

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

April 20, 2004

Mayor Duke called the regular meeting of the La Palma City Council to order at 7:00 p.m. on Tuesday, April 20, 2004, in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE

La Palma Tiny Tots led the Pledge of Allegiance to the United States Flag.

INVOCATION

Pastor Sandra Heer with a Fountain of Living Water Methodist Church gave the Invocation.

ROLL CALL:

Councilmembers present: Christine M. Barnes, Kenneth A. Blake, Alta E. Duke,  
Larry A. Herman, Paul F. Walker

Councilmembers absent: None

City Officials present: Catherine Standiford, City Manager  
Jeff Kirkpatrick, Police Captain  
Tami Piscotty, Assistant to the City Manager  
Ismile Noorbaksh, Director of Public Works/City Engineer  
Jan Hobson, Director of Recreation & Community Services  
Dominic Lazzaretto, Director of Community Development  
Joel Kuperberg, City Attorney  
Crystal Wilkerson, Administrative Secretary

PRESENTATIONS

Mayor Pro Tem Blake presented a proclamation, on behalf of the City Council, designating Thursday, April 22, 2004 as Earth Day and Arbor Day in the City of La Palma.

John Melvin, with the California Department of Forestry, presented an Arbor Day flag to the Recreation and Community Services Department.

Pastor Sandra Heer presented awards to the Youth 20/20 Bookmark Contest Winners.

Mayor Duke presented a proclamation, on behalf of the City Council, designating the week of April 19-24, 2004 as RFB&D Record-A-Thon Week in the City of La Palma.

RECESS

Mayor Duke recessed the City Council to convene as the Community Development Commission at 7:25 p.m. (See separate Community Development Commission Minutes.)

RECONVENING

Mayor Duke reconvened the meeting in regular session at 7:30 p.m.

CONSENT CALENDAR

Mayor Pro Tem Blake made a motion to approve the following item on the Consent Calendar:

APPROVED THE APRIL 6, 2004 CITY COUNCIL MEETING MINUTES

ADOPTED RESOLUTION NO. 2004-12 APPROVING A REGISTER OF DEMANDS FOR APRIL 20, 2004

APPOINTED HENRY CHAROEN TO THE COMMUNITY ACTIVITIES AND BEAUTIFICATION COMMITTEE, FOR A FOUR YEAR TERM EXPIRING ON DECEMBER 31, 2007

ADOPTED RESOLUTION 2004-13 APPROVING STREET CLOSURES FOR THREE (3) CITY SPECIAL EVENTS: MEMORIAL DAY, MONDAY, MAY 31; FITNESS RUN FOR FUN, SATURDAY, JULY 3; AND LA PALMA DAYS, SATURDAY, NOVEMBER 13, 2004

RECEIVED AND FILED THE INVESTMENT REPORT AS OF MARCH 31, 2004

REJECTED THE CLAIM SUBMITTED BY GARTH REID

The motion was seconded by Councilmember Walker and carried on the following roll call vote:

AYES: Blake, Duke, Herman, Walker

NOES: None

ABSTAIN: Barnes (Item No. 2)

#### REGULAR ITEMS

#### **7. Amendment to City Code to Create a Procedure for the Issuance and Collection of Administrative Fines for Violations of the City Code**

Director of Community Development, Dominic Lazzaretto, gave a staff report explaining that most Code Enforcement violations are handled through the administrative process of sending various notices to the violator. The first notice includes information of a general nature, the successive notices being stronger in wording and asking that the violator correct the infraction. It is a voluntary notice and the City does not typically go beyond that notice. When this process fails the only option is legal enforcement which would be through criminal complaints, the nuisance abatement process and civil injunctions. All of these options involve substantial time and legal costs and are usually geared towards large scale or heavy code violations which the City doesn't typically have to deal with.

At the Code Enforcement study session that was held in January 2004, the City Council directed staff to develop an administrative citation program to serve as an additional enforcement tool to address minor violations before going to the more significant legal violation corrective actions. The legal authority is established by an administrative process. Section 53069 of the California Government Code provides that local agencies may, by Ordinance, make any violation of the City Code subject to an administrative fine or a penalty. It does require that the local agency establish procedures for the imposition of the fines, for enforcement of the program, and for administrative review of the citations that are issued.

Under the citation process, the designated staff members would issue citations to the violators, similar to the parking ticket process. Then, the fine would either be paid by the violator or

appealed to the City. The fine amount is established by Resolution and the State sets a maximum for the fine at \$100 for the first offense, \$200 for the second and \$500 for each subsequent offense in a calendar year of the same violation. The increasing cost of non-compliance is intended to encourage the corrective actions. The fines come directly to the City's General Fund. With other forms of enforcement the penalties are shared with other agencies such as the Court system and the County. If the violator does not pay the fines that are required, the matter becomes a crime that can be prosecuted in the criminal courts.

As part of this process, City staff conducted a sixteen city survey to review how other Code Enforcement programs are conducted in the area. It revealed that most agencies use a combination of the criminal citation and administrative citation process, with 77% of those surveyed issuing criminal citations, 69% using the administrative citation process and 54% using both criminal and administrative citation processes. The City of Artesia, Brea and Los Alamitos chose not to respond to the survey. Buena Park issues criminal citations and no administrative citations. Cerritos does neither the criminal nor administrative citation process. Cypress uses the administrative citation process. The fines usually settle in the \$100, \$200 and \$500 range.

The proposed Ordinance would both reiterate and clarify the City's existing judicial and administrative processes used and would establish the administrative citation process. It would establish Chapter 3, "Enforcement" of the City Code and it would authorize judicial and criminal citations. The criminal citation authority is similar to a moving violation where there would be a mini court case that would be handled through the court systems. The City is not expecting to use this very frequently since staff time is required to attend the court hearings. This not very cost effective, but has been placed in the Ordinance in case the need arises. The proposed Ordinance also establishes the administrative citation process and a correction notice process for building and zoning violations.

The proposed Resolution designates Code Enforcement officials for the City. This includes the Code Enforcement Officer, Building Official, Director of Community Development, Public Works Technician, Director of Public Works, and any active sworn Police Officer. They may issue citations and may inspect property. These individuals have been chosen since they currently

enforce the Code as a principal function of their job or it is something that is arising due to NPDES and other enforcement options that are available.

The proposed schedule of fines, based on comments received at the Study Sessions, are much lower than the State maximum and lower than the study done. The proposed resolution establishes both standard and non-standard fines. Most violations would be subject to the standard fine structure of \$25 for the first violation, \$50 for the second violation and \$100 for each additional violation within the one year. Non-standard fines are more serious violations and would be subject to a higher fine structure of \$100 for the first violation, \$200 for the second violation and \$500. The non-standard violations include building and safety code violations, fire code violations, public encroachment violations and damage to City property, violations associated with NPDES, certain business licenses, and construction noise violations. Non-standard fines are more expensive due to more effort involved to correct on behalf of the violator. Without the higher rates, the offender would most likely choose to pay the fines instead of making the corrective action that the City would desire.

Under the proposed Ordinance, the alleged violator would have due process. There would be an appeal process. A written appeal would be required within 15 days, at which time an administrative hearing would be conducted by the Director of Community Development. If the Director was considered biased to the matter, an unbiased City Official would conduct the hearing. The hearing is informal, where the violator has the opportunity to present their case and the staff member who has issued the citation can present their case. The hearing official will then make a decision. If the violator still doesn't agree with the decision, they may appeal their case to the Superior Court.

For Building and Zoning code violations, the administrative citation process allows a time period for correction. This would only pertain to violations that were not in immediate danger to public health and safety. The notice period would identify the offense that was alleged and the time period for the correction. Once this time period had passed, the Code Enforcement Official would go and make another inspection. If the item was corrected, there would be no fine imposed. If the issue was not complied with, the fine would become due and payable at that time.

It is expected that approximately 75 to 100 administrative citations would be issued on a yearly basis. This is based on a review of currently opened cases and a number of cases the Code Enforcement staff handle annually. The fiscal impacts would be minimal or neutral in the first year and the following years there would be a small financial gain expected. It is anticipated that the majority of citations would be for the standard fines and the majority of people would make corrective actions and pay their fines prior to going to the second or third tier of the payment schedule. Based on this, there would be approximately \$6,800 annually in revenue. The expenses associated with this process would be the printing of the citations, which would be less than \$500 and could be absorbed in existing Community Development budget line items.

The conclusions that one can make from this presentation are that the update to the City Code reflects the enforcement options available to the City, it will better describe judicial and administrative remedies available to the City, and it will provide the necessary tools to encourage compliance when letters and other notices are not sufficient. It will facilitate some minor cost recovery, it would more officially designate who the Code Enforcement Officials are in the City, it will allow additional staff time for addressing evolving issues and it will provide an increased opportunity for proactive enforcement of more significant Code Enforcement issues.

Staff is recommending that the City Council introduce an ordinance amending the City Code to create Chapter 3, "Enforcement of the City Code" and adopt the supporting resolution to designate Code Enforcement officials and to establish a schedule of fines for administrative citations.

Ralph Rodriguez, 4621 Amberwood Avenue, stated he attended both Study Sessions and maybe had missed a third meeting. He mentioned that he is a little taken back seeing this report, since at the two sessions he attended there was no overwhelming support for an overhaul of the enforcement process. He stated that the majority of the discussion centered on what were the community's concerns and asked were we trying to fix the small problems with a sledge hammer. Some of the cities mentioned in the report have serious parking problems, extremely narrow streets, large attractions in their cities or they are beach communities. This is why parking is a major issue and a lot of the infractions listed are significant. He stated that he doesn't feel that La Palma has these types of problems. The discussions he attended centered on recreational

vehicles. The biggest concern he heard at the Study Session was some of the current policies in the Code don't make sense. One example was that the City encourages residents to move their recreational vehicles to haul a trailer on the street as long as it is moved every 72 hours, but if it is left safely in the driveway for 48 hours, the resident will receive a citation. What he heard from the residents at the Study Session was to fix the City policies first before the City appoints someone to arbitrate and give out fines. When the talk of the serious infractions came up, all residents agreed that this is when the Police Department should be involved. When the serious violators came up, the City should take them to court. He did not hear a huge overwhelming support of just giving another entity within the City the right to give residents a lot of tickets.

City Manager Standiford stated that one thing that the City did include in both study sessions was a recommendation from the staff that the City do something to make Code Enforcement more effective. Staff advised the Council that under the existing Municipal Code, the City has an all or nothing approach to Code Enforcement. The City either has nothing, where staff sends a letter begging and pleading for compliance, and hopefully they do, but no teeth to go further. Or at the extreme, the City can take them to court. One of the issues that staff raised at the first Study Session was a recommendation that the City try to develop something that was in between the all or nothing approach. The process that is being recommended this evening is not intended to imply that our Code Enforcement Officer is going to issue a ticket at every first violation he comes across. The notification and educational process is going to still be an integral part of Code Enforcement as the City envisions it and as it always has been. However, for more routine nuisance/annoyance types of code violations like trash cans or basketball hoops, the intent here is to provide a mid point where, with the \$25 fine, they'll remember to remove these items when letters and education have not worked. In addition, for the non standard fines that constitute potentially serious public health and safety problems, the City would prefer not to take a resident to court in order to obtain compliance and currently the Municipal Code doesn't allow anything else. She stated that Mr. Rodriguez is correct that most of the input from the public was centered around doing something related to parking, but the City also received input from the public that they wanted Code Enforcement to be more effective. Having an administrative civil citation process is one acceptable method in doing this.

Councilmember Walker asked if this new policy will help with this parking situation and residents moving their recreational vehicles every 48 and 72 hours.

Community Development Director, Dominic Lazzaretto stated that this new policy will not affect this problem. At the Study Sessions, the largest direction that staff was given was to study the parking issue in greater detail and this is going to require several more months reviewing what other cities are doing, reviewing the issue in detail and providing the statistical studies that were asked for at that time. This Ordinance will allow the City to issue citations other than for parking.

Councilmember Walker asked if this will be seen as an amendment to the Code as soon as the studies are complete.

Mr. Lazzaretto responded positively and explained that due to the complexity of the situation, there will probably be another Study Session before coming to Council for adoption and approval.

Councilmember Walker asked how long could this be?

City Manager Standiford stated that the dilemma is that staff knows it's an issue, but the City has received as many people calling to say that something needs to be done about the parking situation as the City has received calls from residents asking that nothing be done. Those at the Study Session clearly had a view point, but it is not clear to City staff that this view point is reflective of the community as a whole. One of the reasons why the parking issue is not going to be addressed by the proposed Ordinance is because moving a vehicle within the 72 hour is in compliance with State law. Staff has been asked to provide statistical analysis on the frequency of this happening, and since then, the Code Enforcement Officer on a periodic basis has been flexing his time so he could do a survey and enforcement on other than normal hours. It is really going to come down to whether the community wants the City to establish more stringent parking requirements. This is a very difficult issue and, before coming to Council with recommendations, staff wants to make sure the data is available.

Councilmember Herman asked Mr. Lazzaretto about the list of the Code Enforcement officials and the flexibility of inspecting a resident's property.



Mr. Lazzaretto explained that this would be a follow up situation for compliance with permits and codes. Most of these would pertain to building and safety situations. This does not give an enforcement officer the ability to enter someone's house at will.

Councilmember Herman stated that he does not want to see the City spending most of the time with trash issues. This Ordinance will help expedite those people who don't understand the Code; to understand it better and probably conform. The City will definitely be informing the residents of these new violations and the start date so no one is surprised.

City Manager Standiford stated that, assuming that the Council introduces the Ordinance tonight, it will come back for second reading on May 4, 2004 and go into effect thirty days after that date. She stated that Staff can post information on the web site, but unfortunately the City doesn't have another newsletter going out at any time soon since it just went out to the press for printing.

City Attorney, Joel Kuperberg mentioned that one approach some cities take when they start a new enforcement program is, for a limited period of time, issue courtesy citations letting residents know what the violation is, the procedure for correction and waive the fine if it is corrected within a certain time frame. This is something the City can do administratively without changing the Ordinance if Council wants to.

Mayor Duke asked if Staff could make that a condition.

Councilmember Herman agreed that it sounded like a fair way to handle the new policy. He also asked about the cities surveyed and how come the City of Huntington Beach was up to \$1,000 and Staff stated that \$500 was the maximum.

Mr. Lazzaretto explained that State Law identifies higher amounts for building and safety violations. The General Code, which is the largest section of any city code, are set at \$100, \$200, and \$500 maximum. For Building and Safety violations, cities are permitted to go \$100, \$500, and \$1,000 or \$200, \$500, and \$1,000. Huntington Beach chooses to use the higher level and the \$1,000 would only be allowed to be used toward building and safety violations.

Mayor Pro Tem Blake stated that the City needs to inform the public with warning citations to eliminate the repeat offenders for the minor issues.

Councilmember Barnes asked about the occasional trash offender, and what would be the letter procedure before fines were enforced.

Mr. Lazzaretto stated that, with trash can violations, the Code Enforcement Officer would see the cans out one day or two days after the scheduled pick up and confirm that there was a violation the second week before he sent his first letter. The first letter will inform the resident that there is a possible violation and give them a warning. The second letter states that there is a specific violation and to please correct it. If the proposed Ordinance is passed this evening, with the second letter there will be a warning letting the resident know of a fine that will be charged if the violation isn't corrected. Even with a building violation the City would go through a notice and letter process before fining the resident.

Mayor Pro Tem Blake asked if the resident is showing that they are trying to take care of their violation, would the City hold off in sending those fines.

Mr. Lazzaretto responded positively.

Mayor Duke asked about the issuance and deliverance of the citation. She thinks that posting the notice on the property is a weak point and it leaves the resident an opportunity to state that they never received it.

City Manager Standiford stated that the sub-standard housing code requires this type of posting. This is mainly for the people who are living in the building that they need to know of the violation.

City Attorney, Joel Kuperberg, stated that within the Ordinance proposed this evening, it states that the notice has to be given by personal service, registered or certified mail, or by both posting a copy on the property in a conspicuous place and mailing. So the City would never just post at the home but the City would also mail. Oftentimes there are violations that aren't required by law

to be posted and if there is a belief that the property is abandoned or no one is answering, posting is the last option for the City to inform the resident.

Mayor Pro Tem Blake made a motion to introduce an Ordinance amending the La Palma City Code to create a procedure for the issuance and collection of administrative fines for violations of the City Code and to adopt a Resolution designating certain employees as code enforcement officials and adopting a Resolution establishing an administrative citation schedule of fines pursuant to Section 314 of the La Palma City Code. The motion was seconded by Councilmember Barnes and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

**8. PERS Contract Amendment for Survivor Benefits**

City Manager Standiford explained that this is an Ordinance which would start the process for amending the contract with the California Public Employees' Retirement System to add Level Four Survivor Benefits for employees. This is an agreement within the memorandums of understanding executed with the groups and at the last meeting the City adopted a Resolution of Intent.

Councilmember Barnes introduced by title only, waiving further reading, of an Ordinance of the City Council of the City of La Palma Authorizing an Amendment to the Contract between the Board of Administration of the California Public Employees' Retirement System and the City Council of the City of La Palma. The motion was seconded by Mayor Pro Tem Blake and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

**9. Red Ribbon Week**

City Manager Standiford explained that staff has listed this item on the agenda tonight since Red Ribbon Week is a program that the City has traditionally supported. The City is prepared to support it again as part of next year's budget. Historically, a member of the City Council chairs Red Ribbon Week. Staff is requesting that the City Council discuss the continuation of this event and if it wants to continue, to appoint someone to chair the event. Second, City Staff wishes to confirm the level of involvement that the Council wants the City to have. Staff is not requesting that they decrease the amount in the budget, but to see the volume of events that the Council would like prepared for the schools. Last year's involvement was to coordinate the general assemblies at the school with the Police Department and Fire Station; the City provided the decorations for the schools and a Red Ribbon Week challenge. The primary staff person who has been involved with Red Ribbon Week for a number of years, Crystal Wilkerson, but she will be on maternity leave when Red Ribbon Week comes around this year. The City is prepared to provide a similar level of staff support using other staff resources, but given Crystal's incredible knowledge and institutional history with the Red Ribbon Week program, if Council wants to do something significantly more than last year then staff needs to talk about this now and the impact it might have on other staff members. Crystal is prepared if Council wants to participate at the same level this next year and order supplies and everything else she can possibly take care of now, and make sure the other staff members have adequate information and training.

Councilmember Barnes volunteered to be chair for this event. She feels with La Palma's financial uncertainty with the State, the involvement should be the same as last year.

Councilmember Herman stated that he had a minor roll last year and that Crystal Wilkerson was the one who made the program successful. He asked if the City received any feedback from the schools in regards to the City's involvement last year and was it acceptable.

City Manager Standiford said that the City didn't receive much feedback, but the schools appear very grateful for whatever the City can provide.

Councilmember Herman suggested that the City keep the event at the same level as last year. He stated that Crystal should be starting to train someone to take that responsibility and there are very capable people who work right around her. He would also like to see someone else share the responsibility.

Mayor Duke stated that there are three councilmembers who have a little more time available and why not each one of them take an elementary school to represent during the event and to be there for their special days.

City Manager Standiford stated that the event isn't until October. She clarified that Councilmember Barnes will chair the event, with Councilmember Herman and Mayor Duke being available for their chosen school to be present at their assemblies. Crystal will work with her successor and purchase the supplies and the coordination aspects of the assemblies. She suggested that a meeting be scheduled with Councilmember Barnes, Crystal Wilkerson, and maybe one of the other councilmembers to review what was done last year. All councilmembers can be present at this meeting, but the City would need to post it as a special meeting due to the Brown Act.

COUNCILMEMBER REPORTS FROM CITY-AFFILIATED COMMITTEES/COUNCIL REMARKS

Councilmember Walker reported that the ground water replenishment pipeline for the return flow up to the Anaheim basins is 2/3<sup>rd</sup> of the way completed. He also stated that the price of steel has gone up and, due to this; the project has increased 28 million dollars. The project is expected to be completed in 2007.

Councilmember Herman attended the Orange County Vector Control District meeting, and they voted on whether to seek a benefit assessment increase. The vote was 24 to 3 to proceed. The OCVCD is receiving \$1.92/year and they would like to increase it to \$8.00. This vote will be by all property owners in Orange County and will cost the District close to \$600,000 to proceed with the vote. The consultant feels that the people are favorable for the increase to fight the West Nile Virus for mosquitoes and there is a strong possibility that the red imported fire ant program will come back. He asked Mr. Noorbaksh if he heard of any new information when his two employees attended the training session. Mr. Noorbaksh stated that they never informed him of any new information. Councilmember Herman reminded everyone about Relay for Life on June 25 & 26<sup>th</sup>.

Mayor Pro Tem Blake attended the City Selection Committee Meeting serving as the City's representative. One issue that came up was changing the Chair for excessive absences and the City Selection Committee is through the League, but is administered by the County. The County representative stated that there were no provisions to eliminate the chair. The other item brought up for discussion was term limits for certain committees that are selected by the City Selection Committee and the OCTA representative. They Mayor of Santa Ana are termed out and want to stay on the Board. It was agreed that there would be no more than ten consecutive years. Mayor Pro Tem Blake updated everyone about the fire fighters who are currently over in Iraq and the Board of Directors has bridged the gap for the salaries and benefits between what they would be normally getting working out of a station and military pay. He asked if staff could look into the fence at the old Mobil Station.

Mr. Lazzaretto stated that now that the Council has adopted the new Code Enforcement Policy, they can enforce this issue. There have been a series of letters sent to the property owner and he has been in contact with the real estate agent that is representing this property and will continue to send letters and now fines.

Mayor Pro Tem Blake stated that since Buena Park allows recreational vehicles to be parked on their properties, during their street sweeping day the residents move their vehicles along Furman causing hazards. He stated that it is impossible for vehicles to see people walking across the green belt and the people see the traffic. He asked if there was any way the City can paint the curb red 20 feet on both sides of the green belt.

City Manager Standiford stated that staff will look into the issue.

Councilmember Barnes stated that the group she has put together for the Relay for Life are putting together the luminaries for survivors and individuals who have passed on due to cancer.

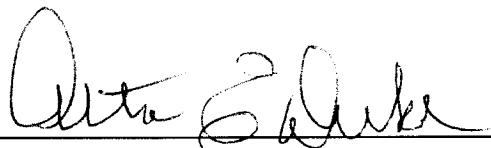
Mayor Duke attended the Survivors of Murdered Children event. Todd Spitzer was there and made a presentation and stated that he cannot get anyone in the Legislature to listen to any kind of law that would give victims rights and is frustrated. She also attended a foundation dedication for the Kennedy Performing Arts Center. She also attended the second meeting for Centralia. They are in the process of forming a foundation and their object is to get the Fine and Performing Arts in the school curriculum. They are expecting a five year plan. The music will be the first push focusing on the fourth, fifth and sixth grades. They are hoping to implement it January of the next school year. Mayor Duke recognized Henry Charoen as the new CAB Committee member that was approved for appointment this evening. She stated that he is one person who believes in volunteerism and has stepped up to the plate on several occasions to assist in events.

#### CITY MANAGER COMMENTS

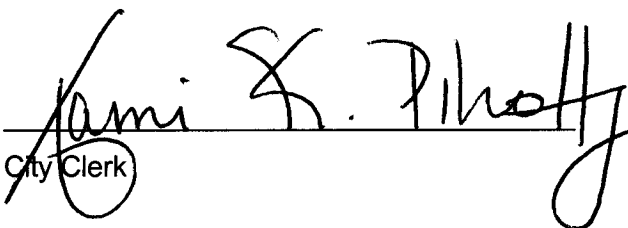
The City Manager announced that thanks to a lot of hard work, the local initiative has qualified for the November 2004 ballot, with over one million signatures gathered.

ADJOURNMENT

Mayor Duke adjourned the meeting at 8:40 p.m. until the next scheduled meeting on May 4, 2004.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk