

MINUTES OF A REGULAR MEETING  
OF THE LAKE FOREST CITY COUNCIL

The regular meeting of the Lake Forest City Council held July 16, 2013 at the Lake Forest Council Chamber 25550 Commercentre Drive Lake Forest, California 92630 was called to order at 6:06 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 6:06 p.m. for the purpose of conducting Closed Session Business.

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS  
Pursuant to Government Code Section 54957.6  
Agency designated representative: Mayor  
Unrepresented employee: City Manager
2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Pursuant to Government Code Section 54957  
Title: City Attorney

ACTION: Conducted Closed Session.

RECESS: City Council recessed at 6:35 p.m. from Closed Session for the purpose of conducting regular City business.

RECONVENE: City Council reconvened at 7:00 p.m., with all Members present to continue regular City business.

PUBLIC SESSION

INVOCATION: The Invocation was led by Mayor Pro Tem McCullough.

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

CLOSED SESSION REPORT:

City Attorney Smith stated there was no reportable action.

PRESENTATIONS:

There were no items scheduled for presentation.

PUBLIC COMMENTS:

The following members of the public offered comment:

Marcia Rudolph, Lake Forest resident and Board Member for the Orange County Vector Control Board, reported on West Nile Virus and mosquitos.

Gregory Sprague, Lake Forest resident, spoke regarding the United States Constitution and the 4th of July display.

John Navroth, Lake Forest resident, requested the City Council adopt an ordinance to prohibit second hand smoke drift.

Dennis Freed, Lake Forest resident, spoke in appreciation of the multiple response ordinance as it has assisted his neighborhood in curbing undesirable behavior.

Jim Froelich, Lake Forest resident, requested the Council agendize an ordinance dealing with mobile home park conversions to protect the mobile home residents.

Vincent Burke, Lake Forest resident, spoke regarding second hand smoke and what he believes to be misleading information. He also spoke regarding the proposed U-Haul development on Jeronimo. He expressed concern about the area and the need for no-parking along Jeronimo.

Merry Axelrod, Lake Forest resident, spoke regarding Internet security and password protection for wireless routers.

CONSENT CALENDAR - WARRANT REGISTER: (Item No. 3)

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

MOTION: On motion by Council Member Robinson and second by Council Member Herzog, the City Council approved the warrant register in the amount of \$1,991,865.98 as submitted. MOTION UNANIMOUSLY CARRIED.

CONSENT CALENDAR - MISCELLANEOUS: (Item Nos. 4 - 12)

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council approved the Consent Calendar Item Nos. \*4-11. MOTION UNANIMOUSLY CARRIED.

\*4. 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.

\*5. MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL HELD ON JUNE 18, 2013 submitted by City Clerk.

ACTION: The City Council approved the Minutes as submitted.

\*6. 2ND QUARTER COMMISSION ATTENDANCE REPORT submitted by City Clerk.

ACTION: The City Council approved Commission absences as excused.

\*7. SIX MONTH CONTRACT EXPIRATION NOTICE submitted by City Clerk.

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

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

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

\*9. APPROVAL OF FINAL TRACT MAP NO. 17527 submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Adopted Resolution No. 2013-17 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17527, CREATING A 5-NUMBERED AND 8-LETTERED LOT SUBDIVISION FOR CONDOMINIUM RESIDENTIAL PURPOSES ON 14.388 ACRES LOCATED ON THE NORTHEAST CORNER OF BAKE PARKWAY AND DIMENSION DRIVE. 2. Approved the Subdivision

Improvement Agreements with Shea Homes and Shea Baker Ranch Associates to construct the subdivision improvements associated with Final Tract Map No. 17527 and authorized the Mayor to execute and the City Clerk to attest the contract. 3. Accepted the Subdivision Faithful Performance Bond and the Subdivision Labor and Materials Bond, both in the amount of \$400,000, the Subdivision Warranty Bond in the amount of \$40,000, and the Subdivision Monumentation Bond in the amount of \$20,200 from Shea Homes and accepted the Subdivision Faithful Performance and Labor and Materials Bond, both in the amount of \$450,000, and the Subdivision Warranty Bond in the amount of \$45,000 from Shea Baker Ranch Associates, as surety for the construction of the subdivision improvements.

- \*10. APPROVAL OF FINAL TRACT MAP NO. 17529 submitted by Director of Public Works/City Engineer.

RECOMMENDED ACTION: The City Council: 1. Adopted Resolution No. 2013-18 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17529, CREATING AN 85-NUMBERED AND 11-LETTERED LOT SUBDIVISION FOR SINGLE FAMILY RESIDENTIAL PURPOSES ON 9.328 ACRES LOCATED AT THE NORTHEAST CORNER OF BAKE PARKWAY AND BAFFIN BAY DRIVE. 2. Approved the Subdivision Improvement Agreement with Shea Homes to construct the subdivision improvements associated with Final Tract Map No. 17529 and authorized the Mayor to excute, and the City Clerk to attest, the contract. 3. Approved the Subdivision Faithful Performance Bond and the Subdivision Labor and Materials Bond, both in the amount of \$200,000, the Subdivision Warranty Bond in the amount of \$20,000, and the Subdivision Monumentation Bond in the amount of \$40,000, as surety for the construction of the subdivision improvements.

- \*11. APPROVAL OF FINAL TRACT MAP NO. 17530 submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Adopted Resolution No. 2013-19 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17530, CREATING AN 86-NUMBERED AND 8-LETTERED LOT SUBDIVISION FOR SINGLE FAMILY RESIDENTIAL PURPOSES ON 15.655 ACRES LOCATED AT THE NORTHWEST CORNER OF BAKE PARKWAY AND DIMENSION DRIVE. 2. Approved the Subdivision Improvement Agreements with Shea Homes and Shea Baker Ranch Associates to construct the subdivision improvements associated with Final Tract Map No. 17530. 3. Accepted the Subdivision Faithful Performance Bond and the Subdivision Labor and Materials Bond, both in the amount of \$640,000.00, the Subdivision Warranty Bond in the amount of \$64,000.00, and the Subdivision Monumentation Bond in the amount of \$38,500.00 from Shea Homes and accepted the Subdivision Faithful Performance and the Subdivision Labor and Materials Bond, both in the amount of \$400,000, and the Subdivision Warranty Bond in the amount of \$40,000 from Shea Baker Ranch Associates, as surety for the construction of the subdivision improvements.

PULLED CONSENT CALENDAR ITEMS:

12. MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF ORANGE FOR CONTINUED PARTICIPATION IN A COUNTYWIDE MASS NOTIFICATION SYSTEM (ALERT OC) submitted by Assistant City Manager.

Council Member Robinson pulled this item for separate consideration. He asked staff to provide the costs for the non-emergency systems.

MOTION: On motion by Council Member Robinson and second by Council Member Herzog, the City Council: 1. Approved the Memorandum of Understanding with the County of Orange for participation in a countywide mass notification system (Alert OC). 2. Authorized the City Manager to sign the Memorandum of Understanding. MOTION UNANIMOUSLY CARRIED.

PUBLIC HEARING(S):

13. APPEAL OF THE PLANNING COMMISSION'S DENIAL OF A DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR FOOTHILL RANCH CAR WASH, LOCATED AT 19232 ALTON PARKWAY, FOOTHILL RANCH submitted by Director of Development Services.

City Attorney Smith summarized that in California case law there is due process when Counsel participates with staff in bringing an item forward, it requires separate Counsel to sit with City Council and advise it as a hearing body. Arrangements were made and Mr. Joseph W. Fletcher, Attorney at Law, will sit as advisor to the City Council. City Attorney Smith continued, as Counsel to the City he will sit with staff and be able to clarify any legal aspects of their recommendation.

Mr. Fletcher provided a summary of the hearing procedures.

Mayor Pro Tem McCullough asked if Council Member Nick would be in conflict to participate with this hearing.

Mr. Fletcher reported Mr. Nick was provided an opinion by City Attorney Smith outlining procedures to determine whether there was a conflict of interest. Mr. Fletcher stated he did not have an opinion as to whether or not Mr. Nick could participate. He stated the issue is whether this decision to grant or deny the PCN and the liquor license that goes with it would have material financial effect on Mr. Nick's business interest which is his gas station also in Lake Forest. That is a determination Mr. Nick needs to make.

Mr. Fletcher stated he does not believe the impact on other licenses is relevant to the decision they are making here tonight. The Council is being asked to see the public convenience or necessity to this decision, not the financial value of the licenses. What it

does to the marketplace does not come into play.

Mayor Pro Tem McCullough asked for a consensus for an appraisal of the value of this Council decision. There was no consensus.

Council Member Robinson stated he cannot support the appraisal and does not want to set a precedent.

Mayor Voigts asked Council Member Nick if his gas station is in the same census tract as the one before Council. He further asked Council Member Nick if this decision would affect his financial interests.

Council Member Nick stated he had consulted with City Attorney Smith where it was determined he would not recuse himself and asked staff to move forward with the hearing.

Mr. Fletcher summarized the procedure for the hearing. He noted this hearing is a de novo hearing; sent to the Council as if it had not been previously heard nor decided, for their determination.

Scott Voigts reviewed the order of the proceeding.

City Manager Dunek introduced Director of Development Services Gayle Ackerman, who presented the report dated July 16, 2013.

Mayor Voigts opened the public hearing for public comment.

Mr. George Chala, general manager of Foothill Ranch Car Wash, spoke in favor of the Determination of Public Convenience or Necessity (PCN). He stated he disagrees with the Planning Commission's decision as the car wash provides a unique service with a no touch car wash, auto repair, free air, and free water. He stated the residents living in Foothill Ranch purchase gasoline at the onsite gas station which is a convenience. Mr. Chala stated it was in error that the original license was not renewed. He suggested the process broke down due to a language barrier. At the time Mr. Cho, the property owner, had the license there were no problems, no police activity, noting every customer is asked to present identification when purchasing alcohol, regardless of age. Mr. Chala noted the Planning Commission argued excessive ease of purchasing alcohol increases DUI's. However, there were no recorded alcohol related calls for police from his business. He stated the Planning Commission's staff reported based on police department records, did not provide any compelling reason to deny the finding.

Mr. Kook Cho, property owner, spoke in favor of the PCN. He stated he purchased the business with the ABC license in 2003. He has had no violations. He emphasized this license is very important to the business affecting its livelihood. He stated all of his assets are tied up in the gas station/car wash and he doesn't want to lose his business.

Mr. John Kabbani, Lake Forest resident and owner of a business adjacent to the car wash spoke in favor of the PCN. He noted there historically have been no problems and it benefited his business by bringing in more traffic and customers. He noted with the increase in population in the development of Baker Ranch, there is a need for convenience stores where residents can purchase wine and beer.

Norm Lytle, Lake Forest resident, spoke in favor of the PCN. He stated he supports the business; it is clean, friendly, and a great business. He noted the increased traffic from Alton will increase revenues.

Jim Gardner, Lake Forest resident, stated the State of California, Department of Alcoholic Beverage Control (ABC) determined the area is oversaturated. He noted he is in favor of small business owners but states there is a problem with excessive alcohol use within the city.

Council Member Robinson asked what caused the ABC license to lapse and what was the delay in resolving the license issue.

Mr. Chala stated the general manager of the business experienced a language barrier, and reapplied for the license within five months. He stated the bureaucracy took its toll in getting the item before the Council. He stated in the interim the convenience store business went down hurting the business greatly.

Council Member Robinson asked Police Chief Higa if there was a problem with this applicant or adding one more license in the area.

Chief Higa stated his department looked at all the calls for service in the area and at the subject location noting there were less than one call per month. He commented Police Services acknowledges if another business is added, there might be an increase in calls for service, however this has not been a problem area in the past. Police Services looked at the history of the property, not just current activity since they've lost the license.

Council Member Robinson, asked how many licenses were there in 2011?

Director of Development Services Ackerman stated the City's records, which also rely on the ABC, currently shows six with the last license issued by ABC in 2008. She stated City records are not showing any new licenses since 2008. The car wash would be number seven.

Council Member Robinson expressed his concern that the license is incredibly valuable, and it was allowed to lapse.

Mr. Chala responded the owners are focused, and would not allow this to happen again.

Mr. Kook Cho stated the business has a clean record, is stringent in checking consumer

ID's, and he abides by the law.

Council Member Robinson asked what is the consequence if the City offers no position on the hearing.

Mr. Fletcher stated the statute reads it is at the discretion of ABC. If the City were to take a neutral position, ABC would not to give any weight to the absence of the decision.

Council Member Nick stated in looking at the ABC website he was confused because it states the license was auto-revoked. He asked the applicant if he could provide paperwork to substantiate it.

Council Member Herzog noted this is a potential Brown Act violation if members of the body go to any source of outside information during the hearing. He stated he believes the hearing cannot move forward at this time.

Mr. Fletcher reiterated that members of the body cannot go to an outside source of information during the hearing, however he is not sure the violation means that the hearing should start over. He reminded Council any additional sources of information must be disclosed to the public.

The City Council recessed at 8:28 p.m.

The City Council reconvened at 8:40 p.m.

City Manager Dunek stated during the break he reviewed the information on the ABC website which shows the license was auto-revoked.

Mr. Fletcher added in his opinion, this confirms what Mr. Nick was reviewing, and it is now available to everyone. He also noted there was no disciplinary history found for the subject property.

Mayor Pro Tem McCullough asked with the auto-revoke is the appellant selling alcohol and what is the status date of the license.

Mr. Chala responded the business is not selling alcohol and it does not have a license.

Council Member Nick asked what were the operating restrictions.

Mr. Fletcher stated the operating restrictions do not speak to the PCN issue.

Council Member Herzog stated the hearing is a due process of law and there has been nothing misleading or falsely presented by the appellant. The record is clear and has addressed the questions that the business is operating properly within the law. The website documentation presented clearly states there have been no violations.



Council discussion continued.

Mr. Fletcher clarified if Council takes no action it is conveyed to the ABC, if the Council approves or denies the application Council needs to provide findings to support it. This is a fact based decision. It is intended that Council looks at the facts and circumstances of a particular application, the property, and particular character and the nature of the operation.

Council Member Nick moved that the City Council should take no action on the hearing item. Council Member Robinson seconded the motion.

Mayor Voigts made a substitute motion to approve the Determination of Public Convenience or Necessity for Foothill Ranch Car Wash located at 19232 Alton Parkway determined by its proximity to the 241 Toll Road and Alton parkway, adjacent to the new homes coming into the city, and new residents, and its establishment's history of no disciplinary actions found by the ABC. Council Member Herzog seconded the motion.

Mayor Voigts asked for the roll call vote.

MOTION: On motion by Mayor Voigts and second by Council Member Herzog, the City Council approved the Determination of Public Convenience or Necessity for Foothill Ranch Car Wash located at 19232 Alton Parkway and directed City staff to inform the Department of Alcohol Beverage Control of the decision. MOTION CARRIED with Council Member Nick and Council Member Robinson opposed.

14. GENERAL PLAN AMENDMENT 2-12-2395, ZONE CHANGE 2-12-2394, TENTATIVE TRACT MAP 17446, SITE DEVELOPMENT PERMIT 2-12-2396, MITIGATED NEGATIVE DECLARATION, AND DEVELOPMENT AGREEMENT, BROOKFIELD RESIDENTIAL PROJECT 61 AND 71 AUTO CENTER DRIVE (APN: 612-161-11, 12) submitted by Director of Development Services.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Herzog, the City Council continued the item to an adjourned regular City Council meeting to be held on July 30, 2013 at 7:00 p.m. MOTION UNANIMOUSLY CARRIED.

#### DISCUSSION/ACTION ITEMS:

15. ADOPTION OF FIVE-YEAR STRATEGIC PLAN submitted by Director of Finance/City Treasurer.

The staff report dated July 16, 2013 was introduced.

Director of Finance Neves provided an overview of the history of the plan. His review incorporated new items added to the Strategic Plan including an arena soccer park, a dog park, completing the Portola gap closure, and the build out of the Opportunity Study

Area.

The following members offered public comments:

Marcia Rudolph, Lake Forest resident, spoke regarding historic families in the community, and asked to add within a 2-3 year time frame, the creation of a community garden park on the Whispering Hills property.

Ginny Bayliss, Lake Forest resident and president of the Lake Forest Garden Club, spoke regarding adding a community garden park to the plan.

France Imagawa, Lake Forest resident and president of the Whispering Hills Condo Association, spoke in favor of the community garden park. She noted the Homeowner Association Board unanimously supports the park.

Dorina Tan, Lake Forest resident, spoke in favor of a community garden park.

Greg Stevenson, Lake Forest resident, spoke in favor of a community garden park.

Lois Weiss Lake Forest resident and member of the Lake Forest Garden Club, spoke in favor of a community garden park.

Kenton Boettcher, Lake Forest resident, spoke on behalf of six speakers, in favor of a community garden park.

Mayor Voigts complimented the public speakers on their plan. He stated the City has a five year budget where this is not allocated for at this time.

Council Member Nick expressed support for the park and moved to direct staff to incorporate it in the two-year plan. Mayor Pro Tem McCullough seconded the motion.

Council Member Robinson addressed the different funding priorities the city has and noted there are competing interests for the particular parcel. He stated he supports a community garden suggesting the Park and Recreation Commission review the cost, time frame, and other factors for Council's consideration.

Council Member Robinson made a substitute motion to refer the item to the Park and Recreation Commission to develop costs, location suitability and timing and return their recommendations to Council. Mayor Voigts seconded the motion.

Council Member Herzog noted there are three groups of people proposing three projects for the Whispering Hills property. He suggested giving staff direction to research the feasibility of the property. He recommended having the Park and Recreation Commission review the site and the three different suggested projects. He also suggested adding a friendly amendment to refer all three ideas to the Park and

Recreation Commission and remove them from the 5-Year Plan at this time.

Council Member Robinson agreed to amend the motion.

City Manager Dunek referenced the list of projects identified by the Parks and Recreation Commission for the 5-Year Plan which included an arena soccer facility, dog park and added in the garden park which have not identified funding. He noted it is to the Council's discretion to prioritize the projects and provide funding.

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council adopted the Lake Forest Five-Year Strategic Business Plan 2013-2018 substantially in the form submitted, amended to direct staff to research the feasibility of the Whispering Hills property and forward the projects of the dog park, arena soccer facility, and garden park to the Park and Recreation Commission to evaluate for the potential development site. MOTION UNANIMOUSLY CARRIED.

16. RECONSIDERATION OF THE NO-CONTACT PROVISION AND PROPOSERS WORKSHOP - SOLID WASTE COLLECTION SERVICES REQUEST FOR PROPOSALS submitted by City Clerk.

Council Member Herzog recommended continuing the item to the first meeting in August.

MOTION: On motion by Council Member Herzog and second by Mayor Voigts, the City Council moved the item to the August 6, 2013 City Council meeting. MOTION CARRIED with Council Member Nick opposed.

17. 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 requested consideration of a policy to eliminate the use of electronic devices at the dais.

Council Member Nick confirmed his vote for Agenda Item No 16 was opposed.

Council Member Robinson thanked everyone for the parade and the work by all the

volunteers.

Mayor Pro Tem McCullough reported attending the Senior Citizens Housing and Transportation Committee and the Senior Citizens Advisory Council. She commended staff for their work on the 4<sup>th</sup> of July parade. She thanked Senior Management Analyst Carlo Tomaino for his work on the legislative advocacy. She asked to adjourn the meeting in honor of the Granite Mountain Hot Shots who died in the recent Arizona fire.

Mayor Voigts reported attending the 4<sup>th</sup> of July parade, the Grand Opening of MN8 Salon and Day Spa, and thanked everyone for their part in making this a great city.


CONTINUED CLOSED SESSION:

There was no continued Closed Session.

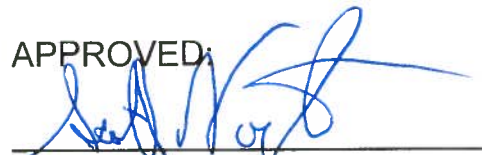
ADJOURNMENT:

The City of Lake Forest City Council adjourned this meeting in memory of the nineteen Granite Mountain Interagency Hotshot crew members who died in the Yarnell fire in Arizona, June 30, 2013.

Respectfully submitted:

  
STEPHANIE D. SMITH, CMC  
CITY CLERK

APPROVED:

  
SCOTT VOIGTS  
MAYOR