

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

REGULAR MEETING – August 20, 2012

1. CALL TO ORDER

The City Council met in Regular Session at 6:05 p.m., Monday, August 20, 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
Linda Magnuson, Interim Finance Director
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, Department Secretary

3. PLEDGE OF ALLEGIANCE

Council Member Graham-Mejia led the Pledge of Allegiance.

4. INVOCATION

Mayor Pro Tem Poe gave the invocation.

5. PRESENTATIONS

A. Presentation of Certificates of Recognition to the USA Women's Olympic Water Polo Team for Winning the Gold Medal in the 2012 London Olympics

The City Council presented framed Certificates of Recognition to the USA Women's Olympic Water Polo Team and Coaches. The Team said a few words regarding their experiences and Heather Petri presented a signed ball from the Team to the City Council.

Mayor Edgar gave a brief history on the Joint Forces Training Base (JFTB) pool and the relationship with USA Women's Olympic Water Polo Team. He then introduced Ronnie Guyer from Assemblymen Silva's Office.

Mr. Guyer presented the team with a Certificate of Recognition on behalf of Assemblyman Silva's Office.

Mayor Pro Tem Poe made a few comments regarding the reinvestment in the JFTB.

B. Presentation of Certificates of Recognition to the Mustang Nine Year Old C Team All Stars for Winning the PONY Western World Series

The City Council presented Certificates of Recognition to the Team and Coaches. Manager Bamberg gave a few words regarding the Team's journey.

C. Presentation of an Award from the California Joint Powers Insurance Authority for the Best Overall Performance Liability Program

Todd Seymore, Cypress City Council Member and WestComm Chair Person, gave a brief background on the award and presented the City Council with a plaque.

RECESS

The City Council took a brief recess at 6:38 p.m.

RECONVENE

The City Council reconvened in regular session at 6:45 p.m.

6. ORAL COMMUNICATIONS

Mayor Edgar opened the item for Oral Communications.

John Osborne, local business owner, stated opposition to the Council's recent decorum and encouraged the Council to move on with the business of the City, stated support for the contract with Consolidated Disposal, and gave feedback regarding the Community Giveback funds.

Pat Blancher, resident, stated support for the Council working together and moving forward with the business of the City and suggested the Community Giveback funds be spent on bicycle lanes.

John Underwood, resident, stated he had produced a documentary, in conjunction with the City, on the history of the pool and it would air on LATV Friday night at 6:00 p.m.

Richard Murphy, resident, stated support for the Council working together and moving forward with the business of the City.

J.M. Ivler, resident, stated opposition to Mayor Edgar's decorum and his perceived inability for a special meeting to be called. He indicated he had previously withdrawn his request for prosecution of Brown Act violations when the Council had called a "cease fire" and would now like to resubmit them.

7. REGISTER OF MAJOR EXPENDITURES

Motion/Second: Graham-Mejia/Poe

Unanimously Carried: The City Council approved the Register of Major Expenditures for August 20, 2012, in the amount of \$105,517.20, ratified the Register of Major Expenditures for July 17, 2012 to August 19, 2012 in the amount of \$1,536,024.59, 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 August 21, 2012 to September 16, 2012.

Roll Call Vote

Council Member Graham-Mejia	Aye
Council Member Kusumoto	Aye
Council Member Stephens	Aye
Mayor Pro Tem Poe	Aye
Mayor Edgar	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.

Council Member Graham-Mejia pulled items 8A and 8D.

Motion/Second: Graham-Mejia/Poe

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

*****CONSENT CALENDAR*****

B. Warrants (Finance)

Approved the Warrants for August 20, 2012, in the amount of \$36,575.85 and ratified the Warrants for the time period July 17, 2012 to August 19, 2012, in the amount of \$173,388.71.

C. Request to Purchase Four (4) Police Vehicles (Public Works)

This was a request to purchase four (4) 2013 Dodge Charger Police Pursuit vehicles piggybacking on a Los Angeles County Sheriff's Purchase Order dated June 25, 2012 as permitted by Los Alamitos Municipal Code Section 2.60.110.

The City Council authorized the City Manager to purchase four (4) 2013 Dodge Charger Police Pursuit vehicles (three (3) black & white and one (1) street appearance package) from McPeeks Dodge of Anaheim for \$108,409.93.

E. Approval of Notice of Completion for Various Street Rehabilitation Project (CIP No. 11/12-03) (Public Works)

The Various Street Rehabilitation project was completed and in compliance with the plans and specifications. Change Orders for the project were \$40,087.86 or 9.3%, and below the 10% contingency fund.

The City Council:

1. Accepted as complete the construction contract by Shawnan for the Various Street Rehabilitation 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 10% retention to the contractor, in the amount of \$47,196.65, thirty-five (35) days after recordation of the Notice of Completion.

F. Budget Carry-Over Request for Installing Speed Bumps on Alleys in the City (Public Works)

At the April 16, 2012 City Council meeting, the City Council approved a budget of \$20,000 to install speed bumps on alleys in the City. Work was to be completed by the end of June 2012. Selection of the proper speed bump delayed the purchasing of the speed bumps and the \$20,000 expense was not put in the carry-over category in the 2012-2013 Capital Improvement Program (CIP) budget.

The City Council:

1. Amended the 2012/2013 CIP budget to include the unused 2011/2012 budgeted amount of \$20,000 for the Speed Bump Installation improvements; and,
2. Adopted Resolution No. 2012-18 entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS APPROPRIATING \$20,000 FROM THE TRAFFIC IMPROVEMENTS FUND BALANCE AND AMENDING THE FISCAL YEAR 2012/2013 CAPITAL IMPROVEMENT PROGRAM BUDGET".

G. Approval of Employment Agreement for Interim Finance Director (City Manager)

Ms. Anita Agramonte resigned from her position as Finance Director effective August 2, 2012, to accept a position with another municipality. The Finance Director position provides critical services relating to the financial function of the City. It was anticipated that a search for a new Finance Director could take as long as four months. In the interim, Staff

recommended the City Council authorize an agreement with Ms. Linda Magnuson to serve as Interim Finance Director in a part-time capacity.

The City Council authorized the City Manager to execute the Employment Agreement for Interim Finance Director Services with Ms. Linda Magnuson.

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

8A. Approval of Minutes (City Clerk)

Approve the Minutes of the Regular Meeting of July 16, 2012.

Council Member Graham-Mejia requested the following changes: 1) page 5 of 16, 3rd paragraph, include additional information regarding non-profits being able to provide services to only a portion of the City versus the entire City; 2) page 9 of 16, item 9B, include in the bullet list the reason behind the listed projects was that the allocated money should not be used on General Fund operation expenses; and, 3) page 15 of 16, Council Comments, requested additional information be included regarding her abstaining from the vote on the ballot argument.

Mayor Pro Tem Poe requested clarification for corrections regarding Council Comments.

Council Member Graham-Mejia clarified she had stated a conflict of interest and had not voted on the item. She wanted the record to reflect that she was uncomfortable with statement "unanimous vote" because she was opposed to the measure and felt the statement was misleading to the public.

Council Member Kusumoto requested the following changes: 1) page 11 of 16, paragraph 7, should read "disingenuous"; 2) page 13 of 16, Item 10A, include exact wording used by City Attorney regarding exoneration; and, 3) page 15 of 16, verbatim regarding the relationship between Mayor Edgar and Baric, Tran, and Minesinger, and verbatim of the City Attorney's explanation of how the company was picked.

Motion/Second: Edgar/Stephens

Unanimously Carried: The City Council approved the Minutes of the Regular Meeting of July 16, 2012, as amended.

D. Race on the Base Management Contract (Recreation)

This agenda item was consideration of a contract for management of Race on the Base.

Council Member Graham-Mejia inquired if the five-year contract was to lock in the current price.

City Manager Avery answered in the affirmative.

Motion/Second: Graham-Mejia/Edgar

Unanimously Carried: The City Council authorized the City Manager to execute a five-year contract with International City Racing, Inc. for professional race management services for the Race on the Base.

9. PUBLIC HEARINGS

A. Supplemental Law Enforcement Services Fund (SLESF) (Police)

The City of Los Alamitos anticipates an allocation of \$100,000 from the Supplemental Law Enforcement Services Fund (SLESF) to enhance public safety services for Fiscal Year 2012-13. Prior to acceptance of these funds, the City must conduct a Public Hearing and report its planned expenditures to the County's SLESF Oversight Committee.

Police Chief Mattern summarized the staff report, referring to the information contained therein, and answered questions from the City Council.

Mayor Edgar opened the item for public comment. There being no one present wishing to speak, Mayor Edgar closed the item for public comment.

Motion/Second: Graham-Mejia/Poe

Unanimously Carried: The City Council:

1. Conducted a public hearing for the allocation of the SLESF; and,
2. Adopted Resolution No. 2012-12, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING THE RECOMMENDED EXPENDITURE PLAN FOR THE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND"; and,
3. Accepted SLESF allocation in the amount of \$100,000 into account 22.4340, and appropriate a \$100,000 transfer to the General Fund to fund the motor officer.

10. DISCUSSION ITEMS

A. Information Technology Strategic Plan (Support Services)

This report requested City Council adoption of Resolution No. 2012-17, establishing the "City of Los Alamitos Information Technology Strategic Plan" as a guideline for decisions regarding the implementation of new technology projects.

Cassandra Palmer, Support Services Manager, summarized the staff report, referring to the information contained therein, gave a PowerPoint presentation, and answered questions from the City Council.

City Council and Staff discussed the following topics:

- Completion of an IT Strategy was one of the City Manager's goals
- Vendor did not have a vote on the steering committee, but provided input
- Requested City Hall's dark Friday be prominent on the website
- Support for the score card and expenditure justification
- Policy would be reviewed on an annual basis
- Brief history of Request Partner program and its inability to meet the City's needs
- Technology as a valuable asset that would save the City resources, time, and money

Council Member Kusumoto stated he would abstain as the staff report was not available online and he did not have a chance to review it.

Motion/Second: Stephens/Poe

Carried 4/0 (Kusumoto abstained): The City Council adopted Resolution 2012-17, entitled, "A RESOLUCION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ESTABLISHING THE CITY OF LOS ALAMITOS INFORMATION TECHNOLOGY STRATEGIC PLAN".

**B. Request for City Council Review of Conditional Use Permit 12-01
(Community Development)**

Council Member Graham-Mejia requested the City Council review a Planning Commission decision that would allow for conversion of carports into enclosed garages. The Municipal Code does not expressly address the process by which a Council Member may appeal or call for review of a Planning Commission decision so the Council is asked to interpret the Municipal Code and consider the request in light of that interpretation.

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

Greg Howell, applicant representative, stated he was looking for a clear path to proceed, what the Council was objecting to, and what needed to be done to get the project to move forward.

City Council and Staff discussed the following topics regarding the process under the Municipal Code:

- Los Alamitos Municipal Code (LAMC), Section 17.68.010 states the Council can call an item for review; however, there is no procedure for such an action
- Appeal process requires Council to state grounds for disagreement, but State law requires the Council to be an impartial party, thus creating a conflict
- Council previously had an item for the adoption of a Call for Review ordinance, but it was tabled
- Clarification there was no appeal for the project
- Should Council decide to call the project for review, it would not be discussed tonight because Council would need to comply with due process and notice the discussion properly
- Concern for the timing impact on the project should the Council decide to go forward with an appeal
- First step to have Council Member Graham-Mejia state what she feels is significantly important for the Council discussion
- Opposition to holding up the project after it had received Planning Commission approval and been granted the CUP
- Need to address Call for Review process in the future
- Intent of the request was not to hold up the applicant and several requests for a special meeting had been made
- Support for Council Review of the project

Mr. Howell stated the Council discussion was procedural and he could not agree to anything on the owner's behalf at this point.

City Council and Staff continued the discussion:

- Concern regarding no procedure for a Call for Review and support for such an ordinance
- Council Member Kusumoto stated he had a concern for this specific CUP as well

Mayor Edgar opened the item for public comment.

J.M. Ivler, resident, recounted his recollection of when Mayor Edgar had filed an appeal. He stated support for Council discussion of the project so the applicant would not have to postpone the project any further.

Art DeBolt, resident, felt raising a concern about an item did not indicate a bias. He spoke regarding the appeal procedure when he was a Council Member. He stated he did not see a concern with the Code as Council Member Graham-Mejia was only asking if there was Council consensus to discuss and possibly request an appeal.

Mayor Edgar closed the item for public comment.

City Council and Staff continued the discussion:

- Conflicts between the LAMC and case law
- Unanimous Council support for a Call for Review ordinance at a future meeting
- Council Member Graham-Mejia stated her concern was regarding Code Enforcement being able to enter into the garages at any time which she perceived as putting the City at legal risk
- Condition #28 of the CUP and whether it was a violation of the 4th Amendment Right

Mr. Howell stated his understanding of the Code Enforcement procedure which included issuance of a notice of the violation and stated the property insurance will not allow for the garages to be used for storage. He stated support for removing the condition and allowing the project to move forward.

City Council and Staff continued the discussion:

- Opposition to the City regulating such conditions and perceived violation of citizen rights
- Clarification that CUP condition #28 would not trump renter's right to privacy of 4th amendment rights
- Suggestion to allow the project to move forward with direction to Staff to bring back an administrative policy regarding Code Enforcement processes for Council adoption
- Property Owner can request an administrative revision to Condition #28, if so desired
- Time frame for calling Special Meetings and publication and posting of such notices
- Code Enforcement was done mostly reactively in the City
- Clarification that Condition #28 was a waiver by the property owner and does not extend to the tenants unless they agree to such
- CUP's are discretionary approvals and, therefore, additional conditions could be added that other properties were not subject too
- Process for the property owner to request an administrative correction by the Community Development Director to remove condition #28

Motion/Second: Edgar/Poe

Unanimously Carried: The City Council:

1. Declined to review the Planning Commission decision.

2. Directed Staff to agendize for consideration a clearly defined "Call for Review" process providing the City Council with an alternative to appealing future decisions.
3. Directed Staff to agendize for future discussion permissible code enforcement regarding uses of garages.

RECESS

The City Council took a brief recess at 8:45 p.m.

RECONVENE

The City Council reconvened in regular session at 9:04 p.m.

11. MAYOR AND COUNCIL INITIATED BUSINESS

A. An Item Requested by Council Member Regarding Confidential Closed Session Materials

Council Member Kusumoto has requested an item that requires City Council direction regarding the inclusion of certain materials in the City's Closed Session record.

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

City Council and Staff discussed the following topics:

- Confidential red binder as a historical record that will be useable by current and future Councils
- Use of such a binder would be a policy decision
- Brief comments regarding inclusion of a letter from a past resident's concerns regarding parking permits
- Opposition for maintaining Closed Session records as the final outcome was always reported in Open Session and included in the minutes
- Importance of confidentiality in regards to Closed Session matters
- Opposition to constructing past Closed Session handout materials for such a purpose and opinion that such handouts could be misleading to future Council as they did not provide the discussion by Council
- Clarification that the confidential red binder would not be available to all Council Members due to possible conflicts of interest and would mainly be retained for use by the City Clerk
- Purpose of the request was to provide a summary of the trash contract litigation, not to recreate minutes or handouts
- Perceived intention to gain information for political use versus establishing a policy for the City

- Opposition for maintaining Closed Session items regarding the trash contract litigation
- Past practices for Closed Session material to be delivered ahead of time and retained by Council for future use, current policy to return Closed Session materials
- Support for moving forward with establishing a policy for future issues and not including the trash contract litigation
- Process allowed for by the Los Alamitos Municipal Code to have the City Attorney summarize litigation
- Discussion regarding minimum standards of documentation being requested
- Binder would provide historical knowledge and reference for Council Members to be well informed
- City Attorney's Office procedure to only hand out Closed Session material if there are numbers, visuals, or complex issues. Preference to have a straightforward conversation. Clarification that it was a preference that City Council return Closed Session documents, not a requirement.
- Preference to receive Closed Session material before discussion of the item
- Whether or not the continuation of a such record would make the documents discoverable in court
- Implementation of the red binder was not a Council policy and brief discussion regarding the history of such

Motion/Second: Edgar/Stephens

Motion to table the item until further information can be reviewed.

Substitute Motion: Poe

Motion to discontinue the practice of maintaining Closed Session material.

Substitute Motion: Graham-Mejia

Motion to continue the practice of maintaining Closed Session material with limited information summary information included.

Mayor Edgar withdrew his original motion.

Question to Substitute Motion/Second: Kusumoto/Graham-Mejia

Motion Died 2/3 (Edgar, Poe, Stephens cast the dissenting vote): Entertain Council Member Graham-Mejia's motion first.

Motion/Second: Poe/Edgar

Carried 3/2 (Graham-Mejia and Kusumoto cast the dissenting vote): the City Council voted to discontinue the practice of maintaining Closed Session material.

Council Member Graham-Mejia stated for the record she felt it was a mistake not to have this information available to future Councils.

B. Council Member Request Regarding Investigation of Alleged Brown Act Violation

Council Member Kusumoto (with the support of Council Member Graham-Mejia) had requested that the City Council hire an independent expert to determine whether a violation of the Brown Act occurred as a result of conversations among Council Members concerning agenda item 10A that appeared on the July 16, 2012 agenda.

Council Member Graham-Mejia requested Council be sworn in before discussion of the item.

Discussion ensued regarding Council Member discretion in participation and the inapplicability for the Rule of Necessity, under the Political Reform Act.

City Attorney Levin indicated recusals of Council Members with a conflict needed to occur before the staff report presentation and suggested a brief recess to discuss conflicts with interested Council Members.

RECESS

The City Council took a brief recess at 9:51 p.m.

RECONVENE

The City Council reconvened in regular session at 10:10 p.m.

City Attorney Levin inquired which Council Members would like to recuse themselves.

Mayor Edgar stated he would recuse himself and left the dais.

Council Members Graham-Mejia and Kusumoto indicated no.

City Attorney Levin advised Mayor Pro Tem Poe to continue the discussion.

Council Member Graham-Mejia recused herself and left the dais.

Council Member Kusumoto clarified it was each Council Members decision to recuse themselves or not and stated he felt he did not need to recuse himself as he was the recipient of a one-way transmission with Council Member Graham-Mejia and had immediately terminated the conversation.

Discussion ensued regarding City Attorney's participation in the discussion and the fact she was not a voting member of the Council.

Mayor Pro Tem Poe called for the staff report.

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

City Council and Staff discussed the following topics:

- Appearance of no violation and had there been an issue it had already been cured
- Incident involved a conversation with Mayor Edgar and Council Member Graham-Mejia. Council Member Graham-Mejia made a one-way communication to Council Member Kusumoto, who immediately stopped the discussion before responding; therefore, averting the alleged Brown Act violation.

Council Member Kusumoto requested the Council be placed under oath.

Discussion ensued regarding the purpose of the oath.

City Attorney Levin indicated the provision normally only applies in evidentiary matters, investigations, or hearings and she was unaware of any precedence for applying such to an ordinary agenda item by the unilateral decision of one Council Member.

Mayor Pro Tem Poe stated there was no issue to discuss and had there been a concern it had already been resolved. She closed the item.

Mayor Edgar and Council Member Graham-Mejia returned to their seats at the dais.

C. Council Member Request Regarding Prosecution of Alleged Municipal Code Violation Relating to Trash Franchise Award

Council Member Kusumoto has requested that the City Council take steps to determine whether prosecution is warranted for alleged violations of the Municipal Code in connection with the award of the City's waste franchise.

Mayor Edgar summarized the staff report, referring to the information contained therein. He stated he would recuse himself from discussion since his interest was different as the City was considering pursuing him.

Mayor Pro Tem Poe and Council Member Stephens recused themselves.

Mayor Edgar stated there was no quorum and closed the item.

D. Council Announcements

Council Member Kusumoto requested Staff research AB1492 and the possibility of sending a letter of opposition.

Council Member Stephens stated he had attended the Orange County Fire Authority Budget and Finance Committee meeting and had been nominated as the Vice Chair.

Council Member Graham-Mejia spoke regarding the following topics: 1) requested and received an update on Detective Sorenson and his participation in Operation Halo; 2) discussing the alleged coyote attacks sooner rather than later; 3) wished the Council Candidates luck in the upcoming election; and, 4) stated she was unable to attend the OC Vector Control meeting because she had taken her son out of state to college.

Mayor Pro Tem Poe spoke regarding the following topics: 1) attendance at the Multi-City Chamber of Commerce Legislative Mixer; 2) attendance at the I-405 Working Group meeting; 3) addressed J.M. Ivler's comments from the August 20, 2012 Council meeting regarding criminal penalties for violations of the Municipal Code being inaccurate; and 4) stated she had been on vacation when the August 6, 2012 Special meeting was called.

Mayor Edgar spoke regarding the following topics: 1) attendance at the Orange County Sanitation District meeting; 2) attendance at the Orange County Water District Open House; 3) attendance at the Multi-City Chamber of Commerce Legislative Mixer; 4) thanked Council for working together and encouraged everyone to remain focused on the positive; 5) requested an agenda item for discussion of Lexington as a straight through, relocating the signal to Enterprise, and allowing a cut out for 24 Hour Fitness, and personally requested Mayor Pro Tem Poe to seek the advice of the Fair Political Practices Commission regarding possible conflicts of interest.

Council Member Graham-Mejia supported Mayor Edgar's request for the agenda item.

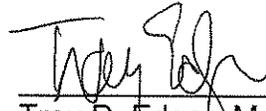
Mayor Edgar congratulated the Olympic Gold Medal Women's Water Polo Team and thanked everyone involved in the partnership.

12. ITEMS FROM THE CITY MANAGER

City Manager Avery reported the City had a successful summer with recreation programs and welcomed Interim Finance Director Linda Magnuson.

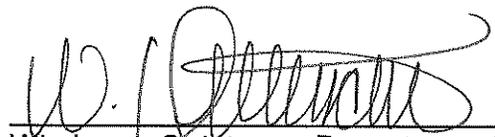
13. **ADJOURNMENT**

The City Council adjourned at 10:40 p.m. The next meeting of the City Council is scheduled for **Monday, September 17, 2012, at 6:00 p.m.**, in the City Council Chambers.



Troy D. Edgar, Mayor

ATTEST:



Windmera Quintanar, Department Secretary

