

MINUTES OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS

THESE MINUTES ISSUED FOR
INFORMATION ONLY AND ARE
SUBJECT TO AMENDMENT AND
APPROVAL AT NEXT MEETING.

REGULAR MEETING – February 1, 2010

CALL TO ORDER

The City Council met in Regular Session at 7:18 p.m., Monday, February 1, 2010, in the Council Chambers, 3191 Katella Avenue, Mayor Poe presiding.

ROLL CALL

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

Absent: Council Members: Zarkos

Present: Staff: Jeffrey L. Stewart, City Manager
Sandra Levin, Interim City Attorney
Nita McKay, Assistant City Manager
Steven Mendoza, Community Development Director
Todd Mattern, Police Chief
Angie Avery, Recreation & Community Services Dir.
C. Darleen Cordova, Interim City Clerk
Jose Valbuena, OCFA Battalion Chief

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

5. PRESENTATIONS

A. Commendation to Esther Mejia, Eldest Lifetime Citizen

Mayor Poe announced that Mrs. Mejia was unable to attend; postponed presentation to next meeting.

6. 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 Poe opened Oral Communications.

Susan Morales, Los Alamitos Medical Center, spoke on proposed changes to the hospital's campus and announced a public input meeting on February 10, at 3:00 p.m.

Megan Boyd, Girl Scout Troop #1051, provided information and flyers on the Wall of Valor, a community service project she is working on at Los Alamitos High School for her Girl Scout Gold Award.

Bill Christopher, representing Davita, stated he was available to answer any questions on Item #10A, the update on the property at 4141 Katella. Representatives were also present from The Melting Pot.

Mayor Poe announced that Item #10A will probably be continued to the next meeting due to the absence of Council Member Zarkos who requested the item be placed on the agenda.

Council Member Mejia suggested the representatives be allowed to make comments if they so desired. Mr. Christopher indicated they were just here to answer questions and they did not object to a delay.

Motion/Second: Poe/Edgar

Unanimously carried: Continued Item #10A to the Tuesday, February 16, 2010 meeting.

John Ellinger, Mindora St., Los Alamitos, complained about the condition of the sidewalks, including poor patch work, and wanted to know when the trees would be trimmed. Staff directed to contact Mr. Ellinger.

Laura Herzog, Joint Forces Training Base, spoke on upcoming events, including: the Race on the Base; West County CERT classes; Marine Corps Aircraft training exercise; preparation for disasters; and announced the appointment of Brigadier General Mary J. Kight as the new Adjutant General of the California National Guard. The new JFTB Commander is Brigadier General Keith Jones.

Mayor Poe closed Oral Communications.

7. REGISTER OF MAJOR EXPENDITURES
February 1, 2010.

Motion/Second: Edgar/Mejia

Unanimously carried: The City Council approved the Register of Major Expenditures for February 1, 2010, in the amount of \$554,612.20.

Roll Call Vote

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

8. 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 Edgar requested Item #8C be pulled.

Motion/Second: Mejia/Edgar

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

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

A. Approval of Minutes

Approved minutes of the Special Meeting – January 19, 2010.

B. Warrants

The City Council approved the Warrant Register of February 1, 2010, in the amount of \$31,507.70.

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

C. Consideration of Policy to Utilize Congressional Earmark Process to Request Funding for Reconstruction of Runway 4R -22L at the Joint Forces Training Base (JFTB)

Staff is seeking City Council direction to complete the Congressional Earmark Request Process seeking funding for the reconstruction and permanent repair of runway 4R-22L at the Joint Forces Training Base (JFTB).

Council Member Edgar briefed the Council on the Mayors' Group that meets regarding activities at the JFTB to focus on our strategy to: (1) insure that the composting doesn't start, and (2) help the Base sustain itself. One of the items that came up in meetings with Congressional Representatives Royce, Rohrabacher and Sanchez was the Earmark Process. We were advised that if we wanted to help the Base, we should lobby on its behalf. A request of an Earmark would be sent on City letterhead.

Motion/Second: Edgar/Mejia

Unanimously carried: Authorized staff to complete the Congressional Earmark Request process seeking funding for the permanent repair of runway 4R-22L at the JFTB.

9. ORDINANCES

A. Ordinance No. 10-01 Amending Chapter 17.16.150(A)(2), in the Zoning Section of the Los Alamitos Municipal Code, Modifying Swimming Pool Heating and Filtering Equipment Distance Requirements with the Approval of a Conditional Use Permit in the Single-family Residential (R-1) Zoning District

Consideration of Zoning Ordinance Amendment No. Z0A9-06 to conditionally allow swimming pool heating and filtering equipment closer than twenty (20) feet to a dwelling other than the owner's within the Single-family Residential (R-1) Zoning District.

Community Development Director Mendoza summarized the staff report, referred to the information contained therein, and answered questions from the City Council. Mr. Mendoza indicated that there is no one standard to develop to lower the requirement from 20 feet to 10 feet or 15 feet. The Planning Commission came up with an option that there might be compelling reasons on some properties to have pool equipment closer than 20 feet. The Planning Commission determined that "one size would not fit all". They created a category that the 20 feet could be reduced if a Conditional Use Permit was obtained, approved, and not appealed. By going through the process with the Planning Commission, a public hearing would give all neighbors within 500 feet an opportunity to provide input. The Planning Commission's recommendation was based on testimony of the public, Code Enforcement cases, input from pool manufacturers, pool installers and people who redo backyards. The burden is placed on the homeowner, using a CUP, instead of a blanket change. This mitigated the concerns of the entire audience and was a nice compromise.

Interim City Attorney Levin requested elimination of the words "the approval of" in Section A.2 of the Ordinance, so that it would read as follows: "Section A.2.: Filter and heating systems for pools shall not be located closer than twenty (20) feet to any dwelling other than the owner's unless a conditional use permit has been obtained."

Council Member Mejia asked about the process if, after approval and installation of the equipment, it does become a problem for the neighbor. Mr. Mendoza explained that when a CUP is issued, it is issued with conditions and adoption of this does not change the decibel levels. A violation of the decibel levels means you will have to mitigate or you are in violation of the CUP. A revocation hearing could be conducted to revoke a CUP. If a resident wanted to appeal an approval of a CUP, he would have to do so within 20 days. Conditions of approval are recorded against the property.

Council Member Mejia confirmed that the CUP has to be obtained before equipment is put in place. Mr. Mendoza explained that an appeal period of 20 days has to expire prior to obtaining the building permit.

Council Member Mejia asked what happens if the equipment meets the decibel levels but is still an annoyance to the neighbor. Mr. Mendoza stated that the neighbor cannot appeal if the 20 days have expired. It could become a Code Enforcement case.

Mayor Poe had Mr. Mendoza explain the Code Enforcement process.

Interim City Attorney Levin discussed the issuance of a CUP and possible conditions that could be placed upon that use. Noise ordinances are very difficult to enforce.

Mayor Poe asked if the homeowner who obtained the CUP abides by all of the conditions, and the neighbor still says they feel it is too noisy, can anything be done. Ms. Levin indicated that it is a matter between the neighbors, and the City would not be in the middle of the dispute.

Mayor Pro Tem Stephens commented that the only equipment that makes noise is the pump. A small enclosure could eliminate 70-80% of the noise from the pump motor. He was concerned about a process for a new homeowner who has problems with the noise.

Mr. Mendoza explained that no one else could apply for a modification to the CUP (other than original applicant/homeowner). A CUP might be approved if mitigating conditions can be done.

Council Member Edgar asked for background on when and why the 20 feet requirement was put in place. Mr. Mendoza indicated that it was in our Code in early 1985. The Planning Commission looked at other cities and Los Alamitos was the most restrictive, but none of the other cities had the CUP factor. Different cities had different levels of approval. The Commission also looked at equipment and noise ratings.

Council Member Edgar asked how many of these CUP's are issued. Mr. Mendoza responded that in this down economy, possibly three or four a year. Five years ago, there were 15-20 issued a year.

Mayor Pro Tem Stevens questioned if this also covers portable backyard Jacuzzis. Mr. Mendoza indicated it would be pool equipment, and could be clarified tonight, but that was not brought into play during the discussions. Mayor Pro Tem Stevens thought there were probably more of those in the City than swimming pools.

Ms. Levin checked the Municipal Code for pertinent definitions.

Mayor Poe asked about above-ground pools and Mr. Mendoza stated that "equipment was equipment".

Mayor Poe opened the Public Hearing.

Alice Jempsa, Los Alamitos, related a story of vibrating noise problems with a neighbor's pond in another County, and how the issue was resolved.

Pat Blancher, Suburbia, asked if this would hinder the sale of your house and would new owners have any recourse. Mr. Mendoza commented that there is no recourse today.

No one else appearing either in favor or opposition, the Public Hearing was closed.

Ms. Levin reported that the Code has a fairly broad definition of "pool" and can be interpreted to include Jacuzzi or hot tub, but could be clarified or exempted. There was no definition between in-ground structures as opposed to above-ground structures.

Council Member Edgar said the Planning Commission was going down the right path and was trying to lift some of the rigidity.

Motion/Second: Edgar/Mejia
To accept staff's recommendation, as amended in Section A.2, and to include language for pools, Jacuzzis and spas.

Mayor Poe thought it very interesting that we were the most restrictive City and was glad the Planning Commission was trying to be amenable to problems. She would have been fine with just reducing the requirement to 10 feet. The Mayor's supported residents adding value to their property but was concerned about the \$1,000 application fee for the CUP.

Mayor Pro Tem Stephens asked what comparables were for other cities. The Community Development Director said that "they are all over the map". Some cities charge as high as \$3,400. Los Alamitos has two CUP flat fees: a \$1,900 (major) and \$1,000 (minor). Fees were adopted in 2008 after a fee study was conducted.

Council Member Edgar commented that fees are a factor of the costs. If we abolished this requirement, and decreased the distance so that people could do it without a CUP, it takes the burden off the City and the owner. He was willing to change his motion.

Mayor Poe would be satisfied with reducing the requirement to 15 feet and not going through the CUP process.

The Community Development Director commented that the public has not had an opportunity to consider 15 feet. The Interim City Attorney explained the process. The Ordinance was agendized as an ordinance for distance requirements but the Council can discuss changes. However, the California Government Code requires that if a substantial change is made, that notice be given to the Planning Commission, and they have a 45-day opportunity to take it up again IF they want to. If they don't, it comes back to the City Council for second reading. If they do take it up, they make a recommendation as to the revised ordinance, and that comes back to the Council with the second reading.

Mayor Poe noted that Planning Commissioners discussed 15 versus 20 feet.

Ms. Levin said the Council could introduce the Ordinance for first reading tonight and notice would then be sent to the Planning Commission. We would wait a minimum of 45 days before we scheduled the Ordinance for

second reading. If the Planning Commission did not take it up within that 45 day period, Council would hold its second reading. If the Planning Commission did take it up within the 45-day period, we would defer any second reading until the Planning Commission gave Council a further recommendation.

Council Member Mejia questioned staff on the reason for recommending 20 feet, rather than 15 feet. Mr. Mendoza indicated 20 feet was already in the Code and the Commission decided not to change that. It was felt that it was important to engage the neighbor that might be impacted.

City Manager Stewart reported that, presuming there is no protest, the hearing date would be April 5.

Mayor Poe asked how often this comes up and Mr. Mendoza replied there are currently two Code Enforcement cases.

The City Council debated the distance requirements.

Interim City Attorney Levin stated the motion and read the title of Ordinance No. 10-01, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT Z0A9-06 AMENDING CHAPTER 17.16.150(A)(2) ALLOWING HEATING AND FILTERING EQUIPMENT FOR SWIMMING POOLS NO CLOSER THAN FIFTEEN (15) FEET TO A NEIGHBORING DWELLING IN THE SINGLE FAMILY (R-1) ZONING DISTRICT", as provided in the staff report except that Section A.2 shall now read "*Filter and heating systems for pools, including Jacuzzis and hot tubs, shall not be located closer than fifteen (15) feet to any dwelling other than the owner's*".

Amended Motion/Second: Edgar/Mejia

Unanimously carried: Introduced for first reading Ordinance No. 10-01, as amended above to require a 15 feet distance without a Conditional Use Permit.

10. DISCUSSION ITEMS

A. Provide City Council with an Update on the Property at 4141 Katella Avenue

This staff report provides City Council with an update and the history of the zone change from industrial to retail at 4141 Katella Avenue.

Motion/Second: Poe/Edgar

Unanimously carried: Continued to the Tuesday, February 16, 2010 meeting.

B. Provide City Council with Information Regarding Landscaping in Public Parkways

This staff report provides City Council with information regarding landscaping requirements in public parkways.

Community Development Director Mendoza summarized the staff report, referred to the information contained therein, and answered questions from the City Council. Currently, the Municipal Code states that "No person shall place or maintain loose rock, gravel or decorative stones in the parkway of any street within the City. This section shall not pertain to existing gravel parkways. Concrete may be installed in a parkway, after having obtained a permit as provided in this chapter". Brick is not mentioned and is not permitted.

Mayor Poe confirmed that runoff is an issue in the landscape ordinance. If a person were to put concrete in the parkway, that does not allow for runoff. Mr. Mendoza indicated it did not have to be "all or nothing" concrete and most residents would just want a portion of concrete and allow for tree wells.

Mayor Poe felt that bricks would allow for runoff and would be decorative. She was concerned about a resident of advanced age who is unable to mow the parkway and would like to place bricks in it. The Mayor would like to expand the Code so the homeowner has the ability to do more with the landscaping in their parkway and remain within the Landscape Efficiency Ordinance.

Council Member Edgar was more interested in the process necessary to get this changed. He felt the water mitigation strategy should be consistent.

The Interim City Attorney explained that the process depended on what the Council actually wanted to do and staff needed direction. A preferred option would be an administrative permit that could be handled over the counter. That would require a Code amendment that the Council would have to adopt. Staff would come back with certain findings that staff would have to make administratively to approve this type of permit. Some level of review would be prudent because of possible utilities under the parkway and other things the City might need to access, as well as runoff or drainage issues.

Mayor Pro Tem Stephens said some residents have wanted to put in artificial turf, saving water and maintenance. That should also be considered. Parkway trees need to be considered too because of root patterns. Tree roots might have to be cut to place bricks etc. in the parkways. There are a lot of issues to be considered, including public safety. We want to reduce the amount of water we are using but whatever we do must be correct.

Council Member Mejia wanted to address the idea of uniformity. She would like a uniform look; otherwise it detracts from the neighborhood.

Mayor Poe was fine with the following: having staff take administrative action and allowing residents to come to the counter; language that considers uniformity to a degree, but will allow more types of materials that are compatible with our Landscape Efficiency Ordinance.

Council Members Mejia and Edgar discussed whether or not the issue should be sent to the Planning Commission. Council Member Mejia felt this was an opportunity for uniformity.

Mayor Poe felt we needed to keep this "small" and allow people some leeway, rather than just rock, gravel, decorative stones and concrete. She was opposed to someone concreting their entire parkway. The Mayor just wanted residents to be able to do something in their parkway but stay within the parameters of the new ordinance. She wanted staff to bring back an administrative-type procedure for Council's consideration.

Mayor Pro Tem Stephens had no objection to that.

Ms. Levin felt this was a preliminary discussion and staff had enough information to bring back an item, with a proposed Code amendment and an encroachment permit process.

11. **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.

Council Member Mejia encouraged residents: to participate in the CERT Program, to donate blood, and to support the Wall of Valor.

Council Member Edgar reported on his participation at recent meetings and events, including: Decommissioning of the USS Los Angeles; Orange County Sanitation District and the impact of storms on capacity; the Mayors' Meeting and the Earmark funding request for the JFTB; tonight's Joint Meeting with the Planning Commission.

Council Member Edgar briefly discussed the potential LAFCO Coyote Creek boundary change and announced that the Planning Commission would be discussing the topic on February 8.

Council Member Edgar congratulated all the individuals honored at the Chamber of Commerce's Inaugural Luncheon.

Council Member Edgar requested Recreation & Community Services Director Avery provide an update on Race on the Base. Ms. Avery indicated that registrations and sponsorships are up from last year.

Mayor Pro Tem Stephens also reported on his attendance at recent events and activities, including: the Chamber of Commerce Inaugural Luncheon; his swearing in as a Director for the Orange County Fire Authority; judging the Los Alamitos Elementary School's public speaking contest; and he complimented the three winners.

Mayor Poe reported on her attendance at recent events and activities, including: the Chamber of Commerce Inaugural Luncheon; the Cypress State of the City; and the Joint Meeting with the Planning Commission.

Mayor Poe announced the upcoming Americana Awards Banquet and commented that over 500 Los Alamitos residents attend Cypress College.

Mayor Poe commented on the quick action taken by the County regarding the Rossmoor Storm Channel (located behind residences on Cherry between Farquhar and Orangewood). She thanked staff for sending the letter in response to a complaint made by Ed Bremel.

Mayor Poe commended the Police Department for the mass telephone notifications during the recent rains. Police Chief Mattern explained that the notifications were sent on January 19 and 20, to inform residents of hazardous conditions.

12. ITEMS FROM THE CITY MANAGER

None.

Interim City Attorney Levin announced the following Closed Session item. No reportable action was expected to be taken.

RECESSED AT 8:58 P.M.

13. CLOSED SESSION

A. Conference with Legal Counsel – Initiation of Litigation

Number of potential cases: One

Authority: Government Code Section 54956.9(c)

RECONVENED AT 10:34 P.M.

Interim City Attorney Levin announced that no reportable action was taken.

14. ADJOURNMENT

The meeting was adjourned at 10:35 p.m. The next meeting of the City Council is scheduled for Tuesday, February 16, 2010, in the City Council Chambers.

Marilynn M. Poe, Mayor

ATTEST:

Jeffrey L. Stewart, City Clerk