

MINUTES OF THE REGULAR MEETING
OF THE LA PALMA CITY COUNCIL

December 17, 2002

Mayor Barnes called the regular meeting of the La Palma City Council to order at 7:00 p.m. on Tuesday, December 17, 2002, in the Council Chambers of La Palma City Hall, 7822 Walker Street, La Palma, California.

PLEDGE OF ALLEGIANCE

Councilmember Blake led the Pledge of Allegiance to the United States Flag.

INVOCATION

Councilmember Walker 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 K. Piscotty, Assistant to the City Manager
Ismile Noorbaksh, Director of Public Works/City Engineer
Paul Pitts, Director of Building & Safety
Robbeyn Bird, Director of Finance
Jan Hobson, Director of Recreation & Community Services
Dominic Lazzaretto, Acting Principal Planner
Joel Kuperberg, City Attorney
Peggie Turnage, Executive Assistant

PRESENTATIONS

City Manager Catherine Standiford introduced new and promotional employees Renee Allard, Teri Knutson, Lynnae Sisemore and Crystal Wilkerson and presented a brief background on each.

Mayor Barnes presented Proclamations to retiring employees Peggie Turnage and Paul Pitts. She also announced that the Council has issued a Proclamation for Mary Nelson who was not present this evening.

Director of Recreation and Community Services Jan Hobson introduced the Chairpersons of the various Coordinating Committees for La Palma Days. The Chairman introduced their committee members and Ms. Hobson presented certificates of appreciation to those present.

ORAL COMMUNICATIONS

Mr. Robert Pecoraro, 8111 Dawn Circle, addressed the Council to express concern about the proposed catering operation at Los Coyotes School. He asked if there would be any zoning or traffic studies and if the homeowners in the area would be notified of any hearings.

City Manager Catherine Standiford responded that since this is a non-classroom facility that is proposed, it requires that they are obligated to go through the City's normal land use entitlement process. During that process homeowners within 300 feet radius would be notified of any meetings regarding this proposal. She added that if any La Palma resident is interested in being notified, if they will give staff their name and address staff will see that they receive a notification.

Mr. Andy Hilbert, 4812 El Rancho Verde, addressed the Council to express his concern about the proposed Community Center expansion. He stated that the City basketball courts are very busy at all times and with the proposed expansion one of the courts would be lost. He encouraged the Council to reconsider the current plans to eliminate the basketball court.

RECESS

Mayor Barnes recessed the City Council to convene as the Community Development Commission at 7:28 p.m. (See separate Community Development Commission Minutes.)

RECONVENING

Mayor Barnes reconvened the meeting in regular session at 7:35 p.m.

CONSENT CALENDAR

Councilmember Walker made a motion to approve the following item on the Consent Calendar:

APPROVED THE DECEMBER 3, 2002 CITY COUNCIL MEETING MINUTES

ADOPTED RESOLUTION NO. 2002-68 APPROVING A REGISTER OF DEMANDS FOR DECEMBER 17, 2002

APPROVED THE COUNCIL'S PARTICIPATION IN THE AMERICANA AWARDS AND AUTHORIZED THE PURCHASE OF A TABLE IN THE AMOUNT OF \$2,000

RECEIVED AND FILED THE REPORT ON THE MAYOR'S RECOMMENDED APPOINTMENTS TO THE EXTERNAL AND INTERNAL CITY COMMITTEES

RECEIVED AND FILED THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) OF THE CITY OF LA PALMA FOR FISCAL YEAR ENDED June 30, 2002

RECEIVED AND FILED THE ANNUAL REPORT ON THE STATUS OF THE GENERAL PLAN

ADOPTED RESOLUTION NO. 2002-69 AMENDING RESOLUTION NO. 2001-71 PERTAINING TO AUTHORIZATION FOR THE DEPOSIT, INVESTMENT AND PAYMENT OF PUBLIC FUNDS

REJECTED THE CLAIM PRESENTED BY PHONG V. DUONG AND VAN TU GIANG DUONG FOR CLAIMANT HOA KIEU DUONG

ADOPTED RESOLUTION NO. 2002-70 APPROVING THE SUBMITTAL OF APPLICATIONS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA) FOR FUNDING UNDER THE COMBINED TRANSPORTATION FUNDING PROGRAM PROJECTS TO WIDEN WALKER STREET AND LA PALMA AVENUE BRIDGES OVER COYOTE CREEK CHANNEL AND UPGRADE THE TRAFFIC SIGNAL ON LA PALMA AVENUE AND VALLEY VIEW STREET, CITY PROJECT NOS. ST-222, ST-255, AND ST-256

ADOPTED RESOLUTION NO. 2002-71 ADOPTING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LA PALMA AND THE LA PALMA POLICE ASSOCIATION

ADOPTED RESOLUTION NO. 2002-72 ADOPTING PERSONNEL PRACTICES FOR MANAGEMENT EMPLOYEES

ADOPTED RESOLUTION NO. 2002-73 ADOPTING AN AMENDMENT TO THE AGREEMENT FOR CITY MANAGER SERVICES

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

REGULAR ITEMS

REQUEST TO RETAIN AN ILLEGALLY CONSTRUCTED DRIVE APPROACH ON RESIDENTIAL PROPERTY

Director of Public Works/City Engineer Ismile Noorbaksh presented a chronological review of the events occurring prior to this evening's meeting. He then provided the following information in response to the Council's request at the December 3rd meeting.

What is the La Palma Municipal Code requirement as it pertains to the gate?

Section 26-18 (h) of the City's Zoning Code states, "No gate openings shall be permitted from private property to the Southern California Edison right-of-way or to any other street or public right

of way unless permission is obtained from the City Council". Mr. Noorbaksh stated that there is no record on file that Mr. Tyson sought permission for the gate prior to constructing it.

Was the drive approach constructed to City Standards?

Staff believes that the drive approach was not constructed to the City standard for the following reasons:

- Based upon staff's inspection, the depressed curb and gutter and the drive approach has been poured in one pour. No expansion joint exists between the back of the depressed curb and the drive approach. City standards require two pours, and an expansion joint.
- Mr. Tyson constructed the drive approach in September and there is already a diagonal crack in the drive approach and the depressed curb and gutter. If the drive approach had been constructed to City standards, it is unlikely that cracking would be evident so soon after the construction.
- The City standard calls for the drive approach to be 6" thick. Because staff was not given an opportunity to inspect the grade prior to the pouring of concrete there is no way to determine if the drive approach was installed to the 6" City standard.

If the City desired to approve the gate opening and drive approach, what would be the appropriate procedure?

Upon review by the City Attorney and staff, the La Palma Municipal Code indicates that the appropriate procedure would be for Mr. Tyson to request a Precise Plan Amendment.

Mr. Noorbaksh also presented the following facts for the Council's consideration:

1. The gate violates the City of La Palma Municipal Code Section 26-18(h), in that he did not obtain permission from the City prior to constructing it.

2. Mr. Tyson was very well aware that the Public Works Department would not issue a permit to construct the drive approach and he installed the drive approach anyway and is, therefore, in violation of the City of La Palma Municipal Code section 22-9.
3. The property is on a curve and the drive approach in its existing condition creates a sight hazard to pedestrians when a vehicle is exiting the driveway. Approving the drive approach and gate opening in its current condition would significantly increase the City's exposure for permitting an unsafe hazard.
4. If the City Council wishes to approve the drive approach and gate and avoid significant exposure, staff is recommending that the block wall surrounding the gate opening be modified to provide visibility.

Mr. Noorbaksh also presented the results of a study conducted by staff on the other existing gates and drive approaches located in the City.

Councilmember Herman asked when the fence was constructed. Mr. Noorbaksh responded it was constructed IN August of 1996. Councilmember Herman asked if the opening was in the fence at that time or if it appeared later. Mr. Noorbaksh responded he did not find a gate opening shown in the permit and he did not know when it was installed.

Councilmember Herman clarified that the crack which appears in the drive approach and the curb and gutter leads Mr. Noorbaksh to believe that the work was done in one pour. Mr. Noorbaksh responded affirmatively.

Councilmember Walker stated that he supports Mr. Tyson. He explained that he done some research on his own at the site and added that 96% of the approximately 300 homes he had looked at had multiple cracks going into the curb and gutter on the driveways. Councilmember Walker asked if the setback driveway at 4971 El Rancho Verde was a permitted driveway. Mr. Noorbaksh responded he was not aware if there was a permit.

Councilmember Walker referred to the staff recommendation that Mr. Tyson modify the westerly property wall and stated that the property at 5221 Toulouse has a fourteen-foot hedge that covers that whole distance of the street. He stated that if Mr. Tyson is required to modify his fence, then

the property owner on Toulouse should be required to modify his hedge as well. He added that he believes modification of the fence would be an invasion of Mr. Tyson's property to his back yard. Councilmember Walker also stated that in the hour he was at the property he noticed only approximately six cars and added this is a cul-de-sac with very little traffic.

Councilmember Blake asked if the cracks could have occurred even if Mr. Tyson had done the work in two pours. Mr. Noorbaksh responded affirmatively particularly if a heavy vehicle has driven over it before it has cured. He added that with two pours it is less likely to occur. Mr. Noorbaksh also stated that if it were a City project the contractor is required to provide a one-year guarantee and if cracks occur he would be obligated to remove and replace the drive approach.

Councilmember Blake stated he agrees with Councilmember Walker stating that he doesn't feel there is a visibility problem with the motor home due to its height. Councilmember asked if Mr. Tyson could be held to the same one-year guarantee that the City's contractors must abide by.

City Attorney Joel Kuperberg responded that in connection with a Precise Plan Amendment the City could impose a condition but the difficulty is that the example that Mr. Noorbaksh cited was a public works project for City-owned property. Here you've got City right-of-way although the driveway itself is actually not going to be owned by the City, it will be owned by the private property owner and maintenance conditions like this are not usually imposed on private property owners.

Councilmember Blake commented that this is a sidewalk in the public right-of-way and could cause a safety issue.

Mr. Kuperberg responded that he felt that part of the problem is that, at this point, he was not sure it would be in the City's best interest to assume ownership of that concrete. While it's on City property, it's privately poured. The City could assume ownership and make that requirement, however, unless the City is comfortable that it was done per the City specifications, it might not be in the City's best interest to acquire ownership. Mr. Kuperberg suggested that a better condition might be to require the owner to continuously maintain the sidewalk area.

Councilmember Herman asked, under the Precise Plan Amendment, who puts the conditions on the project.

Mr. Kuperberg responded that the Precise Plan Amendment would be a land use entitlement granted by the City and so the City would place conditions upon that grant of entitlement.

City Manager Catherine Standiford added that these conditions are developed by staff, Development Committee and the Planning Commission.

Mayor Pro Tem Duke stated that she can't totally erase the fact that Mr. Tyson did call and he was informed that the drive would not be a permitted item, and he went ahead. She added that she is not opposed to Mr. Tyson going through the Precise Plan process but she would like to see it conditioned and she still had a concern about the way that it was installed because the City has no way of knowing.

Mr. Glenn Tyson, 5271 Iberville Circle, addressed the Council to state that his wall and gate were inspected and approved by the City. He also stated that his driveway was installed according to the City Code adding that he works for a contractor with a Class A license and they do this all the time. Mr. Tyson stated he has the mix design and the pressures if Council wishes to take a look at them. Mr. Tyson also stated that two of his neighbors present in the audience watched him pour his drive and it was poured in two pours. Mr. Tyson stated that his driveway is safe and there shouldn't be any worry about liability. He added that he has never seen the City Code which states that each resident is allowed only one driveway. Mr. Tyson concluded by thanking the Council to allow him to come back before them and hoped the Council will see that this is a safe driveway and will see it his way. He added he does not have a problem in signing and taking full responsibility for the driveway.

Councilmember Herman asked Mr. Tyson for clarification that the gate opening was there when the fence was approved in 1996 and that the inspector saw the gate and approved it. Mr. Tyson responded affirmatively.

Councilmember Herman stated that it doesn't matter if Mr. Tyson states that he will assume all liability 100%, when people sue, they sue everyone. Liability reaches out far so he doesn't feel it would do any good for Mr. Tyson to say that he would assume all the liability. Councilmember Herman also stated that some day Mr. Tyson could move from the house and then what happens to the liability.

Mr. Tyson stated he did not really want to take his driveway out, but if the Council feels that way and wants him to tear it out, if the driveway is allowed he is willing to take it out and pour it back with the City inspectors.

Mayor Barnes asked Mr. Tyson if he would be willing to modify the fence and put in the wrought iron. Mr. Tyson responded negatively.

City Manager Catherine Standiford stated that the Council's decision this evening is really a simple one, it's either to deny it or to instruct Mr. Tyson to go through a Precise Plan Amendment process. As part of that process, as a courtesy to Mr. Tyson, the staff met with him and shared what some of the recommendations might be for Conditions of Approval. The Conditions of Approval should not be decided this evening; it is something that should really be decided through the Precise Plan process.

Mayor Barnes stated that the design and way the drive was poured does not really eliminate the City's exposure or liability. She also stated that it was nice that his neighbors support him, but neighbors come and go and new neighbors might not approve of the drive approach.

Mr. Bill Oliver, 5232 Iberville Circle, addressed the Council to state that this young man has done more for their neighborhood than anybody he has ever seen lately. To find a young man of his caliber that is willing to put out the type of money that he has put out to rebuild portions of his home, to rebuild the fence and he confirmed that the fence did have an opening, he doesn't think he's lying. Mr. Oliver stated that the driveway is not an eyesore and Mr. Tyson has increased the value of the property in this area through his improvements to his property. Mr. Oliver encouraged the Council to give Mr. Tyson a break.

Councilmember Walker made a motion to allow Mr. Tyson to apply for a Precise Plan Amendment. The motion was seconded by Councilmember Blake.

Mayor Pro Tem Duke asked if it is Councilmember Walker's intent that the applicant just go through the Precise Plan process approving the drive after the fact with no conditions. Councilmember Walker and Councilmember Blake indicated that is their intention.

Councilmember Herman asked how encompassing the Precise Plan amendment would be.

Ms. Standiford stated that staff would recommend that Mr. Tyson file a Precise Plan Amendment related to the driveway itself.

Mayor Barnes asked if going through the Precise Plan process may or may not require Mr. Tyson to remove the driveway and re-pour it.

Mr. Kuperberg clarified that it sounds like the motion was modified to allow the applicant to apply for a Precise Plan amendment based on the existing driveway structure so unless the Development Committee or Planning Commission vote to deny that Precise Plan application what will be in front of the Council will be to leave the current driveway structure in place.

Mayor Barnes asked that if the Council does approve the Precise Plan if it would eliminate the City's liability or exposure.

Mr. Kuperberg responded it would be to the contrary, it would either stay the same or it could increase it.

Councilmember Herman asked who has the responsibility of maintaining the sidewalks and driveways.

Mr. Kuperberg responded that as a general rule the City accepts dedication of those. Here the City has a different situation where basically there was City property there in the form of a

sidewalk that was removed and the private property owner placed his own sidewalk, curb and driveway there in place of that.

Councilmember Herman stated he still has concerns about liability.

Mayor Pro Tem Duke clarified that under the motion on the floor, the Precise Plan would go to the Development Committee and they could make recommendations to the City Council. Ms. Standiford responded affirmatively.

Mayor Pro Tem Duke stated that she agrees with Councilmember Herman and she is still very uncomfortable about the liability issue. She added that the appearance of the project has never been an issue; she agrees that the end product looks fine. Her concern is the lack of process that Mr. Tyson did not go through. Mayor Pro Tem Duke stated she would support a motion that would require the applicant to comply with conditions that the City might impose but she could not support approving the driveway carte blanche.

Ms. Standiford suggested that perhaps it would be best to allow Mr. Tyson to file an application, go through the Development Committee, and have this be sorted out through the normal process.

Councilmember Walker commented that Mr. Tyson had made a statement that "Why would somebody put something into their own property to a lacker standards than what they would like their property to look like." He added that he agreed, why would this gentleman put the amount of work he put into the concrete work in his back yard and put a lesser quality work into the approach. Councilmember Walker agreed to change his motion to require Mr. Tyson to go through the Precise Plan process and abide by any conditions imposed.

Councilmember Blake seconded Councilmember Walkers amended motion and the motion carried on the following roll call vote:

AYES: Barnes, Blake, Duke, Herman, Walker

NOES: None

ABSENT: None

Councilmember Blake asked if there is anyway to force new property owners to go through the permit process for those properties that currently have additional gates and driveway approaches.

Mr. Kuperberg responded that it is his understanding that this particular residence is before Council because it was done very recently and it was done after the homeowner had conversations with Mr. Noorbaksh on what could or could not be done. Technically, any gate opening or driveway that was installed without City permission is a violation of City Code and remains a code violation for however long it is since the work was done. However, at some point the time lapse is such that you may want to question if it is worth taking action. If action were to be taken the appropriate action would be to notify the property owner that their property is not in compliance with the City Code, provide them an opportunity to remedy it, but if they chose not to remedy it, after exhausting all efforts to achieve compliance the City would file a criminal action for enforcement of the City Code.

Mr. Tyson asked if the Council action just taken means that he gets to keep his driveway.

Mr. Kuperberg stated that what the Council did was to say that at this point in time they are not going to order Mr. Tyson to remove the driveway. They are giving him an opportunity to file an application for a Precise Plan Amendment and pretend the driveway is not there, and let him go through that process. Then they will look at it, they will look at what conditions are appropriate, the Development Committee will make a recommendation and it will eventually come back before the City Council acting in their capacity as the Planning Commission, and they will vote on whether or not to allow the driveway to stay and what conditions are there.

COUNCILMEMBER REPORTS FROM CITY-AFFILIATED COMMITTEES/COUNCIL REMARKS

Councilmember Blake asked the City Manager that now that the "Poole" case has gone to a class action status, is it known what loss may result to the City as revenue.

Ms. Standiford responded this case will be appealed so it is not something that she is concerned about in the near future.

Councilmember Blake stated he enjoyed the Tree Lighting Ceremony and the Employee Recognition Lunch. He also stated that he had the opportunity to attend the California School Board Association Conference the same weekend the Governor announced the cuts to the budget and reported that the best thing the City can do is band together with the school districts and the County Association and League of California Cities and try to put pressure on the legislators.

Mayor Pro Tem Duke stated that she attended the Orange County Council of Governments Special Meeting and reported that the prime reason for the meeting was to discuss and approve the base line forecast that is going to SCAG to be incorporated into their plan. She added that the Orange County cities have put their information in. The final base line figures should come out sometime in March. She stated that she found out that La Palma's Housing Element has been approved.

Acting Principal Planner Dominic Lazaretto stated that the City has received confirmation that the modifications the City proposed to the Housing Element have been approved which means that the City Council will now have to go back and formally adopt the Housing Element and upon approval by the City Council the State will ratify the Housing Element which puts the City in compliance with a whole host of laws and enables the City to get certain benefits and grants.

Mayor Pro Tem Duke stated she attended a Housing Summit with the Mayor which addressed the housing crisis in Southern California and how it was going to be addressed. She added that the Gaslight area in San Diego is being used as a role model.

Councilmember Walker stated that he attended the Orange County Sanitation District meeting and reported that they moved for an additional \$600,000.00 for peroxide for scrubbing and installing a new software system implementation. A report was also presented on the 120" and 78" outfalls that go out into the ocean. He added that the 120" is thirty years old and the 78" is around 40 years old but divers have been down and they just found a couple of ports clogged.

They are also looking into a strategic plan for framework analysis for infrastructure asset management and it is anticipated that once it is implemented they will be saving upwards from 50% to 75% over the next twenty years.

Councilmember Walker stated that he had a very good time at the Tree Lighting. He also stated that he is concerned about the increased trash scavenging lately and with the increase in identity theft he would like to see the municipal laws strengthened and discuss some ways to combat that type of crime. He also reported that he has noticed concrete chunks out of the curb and gutters of his residence and also two of his neighbors and asked if repair work could be scheduled in the next year or two.

Mr. Noorbaksh responded that they look at all projects very objectively. He added they receive a lot of complaints about curb and gutter settlement, the complaints are recorded in a file and as projects come up they are looked at to make sure their repair is justified.

Councilmember Walker asked if, as a resident, he could do his own curb and gutter. Mr. Noorbaksh responded affirmatively.

Councilmember Herman stated that he too is concerned about the trash scavengers, they are a nuisance and whatever the City can do to discourage them, he supports.

Councilmember Herman thanked Mayor Barnes for her City Committee Appointments and stated he looked forward to working with everyone on these committees. He also recognized the City Manager for the excellent Councilmember Orientation and stated he looked forward to the last two sessions in January.

Councilmember Herman stated he looks forward to the Retirement Luncheon on Wednesday honoring Paul Pitts, Mary Nelson and Peggie Turnage. He also recognized Dominic Lazaretto for his response to the inquiries on the Los Coyotes Elementary School Central Kitchen and added that he thinks Mr. Lazaretto has stated it well.

Mayor Barnes stated that she attended the Housing Summit and had some materials which she would leave in the Mayor's Office. She noted that at the conference it was reported that the housing of choice is single-family housing and second choice is attached housing. She added that one of the statistics presented was that in 1970, 70% of the people in Los Angeles owned their own homes and in 1990 only 30% owned their own homes.

Mayor Barnes stated she attended the Employee Recognition Luncheon and congratulated the award winners and the Service Award Recipients and added that she is very proud of the work that all of the employees do and how they provide their services to the City. She also stated that she appreciated the dedication, loyalty and longevity of the City's employees such as Paul and Peggie.

Mayor Barnes stated she had been contacted by a resident of Cambury Drive concerning a streetlight that has been out for quite a while.

Mayor Barnes reported that she attended the Dallas Circle Closure and applauded the Dallas Circle residents. There was such a small town community atmosphere, it was "Mayberry" 100% and it was wonderful.

Mayor Barnes also reported that as of this afternoon she will be delivering 26 Holiday Baskets this year and encouraged anyone interested to adopt a family.

CITY MANAGER COMMENTS

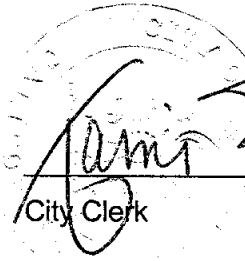
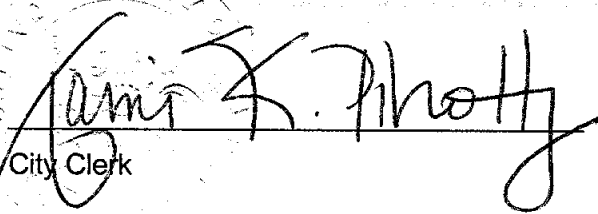
ADJOURNMENT

The City council adjourned at 8:55 p.m.



Mayor

ATTEST:

City Clerk