He stated support for Staff to start work on an ordinance. He did not believe Council could do its due diligence in such a short amount of time and did not support rushing through process.

Mayor Graham-Mejia questioned the opposition to hearing the voice of the people through a ballot measure. She stated regret for the events surrounding the trash hauler contract and reiterated the Council may change after the election. She stated support for this Council to wrap up this item and hearing the voice of the people since it's a service they are paying for.

Council Member Edgar was supportive of a substitute motion for Staff to do its due diligence in evaluation of the ordinance, looking for areas of opportunity, and moving away from weighted factors. He indicated it would take a substantial amount of time and going forward with a ballot measure would be difficult. He stated support for the ordinance based approach first.

Mayor Graham-Mejia requested an Ad Hoc Committee to move the item along.

Council Member Grose advised he was ready to vote.

Substitute Motion: Edgar

Direct Staff to evaluate the ordinance in consideration of the lowest responsible bidder, potential for a ballot measure, and create an Ad Hoc Committee.

Council Member Kusumoto requested language for a ballot measure in 2016 be considered. He agreed there were time constraints and it would be difficult for the 2014 election. He advised the current Council could correctly revise the Ordinance. It would be up to the Council at that time to let it go to the people for decision.

Council Member Edgar stated support and advised Staff still needed to bring back an ordinance and Council could reevaluate the 2016 issue at that time. He asked if the intent was to have the matter on the 2016 ballot regardless.

Council Member Kusumoto indicated that is where he would ultimately prefer to be. He wanted to ensure the ordinance was addressed and clearly spelled out the intent of the Council. Staff would be obligated to prepare the measure for the 2016 ballot and Council at that time would make the decision. The intent was to get the item to the people, but he realized he could not force the future Council's decision.

City Attorney Reisman advised the evaluation process was time consuming, the contract would expire in December, and the election was in November.

Council Member Kusumoto acknowledged the time constraints.

Council Member Edgar believed a well drafted ordinance could be adopted and Council had learned a valuable lesson through this process. He stated a ballot measure may jeopardize the hard work thus far and he did not feel this was a Council priority.

Mayor Pro Tem Murphy asked if there was a chance the contract may end in 2015.

City Attorney Reisman advised if there was a lawsuit yes, without a lawsuit no.

Motion/Second: Edgar/Murphy

Carried 3/2 (Graham-Mejia and Grose cast the dissenting vote): The City Council:

1. Directed Staff to evaluate the ordinance in consideration of the lowest responsible bidder; and,
2. Include wording that would allow for a ballot measure in the 2016 election; and,
3. Assign an Ad Hoc Committee.

## 11. MAYOR AND COUNCIL INITIATED BUSINESS

### A. Council Announcements

**Mayor Graham-Mejia** advised she had no comments at this time.

**Council Member Kusumoto** spoke regarding the following topics: attendance at the Public Hearing regarding the AES Power plant in Long Beach; attendance at the SCAG General Assembly Conference; and, recent contact with developers Highland Pointe Partners and Shopoff Group.

**Council Member Edgar** spoke regarding the following topics: attendance at the Race for View in Long Beach; attendance at the State of the District; calls from Rossmoor Highlands regarding composting issues on the Base; Orange County Sanitation District term as President would be expiring in June and support for Mayor Pro Tem Murphy being the delegate.

City Manager Plumlee gave a brief update regarding the City's effort to coordinate with the Base and local residents. He advised a positive relationship was being formed.

**Mayor Pro Tem Murphy** spoke regarding taking a tour of St. Isidore and attendance at the Irvine Korean Festival.

**Council Member Grose** spoke regarding the following topics: a list of events attended could be found at [www.losal.net](http://www.losal.net); Sunburst Youth

Academy program and June 14<sup>th</sup> graduation; possibility of the President speaking at UCI graduation; appointment to the Emergency medical Care Committee for the County; and, stated June 14 is Flag Day.

**12. ITEMS FROM THE CITY MANAGER**

City Manager Plumlee advised he would be attending a West-Comm meeting tomorrow and advised Chelsi Wilson had been hired as the City's Executive Assistant/Benefits Coordinator.

City Attorney Reisman reported attendance at the League of California Cities Conference.

**13. CLOSED SESSION**

**A. Employee Evaluation**

Agency Negotiators: Bret M. Plumlee, City Manager  
Unrepresented Employee: City Clerk  
Authority: Government Code Section 54957.6

**B. Conference with Labor Negotiator**

Agency Negotiators: Gregory D. Korduner, Consultant  
Employee Organization: Los Alamitos City Employees Association  
Authority: Government Code Section 54957.6

**C. Conference with Labor Negotiator**

Agency Negotiators: Gregory D. Korduner, Consultant and  
Cary S. Reisman, City Attorney  
Employee Organization: Police Officers Association  
Authority: Government Code Section 54957.6

**D. Conference with Labor Negotiator**

City Negotiator: Bret M. Plumlee, City Manager  
Unrepresented employees: Executive Management, Middle  
Management and Non-Management  
Employees  
Authority: Government Code Section 54957.6

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

Pending litigation pursuant to subdivision (d)(4) of Section 54956.9. Two potential cases.

City Attorney Reisman read the titles aloud.

Council Member Edgar recused himself from one potential case under Item 13E for a conflict of interest.

**RECESS**

The City Council recessed into Closed Session at 9:43 p.m.

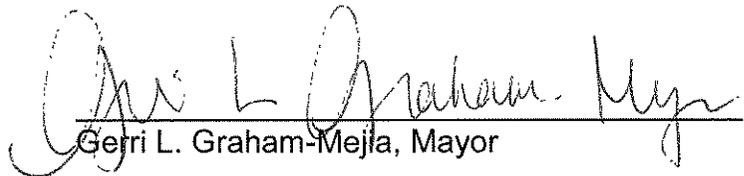
**RECONVENE**

The City Council reconvened in Regular Session at 1:20 a.m.

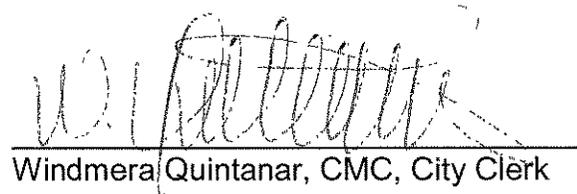
The City Council concluded its evaluation of the City Clerk, instructed its negotiators regarding the labor negotiation matters with the LACEA and LAPOA, and provided direction to the City Manager and City Attorney on one of the items of anticipated litigation.

**14. ADJOURNMENT**

The City Council adjourned at 1:20 a.m.

  
Gerri L. Graham-Mejia, Mayor

Attest:

  
Windmera Quintanar, CMC, City Clerk