

# ITEM NO. 8A4

## MINUTES OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS

### ADJOURNED REGULAR MEETING – August 24, 2015

#### 1. CALL TO ORDER

The City Council met in Adjourned Regular Session at 6:01 p.m., Monday, August 24, 2015, in the Council Chamber, 3191 Katella Avenue, Mayor Murphy presiding.

#### 2. ROLL CALL

**Present:** Council Members: Grose, Hasselbrink, Kusumoto,  
Mayor Pro Tem Edgar, Mayor Murphy

**Absent:** Council Members: None

**Present:** Staff: Bret M. Plumlee, City Manager  
Lisa Kranitz, Assistant City Attorney  
Jason Al-Imam, Administrative Services Director  
Tony Brandyberry, Pub. Works Superintendent  
Corey Lakin, Recreation and Community Services Director  
Todd Mattern, Police Chief  
Steven Mendoza, Development Services Director  
Rick Moore, Captain  
Tom Oliver, Planning Aide  
Windmera Quintanar, CMC, City Clerk

#### 3. PLEDGE OF ALLEGIANCE

Council Member Kusumoto led the Pledge of Allegiance.

#### 4. INVOCATION

Mayor Murphy gave the Invocation.

#### 5. PRESENTATIONS

##### A. Presentation by Alice Melamed, Los Alamitos Chamber Young Professionals, of the We HIRE Scholarship to Rachel Crandall

Ms. Melamed spoke briefly and presented the scholarship to Ms. Crandall. Mayor Murphy and Council presented a Certificate of Recognition to Ms. Crandall. Ms. Crandall spoke briefly.

##### B. Presentation of Certificates of Recognition to Orange County Fire Authority, E2 Unit, Whom Responded to a Medical Aid Call on the 405 Freeway

Mayor Murphy and Council presented Certificates of Recognition to Captain Steve Horner, Engineer Jeff Hubert, Firefighter/Paramedic Jeff Hubert, Firefighter/Paramedic Jim Aldridch, Firefighter/Paramedic Lance Hard, and Dispatcher Grace Mora. Engineer Hubert spoke briefly.

**C. Presentation by Brigadier General Reddicks Providing an Update on the Joint Forces Training Base Pool Lease Agreement**  
Brigadier General Reddicks gave a verbal update.

**6. ORAL COMMUNICATIONS**

Mayor Murphy opened the item for Oral Communications.

Stephen Hammond, resident and Cable Television Commissioner, spoke in opposition to items 8F and 10A.

Jim Lissner requested item 8D be pulled from the Consent Calendar for discussion. He provided a handout.

Robert Deamis, Los Alamitos American Legion, spoke regarding the following upcoming events to be held at the American Legion: Legion of the Silver Rose – October 3, 2015, and Veteran’s Honor Ride – November 11, 2015. He encouraged all residents to participate. All proceeds will go to the service center supporting veterans.

Council Member Grose encouraged Council and residents to be involved and stated support for recognizing veterans.

Mayor Murphy closed the item for Oral Communications.

**7. WARRANTS**

Motion/Second: Edgar/Kusumoto

Unanimously Carried: The City Council approved the Warrants for August 24, 2015, in the amount of \$76,553.09, ratify the Warrants for July 22, 2015, to August 23, 2015, in the amount of \$1,084,370.91, and authorized the City Manager to approve such expenditures as are legally due and within an unexhausted balance of an appropriation against which the same may be charged for the time period of August 25, 2015 to September 20, 2015.

**ROLL CALL**

Council Member Grose	Aye
Council Member Hasselbrink	Aye
Council Member Kusumoto	Aye
Mayor Pro Tem Edgar	Aye
Mayor Murphy	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.

City Manager Plumlee referred to item 8D and advised Section 6.1.2.1.3 of the agreement had been modified. Council had received a copy at the dais.

Council Member Kusumoto pulled item 8H.

Council Member Grose pulled items 8F, 8D, per the speaker's request, and 8I.

Motion/Second: Kusumoto/Edgar

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

**A. Approval of Minutes (City Clerk)**  
Approved the Minutes of the Adjourned Regular meeting of July 21, 2015.

**B. Orange County Vector Control District Update (Administration)**  
This report provided an update on the Orange County Vector Control Board.

The City Council received and filed.

**C. Appoint a Representative to the Orange County Fire Authority Board of Directors (Administration)**  
Council Member Kusumoto had expressed a desire to resign from the Orange County Fire Authority Board of Directors. As the previous alternate, Council Member Hasselbrink had expressed a desire to be the Representative. Per the Joint Powers Authority, a Resolution is needed to officially approve the change.

The City Council adopted City Council Resolution 2015-19, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DESIGNATING AND APPOINTING ITS REPRESENTATIVE THE ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS."

**E. Authorization to Purchase 800 MHz Hot Red Mobile Radios (Police)**  
In conjunction with the County of Orange 800 MHz Countywide Coordinated Communications System migration to an 800 MHz - P25 compliant system, Motorola is offering discounted Hot Red radios if purchased by November of this year. To proceed, the Police Department requested authorization to purchase nine (9) vehicle mounted Hot Red radios to replace the soon to be obsolete radios.

The City Council authorized the purchase of nine (9) "Hot Red" radios in furtherance of the 800 MHz Migration Project.

**G. Extension of Professional Services Agreement with West Coast Arborists for Tree Maintenance Services (Public Works)**

This item considered continuing services with West Coast Arborists to provide tree maintenance services. The current Professional Services Agreement (PSA) expired on August 15, 2015, but can be extended by mutual agreement.

The City Council authorized the Mayor to execute Amendment No. 3 to the Professional Services Agreement with West Coast Arborists for Tree Maintenance services.

### **End of Consent Calendar**

#### **Items Pulled from Consent Calendar**

**D. Extension of the Term of Agreement with Redflex Traffic Systems, Inc. for the Red Light Camera Enforcement Program (Police)**

The current agreement with Redflex Traffic Systems, Inc. for the Red Light Camera Enforcement Program expires on September 1, 2015; however, under the terms of the agreement the City may elect to extend the term for an additional two (2) years. This report seeks authorization to extend the agreement for the additional two-year term.

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

Mayor Murphy congratulated Captain Moore on his recent promotion.

Council Member Grose discussed the following topics: support for the \$30,000 termination fee being removed from the agreement; did not have the opportunity to review all the documentation that had been received throughout the day; concerns from residents that have received tickets at both intersections; unable to verify that Los Alamitos and Katella is the second busiest intersection in the county; concerns regarding the portion of the fine the City receives; clarified red light cameras were installed for safety and not as a revenue generator; safety continues to be the biggest factor of the program; waiting to receive information regarding the cost of the basic operation of a citation issuance; briefly described the process of receiving and contesting a ticket as he understood it; encouraged public to maintain the dialogue; and, support for doing the right thing and ensuring no one gets hurt.

Council Member Grose requested his colleagues input and advised he would without support until the item was fully vetted.

Motion/Second: Hasselbrink/Edgar  
Motion: Approve Staff recommendation.

Council Member Grose asked if public comment would be taken.

Mayor Murphy opened the item for public comment.

Jim Lissner approached the podium.

Council Member Kusumoto asked how many times Mr. Lissner had been in the City in the past few years.

Mr. Lissner advised approximately a dozen times.

Mr. Lissner stated the following points of opposition: quotes from city officials indicating the program did not make a difference; contract price is more than surrounding cities; increased price will result in increased tickets; based on monthly reports, tickets are higher than they have been in the past nine years.

Council Member Kusumoto called a point of order and advised the speaker's time was up.

JM Ivler, resident, advised the Police Department is professional when handling tickets. He stated support for the program that saved the Police Department money and benefited the safety of the community.

Mayor Murphy opened the item for public comment.

Council Member Grose advised he had met with Staff to see about reducing the price. The price would remain the same although the equipment would be upgraded.

Motion/Second: Hasselbrink/Edgar  
Unanimously Carried: The City Council authorized the City Manager to execute the amendment to the agreement with Redflex Traffic Systems, Inc., which will extend the term for an additional two (2) years while adding the ability to terminate for convenience.

- F. Cable Operations Manager (Administrative Services)**  
This report seeks City Council approval of a Cable Operations Manager and authorization for an appropriation.

Council Member Grose discussed the following topics: support for hearing the Staff report and voting separately on each item; concerns regarding funding source; understanding of Fund 28 and subscriber fees; Council's denial of equipment request; referred to Attachment 5 and stated concerns a date stamp was not included; concerns regarding the layout being done in Phases and the associated cost not having the appropriate back up; concerns regarding equipment recommendations from Skyline Media when his understanding was Council did not accept the proposal; concern regarding spending all of Fund 28 on equipment when Council is unsure the model will function; concern oversight was not discussed in the agreement; support for 16 new programs and including Los Alamitos Unified School District; concern Council had not done it's due diligence and should not be in a rush; questioned the ability to be up and running by October 1 and how sports would be filmed this year; Council would be approving an agreement with OUR Los Al with Mr. Strawthers as the point of contact; questioned who would be filming the Council meetings and loading the server; questioned who Mr. Strawthers would report to on Staff; and, questioned if the Community Services Department would be involved.

City Manager Plumlee advised the Cable Operations Manager reports to the City Manager. He added the Cable Operations Manager would evaluate the entire function of LATV. He clarified tonight's action was approval of an appropriation to being Phase 1, streaming and sports events.

Council Member Grose stated the amount tonight was significantly different than attachment 5.

City Manager Plumlee clarified attachment 5 was from the Confidential Weekly Memo. He stated the funding being requested tonight was for capital equipment and would be \$15,000 from the General Fund and \$50,727 from Fund 28.

Motion/Second: Edgar/Kusumoto

Carried 4/1 (Grose cast the dissenting vote): The City Council:

1. Authorized the Mayor, City Manager, City Clerk and City Attorney to execute the Professional Services Agreement with OUR Los Al and to make certain non-substantive changes; and,
2. Reviewed and approved the Scope of Services for Cable Operations Manager Services as set forth in Exhibit A to the Professional Services Agreement; and,

3. Authorized an appropriation of \$50,727 from Fund 28 (Los Alamitos Television Fund) for Leightronix equipment (\$7,177), high-definition camcorders (\$10,000), upgrades to the Van for high-definition mobile operation (\$15,000), video production (\$10,000), Council and Commission meeting videos (\$5,550) and City events (\$3,000).

**H. Rivers and Mountains Conservancy Proposition 1 Grant Application  
(City Manager)**

The Rivers and Mountains Conservancy (RMC) received \$30 million from Proposition 1 for grant projects along the San Gabriel and Lower Los Angeles Rivers. Los Alamitos is a candidate for this grant funding, however, with a complicated and competitive grant program, staff is seeking assistance from a consultant to write the application to assist with funding of the "Purple Pipe Project", if the project is deemed feasible when working with all the involved organizations.

Council Member Kusumoto appreciated Staff's diligence. While generally supportive of the project, he could not support at this time due to the cost of infrastructure. He agreed it was important, but questioned the return on investment.

Council Member Hasselbrink agreed and added there were too many outside factors at this time. She stated support for revisiting at a later date.

Mayor Pro Tem Edgar disagreed. He referred to the Orange County Sanitation District Groundwater Project and stated it takes 5-10 years and many jurisdictions working together to get these types of projects into place. He spoke regarding the importance of sustainability and conservation in regards to recent water challenges. He believed this project was important groundwork for the future and feasible with the Proposition 1 Water Bond funds. He stated if Long beach did not have water to share, Staff could reach out to Cerritos and other cities. He stated he would advocate for the City to receive funding from the Rivers and Mountains Conservancy (RMC) Board.

Council Member Grose pointed out the State had the same water issues and now was the time to figure out how to get recycled water into the City. He was supportive of spending the funds for the grant application now and cautioned against waiting for another opportunity like this. He recognized the process would be difficult and costly, but felt it would be beneficial to pay a grant writer now to potentially win a grant to help with cost. He pointed out the City would now be paying the water bill at Oak Field. He indicated if the City could procure purple pipe there were other areas in the City that would benefit as well. He was supportive of looking for water opportunities in the City, especially in public areas where tax money is spent.

Mayor Murphy questioned if the grant would cover 100% of costs.

City Manager Plumlee advised staff had attended RMC's grant guideline discussion and was advised there are indications there will be some sort of in kind matching.

Recreation and Community Services Director Lakin confirmed and provided some additional preliminary information on in kind matching.

Mayor Murphy questioned what the out of pocket expense would be should the City receive the grant.

City Manager Plumlee indicated it would be difficult to identify matching funds at this point. he pointed out the typical rate for a grant writer was \$15,000 and Staff was able to negotiate this down.

Mayor Murphy questioned applying for a grant that would require matching funds the City did not have. He pointed out there was limited information available now, but was intrigued by the idea.

Council Member Kusumoto questioned how specific the grant application had to be.

Mayor Pro Tem Edgar indicated the guidelines called for conceptual terms. He pointed out the City would be competing against many agencies. Agreeing to match funds to some extent would be more competitive, but not a requirement.

Council Member Kusumoto stated he could support the grant if the project was made broader to include infrastructure such as trucking in water and above ground storage.

City Manager Plumlee advised the City of Cerritos had indicated the City of Long Beach did have excess water.

Council Member Kusumoto pointed out just because water was available did not mean the project would happen. He referenced other successful projects that were successful in reclaiming water. He stated the return on investment was not there.

Mayor Pro Tem Edgar agreed infrastructure needed to be solved first. He asked Staff if trucks were currently used to water center medians.

Public Works Superintendent Brandyberry confirmed.

Mayor Pro Tem Edgar stated Orange County cities were not aggressively responding to the grant opportunities while Los Angeles County was aggressively going after funding.

## **RECESS**

The City Council took a brief recess at 7:29 p.m.

## **RECONVENE**

The City Council reconvened in Adjourned Regular Session at 7:43 p.m.

Motion/Second: Edgar/Grose

Unanimously Carried: The City Council authorized the City Manager to enter into an agreement approved by the City Attorney with California Consulting to complete a broad based grant application on behalf of the City of Los Alamitos for the RMC Proposition 1 Grant and appropriate \$6,000 from General Fund Reserves for their fee.

### **I. Police Chief Recruitment at Tier 1 Salary Schedule (Administrative Services)**

With the impending retirement of Chief Mattern, Staff is preparing to initiate an open recruitment for the position of Police Chief at a Tier 1 salary range.

Council Member Grose stated concern that City Manager Plumlee did not believe it was the unanimous feel of the Council to begin recruitment immediately.

City Council and Staff clarified Tier 1 was for current employees and Tier 2 was for new hires.

Council Member Grose clarified the request was to use Tier 1 that is 9% higher than Tier 2, to attract a better candidate.

City Manager Plumlee confirmed.

Council Member Grose stated concerns for manipulation the tier system every time a candidate comes forward. He referred to the cost of surrounding Police Chiefs and felt having the all inclusive cost for the position would be beneficial in making a decision. He stated concerns that recruitment had not begun yet and Council was being asked to use Tier 1. He questioned how the pay and benefits compared.

Council Member Hasselbrink asked if the benefits changed between Tier 1 and Tier 2.

City Manager Plumlee advised the benefits do vary because they are tied to wages. He pointed out the City of Los Alamitos was the second lowest

paid Police Chief in the County and Staff was recommending recruitment at Tier 1 for the Police Chief.

Council Member Grose pointed out Los Alamitos is technically the second smallest City in the County. He questioned if the position would start at Step A or higher.

City Manager Plumlee stated it would depend on the qualifications of the applicant.

Mayor Murphy questioned if Tier 2 would be a waste of time based on Staff's professional opinion.

City Manager Plumlee stated in his opinion yes.

Police Chief Mattern stated Tier 1 would get better applicants.

Mayor Murphy questioned if there would be issues at the Tier 1 salary.

Police Chief Mattern indicated he believed there would. He referred to the Calpacs data and indicated most of this data had gone up since reported.

Mayor Pro Tem Edgar pointed out for the community Police Chief Mattern was retiring and the discussion was at what Tier the new position should be recruited at. He spoke regarding the importance of succession planning and ensuring public safety remains at the current level. He stated full support for the item.

Council Member Hasselbrink stated full support and indicated she would do what she could to ensure safety in the community.

Motion/Second: Edgar/Hasselbrink

Unanimously Carried: The City Council stated support for the recruitment for the position of Police Chief at the Tier 1 salary range.

## **9. PUBLIC HEARING**

### **A. Consideration of an Ordinance Amending Title 15 of the Los Alamitos Municipal Code Adding Chapter 15.06 Permitting Procedures for Small Residential Solar Energy Systems (Development Services)**

Staff recommended that Council introduce the Ordinance adding Chapter 15.06 to the Los Alamitos Municipal Code requiring an expedited, streamlined permitting process for small residential rooftop solar systems. The purpose of the Ordinance is to comply with requirements contained in Assembly Bill (AB) 2188.

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

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

Mayor Murphy stated this ordinance was to adjust to State Law.

Development Services Director Mendoza confirmed.

Motion/Second: Edgar/Hasselbrink

Unanimously Carried: The City Council:

1. Introduced, waived reading in full and authorized reading by title only of Ordinance No. 2015-05, and set for second reading; and,
2. Assistant City Attorney Kranitz read the title of Ordinance No. 2015-05, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA AMENDING TITLE 15 OF THE LOS ALAMITOS MUNICIPAL CODE TO ADD CHAPTER 15.06 PERMITTING PROCEDURES FOR SMALL RESIDENTIAL SOLAR ENERGY SYSTEMS".

**B. Call for Review of Planning Commission Decision Expansion of Crossfit at 10893/10895 Portal Drive in the Planned Light Industrial (P-M) Zone APN 241-241-19 (Development Services)**

Members of the Los Alamitos City Council are authorized to review decisions of the Planning Commission via Section 17.68.040 of the Municipal Code commonly known as "Call for Review". Council Member Hasselbrink has requested such a review of a recent decision regarding a CrossFit establishment.

Council Member Grose advised he would recuse himself for a conflict. He stated the conflict was he owned property within the legal jurisdiction of the subject site. He left the dais.

Development Services Director Mendoza summarized the Staff report, gave a PowerPoint presentation, and answered questions from the City Council.

Mayor Murphy addressed the audience and stated this item was not questioning the character of David Rael-Brook. He pointed out the item was regarding how the City enforces its zoning laws. He requested the audience keep that in mind when they address the Council.

Council Member Hasselbrink stated the City is ran by the General Plan, a document that defines how the City, neighborhoods and business will look. She stated Council empowers Staff to enforce the City's zoning laws and she will always question when a Commission overturns Staff's decision. She indicated she wanted to understand the reasoning and if there were any new facts. After watching the Planning Commission meeting, she believed the Commission decision was swayed by the emotion of the room. She believed this decision would set precedence and she was supportive of ensuring a level playing field for all businesses. She stated support for empowering Staff to the job Council has told them to do and enforce the City's ordinances.

Mayor Murphy opened the Public Hearing.

David Rael-Brook spoke regarding the following topics: clarified the business was a partnership; Council should have received letters of support from neighbors; August 2012 a legal business license was issued by the City and the business entered into finical agreements; October 2012 Staff determined the business to be legal non-confirming use based on Staff error; December 2012 received a copy of the letter for the first time; unaware of the letter, the business had received permission from the landlord to grow the business; assumption was the landlord would ensure legal compliance; addressed the comments of the Planning Commission; urged Council to consider the community; fighting to keep members comfortable and safe, not growth of the business; Planning Commission granted extension for two years; illogical to be close to competitors; goal to keep business in Los Alamitos; understand City Code and guidelines; belief code allowed for growth; requested preservation of the space and permission to stay in the location as long as they continue to serve the City; referenced a similar business that operated without a business license and was later granted permission; and, second business in retail space that would not be large enough or allow for a permit.

Jason Jamison, speaking on behalf of Bernie Cowens, read a letter from Bernie Cowens for the record.

Seth Ecker, business owner and resident of Seal Beach, congratulated David Rael-Brook on his success and going through this process. He pointed out what he thought were several errors in the Planning Commission minutes. He had previously submitted an email to Staff and read from that letter for the record.

Kristen Kemline, resident, compared the gym to the swim school and pointed out they were both locations teaching physical activity. She requested Council take that into consideration.

Mayor Murphy closed the Public Hearing.

Council Member Hasselbrink reiterated her concerns were about the process. She stated the business had wanted to expand, but was not allowed to in its current location. She questioned why Council felt compelled to exempt them from the Code. She questioned how the Council was to set rules and enforce them if exceptions were being made. She stated the wonderful business was not up for debate and indicated there had to be consequences for not following the process.

Mayor Pro Tem Edgar indicated Council had spent time and money over the last five years to approve the General Plan and he had personally only seen two or three appeals during his tenure. He stated frustration the Commission had overturned Staff's decision to uphold the Council's directives. He stated concern for the process. He referred to the time line in the Staff Report. He believed a non-conforming use was a fair compromise for Staff's error. He questioned why the business had not filed a change of ownership. He disagreed a business could expand solely because there was space available. He pointed out the non-forming license was for one address and the business was now occupying two addresses. He questioned what would happen to the business and the unpermitted work done once the Planning Commission's decision expired. He asked David Rael-Brook to clarify the timeline.

David Rael-Brook stated the business is owned by a Limited Liability Corporation created by Bernie Cowens. At the time, Tawnia was a partner and he was a coach. When Tawnia left, he purchased her shares. Notifications were only addressed to Tawnia.

Mayor Pro Tem Edgar questioned where the letters were sent and how they are associated with the business license.

Mr. Rael-Brook indicated they letters were sent to a PO Box and if Tawnia had received the letters, the contents were never disclosed to the business. He pointed out Tawnia was consistently talking about expanding the business.

Mayor Pro Tem Edgar pointed out the business license application was marked no for expansion. He questioned why the business thought it was ok to expand after it had received the non-conforming letter.

Mr. Rael-Brook stated he had gone to his landlord under the assumption he would point them in the right direction. The landlord had moved the wall. The business was not trying to go around the law and had tried to receive a Conditional Use Permit (CUP) which was no longer allowed with the updated General Plan. He indicated the City had granted him a legal

business license four years ago to which financial contributions were made. He requested Council allow them to continue their business.

Mayor Pro Tem Edgar questioned the process with the Landlord.

Mr. Rael-Brook indicated he had approached the landlord when the neighboring tenant left. The landlord had indicated they could have the space and had removed the wall. Other tenants had confirmed the space had previously been one large space.

Mayor Pro Tem Edgar questioned when the City would stop making exceptions for the people who claimed they did not know.

Mr. Rael-Brook understood and reiterated he was not afforded the ability to get a CUP. He believed the code allowed for expansion since it was not outside the footprint of the building.

Mayor Pro Tem Edgar pointed out the non-conforming license was for one address.

Mr. Rael-Brook understood and reiterated the City had given them a legal business license to do business. He indicated the business had grown a little bit and the neighbors did not have an issue. He stated this business was good for the community.

Mayor Pro Tem Edgar stated the business violated the code and he was concerned with the precedence this would set. The General Plan was just adopted and he did not want the first decision made to contradict it. He pointed out this was the second mistake. He did not see a compelling reason other than them being a great business and stated support for getting behind Staff.

Mr. Rael-Brook indicated he had been in business for three years and questioned why other gyms were allowed to get a CUP and e could not.

Mayor Pro Tem Edgar stated each business stands on its own merits. He reiterated the business was non-conforming and questioned Staff non-conforming status was for the business or the address.

Assistant City Attorney Kranitz gave a summary of non-conforming use, allowed only under limited conditions and long term use is discouraged. She pointed out the Code indicated structures are not to be altered without a CUP and indicated the new General Plan did not allow for CUPs in this area. She indicated the overall provisions of Chapter 17.64 were not to expand non-conforming use and to eventually get rid of such uses.

Mayor Pro Tem Edgar questioned the previous City Attorney's grant of non-conforming use.

Assistant City Attorney Kranitz could not speculate as to why it was granted. She stated in her opinion, the appropriate thing would have been to have them apply for a CUP at that time. She pointed out a business license is not equivalent to giving permission to operation. Business license taxes are generally intended to raise revenue. They are not intended to regulate zoning clearance.

Mayor Pro Tem Edgar questioned if a they should have received a second business license when they expanded.

Development Services Director stated they should have applied for a business license with the second store front and when ownership changed. The issue could have been caught at either of those times.

Mayor Pro Tem Edgar and Staff questioned if this would set a precedent.

Mayor Pro Tem Edgar questioned if the building was currently up to code since it did not go through the permitting process.

Development Services Director indicated it was unknown. Currently the use was not allowed. Once that issue is cleared up, Staff could go in and inspect the building.

Mayor Pro Tem Edgar questioned why the Commission had supported the appeal.

Assistant City Attorney Kranitz believed the Commission had got caught up in the highly emotionally charged meeting and had taken the literal language of the Code section in isolation. She indicated a non-conforming use would not be allowed to expand within the building. She strongly recommended the Ordinance be revised and clarified.

Council Member Kusumoto disclosed he had met with Mr. Rael-Brook when considering a gym, but had decided it was not for him. He questioned which specific code sections were violated and if a modification was needed.

Development Services Director Mendoza indicated the applicant's due diligence would have been to get the license and any permits for modification as outlined in Section 17.58. He added that Tawnia had erroneously stated her site was in the CG Zone. Staff had made a mistake because the wrong information was put on the application.

Council Member Kusumoto questioned if it was a five year lease. Mr. Rael-Brook confirmed.

Council Member Kusumoto questioned how then City Manager and then City Attorney had decided upon legal non-conforming use.

Development Services Director Mendoza indicated it was taken out of Staff's discretion and the decision was made by the City Manager and City Attorney.

Council Member Kusumoto indicated he was still struggling with legal justification of legal non-conforming use.

Development Services Director Mendoza indicated the first legal non-conforming was issued because the business was occupying the site, but they would not be allowed to expand. A letter was sent to the business.

Assistant City Attorney Kranitz indicated based on the letter the site granted legal non-conforming use was 10893 Portal Drive.

City Council and Staff discussed that a CUP may have been obtained at that time if legal non-conforming use had not been granted and that the business could not have expanded without a CUP.

Council Member Kusumoto stated letters such as this should be sent via certified mail to confirm receipt.

Assistant City Attorney Kranitz clarified the business was not being asked to leave, only to return to legal non-conforming use configuration. The original address did not need to be closed.

Council Member Kusumoto questioned if there were any objections or protest from the public with Crossfit Recoil obtained it's CUP.

Development Services Director Mendoza stated he did not recall as he did not have the minutes or report in front of him.

Mayor Murphy questioned what a demising wall was and why the swim school was legally there.

Development Services Director Mendoza stated a demising wall was a non-supportive wall used to divide two spaces. He stated the swim school had applied for a CUP and received approval.

Mayor Murphy questioned and received the following information from Staff and Mr. Rael-Brook: a letter was sent to Tawnia by Staff in

December 2012 advising of legal non-conforming use (Mendoza); five year lease for 10983 space, added 10895 in 2014 (Rael-Brook); gym would have to close in 2017 without expansion because there is not enough space for a safe environment and applicant could not afford a larger space (Rael-Brook); applicant unhappy with Planning Commission's decision due to uncertainty after 2017 (Rael-Brook); and, process involved to ensure the building was up to Code and confirmation building fees were not extraordinary (Mendoza).

Mayor Murphy stated a concern for setting a precedent. He would move forward and enforce its rules. Keeping in mind this violation was on a smaller scale, it is an obvious violation.

Mr. Rael-Brook stated he would not have made the investment if he was told the space was not right.

Mayor Murphy questioned how to protect the City and remain fair.

Assistant City Attorney Kranitz suggested rewriting the Code to remove the ambiguity.

Mayor Murphy indicated there was ambiguity and suggested the Code be revised in general, but that would not solve the issue tonight.

Council Member asked when the expansion took place.

Mr. Rael-Brook stated September 2014.

Council Member Kusumoto indicated that Section 17.58.020 requires a zoning permit.

Community Development Director Mendoza confirmed.

Council Member Kusumoto stated mistakes had been made. He stated opposition to the granting of legal non-conforming use. He questioned what would happen if the owner decided not to replace the wall and charge double the rent for the space.

Assistant City Attorney Kranitz believed Code Enforcement would investigate the property owner for not getting proper permits. As a general requirement, it would need to return to the way it was.

Mayor Pro Tem Edgar stated Staff should enforce the policy Council approves and reiterated it sets a bad precedent when the Commission is not supportive of policies and Staff. He indicated he would have a hard time supporting this item.

Council Member Hasselbrink stated opposition to the Director's authority being overturned without compelling evidence.

Council Member Kusumoto stated the City was trying to be business friendly and he did not see this as being business friendly. He stated concern that by not taking the proper action, the business was not afforded the opportunity to file for a CUP. He questioned the City's ability to provide services for other agencies when due diligence was not being done. He believed this use in that area was probably appropriate and stated opposition to being unfriendly to businesses. He stated support for the business to remain where it is and the landlord to rent out the space in the building he owns.

Council Member Hasselbrink questioned the rights of the businesses operating under the City's rules.

Motion/Second: Hasselbrink/Edgar

Motion: Overturn the Planning Commission's decision and uphold Development Services Director Mendoza's decision.

Mayor Murphy was supportive of upholding the Planning Commission decision as it would allow the business two years to make a plan and would not set a precedent for future business. He stated opposition to overturning the Planning Commission's decision.

Mayor Pro Tem Edgar questioned the two year forgiveness for not following the rules and possibility of other businesses requesting the same. He did not believe other business would be supportive as it cost money to follow the rules. He indicated it was the wrong message to send and pointed out the Chamber of Commerce agreed all businesses should be on equal footing.

Mayor Murphy believed this was a unique situation where an existing business expanded. He was supportive of allowing them to finish their lease and updating the Code to remove the ambiguity. He believed it was a rare chance that an expansion into the business next door would occur.

Mayor Pro Tem Edgar stated an address was an address and could not be interrupted to mean the entire business. He did not see the opportunity to grant this on a technicality. He stated support for the General Plan and the foundation it sets for the City over the next 25 years.

Mayor Murphy stated in this case it was a series of errors by Staff and the applicant. Without Staff errors and the Code's ambiguity, it would be the

applicant's error. He stated the unlikelihood that this situation would arise again or that Staff would make the same errors.

Council Member Hasselbrink pointed out if the business had gone through the permit process to expand the space, they would have been told they could not expand at that time.

### **TIME LIMITS**

Per Resolution 2013-09 "Council Meeting Time Limits", City Council considered extending the time limits.

Council Member Grose joined the Council on the dais.

Motion/Second: Murphy/Edgar

Unanimously Carried: The City Council voted to extend the time limits to 10:30 p.m.

Council Member Grose left the dais.

Council Member Hasselbrink agreed the same situation may not occur. She pointed out this was about how Council interrupted the process and not about the businesses. She pointed out the process was not followed and now Council was being asked to allow leeway because the process had not been followed.

Assistant City Attorney Kranitz stated at the time they expanded, the business would have been allowed to apply for a CUP.

Council Member Hasselbrink reiterated they did not go through the process. She stated standard business process is to pull permits to expand. CUPs were no longer allowed and she expressed frustration Council had to compensate for that such. She believed it was being business friendly to have business abide by the same rules every time.

Mayor Murphy recognized audience member Seth Ecker.

Mr. Ecker pointed out the adjacent suite next to his business is vacant and separated by a demising wall that could be demolished tomorrow. He added that Crossfit Recoil had applied for a CUP and became complaint through the process.

Erin Morgan, business owner, stated letters should be sent certified so there's a signature. He believed they were granted a business license with restriction that allowed expansion only in that building. When he moved his business, he updated his information and assumed he was permitted anywhere in the complex. He pointed out the addresses in that complex have been fluid for the past four years with walls being removed.

Mayor Pro Tem Edgar believed that was the problem. Space could easily be rented and walls removed easily. He indicated procedurally the City needed to enforce an ordinance that could withstand true legal challenges.

Mr. Morgan urged the Council to be business friendly and keep the community in mind. He indicated he had rules for his employees, but was also open to hearing new ideas and modifying as needed. He believed the Council had the authority to help this business that had been going through the process for some time now and indicated it would be unfriendly and unfair to stop now.

Mayor Murphy called for the vote.

Assistant City Attorney Kranitz advised a tie vote would leave the Planning Commission's vote in place.

Motion/Second: Hasselbrink/Edgar

Failed 2/2 (Kusumoto and Murphy cast the dissenting vote): Overturn the Planning Commission's decision and uphold Development Services Director Mendoza's decision

Mayor Murphy stated the Planning Commission's motion remains.

Assistant City Attorney Kranitz stated unless another motion is made.

Council Member Hasselbrink stated opposition to overturning Staff's decision and allowing them to stay till the end of the lease. She could support allowing some time to return to the original square footage or moving to a properly zoned area. She was uncomfortable taking no action.

Mayor Pro Tem Edgar questioned if Council wanted to do anything besides support the Planning Commission. If not there was nothing more to do at this point.

Mayor Murphy stated he was not considering any alternatives.

Council Member Hasselbrink reiterated she was uncomfortable taking no action.

Mayor Murphy reiterated it was a series of errors by Staff and the applicant. It would be an easy decision if things were done right to start.

Mayor Pro Tem Edgar questioned the bigger policy and if CUPs should be allowed.

Assistant City Attorney Kranitz stated the General Plan does not allow this land use designation and the zoning is not consistent. The use is strictly prohibited to preserve the industrial zone.

Mayor Pro Tem Edgar stated the importance of having conviction behind your action. He stated a preference for sending the zoning back to the Planning Commission versus overturning decisions one by one. He stated support for addressing the overall policy.

Assistant City Attorney Kranitz indicated if that was the Council's desire there was over a year to address the General Plan.

Mayor Murphy stated Staff should take Council's direction overall versus a case by case basis.

Mayor Pro Tem Edgar pointed out Staff was upholding the law and Council was not supporting Staff.

City Manager Plumlee stated Staff has been business friendly and will continue to work with businesses. He suggested a workshop for the Planning Commission.

Development Services Director Mendoza stated the direction from Council was legal non-conforming uses were to go away and that would be enforced until changed.

Council Member Kusumoto clarified the legal non-conforming use was for the business only and not an entitlement for the land.

Development Services Director Mendoza confirmed.

Mayor Murphy thanked the applicant for coming.

Mr. Rael-Brook questioned the process for changing the zone.

Staff explained the process.

Mayor Murphy advised while he had voted for the business to stay until 2017 fully expecting it to find a more suitable location, he did not believe Mr. Rael-Brook would have support for getting the General Plan amended. He was not discouraging him from trying, but also did not want to see him waste his money.

## **RECESS**

The City Council took a brief recess at 10:05 p.m.

## **RECONVENE**

The City Council reconvened in Adjourned Regular session at 10:18 p.m. All members present at the dais.

## **TIME LIMITS**

Per Resolution 2013-09 "Council Meeting Time Limits", City Council considered extending the time limits.

Motion/Second: Hasselbrink/Murphy

Carried 4/1 (Grose cast the dissenting vote): The City Council voted to extend the time limits to 11:00 p.m.

## **10. DISCUSSION ITEMS**

### **A. Cable Television Commission Powers and Duties and Meeting Frequency (Administrative Services)**

This item is to consider amending the Los Alamitos Municipal Code to modify the Cable Television Commission's Powers and Duties and Meeting Frequency.

Administrative Services Director Al-Imam summarized the Staff report, referring to the information contained therein, and answered questions from the City Council.

Public Comment

Mayor Murphy opened the item for public comment.

John Underwood, Cable Television Commission and community producer, gave his recollection of producing history at LATV and the relationship between the producers, station managers, and commission. He stated support for the Commission remaining the overview body, not subservient to the Station Manager, and reporting to the City Manager.

JM Ivler, resident, spoke regarding the Commission being an advisory board to the City Council. He believed the Commission was there to advise the Council of the community's need and if it was not needed then it should be disbanded.

Mayor Murphy closed the item for public comment.

Council Member Hasselbrink was supportive of keeping the commission and defining its role to be equitable to other commissions.

Council Member Kusumoto indicated the City was embarking on a configuration of having someone run the day to day operations. He questioned the \$3,000 appropriation for the Commission to make grants.

Administrative Services Director Al-Imam confirmed and gave a brief example of the potential grants.

Council Member Kusumoto indicated granting scholarships would be a different expanded role and stated general support.

Council Member Grose questioned the need for two ordinances.

Assistant City Attorney Kranitz stated there was an Ordinance and a Resolution. The Ordinance would be codified into the Municipal Code and the meeting dates were set by Resolution.

Council Member Grose discussed the following topics: concern regarding the Commission no longer reporting to the Council; questioned who would be appointing Commissioners; questioned who would be taking the minutes for the Commission; opposition to \$3,000 in grants without a policy in place; questioned the overtime cost if meetings were changed to quarterly, if the student representative would remain, and who would be developing the airing schedule; Cable Operations Manager becomes the Staff liaison; and, concern on how the Commission functions as advisory to Council.

Administrative Services Director Al-Imam stated only certain subsections of the Municipal Code were being recommended for changing, all other sections would remain, and Council would continue to appoint Commissioners. The Commission would continue to report to Council.

Council Member Grose questioned who would be doing the minutes.

Administrative Services Director Al-Imam advised it would be City staff. Staff overtime would be reduced if the number of meetings were reduced. He advised the Cable Operations Manager would bring back a policy for grants at a later date.

Council and Staff briefly discussed the potential grants and that a policy with vetted details would come back at a later date.

Council Member Grose requested Council wait on the grants and bring it back with the policy. He stated concern regarding the cost of overtime to have a Department Secretary take the minutes and suggested looking into more affordable options.

City Manager Plumlee advised Staff time was being reduced as much as possible and eliminating the Department Secretaries could lower cost. He would only be involved in dealing with the Cable Operations Manager.

Council Member Grose understood Staff had a direction of how to proceed and felt eliminating Department Secretaries citywide may reduce costs overall.

Mayor Pro Tem Edgar stated eliminating the commission all together would reduce further costs, especially in light of the non-support received from some of the Commission Members. He was thankful for the Commissioners, but did not see a point in continuing with the Commission at this point. He stated if the Cable Operations Manager was going to have a chance to thrive, Council should be removed from some of the decisions and allow the Manager to take on the responsibilities and duties. He questioned why the Commission could not be decommissioned now.

City Manager Plumlee advised that would be the Council's decision.

Mayor Pro Tem Edgar expressed frustration for creating a job for a Commission that does not fit the new model of LATV-3 the Council had approved.

Council Member Kusumoto stated the RFP was clear the Station Manager and Commission relationship. He was supportive of the Commission having different roles and council monitoring the relationship before dissolving the Commission. He believed the roles of the Commission could be expanded if the process worked.

Mayor Murphy stated support for sending the item back to the Commission and finding out if they are interested in serving in a reduced role. He wanted to hear what the Commission saw their role as, making it clear they report to the Station Manager, before Council made a decision.

Mayor Pro Tem Edgar opposed asking the Commission first. He believed the Council needed to make a decision and then receive input. He indicated the Council had lacked in giving direction to this point.

Motion: Hasselbrink

Suspend the Commission meetings for six months to all the Station Manager to do an assessment. Council to readdress in six months.

Council Member Grose refereed to the information contained in the Staff report. He stated support for having the Station Manager weigh in on his role and goals. Once the Station Manager established the Commission's role, the Commissioners could weigh in and agree to abide by the new format or they could resign.

## **TIME LIMITS**

Per Resolution 2013-09 "Council Meeting Time Limits", City Council considered extending the time limits.

Motion/Second: Murphy/Kusumoto

Carried 4/1 (Grose cast the dissenting vote): The City Council voted to extend the time limits to 11:30 p.m.

Motion/Second: Hasselbrink/Kusumoto

Motion: Suspend Cable Television Commission meetings until March 2016 to allow the new Cable Manager time to evaluate what is needed.

City Council discussed the \$3,000 for grant funding and decided should the funds be needed an item could come to the Council prior to the six months.

City Manager Plumlee advised with Council's earlier approval van operations and streaming would be kick started. The Cable Operations Manager would have enough direction to get started.

Council and Staff discussed the goal to start filming games as of October 1, pending equipment purchase. Coordination with the High School boosters had already begun.

Council Member Grose referred to funding from item 8F.

Council Member Kusumoto called a point of order and stated the item had already been discussed and if continued discussion was needed the item should be reopened. The item for discussion was the Cable Commission.

Council Member Grose stated he was merely trying to understand Phase 1 and wanted to assure he was on the same page.

Motion/Second: Hasselbrink/Kusumoto

Carried 3/1 (Grose cast the dissenting vote. Murphy abstained): The City Council suspended Cable Television Commission meetings until March 2016 to allow the new Cable Manager time to evaluate what is needed.

### **B. Consideration of Continued Opposition to High Occupancy Toll (HOT) Lanes on the I-405 Improvement Project (City Attorney)**

The possibility of High Occupancy Toll (HOT) lanes on the I-405 continues to be a high priority topic for the Corridor Cities. This is an opportunity for Council to discuss its continued opposition to the project.

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

Mayor Murphy opened the item for public comment.

JM Ivler, resident, stated opposition to the project and supported Staff's recommendation.

Mayor Murphy closed the item for public comment.

Mayor Murphy questioned the difference between Seal Beach filing a legal challenge against the EIR and Long Beach filing with CEQA.

Assistant City Attorney Kranitz advised they were both law suits. Seal Beach filed in Orange County and Long Beach filed in Los Angeles County. Both attorneys had expressed that OCTA and CalTrans had stated they were the only cities that cared and it would be helpful for other cities to go on record as being opposed.

Council Member Hasselbrink stated she had worked on the I-405 Group and many cities were officially opposed to the project. She indicated it was shortsighted of OCTA to say otherwise.

Assistant City Attorney Kranitz suggested other cities should send similar resolutions.

Mayor Pro Tem confirmed this was a non-binding resolution for support and would not obligate the City to a lawsuit. He referred to Townsend and wanted to ensure the City would not be billed. He indicated he may be supportive at another time.

Assistant City Attorney Kranitz confirmed.

City Manager Plumlee confirmed and indicated this was the second resolution of opposition sent by the City.

Council Member Hasselbrink requested staff in Seal Beach be notified.

Assistant City Attorney Kranitz stated the Resolution would be sent to Long Beach, Seal Beach, CalTrans, and OCTA.

Motion/Second: Murphy/Edgar

Unanimously Carried: The City Council adopted the Resolution No. 2015-22, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, SUPPORTING THE LITIGATION FILED BY THE CITIES OF SEAL BEACH AND LONG BEACH AND URGING THE ORANGE COUNTY TRANSPORTATION AUTHORITY TO CONDUCT ADEQUATE ENVIRONMENTAL REVIEW."

## 11. MAYOR AND COUNCIL INITIATED BUSINESS

### A. Council Announcements

**Council Member Hasselbrink** spoke regarding the following topics: City/School Working Group meeting; Promotion Ceremony for John Lathrop; and, congratulated Los Alamitos Baseball team for winning the World Series.

**Council Member Kusumoto** spoke regarding the following topics: National Night Out; City/School Working Group meeting; Los Alamitos Orange County Fair Day; and, wine tasting with the City of Cypress.

**Council Member Gorse** spoke regarding the following topics: list of events attended can be found on [www.losal.net](http://www.losal.net); and, the National Commission on the Future of the Army.

**Mayor Pro Tem Edgar** spoke regarding the following topics: meeting with Brigadier General Reddicks and the future of the pool lease; brief discussion with Staff regarding the status of needed pool repairs and communication with military personnel; upcoming Legislative Mixer hosted by the Chamber; Promotion Ceremony for John Lathrop; and, wine tasting with the City of Cypress.

**Mayor Murphy** spoke regarding the following topics: congratulated the Los Alamitos Baseball team and Brian Gorman; National Night Out; Promotion Ceremony for John Lathrop; Legislative Affairs Committees; and, congratulated colleagues and a productive meeting with good discussion.

## 12. ITEMS FROM THE CITY MANAGER

City Manager Plumlee spoke regarding the following topics: promotion Ceremony for John Lathrop; continued monitoring of SB 506; and, positive meeting with Brigadier General Reddicks.

Mayor Murphy thanked Police Chief Mattern for the Police Swearing in ceremony.

## 13. CLOSED SESSION

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

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9. One case.

Assistant City Attorney Kranitz read the item aloud.

**RECESS**

The City Council recessed into Closed Session at 11:30 p.m.

**RECONVENE**

The City Council reconvened in Adjourned Regular session at 11:37 p.m.

Assistant City Attorney Kranitz stated there was no reportable action.

**14. ADJOURNMENT**

The City Council adjourned at 11:37 p.m.

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Richard D. Murphy, Mayor

Attest:

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Windmera Quintanar, CMC, City Clerk