

MINUTES OF A REGULAR MEETING
OF THE LAKE FOREST CITY COUNCIL

The regular meeting of the Lake Forest City Council held March 5, 2013 at the Lake Forest Council Chamber, 25550 Commercentre Drive, Lake Forest, California 92630 was called to order at 5:35 p.m.

ROLL CALL:

Council Members:	Peter Herzog Adam Nick Dwight Robinson
Mayor Pro Tem: Mayor	Kathryn McCullough Scott Voigts
City Manager:	Robert C. Dunek
City Attorney:	Scott C. Smith
City Clerk:	Stephanie D. Smith

RECESS: City Council recessed at 5:35 p.m. for the purpose of conducting Closed Session Business.

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Property: APNs: 612-161-11, 612-161-12 and 612-163-03
Agency negotiators: City Manager and City Attorney
Negotiating parties: Trumark Companies, LLC and Brookfield Homes, LLC
Under Negotiation: Price and Terms of Payment for Land for On-site Public Facilities
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Pursuant to Government Code Section 54956.8
Property: APNs 606-341-01, 606-341-03, 606-341-04, 606-341-05, 606-341-06, 606-341-07, 606-351-01, 606-161-28, 606-161-30, 606-161-31, 606-321-01, 606-321-02, 606-321-03, 606-321-04, 606-321-05, 606-321-07, 606-321-08, 606-321-09, 606-331-01, 606-331-02, 606-331-03, 606-332-01, 606-351-03
Agency negotiators: City Manager and City Attorney
Negotiating parties: Sun Ranch Capital Partners, LLC and USA Portola Properties, LLC
Under Negotiation: Price and Terms of Payment for Dedication/
Acquisition under Implementing Agreement

ACTION: Conducted Closed Session.

RECESS: City Council recessed at 7:00 p.m. from Closed Session for the purpose of conducting regular City business.

RECONVENE: Mayor Voigts called the Regular meeting of the City Council, Regular meeting of the Housing Authority, and Special meeting of the Successor Agency to the former Lake Forest Redevelopment Agency to order at 7:07 p.m., with all Members present to continue regular City business.

PUBLIC SESSION

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance to the Flag of our Country was led by Council Member Robinson.

CLOSED SESSION REPORT: City Attorney Smith stated there was no reportable action.

PRESENTATIONS:

3. RECOGNITION OF LEADERSHIP DEVELOPMENT PROGRAM GRADUATES submitted by Deputy City Manager/Director of Management Services.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council approved the recognitions of Leadership Development Program Graduates. Mayor Voigts made presentations to the following graduates: Vicky Blethen, Jennifer Connally, Angel Fuyertes, Rob Gaylord, Martha Halvorson, Craig Harris, Darrell Hill, Doug McBratney, Irene Kha, Ron Rivera, Ron Santos, Hannah Shin-Heydorn, Stephanie Smith, and Jim Wren. MOTION UNANIMOUSLY CARRIED.

4. INTRODUCTION OF NEW EMPLOYEE - KELLY FLEMING, PUBLIC WORKS MANAGER submitted by Director of Public Works/City Engineer.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough the City Council received the introduction of Kelly Fleming as the Public Works Manager in the Public Works Department. MOTION UNANIMOUSLY CARRIED.

5. INTRODUCTION OF NEW EMPLOYEE - DOUGLAS ERDMAN, PRINCIPAL CIVIL ENGINEER/PUBLIC WORKS submitted by Director of Public Works/City Engineer.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council received the introduction of Douglas Erdman as the Principal Civil Engineer in the Public Works Department. MOTION UNANIMOUSLY CARRIED.

6. PRESENTATION OF THE 2012 PROJECT OF THE YEAR AWARD FOR THE ALTON PARKWAY PROJECT submitted by Director of Public Works/City Engineer.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council received the award for 2012 Project of the Year for the Alton Parkway Project from the Orange County Branch of the American Society of Civil Engineers. MOTION UNANIMOUSLY CARRIED.

REPORT FROM STUDENT LIAISON:

Jens Personious, Student Liaison from El Toro High School, presented his report.

PUBLIC COMMENTS:

The public offered no comments.

CONSENT CALENDAR - WARRANT REGISTER: (Item No. 7)

7. CERTIFICATION OF WARRANT REGISTER submitted by Director of Finance/City Treasurer.

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council approved the warrant register in the amount of \$1,578,301.04 as submitted. MOTION UNANIMOUSLY CARRIED.

CONSENT CALENDAR - MISCELLANEOUS: (Item Nos. 8 - 14)

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council approved Consent Calendar Item Nos. *8-11 and *13-14. MOTION CARRIED with Mayor Voigts abstained on Agenda Item No. 14.

- *8. WAIVE READING OF ORDINANCES AND RESOLUTIONS submitted by City Clerk.

ACTION: The City Council approved the reading, by title only, of all Ordinances and Resolutions. Said Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived.

- *9. MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL HELD ON FEBRUARY 5, 2013 submitted by City Clerk.

ACTION: The City Council approved the Minutes as submitted.

- *10. ADOPTION OF ORDINANCE NO. 250 - EMERGENCY SHELTERS AND TRANSITIONAL AND SUPPORTIVE HOUSING submitted by City Clerk.

ACTION: The City Council: 1. Conducted the second reading of Ordinance No. 250 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST,

CALIFORNIA, AMENDING LAKE FOREST MUNICIPAL CODE SECTIONS 9.040.030(D), AND 9.72.090(A) LAND USE MATRIX, AND ADDING SECTION 9.146.120 RELATING TO EMERGENCY SHELTERS AND TRANSITIONAL AND SUPPORTIVE HOUSING. 2. Adopted Ordinance No. 250.

- *11. ADOPTION OF ORDINANCE NO. 251 - AN ORDINANCE ESTABLISHING PRIMA FACIE SPEED LIMITS WITHIN THE CITY OF LAKE FOREST submitted by City Clerk.

ACTION: The City Council: 1. Conducted the second reading of Ordinance No. 251 entitled: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, ESTABLISHING PRIMA FACIE SPEED LIMITS ON CERTAIN STREETS THROUGHOUT THE CITY OF LAKE FOREST. 2. Adopted Ordinance No. 251.

- *13. AMENDMENT TO THE AGREEMENT FOR HUMAN RESOURCES CONSULTING SERVICES submitted by Deputy City Manager/Director of Management Services.

ACTION: The City Council approved the Third Amendment to the Agreement with Ralph Andersen & Associates, substantially in the form attached, to provide human resources consulting services.

- *14. COMMUNICATIONS SITE LICENSE AGREEMENT submitted by City Manager.

ACTION: The City Council: 1. Adopted Resolution No. 2013-03 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST APPROVING AND AUTHORIZING THE EXECUTION OF A COMMUNICATIONS SITE LICENSE AGREEMENT WITH CROWN CASTLE. 2. Approved a Communications Site License Agreement by and between the City of Lake Forest and Crown Castle NewPath Networks, LLC. 3. Authorized the City Manager to execute the Agreement, and the City Clerk to attest, the agreement with Crown Castle NewPath, LLC substantially in the form attached. MOTION CARRIED with Mayor Voigts abstained.

PULLED CONSENT CALENDAR ITEMS:

- 12. FISCAL YEAR 2012-2013 SECOND QUARTER TRAVEL AND MEETING EXPENSES - OCTOBER 1, 2012 - DECEMBER 31, 2012 submitted by City Clerk.

A member of the public pulled this item for separate consideration.

Staff report dated March 5, 2013 was introduced.

Jim Gardner, Lake Forest resident, addressed the expenditures of the travel report and gave recognition to Council for their time spent attending to City issues without compensation.

Council discussion ensued.

Council Member Nick asked for clarification on the expense listed for former Council Member Rudolph.

City Clerk Smith noted the meeting expense was incurred while Ms. Rudolph was a Council Member and as a citizen volunteer on the Vector Control Board she is no longer eligible for travel reimbursement.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Herzog, the City Council received and filed the report as submitted. MOTION UNANIMOUSLY CARRIED.

PUBLIC HEARING(S):

15. RESOLUTION AMENDING THE CITY'S FEE SCHEDULE TO INCLUDE FEES FOR NOTARIZATION SERVICES submitted by Deputy City Manager/Director of Management Services.

City Clerk Smith introduced the staff report dated March 5, 2013.

Mayor Voigts opened the Public Hearing for public comment.

The public offered no comment.

Mayor Voigts closed the public portion of the Public Hearing.

Council discussion ensued.

Council Member Nick suggested lowering the notarization fee to \$5.00.

Council Member Robinson noted the fee is nominal and correlates to the work performed.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council adopted Resolution No. 2013-04 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING THE SCHEDULE OF FEES, CHARGES AND DEPOSITS FOR CITY SERVICES. MOTION UNANIMOUSLY CARRIED.

DISCUSSION/ACTION ITEMS:

16. MID-YEAR BUDGET REVIEW submitted by Director of Finance/City Treasurer.

Director Neves introduced the staff report dated March 5, 2013 and provided an overview of the general fund, notable revenue increases occurring in property tax, increases in

Sales Tax, building permits and planning and zoning fees. He stated these are indicative of an improved economy.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Robinson, the City Council: 1. Adopted Resolution No. 2013-05 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING THE OPERATING BUDGET FOR FISCAL YEAR 2012-13 AND THE CAPITAL IMPROVEMENTS BUDGET FOR 2011-2013. 2. Approved the restatement of beginning balances as noted in the section "Restatement of Beginning Balances." 3. Approved budget adjustments to estimated revenues as noted in section "Proposed Adjustments to Fiscal Year 2012-13 Estimated Revenues." 4. Approved budget adjustments to interfund transfers as noted in section "Proposed Adjustments to Fiscal Year 2012-13 Interfund Transfers." MOTION UNANIMOUSLY CARRIED.

A. REQUEST FOR PROPOSAL FOR VILLAGE POND PARK DESIGN SERVICES submitted by Director of Community Services.

City Manager Dunek presented the staff report dated March 5, 2013.

David Brokaw, Lake Forest resident, addressed concerns of an unhealthy habitat created by the geese at the pond. He stated bird droppings create unsanitary conditions which also affect the surrounding neighborhood.

Jim Gardner, Lake Forest resident, stated many people unlawfully feed the birds, the pond is unsanitary compiling waste and filth problems, and with poor lighting the area attracts crime.

Council Member Herzog commented this park has complicated issues and recommended staff providing a detailed review to find the best solution. He made a motion to approve staff's recommendation. Mayor Pro Tem McCullough seconded the motion.

Council Member Robinson suggested properly noticing the pond community meeting to review the proposed improvements.

City Manager Dunek stated Community Services has built an extensive list of residents who are interested in participating in the upcoming meeting.

Mayor Voigts asked how the city is addressing the bird dropping issues presently.

City Manager Dunek summarized the City's efforts working with the public to resolve the issues identified. He stated the City jointly funded a water quality study with Lake 1 Homeowners Association (HOA). The HOA must maintain the water quality of the pond; the city is maintaining it as a bird sanctuary. In the interim, the city has made attempts to make improvements on a short term basis. He noted in the past, bird waste was washed into the pond; it is now vacuumed to avoid waste contamination.

Mayor Pro Tem McCullough noted in the past the pond was a destination for picnics and for local residents to enjoy.

Council Member Herzog asked if staff is reviewing the agreement the City has with the County for the park.

City Manager Dunek reported staff is reviewing the agreement and can bring it back separately at Council's direction.

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council: 1. Appropriated \$30,000 from the General Fund for the proposed Professional Services. 2. Approved the attached Request for Proposal for Village Pond Park Design Services. MOTION UNANIMOUSLY CARRIED.

B. LETTER AGREEMENT WITH ORANGE COUNTY TRANSPORTATION AUTHORITY FOR FUNDING UNDER THE ENVIRONMENTAL CLEANUP PROGRAM OF THE COMPREHENSIVE TRANSPORTATION FUNDING PROGRAM submitted by Director of Public Works/City Engineer.

City Manager Dunek introduced the staff report dated March 5, 2013.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Robinson, the City Council: 1. Approved Letter Agreement No. 2 to Agreement No. C-1-2773 between the Orange County Transportation Authority and the City of Lake Forest for Measure M (M2) Comprehensive Transportation Funding for the Installation of Catch Basin Screens at Various Locations. 2. Authorized the Mayor to execute, and the City Clerk to attest, Letter Agreement No. 2 to Agreement No. C-1-2773, substantially in the form attached. MOTION UNANIMOUSLY CARRIED.

17. CONSIDERATION OF LOCAL GOVERNMENT SUNSHINE POLICIES AND PRACTICES submitted by City Attorney.

City Attorney Smith introduced staff report dated March 5, 2013. He reviewed the various approaches to local government sunshine policies and practices. He summarized the State's adopted Sunshine laws including the Ralph M. Brown Act, the Public Records Act, and the Political Reform Act. He reviewed the summary of what other agencies have done to broaden the state guidelines, including Lake Forest, noting each of the amplified ordinances deals with one of the three state laws.

Mayor Voigts asked if the City can digitize its records, including various Fair Political Practice Commission filings.

City Manager Dunek stated the City has undertaken the process and asked Deputy City Manager Rose to provide a report.

Deputy City Manager Rose summarized various documents already on-line for public

review and in detail provided the future plans to complete the digitization of current and historic documents.

Jim Gardner, Lake Forest resident, complimented the City for its website access for various documents. He suggested the City does not need to adopt an official sunshine ordinance. He supported the actions being taken by the City.

Council Member Nick thanked City Attorney Smith for his documentation of this item. He suggested he wants to see agendas posted 96 hours in advance of meetings. He stated better quality recording capability would improve public access. He asked City Attorney Smith if a member of the public can find remedy to overturn a denial of a records request, rather than filing a writ against the City Clerk.

City Attorney Smith stated the Council has the opportunity to review this process. He clarified that the Clerk's decision is an administrative decision appealable to the City Manager and City Council before going to court.

Council Member Nick asked how often was a director's decision reversed by the City Manager and the City Council?

City Attorney Smith reported when the City brings back the ordinance at a later date, staff can provide that a member of the public can have the option to go straight to court or seek administrative redress.

Council Member Nick stated many cities have done away with the "catch all" provision. He noted he would like to remove the "catch all" process or deliberative process waiver. Commenting on documents, he stated he wants to see all city documents that are publicly available to be available online. He referenced the Orange County Grand Jury report, out of 11 cities in south Orange County; Lake Forest ranked 9th ahead of Laguna Niguel and Mission Viejo, on accessibility, detail of information on executive pay, on how clear and detailed it was on employee compensation.

City Manager Dunek reported the City will provide copies to Council of the original request from the Grand Jury, the Grand Jury report and the City's response letter to the Grand Jury.

Mayor Voigts asked City Manager Dunek to address some of the efforts the City is making toward the goal of all public record availability online.

City Manager Dunek stated providing the greatest access to City records is the Council's goal and objective, and will achieve that faster than many other cities because of the numerous documents older cities have. The new system will go live in the near future, improving accessibility on the city's website. When cities publish compensation, it can be measured in many ways. It has been the City of Lake Forest's approach to be consistent with the State Controller's requirement.

City Attorney Smith stated there is follow up to the items requested by Council Member Nick. The City policy currently exceeds the requested 96 hour noticing of meeting agendas.

Asking for consensus, Council Member Nick expressed he is interested in requiring the 96 hour as a codified ordinance.

CONSENSUS: The City Municipal Code will be amended to require a 96 hour posting of all agendas.

City Attorney Smith stated with regard to recording of council meetings, the videography improvement are scheduled to be implemented in the new City Hall.

City Attorney Smith suggested he would update Council at a future Council meeting the administrative Appeals process (Municipal Code 1.12.160) providing comparables from other city governments.

City Council Member Robinson asked the timing of online FPPC filings for public review.

City Manager Dunek suggested at Council's request, this can be prioritized.

Mayor Voigts suggested the anticipated launch date for the online records would be July, 2013.

ACTION: The City Council: 1. Reviewed the report summarizing various approaches to local government sunshine policies and practices. 2. Provided direction to staff to amend the Municipal Code requiring a 96-hour posting of all agendas. 3. Implemented the anticipated goal of online records by July, 2013. 4. Staff to report at future Council meeting on administrative appeals practices by other cities.

18. **DISCUSSION REGARDING THE POTENTIAL IMPLEMENTATION OF CITY COUNCIL MEETING INVOCATIONS** submitted by City Attorney.

City Attorney Smith introduced the report dated March 5, 2013. He reported the staff report includes a summary of California Case law related to invocations, most notably a discussion of the Rubin v. City of Burbank litigation. The lawsuit has served as a guideline for cities in deciding whether to have the practice of public invocations, and if the practice is adopted to set parameters of such invocations. He noted there are best practices or model policies set from the Rubin litigation.

Karla Westphal, OC Chapter for Americans United for Separation of Church and State, spoke against adopting invocations.

Sassan Darian, Lake Forest resident, spoke in opposition to a proposed invocation.

Ted Perle, Lake Forest resident, spoke in opposition to a proposed invocation.

Mayor Voigts stated he requested consideration of this item. He suggested the parameters presented in the staff report are acceptable with the inclusion if the speaker is absent, a volunteer from the dais could offer the invocation.

Council Member Herzog thanked the public speakers and referenced letters submitted by the public. He read aloud a portion of a letter from Lauren Riney. He stated this was the first time in 20 years the City had speakers addressing this matter. He expressed appreciation of the public's comment that religion is a very personal issue. He stated no member of the public has come forward until now to request delivery of invocations at City Council meetings. He noted invocations at various boards are performed by board members, suggesting Council could assume that role.

Council Member Nick suggested Council is representative of the public even when they do not agree with the issue. He stated at the March 1, 2011 Council meeting he publicly spoke against an issue where Council was supportive.

Council Member Herzog interjected Council Member Nick was referring to a subject of litigation and asked Counsel for legal interpretation.

City Attorney Smith suggested the question is whether the discussion of the specific permit is appropriate, he would prefer it be mentioned generally.

Council Member Nick stated he was relating his comments from the March 2011 meeting to those of the public's on this issue.

Mayor Pro Tem McCullough left the dais at 9:05 p.m.

Council Member Nick stated he respects all religions; as a Council Member he supports the separation of government and religion.

Council Member Robinson stated he supports the tradition of invocations.

Mayor Pro Tem McCullough returned to the dais at 9:10 p.m.

Mayor Pro Tem McCullough stated the country is diverse, and she respects all people. She moved to continue the item to have staff refine the policy. She asked to eliminate the reference that a speaker who uses references defined inappropriate be removed from the list of approved speakers. If the draft policy is not amended, she would oppose the item.

Mayor Voigts seconded the motion for staff to amend the invocation policy and return it to Council for consideration.

City Attorney Smith asked for clarification of the motion.

Mayor Pro Tem McCullough stated the Rubin case inhibits a person's freedom to speak. If a person violates the invocation policy while delivering an invocation, they are prohibited from ever delivering an invocation again. She stated this is not acceptable.

City Attorney Smith stated any member of the public can pray during public comment, but the remedy applies to a violation in the delivery of the invocation.

Mayor Pro Tem McCullough states the Rubin case inhibits a person's freedom to speak.

City Attorney Smith stated staff will provide clarification to the remedy as the policy is revised.

Council Member Herzog stated he agrees with the public and Council Member Nick's conclusion to not move this policy forward. If it is approved however, he suggests not burdening staff, but Council should take the responsibility of leading the invocation.

Council Member Robinson agrees that staff should not be responsible for providing the invocation speakers and schedule.

Council Member Herzog suggested the Council provide the invocations, not an outside source.

MOTION: On motion by Mayor Pro Tem McCullough and second by Mayor Voigts, the City Council asked staff to revise the policy to include the option for Council to offer the invocation or choose not to participate, and bring the item back to Council for consideration. MOTION CARRIED with Council Member Herzog opposed.

19. LEGISLATIVE AND REGULATORY MATTERS submitted by City Manager.

City Manager Dunek introduced the staff report dated March 5, 2013.

Council Member Herzog referencing Assembly Bill 265 suggested considering inclusion of limited liability for the City regarding the proposed dog park. He asked AB 265 be included on the watch list.

Mayor Pro Tem McCullough requested staff add Assembly Bill 801 on the watch list as it affects the legal definition and powers of code enforcement officers.

ACTON: The City Council received and filed the report as submitted.

20. REQUEST FOR APPOINTMENT - LEAGUE OF CALIFORNIA CITIES, ASSOCIATION OF CALIFORNIA CITIES, ORANGE COUNTY AND/OR THE ORANGE COUNTY CITY SELECTION COMMITTEE submitted by City Clerk.

ACTION: The City Council made no appointments.

CITY MANAGER'S REPORT:

City Manager Dunek presented no comments.

CITY COUNCIL COMMENTS:

Council Member Herzog suggested bringing forward in the budget workshop, the concept of investing in a vine-like planting as a long term solution to deter graffiti on walls maintained by the city.

Council Member Nick addressed his concern that actions taken at a prior Council meeting were not noticed properly and has had reporters questioning Council's actions. He asked City Attorney Smith to confirm procedurally the action was taken properly.

City Attorney Smith addressed the question stating the personal commitment to the Council is to always error on the side of openness and on the side of compliance with the Brown Act. He stated Mr. Nick is referring to the Council's action at the February 5, 2013 meeting to eliminate, for now, one requirement for the application for development. The concerns have been presented to the city attorney regarding the letters submitted by the developers to Council. The Brown Act allows for the matters to be considered, discussed and action to be taken as members of the public have the opportunity to address the item as well.

Council Member Robinson offered no comments.

Mayor Pro Tem McCullough reported attending the Newport Beach Watershed Executive Committee meeting, the Lake Forest Little League Opening Day event, Orange County Transportation Authority Advisory Committee Special Needs Fair, Special Meeting of the Oversight Board to the Successor Agency to the former Lake Forest Redevelopment Agency, Orange County DUI Task Force Summit, New home ground breaking in Irvine, Orange County Housing Committee meeting, Orange County Fire Authority Board meeting, and an Eagle Scout Court of Honor Event.

Mayor Voigts reported attending an Eagle Scout Court of Honor and asked for consensus to add to a future agenda consideration of a RFP for legislative advocacy and grant funding.

CONSENSUS: Staff will agendize for Council consideration of an RFP process for legislative advocacy and grant funding.

Mayor Voigts closed the meeting with a moment of silent invocation.

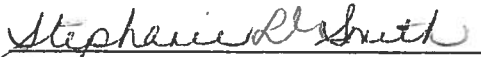
CONTINUED CLOSED SESSION:

There was no continued Closed Session.

ADJOURNMENT:

The City Council of the City of Lake Forest adjourned at 9:52 p.m.

Respectfully submitted:


STEPHANIE D. SMITH, CMC
CITY CLERK

APPROVED:


SCOTT VOIGTS
MAYOR