

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

**REGULAR MEETING – March 5, 2012**

**1. CALL TO ORDER**

The City Council met in Regular Session at 7:02 p.m., Monday, March 5, 2012, in the Council Chambers, 3191 Katella Avenue, Mayor Edgar presiding.

**2. ROLL CALL**

**Present:** Council Members: Graham-Mejia, Kusumoto, Stephens,  
Mayor Pro Tem Poe, Mayor Edgar

**Absent:** Council Members: None

**Present:** Staff: Angie Avery, City Manager  
Sandra J. Levin, City Attorney  
Anita Agramonte, Finance Director  
Dave Hunt, City Engineer  
Corey Lakin, Community Services Director  
Todd Mattern, Police Chief  
Steven Mendoza, Community Development Dir.  
Windmera Quintanar, Department Secretary

**3. PLEDGE OF ALLEGIANCE**

Council Member Kusumoto led the Pledge of Allegiance.

**4. INVOCATION**

Mayor Edgar gave the invocation.

**5. PRESENTATIONS**

**A. Plaque of Appreciation Presentation to Outgoing Traffic Commissioner Irma Austin**

Mayor Edgar and the City Council presented a Plaque of Appreciation to Irma Austin. Irma Austin thanked the City Council.

**6. ORAL COMMUNICATIONS**

Mayor Edgar opened Oral Communications.

John Osborne, Chair of Los Alamitos Chamber of Commerce, introduced himself and thanked the Council for its dedication to the community. He reported on the following upcoming events: 1) 36<sup>th</sup> Annual Golf Tournament, June 26; and,

1. Approved the plans and specifications for the construction of ADA accessibility ramps in Old Town East and West, and Apartment Row; and,
2. Authorized staff to advertise and solicit bid proposals for Project A.

**E. Replacement of Unmarked Police Vehicle (Public Works)**

This was a request to purchase one unmarked certified police vehicle to replace an aging 2004 Crown Victoria. This report seeks to "piggy back" on the Los Angeles County Sheriff bid for acquisition of the vehicle.

The City Council:

1. Authorized the City Manager to purchase one (1) 2012 Dodge Charger Unmarked Certified Police Vehicle from McPeek's Dodge of Anaheim, CA; and,
2. Declared the 2004 Crown Victoria as surplus and authorize staff to dispose of the item in accordance with the Los Alamitos Municipal Code Section 2.60.020.

\*\*\*\*\*END OF CONSENT CALENDAR\*\*\*\*\*

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

1. Approve Minutes of the Special Meeting – February 21, 2012
2. Approve Minutes of the Regular Meeting – February 21, 2012

Council Member Graham-Mejia stated for the record she would like to see the minutes returned to summary format for historical purposes.

Motion/Second: Poe/Stephens

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

1. Approved the Minutes of the Special Meeting of February 21, 2012
2. Approve the Minutes of the Regular Meeting of February 21, 2012

**9. DISCUSSION ITEMS**

**A. Consideration of Reduction in the Utility Users Tax (City Manager)**

During the mid-year budget review on February 21, 2012, several of the Council Members raised the issue of reducing the Utility Users Tax for the 2012-13 Fiscal Year.

City Manager Avery summarized the staff report referring to the information contained therein and answered questions from the City

Council. She indicated a 1% reduction in the UUT would equate to \$1.50/month for renters and \$3.80/month for homeowners.

The City Council considered the Staff recommendation to delay lowering the Utility Users Tax due to flat revenue projections in the major revenue sources projected for Fiscal Year 2012-13 and discussed the following topics:

- Options to reduce expenditures and generate revenue
- Giving back to the residents, even if minimal
- Reserve fund balance
- Tabling the item to allow staff to further research alternatives
- Reserves are not used to balance the budget, but should be used for one time expenses to give back to the community
- Establishing a reserve policy that includes allowable one-time expenses
- Restricted and Non-restricted Reserve balances

Mayor Edgar opened the item for public comment.

Pete Carvajal, Parks, Recreation, and Cultural Arts Commissioner, stated opposition to the UUT reduction. He supported investing in the community and offered the following suggestions: improving center medians on the boulevard, bringing back Band in the Park, bringing back Christmas decorations, and improving City parks and streets.

J.M. Ivler, resident, stated opposition to the UUT reduction and suggested giving back to the community with a voucher for classes hosted by the Community Services department.

Richard Murphy, resident, stated opposition to the UUT reduction and suggested fully vetting different opportunities to give back to the community during the budget process where Council and residents could engage in dialogue.

Mayor Edgar closed the item for public comment.

Council Member Graham-Mejia stated, for the record, her attempt with the UUT reduction was to make sure everyone would benefit from the use of reserve funds, not just a small portion of residents.

The City Council and Staff discussed the following topics:

- Support for a voucher for City classes
- Support for holiday decorations throughout the year
- Encouraged staff to creatively explore different options

Mayor Pro Tem Poe agreed.

## 12. CLOSED SESSION

### **Conference with Legal Counsel**

The City Council finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation.

- A. Existing Litigation (G.C. 54956.9(a))  
Name of Case: City of Los Alamitos vs. Citizens for a Fair Trash Contract  
Case Number: Orange County Superior Court Case #00420414  
Authority: Government Code Section 54956.9(a)

### **RECESS**

The City Council recessed into Closed Session at 9:07 p.m.

### **RECONVENE**

The City Council reconvened in Regular Session at 10:20 p.m.

No reportable action.

### **9D. Consideration of Withdrawal of Prosecution of Alleged Brown Act Violations and Cessation of Hostilities (City Manager)**

This item allowed for Council discussion regarding setting aside disputes over the Brown Act and re-focusing on City business.

The pending Brown Act matters were:

1. Request for prosecution of member Kusumoto;
2. Demand for a cure by Roger Ho (on behalf of Council Member Kusumoto);
3. Demand for a cure by Jodie Shloss;
4. Allegations of violations by J. M. Ivler.

City Manager Avery summarized the staff report referring to the information contained therein and answered questions from the City Council.

Council Member Kusumoto called for a point of order, recused himself, and left the dais.

Council Member Stephens inquired if anyone else should recuse themselves.

City Attorney Levin indicated she had no knowledge of a financial conflict

of interest in discussing the items; however, it was at each Council Member's discretion to recuse themselves for common law bias.

The City Council and staff discussed the following topics:

- Moving forward and working together to do the business of the City
- Item #2 needing no action as it had already been cured
- Progress in resolving the trash litigation
- Enforcement of Council perceived Brown Act violations
- Council Member Kusumoto's ability to exonerate himself

Council Member Graham-Mejia and City Attorney Levin stepped away from the dais to determine if certain information could be discussed in a public forum.

Council Member Graham-Mejia returned to the dais.

City Attorney Levin clarified the decision to convey the information to the District Attorney had been made in Open Session and was not Closed Session information.

The City Council and staff discussed the following topics:

- City had hired a City prosecutor, but had not forwarded the information to any other authorities
- History of the perceived Brown Act violation by Council Member Kusumoto
- Dismissing the charges against Council Member Kusumoto as a professional courtesy

Mayor Edgar opened the item for public comment.

J.M. Ivler, resident, expressed concern that Council Member Kusumoto would be considered guilty of a Brown Act violation without another legal opinion.

Mayor Edgar closed the item for public comment.

Motion/Second: Edgar/Graham-Mejia

Carried 4/0 (Kusumoto recused himself): The City Council made a motion to withdraw the prosecution of Council Member Kusumoto and to look into monetary compensation for Council Member Kusumoto's legal fees. Mayor Edgar personally apologized to Council Member Kusumoto.

Council Member Kusumoto took his seat at the dais.

Mayor Edgar opened the item for discussion of Items 2-4. He indicated Item #2 had already been cured.

Council Member Kusumoto called for a point of order. He states his belief that three Council Members and the City Attorney had a conflict of interest and should recuse themselves from further discussion of Item #2.

City Attorney Levin discussed the issue raised by Item #2 and stated, based on case law, she believed there was an appropriate quorum. The Council readdressed the issue after a challenge was presented and provided a cure. She also indicated substantial compliance was sufficient for a means of compliance and substantial compliance had occurred.

Council Member Kusumoto called for a point of order and stated Items 2-3, per the City Attorney's description, were now moot points.

Council and staff discussed that there was no Brown Act violation on December 5, 2011, when two Council Members met because the Brown Act allows for two Council Members to meet as a committee as long as no action was taken.

Motion/Second: Poe/Stephens

Carried 4/0 (Kusumoto abstained): The City Council closed out Item #2(Demand for a cure by Roger Ho (on behalf of member Kusumoto) and Item #3 (Demand for a cure by Jodie Shloss).

Mayor Edgar opened the item for discussion of Item #4 (Allegations of violations by J. M. Ivler).

J.M. Ivler, resident, stated he would withdraw his complaint, but stated concern that Council Member Kusumoto did not have an opportunity to clear his name.

The City Council discussed the following topics:

- Apology from Mayor Edgar offered to Council Member Kusumoto
- Concern for Council Member Kusumoto's reputation in regards to the alleged Brown Act violations
- Alleged Fair Political Practices Commission (FPPC) and Brown Act violations being used during upcoming elections
- Common law bias

Mayor Edgar inquired if action was needed for Item #4 since Mr. Ivler had withdrawn his complaint.

City Attorney Levin stated no action was needed.

Mayor Edgar opened the item for further discussion of Item #1 (Request for prosecution of Council Member Kusumoto).

Council Member Kusumoto recused himself and left the dais.

City Attorney Levin requested that her legal opinion not be used for any political purposes and offered an apology to the Council, especially Council Member Kusumoto, for not being more vocal about the ramifications of this course of action. She suggested Council allow Council Member Kusumoto to submit, for the record, any legal opinion he may have received indicating he did not violate the Brown Act.

It was Council consensus to allow Council Member Kusumoto to submit, for the record, any legal opinion he may have received regarding this perceived Brown Act violation.

Council Member Kusumoto took his seat at the dais.

10.

## **MAYOR AND COUNCIL INITIATED BUSINESS**

### **Council Announcements**

**Council Member Graham-Mejia** discussed the following items: vehicle theft and ways residents could protect their cars; participation in the Race on the Base; requested the LATV schedule be placed on the City's webpage; and, supported moving forward with a project that would benefit the community. She requested the meeting be adjourned in memory of long time community partner and business owner, Barbara Collins.

**Council Member Stephens** discussed the following items: appreciation for citizen participation; City of Santa Ana joining the Orange County Fire Authority; Race on the Base and LATV coverage of the event; and support for moving forward with the business of the City.

**Council Member Kusumoto** stated he felt the Council had taken his prosecution too far and asked the City Attorney a series of questions.

City Attorney Levin indicated she would do the appropriate research and respond to his questions to the best of her ability at a later date.

**Mayor Pro Tem Poe** discussed the following items: Race on the Base; attendance at the Americana Awards, and the Mayors Group; upcoming General Plan Open Houses; upcoming Police Appreciation lunch; upcoming Ribbon Cutting for the Shade Structure at the JFTB Pool. She also requested the meeting be adjourned in memory of Barbara Collins.

**Mayor Edgar** discussed the following items: Orange County Sanitation District budget; attendance at Americana Awards; California Public Utilities Commission meeting at Stanton Council Chambers; requested Council representation at the City Selection Committee meeting; upcoming Police Appreciation Lunch; upcoming ceremony at Sunburst Youth Academy Ribbon Cutting; and stated support for moving forward with the business of the City.

**11. ITEMS FROM THE CITY MANAGER**

City Manager Avery reported all City projects were moving ahead nicely and thanked Council for moving forward tonight and indicated it would be a great benefit to the community.

**13. ADJOURNMENT**

The City Council adjourned in memory of Barbara Collins at 11:58 p.m. The next meeting of the City Council is scheduled for **Monday, March 19, 2012**, in the City Council Chambers.

  
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Troy D. Edgar, Mayor

ATTEST:

  
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Windmera Quintanar, Department Secretary

**Exhibit A**

Questions from Council Member Kusumoto and Answers from  
City Attorney Levin regarding Trash Litigation.

**CONFIDENTIAL PERTAINING TO CLOSED SESSION.**

Located under separate cover in the  
Closed Session red binder in the City Clerk's vault.