

MINUTES OF THE REGULAR MEETING
OF THE LA PALMA CITY COUNCIL

August 17, 2004

Mayor Duke called the regular meeting of the La Palma City Council to order at 7:10 p.m. on Tuesday, August 17, 2004, in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE

Mayor Pro Tem Blake 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
Ed Ethell, Chief of Police
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 and the City Council presented certificates to the Minor and Major League team members for recognition of Continental Little League All Star Team sweeping the All Star Tournament play.

ORAL COMMUNICATIONS

Bill Coil, 5307 Achilles Circle, mentioned the poor mail service in the City, and asked if the City Council could help with this issue.

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.)

Mayor Duke recessed the Community Development Commission at 7:30 p.m. to convene as the Planning Commission.

JOINT PUBLIC HEARING (Convene City Council)

PL-2 **Joint Public Hearing for General Plan Amendment 2004-01, Zone Change 2004-01, Tentative Tract Map 16736, and Precise Plan 262, Requesting Approval for the Construction of a 20-Unit Residential Condominium Project at 5052, 5062 and 5082 La Palma Avenue**

City Manager Standiford stated that this was a continued public hearing from July 6, 2004 and July 20, 2004. At the July 20th meeting, Council directed staff to look at developing a separate or new zone that is less dense than the R-3 but more dense than R-1.

City Manager Standiford reported that the City has received correspondence from one property owner advising that they have terminated their relationship with the developer. In addition, the developer has submitted a request for a 60-day continuance to allow time to resolve some disputes with the property owners.

Since the July 20th meeting, staff has also realized that if the core issue is that the R-3 zoning standards are too broad in range, then perhaps the City Council may want to consider directing staff to go back and clarify the R-3 zoning to create more of a relationship between levels of density and property sizes.

City Manager Standiford recommended that the Council continue the public hearing for 60 days and direct staff to come back with modified standards for the R-3 zone that create a clearer relationship between various levels of density and parcel sizes.

Mayor Pro Tem Blake discussed the parking issues, and expressed concern that the City isn't requiring enough parking. He would like to see the City require one parking space per bedroom up to a maximum of three.

City Manager Standiford stated that staff could definitely incorporate that as part of the review and recommendations.

Carl Erickson, 5832 Crestview Circle, requested that the R-3 modified changes be brought back to the City Council within 30 days.

Mayor Pro Tem Blake asked staff if it was possible to complete their recommendations within 30 days.

Community Development Director, Dominic Lazzaretto stated that it was possible but it would be preferable to have 60 days.

Commissionmember Herman made a motion to continue the public hearing to September 21, 2004. The motion was seconded by Commissionmember Walker and carried on the following roll call vote:

AYES:	Barnes, Blake, Duke, Herman, Walker
NOES:	None
ABSENT:	None

It was the consensus of the City Council that staff should recommend changes to the R-3 zone to create more of a relationship between levels of density and property sizes.

RECONVENING

Mayor Duke reconvened the City Council meeting in regular session at 7:45 p.m.

CONSENT CALENDAR

Councilmember Walker moved to approve the following items on the Consent Calendar:

ADOPTED RESOLUTION NO. 2004-34 APPROVING A REGISTER OF DEMANDS FOR AUGUST 3, 2004 AND AUGUST 17, 2004

RECEIVED AND FILED THE INVESTMENT REPORT AS OF JUNE 30, 2004

APPROVED THE ATTENDANCE OF THE FOLLOWING COUNCILMEMBERS AT THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE, SPETEMBER 17-19, 2004 IN LONG BEACH: MAYOR ALTA DUKE, MAYOR PRO TEM KEN BLAKE, AND COUNCILMEMBERS CHRISTINE BARNES AND PAUL WALKER. DESIGNATED MAYOR ALTA DUKE AS THE CITY OF LA PALMA'S VOTING DELEGATE AT THE LEAGUE'S ANNUAL CONFERENCE, AND MAYOR PRO TEM KEN BLAKE AS THE ALTERNATE VOTING DELEGATE

APPROVED RESOLUTION 2004-36 APROVING THE ANNUAL DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PLAN FOR THE CITY OF LA PALMA

APPROVED AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT BETWEEN THE CITIES OF BUENA PARK AND LA PALMA FOR IMPROVEMENTS OF LA PALMA AVENUE AT VALLEY VIEW STREET, CITY PROJECT NO. ST-267

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

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

Councilmember Walker moved to approve the following item on the Consent Calendar:

APPROVED THE JULY 20, 2004 CITY COUNCIL MEETING MINUTES

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

AYES: Barnes, Duke, Herman, Walker

NOES: None

ABSTENTION: Blake

REGULAR ITEMS

Item 5 **Rejection of Claim**

City Manager Standiford stated that it is recommended by City Staff and the City's claims management firm, Carl Warren and Company that the Council reject the claim filed by James Fredette related to alleged damage to their property. The claim has been investigated, and the third party administrator is recommending denial.

Councilmember Herman asked how old the El Rancho Verde development was.

City Manager Standiford stated that this tract was constructed in 1968/69.

Councilmember Herman asked if the City knew who the developer was.

City Manager Standiford responded negatively and stated that it was developed in the City of Cerritos so the entitlements were processed through Cerritos.

Councilmember Herman asked the City Attorney if the developer would have any liability concerning this issue.

City Attorney, Joel Kuperberg, stated that if it were found that something the developer did caused damages, and assuming the developer still existed, the developer could be found liable.

Mr. Jay Vaswani, 4552 El Rancho Verde Drive, asked to distribute a power point presentation prepared by the City of Cerritos that provides pictures of potholing that was done in front of his and his neighbors' homes. He stated that according to the City Engineer of City of Cerritos, there has been a slip in the joint from ¼ inch to 2 inches, and he feels that this is the exact problem that the Fredette's home is encountering. He asked the City to take proactive measures to do something about fixing this displacement instead of being reactive. Mr. Vaswani also expressed concerns about the City of La Palma's care and maintenance of the sewer line, and the apparent lack of CCTV service to the lines. He stated that a CCTV review of the lines should be part of the process to develop the City's sewer master plan.

Mayor Duke explained that because this item could be a litigation matter, the City Council can listen, but not discuss or respond directly to this issue. She asked the City Attorney to confirm this.

City Attorney Joel Kuperberg, explained that Council can ask questions of staff on typical agenda items when members of the public come and provide input. Because a claim is a precursor to filing a lawsuit, both the insurance company and attorney recommend that the City Council not discuss the merits of the claim with either the claimant or with people who may be joining in with that lawsuit.

Councilmember Herman asked if the water line and the sewer line were installed first before the laterals.

City Engineer, Ismile Noorbaksh, explained that normally all the utilities are installed first so they can be used by the developer during construction.

Councilmember Herman asked who is responsible for the laterals from the sewer line to the house.

City Manager Standiford stated that it is the homeowner's responsibility for maintenance and repair of lateral lines from the point of connection at the house to the point of connection to the sewer line in the street. The City of Cerritos follows the same policy.

Mr. Jay Vaswani, 4552 El Rancho Verde Drive, asked for written documentation of the policy. He referred the City Council to a section of the California Code, adopted in 1974, that states that the separation between water and sewer lines be at least one foot. He disputed the Public Works' Director's opinion that water and sewer utilities are installed first.

Councilmember Walker asked which Code this was and where he was reading from.

Mr. Vaswani stated that it is from the California Code of Regulations addressing a 1 foot vertical separation of the water main and sewer crossings, State of California Department of Health Services Records.

City Attorney, Joel Kuperberg, explained that this appears to be a section from the California Code of Regulations, promulgated from different State agencies to help implement State statutes. He stated that many of these Codes were promulgated in the 70's and 80's, and that it is unclear that this provision or anything like it existed in the late 60's when the development was constructed. He further explained that, like the Uniform Building Code, such regulations and statutes are applied prospectively to new construction.

Mr. Jay Vaswani stated that when the City entered into a Joint Powers Agreement in 1968 the City agreed at that time to take over the maintenance based on certain Codes and requirements.

Councilmember Herman asked if the sewer and water lines were put in by the developer or the City.

City Engineer, Ismile Noorbaksh, replied that all the lines, including sewer main, water, or lateral sewer, were put in by the developer.

City Manager Standiford explained that the Joint Powers Agreement that Mr. Vaswani referred to specifies that the developer was to follow La Palma's standards, with entitlements granted by the City of Cerritos. The installation of utilities was not done by the City of La Palma.

Mr. Jay Vaswani, stated that he feels the City of La Palma is still responsible. He requested that the City send him copies of all related staff reports on this topic.

Ms. Luanna Cancino, 4592 El Rancho Verde Drive, Cerritos, expressed concerns regarding the potholes that were used to display the sewer lines. She feels that the potholes were repaired poorly and wanted to know who was responsible for repairing the street, and when they would learn who was really responsible for the lines.

Mayor Duke asked about the streets and the surveys.

City Manager Standiford stated that according to the original agreement from 1967 between the City of Cerritos and the City of La Palma who is responsible for the maintenance of the street doesn't appear to be specified by the agreement.

City Engineer, Ismile Noorbaksh explained that the street belongs to and is maintained by the City of Cerritos. However, as a courtesy, when the City of La Palma has had a slurry sealing or resurfacing project in the vicinity, staff has contacted the City of Cerritos to ask if they would like for La Palma to proceed to slurry seal or resurface this section of Cerritos. The City of Cerritos has always cooperated and has paid the City of La Palma for their share of the project cost. Mr. Noorbaksh explained that the patches are standard and normally are left alone as long as they haven't settled. However, if the City of Cerritos rehabilitates the street, they will grind down the patch and then replace all of the asphalt.

Councilmember Walker asked when that section of La Palma was due for slurry seal.

Mr. Noorbaksh stated that such a project would be scheduled within three years.

Councilmember Walker questioned if the sewer lines were inspected by a private company.

Mr. Noorbaksh replied affirmatively, stating that every other year the City cleans out half of the sewer system.

Councilmember Walker asked if videotaping is done while the pipes are being maintained.

Mr. Noorbaksh stated, that videotaping has not been done for all of the sewer lines due to the cost involved. He explained that seven or eight sections of the community have "hot spots" where there have been historical sewer overflows, and that these areas have been videotaped blem. As part of the Sewer Master Plan, Agenda Item 6, the Council has funded \$40,000 in the Capital Improvement Plan to videotape the sewer system.

Ms. Lorraine Fredette, 4572 El Rancho Verde Drive, described the damage to her home as a result of the problem with the sewer line, and the cost involved in repairing it. She explained that she doesn't want this to happen to anyone else, and expressed concerns about the condition of the lines. She asked why the line was not maintained and why are they responsible to fix something that is off of their property. She stated that the original builder of the homes is no longer in business. Mrs. Fredette said she doesn't understand why her claim is being rejected, and that no one from the City has met with her or contacted her.

Ms. Lucy Flores, 4592 El Rancho Verde Drive, referred to a letter from the La Palma City Manager that she received on July 12, 2004. She said she is very upset that no one has bothered to do anything mentioned in the letter.

Mr. Joel Kuperberg again explained that this is a claim is the first step in a lawsuit, and that the City has received direction from its risk management firm to not discuss the substance of the claim since it is in a litigation-type setting.

City Manager Standiford explained that the letter to Ms. Flores indicated that she would be contacting them with a proposed meeting date after the investigation had been completed and a decision regarding the disposition of the claim against the City of La Palma was finalized. Once the the Council takes action on the claim, City officials will be in contact with the residents through Ms. Flores. The third party administrator is recommending denial of the claim because the investigation indicates that the City does not have liability for the Fredette's problem.

Mr. Wenchi Lu, 4581 El Rancho Verde Drive, reported a problem he had last year with his water main. He had to pull a City permit in order to hire a contractor to fix the problem, and at that time, the contractor fixed it pursuant to the current Code's regulations. He wondered why, when the City exposed the lines, and saw the problem, why they just ignored it and covered it back up.

Mr. Benny Wasserman, 4571 El Rancho Verde Drive, stated that the last thing Mr. Fredette wants is to file a lawsuit, but he feels Mr. Fredette is being forced into a lawsuit.

Councilmember Herman asked whether all of the potholes have been filled in.

Mr. Noorbaksh explained that after the sewer lateral line broke at the Fredette's, the City of Cerritos potholed different locations on the street to find out the clearance between the lines. All of the potholes have been filled in. He stated that he has requested information from the City of Cerritos from the potholing study, but it has not yet been released to the City of La Palma.

Councilmember Herman made a motion to reject the claim submitted by James Fredette. 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

Item 6 **Preparation of Sewer Master Plan**

Councilmember Barnes made a motion to approve and authorize the Mayor to execute an Agreement with SA Associates of Arcadia, California, in an amount not-to-exceed \$73,000.00 for Professional Engineering Services for the preparation of a Sewer Master Plan, City Project No. 03-SWR-01, authorized the Director of Public Works to file a reimbursable matching Cooperative Projects Grants Application with the Orange County Sanitation District, and approved a supplemental appropriation in the amount of \$40,000 from the Sewer Capital Reserve Fund. 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

Item 9 **Ordinance to Amend Section 8-5(a) of the La Palma Municipal Code Pertaining to the Register of Demands**

City Manager Standiford explained that this ordinance will allow staff to simplify the register of demands. With this change, staff will be able to provide a register of demands that looks like a normal check register, but will still identify vendors and amounts to be paid.

Councilmember Herman made a motion that the City Council introduce, by title only, waiving further reading an Ordinance of the City Council, of the City of La Palma Amending Section 8-4(a) of the La Palma Municipal Code Pertaining to the City's Register of Demands. The motion was seconded by Councilmember Walker and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

Item 10 **Ordinance to Establish Fats, Oils and Grease Control Regulations Applicable to Food Service Establishments**

Community Development Director, Dominic Lazzaretto, explained that fats, oil and grease (FOG) tend to cause blockages in the sanitary sewers of the system, which then causes overflows, threatening local water quality. The Water Quality Control Board requires that each City develop a FOG control program by the end of the calendar year. The proposal will add Article 2 to Chapter 21 of the Municipal Code.

Community Development Director Lazzaretto reviewed the main provisions of the proposed ordinance including the requirement for each food service establishment to have non-transferable FOG Wastewater Discharge Permit, install a grease interceptor, implement Best Management Practices to prevent sewer overflows, and allow periodic monitoring and inspection by the City.

The ordinance contains provisions for conditional waivers and/or the payment of a mitigation fee for cases where the food service establishment is unable to install a grease interceptor.

Staff is not recommending the establishment of a FOG Permit fee until costs for running the FOG program have been determined. Staff is recommending that the mitigation fee be established at \$780, which represents the additional cost for the City to clean and maintain the lines on the food service establishment's behalf.

Under the Ordinance, food service establishments must immediately notify the City and the County Health Department of any spill and provide written confirmation of what happened within five days of any incident. Enforcement of the ordinance is provided by the City's new Chapter 3 of the City Code, "Administrative Fines and Abatements."

Councilmember Herman asked how many food service establishments are in La Palma.

Mr. Lazzaretto stated that approximately 30 to 40 will need to get a permit and five would need to install an interceptor.

Councilmember Barnes asked when staff will start educating the food establishments.

Mr. Lazzaretto stated that within 60 days, the City will hold a kick off meeting. Staff also will develop a sheet of frequently asked questions for future businesses.

Councilmember Walker made a motion that the City Council introduce, by title only, waiving further reading an Ordinance of the City Council, of the City of La Palma, Adopting Fats, Oils and Grease Control Regulations Applicable to Food Service Establishments. The motion was seconded by Councilmember Herman and carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

11. **Review of Donation Request Received from Continental Little League**

City Manager Standiford reported that Continental Little League is asking for a donation to help purchase new All Star Team uniforms. City Council Policy #38 gives guidance on processing of requests for contributions or donations from the City of La Palma, however the policy is unclear in terms of how it should be applied to this particular request. In responding to this request, the Council may either appoint a subcommittee of two councilmembers to review and make recommendations on the request or deny the request. She reminded that Council that most of the funding requests from non-profit organizations have been related to capital improvements, and that the City has allocated \$26,000 to assist the Anaheim Union High School District in reconstructing the parking lot at Walker Jr. High School and the realignment of the drive approach, which will benefit Continental Little League.

Councilmember Walker asked if the City could work with the Chamber of Commerce by ask them to forgo one of their monthly installments.

Mayor Pro Tem Blake asked if the La Palma Community Foundation has money they could donate.

Mr. Randy Larschied, Continental Little League Information Officer, 5051 Decatur Drive, stated that the Foundation gave them money towards their snack bar. A new request to the Foundation is pending. He explained that the uniforms are returned by the players every year.

Mayor Duke asked if the \$750 would cover both teams with new uniforms.

Mr. Larschied responded positively.

Mayor Duke asked Mr. Larscheid if he has heard of the Olympic Fund from the 1984 Olympics. It is used for youth sports.

Mr. Larschied stated that was not familiar with the Olympic fund, but that he has also contacted the Angels for support.

Councilmember Barnes suggested that he publicize their needs in the local newspaper.

Councilmember Herman expressed concern about setting a precedent, recalling that after the City gave money to Miller Elementary School for playground improvements, Los Coyotes and Luther Elementary Schools asked for the same thing. He feels that the Little League should look for other funding sources that are available.

Mayor Pro Tem Blake explained that the Miller School project was in consideration for the use of their school for La Palma's Day Camp.

Councilmember Walker asked if Continental Little League was trying to get the funds for before the end of this season.

Mr. Larschied stated that the uniforms would go to next season's players.

Councilmember Walker stated that he would like to see the Council Policy committee discuss this further before a decision is made.

Councilmember Walker made a motion for the existing Council Policy Committee to review the request of a donation to the Continental Little League. 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

12. **Support for Proposition 1A**

City Manager Standiford explained that this is a resolution supporting Proposition 1A, an initiative to protect local taxpayer revenue sources in return for two years of contributions by local government to balance the state budget. It is intended to supercede Proposition 65.

Councilmember Barnes made a motion to Adopt Resolution 2004-37 supporting Proposition 1A, Californians to Protect Local Taxpayers and Public Safety. 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

COUNCILMEMBER REPORTS FROM CITY-AFFILIATED COMMITTEES/COUNCIL REMARKS

Councilmember Barnes attended the JPIA annual meeting where the City of La Palma was presented an award for most improved Workman's Compensation Program. The result is that the City's rates will decline. She also attended the Orange County Fire Authority Barbecue and reported that Mayor Pro Tem Blake was elected as the new OCFA Chair. She also attended the League of Cities conference in Monterey and stayed for the redevelopment seminar.

Mayor Pro Tem Blake attended the Open House for the Regional Operations Training Center and approved the OCFA's Ambulance contracts. He congratulated Ed Ethell as the new Chief. He also asked the Chief to thank Sergeant Nunez and Sergeant Halstead for locating him when his son was involved in a recent car accident.

Councilmember Herman stated that, with the high volume of calls that the Orange County Vector Control District has been receiving on the West Nile Virus, they have had to neglect other rodent

response issues, like rats. He asked Mr. Lazzaretto how the Stepping Stones Preschool and 10-unit single family home project at Moody and Crescent were coming.

Mr. Lazzaretto stated that both the Moody/Crescent homes and Stepping Stones are in the process of formally designing their architectural plans. With regards to Stepping Stones and whether or not a soils report was done, Mr. Lazzaretto reported that staff could not locate any report on soil testing, so it is being required as part of this expansion.

Councilmember Herman asked how the old Denny's Restaurant project is coming along.

Mr. Lazzaretto stated that they are under construction and are in the process of putting in the utilities and infrastructure.

Councilmember Walker asked if they were installing a grease trap.

Mr. Lazzaretto replied that they were installing a grease interceptor, not a grease trap.

Councilmember Walker attended the Councilmember and Mayors Conference for the League of California Cities.

Mayor Duke attended her first and last Councilmember and Mayors Conference for the League of California Cities. One workshop was on the Brown Act and the other was on the issue of public rights of way and cable companies.

CITY MANAGER COMMENTS


City Manager Standiford mentioned that this is Crystal Wilkerson's last Council meeting as the minutes clerk and her last expected working day is September 3, 2004. She reminded the Councilmembers who are involved with Red Ribbon Week to see Crystal in the next two weeks. She thanked Crystal for her hard work taking minutes and wished her and baby, Lyndsie, a happy delivery.

CITY ATTORNEY COMMENTS

City Attorney, Joel Kuperberg, wished Crystal Wilkerson best wishes.

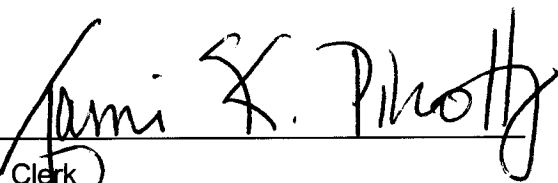
ADJOURNMENT

Mayor Duke adjourned the meeting at 9:20 p.m. until the next scheduled meeting on September 7, 2004.



Mayor

ATTEST:



City Clerk