

Received and filed the January 2011 monthly and Fiscal Year 2010-11 Second Quarter Treasurer's Reports.

6.4 Warrant Register

Approved the February 16, 2011 Warrant Register in the amount of \$1,274,841.25.

6.5 City Centre Park

Awarded a contract to Southland Construction, Inc. in the amount of \$334,347, for construction of City Centre Park; and authorized the City Manager to execute the contract and approve change orders, subject to approval as to form by the City Attorney.

VII. PUBLIC HEARINGS

7.1 Community Development Block Grant Disaster Recovery Initiative

Special Projects Manager Macon summarized the agenda report.

City Manager Keane noted that development of a Local Hazard Mitigation Plan would include consideration of flooding and other hazards. She noted that it may increase the likelihood of receiving funding related to the flooding on cul-de-sac 67.

Mayor Hack supported submitting an application as soon as possible, in light of the fact that CDBG funding may be curtailed by the Federal government.

Mayor Hack opened the public hearing.

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

Moved by Councilmember Robbins, seconded by Mayor Pro Tem Connors, and carried unanimously to approve Resolution No. 11-02, entitled:

A RESOLUTION OF THE CITY OF LAGUNA WOODS,
CALIFORNIA, APPROVING SUBMITTAL OF AN APPLICATION
FOR 2008 DISASTER RECOVERY INITIATIVE FUNDING

Mayor Hack reflected on the Laguna Canyon fires of 1994 and noted that the recent rain storms will affect this year's fire season.

7.2 Establish and Modify Building and Safety Fees

City Manager Keane summarized the agenda report.

Mayor Hack opened the public hearing.

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

Mayor Hack commented that the proposed resolution would lower existing fees.

Moved by Mayor Pro Tem Conners, seconded by Councilmember Robbins, and carried unanimously to approve Resolution No. 11.-03 establishing certain building permit fees, including the alternate fee schedule for rooftop photovoltaic systems and single ply roofing, entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA WOODS, CALIFORNIA, ESTABLISHING FEES FOR
SINGLE-PLY ROOFING AND ROOFTOP PHOTOVOLTAIC
SYSTEMS

City Manager Keane stated that the issue of the appropriateness of previously established photovoltaic fees was brought to the City's attention by a Sierra Club study. She noted that the City had not issued any permits using the previous fees.

Councilmember Rhodes and Mayor Hack noted that many of the fees were adopted by the County prior to the City's incorporation.

7.3 Temporary and Permanent Sign Regulations

City Manager Keane summarized the agenda report, noting that in most instances the proposed regulations are less restrictive than existing regulations and incorporate current practices.

Mayor Hack opened the public hearing.

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

Moved by Councilmember Robbins, seconded by Councilmember Rhodes, and carried unanimously to introduce and approve first reading of an ordinance establishing sign regulations, entitled:

AN ORDINANCE OF THE CITY OF LAGUNA WOODS,
CALIFORNIA, AMENDING CHAPTER 13, 06 AND REPEALING
AND REPLACING CHAPTER 13.20 OF THE LAGUNA WOODS
MUNICIPAL CODE PERTAINING TO SIGN REGULATIONS

VIII. CITY COUNCIL

8.1 City Attorney Services

City Attorney McEwen noted that the recommendation includes direction to the City Manager to provide a notice of termination to Burke, Williams, and Sorensen and oversight of the transition of files to Rutan & Tucker.

Mayor Pro Tem Conners thanked City Attorney McEwen and Burke, Williams, and Sorensen for their service to the City Council.

Mayor Hack stated that he and Mayor Pro Tem Conners serve as the Council ad hoc Legal Services Committee and that they support the recommended action. He thanked City Attorney McEwen for his service to the City Council.

Moved by Councilmember Robbins, seconded by Mayor Pro Tem Conners, and carried unanimously to authorize the City Manager to execute a contract for legal services with the firm of Rutan & Tucker for the period April 1, 2011 through March 31, 2012.

8.2 City Council Meeting Schedule

City Manager Keane discussed the proposed City Council meeting schedule, which includes three additional budget meetings and a schedule change for the December meeting due to the holiday season. The schedule listed an incorrect date; the proposed date is December 14th,

Moved by Councilmember Robbins, seconded by Councilmember Rhodes, and carried unanimously to adopt the meeting schedule, as proposed, for the balance of the calendar year.

IX. CITY MANAGER

9.1 Smoking Regulations

City Manager Keane summarized the agenda report and noted that since the City Council approved introduction and first reading of an ordinance that would prohibit smoking on unenclosed patios and balconies, questions have come up about whether screened patios and balconies would be considered unenclosed or enclosed. Staff believes that the ordinance allows smoking in screened patios and balconies. The City Council may choose to adopt the ordinance as is or modify, reintroduce, and approve first reading of the ordinance. She suggested that the following sentence added to Section 7.16.030(2)(e): “For the purpose of this chapter, the phrase “unenclosed balconies and patios” shall include screened balconies and/or patios” would clarify the issue.

Therese Chamberlain, resident, discussed an email that she sent to the City Council opposing the proposed regulations. She stated that if they are adopted she will start a class-action lawsuit against the City for infringing on her rights.

Ms. Mendell, resident, commented that because of the design of the multifamily buildings, requiring someone to smoke inside with their windows and doors closed would guarantee that smoke went into other units. She asked if the City Council would have a no tolerance policy for that type of activity.

City Attorney McEwen clarified that the provision requiring all windows to be shut was deleted from the proposed ordinance at the January City Council meeting.

Ms. Mendell asked if the City Council has a plan for handling what happens when smoke moves into other people’s homes.

Shari Horne, resident, spoke in support of the City Council's efforts to address the issue. She said that it would be fairer if the prohibition on smoking applied to individual homes, many of which are closer together than multifamily balconies and patios.

Maggie Acuna, on behalf of the American Cancer Society, discussed the harmful effects of secondhand smoke and urged the City Council to adopt the proposed regulations.

Vincette Wilson, resident, expressed concern that her guests would be required to smoke inside her home. She opposes the regulations and would like to see people work together to resolve their issues. She feels people are losing their individual freedoms.

Adriana Batista, on behalf of the American Lung Association, commended the City for promoting a healthier community. She also discussed the dangers of secondhand smoke.

Cynthia Schafer, resident, discussed the dangers of secondhand smoke and advances in tobacco control. She urged the City Council to adopt the ordinance.

City Manager Keane stated that staff suggested an enforcement policy during the January meeting that would allow declarations to be submitted by residents, but did not ask the City Council to adopt the policy. The policy will be returned to the City Council at a later date. In the meantime, the current policy requiring firsthand evidence will continue.

Mayor Hack discussed the role of the City as it relates to public health and safety.

Councilmember Rhodes referred to Section 7.16.100(b) of the proposed ordinance and asked for clarification on if the City issues business licenses.

City Manager Keane clarified that the City does not issue business licenses, per say, but does require certain types of business licensing. She suggested that the language can be changed for clarity, if the City Council wishes to modify the proposed ordinance.

Councilmember Rhodes concurred with Ms. Horne's suggestion to prohibit smoking on all residential patios and balconies, not just for multifamily units.

City Manager Keane responded that the City Council could prohibit smoking on all unenclosed balconies and patios by striking the word "multifamily" from the end of Section 7.16.030(2)(e).

Councilmember Rhodes discussed his belief that rights are only valid when they don't infringe on others rights.

Councilmember Robbins concurred with Councilmember Rhodes. He referenced Section 7.16.060(1) of the proposed ordinance which states that the City is not prohibiting smoking in private residences. Councilmember Robbins expressed his support for the provisions prohibiting smoking in public places and places of employment.

Mayor Pro Tem Connors stated she is supportive of Councilmember Rhodes' proposal to modify Section 7.16.030(2)(e) of the proposed ordinance to apply to all residences. She

does not believe different residential types should be treated differently. Mayor Pro Tem Connors discussed the points of view of those opposed to the regulations, as well as the City Council's decision-making process. She stated her belief that currently all residential patios and balconies in the City are owned by the landlord or are part of a common area reserved for use by the resident. She is opposed to allowing conduct which poses a health risk to others and cited the well documented fact that smoking is a public health problem; the evidence that secondhand smoke affects the health of others; and the age and vulnerability of the City's residents as justification for enacting prohibitions. She proposed clarifying the ordinance to consider screened balconies and enclosed patios and balconies unless there is a covering over the screens so that the smoke does not escape.

Mayor Hack discussed the ongoing process through which social change occurs and the way that the City has gradually increased smoking regulations. He stated that concerns of smoke permeating through walls might be better addressed by the mutuals.

Councilmember Rhodes noted that his proposal to include all balconies and patios, regardless of residential type, is in addition to clarifying use of the terms unenclosed and enclosed.

City Manager Keane asked if "enclosed" means that all windows and doors must be shut.

Mayor Hack reiterated Mayor Pro Tem Connors' point that patios and balconies are not owned by the property owner and are considered common property.

Mayor Pro Tem Connors noted that she believes the intent is to require that enclosed balconies and patios be closed off from the outside, with all windows and doors shut.

City Manager Keane stated that because of the Building Code's definition of enclosed and unenclosed balconies, the ordinance prohibitions would need to be specific, such as:

- Unenclosed balconies and patios;
- Enclosed balconies and patios with windows or doors open; and
- Screened balconies and patios.

Councilmember Rhodes questioned requiring balcony and patio windows and doors to be shut, but not windows and doors of residential units.

Mayor Hack reiterated Mayor Pro Tem Connors' statement that balconies and patios are considered a common area and that is the rationale offered in that regard.

Mayor Hack stated that it is the consensus of the City Council to move forward with changes to the ordinance, thereby making this an introduction and first reading.

City Manager Keane stated that the language must be drafted at this meeting, in order to qualify as an introduction and first reading.

Moved by Mayor Pro Tem Connors, seconded by Councilmember Robbins, and carried unanimously to introduce and approve first reading of an ordinance modifying Laguna

Woods' smoking regulations as amended to include prohibitions on smoking in screened patios and balconies and enclosed patios and balconies if windows are open and smoke is able to escape, entitled:

AN ORDINANCE OF THE CITY OF LAGUNA WOODS,
CALIFORNIA, RESCINDING, REPLACING AND ESTABLISHING
CHAPTER 7.16 – SMOKING IN PUBLIC PLACES AND PLACES OF
EMPLOYMENT

X. CITY ATTORNEY – No report

XI. COMMITTEE REPORTS

11.1 Transportation Corridor Agencies (Mayor Hack)

Mayor Pro Tem Hack discussed tolling methods.

11.2 Orange County Library Board (Councilmember Robbins)

Mayor Robbins reported that Lara Anderson from the Dana Point City Council is the new Chair of the Board. The Board is dealing with budget issues.

11.3 Orange County Fire Authority (Councilmember Rhodes)

Councilmember Rhodes discussed the hand crew program, labor agreements, and Chief Richter's optimal outcome deployment program.

11.4 Southern California Water Committee (Mayor Hack)

Mayor Hack discussed Sacramento Delta issues.

11.5 Coastal Greenbelt Authority (Mayor Pro Tem Connors)

Councilmember Rhodes attended the meeting and reported on a fuel modification project that involves the use of goats, a new plant palette, and rain damage to the park.

11.6 Laguna Canyon Foundation (Councilmember Rhodes)

Councilmember Rhodes reported on new committee assignments, an upcoming program on the history of open space, and the introduction of Executive Director Max Borella.

11.7 Vector Control District Board (Councilmember Robbins)

Councilmember Robbins reported that the Board elected Cheryl Brothers from Fountain Valley and James Gomez from La Habra, as President and Vice President, respectively. The Board also voted to purchase the property housing the Vector Control District offices. Statistics show no presence of West Nile Virus in the City.

XII. PUBLIC COMMENTS

An unidentified resident spoke in opposition to the smoking regulations. She felt that the government is getting too much into an individual's private matters.

Lisa Ball, on behalf of the South Coast Air Quality Management District, presented the City with a DVD copy of that agency's 2011 State of the Air report.

Ms. Chamberlain requested clarification on the ownership of her enclosed balcony, since she was required to pay for the building permits for related improvements.

Mark, a resident, suggested amending the smoking ordinance to prohibit smoking on enclosed patios and balconies that are within 20 feet of the nearest residence.

XIII. CITY COUNCIL COMMENTS AND ANNOUNCEMENTS

13.1 Reports on Meetings Attended (Government Code §53232.3)

- A. Southern California Water Committee Quarterly Meeting (Hack)
- B. State of the County Breakfast, January 29, 2011 (Conners, Rhodes)
- C. Orange County Fire Authority Best and Bravest Dinner, February 4, 2011 (Rhodes)

13.2 Other Comments and Announcements

Councilmember Rhodes suggested that Ms. Chamberlain speak with Cris Robinson from Laguna Woods Village regarding the ownership of her patio.

Councilmember Conners discussed a recent waste water presentation that she attended.

Councilmember Rhodes commented on his recent participation in a Metropolitan Water District tour of the Sacramento and San Joaquin Deltas.

XIV. CLOSED SESSION

City Attorney McEwen announced that a closed session is not needed for Item 14.2.

14.1 The City Council met in closed session to confer with legal counsel regarding one matter of pending litigation: Golden Rain Foundation vs. City of Laguna Woods, Case No. 30-2010 00424268, pursuant to the provisions of Government Code Section 54956.9(a).

The City Council reconvened in open session at 4:12 p.m. City Attorney McEwen advised that there was no reportable action.

XV. ADJOURNMENT

The meeting was adjourned at 4:12 p.m. The next regular meeting will be at 2:00 p.m. on Wednesday, March 16, 2011 at Laguna Woods City Hall, 24264 El Toro Road, Laguna Woods, CA 92637.

YOLIE TRIPPY, Deputy City Clerk

Adopted: March 16, 2011

BERT HACK, Mayor