

MINUTES OF A REGULAR MEETING
OF THE LAKE FOREST CITY COUNCIL

The regular meeting of the Lake Forest City Council held March 19, 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 and Housing Authority 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 LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation
Pursuant to Government Code Subsections 54956.9(a)
Number of potential cases: 1
3. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code section 54956.9(d)(1)
Case Name: City of Lake Forest v. Alexander S. Rados, et al.
Case Number: Orange County Superior Court Case No. 30-2011-00506646

ACTION: Conducted Closed Session.

RECESS: City Council recessed from Closed Session at 6:56 p.m. for the purpose of conducting regular City business.

RECONVENE: Mayor Voigts called the Regular Meeting of the City Council to order at 7:00 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 Mayor Voigts.

CLOSED SESSION REPORT:

City Attorney Smith stated there was no reportable action.

PRESENTATIONS:

There were no items scheduled for Presentation.

REPORT FROM STUDENT LIAISON:

Jens Personious, Student Liaison from El Toro High School, was absent.

PUBLIC COMMENTS:

The public offered no comments.

CONSENT CALENDAR - WARRANT REGISTER: (Item No. 4)

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

Council Member Robinson pulled the warrant payable to the Association of California Cities, Orange County for separate consideration. He noted he is accepting no reimbursement or payment for events from the City. He will be reimbursing the City for the Association of California Cities, Orange County warrant item he was unable to attend.

Mayor Voigts pulled the warrant payable to the Emanuels Jones & Associates for separate consideration.

MOTION: On motion by Council Member Voigts and second by Council Member Herzog, the City Council approved the balance of the warrant register.
MOTION UNANIMOUSLY CARRIED.

Mayor Voigts having pulled the warrant payable for Emanuels Jones & Associates, asked if the City could prepare an RFP for lobbying and grant writing purposes.

City Manager Dunek reported staff is preparing an agenda report at the direction of Council to discuss the potential RFP for legislative advocacy and grant funding.

MOTION: On motion by Mayor Voigts and second by Mayor Pro Tem McCullough, the City Council approved the warrant payable to Emanuels Jones & Associates. MOTION UNANIMOUSLY CARRIED.

CONSENT CALENDAR - MISCELLANEOUS: (Item Nos. 5 - 16)

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council approved Consent Calendar Item Nos. *5-10, *12, and *14-16. MOTION UNANIMOUSLY CARRIED.

- *5. 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 only and further reading waived.

- *6. MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL HELD ON FEBRUARY 19, 2013 submitted by City Clerk.

ACTION: The City Council approved the Minutes as submitted.

- *7. QUARTERLY FINANCIAL REPORT - DECEMBER 31, 2012 submitted by Director of Finance/City Treasurer.

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

- *8. MONTHLY TREASURER'S REPORT – FEBRUARY submitted by Director of Finance/City Treasurer.

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

- *9. INFORMATION TECHNOLOGY SUPPORT SERVICES REQUEST FOR PROPOSALS submitted by Deputy City Manager/Director of Management Services.

ACTION: The City Council: 1. Approved the request for proposal for Information Technology Support Services. 2. Authorized staff to solicit and receive proposals for Information Technology Support Services.

- *10. CONTRACT EXTENSION FOR BUILDING AND SAFETY SERVICES submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Approved the Third Amendment to the Professional Services Agreement with Interwest Consulting Group to provide Building and Safety Services. 2. Authorized the Mayor to sign, and the City Clerk to attest, the agreement with Interwest, substantially in the form attached.

- *12. CONTRACT CHANGE ORDER NO. 7 FOR THE TRABUCO ROAD STREETScape PROJECT (PW 2005.06) submitted by Director of Public Works/City Engineer.

ACTION: The City Council authorized the City Manager to approve Contract Change Order No. 7 with Environmental Construction Inc. ("ECI"), for the Trabuco Road Streetscape Project.

- *14. REQUEST FOR PROPOSAL FOR PAYROLL AND HUMAN RESOURCES MANAGEMENT SERVICES submitted by Director of Finance/City Treasurer.

ACTION: The City Council: 1. Approved the Request for Proposal for Payroll and Human Resources Management Services. 2. Authorized staff to solicit and receive proposals for these services.

- *15. FIRST AMENDMENT TO AGREEMENT WITH GRIFFIN STRUCTURES FOR THE SPORTS PARK PROJECT submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Approved the First Amendment to the Agreement with Griffin Structures for additional construction management services for the Sports Park Project, substantially in the form attached. 2. Authorized the Mayor to sign, and City Clerk to attest, the First Amendment to the Agreement with Griffin Structures.

- *16. BID DOCUMENTS FOR THE ROCKFIELD BOULEVARD AND LAKE FOREST DRIVE RESURFACING PROJECT (PW 2011.11A) submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Approved bid documents for construction of the Rockfield Boulevard and Lake Forest Drive Resurfacing Project (PW 2011.11A). 2. Authorized staff to solicit bids for this work.

PULLED CONSENT CALENDAR ITEMS:

- 11. 2013/14 DRAFT ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM submitted by Assistant City Manager.

This item was pulled by a member of the public for separate consideration.

Staff report dated March 19, 2013 was introduced.

Lara Fisher, representative from South County Outreach, thanked Council for their consideration of their Community Development Block Grant application. She noted South County Outreach serves homeless families and operate seventeen condominiums to transition homeless families.

Council Member Robinson asked where are the condos located.

Ms. Fisher stated they are located throughout Orange County, including Lake Forest.

Margie Wakeham, Director of Families Forward, introduced herself to the new Council Members and highlighted the services provided by Families Forward.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council: 1. Approved the Fiscal Year (FY) 2013/14 draft Action Plan and reprogram unspent Community Development Block Grant (CDBG) from prior years. 2. Approved a 30-day public review and comment period and directed staff to return the item to City Council for final approval and adoption on May 7, 2013. MOTION UNANIMOUSLY CARRIED.

13. APPLICATION TO ENABLE TWO LAKE FOREST EMPLOYERS TO PARTICIPATE IN OCTA'S PROJECT V PROGRAM submitted by Assistant City Manager.

Staff report dated March 19, 2013 was introduced.

This item was pulled for separate consideration by Mayor Pro Tem McCullough. She addressed the need for improved public transportation in specific areas of the city.

City Manager Dunek suggested staff would inquire what separate funding or programs might be available through the Orange County Transportation Authority.

CONSENSUS: Staff will research availability of additional sources of funds to implement public transportation for the city.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Robinson, the City Council: 1. Reviewed and authorized the submittal of the Draft application for OCTA's Project V Program. 2. Adopted Resolution No. 2013-06 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING THE SUBMITTAL OF TRANSIT IMPROVEMENT PROJECTS TO THE ORANGE COUNTY TRANSPORTATION AUTHORITY FOR MEASURE M FUNDING UNDER PROJECT V COMMUNITY-BASED TRANSIT/CIRCULATORS PROGRAM. MOTION UNANIMOUSLY CARRIED.

DISCUSSION/ACTION ITEMS:

17. CONSTRUCTION CONTRACT AWARD FOR THE LAKE FOREST SPORTS PARK AND RECREATION CENTER (PW 2009.01) submitted by Director of Public Works/City Engineer.

City Manager Dunek introduced the staff report dated March 19, 2013. He noted this is significant, the largest public project in acreage and cost the City has approved. He highlighted the historic steps taken to bring the project to this point. He noted the contribution from the Opportunity Study Area (OSA) - provided developer fees to assist the funding of the project.

Council Member Robinson expressed his approval of the project. He asked City Manager Dunek to comment on other sports parks he reviewed which were constructed by Park West Landscaping.

City Manager Dunek reported the City of Brea sports park had many of the improvements being implemented in this project and proven quality of work.

Council Member Herzog commented on the process for bringing the sports park to fruition. He reminded the audience the County had not in the past reserved property for parks. He noted this was a complicated process in compiling property and negotiating a trade of a parcel to ensure the project. He stated various developers aided the funding through OSA to ensure the completion of this project which included former Shea/Baker now Shea/Toll, Baldwin Company, Irvine Ranch Water District, the Whisler family who sold property for development to KB Homes, and Madison Development. He made the motion to approve staff's recommendation.

Mayor Pro Tem McCullough noted the developers were generous with their time to ensure the development of the sports park. She thanked the developers involved who aided in the process to bring the sports park to completion and seconded the motion.

Mayor Voigts asked the dimensions of the Brea sports park.

City Manager Dunek reported the Brea park is 26 acres, which includes two soccer fields, three baseball fields, one small snack stand; not nearly the size of the 89 acres of the Lake Forest Sports Park.

Mayor Voigts asked staff if the planned synthetic turf soccer fields are regulation size.

Larry Ryan, RJM Design Group Inc., reported there are options to increase the width; if that is Council's discretion.

MOTION: On motion by Council Member Herzog and second by Mayor Pro

Tem McCullough, the City Council: 1. Awarded a contract in the amount of \$35,888,810.00 to Park West Landscaping, Inc., of Rancho Santa Margarita, California, for the construction of the Sports Park and Recreation Center. 2. Upon receipt of the executed contract documents from Park West Landscaping, Inc., rejected all other bids received and authorized return of the bid bonds. 3. Authorized the Mayor to sign, and City Clerk to attest, the contract with Park West Landscaping, Inc. 4. Authorized the City Manager to approve contract change orders up to a maximum of five percent of the contract amount. MOTION UNANIMOUSLY CARRIED.

18. INVOCATIONS AT CITY COUNCIL MEETINGS: ADDITIONAL ANALYSIS, DISCUSSION, AND POSSIBLE ADOPTION OF INVOCATION POLICY submitted by City Attorney.

City Attorney Smith introduced the staff report dated March 19, 2013. He noted Council had asked for further research on two issues relating to the possibility of providing invocations as a part of Council meetings. The first related to a sample policy that some cities use that provided if invited speakers offering invocations did not abide by the constraints of Rubin v. Burbank case, those speakers would never be invited back again. He noted the subscribed penalty could be changed. He stated it was determined there needed to be consequences to speakers who breached the policy, however it did not need to be to that extreme.

City Attorney Smith continued to summarize stating the second issue dealt with whether the City invocation could be delivered by council members only. The answer was yes. When the constraints of the Rubin case are honored, the courts found it is not religious speech, and participation could be selective to Council only. He concluded, staff has brought back two alternatives in a draft policy for Council's consideration.

Larry Gilbert, Mission Viejo resident, spoke in favor of invocations at City Council meetings.

Karla Westphal, Mission Viejo resident, Co-President of Orange County Chapter of United Americans for Separation of Church and State, spoke in opposition to invocations at Council meetings.

Joette Koelsch, attends church in Lake Forest, expressed support of invocations at Council meetings.

Pastor David Arnold, from Saddleback Church, spoke in favor of invocations at Council meetings.

Clayton Robinson, the Connection Church, spoke in support of invocations at Council meetings.

Ted Perle, Lake Forest resident, spoke in opposition to invocations at Council meetings.

Kandice Hawes, no residence identified, spoke in opposition to invocations.

Council Member Robinson suggested this is an opportunity to have varied faiths represented.

Council Member Herzog suggested in eighteen years no one from the public has brought this item before the Council. In surveys conducted by the City, historically the public has never mentioned the need for invocations. He quoted a letter from Lauren Riney, "that prayer is a personal and private thing. What purpose would it serve?" He stated the sentiment of faith is a person's own and should remain that. He noted if a majority of the Council moves forward with invocations, the burden should not be put on staff as Council brought this item to be heard and it should be the Council who determines how the invocation is addressed.

Council Member Nick addressed his past experiences and his desire to see that government and personal freedoms do not mix. He stated he has changed his view as the alternatives offered have removed religion.

Mayor Voigts spoke to his personal experience and asked for consideration of an invocation.

Mayor Pro Tem McCullough suggested she was comfortable with no mention of a denomination or reference of God in an invocation. She asked that an invocation be structured where it would not be disruptive. She suggested the Council is here to govern and make policy. She suggested she is not comfortable with staff managing the process of the invocation. She could agree with a rotation of Council Members offering a note of inspiration or time of silence, or a member passing on an offering.

City Attorney Smith asked for clarification of the Council's motion.

Mayor Voigts recommended Alternate Two amended to include the statement the invocation would be delivered by Council, in a rotation of the City Council, with the delivery of words of inspiration or a period of silence, with no mention of organized faith or a deity.

City Attorney Smith suggested adding the words that the invocation shall be delivered by City Council and comply with the restrictions of the Rubin v. Burbank decision.

MOTION: On motion by Mayor Voigts and second by Council Member Nick, the City Council adopted Alternate Two amended to include the invocation would be delivered by Council, in a rotation of the City Council, with the

delivery of words of inspiration or a period of silence, with no mention of organized faith or a deity, and a Council Member can elect to not participate. MOTION CARRIED with Council Member Herzog opposed.

RECESS: City Council recessed at 8:30 p.m.

RECONVENE: City Council reconvened at 8:38 p.m. with all Members present.

19. REPORT TO CITY COUNCIL ON POSSIBLE WAIVER OF DELIBERATIVE PROCESS PRIVILEGE AS COMPONENT OF "GOVERNMENT SUNSHINE" POLICY OR ORDINANCE submitted by City Attorney.

City Attorney Smith introduced the report dated March 19, 2013. He reported Council had asked for additional research on this item. In a survey of several California cities, it was noted that three cities have ordinances that waive what is referred to as a deliberative process privilege; those are Gilroy, Milpitas, and San Francisco. He noted the source of the deliberative process is common law, not a statute. He added, it protects the communications about the thought process, between law makers and their staff and members of the public who might contact them. The privilege does not apply when the subject is matters of a public hearing. In an appeal the Council has the discretion to do nothing, the ability to weigh it on a case by case basis, or adopt similar provisions.

Council Member Nick asked if the City could adopt the same provision waiving the deliberative process privilege as the cities of Gilroy, Milpitas, and San Francisco.

City Attorney Smith stated yes, it could be done as a council policy or in the form of an ordinance.

Jim Gardner, Lake Forest resident, thanked former Council Members Marcia Rudolph, Mark Tettermer and Richard Dixon for their roles in the development of the sports park. He stated he has no complaints about access to information from the city. He expressed the deliberative process would help give information where a person may not know what they need to ask for. He commented in favor of more access to information.

Council Member Robinson asked what is the current policy.

City Attorney Smith stated the City's current process is the deliberative process privilege; the Council is the only body that has the privilege to waive it.

Council Member Robinson asked what is the process to determine where the privilege would apply for a particular document.

City Attorney Smith stated City Clerk would refer the requested document to

the City Attorney, who would determine if the document is to be withheld and under the auspices of that privilege. The requestor has to be notified as to what privilege the document was withheld.

Council Member Robinson asked if theoretically, a person would then attend a Council meeting and ask for the privilege to be waived.

City Attorney Smith stated yes, that is the current process.

Council Member Robinson expressed concern with the application of deliberative process privilege, noting his concern was directly related to privacy issues. He stated he is not comfortable with the disclosures with exception to the pre-decisional documents that are prepared to assist decision-makers in the decision-making process.

Council Member Nick stated documents were withheld from him and only provided after he filed a formal complaint. He stated he was not made aware that he could appeal to the Council.

Council Member Robinson asked is a person's recourse communicated them when privilege is invoked, that they can appeal to Council.

City Attorney Smith stated the appeals ordinance is coming back to Council the second meeting in April. The revised process entails the Clerk's decision is subject to appeal to the City Manager, and then to Council. It will be for Council to review.

Council Member Herzog stated the Public Records Act is very clear. He suggested he is comfortable with disclosure of pre-decisional documents prepared to assist in the decision process. He stated he is not comfortable with the balance of suggested disclosures.

Council discussion continued.

Mayor Voigts stated the city is moving toward having all pertinent documents on line by July. He suggested the city is moving in the right direction to making all public documents available.

Council Member Herzog made a motion to receive and file the item.

Mayor Pro Tem McCullough seconded the motion and stated the disclosure of her personal calendar, schedule and meetings is not a part of governing the city. She spoke in opposition to the deliberative process privilege. She asked for the current policy to be amended to provide the option for an appeal.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council considered the memorandum from City

Attorney on the nature and scope of the deliberative process privilege. The Council amended the current policy to provide for when privilege is invoked, process will include disclosure of appeal process. MOTION CARRIED with Council Member Nick opposed.

20. LEGISLATIVE AND REGULATORY MATTERS submitted by City Manager.

City Manager Dunek introduced the staff report dated March 19, 2013.

Council Member Herzog reported Assembly Bill 265 had been recently amended by the State, "removing liability solely for injury or death from actions of a dog at a dog park." He supports the revised Bill if amended removing the word "solely."

Council Member Herzog asked staff if any application of Assembly Bill 810, would apply to the City.

Staff will submit the recommended changes to AB 265 and will put a watch on AB 810.

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

21. 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 reported SCAG is updating their 2013 local profile report asking for input by cities. He suggested staff follow up on the request. He stated he attended the Transportation Corridor Agency Hearing on the extension of the 241 Toll Road. He noted the 241 should receive the San Diego Regional Water Quality Board permit. He stated the testimony of all elected officials was positive in favor of the extension.

Council Member Nick asked for consensus to place term limits on a future Council meeting.

CONSENSUS: Staff will add the item of term limits on a forthcoming Council meeting.

Council Member Herzog suggested the term limits be for an eight year-lifetime limit.

Council Member Robinson stated he would like to see more requests for RFP's from businesses within the City of Lake Forest.

Mayor Pro Tem McCullough reported attending the City of Lake Forest Leadership Luncheon, the Orange County Fire Authority Board meeting, the Senior Citizen Advisory Council Housing and Transportation meeting, the Grand Re-opening of Freedom Village, the Meet the Mayor event hosted by Lake Forest Chamber of Commerce at Foothill Ranch Mercedes dealership, and the Association of California Cities, Orange County Mayor Pro Tem meeting.

Mayor Voigts reported attending the City of Lake Forest Leadership Luncheon and the Meet the Mayor event hosted by Lake Forest Chamber of Commerce at the Foothill Ranch Mercedes dealership.

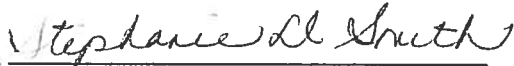
CONTINUED CLOSED SESSION:

There was no continued Closed Session.

ADJOURNMENT:

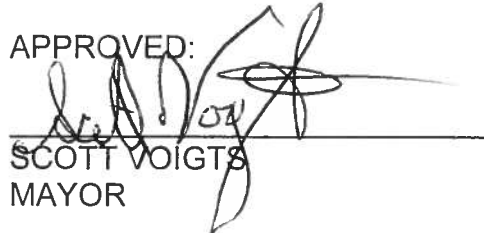
The City Council of the City of Lake Forest adjourned at: 9:35 p.m.

Respectfully submitted:



STEPHANIE D. SMITH, CMC
CITY CLERK

APPROVED:


SCOTT VOIGTS
MAYOR