

**CITY OF LAGUNA WOODS, CALIFORNIA**  
**CITY COUNCIL MINUTES**  
**REGULAR MEETING**  
**August 18, 2010**  
**2:00 P.M.**

---

**I. CALL TO ORDER**

Mayor Robbins called the Regular Meeting of the City Council of the City of Laguna Woods to order at 2:00 p.m.

**II. FLAG SALUTE**

Jim Shaffer, resident and Commander of American Legion Post 257 led the flag salute.

**III. ROLL CALL**

COUNCILMEMBERS:   PRESENT:   Conners, Rhodes, Ring, Hack, Robbins  
                          ABSENT:   None

STAFF PRESENT:       City Manager Keane; Assistant City Manager Reilly; Deputy City Clerk Fox; City Attorney McEwen; Special Projects Manager Macon; City Planner Drasler

**IV. PRESENTATIONS – None**

**V. CITY PROCLAMATIONS – None**

**VI. CONSENT CALENDAR**

City Manager Keane removed Item 6.4 from the Consent Calendar due to a missing page. She stated that the issuance of checks would not be affected.

Moved by Councilmember Conners, seconded by Mayor Pro Tem Hack, and carried unanimously to approve Consent Calendar Items 6.1 – 6.3 and 6.5 – 6.7.

6.1   City Council Minutes

Approved the minutes from the June 23, 2010 adjourned regular meeting and the July 21, 2010 regular meeting.

6.2   Approved the reading by title of all ordinances and resolutions. Said ordinances and resolutions that appear on the public agenda shall be determined to have been read by title only and further reading waived.

6.3   Treasurer's Report

Received and filed the July 2010 monthly and the FY 2009-10 fourth quarter (April – June) Treasurer’s Reports.

6.5 Bingo Game Regulations

Adopted **Ordinance No. 10-02** establishing regulations for bingo games, entitled:

AN ORDINANCE OF THE CITY OF LAGUNA WOODS, CALIFORNIA,  
REPEALING CHAPTER 6.24 AND SECTION 7.12.040 OF THE  
LAGUNA WOODS MUNICIPAL CODE AND ADOPTING NEW  
REGULATIONS PERTAINING TO BINGO GAMES

6.6 Notice of Completion – El Toro Road/Avenida Sevilla Storm Drain Project

- A. Accepted project completion of a contract with GCI Construction, Inc. for the El Toro Road/Avenida Sevilla Storm Drain Project.
- B. Released contract retention in the amount of \$32,779.93 withheld per government code 35 days following recordation of Notice of Completion with the County of Orange.
- C. Exonerated project posted bonds 35 days following recordation of Notice of Completion with the County of Orange.

6.7 CalRecycle Used Oil Payment Program

Adopted **Resolution No. 10-13** authorizing submittal of grant applications, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA  
WOODS, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF  
APPLICATIONS TO THE DEPARTMENT OF RESOURCES,  
RECYCLING AND RECOVERY (CALRECYCLE) FOR FUNDING  
UNDER THE USED OIL PAYMENT PROGRAM

**VII. MUNICIPAL ELECTION**

7.1 November 2, 2010 General Municipal Election

City Manager Keane summarized the agenda report.

Moved by Councilmember Conners, seconded by Councilmember Rhodes, and carried unanimously to approve **Resolution No. 10-12** appointing incumbents in lieu of an election, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA  
WOODS, CALIFORNIA, PROVIDING FOR THE APPOINTMENT TO  
THE OFFICES OF THE CITY OF LAGUNA WOODS THAT WERE TO  
BE ELECTED ON TUESDAY, NOVEMBER 2, 2010

## VIII. PUBLIC HEARINGS

### 8.1 Laguna Woods Village Golf Starter Building

Mayor Robbins opened the continued public hearing.

City Planner Drasler summarized the agenda report and stated that staff has received two letters from the Golden Rain Foundation objecting to Conditions 27, 34, and 35. Their objection to Condition 34 has to do with the number of new parking spaces required.

City Manager Keane discussed the Golden Rain Foundation's objections to Conditions 27 and 35 regarding the dedication of land. She stated that GRF's primary concerns are that they want assurances that there will be mitigation if the Moulton Smart Street Project causes damage to the golf course. They also do not believe that the City has the legal ability to require the dedication of the amount of property that is being required. She explained that staff views the dedication of land and the negotiation for damages associated with the roadway as separate issues. The City is not prepared to enter into a binding agreement to provide a certain level of mitigation. The configuration of the roadway could change before construction begins. She suggested that mitigation for damages should be done when the roadway configuration is finalized and construction is ready to begin. She noted that requiring dedications of land is not an uncommon practice.

City Attorney McEwen stated that he spoke with City staff, the City Engineer, County Counsel, and the County Engineer and it is his conclusion that the City does have the legal ability to require the dedication of land.

City Manager Keane discussed possible alternatives to the dedication of land, including (1) deleting the dedication, and redrafting and re-circulating the negative declaration, and (2) deleting the dedication, revising the General Plan's Circulation Element, removing the extended left turn lanes, removing right turn lanes into Gates 12 and 16, and directing staff to work on a development agreement with the Golden Rain Foundation for any future street improvements. She stated that both of these options could result in litigation against the City. Deleting the dedication of land may also jeopardize the City's receipt of Measure M turn back funds.

City Attorney McEwen agreed with City Manager Keane that all options may result in litigation against the City. He encouraged the City Council, regardless of which option is selected, to direct staff and the City Attorney to begin working with the Golden Rain Foundation on whatever agreement would be appropriate.

City Manager Keane explained that the City cannot craft conditions of approval for conditional use permits that bind the City to certain actions. Conditions only bind the applicant. She does not believe that a development agreement could be completed within the 90 day period of time that the Golden Rain Foundation would have to challenge the conditions in the conditional use permit.

Mayor Pro Tem Hack asked if the City could extend the period of time that the applicant would have to challenge the conditions in the conditional use permit.

City Manager Keane responded that the 90 days is a Government Code requirement and that it may not be possible to waive it. A tolling agreement could be considered, however unless there is a unique circumstance with this project, tolling agreements would have to be available to all other applicants in the future.

Robert Mulvihill, legal counsel for the Golden Rain Foundation (GRF), discussed GRF's position on the conditional use permit. He asked the City Council to review his letter dated August 15, 2010, if they had not already done so, and stated that GRF is eager and willing to work with the City on a mutually acceptable agreement setting forth GRF's dedication of land, as well as the mitigation that the City will fund. The agreement needs to be binding, in writing, and approved by both the City Council and GRF's Board of Directors. He discussed the impact of the future construction on the golf course. GRF is also amenable to discussing a dedication of only the land for the right turn into Gate 12.

Mr. Mulvihill also stated that GRF is "mystified" about the sequence of events related to Condition 34 – additional parking spaces. He asked that it be deleted, however if the City Council does not delete it, GRF would like the City to move forward and issue the conditional use permit as quickly as possible. He reiterated GRF's ability to challenge the conditions of the conditional use permit and indicated that any filing of litigation would be to preserve GRF's rights. GRF would continue to work with the City to resolve the issue.

City Manager Keane responded that she is less strongly committed to Condition 34 than the City's planning staff, which feels very strongly that it needs to remain. The City Council has the ability to remove the condition. She reiterated that staff views the dedication of land and mitigation as separate issues and noted that the irrevocable offer to dedicate the land would not need to be signed until the Golf Starter Building is ready to be occupied.

At Councilmember Ring's request, Mr. Mulvihill discussed the two golf course holes and other golf course facilities that GRF's golf course expert believes would be affected.

City Manager Keane stated that the City's golf course expert disagrees and has suggested other alternatives. She expressed a need for both sides to discuss what needs to be done.

Mayor Pro Tem Hack discussed the Brown Act's impact on the City Council's ability to negotiate. He believes GRF is building a new building, rather than simply modifying an existing building. He discussed history concerning the Moulton Smart Street Project, his commitment to seeing that Moulton is a free flowing road, and his support for the golf starter building project with adequate parking spaces. He expressed that he may be open to a tolling agreement and recommended that GRF claim all ADTs.

Mr. Mulvihill reiterated GRF's need for a binding agreement as to what mitigation will be provided in exchange for the dedication of land.

Mayor Pro Tem Hack stated that he did not know if the City Council has the right to bind future City Councils. He encouraged both sides to be creative in negotiations.

Mr. Mulvihill commented that City Manager Keane's statements about the dedication and mitigation being separate issues are confusing because the conditional use permit includes the requirement for the dedication.

City Manager Keane stated that she disagrees with his interpretation. The conditions noted require an irrevocable offer to dedicate. The land would not actually be dedicated until the roadway construction issues are resolved and work on the project is ready to start.

Councilmember Connors explained that City Manager Keane's statements were that the dedication of the land and the cost of mitigation are two separate issues. She noted that the City Council has the legal ability to require the dedication of land.

City Manager Keane agreed with Councilmember Connors and stated that construction could not occur without reaching a mitigation agreement. She discussed similarities to a dedication of land that was made by GRF near Clubhouse 7.

Mr. Mulvihill responded that part of the mitigation will have to do with the land that the City wants to take, not just the remainder parcel.

City Manager Keane asked City Attorney McEwen if it would be possible to amend the condition requiring the dedication of land to state that the City will move or replace all of GRF's existing improvements on the land that is dedicated.

City Attorney McEwen responded that the City would have to look at that very carefully and that he would not feel comfortable making a change at this time.

Mr. Mulvihill replied that there is existing language that was used to settle the Phase 1 property acquisition, including language pertaining to trees and landscaping.

City Manager Keane stated that such an agreement cannot be written into the conditions of approval. The City would have to not approve the project and redraft the conditions. She indicated that the movement of the tee and green are the largest unresolved issues. The County has agreed to replace the wall, move the gate, and move guardhouse, unless it cannot be moved, in which case they will pay a sum of money.

Mr. Mulvihill suggested that the City could require the dedication of only the land for the right turn into Gate 12, which would not affect the tee or the green. The City could also delete Conditions 27 and 35 and proceed with eminent domain or continue negotiations.

Councilmember Rhodes expressed his support for deleting the conditions and proceeding with negotiations, if it is legally possible. Eminent domain would be reserved as a later option. He also supported staff's parking recommendation and suggested locating the parking lot across the street near Clubhouse 7 or in place of a putting green on the course.

City Manager Keane reiterated that the City Attorney has indicated that the City is liable to be sued under any circumstance.

Councilmember Conners asked Mr. Mulvihill for clarification on why he thinks that the dedication of land near Clubhouse 7 is different than this proposed dedication.

Mr. Mulvihill explained the California statute that limits GRF's ability to file an action challenging a condition in the conditional use permit.

Councilmember Conners clarified that the condition is only to dedicate the land.

At Councilmember Conners' request, City Attorney McEwen confirmed that if GRF believes the City is not complying with the law and paying reasonable mitigation, they could take legal action claiming inverse condemnation.

Mr. Mulvihill questioned the statute of limitations for such an action and indicated that the City may claim that the harm took place when the condition was approved.

Councilmember Conners asked City Attorney McEwen if it would be possible to require the dedication without prejudice to GRF's ability to bring an inverse condemnation action at the time when the dedication is actually made.

City Attorney McEwen stated that he believes it is a separate issue and that the damage would not occur until the roadway is constructed. He does not believe it is appropriate to include it as a condition at this point.

City Manager Keane asked if the wall is the only structure located on the land that would be dedicated.

Mr. Mulvahill stated that the entrance gate for Gate 12, as well as existing landscaping, trees, and irrigation would be affected.

City Manager Keane stated that she believes the City could draft an agreement regarding these issues within 90 days since they are related directly to the requirement to dedicate land. She noted that the City has an ordinance requiring the replacement of trees.

Mr. Mulvihill thought that would be fine if it was only in regard to the right turn lane. There is still the unresolved issue of changes to the golf course.

Councilmember Conners asked why if Mr. Mulvihill acknowledges that the City has to pay all reasonable mitigation, he needs to have it in writing.

Mr. Mulvihill continued to express his concern about the statute of limitations.

Cris Robinson, on behalf of GRF, asked for clarification on City Manager Keane's e-mail dated August 16, 2010. She indicated that City Manager Keane stated that if the traffic improvements were removed, the Urban Activities Center (UAC) could not be divided.

City Manager Keane explained that the UAC has an allocation of traffic trips that assumes that Moulton parkway improvements will be constructed. If the City deletes those improvements, the number of trips available will be reduced and a traffic study

would have to be completed in order to assign parking to each half of a divided UAC.

Jim Matsen, GRF President, indicated that he supports deleting Conditions 27 and 35 under the terms outlined in a letter from City Manager Keane.

City Manager Keane clarified that the letter stated that the option would be added for the City Council to consider, not that it was staff's recommendation.

Bob Hatch, GRF Director, stated that he is confident the matter can be resolved.

John Bucknam, resident, expressed optimism that the matter can be resolved.

Corkey Eley, resident, stated her overall objections to the golf starter building project and asked when residents are going to have a vote. She believes that the City is blackmailing GRF, and that GRF is not representing the residents.

Katherine Freshley, resident, agreed with Councilmember Rhodes that the City should remove Conditions 27 and 35, use eminent domain when the land is actually required for construction, and negotiate a settlement agreement with GRF. She stated that one of the reasons for building the new building is to improve safety.

City Manager Keane explained the difference between a dedication of land and eminent domain. Eminent domain would require the City to pay for the property.

City Attorney McEwen concurred with City Manager Keane's comments.

Councilmember Rhodes asked what would happen if the City took part of the land now and part later.

City Attorney McEwen responded that the City would be required to pay for any land that is not dedicated.

Councilmember Rhodes asked why the City isn't requiring a dedication of land along all of GRF's property on Moulton Parkway.

City Manager Keane explained that the City believes it only has the authority to require a dedication of land along the parcel where the golf starter building is located.

There being no further request to speak, the public hearing was closed.

Councilmember Ring provided a PowerPoint presentation on the history of the Moulton Smart Street Project. He emphasized the project's positive impact on public safety and questioned why there is distrust of the City Council.

Councilmember Connors agreed with Councilmember Ring that this is a matter of life and safety. She also spoke of traffic relief, air quality, and regional benefits. She stated that the City Councilmembers have sworn to follow the law and act in good faith. She expressed disappointment with GRF's demands and threat of litigation and believes that

negotiations in good faith can find a resolution.

Mayor Pro Tem Hack discussed the City Council's local and regional responsibilities. He stated that he will not agree to anything that does not include the dedication of land.

Councilmember Conners stated that she believes that the City's section of Moulton is the only section between Anaheim and the beach that has not been widened.

City Manager Keane responded that she believes Councilmember Conners is correct.

Moved by Councilmember Conners and seconded by Councilmember Rhodes to approve a resolution adopting a Negative Declaration, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, ADOPTING NEGATIVE DECLARATION ND 10-01 FOR THE NEW 17,863 SQUARE FOOT TWO-STORY GOLF STARTER BUILDING (SP-602/CUP-603) LOCATED AT 24122 MOULTON PARKWAY

Mayor Pro Tem Hack agreed with Councilmember Rhodes that additional parking will be required for the new golf starter building. He suggested that the parking should be built on-site, rather than across the street near Clubhouse 7.

City Manager Keane noted that the City Council could modify Condition 34 to require that the parking be built on-site.

City Manager Keane suggested that both resolutions be voted on at one time, rather than bifurcating them.

Councilmember Ring asked City Attorney McEwen if it is practical and possible to resolve the mitigation for the land that the City is proposing to take within 90 days.

City Attorney McEwen stated that it might be difficult.

City Manager Keane stated that she believes it could be done by the October meeting.

Councilmember Conners noted that it is her understanding that GRF is not willing to talk solely about mitigation for the improvements on the dedicated land.

City Manager Keane agreed that has been GRF's stance, but indicated that she could report back to the City Council if the negotiation proves unsuccessful. She stated that the City has reached an agreement with the County and, in theory, with GRF on mitigation for the dedicated land. Memorializing that in an agreement should not take a great deal of time.

Councilmember Conners encouraged the City and GRF to work hard in the next 90 days in order to see that a fair resolution can be reached, even if it takes longer than 90 days.

Mayor Robbins suggested that following a motion on the second resolution, the Council vote on both items in one action.

Moved by Councilmember Conners and seconded by Mayor Pro Tem Hack to approve a resolution granting a conditional use permit and approving a site development permit to allow for the construction of a new 17,863 square foot Golf Starter Building, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, APPROVING A SITE DEVELOPMENT PLAN (SP-602) AND CONDITIONAL USE PERMIT (CUP-603) FOR THE NEW 17,863 SQUARE FOOT, TWO-STORY GOLF STARTER BUILDING LOCATED AT 24122 MOULTON PARKWAY

Councilmember Conners asked if GRF has considered co-locating the new parking spaces with Clubhouse 2 and the golf starter building.

Mr. Matsen responded that GRF has considered locating the new parking spaces in the paddle tennis area, however they are waiting for a master plan study to be completed.

Councilmember Conners asked if the paddle tennis area and the proposed new parking lot near Clubhouse 7 could be switched.

Mr. Matsen replied that it is possible, but may include converting one tennis court, as well.

Councilmember Conners stated that she would like to trust GRF to consider what is in the best interest of their residents in deciding where to locate the new parking spaces.

City Manager Keane read Condition 34 aloud.

Councilmember Rhodes stated that given discussion at the meeting, he no longer supports removing Conditions 27 and 35.

Councilmember Ring supported Councilmember Conners' suggestion to trust GRF to do what is best for the community in terms of parking.

Moved by Councilmember Conners, seconded by Councilmember Rhodes (Resolution 10-14) and Mayor Pro Tem Hack (Resolution 10-15), and carried unanimously to approve **Resolution No. 10-14** adopting a Negative Declaration, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, ADOPTING NEGATIVE DECLARATION ND 10-01 FOR THE NEW 17,863 SQUARE FOOT TWO-STORY GOLF STARTER BUILDING (SP-602/CUP-603) LOCATED AT 24122 MOULTON PARKWAY

AND

To approve **Resolution No. 10-15** granting a conditional use permit and approving a site development permit to allow for the construction of a new 17,863 square foot Golf Starter Building, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA WOODS, CALIFORNIA, APPROVING A SITE DEVELOPMENT PLAN (SP-602) AND CONDITIONAL USE PERMIT (CUP-603) FOR THE NEW 17,863 SQUARE FOOT, TWO-STORY GOLF STARTER BUILDING LOCATED AT 24122 MOULTON PARKWAY

## **IX. CITY COUNCIL**

### 9.1 9-11 Freedom Walk – Use of Golf Carts (agendized by Councilwoman Conners)

[Item 9.1 was considered prior to Item 8.1]

Special Projects Manager Macon summarized the agenda report and noted the American Legion has requested that the 9-11 Freedom Walk be permitted from 9 a.m. to 9:30 a.m., as opposed to 9:30 a.m. to 10 a.m.

Councilmember Conners asked why staff denied the American Legion's request to use an eight passenger golf car donated by Saddleback Golf Cars.

City Manager Keane stated that the size of the golf car may have damaged the sidewalk.

Jim Shaffer and Joe Rainy, representing American Legion Post 257, made brief remarks and encouraged the public to attend the 9-11 Freedom Walk.

Moved by Councilmember Conners, seconded by Councilmember Ring, and moved unanimously to authorize the use of a maximum of three golf carts on the public sidewalk between Laguna Woods Village Gate 1 and City Hall, on September 11, 2010, between the hours of 9 a.m. and 10 a.m., for the 9-11 Freedom Walk.

### 9.2 South Orange County Watershed Management Area Cooperative Agreement

Special Projects Manager Macon summarized the agenda report.

Moved by Councilmember Conners, seconded by Councilmember Rhodes, and carried unanimously to:

- A. Authorize the City Manager to execute the agreement subject to approval as to form by the City Attorney.
- B. Appoint Councilman Bob Ring as primary and Mayor Pro Tem Hack as alternate representatives to the South Orange County Watershed Management Area's Executive Committee.

## **X. CITY MANAGER**

10.1 City Centre Park Design

City Manager Keane removed Item 10.1 from the agenda in order for staff to work with the Ayres Hotel on the possibility of providing park access from their parking lot.

**XI. CITY ATTORNEY’S REPORT – None**

**XII. COMMITTEE REPORTS**

12.1 Transportation Corridor Agencies (Mayor Pro Tem Hack)  
Mayor Pro Tem Hack discussed methods used to collect tolls.

12.2 Orange County Library Board (Mayor Robbins)  
Mayor Robbins stated that there was no meeting.

12.3 Orange County Fire Authority (Councilmember Rhodes)  
Councilmember Rhodes announced that the Fire Authority’s Board of Directors recently authorized the establishment of the Orange County Fire Authority Foundation, as well as a “borrow agreement” with Kia Motors. Rancho Santa Margarita Councilman Neil Blais is the new Board Chair and Lake Forest Councilman Mark Tetteimer is Vice-Chair.

12.4 Southern California Water Committee (Mayor Pro Tem Hack)  
Mayor Pro Tem Hack discussed the Committee’s Executive Director search.

12.5 Coastal Greenbelt Authority (Councilmember Conners)  
Councilmember Conners stated that there was no meeting.

12.6 Laguna Canyon Foundation (Councilmember Rhodes)  
Councilmember Rhodes stated that there was no meeting.

12.7 Vector Control District Board (Board Member Bouer)  
Board Member Bouer was not present to provide a report.

**XIII. PUBLIC COMMENTS – None**

**XIV. CITY COUNCIL COMMENTS AND ANNOUNCEMENTS**

13.1 Reports on Meetings Attended (Government Code §53232.3) – None

13.2 Other Comments and Announcements – None

**XV. CLOSED SESSION**

City Manager Keane announced that there would be no need to discuss item 15.2 in closed session.

15.1 The City Council met in closed session to confer with legal counsel regarding one matter

of pending litigation: City of Laguna Woods vs. Raintree Realty LLC. Case No. 05 CC 09350 pursuant to the provisions of Government Code Section 54956.9(a).

The City Council reconvened in open session at 5:20 p.m. City Attorney McEwen advised that there was no reportable action.

## **XVI. ADJOURNMENT**

The meeting was adjourned at 5:20 p.m. The next regular meeting will be at 2:00 p.m. on September 15, 2010 at the Laguna Woods City Hall, 24264 El Toro Road, Laguna Woods, California.

---

YOLIE TRIPPY, Deputy City Clerk

Adopted: September 15, 2010

---

MILTON ROBBINS, Mayor