



# Minutes

## Lakewood City Council

Regular Meeting held  
November 10, 2009

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**MEETING WAS CALLED TO ORDER** at 7:35 p.m. by Mayor Rogers in the Council Chambers at the Civic Center, 5000 Clark Avenue, Lakewood, California.

**INVOCATION** was offered by Reverend Monsignor Joseph Greeley, St. Pancratius Church

**PLEDGE OF ALLEGIANCE** was led by Council Member Diane DuBois

**ROLL CALL: PRESENT:** Mayor Todd Rogers  
Vice Mayor Joseph Esquivel  
Council Member Steve Croft  
Council Member Diane DuBois  
Council Member Larry Van Nostran

### **ANNOUNCEMENTS AND PRESENTATIONS:**

Mayor Rogers announced that at a meeting held just prior, the planning had begun for the next annual Civic Center Block Party, which would be held on June 26, 2010.

Council Member Croft stated that Lakewood was fortunate to have two great libraries and he introduced the new manager for the Jacoboni Library, Sara Comfort.

### **ROUTINE ITEMS:**

Council Member Van Nostran requested that Routine Item 1 be considered separately.

**COUNCIL MEMBER VAN NOSTRAN MOVED AND COUNCIL MEMBER CROFT SECONDED TO APPROVE ROUTINE ITEMS 2 THROUGH 9.**

RI-2 Approval of Personnel Transactions

RI-3 Approval of Registers of Demands

RI-4 Approval of Meeting Reports and Authorizations Pursuant to AB1234

RI-5 Appointment to the Lakewood Project Shepherd Board

RI-6 Approval of Street Closure for Block Party on Albury Avenue

RI-7 Acceptance of Notice of Completion for Public Works Project No. 05-9, Install Bus Shelters, TDS Engineering

**ROUTINE ITEMS:** Continued

RI-8 RESOLUTION NO. 2009-56; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD ESTABLISHING A PHYSICALLY HANDICAPPED PERSONS DESIGNATED PARKING SPACE ON THE SOUTH SIDE OF DENMEAD STREET WITHIN THE CITY OF LAKEWOOD

RESOLUTION NO. 2009-57; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD ESTABLISHING A PHYSICALLY HANDICAPPED PERSONS DESIGNATED PARKING SPACE ON THE WEST SIDE OF EASTBROOK AVENUE WITHIN THE CITY OF LAKEWOOD

RI-9 Approval of Release of Subdivision Bonds for Parcel Map No. 61251, Boeing Corporation

UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

RI-1 Approval of Minutes of the Meeting held October 27, 2009

COUNCIL MEMBER CROFT MOVED AND VICE MAYOR ESQUIVEL SECONDED TO APPROVE ROUTINE ITEM 1. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: Van Nostran

**1.1 • APPEAL OF TRANSIENT OCCUPANCY TAX HEARING DECISION FOR TRADE WINDS HOTEL, 11441 E. CARSON STREET**

City Attorney Steve Skolnik advised an appeal had been received regarding the decision of the Director of Administrative Services acting as the City's Tax Administrator with regard to unpaid transient occupancy taxes and the interest thereon.

Administrative Services Director Diane Perkin made a presentation based on the memo in the agenda and stated that pursuant to the Lakewood Municipal Code, an eight percent transient occupancy tax was due on all rents charged for the occupancy of hotel space. She reported that an audit had been performed and that based on the financial information provided by the owner of the Trade Winds Hotel, for the 36-month period from July 2006 through June 2009, taxes had been under-reported and the difference between actual amount owing and the amount remitted was \$39,886.88, or \$50,688.85 with penalties and interest. She noted that exempted from the tax were extended-stay rooms rented to the same tenant for over 30 days. She stated that a hearing had been held on October 26, 2009, but no additional information or

**1.1 • APPEAL OF TRANSIENT OCCUPANCY TAX HEARING DECISION  
FORTRADE WINDS HOTEL, 11441 E. CARSON STREET - Continued**

documentation had been provided on which to base a change in the amount owed. On November 2, 2009, Ms. Grace Suen, owner of the Trade Winds Hotel, had filed an appeal to the City Council.

Noting that there were a number of gaps of several months in the data provided, Mayor Rogers inquired if an explanation had been offered for the incomplete records. Ms. Perkin responded by stating that according to the owner, some data was lost due to a computer crash and some was unavailable because the property had temporarily been under the control of a management company that did not maintain the data.

Council Member Croft inquired if future audits were planned to monitor compliance. Ms. Perkin responded by stating that in accordance with the Municipal Code, the tax administrator could authorize an audit at any time, but monitoring the reports would provide a basis to determine if trends in occupancy were reflected in the taxes paid.

The City Attorney noted that according to the Code, the only rooms that were built, permitted and maintained as extended stay rooms qualified as exempt from the tax. He confirmed from Ms. Perkin that her calculations had not included other, non-qualifying rooms that the owner had also been renting for extended stays, or the total due would have been much higher.

Mayor Rogers opened the public hearing at 7:48 p.m. and called for anyone in the audience wishing to address the City Council on this matter.

Ford Suen, son of the hotel owner, stated his mother was ill and he was appearing on her behalf. He stated that they would like to see an independent audit performed and questioned whether levying the tax on any extended stay, even in non-permitted rooms, was allowable under the law, based upon a County of Los Angeles case. He noted that they considered their entire facility as suitable for extended stay.

Ms. Perkin pointed out that the Municipal Code was very clear that any hotel room used for extended stay must provide a kitchen/cooking facilities.

Mayor Rogers also pointed out that under the zoning provisions of the Municipal Code, the subject site did not meet the requirements for any extended stay facilities.

Responding to questions from Mayor Rogers, Mr. Suen conceded that there had been some under-reporting based on errors and the renting of rooms more than once in a single day and on an hourly basis.

The City Attorney clarified that the appellant was asserting that the definition of the extended stay facilities in the Lakewood Municipal Code was illegal and that no tax could be levied for anyone that stayed more than 30 days, regardless of their room. He stated that he was not familiar with the case law cited by the appellant, and was therefore unable to advise the City Council on that assertion without further research.

**1.1 • APPEAL OF TRANSIENT OCCUPANCY TAX HEARING DECISION FOR TRADE WINDS HOTEL, 11441 E. CARSON STREET - Continued**

COUNCIL MEMBER VAN NOSTRAN MOVED AND COUNCIL MEMBER CROFT SECONDED TO CLOSE THE PUBLIC HEARING. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

Mayor Rogers stated that since the City Attorney was not able at this time to advise if the Lakewood Municipal Code would be superseded by State law, this matter should be continued.

COUNCIL MEMBER VAN NOSTRAN MOVED AND COUNCIL MEMBER CROFT SECONDED TO TABLE THIS MATTER UNTIL THE DECEMBER 8, 2009 MEETING. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

**2.1 • INTENT TO GRANT A PIPELINE FRANCHISE TO PACIFIC PIPELINE SYSTEM**

Public Works Director Lisa Rapp made a presentation based on the report in the agenda and stated Pacific Pipeline System had applied for a renewal of the pipeline franchise that they had received on a transfer from ARCO Pipeline Company. It was the recommendation of staff that the City Council adopt the proposed resolution setting a public hearing on the franchise for December 8, 2009, and introduce the proposed ordinance.

RESOLUTION NO. 2009-58; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD, CALIFORNIA, DECLARING ITS INTENTION TO GRANT TO PACIFIC PIPELINE SYSTEM LLC A FRANCHISE GRANTING THE RIGHT, FRANCHISE AND PRIVILEGE FROM TIME TO TIME TO LAY, CONSTRUCT, MAINTAIN, OPERATE, REPAIR, RENEW, CHANGE THE SIZE OF, AND REMOVE OR ABANDON IN PLACE A PIPELINE SYSTEM FOR THE TRANSPORTATION OF INDUSTRIAL GAS, GASOLINE, PETROLEUM OIL, GAS, OTHER HYDROCARBON SUBSTANCES, WATER, WASTE WATER, MUD, STEAM, AND OTHER LIQUID OR GAS SUBSTANCES INCIDENT TO THE OIL INDUSTRY, TOGETHER WITH ALL MANHOLES, VALVES, SERVICE CONNECTIONS AND APPURTENANCES NECESSARY OR CONVENIENT FOR THE MAINTENANCE AND OPERATION OF SAID PIPELINES, INCLUDING ANY FACILITIES NECESSARY FOR CATHODIC PROTECTION OF SAID PIPELINES; WITHIN THE CITY OF LAKEWOOD, AND SETTING A PUBLIC HEARING THEREON AT 7:30 P.M. ON THE 8TH DAY OF DECEMBER, 2009, IN THE CITY COUNCIL CHAMBER, 5000 CLARK AVENUE, LAKEWOOD, CALIFORNIA

**2.1 • INTENT TO GRANT A PIPELINE FRANCHISE TO PACIFIC PIPELINE SYSTEM – Continued**

ORDINANCE NO. 2009-7; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD GRANTING AN OIL PIPELINE FRANCHISE TO PACIFIC PIPELINE SYSTEM LLC

COUNCIL MEMBER DUBOIS MOVED AND COUNCIL MEMBER CROFT SECONDED TO ADOPT RESOLUTION NO. 2009-58 AND INTRODUCE ORDINANCE NO. 2009-7. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

**2.2 • AMENDING THE LAKEWOOD MUNICIPAL CODE PERTAINING TO REFUSE COLLECTION**

The Public Works Director displayed slide and gave a presentation based on the memo in the agenda. She stated that the implementation of automated curbside recycling and refuse collection necessitated several changes to existing provisions of the Municipal Code. She noted that to date, 22,500 recycling carts had been delivered to Lakewood residents. She reported that educational materials had been provided and EDCO staff had been visible in local neighborhoods to answer questions. She also noted that 46 citations had been issued for scavenging, mostly in the early morning hours, and that the problem seems to have been abated. It was the recommendation of staff that the City Council introduce the proposed ordinance.

ORDINANCE NO. 2009-8; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD AMENDING CHAPTER 3 OF ARTICLE V OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO REFUSE COLLECTION

Council Member Croft stated that the experienced staff of EDCO had been well received in the community. He inquired about the time line for greenwaste separation. Ms. Rapp responded by stating that after solid waste collection went automated in the spring, an educational campaign would be launched regarding the separation of greenwaste.

Council Member DuBois requested clarification regarding the use of containers or plastic bags for greenwaste. Ms. Rapp stated that the educational materials that will be provided both to residents and local lawn service operators serving Lakewood residents, would instruct that greenwaste only be placed in trash containers or biodegradable plastic bags. She noted that regular plastic bags contaminated the greenwaste and that collection route operators did not have enough time to open and empty plastic bags on collection day.

Responding to a question from Mayor Rogers, Ms. Rapp stated that there were no known parking problems that were directly attributable to the placements of collection containers in the street.

**2.2 • AMENDING THE LAKEWOOD MUNICIPAL CODE PERTAINING TO REFUSE COLLECTION - Continued**

Council Member Van Nostran stated it was important for Lakewood residents to know that they could request an additional recycling cart, if needed, at no additional charge.

COUNCIL MEMBER DUBOIS MOVED AND COUNCIL MEMBER CROFT SECONDED TO INTRODUCE ORDINANCE NO. 2009-8. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

**2.3 • AMENDING THE LAKEWOOD MUNICIPAL CODE PERTAINING TO WATER CONSERVATION IN LANDSCAPING**

Acting Community Development Director Sonia Southwell made a presentation based on the memo in the agenda and stated the proposed amendments to the water conservation in landscaping were required by State law. She reviewed the changes to the existing provisions, which had been adopted in 1993. It was the recommendation of the Water Resources Committee that the City Council introduce Ordinance No. 2009-9 and adopt Resolution No. 2009-59, establishing rules, regulations and procedure for ordinance implementation.

ORDINANCE NO. 2009-9; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD AMENDING CHAPTER 6 OF ARTICLE VIII OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO WATER CONSERVATION IN LANDSCAPING

RESOLUTION NO. 2009-59; A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKEWOOD ESTABLISHING RULES, REGULATIONS AND PROCEDURES GOVERNING THE IMPLEMENTATION OF THE WATER CONSERVATION IN LANDSCAPING ORDINANCE

Responding to questions from Council Members DuBois and Croft, Ms. Southwell stated that owners of single family residential lots were not required to comply, unless the lot was larger than 5,000 square feet, and that there were only 88 such lots identified within the City. She clarified that compliance would be required at the time a 50 percent or greater landscaped area was installed or rehabilitated. She noted that all residents in the process of a major remodel were encouraged, through the Development Review Board process, to install water efficient landscaping.

COUNCIL MEMBER VAN NOSTRAN MOVED AND COUNCIL MEMBER DUBOIS SECONDED TO INTRODUCE ORDINANCE NO. 2009-9 AND RESOLUTION NO. 2009-59. UPON ROLL CALL VOTE, THE MOTION WAS APPROVED:

AYES: COUNCIL MEMBERS: Van Nostran, DuBois, Croft, Esquivel and Rogers

NAYS: COUNCIL MEMBERS: None

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At 8:50 p.m., the Regular Meeting of the City Council was recessed for the Meeting of the Lakewood Redevelopment Agency. At 8:51 p.m., the City Council Meeting was reconvened.

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**ORAL COMMUNICATIONS:**

Eileen Tett and Marie O'Donnell, representing her son, addressed the City Council regarding problems with the management at the facility for seniors and the disabled.

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**ADJOURNMENT**

There being no further business to be brought before the City Council, Mayor Rogers adjourned the meeting at 9:04 p.m.

Respectfully submitted,

Denise R. Hayward, CMC  
City Clerk