

MINUTES OF THE REGULAR MEETING  
OF THE LA PALMA CITY COUNCIL

October 19, 2010

CALL TO ORDER: Mayor Shanahan called the Regular Meeting of the La Palma City Council to order at 6:30 p.m. at La Palma City Hall, 7822 Walker Street, La Palma, California.

RECESS THE CITY COUNCIL AND CONVENE AS THE COMMUNITY DEVELOPMENT COMMISSION AT 6:30 P.M.

CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATIONS

Pursuant to Government Code Section 54956.8

Property: 4611 La Palma Avenue, La Palma, California Parcel Number 263-343-30

Agency Negotiator: Joel Kuperberg, City Attorney and Douglas Dumhart, Community Development Director

Negotiating Parties: Peter Michael Sereg Under Negotiation: Price and terms of payment

CONVENE THE COMMUNITY DEVELOPMENT COMMISSION IN OPEN SESSION AT 7:05 P.M.

City Attorney Kuperberg stated that there were no reportable actions from the closed session item.

RECESS THE COMMUNITY DEVELOPMENT COMMISSION AND CONVENE AS THE CITY COUNCIL AT 7:05 P.M.

PLEDGE OF ALLEGIANCE: Councilmember Charoen

INVOCATION: Pastor Jerry Bennett, Faith Fellowship Church

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:

Ed Ethell, Acting City Manager/Chief of Police  
Joel Kuperberg, City Attorney  
Douglas Dumhart, Community Development  
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. La Palma Pageant Co-Chairs Ann Lossner and Minnie Estrada presented the 2011 La Palma Pageant contestants: Jessica Atwood, Idda Colcol, Melinda Gamboa, Cheyenne Paningsoro, Asha Starks, and Cassie Sullivan.
2. Recreation and Community Services Superintendent Belknap introduced Kathleen Moran, representing Orange County Supervisor John Moorlach, who presented a proclamation to Mayor Shanahan in recognition of La Palma Days as the official Orange County Veterans Day Parade.
3. Mayor Shanahan presented former Community Activities and Beautification Committee Member Linda Houston with a plaque in honor of her years of service.

ORAL COMMUNICATIONS

No members of the public wished to speak.

RECESS THE CITY COUNCIL AND RECONVENE AS THE COMMUNITY  
DEVELOPMENT COMMISSION AT 7:18 P.M.

### CONSENT CALENDAR

A. Approval of Community Development Commission Minutes

Minutes of the October 5, 2010, Regular Meeting of the La Palma Community Development Commission.

B. Approval of Register of Demands

Resolution No. CDC 2010-23 approving the Register of Demands for October 19, 2010.

Commission Member Herman made a motion to approve Consent Calendar Items A and B.

The motion was seconded by Commission Member Charoen 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

C. Purchase and Sale Agreement and Joint Escrow Instructions for Real Property Located at 4611 La Palma Avenue

a) Community Development Director Dumhart gave the Staff Report

b) Public Input

No members of the public wished to speak.

c) Commission Comments and Questions

Discussion ensued regarding the average price range of properties in Orange County; that the subject property falls within the average price range; that the Community Development Commission (CDC) is not using eminent domain to purchase the property; support for purchasing the property as it will increase affordable housing opportunities; opposition to language in the contract regarding the possibility of using eminent domain; that the language was requested by one of the property owners; and that the City risks losing Affordable Housing funds if the funds are not used.

- d) Adopt a Resolution Authorizing Expenditure of Housing Set-Aside Funds outside of the Project Area

Resolution No. CDC 2010-24 authorizing the Expenditure of Housing Set-Aside Funds outside of the Project Area.

- e) Approve Purchase and Sale Agreement and Joint Escrow Instructions for real property located at 4611 La Palma Avenue
- f) Authorize a supplemental appropriation from the Low/Moderate Income Housing Fund.

Vice Chairperson Rodriguez made a motion to adopt a Resolution authorizing expenditure of Housing Set-Aside Funds outside the Project Area; approve the Purchase and Sale Agreement and Joint Escrow Instructions for the real property located at 4611 La Palma Avenue; authorize a supplemental appropriation of \$1,400,000 from the Low/Moderate Income Housing Fund; and authorize the Community Development Commission Chairperson and/or Executive Director to execute all transaction instruments and accept the Grant Deed.

The motion was seconded by Commission Member Herman.

Commission Member Charoen stated that although he supports the project, he is opposed to the eminent domain language in the Purchase and Sale Agreement.

The motion carried on the following vote:

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

NOES: Commission Member Charoen

ADJOURN THE COMMUNITY DEVELOPMENT COMMISSION, AND CONVENE AS  
THE PLANNING COMMISSION AT 7:31 P.M.

CONSENT CALENDAR

PL-1. Approval of Planning Commission Minutes

Minutes of the October 5, 2010, Regular Meeting of the La Palma Planning Commission.

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

The motion was seconded by Vice Chairperson Rodriguez 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

PL-2. Conditional Use Permit 349 and Amendment to Precise Plan 57, A Request to Add a 24-hour Drive-up ATM Kiosk and Roof Mounted HVAC Units with Screening at the Bank of America Located at 5531 La Palma Avenue

a) Chairperson Shanahan opened the Public Hearing at 7:32 p.m.

b) Associate Planner Scott Hutter gave the Staff Report

c) Public Input

No members of the public wished to speak.

d) Chairperson Shanahan closed the Public Hearing at 7:40 p.m.

e) Commission Comments and Questions

Discussion ensued regarding the root systems of the Carrotwood trees proposed in the Landscape Plan; that the designated Carrotwood trees

would be in planters; that currently there is a surplus of 13 parking spaces; that no negative comments have been received from the public; that the project is due to customer demand; that no increase in crime is anticipated; that the applicant will use existing and new plants along the drive-thru lane; and that lighting will be increased.

- f) Adopt a Resolution approving Conditional Use Permit 349 and Amendment to Precise Plan 57, a request to add a 24-hour drive-up ATM kiosk and roof mounted HVAC units with screening at the Bank of America located at 5531 La Palma Avenue.

Resolution No. PC 2010-08 approving Conditional Use Permit 349 and Amendment to Precise Plan 57, a request to add a 24-hour drive-up ATM kiosk and roof mounted HVAC units with screening at the Bank of America located at 5531 La Palma Avenue.

Commission Member Charoen made a motion to approve Resolution No. PC 2010-08 approving Conditional Use Permit 349 and Amendment to Precise Plan 57, a request to add a 24-hour drive-up ATM kiosk and roof mounted HVAC units with screening at the Bank of America located at 5531 La Palma Avenue.

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

## REGULAR ITEMS

None Scheduled.

RECESS THE PLANNING COMMISSION, AND RECONVENE AS THE CITY COUNCIL AT 7:46 P.M.

## CONSENT CALENDAR

1. Waive the Reading of All Ordinance

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

2. Approval of Council Minutes

Minutes of the October 5, 2010, Regular Meeting of the City Council.

3. Approval of Register of Demands

Resolution No. 2010-52 approving the Register of Demands for October 19, 2010.

Mayor Pro Tem Rodriguez made a motion to approve Consent Calendar Items 1, 2, and 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 THE CONSENT CALENDAR

4. Award of Contract to Sancon Engineering, Inc. for the Houston Avenue Sewer Lining Project, City Project No. 10-SWR-01

Councilmember Herman asked to have the item pulled from the Consent Calendar to request an update on the project completion dates.

Mayor Pro Tem Rodriguez also asked to have the item pulled from the Consent Calendar to inquire about the impact on residents during the holiday season.

Public Works Director Moneda responded that construction is expected to begin on December 6 and be completed by December 20. He stated that the construction activity will be in the center lane of Houston Avenue and that staff would coordinate efforts with the Police Department to ensure pedestrian safety, especially during the holiday season when increased pedestrian activity is expected.

- a) Award a contract in the amount of \$88,220 to the low responsible bidder, Sancon Engineering, Inc. of Huntington Beach, California, and authorize the Mayor to execute an agreement for the Houston Avenue Sewer Lining Project, City Project No. 10-SWR-01; and

- b) Appropriate \$51,453 from the City's Sewer Fund Reserve to cover the costs associated with the project.

Councilmember Herman made a motion to approve a contract in the amount of \$88,220 to the low responsible bidder, Sancon Engineering, Inc. of Huntington Beach, California, and authorize the Mayor to execute an agreement for the Houston Avenue Sewer Lining Project, City Project No. 10-SWR-01 and appropriate \$51,453 from the City's Sewer Fund Reserve to cover the costs associated with the project.

The motion was seconded by Mayor Pro Tem Rodriguez and carried on the following vote:

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

NOES: None

5. Resolution Authorizing Use of Low/Mod Housing Funds Outside the Project Area

Councilmember Charoen requested to have the item pulled from the Consent Calendar to express his opposition to the eminent domain language used in the Agreement.

Mayor Pro Tem Rodriguez made a motion to approve Resolution No. 2010-53 authorizing Use of Low/Mod Housing Funds Outside the Project Area for property located at 4611 La Palma Avenue.

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

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

NOES: Councilmember Charoen

PUBLIC HEARINGS

6. Proposed Ordinance Repealing Article 1 of Chapter 9 of the La Palma City Code, and Adding Thereto a New Article 1 of Chapter 9 Adopting by Reference the 2010 California Fire Code, with Appendices and Amendments Thereto



- a) Mayor Shanahan opened the Public Hearing at 7:51 p.m.
- b) Community Development Director Dumhart gave the Staff Report
- c) Public Input

Gerard Goedhart, 4922 Berton Circle, addressed the City Council to ask how many homes would have been affected by the proposed regulations in the past few years..

Community Development Director Dumhart stated that approximately six additions would have been affected in the past three years, since 2007, by the new building code requirements.

Dennis Grubb, Assistant Fire Marshall for the Orange County Fire Authority (OCFA), addressed the City Council regarding his support for public safety by modifications to the Fire Code in regards to sprinkler systems. He closed by recommending support for the proposed Ordinance.

Discussion ensued regarding the proposed new requirements that improvements that increase a home's square footage by 33% and/or 1,000 square feet would trigger the sprinkler system mandate; the number of cities that have less restrictive requirements for sprinkler systems and that those cities have not yet finalized adoption of the proposed Ordinance; other cities that do not support OCFA's recommendations; that some cities are setting a 750 square foot threshold for mandating the sprinkler requirement; that the proposed regulations could discourage current property owners from improving homes; if false positives are a problem with sprinkler systems; that there is minimal damage to a home if a sprinkler head malfunctions; support for the proposed sprinkler regulations for safety reasons, but not supporting them because they could discourage home improvements; home values in La Palma remaining fairly stable; and that new home construction is exempt from the proposed fire sprinkler requirement because sprinklers are already required in new construction.

- d) Mayor Shanahan closed the Public Hearing at 8:17 p.m.
- e) City Council Comments and Questions

No further discussion ensued.

- f) Introduce for first reading an Ordinance repealing Article 1 of Chapter 9 of the La Palma City Code, and adding thereto a new Article 1 of Chapter 9 adopting by reference the 2010 Edition of the California Fire Code with

appendices and amendments thereto.

Councilmember Herman made a motion to introduce for first reading an Ordinance repealing Article 1 of Chapter 9 of the La Palma City Code, and adding thereto a new Article 1 of Chapter 9 adopting by reference the 2010 Edition of the California Fire Code with appendices and amendments thereto.

The motion failed due to the lack of a second.

Councilmember Charoen made a motion to introduce for first reading an Ordinance repealing Article 1 of Chapter 9 of the La Palma City Code, and adding thereto a new Article 1 of Chapter 9 adopting by reference the 2010 Edition of the California Fire Code with appendices and to amend the proposed Ordinance to exclude the 33% and/or 1,000 square feet addition requiring sprinkler installation from the language of the Ordinance.

The motion was seconded by Mayor Pro Tem Rodriguez and carried on the following vote:

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

NOES: Councilmember Herman

## REGULAR ITEMS

7. Proposed Ordinance Amending Chapter 26 of the La Palma City Code Pertaining to Outdoor Display and Incidental Seating Areas

Community Development Director Dumhart gave the presentation.

Discussion ensued regarding the positive feedback that had been received and the benefits to local businesses if the proposed Ordinance is adopted.

Mayor Pro Tem Rodriguez made a motion to adopt Ordinance No. 2010-03 amending Chapter 26 of the La Palma City Code pertaining to Outdoor Display and Incidental Seating Areas.

The motion was seconded by Councilmember Charoen and 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 8:22 p.m.

Mayor Shanahan reconvened the City Council at 8:29 p.m. with all members present.

8. Councilmember Request: Houston Avenue's Designation as a Secondary Arterial Highway and the Inability to Increase Block Wall Heights Along Public Streets

Mayor Pro Tem Rodriguez gave a brief report regarding the current status of Houston Avenue.

Public Input:

Ismile Noorbaksh, 7541 Trabuco Lane, addressed the City Council regarding Houston Avenue being a residential collector street and not a secondary arterial highway. He asked the City to reclassify it as a residential collector street and remove its status as a secondary arterial highway.

Councilmember Charoen and Councilmember Herman recused themselves at 8:41 p.m. due to a potential conflict of interest as both Councilmembers live within 500 feet of the subject property.

Discussion ensued regarding Houston Avenue not meeting the standards of a secondary arterial highway.

Public Input:

Henry Charoen, 7552 Mark Circle, addressed the City Council regarding his opposition to stepping walls along Houston Avenue; that the height of walls should only be increased if a complete block of residents is willing to do so. He added his concern that changing the street's status to a residential collector could decrease the amount of Measure M funds the City receives.

Mr. Charoen left the audience after speaking.

City Attorney Kuperberg noted for the record that Mr. Charoen was speaking as a resident of the Community and not as a Councilmember.

Community Development Director Dumhart commented that the City's Zoning Code Section 26-45 addresses guidelines for increasing block wall heights and that they must be at least the entire block length.

City Attorney Kuperberg noted for the record that Larry Herman was speaking as a resident of the Community and not as a Councilmember.

Larry Herman, 5122 Andrew Drive, addressed the City Council regarding his support for reclassifying Houston Avenue as a residential collector street instead of a secondary arterial highway.

Mr. Herman left the audience after speaking.

Ismile Noorkbash, 7541 Trabuco Lane and 7512 Mark Circle, addressed the City Council regarding his application to raise the wall along Houston Ave. to encourage privacy; that he has had safety issues with children climbing his block wall; and noted a recent dog attack to neighbor's pet. He closed by commenting that stair stepping of block walls occurs in many locations in the City and that homeowner safety should be a priority.

Discussion ensued regarding support for reclassifying the street as a residential collector street; that historically, the City allowed a group of three or more homes to increase their block wall height instead of an entire block; that any increases in height should be safe; that the City risks losing Measure M tax funds if the designation of Houston Avenue changes from a secondary arterial to a residential collector; having staff come back with language in a proposed Ordinance that would exempt Houston Avenue to allow stair stepping on block walls, but keep its designated title as a secondary arterial for Measure M purposes; that height increases for block walls is encouraged, but that safety guidelines need to be followed; and a request that staff investigate any financial impacts to changing the designation.

Ismile Noorbaksh, 7541 Trabuco Lane, stated that the Measure M funds can be used for residential streets as well as arterials.

By consensus, the City Council directed staff to come back with language that would allow homeowners to increase their block wall height and to investigate the financial impact—the potential loss of Measure M funding—if Houston Avenue were to lose its designation as a secondary arterial.

Councilmember Charoen and Councilmember Herman returned to the dais at 9:02 p.m.

RECONVENE THE COMMUNITY DEVELOPMENT COMMISSION AND PLANNING COMMISSION AT 9:00.M.

9. Cancellation of the November 2, 2010, City Council, Community Development, and Planning Commission Meetings

Administrative Services Manager Murray gave the Staff Report.

Mayor Pro Tem Rodriguez asked if the proposed cancellation would conflict with any of the scheduled Public Hearings or ongoing City Council items.

Community Development Director Dumhart responded that there are substantial revisions to make before the second hearing of the adoption of the 2010 California Fire Code and that cancellation of the next meeting will not have any impact.

Mayor Pro Tem Rodriguez made a motion to approve the cancellation of the November 2, 2010, City Council, Community Development, and Planning Commission Meetings.

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

ADJOURN COMMUNITY DEVELOPMENT AND PLANNING COMMISSION AT 9:02 P.M.

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

**Councilmember Herman** attended the Southern California Edison Energy Walk; the American Cancer Society "Making Strides" Walk; the Memorial Service for Dr. James P. Webb, a former employee of the Orange County Vector Control District (OCVCD); the Civic Academy Graduation Ceremony; and the Red Ribbon Week event at Central Park. He announced that he plans to attend an upcoming OCVCD meeting and requested that staff provide the City Council with the report from the City Attorney of Villa Park regarding their OCFA contract and what alternatives the City of La Palma has.

Mayor Pro Tem Rodriguez noted that City Manager Lazzaretto has an upcoming agenda item to review the OCFA contract with the City Council.

**Councilmember Charoen** attended the Civic Academy Graduation Ceremony and announced his support for conducting another Civic Academy next year.

**Councilmember Waldman** attended the La Palma Chamber of Commerce Casino Night Event; the Orange County Sanitation District (OCSD) Administration Committee meeting; the Civic Academy Graduation Ceremony; the League of California Cities (LOCC) monthly meeting; the Eagle Scout Court of Honor Ceremony; and the Red Ribbon Week event at Central Park.

**Mayor Pro Tem Rodriguez** attended the Back to School Night at Walker Junior High School; the La Palma Chamber of Commerce Casino Night Event; the Southern California Edison Energy Walk; participated in an interview with two Boy Scouts; attended the La Palma Chamber of Commerce Candidate Forum; the Civic Academy Graduation Ceremony; the Red Ribbon Week event; the HOPE Food Bank event; an Eagle Scouts Court of Honor Ceremony; and the La Palma Parade Committee Meeting. He commented on a local group, Project Access, that works with needy families at the Nova La Palma Apartments.

**Mayor Shanahan** attended the La Palma Chamber of Commerce Candidate Forum; and the Red Ribbon Week Event. He announced that he plans to attend the Mayors Luncheon meeting with local businesses and reported on the upcoming grand reopening of the newly remodeled 76 Station, convenience center, and car wash.

#### CITY MANAGER REMARKS

**Acting City Manager/Police Chief Ethell** reminded the City Council that the upcoming November 2, 2010, City Council meeting is cancelled and reported that upcoming agenda items for the November 16 meeting include sidewalk repairs to Valley View Street. He announced that City Manager Lazzaretto would be returning on Friday, October 22, 2010.

#### CITY ATTORNEY REMARKS

**City Attorney Kuperberg** had nothing to report.

#### ADJOURNMENT

Mayor Shanahan adjourned the Regular Meeting of the La Palma City Council at 9:22 p.m.

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Steve Shanahan, Mayor

Attest:

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Laurie A. Murray, City Clerk