MINUTES OF A REGULAR MEETING OF THE LAKE FOREST CITY COUNCIL

The regular meeting of the Lake Forest City Council held May 21, 2013 at the Lake Forest Council Chamber, 25550 Commercentre Drive, Lake Forest, California 92630 was called to order at 5:40 p.m.

ROLL CALL:

Council Members:

Peter Herzog

Adam Nick Dwight Robinson

Mayor Pro Tem:

Kathryn McCullough

Scott Voigts

Mayor

City Manager:

Robert C. Dunek Scott C. Smith

City Attorney: City Clerk:

Stephanie D. Smith

RECESS: City Council recessed at 5:40 p.m. for the purpose of conducting Closed Session Business.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)

Existing Litigation Number of Cases: 2

City of Lake Forest v. Evergreen Holistic Collective Court of Appeal No. G043909 – Supreme Court Case No. S201454

Marla James, et al. v. United States of America, et al. (Case No. SACV 12-0280 (MLGx), U.S.D.C. Central District)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Title: City Manager

CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Mayor Unrepresented employee: City Manager CONFERENCE WITH LABOR NEGOTIATORS
 Pursuant to Government Code Section 54957.6
 Agency designated representative: City Manager
 Unrepresented employee: All Employees

ACTION: Conducted Closed Session.

RECESS: City Council recessed at 6:55 p.m. from Closed Session for the purpose of conducting regular City business.

RECONVENE: City Council reconvened at 7:04 p.m., with all Members present to continue regular City business.

PUBLIC SESSION

INVOCTAION: The Invocation was led by Mayor Voigts.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance to the Flag of our Country was led by Council Member Herzog.

CLOSED SESSION REPORT:

City Attorney Smith stated there was no reportable action.

PRESENTATIONS:

 REPORT BY INVESTMENT OVERSIGHT REVIEWER - QUARTER ENDING MARCH 31, 2013 submitted by Director of Finance/City Treasurer.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council received and filed the report presented by Kathy V. Lai with the firm of Macias, Gini & O'Connell. MOTION UNANIMOUSLY CARRIED.

 INTRODUCTION OF NEW EMPLOYEE KARYN JOHNSON 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 received the introduction of Karyn Johnson as the new Human Resources Technician in the Management Services Department. MOTION UNANIMOUSLY CARRIED.

 INTRODUCTION OF NEW EMPLOYEE AMANDA JONES - MANAGEMENT ASSISTANT submitted by Assistant City Manager. MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council received the introduction of Amanda Jones as the new Management Assistant in the Economic Development/Community Preservation Department. MOTION UNANIMOUSLY CARRIED.

REPORT FROM STUDENT LIAISON:

Newly appointed 2013-2014 Student Liaison Jeff Domenich presented in the absence of Jens Personious.

PUBLIC COMMENTS:

The following members of the public offered comments:

Jim Smith, Irvine resident, spoke regarding lighting at the Sports Park.

Marcia Rudolph, Lake Forest resident and Vector Control Board Trustee, reported on recent Vector Control activities.

Bob Holtzclaw, Lake Forest resident, stated there is a need for a dog park and the Park and Recreation Commission has identified nine potential sites.

CONSENT CALENDAR - WARRANT REGISTER: (Item No. 8)

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

Council Member Nick pulled the warrant payable to Emanuels Jones & Associates.

Council Member Herzog pulled the warrant payable to Cummins and White.

MOTION: On motion by Mayor Pro Tem McCullough and second by Council Member Herzog, the City Council approved the balance of the warrant register as submitted. MOTION UNANIMOUSLY CARRIED.

Council Member Nick asked for an update on the Request for Proposal for Lobbying Services and Grant writing.

City Manager Dunek reported this agenda item would be forthcoming for Council's consideration.

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

City Attorney Smith suggested Council Member Nick should recuse himself as the warrant item of Cummins and White is related to litigation with Mr. Nick and the City of Lake Forest

Council Member Nick left the dais.

Council Member Herzog noted Council Member Nick is in litigation with the City of Lake Forest, and Cummins and White is representing the City of Lake Forest in this litigation. Council Member Herzog suggested it is appropriate for Council Member Nick to recuse himself on voting on this and any future warrants payable to Cummins and White.

MOTION: On motion by Council Member Herzog and second by Mayor Voigts, the City Council approved the warrant payable to Cummins and White. MOTION CARRIED with Council Member Nick absent (abstained).

Council Member Nick returned to the dais.

CONSENT CALENDAR - MISCELLANEOUS: (Item Nos. 9 - 18)

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council approved Consent Calendar Item Nos. *9-11 and *14-17. MOTION UNANIMOUSLY CARRIED.

*9 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.

*10. MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL HELD ON APRIL 16, 2013 submitted by City Clerk.

ACTION: The City Council approved the Minutes as submitted.

*11 MONTHLY TREASURER'S REPORT - APRIL submitted by Director of Finance/City Treasurer.

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

*14. COST SHARING AND COOPERATIVE AGREEMENT WITH LAGUNA HILLS FOR EL TORO ROAD PAVEMENT REHABILITATION PROJECT submitted by Director of Public Works.

ACTION: The City Council: 1. Approved the Cost Sharing and Cooperative Agreement with the City of Laguna Hills for the El Toro Road Pavement Rehabilitation Project.

2. Authorized the City Manager to sign the Agreement.

*15. STATUS OF COMPLIANCE WITH NPDES STORMWATER PERMITS THIRD QUARTER FISCAL YEAR 2012-2013 submitted by Director of Public Works/City Engineer.

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

*16. APPROVAL OF FINAL TRACT MAP NO. 17524 submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Adopted Resolution No. 2103-07 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST. CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17524, CREATING A 1-NUMBERED AND 2-LETTERED LOT SUBDIVISION FOR PARK PURPOSES ON 3.107-ACRES LOCATED ON THE WEST SIDE OF MONARCH BETWEEN ALTON PARKWAY AND DIMENSION DRIVE. 2. Approved the Subdivision Improvement Agreement with Shea Baker Ranch Associates to construct the subdivision improvements associated with Final Tract Map No. 17524. 3. Accepted the Subdivision Faithful Performance Bond and the Subdivision Labor and Material Bond, both in the amount of \$1,440,000.00, the Subdivision Warranty Bond in the amount of \$144,000.00, and the Subdivision Monumentation Bond in the amount of \$2,100.00, as surety for the construction of the subdivision improvements.

*17. APPROVAL OF FINAL TRACT MAP NO. 17525 submitted by Director of Public Works/City Engineer.

ACTION: The City Council: 1. Adopted Resolution No 2013-08 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST. CALIFORNIA, APPROVING FINAL TRACT MAP NO. 17525, CREATING A 2-NUMBERED AND 4-LETTERED LOT SUBDIVISION FOR PARK PURPOSES ON 15.984 ACRES LOCATED ON THE EAST SIDE OF CATALINA BETWEEN ALTON PARKWAY AND DIMENSION DRIVE. 2. Approved the Subdivision Improvement Agreement with Shea Baker Ranch Associates to construct the subdivision improvements associated with Final Map No. 17525. 3. Accepted the Subdivision Faithful Performance Bond and the Subdivision Labor and Material Bond, both in the amount of \$3,025,000.00 and, the Subdivision Warranty Bond in the amount of \$302,500,00, for the future Community Park; and accepted Subdivision Faithful Performance Bond and the Subdivision Labor and Material Bond both in the amount of \$1,289,000.00, and the Warranty Bond in the amount of \$128,900.00 for the future Homeowners Association Park C1; and accepted the Subdivision Monumentation Bond in the amount of \$18,000.00 for both parks, as surety for the construction of the subdivision improvements.

PULLED CONSENT CALENDAR ITEMS:

 AWARD OF CONTRACT FOR VILLAGE POND PARK DESIGN SERVICES submitted by Director of Community Services.

Council Member Nick pulled this item for separate consideration. He expressed concern for the ratings given to the bidders and stated RJM Design Group was the lowest bidder and therefore should have received the RFP. He moved to remove Nuvis Landscape Architecture and Planning and award the RFP to RJM Design Group for Village Pond Park Design Services. Mayor Voigts seconded the motion.

Council Member Herzog stated the City has used Nuvis Landscape for other projects, and the contracts are allocated to the highest rated submittal. He noted there is no bias or favoritism with the selection process as evident between Nuvis and RJM, who had only \$1,000 difference between the two.

Council Member Herzog made a substitute motion to approve Nuvis Landscape Architecture and Planning for Village Pond Park Design Services. Mayor Pro Tem McCullough seconded the motion.

The following member of the public offered comment:

Jim Gardner, Lake Forest resident, stated he has worked with PACE, a subcontractor of Nuvis. He noted PACE is familiar with the project; have experience working with the Lake I lagoon, and he supports staff's recommendation.

Council Member Robinson asked for staff to comment.

City Manager Dunek responded this project is qualification based, not predicated on bid amount. The price point can be considered but does not drive the decision. He continued staff does historically ensure receiving the most qualified bids. The factor of distributing work among various contractors is common. He noted RJM is clearly a qualified firm, but in this instance Nuvis scored higher.

SUBSTITUE MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council: 1. Approved the selection of Nuvis Landscape Architecture and Planning for Village Pond Park Design Services. 2. Authorized the City Manager to execute, and the City Clerk to attest, an Agreement with Nuvis Landscape Architecture and Planning substantially in the form attached. MOTION CARRIED with Mayor Voigts and Council Member Nick opposed.

 CONTRACTUAL SERVICES AGREEMENT WITH THE LAKE FOREST CHAMBER OF COMMERCE submitted by Assistant City Manager.

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

Jim Gardner, Lake Forest resident, commented that he supports the Chamber of Commerce and stated they have done a good job. He suggested the City should be using "key performance indicators" within their contract.

Mayor Pro Tem McCullough noted the contract prohibits use of Chamber funds for political campaigning, including signage.

Council Member Robinson commented when the contract prohibits use of dollars for political campaigning, how does the chamber encourage non-political activity which could be hard to enforce.

Mayor Voigts asked if the Chamber utilizes Lake Forest food vendors.

Staff reported the Chamber always uses Lake Forest businesses for its events. The chamber solicits the bids and the City pays its portion directly to the Chamber and not the vendors.

MOTION: On motion by Council Member Herzog and second by Mayor Pro Tem McCullough, the City Council: 1. Reviewed the Lake Forest Chamber of Commerce Fiscal Year 2013-2014 Business Proposal. 2. Approved a Contractual Services Agreement between the City of Lake Forest and Lake Forest Chamber of Commerce for business development and attraction services. MOTION UNANIMOUSLY CARRIED.

 REQUEST FOR PROPOSAL FOR LIGHT DISPLAY SERVICES submitted by Director of Community Services.

Mayor Voigts pulled this item for separate consideration. He commented the goal was to augment the business marketing by adding decorative lighting. He suggested amending the holiday display time to run from Thanksgiving to January with multi-color lights. He suggested including the bus stop structures along El Toro Road in the year-round display of white lights. He proposed adding light display wrapping on the tree trunks and limbs in the medians of El Toro Road.

Council Member Herzog asked if staff would be providing design options.

City Manager Dunek reported the intent of this item is to maximize options for Council to consider. He recommended Council provide their desired scope and staff would follow up with cost effective recommendations.

Council Member Robinson suggested he would like staff to provide the cost. He asked if this is an ongoing expense would it be more beneficial for the city to purchase the lights.

City Manager Dunek reported this is predicated on a rental system on an annual basis. With the exception of the Arbor structures which are proposed to be year round, the lights would be rented. He noted in 2012 the cost was approximately \$20,000. Council can determine an amount they are comfortable with and staff can bring it back for Council's consideration.

Council discussion ensued.

Council Member Robinson suggested it is important to receive feedback from the affected businesses as to whether they perceive this as a benefit or not.

Mayor Pro Tem McCullough suggested depending on costs, the lights can be purchased, or possibly some of the businesses along El Toro Road might contribute towards the lighting. While reviewing the sign ordinance, the guidelines for displaying lighting on buildings needs to be reviewed as well.

City Manager Dunek suggested the process may require a modification to the RFP. He summarized staff can rephrase the section which addresses whether to own or rent the lighting, include the proposed lighting on the median islands on El Toro Road, the bus stops, and add operational issues which effect the installation of the proposed lighting. He concluded staff will incorporate the liability aspects and a potential maintenance contract into the final recommendations.

MOTION: On motion by Mayor Voigts and second by Mayor Pro Tem McCullough, the City Council: 1. Approved modifications to the Request for Proposal for Seasonal Light Display Services. 2. Authorized staff to bring seasonal light display service revisions back to Council for consideration. MOTION UNANIMOUSLY CARRIED.

DISCUSSION/ACTION ITEMS:

 REQUEST FOR PROPOSALS FOR SOLID WASTE COLLECTION SERVICES AND AUTHORIZATION TO SOLICIT PROPOSALS submitted by Director of Public Works/City Engineer.

Staff report dated May 21, 2013 was introduced.

Public Works Director Wheeler introduced William O'Toole, consultant from EcoNomics who assisted the City in creating the RFP for Solid Waste.

Director Wheeler noted within the Request for Proposal are key components, including the proposed process and integrity rules which states staff is the single point of contact, everything must be in writing, etc. and authorizes staff to solicit proposals. Mayor Pro Tem McCullough noted Assembly Bills 939 and 323, and Senate Bill 1016 affect the green waste reclamation and credits the city benefits from in waste disposal. She asked the Council to oppose any new bills. She asked staff how business would benefit from using the green waste recycling.

Staff reported the County Board of Supervisors had already voted in opposition to AB 323, and staff is monitoring all other assembly bills affecting the green waste recycling. Staff did factor in the potential for passage of these bills in the RFP.

Council Member Herzog asked for the item to be continued to allow Council more time for review. He noted this contract affects every business and resident within the city. He continued the State is planning to discontinue many of the reclamation activities the city is currently performing.

William O'Toole, consultant from EcoNomics addressed Council concerns stating the City is currently in compliance with AB 939. He added however, the State has recalculated the diversion rate, and cities are going to have to respond to required changes. This RFP includes a number of recycling programs. The State has created a policy where 75% of waste is diverted, meaning it is no longer a waste program, it is a diversion program. Only 25% of the vendor's job will go to landfills. The State program is phased and the RFP before Council has performance measures which will force the contractor to meet State regulations. Mr. O'Toole stated the RFP is dependent on what pace the Council wants to move and at what cost structure. The existing contract meets State requirements. There will be new requirements implemented by the State in the future, explaining why the contract has various provisions. He noted the City has a 50% diversion program, and a 75% State requirement by the year 2020.

RECESS: The City Council recessed at 8:45 p.m.

RECONVENE: The City Council reconvened at 8:52 p.m.

Council Member Robinson commented that State regulations will potentially drive trash rates up.

Mr. O'Toole responded that food waste is the largest component of landfill waste and as it decomposes creates methane, a greenhouse gas. There are other approaches to disposal of food waste, at this time they are more costly than compost.

Council discussion continued.

Mayor Pro Tem McCullough expressed concern with the number of trips per waste truck. She also questioned the need for two full-time coordinators.

Mayor Voigts asked if in the future, residential homes will have to recycle food waste.

Consultant Mr. O'Toole stated food waste recycling is mandated by the State for the year 2017 for commercial customers.

Council Member Herzog recommended continuing the item until June to process the RFP and the State mandates.

MOTION: On motion by Council Member Herzog and second by Council Member Robinson, the City Council continued the item until City Council meeting of June 4, 2013. MOTION UNANIMOUSLY CARRIED.

 POTENTIAL MODIFICATIONS TO THE CITY'S TEMPORARY SIGNAGE AND PROMOTION PROCEDURES AND LIVE ENTERTAINMENT REGULATIONS submitted by Assistant City Manager.

City Manager Dunek introduced the staff report dated May 21, 2013.

Mayor Voigts stated he brought this item forward to help promote businesses along El Toro Road. He commended staff's research and is in agreement with all of the recommendations with exception to the Temporary Outdoor Promotion Permit (TOPP). The current permit limits businesses to four TOPP's per year, 10 days each. Mayor Voigts suggested increasing the permit by 10 additional days. He also requested adding seasonal lighting for businesses on El Toro Road and asked if it is permitted under TOPP.

City Manager Dunek suggested it may require an electrical permit.

Staff reported the current sign ordinance has a provision for seasonal decorations and no permit is required.

Council Member Herzog made a motion to refer this item to the Planning Commission for review and evaluation on its technical aspects, and return the item to Council for final approval. Mayor Voigts seconded the motion.

Council Member Nick requested revisions to the signage ordinance to state during an official election period, from October 1 to and including 72 hours after the election is held, it would be a felony to tamper with political signage.

Council discussion ensued.

City Attorney Smith stated there is no violation of the Brown Act for Council Member Nick to bring sign changes as a friendly amendment.

Council Member Nick asked for consideration of a friendly amendment to the motion.

Council Member Robinson suggested there is time in the future to discuss changes to the political signage regulations.

Council Member Herzog suggested political signage is not a commercial aspect and should be heard separate to the subject being addressed.

Council Member Nick restated his request to include political signs in the current discussion.

Mayor Voigts called for the vote.

MOTION: On motion by Council Member Herzog and second by Mayor Voigts, the City Council referred staff's recommendations of potential signage and promotion modifications to include ten more days to the Temporary Outdoor Promotion Permits, and add seasonal lighting for businesses on El Toro Road to the Planning Commission to review the regulations, evaluate the technical component and return it to Council for consideration. MOTION UNANIMOUSLY CARRIED.

Council discussion continued.

Mayor Pro Tern McCullough made a motion for the Planning Commission to review the sign ordinance as it relates to political signage, including suspension of enforcement, and the placement on commercial businesses, homes, etc. Council Member Nick seconded the motion.

MOTION: On motion by Mayor Pro Tern McCullough and second by Council Member Nick, the City Council directed the Planning Commission to review the sign ordinance as it relates to political signs, including suspension of enforcement, during the filing period of candidates until seventy-two hours after the election. MOTION CARRIED with Council Member Herzog opposed.

 POTENTIAL ESTABLISHMENT OF TERM LIMITS FOR CITY COUNCIL MEMBERS submitted by City Manager.

City Manager Dunek introduced staff report dated May 21, 2013.

Marcia Rudolph, Lake Forest resident, spoke in opposition to term limits.

Mayor Voigts deferred to Council Member Nick.

Council Member Nick spoke in favor of term limits. He moved the proposed term of service would be three four-year terms maximum, with a two year break before being allowed to run again for City Council office. Mayor Voigts seconded the motion.

Council Member Herzog made a motion that the term of service should be eight years followed by a lifetime ban from serving, and direct staff to draft an ordinance for Council approval. There was no second.

Council Member Nick asked City Attorney Smith if the public will vote on the term limit.

City Attorney Smith reported the Government Code states the election for term limits must be submitted to the public, there are implementation steps, and it could be voted on in a special election or as an initiative placed on a ballot for a general election. Mr. Smith later clarified an initiative establishing term limits must be presented to the voters at a General Election only.

Council Member Robinson asked if term limits are approved by the voters, would it be retroactive.

City Attorney Smith stated no, an election will initiate new terms for the Council in the election as approved by the voters. Staff will provide the formal procedure to Council. This election would occur in 2014.

Mayor Voigts called for a roll call vote.

MOTION: On motion by Council Member Nick and second by Mayor Voigts, the City Council directed the City Attorney to prepare the ballot measure approving term limits of three four-year terms maximum, with a two year break before being allowed to serve City Council again. MOTION CARRIED with Council Member Herzog opposed.

Mayor Pro Tem McCullough made a motion to place the election of Mayor on the ballot in 2014.

City Attorney Smith advised Mayor Pro Tem McCullough the action of a motion for the election of Mayor is not on the agenda and can by consensus, be brought back for discussion.

CONCENSUS: Staff will agendize the discussion of a directly elected Mayor.

22. LEGISLATIVE AND REGULATORY MATTERS submitted by City Manager.

City Manager Dunek introduced the staff report dated May 2, 2013.

Mayor Pro Tem McCullough asked for consensus to send an opposition letter to the legislature for Assembly Bill 323. She asked staff to provide updates as action occurs on legislation concerning the City of Lake Forest.

Council Member Herzog reported meeting with the staff of State Water Resources Control Board, evaluating a new program which will deal with the City's MS4 requirements. It involves a 100% capture system. It is proposed for July, to be voted on by the State Water Resource Control Board and not the legislature. He suggested it is another mandate from the State which may outdate current procedures in place by the City. He asked for consensus for staff to evaluate the proposed program as to how it affects the city and the city's current procedure.

CONSENSUS: Staff will evaluate the proposed Water Resources program and report back to Council.

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

 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 offered no comments.

Council Member Nick spoke on the subject of civility.

Council Member Robinson reported participating in the Aliso Creek clean up. He attended a local Neighborhood Watch meeting and commended the Police Services staff for their work, and attended the Prelude at the Park Concert performed by the El Toro High School Instrumental Music Department.

Mayor Pro Tem McCullough reported attending the Orange County Library Executive Committee and Advisory Board, the Transportation Corridor Agency meeting, the Senior Citizens Advisory Council Executive Board, the City Council Lake Forest Budget Workshop, the Orange County Newport Bay Watershed Executive meeting, the League of California Cities-Orange County City Selection meeting, the Orange County Housing Committee, and the Orange County 2020 Ending Homelessness Board meeting. She attended the Mayor's Prayer Breakfast, resident and school teacher Kathy Moon's retirement party, the Prelude at the Park Concert performed by the El Toro High School Instrumental Music Department, an Eagle Scout event, the Trauma Intervention Program Advisory Board meeting, and asked to close the meeting in memory of the victims of the Oklahoma disaster.

Mayor Voigts stated he is grateful to be Mayor, appreciates the citizens of Lake Forest, and noted he attended the Prelude at the Park Concert performed by the El Toro High School Instrumental Music Department.

CONTINUED CLOSED SESSION:

There was no continued Closed Session.

ADJOURNMENT:

The City Council of Lake Forest adjourned at 10:17 p.m. with a moment of silence in honor of the Oklahoma and Texas tornado disaster victims.

Respectfully submitted:

STEPHANIE D. SMITH, CMC

CITY CLERK

APPROVED

SCOTT VOIGTS

MAYOR