

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

**REGULAR MEETING – December 19, 2011**

**1. CALL TO ORDER**

The City Council met in Regular Session at 7:00 p.m., Monday, December 19, 2011, in the Council Chambers, 3191 Katella Avenue, Mayor Stephens presiding.

**2. ROLL CALL**

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

**Absent:** Council Members: None

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

**3. PLEDGE OF ALLEGIANCE**

Council Member Poe led the Pledge of Allegiance.

**4. INVOCATION**

Council Member Graham-Mejia gave the invocation.

**5. PRESENTATIONS**

**A. Presentation of a Commendation to Wink Chase and Patty Laird from the City Council**

The Council presented the Commendation to Wink Chase and Patty Laird.

**B. DaVita Business Overview Presented by Anne Matining, Regional Director, and Ken Futch, Divisional Director**

Anne Matining and Ken Futch gave a PowerPoint presentation and answered questions from the City Council.

Mayor Stephens announced there was one additional presentation.

Judy Dickson, Acacia Adult Day Services, provided an overview of the program and distributed informational material.

**6. ORAL COMMUNICATIONS**

Mayor Stephens opened Oral Communications.

OC Grand Jury representative provided information on the upcoming Grand Jury selection and answered questions from the City Council.

JM Ivler, resident, spoke regarding the commercial overlay and General Plan. Richard Murphy, resident, thanked City Manager Stewart for his service, asked for further explanation of item 9A and stated opposition for item 10B.

Dean Grose, Chamber of Commerce Board of Directors, spoke regarding the Inaugural Breakfast on January 7, 2012.

Mayor Stephens closed Oral Communications.

**7. REGISTER OF MAJOR EXPENDITURES**

Motion/Second: Edgar/Poe

The City Council approved the Major Expenditures for December 19, 2011, in the amount of \$300,633.00

**Roll Call Vote**

Council Member Graham-Mejia	Aye
Council Member Kusumoto	Aye
Council Member Poe	Aye
Mayor Pro Tem Edgar	Aye
Mayor Stephens	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 Item 8A.

Council Member Poe pulled item 8G.

Motion/Second: Graham-Mejia/Kusumoto

Unanimously Carried: The City Council approved the following:

\*\*\*\*\*CONSENT CALENDAR\*\*\*\*\*

**B. Warrants (Finance)**  
The City Council approved the Warrants for December 19, 2011, for \$63,954.46.

**C. Resolution No. 2011-26 – Temporary Designation of City Clerk Responsibilities to the City Manager and Discussion of Options Regarding Selection of Permanent City Clerk (Admin.)**  
Effective January 3, 2012, the City Council accepted the resignation of current City Manager/City Clerk, Jeffrey Stewart. Section 2.12.030A of the Municipal Code requires the appointment of the City Clerk by Resolution. The City Council has multiple options with regard to the selection of the

next City Clerk, which the City Council may or may not wish to discuss on December 19. While those issues are considered and agreed upon by the Council, it is necessary to designate an interim City Clerk to remain in compliance with the Municipal Code. The attached Resolution would confirm the appointment of the City Manager as City Clerk until the selection process for the permanent City Clerk has been completed.

The City Council:

1. Adopted Resolution No. 2011-26, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS APPOINTING THE CITY MANAGER AS INTERIM CITY CLERK OF THE CITY OF LOS ALAMITOS"; and,
2. Discussed options regarding selection of permanent City Clerk.

**D. Award Bid for Katella Avenue Median Modifications at Chestnut Street (Public Works)**

This report recommends actions to begin facilitating the construction of Katella Avenue Median Modifications at Chestnut Street.

The City Council:

1. Awarded the construction of Katella Avenue Median Modifications at Chestnut Street (CIP No. 10/11-07) to Hym Engineering, Inc.; and,
2. Authorized the Mayor to execute the contract for the project; and
3. Authorized staff to execute change orders, if necessary, in an amount not to exceed the contingency reserve of \$6,495.00, which is 10% of the original contract amount.
4. Due to potential high ground water level at this site, authorized staff to execute additional change orders, if necessary, in an amount not to exceed a second contingency reserve of \$6,495.00, which is 10% of the original contract amount.

**E. Consideration of Options Regarding Award of Waste Hauling Franchise and Second Reading and Adoption of Ordinance No. 11-10 – Amending Sections 2.60.130 and 8.12.015 of the Los Alamitos Municipal Code and Adding Section 2.60.140 Related to the Award of Services Contracts, Including Franchise Agreements for Solid Waste Collection Services (Administration)**

A trial judge ruled that the City's current waste franchise was void, but could remain in place for a reasonable period of time until the City Council could take action to provide for future waste hauling services. The City began the process of amending its ordinances and considering options for the future provision of waste hauling services within the City by directing staff to bring back options for consideration this evening. However, the City has also appealed the ruling (mooting all trial court deadlines) and begun to pursue settlement discussions to see if there is a way to

amicably resolve the pending disputes. In light of possible settlement discussions, staff recommends continuing this item to a future City Council Meeting.

The City Council continued the item to a future City Council meeting pending outcome of settlement discussions.

**F. Disposal of Surplus Equipment (Public Works)**  
Consideration of disposal of surplus equipment.

The City Council declared the listed equipment as surplus, and authorize its disposal in accordance with the Los Alamitos Municipal Code.

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

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

1. Approve Minutes of the Regular Meeting – December 5, 2011.
2. Approve Minutes of the Special Meeting - December 8, 2011.
3. Approve Minutes of the Special Meeting – December 12, 2011.

Council Member Graham Mejia stated for the record she was concerned with her perceived inconsistency in the minutes and the lack of information contained within this official record. She stated she was concerned current and future Councils would not have a well documented history.

Council Member Kusumoto stated he would abstain from item 8A2 as he was not present.

Motion/Second: Edgar/Poe

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

1. Approved the Minutes of the Regular Meeting of December 5, 2011.
3. Approved the Minutes of the Special Meeting of December 12, 2011.

Motion/Second: Edgar/Poe

Carried 3/0 (Graham-Mejia and Kusumoto abstained): The City Council:

2. Approved the Minutes of the Special Meeting of December 8, 2011.

**G. Emergency Roof Repairs (Public Works)**

The roofs of several city buildings have incurred significant damage. In order to avoid further damage to public facilities and avoid injury to the health of the occupants of the buildings, staff is requesting the City Council identify the repair of the roofs as an emergency and authorize staff to make the necessary repairs. Staff is also seeking authorization to replace and/or repair roof top air conditioning equipment if needed.

Council Member Poe inquired if this repair would be long term.

Public Works Superintendent Brandyberry answered in the affirmative.

Motion/Second: Graham-Mejia/Kusumoto

Unanimously Carried: The City Council by a 4/5ths vote:

1. Found that significant damage has occurred to the roofs on several city buildings as a result of recent weather events, that the roofs are leaking into work spaces currently in use by employees, that future wind and storm events are predicted in the near future, and that the roofing issues have been inspected and assessed by professionals with pertinent experience who have recommended immediate repair to avoid further damage and possible health and safety issues; and,
2. Found that the roofing problems identified in this report are an emergency, that there is not time to conduct a competitive bid process and that the roofs must be repaired immediately to avoid further damage to public facilities and avoid injury to the health of the occupants of the buildings; and,
3. Authorized the award of contract for emergency roof repairs to Emercon Construction, Inc. via the Joint Powers Insurance Authority (JPIA) while authorizing an expenditure of \$5,000.00 for the deductible; and,
4. Authorized the City Manager to spend up to \$15,000.00 to repair and/or replace roof top air conditioning equipment if needed in order to repair the roofing leaks.

## 9. DISCUSSION ITEMS

### A. **Restore the Assistant to the City Manager and Recreation Manager Positions to the Personnel Classification Plan and Add Both Positions to the City's Budget (Recreation)**

The appointment of Angie Avery as the new City Manager has created the need to restore and fund the Assistant to the City Manager position, and restore and fund two Recreation Manager positions.

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

Mayor Stephens opened the item for Public Comment, there being no one present wishing to speak, Mayor Stephens closed the item for Public Comment.

Motion/Second: Graham-Mejia/Edgar  
Unanimously Carried: The City Council:

1. Restored the Assistant to the City Manager position to the City's Personnel Classification Plan and fund the position in FY 2011-12, and authorize staff to begin recruiting for the position.
2. Restored the Recreation Manager position to the City's Personnel Classification Plan and fund two positions for FY 2011-12.

**B. Reorganization of Community Development Department and Creation of Planning Aide Position (Community Development)**

The vacancy of the Associate Planner position provides an opportunity for staff to review the position duties and pay based upon market conditions, department needs, and to realize budgetary savings. Staff is recommending a department change which would replace the higher level Associate Planner position with a lower level Planning Aide position.

City Manager Stewart and Community Services Director Mendoza summarized the staff report referring to information contained therein and answered questions from the City Council.

Mayor Stephens opened the item for Public Comment, there being no one present wishing to speak, Mayor Stephens closed the item for Public Comment.

Council Member Graham-Mejia inquired about the hierarchy of Planning positions and inquired about different qualifications.

Council Member Kusumoto requested clarifications regarding the fiscal savings.

Community Development Director Mendoza provided answers.

Council Member Poe, Mayor Pro Tem Edgar, and Mayor Stephens stated support.

Motion/Second: Poe/Edgar

Unanimously Carried: The City Council adopted Resolution No. 2011-25, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING THE JOB DESCRIPTION AND SALARY RANGE FOR THE POSITION OF PLANNING AIDE."

**10. MAYOR AND COUNCIL INITIATED BUSINESS**

**A. City Council Reorganization**

This report provides relevant information for the City Council's annual reorganization, by the election of Mayor and Mayor Pro Tem. The City's Charter requires roll call votes be taken for the election of these two Officers.

Mayor Stephens thanked the community and his colleagues for their support during his term as Mayor and summarized his experience. He then turned the meeting over to Department Secretary Quintanar.

Department Secretary Quintanar called for nominations for Mayor.

Council Member Kusumoto nominated

Council Member Poe nominated Council Member Edgar for Mayor.

Council Member Stephens seconded.

Council Member Graham-Mejia nominated Council Member Kusumoto. Motion died for lack of a second.

**Motion/Second:** Poe/Stephens

Carried 4/1 (Graham-Mejia cast the dissenting vote): The City Council appointed Council Member Edgar as Mayor.

Department Secretary Quintanar turned the meeting over to Mayor Edgar.

Mayor Edgar called for nominations for Mayor Pro Tem.

Council Member Kusumoto nominated Council Member Graham-Mejia. Motion died for lack of a second.

Council Member Stephens nominated Council Member Poe. Mayor Edgar seconded.

**Motion/Second:** Stephens/Edgar

Carried 3/2 (Graham-Mejia and Kusumoto cast the dissenting votes): The City Council appointed Council Member Poe as Mayor Pro Tem.

Mayor Edgar thanked Council Member Stephens for his service as Mayor, highlighted the accomplishments, and presented him with a plaque for his service.

Council Member Poe presented a certificate from Assemblyman Jim Silva to Council Member Stephens for his service as Mayor.

Council Member Stephens thanked the Council.

**RECESS**

The City Council took a brief recess at 8:06 p.m. and held a reception honoring outgoing Mayor Stephens and incoming Mayor Edgar.

**RECONVENE**

The City Council reconvened in Regular Session.

**B. Council Member Participation in Closed Session Matters Regarding the Lawsuit Between the City and Citizens for a Fair Trash Contract**

Following the regular City Council Meeting of December 5, 2011, Council Member Kusumoto provided a copy of a letter to the Mayor (attached) stating that he was rescuing himself from "Closed Session on City Council matters concerning the lawsuit filed by Citizens for a Fair Trash Contract." Council Member Kusumoto did not identify any conflict of interest that would require recusal or prevent him from participating in City Council closed session discussions of the litigation filed against the City by "Citizens for a Fair Trash Contract." The purpose of this agenda item is to seek clarification with regard to Section 2.04.220 of the Los Alamitos

Municipal Code and Council Member Kusumoto's decision not to participate.

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

Jeff summarized the staff report referring the information contained therein and answered question 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.

Council Member Kusumoto stated he had received clarification regarding reasons for recusal and indicated he would be rejoining Closed Session. He supported no additional discussion.

The Council discussed items related to the lawsuit between the City and Citizens for a Fair Trash Contract and potential Brown Act violations committed by Council Member Kusumoto.

Mayor Edgar requested an item be agendized to submit the issue to Fair Political Practices Commission (FPPC).

Council Member Kusumoto called point of personal privilege and clarified he ran for Council Office on a slate with two other candidates.

Further discussion ensued.

Council Member Kusumoto requested legal counsel in light of the upcoming investigation.

Council Member Graham-Mejia, Kusumoto, and Mayor Pro Tem Poe supported the item being presented in Open Session.

Motion/Second: Edgar/Poe

Carried 3/1 (Graham-Mejia cast the dissenting vote and Council Member Kusumoto abstained): The City Council directed the City Attorney to do an evaluation of the potential Brown Act violation for potential litigation and bring it before the Council in Open session.

**C. Council Announcements**

At this time, Council Members may also report on items not specifically described on the Agenda that are of interest to the community, provided no action or discussion is taken except to provide staff direction to report back or to place the item on a future Agenda.

**Council Member Graham-Mejia** discussed the following topics: 1) request to agendize revocation of the Food Truck Event; 2) status of the JFTB pool heater; 3) extended congratulations to Patty Laird and Wink

Chase; 4) requested commercial overlay be agendized; 5) reiterated the services provided by Acacia Adult Care Services; and, 6) requested pursuance of the potential Brown Act violation by former Council Member Grose.

**Council Member Kusumoto** apologized for the negative repercussions of recusing himself from Closed Session, but felt the action was appropriate at the time.

**Mayor Pro Tem Poe** discussed the following topics: 1) Acacia Adult Care Services; 2) attendance at the Annual Commission Dinner; 3) thanked staff for the correction of the traffic signs; 4) City Manager Stewart for his service; 5) congratulated incoming City Manager Avery; and 6) expressed disappointment regarding the Trash Lawsuit.

**Mayor Edgar** summarized his goals for his term as Mayor in 2012 and thanked the community and his family for their support.

**Council Member Stephens** discussed the following: 1) acknowledgement of correspondence from Eagle Scout Robbie Maloney; 2) attendance at the Annual Commission Dinner; 3) acknowledged the completion of restriping on Lexington; 4) thanked City Manager Stewart for his service; 5) congratulated incoming City Manager Avery; and, 6) thanked his family for their support.

## 11. ITEMS FROM THE CITY MANAGER

City Manager Stewart stated it had been a pleasure working in the City of Los Alamitos.

## 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. Conference with Labor Negotiator

Agency Negotiators:	Jeffrey L. Stewart, City Manager and Sandra J. Levin, City Attorney
Employee Organization:	Executive Management, Middle Management and Non-Management Employees
Authority:	Government Code Section 54957.6

### RECESS

City Council recessed into Closed Session at 9:24 p.m.

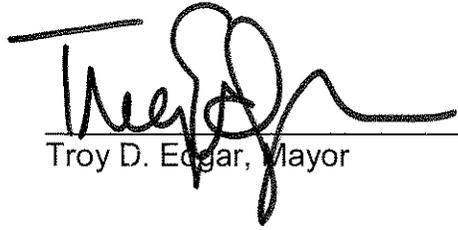
### RECONVENED

City Council reconvened in Regular Session at 10:56 p.m.

There was no reportable action.

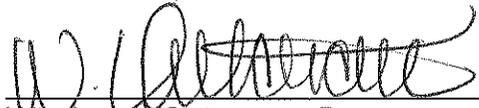
13. **ADJOURNMENT**

City Council adjourned at 10:57 p.m. The next meeting of the City Council is scheduled for TUESDAY, January 17, 2012, in the City Council Chambers.



Troy D. Edgar, Mayor

ATTEST:



Windmera Quintanar, Department Secretary