

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

October 5, 2010

CALL TO ORDER: Mayor Shanahan called the Regular Meeting of the La Palma City Council to order at 7:00 p.m. in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE: Councilmember Waldman

INVOCATION: Mayor Pro Tem Rodriguez

ROLL CALL: Council and Commission Members

Council/Commission Members present: Council/Commission Member Charoen, Council/Commission Member Herman, Mayor Pro Tem/Vice Chairperson Rodriguez, Mayor/Chairperson Shanahan, and Council/Commission Member Waldman

Council/Commission Members absent: None

City Officials present: Dominic Lazzaretto, Executive Director/  
City Manager  
Joel Kuperberg, City Attorney  
Douglas Dumhart, Community  
Development Director  
Ed Ethell, Chief of Police  
Jan Hobson, Recreation & Community  
Services Director  
Jeff Moneda, Public Works Director/City  
Engineer  
Keith Neves, Finance Director  
Laurie Murray, Administrative Services  
Manager/City Clerk  
Kimberly Kenney, Minutes Clerk

## PRESENTATIONS

1. Mayor Shanahan presented a proclamation to Battalion Chief Mike McCoy of the Orange County Fire Authority in recognition of the week of October 3 through 9, 2010, as Fire Prevention Week.
2. Mayor Shanahan presented a proclamation to Sergeant Raul Morales declaring the week of October 17 through 23, 2010, as Red Ribbon Week.

## ORAL COMMUNICATIONS

No members of the public wished to speak.

## RECESS THE CITY COUNCIL AND RECONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION AT 7:11 P.M.

## CONSENT CALENDAR

- A. Approval of Community Development Commission Minutes

Minutes of the September 7, 2010, and September 21, 2010, Regular Meetings of the La Palma Community Development Commission.

- B. Approval of Register of Demands

Resolution No. CDC 2010-22 approving the Register of Demands for October 5, 2010.

Commission Member Charoen made a motion to approve Consent Calendar Item A and B.

The motion was seconded by Commission Member Herman and carried on the following vote:

AYES: Commission Member Charoen, Commission Member Herman, Vice Chairperson Rodriguez, Chairperson Shanahan, and Commission Member Waldman

NOES: None

## ITEMS PULLED FROM CONSENT CALENDAR

### C. Consideration of Fats, Oils, and Grease (FOG) Mitigation Incentive Program for Food Service Establishments

Executive Director Lazzaretto asked to have the Agenda Item pulled as it was a Regular Item that was mistakenly put on the Consent Calendar.

- a) Community Development Director Dumhart gave the Staff Report
- b) Public Input

Gerard Goedhardt, 4922 Berton Circle, addressed the City Council to state that the item wasn't noticed properly due to an inadequate description on the Agenda and to express his opposition to the proposed FOG Mitigation Incentive Program.

Chairperson Shanahan asked for clarification regarding the alleged lack of notice.

Executive Director Lazzaretto responded that the item was noticed in the City's typical manner and that a complete staff report was published on the City's website, was available at the public counter at City Hall, and at the Library. He also stated that the City Council/Community Development Commission could change the Agenda process if they desired but that it would take additional staff resources.

City Attorney Kuperberg stated that the Community Development Commission has the discretion to add more detail, however, the Agenda listing for this item meets the requirements set by state law.

- c) Community Development Commission Comments and Questions

Discussion ensued regarding the \$120,000 budget for the proposal; becoming partners with local businesses; spending the funds in other ways such as marketing materials; the high cost of grease interceptors; that the City could incur fines if businesses fail to comply and the City does not enforce its FOG Ordinance; that a prior incident caused spillage into the Coyote Creek Channel and ultimately caused a beach closure; the proposal targets establishments in the Redevelopment Project Area; decreasing the grant proposal; that FOG mitigation is a State mandate; partnering with businesses; providing loans rather than grants; that marketing materials aren't as tangible as the actual grease interceptors and

are hard to measure; that having a grease interceptor already installed is an incentive for new food establishments seeking to locate in La Palma; that acceptance of a grant in excess of \$1,000 would require prevailing wages for the project; that offering to pay 50% of the cost does not guarantee that businesses will comply; the citation process for non-compliant businesses; if Federal Small Business Administration Loans could be used for the program; that the Five Year Implementation Plan would be publicly noticed; the requirement that interceptors be installed prior to receiving grants; that the Federal Clean Water Act imposes the need to have FOG interceptors; that if unauthorized discharge goes into the water, it would maximize La Palma's exposure; that the proposal potentially saves the City money because it avoids repairs to the City's sewer lines; that the current food establishments contribute sales tax to the City; the variety of interceptors available and the cost ranges; that compliance was required by 2007; the belief that most businesses will not comply until they are forced to; the possibility of having a loan program; that citing non-compliant businesses and forcing the business owners to install grease interceptors could cause some business failures.

- d) Adopt a Resolution approving a Fats, Oils, Grease (FOG) Mitigation Incentive Program

Vice Chairperson Rodriguez made a motion to adopt Resolution CDC 2010-23 approving a Fats, Oils, Grease (FOG) Mitigation Incentive Program as presented. The motion was seconded by Commission Member Waldman.

Further discussion ensued regarding which restaurants currently have grease interceptors; surveying businesses to ascertain interest in the program; success of loan programs versus success of grant programs; that loan programs utilize staff time and resources; that many of the non-compliant businesses are tenants and can not use the property as collateral; and pursuing other alternatives.

The motion failed on the following vote:

AYES: Vice Chairperson Rodriguez, Commission Member Waldman

NOES: Commission Member Charoen, Commission Member Herman, and Chairperson Shanahan

Staff noted that the City would move forward with sending FOG

renewal notices; enforce as necessary; and would bring back additional information to the Community Development Commission if appropriate.

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE COMMUNITY DEVELOPMENT COMMISSION, AND  
CONVENE AS THE PLANNING COMMISSION AT 8:01 P.M.

CONSENT CALENDAR

PL-1. Approval of Planning Commission Minutes

Minutes of the September 7, 2010, and September 21, 2010, Regular Meetings of the La Palma Planning Commission.

Commission Member Charoen made a motion to approve Consent Calendar Item PL-1.

The motion was seconded by Commission Member Herman and carried on the following vote:

AYES: Commission Member Charoen, Commission Member Herman, Vice Chairperson Rodriguez, Chairperson Shanahan, and Commission Member Waldman

NOES: None

PUBLIC HEARINGS

None Scheduled.

REGULAR ITEMS

None Scheduled.

ADJOURN THE PLANNING COMMISSION, AND RECONVENE AS THE CITY COUNCIL AT 8:02 P.M.

CONSENT CALENDAR

1. Waive the Reading of All Ordinances

Waive the reading of all Ordinances in their entirety and read by title only.

2. Approval of Council Minutes

Minutes of the September 7, 2010, and September 21, 2010, Regular Meetings of the City Council and the September 21, 2010, Special Meeting of the City Council.

3. Approval of Register of Demands

Resolution No. 2010-51 approving the Register of Demands for October 5, 2010.

Councilmember Herman made a motion to approve Consent Calendar Items 1 through 3.

The motion was seconded by Councilmember Waldman and carried on the following vote:

AYES: Councilmember Charoen, Councilmember Herman, Mayor Pro Tem Rodriguez, Mayor Shanahan, and Councilmember Waldman

NOES: None

ITEMS PULLED FROM CONSENT CALENDAR

4. Notice of Completion and Acceptance of Work for Arterial Block Wall Painting, City Project No. ST-303

Councilmember Charoen requested to have Consent Calendar Item 4 pulled from the agenda to ask about the schedule for the second phase of the Arterial Block Wall Painting project.

Public Works Director Moneda responded that the project is scheduled to begin for Orangethorpe Avenue and Walker Street on Monday, October 11, 2010, and that the remaining sections of Moody Street will also be completed. He also indicated that painting along La Palma Avenue would be completed once authorization letters are received.

Councilmember Herman commented that the vines on the arterial walls west of Orangethorpe Avenue and Sommerset Circle are in poor condition.

Accept the work and authorize the Public Works Director to file the Notice of Completion and Acceptance of work and authorize the Public Works Director to file the Notice of Completion and Acceptance of Work with the Orange County Recorder for the Arterial Block Wall Painting, City Project No. ST-303.

Councilmember Charoen made a motion to approve the Notice of Completion and Acceptance of Work for Arterial Block Wall Painting, City Project No. ST-303.

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

AYES: Councilmember Charoen, Councilmember Herman, Mayor Pro Tem Rodriguez, Mayor Shanahan, and Councilmember Waldman

NOES: None

PUBLIC HEARINGS

5. Proposed Ordinance Adding Section 18-28 to the La Palma City Code Limiting Smoking or Chewing of Tobacco or Tobacco-Related Products in Central Park to a Designated Areas

a) Mayor Shanahan reopened the Public Hearing at 8:04 p.m.

- b) Recreation and Community Services Superintendent Belknap gave the Staff Report
- c) Public Input

Gerard Goedhart, 4922 Berton Circle, addressed the City Council regarding his opposition to the proposed Ordinance and his support for a complete smoking ban at Central Park.

Ismile Noorbaksh, 7541 Trabuco Lane, addressed the City Council to ask how the City planned to stop the chewing of tobacco chewing and whether the proposed Ordinance would prohibit marijuana use if Proposition 19 is passed. He noted his support for a complete smoking ban at Central Park.

Mayor Shanahan asked for clarification on Proposition 19.

City Manager Lazzaretto responded that Proposition 19, if passed, would allow the use of marijuana in homes but would prohibit its use in public places.

City Attorney Kuperberg noted that the Ordinance covers marijuana by prohibiting tobacco-related products.

- d) Mayor Shanahan closed the Public Hearing at 8:13 p.m.
- e) City Council Comments and Questions

Discussion ensued regarding support for a smoke-free park; the proposed designated smoking location; designating the cut out along Walker Street as the designated smoking area instead of a location inside the park; that an area does not have to be chosen to move forward with the Ordinance; the size of the proposed designated smoking area; that the proposed area is easily accessible to guests of the facilities as well as users of the park; that the community as a whole did not clearly say they wanted a complete smoking ban; surveying residents regarding a smoking ban; support for a smoking ban if that is what a majority of residents want; moving forward with the proposed Ordinance and the ability to make changes to the Ordinance at a later date depending on public input.

- f) Introduce for first reading an Ordinance adding Section 18-28 to the La Palma City Code limiting smoking or chewing of tobacco or tobacco-related products in Central Park to a designated areas.



Councilmember Herman made a motion to introduce for first reading an Ordinance adding Section 18-28 to the La Palma City Code limiting smoking or chewing of tobacco or tobacco-related products in Central Park; to not designate an area at this time; and directing staff to conduct a survey to determine if residents want a smoking ban or designated smoking areas. The motion was seconded by Mayor Shanahan.

Councilmember Waldman made a substitute motion to introduce for first reading an Ordinance adding Section 18-28 to the La Palma City Code limiting smoking or chewing of tobacco or tobacco-related products in Central Park to designated areas; designate the staff recommended area as a designated smoking area; and direct staff to conduct a survey to determine if residents want a smoking ban or designated smoking areas. The substitute motion was seconded by Councilmember Charoen.

Discussion ensued regarding clarification of the original and substitute motions; that the residential survey will determine the smoking regulations; that postponing the proposed Ordinance would only delay the project; that the Ordinance would not go into effect until 30 days after adoption; making the Ordinance effective on January 1, 2011, which would allow Staff time to conduct a survey and report back to the City Council.

Councilmember Waldman withdrew his substitute motion and asked that the original motion be amended that the the survey be completed by a specific date such as January 1, 2011, or add language in the Ordinance that reads "until the survey is complete."

City Attorney Kuperberg noted that the language "until the survey is complete" would create ambiguity and recommended that the City should have a specific date in the Ordinance.

Further discussion ensued regarding support for a January 1, or February 1, 2011, effective date; and that the original motion allows the City to move forward and allows enough time for the survey results to be brought back to the City Council.

City Manager Lazzaretto clarified Councilmember Herman's original motion was to adopt the Ordinance limiting smoking or chewing of tobacco or tobacco-related products in Central Park and directing staff to conduct a survey to determine if residents want a smoking ban or designated smoking areas, which would in effect be adopting an Ordinance prohibiting smoking in Central Park. He

noted that Section 3 of the Ordinance would need to be modified to include a specific effective date.

Councilmember Herman accepted Councilmember Waldman's request to modify Councilmember Herman's original motion to introduce for first reading an Ordinance adding Section 18-28 to the La Palma City Code limiting smoking or chewing of tobacco or tobacco-related products in Central Park; to not designate an area at this time; directing staff to conduct a survey to determine if residents want a smoking ban or designated smoking; and to add an enactment date of February 1, 2011. Mayor Shanahan accepted the amendment as the seconder of the motion.

Discussion ensued regarding Councilmember Waldman's support for a designated smoking area; that the language of the motion would prohibit smoking in the park at the enactment date whether the survey was completed or not; that voting on the proposed Ordinance as originally motioned would be the equivalent of not taking any action; and that if the City Council remains undecided, Staff would recommend that the item be tabled until the survey is completed.

City Manager Lazzaretto clarified that the motion before the City Council is to introduce for first reading an Ordinance adding Section 18-28 to the La Palma City Code limiting smoking or chewing of tobacco or tobacco-related products in Central Park; to not designate an area at this time; directing staff to conduct a survey to determine if residents want a smoking ban or designated smoking; to modify Section 3 stating that passage of the Ordinance will go into effect on February 1, 2011; and that Staff will bring forward a resolution reflecting the residents desires after the survey.

Discussion ensued regarding the motion to approve the Ordinance would prohibit smoking and that the date line would allow enough time for Staff to survey members of the community; and tabling the item.

City Manager Lazzaretto clarified that the Ordinance is being introduced for first reading; will be brought back for second reading; that the effective date of the Ordinance is February 1, 2011; and that there will be no designated smoking area until such time as survey results are available.

City Attorney Kuperberg noted that the results of the survey would be provided prior to the effective date and would allow the City

Council to take no action or Staff would provide a resolution to act on the survey results as requested by the residents.

Councilmember Herman's amended motion, which was seconded by Mayor Shanahan carried on the following vote:

AYES: Councilmember Charoen, Councilmember Herman, Mayor Pro Tem Rodriguez, Mayor Shanahan, and Councilmember Waldman

NOES: None

Mayor Shanahan called for a short recess at 8:49 p.m.

Mayor Shanahan reconvened the City Council at 9:09 p.m. with all members present.

6. Proposed Ordinance Amending Chapter 26 of the La Palma City Code Pertaining to Outdoor Display and Incidental Seating Areas
  - a) Mayor Shanahan opened the Public Hearing at 9:09 p.m.
  - b) City Manager Lazzaretto introduced Planning Intern, Rafael Garcia, who gave the Staff Report.
  - c) Public Input  
No members of the public wished to speak.
  - d) Mayor Shanahan closed the Public Hearing at 9:14 p.m.
  - e) City Council Comments and Questions  
None.
  - f) Introduce for first reading the proposed Ordinance amending Chapter 26 of the La Palma City Code pertaining to Outdoor Display and Incidental Seating Areas.

Councilmember Charoen made a motion to introduce for first reading the proposed Ordinance amending Chapter 26 of the La Palma City Code pertaining to Outdoor Display and Incidental

Seating Areas. The motion was seconded by Councilmember Herman.

Discussion ensued regarding unacceptable outdoor seating; clarification of disallowed umbrellas; that discretion would fall to the Community Development Director to determine allowable table umbrellas; that the intent of not allowing certain umbrellas is that the Development Committee wanted to detract from promotional items or cheap looking materials to promote quality seating; and that umbrella prints would be allowed if they are in line with the theme of the particular restaurant.

The motion was carried on the following vote:

AYES: Councilmember Charoen, Councilmember Herman, Mayor Pro Tem Rodriguez, Mayor Shanahan, and Councilmember Waldman

NOES: None

Community Development Director Dumhart noted that the guidelines of the Ordinance can be altered by Staff in the future.

## REGULAR ITEMS

7. Proposed Ordinance Amending Chapter 26 of the La Palma City Code Adding a Planned Neighborhood Development (PND) Zoning District and Changing the Land Use Designation for Certain Properties to PND

Community Development Director Dumhart gave the Staff Report.

Public Input:

No members of the public wished to speak.

Discussion ensued regarding whether the City can make an exception for banks and that Staff would have to strategize with the bank owners so that the bank is not the majority use on the designated zones.

Councilmember Charoen made a motion to approve the Proposed Ordinance Amending Chapter 26 of the La Palma City Code Adding a Planned Neighborhood Development (PND) Zoning District and Changing the Land Use Designation for Certain Properties to PND.

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

AYES: Councilmember Charoen, Councilmember Herman, Mayor Pro Tem Rodriguez, Mayor Shanahan, and Councilmember Waldman

NOES: None

8. Curbside Universal, Electronic, Pharmaceutical, and Sharps Waste Collection Program

Administrative Services Manager Murray gave the Staff Report.

Public Input:

Gerard Goedhart, 4922 Berton Circle, addressed the City Council to inquire about the location of the proposed on-site pharmaceutical drop box and to voice his support for the proposal.

Administrative Services Manager Murray responded that an exact location has not yet been determined at this time.

Council Comments and Questions:

Discussion ensued regarding scheduled pickups and that a specific date would be given.

Councilmember Waldman made a motion to approve and authorize the Mayor to execute an amendment to the Agreement with EDCO Disposal Corporation, dba Park Disposal, to add a curbside Universal, Electronic, Pharmaceutical, and Sharps Waste Collection Program. The motion was seconded by Mayor Pro Tem Rodriguez.

Councilmember Herman commended Staff and EDCO Disposal for designing the proposed program and bringing it forward to the City Council for approval.

Efrain Ramirez, EDCO Disposal President, stated collections would be scheduled one day each week.

Further discussion ensued regarding there being no cost to residents; that there are no limits to the number of collections; that Staff would work with local schools and EDCO to try to coordinate e-waste collection events; and placing informational flyers regarding the program at local pharmacies.

The motion carried on the following vote:

AYES: Councilmember Charoen, Councilmember Herman,  
Mayor Pro Tem Rodriguez, Mayor Shanahan, and  
Councilmember Waldman

NOES: None

9. Study Session: Waste Diversion Methods

City Manager Lazzaretto introduced the item and Administrative Services Manager Murray gave the Staff Report.

Council Comments and Questions:

Discussion ensued regarding the diversion rates and Pounds per Person per Day (PPD) rates of Buena Park, Lakewood, and La Palma; that La Palma's PPD is expected to stabilize around 3.3 PPDs; the possibility of having source separation and separation at a Material Recovery Facility (MRF); that source separation has the potential to be a more successful recycling program than the current MRF system; that both Buena Park and Lakewood saw increases in their diversion when they introduced source recycling; that green waste could be up to 24-25% of the total waste stream; the cost to add recyclable materials to the existing residential waste pickup had not been estimated as this was a discussion item; having EDCO provide quotes for source separation of recyclable materials; bin sizes; support for source separation; support for a recyclable program with no cost increase to residents; that Buena Park and Lakewood have met their diversion goals utilizing a combination of manual and automated collection methods; and that staff often receives requests for the City to move to a source separation program.

By consensus, the City Council agreed to receive and file the report and directed staff to have EDCO provide quotes for source separation of recyclable materials and report the results to the City Council.

COUNCILMEMBER AB1234 REPORTS, REPORTS FROM CITY-AFFILIATED COMMITTEES, AND COUNCIL REMARKS

**Councilmember Herman** attended the Air Quality Management District 22nd Annual Clean Air Awards and the Orange County Vector Control District (OCVCD) meeting. He closed by noting that the total reimbursements he received from the City for attendance at various meetings for the month of September 2010 was \$441.00.

**Councilmember Charoen** attended the Beverly Dentistry Grand Opening event and the Orange County Fire Authority (OCFA) meeting. He reported that he abstained from voting on the removal of reserve firefighters from 11 stations in Orange County because of new information that was provided at the meeting. He commented that the outcome of the vote was 15 to 5 in favor of removing the reserve firefighters from 11 Orange County fire stations; that the City of Villa Park is potentially looking at legal action against OCFA; and asked if La Palma could pursue similar actions.

City Attorney Kuperberg responded that there was a provision in Villa Park's contract to meet and confer prior to any change in the level of service and that he is not aware of any pending litigation. He added that he will need to review the City's agreement with OCFA before he can comment on any actions La Palma may take.

City Manager Lazzaretto commented that all cities in Orange County have generally adopted the same agreement with OCFA, however, Villa Park's only station was staffed by reserve firefighters so they face an impact to the level of service they receive from OCFA. La Palma will continue to be served by OCFA paid firefighters.

**Councilmember Waldman** attended the Orange County Sanitation District (OCSD) general meeting and the Orange County Council of Governments (OCCOG) meeting. He reported that Councilmember Charoen, as the alternate, is invited to attend the upcoming OCSD strategic planning meeting.

**Mayor Pro Tem Rodriguez** asked to have a report on the City's agreements with OCFA be reviewed and brought back to the City Council at a future City Council meeting or in a Friday report.

City Attorney Kuperberg responded that both he and City Manager Lazzaretto will research the item and bring the information forward to the City Council in either a Friday Report or as an agenda item at a future City Council meeting for discussion.

Mayor Pro Tem Rodriguez continued by reporting that he attended the Beverly Dentistry Grand Opening event; the Knights of Columbus and City of Cypress blood drive; an Anaheim Union High School District reception for Superintendent Elizabeth Novak; the AQMD 22nd Annual Clean Air Awards; and the Walker Junior High School Jog-A-Thon event. He announced that he is planning to host a meeting with several parent groups and school district representatives regarding different academic programs. He closed by commenting that October is Breast Cancer Awareness Month.

**Mayor Shanahan** attended the OCFA meeting; the Beverly Dentistry Grand Opening event; and the OCFA Fire Station 13 Open House event.

Councilmember Herman announced that he does not support the action taken by the OCFA to eliminate 11 fire station reserve programs. He asked for clarification of an abstention vote.

City Attorney Kuperberg responded that an abstention is neither a vote in favor of or against a motion, but there is case law that notes an abstention vote supports the majority vote.

Councilmember Herman stated that Councilmember Charoen's OCFA abstention vote technically was a yes vote to eliminate 11 fire station reserve programs.

Mayor Shanahan clarified that he did not support the removal of the OCFA reserve program from the 11 fire stations, however, he supports the OCFA's decision on the matter.

Councilmember Charoen restated that his abstention from the OCFA vote was neither a vote in favor of or against the motion because he needed more information on the legality of the OCFA contracts prior to making a decision.

#### CITY MANAGER REMARKS

**City Manager Lazzaretto** announced that the new water bills, which included the recent rate increases have been mailed out to residents. He reported on the status of the Crescent Avenue repairs and that staff will be declaring a state of emergency to finish the project prior to the rainy season at a cost of approximately \$50,000 to \$60,000. He announced Police Chief Ethell's retirement and that Police Chief Ethell will be acting City Manager at the October 19, 2010, City Council meeting as he will be attending an ICMA Conference. He reported that upcoming agenda items will include an update to the building codes. He closed by announcing the upcoming Eagle Scout Court of Honor for Kevin DeCook and Community Activities and Beautification (CAB) Committee Youth Member Ryan DeCook.

#### CITY ATTORNEY REMARKS

**City Attorney Kuperberg** had nothing to report

#### ADJOURNMENT

Mayor Shanahan adjourned the Regular Meeting of the La Palma City Council at 10:18 p.m.



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Steve Shanahan, Mayor

Attest:

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Laurie A. Murray, City Clerk