

**MINUTES OF THE CITY COUNCIL
OF THE CITY OF LOS ALAMITOS**

REGULAR MEETING – August 3, 2009

CALL TO ORDER

The City Council met in Regular Session at 7:07 p.m., Monday, August 3, 2009, in the Council Chambers, 3191 Katella Avenue, Mayor Edgar presiding.

ROLL CALL

Present: Council Members: Mejia, Stephens, Zarkos, and Edgar

Absent: Council Members: Poe

Present: Staff: Jeffrey L. Stewart, City Manager
Dean Derleth, City Attorney
Nita McKay, Assistant City Manager
Todd Mattern, Police Chief
Angie Avery, Recreation & Community Services Dir.
Steven Mendoza, Community Development Director
Bill Huber, City Engineer
C. Darleen Cordova, Interim City Clerk

PLEDGE & INVOCATION – Council Member Stephens led the Pledge of Allegiance and Council Member Mejia gave the Invocation.

5. ORAL COMMUNICATIONS

At this time, any individual in the audience may come forward to speak on any item within the subject matter jurisdiction of the City Council. Please state if you wish to speak on an item on the Agenda. Remarks are to be limited to not more than five minutes.

Mayor Edgar opened Oral Communications.

Laura Herzog reported on the “Relay for Life” which took place Saturday on the JFTB. She thanked everyone who came out and indicated they raised \$83,000, with funds still coming in.

Rachael Turnbull, Garden Grove resident, requested the use of one tennis court at Laurel Park to provide lessons to approximately 30 Los Alamitos’ residents. Mayor Edgar referred her to staff.

J. M. Ivler, resident, spoke on the excellent Parks and Recreations programs in which his children participate. He encouraged the City to investigate the possibility of obtaining funds, if available, from the non-profit pool foundation and questioned what the Foundation Board was doing.

Mayor Edgar closed Oral Communications.

6. REGISTER OF MAJOR EXPENDITURES

August 3, 2009.

Motion/Second: Mejia/Stephens

Unanimously carried: The City Council approved the Register of Major Expenditures for August 3, 2009, in the amount of \$346,407.96.

Roll Call Vote

| | |
|-------------------------|--------|
| Council Member Mejia | Aye |
| Council Member Stephens | Aye |
| Council Member Zarkos | Aye |
| Mayor Pro Tem Poe | Absent |
| Mayor Edgar | Aye |

7. CONSENT CALENDAR

All Consent Calendar items may be acted upon by one motion unless a Council Member requests separate action on a specific item.

Council Member Mejia pulled items 7A2 and 7C.
Council Member Zarkos pulled items 7A3 and 7E.

Motion/Second: Mejia/Edgar

Unanimously carried: The City Council approved the following Consent Calendar items:

*****CONSENT CALENDAR*****

A. Approval of Minutes

- 1. Approved the Minutes of the Regular Meeting of June 15, 2009.

B. Warrants

The City Council approved the Warrant Register of August 3, 2009, in the amount of \$75,959.80.

D. Approval of Fiscal Year 2009-10 Community Development Department Appropriations with Willdan for the 2009 Annual Program Effectiveness Assessment (PEA) report; and with CityGIS for Annual Service Subscription (Com Dev)

The City Council had budgeted the appropriate funds for preparation of the 2009 Annual Program Effectiveness Assessment (PEA) and the CityGIS annual subscription renewal. Staff was seeking approval for the appropriate agreements to effectuate these two services for FY 2009-2010. Section 2.60.130 of the Municipal Code required approval of the City Council when the amount of the Contract exceeds ten thousand dollars (\$10,000).

The City Council:

1. Authorized the City Manager to execute the contract amendment with Willdan Company for \$14,980 for the completion of the 2009 Annual PEA Report; and,
2. Authorized the City Manager to execute the annual subscription renewal for CityGIS in the amount of \$12,000.

*****END OF CONSENT CALENDAR*****

A. Approval of Minutes

2. Approve minutes of the Special Meeting – July 20, 2009.
3. Approve minutes of the Regular Meeting – July 20, 2009.

Council Member Mejia, referred to Item A2, page 3 between the second and third paragraphs, and requested inclusion of comments she made to Dean Hill regarding her decision to select other members to the commissions. She felt Mr. Hill gave a “phenomenal interview” and should not be discouraged by the lack of votes. It was merely that the group chosen applied originally and she felt they should select those who showed interest first.

Council Member Mejia referred to Item A3, page 11, fourth paragraph, second line, and requested the Minutes read: “...suggested Council may want to think about declining the offer if it is not a substantial amount, because we just received \$80,000-\$100,000 grant from SCAG for our compass blueprint.”

Council Member Zarkos indicated he had asked for a copy of the tapes from the last two regular sessions and had just received them. He requested Item A3 come back at a later time.

Mayor Edgar requested Council Members Mejia and Zarkos work with the Clerk.

Motion/Second: Mejia/Zarkos

Unanimously carried: The City Council continued Items A2 and A3 to the meeting of August 17, 2009.

C. Consideration of a Professional Services Agreement with RBF Consulting for Environmental Impact Report Preparation for the Los Alamitos Medical Center Specific Plan

This agenda item sought approval of an agreement with RBF Consulting to provide processing and preparation of an Environmental Impact Report (EIR) for the Los Alamitos Medical Center’s Specific Plan. The Cost of the Agreement would be funded by the Los Alamitos Medical Center.

Community Development Director Mendoza summarized the staff report, referred to the information contained therein, and answered questions from the City Council.

Mayor Edgar questioned staff on rumors that the Medical Center might be for sale or that there might be some type of financial transaction, and if it would matter.

Community Development Director Mendoza responded that it would matter but the agreement takes care of successors and interests, but he had not heard that rumor.

City Manager Stewart also affirmed that he had not heard that rumor.

Mayor Edgar opened the meeting to the public.

Art DeBolt, resident, focused his comments on the Memorandum of Understanding (MOU). He was concerned that the staff report did not mention details of the preparation and the cost of developing the Specific Plan. Mr. DeBolt also expressed concern about language in Section D, under Recitals in the MOU, and in the PSA. He felt the Medical Center should deposit sufficient funds (or a bond) with the City to secure their performance and insure that Los Alamitos taxpayers are not liable for any expense. Some of his other concerns included Fish and Game fees; time provisions for responses; City management oversight and the need for a consultant; the need for a clause for the City to be able to sue/recover legal fees from the Medical Center; and requirements for General Plan coordination. He also questioned the need for an MOU.

City Attorney Derleth indicated that the City needed to be the entity that engages the environmental consultant. The MOU was one way of doing that; another way was a reimbursement agreement. Mr. Derleth noted that many fees are handled through the application process and do not have to be spelled out in the reimbursement agreement. The City can require the developer to put money up front. The City Attorney also indicated that if the money is not replenished when needed, the City can terminate the PSA at anytime without reason with seven days' notice.

Community Development Director Mendoza discussed the projected fees (adopted by the City Council in May 2006) that the hospital would be paying: Zoning Ordinance Map amendment, Environment Assessment, EIR preparation cost, and General Plan Amendment fee (if needed). He suggested that the City Council direct the City Attorney to amend the agreement and achieve a \$50,000 deposit.

Mayor Edgar asked the Community Development Director how he formulated a \$50,000 deposit.

The Community Development Director responded it was a suggested 25% deposit. When the deposit drops below \$5,000 they would be asked to deposit additional funds.

Council Member Mejia stated concern regarding the fees and was not comfortable with just a \$50,000 deposit. She would feel more comfortable with a larger deposit to protect ourselves.

Council Member Zarkos questioned if 25% was a standard in the industry?

City Manager Stewart responded in the negative.

Council Member Zarkos questioned if there would be any obligation on the City to pay invoices over that amount.

City Manager Stewart responded in the negative and added that the City Council could request a larger amount.

Mayor Edgar asked if there was anyone else in the audience who wished to speak.

Dave Emerson, resident, thought this might be the biggest EIR the City has had in some time. He had several concerns about fees and felt we needed to coordinate with the results of the SCAG study. Mr. Emerson supported adoption of an administrative overhead fee.

Jody Shloss, resident, referred to an article today at www.Register.com where a judge froze assets of Western Medical Center and three other Orange County hospitals. She was upset with the timing of this project as it might relate to the SCAG overlay study, and felt this item should be continued.

J. M. Ivler, resident, also spoke regarding the MOU. He was pleased with the SCAG overlay grant. He suggested a rider which would state that any zone overlay has precedence over any EIR from the Los Alamitos Medical Center's planned development, to protect the future potential of the City.

John Underwood, resident, spoke regarding the hospital complex's first phase of development under Tenet. He also talked about previous plans to redirect the hospital's entrance. Mr. Underwood hoped that the City would maintain due diligence in following this through and protecting the City and the taxpayers.

Mayor Edgar closed the meeting to the public.

City Attorney Derleth clarified several items, and explained that this is just getting us reimbursed for our environmental consultant or others to do the work necessary to review their project. Staff works with an applicant but we cannot tell them how to design a project within this agreement.

Council Member Zarkos questioned the City Attorney if there is any hardship to the City if this matter is continued to a future meeting to allow research by the City Council and staff.

The City Attorney replied in the negative.

Council Member Mejia requested clarification on page 7 of the RBF proposal, second paragraph, second to last line, and asked if there was a moratorium on industrial development.

The City Attorney and Community Development Director both responded in the negative.

Council Member Mejia requested that the wording be stricken.

Council Member Mejia next referred to page 21 of the proposal. Under 7.3, "Site Access Design Charette", she was concerned about the negative impacts to business if Kaylor Drive was closed and also requested clarification that the extension of Catalina Street was not being considered.

City Manager Stewart stated that the proposal is to study the project and they are not making any recommendations at this time.

Council Member Mejia went on record as not being comfortable with this as it regards Kaylor.

The City Attorney reminded Council that the time for making assessments or conclusions is when it comes back to the Council.

City Manager Stewart commented that this item is essentially a reimbursement agreement and an agreement to retain a consultant to do an EIR.

Council Member Mejia spoke on the SCAG Grant overlay project. Her concern was that our overlay needed to be in place first and felt we should continue this item. Council Member Mejia favored asking for the entire cost as a deposit. She also supported some kind of percentage to reimburse us for staff time.

Council Member Zarkos suggested that this item be continued for at least one meeting to sort out the issues.

Council Member Stephens thanked everyone who brought up concerns.

Mayor Edgar clarified the items in the motion: Deposit in an amount to be determined, not to exceed the true costs to the City; long-term viability of the facility tenant, Tenet; MOU wording to clarify that the MOU is a rider, or clarification that all fees approved by the City Council and policy are in

place; the MOU needs to clarify that it is just an addendum or bridge document to the fees already charged; City management fees of some % as a policy; clarify page 7 of the RBF proposal, section E, regarding a moratorium; and timing, as it relates to this project and an overlay.

Motion/Second: Zarkos/Stephens

Unanimously carried: Directed staff to come back with a report that separates the major issues.

E. Report to City Council providing an update for the City's Residential Street Improvement Program

As a result of Council Member input, staff has reviewed the selection of streets in the 2009/10 fiscal year Residential Street Improvement Program. The report reviewed the Program's history and provided a recommendation on the selection of the Highlands neighborhood for this year's street resurfacing program.

The City Manager introduced this item and indicated that staff has revamped and revisited the residential street program.

Council Member Zarkos asked City Engineer Huber how this item dovetails with Item 8C.

The City Engineer confirmed that this is a companion item to Item 8C and explained how staff determined that the Highlands has a greater need this year than other areas initially proposed.

Motion/Second: Zarkos/Mejia

Unanimously carried: Received and filed.

8. DISCUSSION ITEMS

The City Council approved Mayor Edgar's request to take Item 8B out of sequence.

B. Consideration of a Fee Waiver Policy for Disabled Veterans Use of the Pool

This report sought City Council consideration for the adoption of a Fee Waiver Policy for disabled veteran's use of the pool.

City Manager Stewart indicated this was a request by a disabled veterans group.

Recreation and Recreation and Community Services Director Avery summarized the staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Zarkos requested Mr. Pasley and any other group members address the City Council.

Melvin Pasley, project coordinator of the disabled veterans' scuba project, introduced USAF veteran Kelly McKunski, a certified scuba diver. Mr. Pasley provided background information on the project, including its two missions: 1) educate the public that persons who require adaptive scuba diving equipment can dive, and 2) serve both combat wounded veterans and those veterans injured outside of the combat zone.

Ms McKunski discussed her first diving experience and what diving means to her. The dive community has been very welcoming and does not look at her wheelchair. She is just like everyone else when she's in the water.

Mayor Edgar, on behalf of the City Council, thanked them for their service to our country.

Council Member Zarkos requested that the Council approve the Fee Waiver Policy (which he called the "Pasley Doctrine") and allow this group to use the pool without any fees. Additionally, Council Member Zarkos committed to make a personal donation to the organization of several hundred dollars to help defray costs.

Council Member Stephens commented that he had never met Col. Pasley before but he "knew him". He commented on Col. Pasley's passion for this project and felt the organization would benefit many people. Council Member Stephens also offered his help and made a \$200 pledge to the organization.

Mayor Edgar commended the Recreation and Community Services Director and her staff for working with veterans groups. He encouraged Mr. Pasley to contact Council Member Mejia for assistance with the 501c3. He also indicated that the City Council would commit to personally donate at least \$1,000 collectively to Mr. Pasley's organization.

Motion/Second: Zarkos/Mejia

Unanimously carried: The City Council adopted the Fee Waiver Policy for disabled veterans' use of the pool.

A. Consideration of a Recommendation to Enhance Revenue for the 4th of July Event

This report presented the expenditure and revenue report for the 2009 4th of July event, and sought the authority to balance the budget for future July 4th events by working with Cypress and the Joint Forces Training Base to charge vehicles \$5 and pedestrians \$1 each to enter the event.

Recreation and Community Services Director Avery summarized the staff report, referring to the information contained therein, and answered questions from the City Council.

Council Member Zarkos recalled that during a June meeting General Combs came and said they were going to give \$90,000 for the 4th of July event.

City Manager Stewart reported that the General was referring to in-kind services and personnel.

Motion/Second: Mejia/Edgar

Unanimously carried: The City Council:

1. Accepted the expenditure and revenue report for the 2009 July 4th event; and,
2. Authorized staff to work with Cypress and the Joint Forces Training Base to balance the budget for future July 4th events by charging vehicles \$5 and pedestrians \$1 to enter the event.

C. Authorization of award of a Professional Services Agreement for design of Fiscal Year 2009-10 Highlands - Residential Street Resurfacing Project

This report provided a review of the consultant selection process and recommended awarding a contract for professional design services to DGA Consultants for Fiscal Year 2009-10 Residential Street Resurfacing Project in the Highlands neighborhood.

City Engineer Huber summarized the staff report, referring to the information contained therein, and answered questions from the City Council. This is the companion item to Item 7E discussed earlier tonight.

Council Member Mejia thanked staff and asked that the item be brought back if there are any problems with curbs and gutters.

Council Member Stephens questioned staff on reducing the scope of the work.

City Engineer Huber responded that some streets could be eliminated but staff may add alternates to see how far we can go within budget. There may be other opportunities in lieu of complete reconstruction, such as using alternative materials that may be cheaper.

Council Member Stephens stated that all the streets were the same age and was concerned that, if the scope of work was changed, the selected product be comparable and stand up to the needed life cycle.

Mayor Edgar indicated that a different product was used in Carrier Row and he was not in favor of leaving any streets out of the project.

Motion/Second: Mejia/Stephens
Unanimously carried: The City Council:

1. Authorized the City Manager to approve a Professional Services Agreement with DGA Consultants in the amount of \$34,661 for design of Fiscal Year 2009-10 Highlands - Residential Street Resurfacing Project; and,
2. Directed staff to return to City Council prior to approval of plans and specifications and authorization to bid for further direction on budgeting, should costs estimates exceed the approved budget.

D. Lexington Drive Weight Limit Follow-up Report

At City Council's July 20, 2009 meeting, staff provided an analysis of Lexington Drive weight limits. This report provided information regarding installation of the weight limit signs, requested Council's direction on installation, and responded to issues raised during the previous discussion on the issue.

The City Manager reported that this is a follow-up report from the last meeting. Tonight we have two items: 1) some discussion of the structural integrity of the street, and 2) the recommendation to install weight-limit signs on Lexington from Katella, south to the City's right-of-way near Farquhar.

City Engineer Huber summarized the staff report, referring to the information contained therein, and answered questions from the City Council. As to the weight limit signs, there is no formal action required because of existing ordinances.

City Attorney Derleth reported that they have not found anything to prevent the City Council from taking tonight's action, or anything that would jeopardize the resolution or the ordinance on the books, thus far.

Mayor Edgar opened the meeting to the public.

J. M. Ivler, resident, encouraged Council to look at high priority issues that affect both the City and the JFTB and to work with the Base to find creative solutions.

Captain Thom indicated that he knew they were going to work through the City Managers' meeting and he felt some of the details could be worked out at the upcoming meeting.

Mayor Edgar closed the meeting to the public.

Mayor Edgar informed the Council that he had a "meet and greet" last Thursday with Major General Harrel to get a protocol of how we are going to interact in the future. That meeting did not end up as a "meet and greet"

but included the General's staff and a JAG Officer. The Mayor relayed his interpretations of the meeting and summarized some of the discussion and the General's concerns and requests. Mayor Edgar thought we needed to step back and frame the issues more specifically, get them documented, and have all parties agree on the specific issues to be considered, before getting legal staff involved. Mayor Edgar recommended this item be continued. He wanted a more broad-based title. Instead of "Lexington Drive Weight Limit Report", he wanted it to be a City-wide report. Mayor Edgar said he is getting a mixed response from the community on this item.

Council Member Mejia questioned why, if we have an existing truck route, it cannot be continued on to make it consistent across Katella and in to the Base, so the entire street, within our jurisdiction, would be a truck route. She had talked to General Harrel at the RMAC meeting and asked him about new regulations coming down about carbon footprints. She also asked him if the Base's compliance with federal mandates would lessen the City's responsibilities regarding our reductions. Council Member Mejia also agreed we should continue this item.

Council Member Stephens thanked the City Engineer for his research and questioned what it would cost to bring the street up to code.

City Engineer Huber responded that it would cost approximately \$800,000 to \$1,000,000, because the street would have to be completely removed.

Council Member Stephens asked if there was any way to predict the life span of that street, going forward from right now.

The City Engineer reported that we will be doing an update of our Pavement Management Program and there are some tests, not cheap, to predict life cycle. The old report indicated an overlay would give us in the range of five to eight years.

Council Member Stephens asked if everything on Lexington north of Katella is of the correct depth now.

City Engineer Huber responded that it is designed to a traffic index that will sustain truck traffic, but is not designated a truck route. It is a collector under the Master Plan of Arterial Highways, but that does not designate it as a truck route.

Council Member Stephens asked about trucks driving down Cerritos and turning on Lexington going south.

Council Member Mejia responded that it was in the agreement regarding Cottonwood to mitigate the traffic going into the neighborhood.

Council Member Stephens asked who would be at the City Manager's meeting.

City Manager Stewart responded that he, the Cypress City Manager Bahorski, and the Assistant from Seal Beach would attend.

Council Member Zarkos read from page 2 of the staff report relating to "Lexington Structural Design" and questioned staff on costs to fix Lexington. He did not feel that the City was receiving any benefits from the composting project and he was concerned about potential safety issues. He was opposed to tabling the signs.

Council Member Mejia also referred to page 2 of the staff report, "Lexington Structural Design", wherein it states "...it may be concluded that the street structural section is not sufficient to sustain the current truck traffic." She commented that a former Council Member indicated that the Base resurfaced the street around 2003 or 2004 and that Captain Thom would research their records. She felt the street was sufficient and had always been sufficient.

Mayor Edgar reiterated his earlier comments and sought some consensus.

Council Member Zarkos stated that "tomorrow was too late" and did not want this to be an open-ended discussion. The military aspect of the Base and the movement of military vehicles on and off the Base are not issues, only the commercial endeavor. He was not opposed to enforcing the weight limits throughout the City.

Council Member Stephens was concerned about lack of enforcement of weight limits throughout the City. He stressed that the City is very supportive of the Base and its military activities. He wanted to know why the waste management companies were not represented tonight.

The City Manager responded that staff did not have an answer.

Council Member Mejia commented that the Base is not deriving a profit on the composting but receiving the compost as "payment".

City Manager Stewart will find out if the companies are working in a non-profit basis.

Mayor Edgar requested a unified view to try and work through a timely solution.

City Manager Stewart indicated it will probably take until the first Council meeting in September before there is anything reportable.

City Attorney Derleth will research Base operations and commercial ventures.

Motion/Second: Mejia/Stephens

Unanimously carried: Continued this item for staff to obtain additional information.

9. **MAYOR AND COUNCIL INITIATED BUSINESS**

Council Announcements

At this time, Council Members may also report on items not specifically described on the Agenda that are of interest to the community, provided no action or discussion is taken except to provide staff direction to report back or to place the item on a future Agenda.

A. Designation of Voting Delegate and Alternate for the League of California Cities' 2009 Annual Conference

The League of California Cities Annual Conference will be held in San Jose September 16-18, 2009. The League is requesting City Council designation of a Voting Delegate to the Annual Business Meeting.

City Manager Stewart summarized the staff report, referring to the information contained therein, and answered questions from the City Council.

Motion/Second: Mejia/Edgar

Unanimously carried: The City Council appointed Council Member Zarkos as the City's Voting Delegate for the League of California Cities 2009 Annual Business Meeting.

Council Member Zarkos reported on his attendance at the ceremony for Generals Johnson and Harrel. For the next meeting, Council Member Zarkos requested staff agendaize the two resolutions to be voted on at the League's Annual Conference. He also requested staff agendaize a policy recommendation on how to address late payments from different organizations, including hardship cases.

Council Member Stephens complimented Laura Herzog on the wonderful Relay for Life event. He noted that the Cypress 5K race was held on the same day and suggested these events be conducted on different days if at all possible.

Council Member Mejia requested discussion on the budget before the mid-year review due to possible State budget impacts. She congratulated Recreation and Community Services Director Avery and her staff for their cost-saving efforts, and commended Laura Herzog on the Relay for Life. Council Member Mejia requested an update on the US Water Polo Championships. She reported on her attendance at the RMAC meeting and the change of command ceremony. Council Member Mejia indicated that some Carrier Row residents have requested the name "Los Alamitos Park" be placed on the wall and requested staff obtain cost estimates for her to take back to them.

Mayor Edgar reported on his attendance at the following events: Sanitation District Board Meeting, Orange County Fire Authority, change of command ceremony, Relay for Life, and the Cypress Festival. He provided a quick update on his discussions with Congressman Royce's office as it pertains to the runway. Mayor Edgar also reported that we were encouraged to participate in the RMAC process. The City of Cypress issued a Freedom of Information Act request to be officially notified of items of possible impact to their City. Mayor Edgar asked the City Manager to contact Ryan Holmes and his staff to request a meeting.

10. ITEMS FROM THE CITY MANAGER

None.

11. ADJOURNMENT

The meeting was adjourned at 10:06 p.m. The next meeting of the City Council is scheduled for Monday, August 17, 2009, in the City Council Chambers.

Troy Edgar, Mayor

ATTEST:

Jeffrey L. Stewart, City Clerk