
**CITY OF LAGUNA HILLS, CALIFORNIA
CITY COUNCIL REGULAR MEETING
MINUTES
SEPTEMBER 22, 2009**

CALL TO ORDER

Mayor Lautenschleger called the Regular Meeting of the City Council of the City of Laguna Hills, California, to order at 7:00 p.m. in the Laguna Hills City Council Chamber, 24035 El Toro Road, Laguna Hills.

PLEDGE OF ALLEGIANCE

Council Member Songstad led the Pledge of Allegiance.

ROLL CALL

Present: Joel Lautenschleger, Mayor
Melody Carruth, Council Member
R. Craig Scott, Council Member
L. Allan Songstad, Jr., Council Member

Absent: Randal Bressette, Mayor Pro Tempore

STAFF PRESENT: Bruce Channing, City Manager; Donald White, Assistant City Manager; Peggy Johns, City Clerk; Greg Simonian, City Attorney; Ken Rosenfield, Public Services Director/City Engineer; Vern Jones, Community Development Director; Steve Doan, Chief of Police Services; David Reynolds, Deputy City Manager; Melissa Au-Yeung, Management Analyst; and Sandi Mogan, Deputy City Clerk.

1. PRESENTATIONS AND PROCLAMATIONS

There were no Presentations and Proclamations.

2. PUBLIC COMMENTS

2.1 LAGUNA HILLS HIGH SCHOOL STUDENT LIAISON (0930-40)

The City Council received an oral report from Laguna Hills High School Student Liaison Lisa McCorkell.

3. MINUTES

3.1 REGULAR MEETING, SEPTEMBER 8, 2009 (0410-50)

IT WAS MOVED BY COUNCIL MEMBER CARRUTH, SECONDED BY COUNCIL MEMBER SONGSTAD, TO APPROVE THE MINUTES OF THE SEPTEMBER 8, 2009, REGULAR MEETING, AS PRESENTED.

The motion carried by the following vote:

AYES: Council Members Carruth, Scott, Songstad, and Mayor Lautenschleger
NOES: None
ABSENT: Mayor Pro Tempore Bressette

4. CONSENT CALENDAR

IT WAS MOVED BY COUNCIL MEMBER SCOTT, SECONDED BY COUNCIL MEMBER CARRUTH, THAT THE RECOMMENDATIONS BE ACCEPTED FOR THE FOLLOWING ITEMS LISTED ON THE CONSENT CALENDAR.

The motion carried by the following vote:

AYES: Council Members Carruth, Scott, Songstad, and Mayor Lautenschleger
NOES: None
ABSENT: Mayor Pro Tempore Bressette

4.1 MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS, SAID TITLES, WHICH APPEAR ON THE PUBLIC AGENDA, SHALL BE DETERMINED TO HAVE BEEN READ BY TITLE AND FURTHER READING WAIVED

WAIVED READING OF ORDINANCES AND RESOLUTIONS.

4.2 APPROVAL OF WARRANT REGISTER FOR PERIOD ENDED SEPTEMBER 22, 2009 (0300-30)

Written report from the Administrative Services Department indicated that, in accordance with Government Code Section 37202, the Assistant City Manager certified to the accuracy of the Warrant Register and to the availability of funds for payment thereof.

APPROVED THE WARRANT REGISTER IN THE AMOUNT
OF \$787,060.22.

4.3 PROPOSED AMENDMENT TO THE CITY'S TRANSIENT OCCUPANCY
TAX ORDINANCE REQUIRING PAYMENT OF A TAX ASSESSMENT
PRIOR TO SEEKING JUDICIAL REVIEW OF THE ASSESSMENT (0390-
70)

Written report from the City Clerk's Department indicated that the City's transient occupancy tax (TOT), more commonly referred to as a hotel visitors tax, required that hotel operators collect from each transient a tax in the amount of 10% of the rent charged by the operator and remit the tax amount to the City. If a hotel operator did not remit the appropriate tax amount, the City might issue a tax assessment. The City's current TOT Ordinance did not expressly require a hotel operator to remit to the City the amount of a tax prior to pursuing judicial review of the assessment.

The Ordinance amended Chapter 3-24 of Title 3 of the Laguna Hills Municipal Code to include an express "pay first, litigate later" provision requiring that a hotel operator pay all tax, interest, and penalties as a condition precedent to seeking judicial review of any hotel visitors tax liability, thereby eliminating potential ambiguity on the issue. Specifically, the proposed Ordinance added a provision to: (1) prohibit enjoining the collection of a hotel visitors' tax; and (2) required that a hotel operator remit to the City the amount of a hotel visitors' tax assessment prior to pursuing judicial review of the assessment. The City Council introduced the Ordinance at its meeting of September 8, 2009.

ADOPTED ORDINANCE NO. 2009-5, AN ORDINANCE OF
THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING
SECTION 3-24.150 TO CHAPTER 3-24 OF TITLE 3 OF THE
LAGUNA HILLS MUNICIPAL CODE REGARDING TRANSIENT
OCCUPANCY TAX (TOT) TO REQUIRE PAYMENT OF TAX
ASSESSMENTS PRIOR TO SEEKING JUDICIAL REVIEW OF
AN ASSESSMENT OF SUCH TAXES.

4.4 PROGRESS PAYMENT NO. 3 FOR MOULTON PARKWAY PAVEMENT
REHABILITATION PROJECTS, CIP NO. 166 AND CIP NO. 167 (0400-10)

Written report from the Public Services Department indicated that work on the Moulton Parkway Pavement Rehabilitation Projects, CIP No. 166 and CIP No. 167, began on April 6, 2009, and was being performed by All American Asphalt. Work performed this past month had included traffic control, water quality management, clearing and grubbing, signing and striping, excavation, cold planing, pavement fabric, traffic loops, and utility adjustments. The contractor had submitted the third progress payment

request for approval. The progress payment was within the Capital Improvement Program Budget for the Moulton Parkway Pavement Rehabilitation Projects, CIP No. 166 and CIP No. 167.

APPROVED PROGRESS PAYMENT NO. 3, IN THE NET AMOUNT OF \$30,901.37, TO ALL AMERICAN ASPHALT, FOR MOULTON PARKWAY PAVEMENT REHABILITATION PROJECTS, CIP NO. 166 AND CIP NO. 167.

PLANNING AGENCY

Mayor Lautenschleger recessed the City Council meeting to the Planning Agency meeting at 7:03 p.m. and reconvened the City Council at 7:13 p.m. All Council Members were present, with the exception of Mayor Pro Tempore Bressette.

6. ADMINISTRATIVE REPORTS

6.1 City Manager

The City Manager made no reports.

6.2 Assistant City Manager

A. CONTRACT(S) WITH COUNTY OF ORANGE AND SOUTH COUNTY SENIOR SERVICES FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2009-2010 (0400-10)

Management Analyst Au-Yeung indicated that in November of last year staff submitted two applications for Community Development Block Grant Funds that would be utilized for Senior Services and public improvements to the Florence Sylvester Senior Center. The City was informed that they would be awarded one of the two grants; a Public Facilities and Improvement CDBG Grant in the amount of \$50,175.00 to address deferred maintenance issues at the Florence Sylvester Senior Center. Specifically the funds would be used to complete extensive repairs and ADA upgrades including, removing and replacing the restroom and kitchen flooring, correcting plumbing issues, installing bathroom fixtures with hands free capabilities, and installing a new phone system. The item before the City Council was the approval of the individual contracts with the County and South County Senior Services in order to access the funds and allow South County Senior Services to begin rehabilitation work on the Florence Sylvester Senior Center. Ms. Au-Yeung noted that a new Request for Proposal for Public Facilities and Improvements for CDBG funds would be issued by the County for the upcoming fiscal year and the City

might apply for additional funds on behalf of South County Senior Services for repairs not addressed with this year's grant monies.

Barbara Kogerman, Laguna Hills, wanted to commend the City Council and staff for moving forward with the grant request. Ms. Kogerman indicated that if the deferred maintenance issues weren't addressed there would be more problems and costly repairs later on. Ms. Kogerman urged the City Council to consider applying for an Orange County Transit Authority (OCTA) Senior Mobility grant. The services were valuable to the seniors that needed transportation to get to the Florence Sylvester Center.

IT WAS MOVED BY COUNCIL MEMBER SONGSTAD, SECONDED BY COUNCIL MEMBER CARRUTH, TO APPROVE INDIVIDUAL CONTRACTS WITH THE COUNTY OF ORANGE AND SOUTH COUNTY SENIOR SERVICES FOR UTILIZATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2009-2010; AND AUTHORIZED THE MAYOR AND CITY MANAGER TO EXECUTE THE CONTRACTS.

The motion carried by the following vote:

AYES:	Council Members Carruth, Scott, Songstad, and Mayor Lautenschleger
NOES:	None
ABSENT:	Mayor Pro Tempore Bressette

6.3 Public Services Director/City Engineer

A. OSO PARKWAY LANDSCAPE IMPROVEMENTS, CIP NO. 603/604 (0400-10)

Public Services Director Rosenfield gave an update on the Oso Parkway Landscape Improvement Project. Mr. Rosenfield indicated that there were two issues; the first issue was the landscape maintenance. The contractor failed to meet the City requirements, specifications, and expectations for the landscape maintenance. Mr. Rosenfield indicated the implementation of the plant material was completed in May 2009, and the contractor was obligated to a one-year maintenance period. The status of the landscaping was not acceptable in its current form. There had been a number of plants and trees that had died and the ground cover had died off in quite a few places because the contractor failed to manage the irrigation practices properly. The contractor acknowledged the problem and was prepared to replace the plant material. Mr. Rosenfield indicated that

consultation with the local nursery, an expert in native plant materials, recommended that the plant material not be replaced until October. Mr. Rosenfield indicated that the contractor had not kept up with their weed abatement of the site. Staff was meeting with the contractor every two weeks to go over the failures in the maintenance. Staff did have the authority to extend their landscape maintenance period for situations when contractors failed to meet staff's expectations.

Mr. Rosenfield indicated the second issue was the trail access. During the course of approval of this project, staff identified an existing opening in the Nellie Gail Ranch Owners Ranch Association (NGROA) private trail access into the grass area that was in front of the Falcon Hill development. The access for the trail was being moved over one property to the southeast. The property owner at that location had reviewed the plans, contacted staff with concerns regarding access, and asked staff to consider putting the access somewhere else. Staff contacted the representative of NGROA and worked out what staff thought was an appropriate solution to relocate the equestrian access 200 feet further east. Staff recommended to receive and file the report because they would work through the issues with NGROA and most of the work would be on the Association side of the trail.

Richard Fisher, Richard Fisher and Associates, stated that he was disappointed with the outcome of the project. Mr. Fisher indicated that he used the ground cover, Slope Saver Fescue, and he had a high success rate with this plant material in the City of La Mirada. Mr. Fisher explained in detail why this ground cover was a good choice for this project. Mr. Fisher explained the delay by the contractor in completing the planting operation, which resulted during May instead of the original deadline of February. The consensus of the design team was that the planting occurred too late in the season and with the extreme summer temperatures the ground cover had not developed to a point where it could sustain that amount of heat. Mr. Fisher indicated that the contractor also changed a number of irrigation heads without permission from staff. Mr. Fisher indicated that Marina Landscape claimed that the Moulton Niguel Water District informed them that they were limited to one irrigation application a day and that it must be done during the night time hours. Mr. Fisher indicated that he was very optimistic that with a good combination of plants, shorter days, cooler temperatures, and proper maintenance, that the Slope Saver Fescue should flourish and the project would look great.

Gerard Papa, Laguna Hills, indicated that his main concern was the proposed fence, although he did have concerns regarding the drainage around his house. During the project he was not convinced that Marina Landscape had installed all of the French drain material.

Mr. Papa indicated that he was the homeowner that requested the fence be moved. Mr. Papa spoke with Mr. Rosenfield regarding his concerns about the fence and requested a few modifications. Mr. Papa indicated that after reviewing the plans, he requested that the opening be moved and there were two reasons for the request. The first was to minimize the vandalism to his property, and the second was the location of the drain pipes. If the opening was going to be relocated he would prefer the opening furthest away from his property. Mr. Papa was concerned that the other openings would cover his two drains. Mr. Papa recommended that the present opening between Oso Parkway and Buckboard Lane was adequate and there would be a cost savings by not creating an additional opening.

Marlene Sandler, Laguna Hills, indicated that there had been no fencing along the Oso Parkway horse trail for many years. Ms. Sandler indicated that equestrians crossed Oso Parkway at any location, but as the traffic became more congested and as the speed limit went up, the equestrian community decided to install a fence and put an opening in the fence. There was a dedicated, public multi-use trail that was allowed to be used by anyone, except for motorized vehicles. Ms. Sandler indicated that the equestrians wanted to have underground tunnels at different locations. Ms. Sandler indicated that she had talked to Mr. Fisher about reestablishing the opening in the same general area where it was presently located because it was a flat area, with no v-ditch, with no elevation change, and it was the safest spot.

IT WAS MOVED BY COUNCIL MEMBER SONGSTAD,
SECONDED BY MAYOR LAUTENSCHLEGER, TO RECEIVE
AND FILE THE REPORT.

The motion carried by the following vote:

AYES:	Council Members Carruth, Scott, Songstad, and Mayor Lautenschleger
NOES:	None
ABSENT:	Mayor Pro Tempore Bressette

6.4 Deputy City Manager/Community Services

A. HOUSEHOLD HAZARDOUS WASTE PROGRAM UPDATE (1060-50)

Deputy City Manager Reynolds indicated that the City Council conducted a study session on household hazardous waste disposal programs on June 10, 2008, and directed staff to report back to the

City Council after the recycling programs were in operation for one year. Staff implemented drop-off recycling programs within the City of Laguna Hills. Although the programs had not been operating for one full year, staff felt it advisable to provide the City Council with an update on how the recycling programs were working. Mr. Reynolds indicated that the participation rate for the CR&R door-to-door program for the cities of Aliso Viejo and San Clemente were low compared to the participation rate of people driving to the Orange County Household Hazardous Waste Collection Centers. Mr. Reynolds indicated that after studying the preliminary data, the cost to implement the door-to-door program wouldn't justify the cost because of the low participation rate. Staff would like to wait the entire year and bring a complete report back to the City Council at the end of the fiscal year with more information.

IT WAS MOVED BY COUNCIL MEMBER CARRUTH,
SECONDED BY COUNCIL MEMBER SONGSTAD, TO
RECEIVE AND FILE THE REPORT.

The motion carried by the following vote:

AYES: Council Members Carruth, Scott, Songstad, and Mayor
Lautenschleger
NOES: None
ABSENT: Mayor Pro Tempore Bressette

7. OTHER BUSINESS

There was no Other Business.

8. MATTERS PRESENTED BY MAYOR AND COUNCIL MEMBERS

8.1 Mayor Lautenschleger

A. 13TH ANNUAL INNER-COASTAL WATERSHED CLEANUP DAY (0950-25)

Mayor Lautenschleger thanked staff and everyone who had participated in the Annual Watershed Cleanup Day on Saturday, September 19, 2009. Mayor Lautenschleger indicated that it was an enjoyable day. There were approximately 50 volunteers that removed over 220 pounds of trash, 90 pounds of recyclables, and even a few shopping carts were dug out of the mud. Mayor Lautenschleger again thanked staff for all of the time and effort that had been put into the event.

B. APPREHENSION OF ROBBERY SUSPECTS (0260-05)

Mayor Lautenschleger thanked the Sheriff's Department for doing a great job in apprehending robbery suspects and peaceably ending the ensuing chase in Nellie Gail that recently occurred in Laguna Hills. Mayor Lautenschleger indicated that it was a good conclusion to the chase, with no one being injured. The suspects might also have been responsible for three or four other armed robberies in the area.

C. LEAGUE OF CALIFORNIA CITIES CONFERENCE (0140-15)

Mayor Lautenschleger indicated that he and Council Member Songstad had attended the League of California Cities Conference last week. Mayor Lautenschleger indicated that the cities had passed a Resolution to move forward with an Initiative to protect Proposition 1A money. Mayor Lautenschleger indicated in the past the State had borrowed funds from the City, and there was nothing to ensure that the State would ever repay those funds. The Initiative would be circulated by asking elected officials to collect signatures. Mayor Lautenschleger urged support for the Initiative and indicated that it was important to stop the State from raiding cities' coffers, which jeopardized cities' finances and services, including fire and safety.

8.2 Council Member Songstad

A. LEAGUE OF CALIFORNIA CITIES CONFERENCE (0140-15)

Council Member Songstad reported that the theme of the Conference was "Strong Cities, Strong State, Strong Nation," and the importance of that theme was local control. Council Member Songstad indicated that local control needed to reassert itself since State control did not work. The State did not know how to manage itself, let alone try to manage local government, which knew how to manage itself. There was a Petition Resolution sponsored by the League to begin an Initiative that would protect not just Proposition 1A funds, but would protect gas tax, TOT tax, sales tax, and would protect essentially any revenue stream that went to the cities. Council Member Songstad indicated that there were no borrowing mechanisms and there would be a strict prohibition of the State from borrowing cities' money. Council Member Songstad stated that all city council members had been asked to make a "100/100 Pledge" which was to raise \$100 and gather 100 signatures to defer the cost of paying people to gather signatures. Council Member Songstad indicated that he and Mayor Lautenschleger had taken the pledge. This would be an incredibly important measure because the protection of local revenue was paramount to the cities that were losing significant revenue streams.

Council Member Songstad stated that public opinion was in favor of the cities on this issue. Council Member Songstad would appreciate the support of the City Council for this Initiative.

8.3 Council Member Carruth

A. UPDATE ON WEST NILE VIRUS (0250-60)

Council Member Carruth indicated that this week marked the official end of West Nile Virus season and was happy to report that Orange County had a confirmed low number of cases for the season. Last year Orange County had 58 residents infected with West Nile Virus; this year only one confirmed case. Last year in Orange County 600 dead birds had tested positive for West Nile Virus; this year only seven birds had tested positive. Council Member Carruth indicated that other parts of the State had been hit hard, but Orange County Vector Control District did a great job in controlling the Virus.

B. LAGUNA HILLS HIGH SCHOOL ATTENDANCE (0930-40)

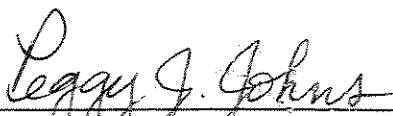
Council Member Carruth reported that attendance at Laguna Hills High School this year was higher than expected. The student body enrollment was just under 1,800 students, which meant more classes, smaller classes, hiring of teachers, and a wider path for students to obtain their college prep requirements.

9. CLOSED SESSION

There was no Closed Session.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Lautenschleger declared the meeting adjourned at 9:13 p.m.



PEGGY J. JOHNS, CITY CLERK

ATTEST:



JOEL LAUTENSCHLEGER, MAYOR

APPROVED AT MEETING OF OCTOBER 13, 2009.