

LAGUNA NIGUEL CITY COUNCIL
Regular Meeting of June 21, 2016 – 7:00 p.m.

CALL TO ORDER – The meeting was called to order by Mayor Davies at 7:00 p.m.

ROLL CALL

Mayor Laurie Davies– Present
Mayor Pro Tem Jerry Slusiewicz – Present
Council Member Elaine Gennawey – Present
Council Member Fred Minagar – Present

INVOCATION was given by Randy Steele, Laguna Niguel Presbyterian Church

PLEDGE OF ALLEGIANCE – Boy Scout Troop 772

PRESENTATIONS

1. Resolution Honoring Former Mayor and Council Member Jerry McCloskey

Mayor Davies and the City Council presented a Resolution and Street Sign to Marilyn McCloskey honoring former Mayor and Council Member Jerry McCloskey for his exemplary service to the City of Laguna Niguel.

Mayor Davies moved Public Communications and the Consent Calendar portion to be heard after business items due to the number of requests to speak on City Attorney Item No. 1 – Filling the Vacancy on the City Council Created by the Passing of Council Member Jerry McCloskey.

CITY CLERK

1. Resolutions Calling, Ordering, Giving Notice and Consolidating the General Municipal Election with the Statewide General Election on November 8, 2016

City Clerk Gomez provided information as stated in the Staff Report. She stated that the General Municipal Election for the City of Laguna Niguel will be held on November 8, 2016, and that the proposed resolutions provide the required notice for the election and for its consolidation with the Statewide General Election.

A MOTION was made by Mayor Pro Tem Slusiewicz, seconded by Council Member Gennawey, to adopt Resolution No. 2016-1197:

RESOLUTION NO. 2016-1197

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA,
CALLING, ORDERING AND GIVING NOTICE OF THE
GENERAL MUNICIPAL ELECTION TO BE HELD ON
NOVEMBER 8, 2016, FOR THE ELECTION OF THREE
MEMBERS OF THE CITY COUNCIL

And

RESOLUTION NO. 2016-1198

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA,
REQUESTING THAT THE BOARD OF SUPERVISORS OF THE
COUNTY OF ORANGE CONSOLIDATE THE CITY OF LAGUNA
NIGUEL'S GENERAL MUNICIPAL ELECTION WITH THE
STATEWIDE GENERAL ELECTION TO BE HELD ON
NOVEMBER 8, 2016, PURSUANT TO
ELECTION CODE SECTION 10403

Motion carried 4-0.

CITY ATTORNEY

This portion of the minutes for June 21, 2016 City Council meeting has been produced in verbatim in order to provide the public with a detailed account of the public comments made on this specific item.

1. Filling the Vacancy on the City Council Created by the Passing of Council Member Jerry McCloskey

Mayor Davies – The next item is City Attorney Item No. 1 and that is for filling the vacancy on the City Council created by the passing of Council Member Jerry McCloskey. What I am going to do is I'm going to have the staff report and then we'll go into comments. I want to make sure that it's organized and I tend to be a very organized person. Here we have about 40 comment cards. I'm going to call you up by three. When you stand in front of the podium, state your name, your address and then make your comment. We will try to keep to two minutes if we can. I just want to make sure everyone has an opportunity to be respectful for those others speaking, as well as those that are in the audience. If we can keep it to just no noise, let them speak so that way the Council can also hear the comments, it would be greatly appreciated. We've all been very respectful and professional in this Council Chamber so let's continue that. If we can have the staff report Terry Dixon, please.

City Attorney Dixon – Thank you Mayor Davies, Members of the Council, Members of the Audience. With the passing of former Mayor and Council Member Jerry McCloskey, the Government Code provides direction on the actions for the Council to take relative to the vacancy created. The City Council has 60 days from May 24th which is to July 23rd to take one of two actions. Either make an appointment to the remaining part of Council Member McCloskey's term which would be until the results of the November 8th Election are certified, or to call a special election. In this case, calling a special election under the Government Code would be such that the election wouldn't be held until November 8th. Therefore, there is no real reason for a special election. In my opinion, the City Council can either appoint or leave the position open, and in essence, instead of calling a special election, the Council has already called the General Election to fill the seats that would be up for election in November. So it is my recommendation tonight that the City Council make a decision regarding whether or not to appoint, and depending on that decision, then consider taking additional action relative to the November 8th election.

Mayor Davies – Thank you Terry Dixon. And just so you know, we numbered these (speaker slips) as they came in. I will just start calling them by the first three. We have John Ulrich, Mark Snider and Ryan O’Dea.

PUBLIC SPEAKERS

John Ulrich - 30412 North Hampton, Laguna Niguel. A few weeks ago, I lost a great friend as we all did, Jerry McCloskey. One thing about Jerry that I’ve always admired is his common sense approach on everything. I was always wondering what would Jerry do in this situation. Do we replace him, not that you can, or do we do it. I’m sure he would say let’s fill it for the next four months because of all the important things going on. I’m sure he would also nominate John Mark Jennings. Why is this? John Mark, he was the runner up for the last election and there is precedence for that so that’s one reason. John also has other qualifications. He’s a business attorney, dealing with heavy duty important issues in business so he brings all that qualification. It would really enhance the knowledge of the City Council. A two-term City Planning Commissioner, he’s been dealing with issues in that position for obviously two terms for several years so he brings a lot of knowledge there. He understands the City’s overall operations from years of City community service. He knows everybody and that’s always good. One thing that’s important to me is a high degree of character and that’s rare these days. I think it would be a great choice and also, in my enterprise background, he would bring a seamless transition to the next four months. He knows what’s going on and he would be a very huge advantage to the City Council. So thank you very much.

Mark Snider - 22846 Dominita Road, Laguna Niguel. I am Past President of the Lyons Club and Past President of my Home Owners Association. The City Council has a history of doing a great job for the City. As I understand it, there was a precedence set a number of years ago when one of the Council people was elevated to Supervisor and another person was appointed who had been in the previous election. I recommend and I would like to see Council do another, follow precedent in that regard, and as well as maintain the good quality of the City. If asked what Jerry McCloskey would do, I believe he would want to have the appointment made. Thank you.

Ryan O’Dea - 25252 Via Entrada. The purpose of my comment is twofold. One, I want to impress upon the City Council the importance and the utility of filling the vacancy. I think in the five months leading up to November, it’s extremely important to have that seat filled. I think first and foremost that it’s not just breaking ties when they come up but to make sure that the residents of Laguna Niguel’s voice is heard. I think that can be brought in by bringing another perspective and another opinion on the board. I think the importance of that is extremely large coming forth. I won’t profess to know what the City Council has on their agenda coming up but I’d imagine that keeping the business of Laguna Niguel moving forward is a very important thing. The second point would be who should be elected. Again, I guess jumping on the band wagon here precedent being I think that it should dictate here and that John Mark Jennings, being the

runner up, should be the person to appoint. I've known John Mark Jennings for almost five years now and I've worked with him side by side. I've seen his character both socially and professionally. I've seen how he's able to bring people together and how he's able to bring a fun, lively perspective to things but also have a very pointed perspective on important matters. Thank you.

Gary Capata - Good evening Mayor Davies, Council Members. It is my pleasure to be here. As you know, I sat up there for eight years. First off, I know you're going to spend the time to listen to everyone's comments about what should be done. I truly think that the fifth Council Member should be appointed. I just think there are enough issues coming before the Council. It's great to have that fifth person there to comment on items. The reason I think John Mark is great is I had the honor of serving with Robert Ming as an attorney and having an attorney on the Council just gives you that perspective. We have a great City Attorney but having an attorney on the Council just gives a great perspective so I hope you appoint John Mark Jennings. Thank you.

John Mark Jennings - Mayor Davies and Members of the City Council. John Mark Jennings, 24125 Oleander Way, Laguna Niguel. Thank you very much. You know, I rise tonight with a lingering sense of sadness over the loss of Jerry. It is difficult to imagine him not in this room, not on the dais, not having his voice heard for the people here. As the pastor who so eloquently eulogized Jerry's passing, now that he's gone. What are we going to do? What am I going to do? After a lot of soul searching, some encouragement by friends, family and colleagues, my fork in the road has brought me here before you all tonight. Laguna Niguel is a fantastic City. It's built upon a solid foundation and that foundation is essentially built upon a debt. It's an ongoing debt. It's a debt I hope we never repay and that debt is the obligation we owe to the citizens. To have their voices heard and to do what they need to do. To do their business above all else day after day and to do what they need to have their full complement of representatives heard. Every day without delay, go about their business. I think we all share, and I know that I do with you, the spirit of our better angels that we commit to public service. I understand the commitments that you have. I understand the obligations that you've given. I understand the time that it takes. I know what a white binder on Friday means; for a weekend and a Tuesday afternoon. It's for all of those reasons. After a tremendous amount of prayerful consideration and the support of my family and friends, I tell you probably the most humble statement I'll ever make which is I respectfully submit my name to you for consideration for the appointment of my very good friend Jerry's seat. Thank you.

Steve Cienfuegos - 28706 Rancho Del Lago, current Planning Commission Member serving with John Mark. It is a sad occasion tonight that we are considering a replacement. Not a replacement but a successor to Jerry's Council seat. I do support, however, the appointment of another Council Member for the variety of reasons expressed this evening. We do have issues and projects coming before the City Council and I think the residents deserve a full complement to consider and give consideration for any of the projects and issues that come before the City Council. There is a precedent for it. Senator Pat Bates

served as a Commissioner and was appointed, I believe a Commissioner, no, City Council Member, I'm sorry. Jerry Slusiewicz though was appointed as a Commissioner in that regard so there is precedence for it. I would support the next highest vote getter which would be John Mark Jennings as well. Thank you.

Richard Boureston - My name is Richard Boureston and I live at 30862 Rivera Place, Laguna Niguel. I think that everybody has made the statement that I would make also and that is that I think it's really important to have a full complement on the Council if you're going to be reviewing a lot of different things in our City. We've lived here for 42 years and we are really proud of this Council. I mean, our City has really done some really wonderful things and I really think we're going to do more but I think we need to have a full Council. As they were saying that they have the precedence and it has been set that you appoint the next person who has the highest votes. I think that's very important and so I would recommend that John Mark Jennings be your choice. Thank you.

Craig Alexander - Good evening Madam Mayor, Members of the City Council. Craig Alexander, 22018 Christina Drive, Dana Point California. I'm also President of the South Orange County Republican Assembly and in that capacity, I have supported candidates for many cities in this area. I won't go through some of these other speakers' points that I was going to make. Very well, I won't repeat them. I just have to say I agree with the appointment of John Mark Jennings. I've seen a lot of City Councils that work well and this one works really well but even this City Council will have 3 to 2 votes and I hate to see things not go forward with 2 to 2 votes. Normally, I would say and advocate for a special election but the City Attorney is right, it's not possible. If this had happened a year ago, that would be a viable option and I just want to say in closing that I too am sad that we have to be here. I was honored to know Jerry on several different levels and I also want to thank you Madam Mayor and the pastor. I had the chance to go to the funeral and as you had everyone standing and the pastor was preaching what came to my mind was a life well lived. Finally, I've been praying for all 4 of you since his death that you'll have wisdom in your decision tonight and even if it's not the decision I would make if I was up there, I respect your decision whatever it is. Thank you.

Mike Paige - Mike Paige, 25671 Weston Drive. I'm a former Scout Master of Troop 772 that performed the flag ceremony this evening. Consequently, I have attended a number of ceremonies here with our Boys Scouts from Troop 772 and I don't really have anything to add as far as whether you should fill the position or not. I think the consensus of the individuals coming up here is yes, for a myriad of reasons, you should fill that position. Secondly, should you fill it with John Mark Jennings? I've known John Mark through my association with the Boy Scouts for a number of years because he is a member of the same church that I chartered for Troop 772 and that's Mission Lutheran Church. He's been a phenomenal support for us, very active there along with the other accomplishments that he's had in terms of his time and talent given for this community. So, I would strongly support Number 1 that you fill that position and Number 2, that you fill that position with John Mark Jennings. Thank you.

Jim Sprick - Good evening and thank you Mayor Davies. Thank you City Council Members. My name is Jim Sprick and I live at 28261 La Bajada, Laguna Niguel. I have been a resident here in Laguna Niguel for 17 years. I've had the privilege of knowing John Mark and his family for over 10 years and it's been my pleasure to work with him. He's a member of the Laguna Niguel Lutheran Church, on the Church Council, and he's also been very active there on the Executive Committee as well. I do feel it's important to fill this position as quickly as possible to take care of the business associated with the City of Laguna Niguel. I think leaving that position open for the next five months or so would be a disservice really to the City and the citizens of Laguna Niguel. I support John Mark Jennings fully and I think he would be the absolute best candidate for the role. He's a natural leader. I know you all know him well and would follow him anywhere so and I would do the same. For that reason, I strongly support John Mark for the position. Thank you.

Marc Winer - Marc Winer, 2951 Ridgeview Drive, Laguna Niguel. I'm going to be a maverick. A week or so after Jerry's passing, I was talking to a few people and I said the one thing I would not like to see was somebody that wants to be a City Council person apply to be appointed for Jerry's position. For that reason, I am applying for the City Council position that is open. I have the experience; 10 years as a Planning Commissioner, and 10 years as a District Trustee for Vector Control for Laguna Niguel. I was on the Executive Committee before incorporation for this City. There are a number of other things including being a moderator for the Senior Club when we hold our election. I can't think of the word right now. When you come before us and tell us why you want to be a City Councilman, I actually, I know John Mark and I will probably vote for him in November. I really think that rather than giving somebody the title of incumbent which gives him a leg up for the election, that you appoint somebody. I have no desire to run for election. I am doing this strictly because I don't think that you should have that incumbent label on your next candidate and that's all. Thank you.

Andy Favor - 24121 Oleander Way. I'm a 27 year resident in this incredible City and I'm here tonight with 8 of my other neighbors that won't be speaking just to save time. I'm speaking here tonight in support of John Mark Jennings, should you decide to fill the vacancy left by the passing of Jerry McCloskey. Those are big shoes to fill. He served the community for so many years. I have been Mr. Jennings' next door neighbor for 20 years and as such, I can attest that he possesses the highest moral standards. He has served this community well with his volunteer activities and twice he's been appointed to the Planning Commission. He's still the dedicated father of two teenage children and I know he will work to preserve our community as a wonderful place for fostering strong families. During his campaign he really showed a passion for continuing the legacy started so many years ago by Pat Bates, Jim Krembas and so many others. John Mark can be counted on to maintain our fiscal health, and also hopefully to preserve our City's motto and Sea Country, as difficult as that may be. Thank you.

Helen DiPanni - Thank you Mayor Davies and City Council for the opportunity to express my opinion. My name is Helen DiPanni, 13 Byron Close in Laguna Niguel. I've lived in Laguna Niguel for 24 years. I'm very proud of how efficiently run our City is. The voters of Laguna Niguel are engaged and wise enough to have always elected competent, enthusiastic leaders who we expect to represent us. Each of you are in your position because we trusted and voted for you. Now with the passing of Jerry McCloskey, it's time for you to appoint a Council Member. It is my hope that as our representatives, you will honor the will of Laguna Niguel voters and choose someone who has invested his time, hard work and proven his interest and dedication by running in the last election. Someone who has already earned our votes; I do not want to see someone in a position of authority in our City who has not proven he deserves and worked hard for it. Hopefully, you will continue to respect the will of the voters and choose the person for whom we voted, John Mark Jennings. Thank you.

Robert Ming - Mayor Davies, Members of the Council. Thanks for the opportunity to be here. As you know, I sat in your shoes for eight years up there on that dais and I know it's a difficult job. Sometimes people pull on you from different directions for all kinds of crazy reasons to try to compel you to do things that you may or may not agree with. Sometimes I would read the packet beforehand and talk to staff and do my homework and research and come up with what I thought was the right answer. I'd walk in there and sit in that chair and then somebody else on that dais would say something that I thought was frankly smarter than what I came up with and I would end up changing my vote on that dais because someone else provided some input. So what I would be thinking of if I were you today is who do I want in the next five months to help me provide that input. I would think that you would want someone who can bring a balanced approach. Someone who has the experience, and would be up to speed on the issues and who knows the City well and has proven himself to that City and that's John Mark. I do hope that you will appoint him and not just because it's the precedent but because he can provide a valuable voice at the table that can help bring things together, come up with new ideas, different perspectives and frankly, I think it will be refreshing. So, I hope you will decide to appoint him today. Thanks very much.

Carol Karlson - First of all, I want to thank you for the job that you do. I know that sitting in your position is not easy and I am a new transplant from the Bay area. I want to commend you on your beautiful City I really enjoy living in this area. I know John Mark through Mission Lutheran Church and his role has been our leadership as Vice President of our Church Council. We are very involved in mission work both globally and locally and he is a very special part of everything that goes on and he's a really good guy. I also want to tell you something about him that you may not know. He's an outstanding musician and I encourage you to come and visit our church at 10 o'clock where you will see him perform in the Celebration Band. He plays a mean base and he would be an asset to any organization. Thank you.

Brooke Jennings - My name is Brooke Jennings and I live at 24125 Oleander Way. I'm the daughter of John Mark Jennings. Throughout the years in my life, my dad has done many great things making him who he is today. He's a dad, a husband, a son, an attorney, a church leader, a community helper and many other things. When I was younger, he coached many of my sports teams and also was the Chief Leader for a program called Indian Princesses. He is a big part and support of the congregation at our church. For the last 6 years, he has been a part of the Church Council and recently, two years ago, became the President of the Church Council, ending his term this year. He is always very supportive of me and my family and tries to do good things and help out whenever he can. I think he would be a great addition to the City Council because of his knowledge and he's very decisive. He would be a great help to the City and I thank you.

Veronica Simpson - Veronica Simpson, 21961 Ontur, Mission Viejo. I have known John Mark for the past 25 years. When I first met him, he was working at the Tax Courts in Washington D.C. Throughout the years, I have found him to be a good and decent man with sincerity and integrity. I think he would be a tremendous asset to the City of Laguna Niguel. Thank you.

Richard Carroll - Richard Carroll, 23911 Wanigan Way, Laguna Niguel. I'm a 22 year resident of the City and like the other people before me, thank you for the job that you do. I've had the pleasure of serving on the Church Council with John Mark. I was Vice President when he was President and now taken over as President of the Church Council. John Mark and his family, they're just always there. They're always the first ones to show up for volunteer activities and the last ones to leave. The word integrity has come up several times and there are very few people that I know of that have the kind of integrity that John Mark demonstrates. I'm honored to call him a friend and to have had the chance to work with him in leadership positions. I am very confident that he would be a tremendous asset to the City. Thank you very much.

Philip Smith - My name is Philip Smith. My address is 31493 East Nine Drive. Thank you for having me Mayor Davies, Mayor Pro Tem and City Council Members. I'm a voter and I'm here to speak today because I support a fair and democratic process. Appointing a Council Member with no vote and no process before an election is not right and not fair. Allow the election to decide the next Council Member. Appointing your choice is unfair to other candidates. We are only weeks away from the election. We want fair and equal elections. Allow the Laguna Niguel voters to decide in November 8th. Please vote that the seat remain vacant. Thank you.

Linda Altergott - Linda Altergott, 31672 National Park Drive. I've been privileged to live in Laguna Niguel since 1979. I think that's about 37 years, and I'm here to support filling the position of Council Member with my friend and also church buddy. I just believe everything has already been said so there's nothing more for me to really go on about. When I think about John Mark Jennings, I think about him as a servant leader and a man of the highest character and integrity. I hope that you will fill the position with him. Thank you.

Betty Pequet – I'm Betty Pequet. I live at 24322 Los Serranos and I've lived here 39 years. I'm going to read something really short. I believe strongly that it is critical to name a qualified person to fill my friend Jerry McCloskey's remaining months of his term. I'm sure Jerry would agree that John Mark Jennings is the logical choice as he has all the qualifications required to ensure a smooth and seamless transition and I thank you.

Ralph Bayless – Good evening. I'm Ralph Bayless. I live at 10 Narbonne, Laguna Niguel. I'm sure Mr. Jennings is a very fine man; however, as a voter, I do feel that I do support the fair and democratic process. I do think that if you were to appoint someone to fill the vacant spot right now then that would give that person an unfair advantage in the next election. I do ask that you vote to keep the seat vacant. Thank you.

Mark Goodman – Madam Mayor, Members of the Council. Madam Mayor, would you indulge me a few more minutes, if possible. I will try to be brief. There are some misconceptions that have gone on and there was a misprint in the paper about how this process went. I can bring a historical perspective because I made the motion to appoint Mimi Walters, seconded by Pat Bates. What I'm saying is my historical perspective is not my own view; it's history. You don't have the whole history so I wanted to fill you in. There was a vote and there was a discussion. There are only four months left until the election. We could have done an election in four months but it would have cost \$40,000 or \$60,000. We decided there were four years left in the term. And by the way, if you go by precedent to appoint somebody who was voted in, it would be the person that was fourth when you all ran with Jerry, not the last election. But anyway, I really believe you need to let the voters decide in November. This would be a defacto endorsement. I understand the gentleman but I don't know him. He seems like a fine gentleman and seems like he will probably win, but this is not the voters. This is not the electorate of Laguna Niguel, these are friends. We can all bring friends now. So what I would say to you is, the precedent is, you have four years left. As for Mark Winer, there is nobody who knows more about this community and nobody that knows more about how to act on this Council. By the way, I'm not running for Council now or ever. This is not personal. Do not appoint someone. You have plenty of time and it is a pretty cohesive Council from what I see. Thank you.

Gail Dinga – Good evening. This is my first time here. My name is Gail Dinga, 24975 Lavidia Drive, Laguna Niguel. I've been here about 19 years. I don't know John Mark. I'm sure he is very nice. I'm hearing all kinds of good things about him. I represent thousands of people out there that don't know him that are not here tonight. So, on their behalf I'm going to speak. Election Day is going to be here before we know it. In the perspective of a four year term, it's only a few weeks away. The competition will be fierce and it starts right now with this appointment to the empty seat. I think we can agree we all want a fair fight. Leaving this seat empty ensures this. Filling it with one of the previous candidates without an election process does not. You are entrusted in an entrusted position on this board and it requires integrity. I'm sure that none of you would want to be perceived as trying to pull off some kind of political coup to

bring in someone that you know. I'm sure that you want to do what is fair and right for the people of this town that aren't here tonight. There are many supporters for other candidates; there are other candidates that other voters supported as well. By appointing the seat, you will not be allowing democracy to be the priority. We want a balanced view and a democratic process that is fair. Assigning someone without an interview process or an elimination process without public opinion is wrong. I am a citizen and a voter. Please vote no on filling this seat. Thank you very much.

Daniel Abrams – Good evening. I'm Daniel Abrams, 29601 Ivy Glenn. I've been here for over 30 years. Past Chairman of the Chamber of Commerce, Past President of the Lions Club and also former proud member of the Military Support Committee. You know, Jerry McCloskey made me feel like I was a good friend. I didn't realize he had so many good friends. It blew us all away. It was so good to hear Jerry's views and his remarks. It was so good to hear you guys joke back and forth on this. He was such a good influence to the Council Members and to miss that fifth on there, it's hard. And you have before you a decision here to make. Should you appoint someone or should you not. Should you be fair or should you not be fair. And you know, you have both views on here. The other members that are running for Council and other candidates, they are also friends. So that makes the decision even harder. How do I vote for somebody when I might have favoritism if I appoint them and that is going to give them an advantage in the election? I'm hearing both sides on here. But I've got to say, during the democratic process, the voters voted for this. The next person in line happens to be John Mark Jennings. And if the other person or another member of the Council would have had a few more votes, I would be speaking to them. So I'd like to ask you to follow the will of the people. Appoint a person for the position and appoint the next person in line which would be John Mark Jennings. Thank you.

Cher Alpert – Hello. I'm a 24 year resident in Laguna Niguel. I live at 31421 Isle Vista and I'm going to speak to the process. I have no issues with John Mark. I think he's a great candidate. But I do have an issue with appointing someone who was a candidate for an office and giving them an unfair advantage in the democratic process. We have had a City that has been true to the process as long as I've lived here. If John Mark is appointed, it will give the other people who are running for this office....they won't have the advantage he will because I know how Laguna Niguel votes. If they see the Council has put him there, that's what they're going to vote. The closing date for the candidates to file is August 12th so you still have people out there who might want to run for office. And if you take that away from them by appointing him, that's not fair. That's not the democratic process, and I personally don't think that Jerry McCloskey would want it to be any other way than the democratic process. So please, if you're going to fill the seat, either fill it with someone who is not running for office or leave it vacant until the next election. Thank you.

Gregory Clements – I'm Gregory Clements, 29805 Andrea Way, right here in town. I've been a resident since 1979. I'm a Director on the Niguel Botanical Preserve; I serve as an Advisor for the Water District, and I was a coach here for

over three decades. My comments I am going to read simply. Madam Mayor, Council Members, this evening, my comments reflect my political persuasion philosophy and are summed up in one word – vote. Regardless of labels placed on individuals by others, my vote, and those of all the others in Laguna Niguel, is our voice. Tonight, I'm requesting this Council not appoint a replacement for our friend, Jerry McCloskey, who we all miss. I humbly request that we, the citizens of Laguna Niguel, continue to do what we have done successfully since cityhood. I voted in every election for every City Council Member. I suggest that we vote for one of our own neighbors for this position of responsibility and that we fulfill our role as citizens and vote for the next City Council. Further, I'll make a general political comment. If the U.S. Supreme Court can wait until after the election.....if the Senate can wait until after the election to elect another member to the Supreme Court, we can wait until November to add a fifth member to this Council. Thank you.

Matt Clements – Good evening folks, Mayor Davies, Mayor Pro Tem, and Council Members. My name is Matt Clements, 29805 Andrea Way, here in the beautiful City of Laguna Niguel. I'm grateful to be born and raised here in Laguna Niguel. I'm grateful to be the Chair for the Sports Advisory for the beautiful City of Laguna Niguel. I'm also grateful to serve on the Board of Directors for the California Association of Realtors and I'm very grateful to be the President of the Young Professionals Network for California. I do speak tonight against the appointment of the temporary seat, and here's why. I prefer for us to allow the electorate to decide our next Council Member. There were two candidates that were tied at 21.6 percent of the votes and they were separated by nine votes. I'm one of those two. My friend was the other one. It was a very, very close race. To appoint a candidate without an interview process or without any due process at all is wrong. I'm a voter. We are Laguna Niguel. This is America. I support a democratic process. That's what we were founded upon. With no vote and no process and right around the corner from an election, it's just not right and it's just not fair. Essentially, we're creating an incumbent here and creating an unfair playing field. Literally, we are only weeks away from filing papers and getting ready for an awesome, upcoming election which we are going to have many candidates participating in. We want a fair and equal election. Allow the voters to decide on November 8th. I ask that you allow the seat to remain vacant or table this item and allow us to have an actual interview process. Thank you.

Dennis Mulvaney – I am Dennis Mulvaney, 23862 Windmill Lane, Laguna Niguel. I came tonight to let you know I'm not in favor of the Council appointing someone to fill Jerry McCloskey's empty Council position. I would much rather leave it open until the November election to let the voters decide. If you do decide to appoint a person to fill the vacant seat, I would like to present myself as a candidate for that position. So, I'd like to present my resume for you to judge if I would be a good choice. To begin, I was born in East Los Angeles, born and raised. I am married and have a son and daughter. I'm educated as an electronics engineer and an inventor. I retired 38 years as president of an electronic corporation. I'm a Korean War veteran. In the past, I was a City Parks & Recreation Commissioner and a Traffic & Transportation Commissioner. I was Past President of the Rotary Club. Presently, I'm a member of the Military

Support Committee and the Rotary Club. 40 years as a Boy Scout Commissioner with a Silver Beaver Award and member of the Girl Scouts with a Gold Key and Good Guy Award...that was a neat one. American Legion Post 281 Vice Commander, Treasurer of American Legion Motorcycle Riders, and I'm still an active member; and Member of the Niguel Botanical Preserve and Laguna Niguel Historical Society. As a City Scout Liaison, I organize the scouts to perform the City Council opening pledge of allegiance every month. I organize 400 scouts to march in the holiday parade each year. I received the Citizen of the Year Award in 2005, the same year as Jerry McCloskey received his Citizen of the Year Award. I have lived in Laguna Niguel since 1973 and watched it grow. Thank you.

Solveig Darner – Mayor Davies, Members of the Council. My name is Solveig Darner. My address is 25192 Hugo Road. I swore I wouldn't say it but I've lived here for 45 years. I'm here to request that you allow the vacant Council position to remain vacant until the November election. As you know, several of our residents have officially notified the City of their intent to run for Council and more candidates may yet file. We all know that the word "incumbent" represents a considerable advantage for any candidate thus making an appointment at this time nearly preempts the public vote to elect Council Members. Please take the fair approach and allow the City Council candidate to be of equal footing when the candidates present themselves to the residents of Laguna Niguel in November. I read the staff report outlining the options as well as the minutes from December 1996. While the staff report did not specifically address it, there are major distinctions between 1996 and 2016. In 1996, the election proceeding appointment was about 30 days. Here, you have just a few months. With regards to a four member Council, I have no doubt that you, for the next seven to eight Council meetings, will be able to govern the City in a fair and cooperative spirit. Again, please make this November election a fair and transparent process. Allow the voters to make their decision as to the City leadership through the next two years. Thank you.

Lisa Favor – My name is Lisa Favor. I live at 24121 Oleander Way in Laguna Niguel and I am John Mark's next door neighbor. I first want to say thank you to anyone who wants to serve our City. We are very blessed to have anyone here who wants to do that and I feel very thankful for that. But I can say that as to John Mark's character, he would do anything for a community member and I can say that living next to him for 20 years. It's just been an absolute blessing in our lives to have him as our next door neighbor. I also am here to read Linda Lindholm's letter so please start the two minutes over again. (Letter from Linda Lindholm) "Honorable Mayor and Members of the City Council. It has been my privilege to serve several terms on the Laguna Niguel City Council including four times as the City's Mayor. It was with great sadness that I heard of the passing of one of our past Mayor's and sitting Council Members, Jerry McCloskey. I had the honor of sitting next to him at many Council meetings and he was always thoughtful, kind and dedicated to our City. He was a man generous with his time and talents, was a Co-Chair of the Laguna Niguel Military Support Committee and a devoted member of our church. He was a wonderful Council Member and will be greatly missed. Unfortunately, there is now an opening on the Laguna

Niguel City Council. There are many decisions that will be made in the upcoming months and I would like to express my support for an individual to be named to fill the remainder of Council Member McCloskey's term. Although it will be big shoes to fill, I believe that John Mark Jennings is the individual that is the appropriate choice to become a member of the Laguna Niguel City Council. He too is thoughtful and dedicated to the City. He is currently serving on Laguna Niguel Planning Commission which means he is prepared to assist his fellow Council Members in their decision-making process. He ran for office at the last election...." Thank you.

Stephanie Winstead – Mayor Davies, Council Members. My name is Stephanie Winstead, 29436 Pointe Royale. I'm here to support the nomination or the appointment of John Mark Jennings to City Council to serve in Jerry McCloskey's absence for the reasons that have already been stated. I believe that the Council should appoint somebody to serve to fill the vacant seat because of the numerous decisions that are going to be made in the next four months. I don't want to reiterate that. I do believe that the democratic process will not be violated by appointing somebody who did receive the highest number of votes in the last election even if it was by only nine votes. For many reasons, I do believe that John Mark Jennings personally would be a great choice. I just think that it would also not be an unfair advantage having somebody being appointed. The people who are currently running or would like to pull tickets to put their names to run, they would have been running against three incumbents anyway had Jerry McCloskey not passed. I don't think that it would be an unfair advantage that you would be giving to anybody or disadvantage to anybody else. I know that people respectfully disagree with me but that is my decision. I am in favor of filling the vacant position and appointing John Mark Jennings because he did receive the next highest votes in the most recent election. Thank you.

David Erikson – My name is David Erikson. I live at 23871 Stillwater Lane in Laguna Niguel. I am a 50 year resident of Laguna Niguel. I am speaking in favor of the Council not appointing an individual at this time for several reasons, the least of which is the unfair advantage that the one incumbent would have in this upcoming election. I believe that the Council should keep the seat vacant until the November election and let the electoral process work itself out. And last but not least, I am not running for office.

Marilyn Clements – Hi everyone. I am here also to give you my opinion about keeping the seat empty. Out of respect for Jerry and also in a few weeks, campaigning will begin and people as you well know put a lot of time and money into the investment of running and it takes a lot of work. And when you're elected, you've earned it. You've worked hard and you were voted in and you've earned it. This would be a gift to someone who could then claim to be an incumbent and it's not right. And again, I was also going to use the Supreme Court but since that was taken, I don't think anyone should fill the seat. My son happens to be the one that had the nine vote split and I do not want you to appoint him or anyone else. The voters need to decide. You all look very capable to me. You look like you have a great handle on what's going on with our City and I appreciate your time. Thank you.

Missy Clements – Thank you for the time and I purposely left my last name off so that you wouldn't know that I was with the crew and wouldn't think I was biased. The voters voted you all in because they felt you were competent to do your job. I think for the next eight meetings, because according to my calculations it's eight meetings until the next election, that you all can work together and make the decisions that are necessary. I think that it is appropriate to leave the seat vacant. I think that you do need to let the voters vote. Yes, they did vote before but that's in the past and we need to move forward and look forward. And I would say that there are four people that applied and filed the paperwork before the untimely and super unfortunate death of Mr. McCloskey. Four people that had every intention of running for a seat and the gentleman that everyone is behind and sort of pushing for the Council to appoint, filed less than seven days ago. So, I find that odd and suspicious and I say let the voters vote. This is a very small portion of our City that's here today. We need to put it out there so everyone can vote. Thank you for your time.

James McGinley – Good evening Mayor Davies, Mayor Pro Tem Slusiewicz and Members of the City Council. My name is James McGinley. I live at 30001 Golden Lantern and I just wanted you to know that I am very confident that the Council will make the correct decision tonight which is in the best interest of the citizens of Laguna Niguel. Whether that be appointing a replacement with the passing of Jerry McCloskey or moving on to the General Election. My reasons for being here tonight are twofold. Number one is to support you in whatever decision you should choose to make. Number two is to make sure that you have a healthy pool of candidates should you decide to make that replacement. I'm very confident that you actually have that this evening. So I wanted to just be here to support you in your decision whether that is to move forward and replacing the vacancy or whether you decide to wait until the General Election. I wish you wisdom and good luck.

Brian Probolski – Good evening Madam Mayor and Council. Brian Probolski, Vice President of the Moulton Niguel Water District, two time Parks & Recreation Commissioner here in the City of Laguna Niguel. I wanted to come tonight to speak in favor of you appointing someone to fill this seat. I speak from experience as a candidate. When I first ran for office, I ran against an appointed incumbent and I think that's lost in today's discussion because that word is required whenever the person who you appoint to this seat. If they run for office, it's going to say "appointed." It's going to make it very clear to the voters that this is an appointed incumbent. I think we have a very smart electorate in our City and that will give them the opportunity to dig a little deeper, look a little harder and it will also add a trial period really over the next few months. I've also got experience appointing someone to an empty seat and we did that at the Water District. We had a vacancy due to someone ascending to another office and you know what, it's worked out really, really well. I think everybody has a vote. I think they will vote. I think we have a very, very educated electorate and I have a lot of faith in this Council to make the right decision. Filling the seat, I think, makes a lot of sense based on my experience and my gut feeling as a citizen of Laguna Niguel.

Mayor Davies, first of all I want to thank everyone for being so respectful and professional. Thank you very much for that. I also want to note that we did receive a few letters. The Council Members have them and I believe we have them out there as well. We have three in favor of appointing John Mark Jennings, and we have three opposed to making the appointment. City Attorney Dixon, what I'd like to do is put this into two sections, if it's even necessary. I'd like for the Council to vote on whether or not we appoint. If we decide to appoint, then can we decide who we are going to appoint and are we able to do that?

City Attorney Dixon – Yes, certainly you can do it in that way, splitting it up into the two parts.

Mayor Davies – Council, I'd like to ask you if you'd like to go ahead and follow with that. To vote on whether we appoint or not appoint, just to begin with. We're moving forward and we'll discuss whether we're going to appoint or not to appoint and I'd like to start. The question is, do we appoint or do we not appoint. As Mayor and servant to the people of Laguna Niguel my first priority is making sure our community is safe, and we have continuity of government. That means making sure we continue to function and move forward on the decisions that need to be made. When I was elected I took an oath to protect and represent the people. When the City was incorporated, the people decided there were to be five members on the Council, not four. Our founding fathers and mothers of Laguna Niguel had great insight and wisdom as to why our Council has five seats representing the citizens of Laguna Niguel. The most important reason is so we don't end up with a split vote, especially on important issues. This will affect the well-being of the City. Here are just a few of the following items that will be put to a vote by the Council within the next four to five months: 1) The AGORA downtown environmental study analysis; this vote will determine whether or not our City moves forward on developing the AGORA downtown area. A split vote could easily hold up the project or worse, kill it. Why would we take that chance? 2) Prohibiting short term vacation rentals are on the agenda tonight and that will mostly be brought back to the Planning Commission and then back here. I don't know if any of you were there. I think there were a lot of you there. We had a room full like this and we had over 40 people speak so this is also a very important issue when it comes to the people. 3) Changes to the law regarding marijuana use will be coming to our Council. These are imperative changes that will protect our children and life styles should it become legal on November 8th. Are you willing to take that chance? 4) Sober living group homes have been a major concern in our City. We can easily have new proposed ordinances that will be brought up to the Council. I'm not willing to bet the safety of our community over the odds that we could have a split vote. Another reason for making an appointment is so when a decision is made, those disagreeing with the outcome of the decision can't come back and say we weren't fully represented due to not having five voting members. I don't think we need to leave that door open. In 1996, this process was put in front of the Council, granted different circumstances left the seat open. But the question was, do they appoint or have a special election? The Council voted 4-0 to appoint, which set precedence. Here are some of the Council comments taken from minutes on December 17, 1996 regarding appointing or going to a special election:

Councilman Goodman did not favor the expenditure of a special election. He believed it was essential to appoint from the list of 1996 Council Candidates. He considered both Joe Brown and Mimi Walters well-qualified. However, he believed it was important to appoint the first runner-up, as voted by the people, Mimi Krogius Walters.

Councilman Rose concurred with Councilman Goodman's comments regarding the appointment process, but expressed the difficulty to appoint the three vote "getters". He believed that any of the three would be well-qualified.

Mayor Pro Tem Lindholm also favored the appointment process, due to the precedent set by the recent election process.

Mayor Bates supported the appointment process, and believed it would not be ethical or moral to ignore the will of the people voiced in the recent election. She also felt that the first runner-up should be considered as the logical appointee to the open seat, and supported Mimi Walters to the position.

Councilman Goodman moved, Mayor Bates seconded, to appoint Mimi Krogius Walters to the vacant Council seat.

Motion carried by unanimous vote.

Mayor Davies - I completely support the decision made by that Council. I think it's important that we look at the fact that they made the decision to appoint someone for an entire four years without an election, I'm recommending that we appoint someone for five and a half months to ensure that our citizens are represented and business be continued to move forward. The residents will have the opportunity to vote again in November to fill the seat. A smart city plans for the worst and hopes for the best. So with that said, I do recommend that we appoint.

Council Member Minagar - Well Madam Mayor, your points are well taken. I'm looking at this from a global perspective but acting local. As a matter of fact, in 1996 as a Traffic Commissioner, I was sitting at the old City Council Chambers and I was watching what was going on and I do recall everything vividly. There are huge differences between what happened in 1996 and this year, 2016. 1) What happened in 2016 was Governor Pete Wilson appointed Council Member Tom Wilson to become Supervisor of Orange County for the 5th District. He was on the job only for 1 or 2 days and it does make sense when you have four years left to make that strong determination that we go ahead, we proceed with appointing an individual. I know all the four gentlemen that are running. They are all fine citizens of this beautiful, great City. I love this City so much. For the past 20 years, I've devoted my time and a lot of my life to serve the public, to be a public servant leader. This is a first class City, affluent and highly educated. In my opinion, when I look at the whole thing from that perspective, I think the will of the voters ought to determine who is going to be elected to this office. Now you mentioned that we do have a couple of critical discussions. By the way, when I

look at our track record since I joined the City Council, we only had one disagreement on one item, to serve alcohol or not to serve alcohol at our community park. This is a great City. I go to a lot of other cities and there are 400 and some cities. I go to a lot of city council chambers and it's not like here...civilized. I enjoy that. Truly, this City that ought to be a model, a role model City in America that everybody is so civilized. I enjoy listening to a true democratic system. This is one of my best experiences during the past 20 years that I've served the City. Nobody screams, nobody yells. We all are educated people. We all love this City and that's why we live here. Otherwise, I would be living in L.A. County or I'd be living in 49 other states. So putting that aside, we want to sustain the quality of the beautiful, great life that we have here. That's why we live in this great City. We may disagree on some of those issues but at the end, this City Council we never had any friction. We never had any conflicts that I would say, "Oh, I don't want to serve with my colleagues." Nothing at all like that. I think it's extremely civilized. I've enjoyed working with all of you so to echo my personal opinion as a highly educated person, in my opinion, from my perspective, those few people that are here advocating for my very good friend Mr. John Mark Jennings, he's a great person. We ran together during the last election. It was a very clean election. It was extremely civilized, unlike a lot of other cities backstabbing, saying all kinds of wrong things, wrong flyers. I enjoyed running with Mr. John Mark Jennings, with Mr. Matt Clements, and 2 other gentlemen in this City. So as a role model City, we have a few months left and I don't think that we ought to be appointing anyone. I'm not advocating for a specific person, but my platform is, we ought to not appoint. And now to go back to my very good friend, Congresswoman Mimi Walters. When she was appointed in 1996, I was sitting in the back row at the old City Council Chambers. As I said, yes, she was the highest vote-getter, but at the same juncture, there were four years left in the term. We're talking about a few weeks, maximum four months. You mention AGORA. As an expert in that area, honestly I don't feel that AGORA, when it comes to this great City Council, is going to divide us. We've been very cohesive and we've made decisions, the best decisions for the citizens of Laguna Niguel. Therefore, I don't think that AGORA is going to split and you mention about split votes, I don't think so. We've never had any split votes since I've joined the City Council. So the difference between a four member City Council and five is, I honestly, truly know this is the hardest decision that I have made. Since I've been sitting on this side, again, the way I look at it, it has to be a democratic system. People are educated in this City. Mr. John Mark Jennings has a lot of supporters here. I appreciate them and I know most of them. Most of them are my friends too. I've seen them in different organizations, different service groups and Boy Scout Troop 772. With everybody else, I don't want to mention names, and I have respect for their opinions but at the end of the day, I look at the whole process as an engineer. I say when I sleep at night, I want to sleep very well that I made the best decision for this great, beautiful City so I would not be regretting four months from now. Therefore, I'll be advocating for not appointing anyone to the Council. Thank you.

Council Member Gennaway – First of all, it's fantastic to see so many people out here. Thank you for coming and thank you for engaging your City Council and spending your evening with us. You know, we're here every first and third

Tuesday at 7:00 p.m. We would love to see you more often. We get a little bit lonely here but no, really. Our City is truly blessed to have many people who want to step forward and so many people of quality, of character and skills who want to contribute to our City. This is a very tough decision. This is something that I was tossing and turning, doing my homework and looking at different scenarios. But when I go back and 1996 has been brought up as a precedent, but I don't believe a precedent exists because the facts are very different. That election took place on November 5th. On December 3rd, just one month later, it was declared, and Councilman Wilson was appointed on December 4th. The very next day he resigned from the Council seat because he was appointed to the Board of Supervisors. The very next Council meeting, Mimi Walters was appointed so she served a full four year term less one meeting. We are at a very different point in time right now. We're at the beginning of an election cycle. We have residents who've thrown their hat in the rings and they are rallying their neighbors to support them. They've even had some fund raisers and we are already in that process. So I think we need to look at it differently. Also, when we talk about well this was the next vote getter. The difference between Mimi Walters and the next vote getter who happened to be Joe Brown was over 700 votes, over 700. That's a clear distinction made by the voters. The last election, if we're looking at the third place and fourth place candidates, it's nine votes. And if that third place was for a Council seat, the fourth place candidate would have asked for a recount. I know I would have for nine votes. That's less than one percent, that's like a point one something. I believe we just had a supervisor race flip on recount of 3 votes.

Council Member Minagar – Supervisor Andrew Do, with 3 counts for the Orange County Supervisor.

Council Member Gennawey – So yes, you know things are very different and again where are we in the election cycle timing and what do we owe the voters? I think the voters of Laguna Niguel, ever since 1989 when they voted yes for Cityhood, they also every 2 years have voted for their Council Members. They've selected those Council Members to sit up here on this dais and develop policy for the City. They've chosen us to sit up here and I think the voters have the right to choose the next person to sit up here. Nobody, nobody can fill Jerry's shoes. I don't think anyone can fill his shoes but I think for the voters, we need to be sure that there's a fair election. If we appoint someone, I don't think it will be seen as an appointment. It would be an anointment. From this dais we would be anointing somebody. I think all of the people who were talked about have very good qualities. I'm not against any one person, it's just the process and it's the process that our voters should make the choice. Our voters should make the choice on who's going to sit up here on the dais and for that reason, I would say we should keep the position vacant.

Mayor Pro Tem Slusiewicz – I guess I feel elated to know that I'm anointed, I'm an incumbent running for re-election so I guess incumbent means I win. It's a guarantee right? Everybody is just going to guarantee I win. I didn't know that. Why am I even campaigning and raising money and things like that? For some reason, I feel like I have to campaign and for some reason I feel I have to raise

some funds. For some reason, I feel I have to get the word out about what I've been doing for the City and you know, the fact that it's the 11th safest city and the 7th wealthiest; 11th in the state, 7th wealthiest in the country and more money in the bank and all that sort of stuff. I think we've done a great job, the sitting City Council, my colleagues and I. Yet, you know I'm not appointed, I'm not anointed. I'm an incumbent. But I do believe that the incumbent would have a special designation on the ballot is that correct City Attorney Dixon?

City Attorney Dixon – Yes. If somebody who's appointed wanted to use the term "incumbent" or use the designation "Laguna Niguel Council Member" they are required to put the term "appointed" in front of either of those designations.

Mayor Pro Tem Slusiewicz – With that said, again taking in what was said over here by both the people and my colleagues, I just was glad to know that this should be easy for me to get re-elected but I don't feel that that's true and I say that tongue in cheek. Mayor Davies gave some instructions that we all agreed on and that was to separate the issues into two issues. One was should we appoint or not appoint and then the second was if we choose to appoint, who do we appoint. I do think it was a little mixed in terms of how that was handled here. I think, and Mayor Davies started with this, is what we need to look at is what this City, how it runs from day one, from incorporation. So our City Attorney put in the Agenda Planning Guide whether there is a requirement that the City Council have five members. Laguna Niguel is a general law City. State law requires that general law cities have a City Council of at least five members, that is Government Code Section 36501. So when the City was incorporated, the incorporators desired to have a five member Council, like the other cities that were incorporated around the same time because you could go seven or you could go some other numbers. But the tradition, the founding of this City, the City values were to have five people. It didn't say we should have five people unless we're 5 months or 6 months from an election. We should have five people if we're 30 days away from the election or if it's in the middle of an election, have five. Now, every other week, we have a meeting here, the first and third Tuesday. We have this thing right here called the Agenda Planning Guide. We get this in addition to our book. And in the Agenda Planning Guide, it shows like here is the July 19th which is our next meeting. It has 10 items on here and today we had 17 items on the agenda. So the closer you get, the more items come out there. But the August 2nd meeting, two meetings out, we have two items. The third meeting out we have one item and the next subsequent meetings coming up have zero items on here. I've been on here for four years. The items that are listed today, like my esteemed colleague said AGORA, we all kind of want AGORA. Should we do some of these other ones? Those items are the known items that we should agree upon you would think but I do not have the ability to foretell the future. The one thing I know is no one else does either. None of us are psychic, none of us know what the items are between now and election. Now, as a conservative, as a fiscally responsible prudent person, my first item is to ensure that the City runs smoothly. How do we do that? We ensure we have a quorum, we ensure we have a tie breaking vote. Just recently, it came to the City Council about vacation schedules. Should we cancel meetings based on vacations? I put forth the proposition that it shouldn't matter if any one of us was going on

vacation. What should really matter is there are items that need to be discussed and do we have enough members for a quorum, that's it. Not knowing what the future holds or not having any idea what it could possibly be. What we need to ensure is that we always have a quorum. Having five people gives us a better chance. We don't know if there's going to be some catastrophic situation, another 9-11 where one of us is traveling or two of us are traveling and cannot get back to the City for some emergency meeting. We have no idea. So I use a lot of analogies when I speak and you know, I'm a financial planner and things like that and I use analogies. So I looked up a few words before I came in here. One other point I want to make here and I think is very important. So, much talked about, and apparently a much confusion item over what fair and transparent really is. So I looked up a few words. One is conservative and this is straight out of the dictionary. "Holding to traditional values and attitudes." Another definition of conservative is "cautious about change or innovation." With a political conservative, believes government has a role in encouraging and enforcing traditional values and behaviors. Now I just mentioned this City was founded on having five City Council Members as a general law City. To me, those are our traditional values. There was not any time in the 26 year history that we went more than one meeting without five City Council Members. That is conservative. That is our traditional value of the City of Laguna Niguel. That's the behavior we should adhere to today. And again, I'm talking about do we appoint or not appoint, that's it. Who do we appoint? I want to have that discussion should a few of my fellow Council Members see it this way. The other one is transparency; easy for others to see what actions are performed. Another word for transparency is accountability. We as the sitting Council Members must be accountable to who we represent which are the 65,000 residents of Laguna Niguel, no one else. No other politico, no other friend, no other colleague. The only people we are accountable to are the 65,000 residents. We need to take everything out of the equation other than that. So we had five members of the City Council for the entire 26 years. That is the value, that is the tradition. There are many reasons why it's important for us to do that so I'm hoping that my colleagues will see this through. But I want to close with an analogy. This is a lot like having insurance, right? All the financial planners are going to leave the room. Okay but no, please. This is very important. I don't know how many are in the room but I'm going to guess most of you have homeowners insurance and most of you have auto insurance. Auto insurance, it's the law. Homeowners insurance, it just makes sense. Now how often, with five months to go before the election...maybe I won't get in a car accident. Maybe no one will break into my house. When was the last time you filed a claim on your homeowners or auto insurance? The conservative, prudent thing to do is to carry those policies. The conservative, prudent thing to do as electeds today, the only conservative and prudent thing to do is to come up and have the second part of the discussion which is who do we appoint and we need to hack that out. But to say it's over the election and the people have spoken and that we're giving them an unfair advantage, then let's change the rule next meeting and say those who are incumbents don't have to run. I'll lead that one, right? It's not about that. It's about the fact that there are laws. Government Code Section 36501 states this City Council have five members. If you're a conservative, you want to run next time and we're all running and you want to say "I'm a conservative," you'll have

insurance to ensure that this Council has five members so that the decisions that we don't know, looking at this agenda guide, there's nothing for a bunch of months, I assure you we'll have 13 to 17 items. There may be an emergency, don't know what they are. The conservative, prudent move, not the risky move, is to have five. Thank you very much.

Council Member Minagar - I guess to go back to the way I read the agenda item, per the City Attorney's direction, there are two options in front of us. Option number one is to appoint, or not to appoint, and on that I've already made my educated decision not to appoint. So then I leave it to my colleagues to vote upon that and then we move to the next item which is item number two.

A MOTION was made by Council Member Minagar, seconded by Council Member Gennawey, not to appoint any person to fill the unexpired term of Council Member Jerry McCloskey.

Mayor Pro Tem Slusiewicz – Sitting up here, I can count. One of the arguments that was vehemently made by my colleagues was that we won't have a 2 to 2 vote. Honestly, remember what I was talking about. If you want to call yourself a conservative you don't need to have 2 to 2 votes. I mean, you said we all get along. That was an argument Mr. Minagar. You said we all get along on things that are important, on items that are important. We are professionals, we are educated, I can live in the other 49 states. You know, we don't want to do that. Yet here we are on one of the biggest decisions in the history of the City. I mean, this is one of the bigger decisions. Again, if you want to belittle this decision and say it's not very important Mr. Minagar, that's fine. But I think this is not a laughing matter. This is something that we all want to stake our reputation on. That we're going to get along and that we are going to come to consensus and the very first thing, we're at a 2 to 2 deadlock. I honestly just throw my hands up. I would hope that you would reconsider.

Council Member Minagar - My very good friend, Madam Mayor, if I may interject at this juncture. Just for the record, as you know, all of us happen to be very conservative so we subscribe to the same thinking process, the same values, everything else that the majority of people in this great City voted for us to be here. So we're on the same boat, we're on the same platform. But this is a very exceptional case that we happen to be 2 to 2. I've never seen that before but this is very important and at the end of the day, everybody should be casting their vote and my vote is not to appoint.

Council Member Gennawey – Another definition of conservative, is that the power lies with the voters and it's the voters who decide who's on this dais. So I am supporting the voters and let the people of this City decide. The reason we're not calling a special election to have them decide is because that would be the same time as the General Election in November. So in support of the voters and having them decide, that's what our democracy is based on and that is a conservative value. Going back to whether or not we're split or not just for anyone out there, we do work well together. The only vote that was not a unanimous vote was alcohol in the amphitheater.

Mayor Pro Tem Slusiewicz – I still believe that what we're really doing here is mixing two items, were mixing this together and should we appoint or should we not appoint? I see the no's, but I'd like to make a substitute idea because the argument I hear, this last argument by Councilwoman Gennawey, was very clear. Her argument was the people should decide, the voters should decide. I agree, that's why I'm running again because the voters have to decide whether me and whoever else, Mayor Davies and whoever else, runs, gets elected in November. I think we have an obligation today to have the next series of decisions covered. There was a suggestion by one gentleman today, and I know of another idea that I've been talking to. What if we had someone, who is not going to run for election in November, that's not a candidate and openly declares "I will not run; I will not be a candidate" and they're qualified. Would that change your mind?

Council Member Minagar – Yes sir, my colleague. Yes, I would welcome that option.

Mayor Pro Tem Slusiewicz - Again, let me just point out though, Mr. Minagar that it doesn't sound genuine of a conservative decision. I think you are making decision number two of who we're going to appoint verses that.

Council Member Minagar - No, no, no.

Council Member Gennawey - But that person you're saying would be selected by us, that person would not be selected by the voters. It's the voters who should be selecting that person and you can't bind anyone to an agreement saying that they're not going to run in November.

Mayor Pro Tem Slusiewicz - No we can't.

Council Member Gennawey – Right. So you can't bind them and it wouldn't be the voters selecting them.

Mayor Pro Tem Slusiewicz – Correct. But my suggestion is what if we pick someone that was not going to run in November, said they weren't and if they choose to run then they choose to run, that's the risk we take. But I strongly feel because I can see if we just go and vote right now which we're ready to vote, it's going to be 2 to 2 which means the item is defeated and then there is no discussion on the second part which is if we appoint because it's over and then we're going to be 2 to 2 from now till November.

Council Member Minagar – No, just tonight.

Mayor Pro Tem Slusiewicz - No, no. I mean, we're going to be four is what I meant. You are correct, thank you Mr. Minagar. Again, I have a suggestion and he's in the audience today. We had Mr. Winer who was one and brought it up and I was interested to hear his comments. He does have an excellent resume, but I know that Gary Capata, former Mayor, was off four years, a little less. He's familiar with the Gateway, he's on the Board on the Chamber. You know, I would

throw his name out there, him and Mr. Winer, for us to consider appointing just so we have what's really important which is to be conservative and follow Government Code Section 36501 and have 5 members. I think that is critical. This is a substitute motion to basically combine them both together and say I would nominate Gary Capata for the position that we consider him.

Council Member Gennaway - But we would be following that Code and adhering to it if we called for a special election.

Mayor Pro Tem Slusiewicz – We can appoint who ever we want.

Mayor Davies – Let me jump in and ask City Attorney Dixon.

City Attorney Dixon - I'm not sure what the pending question is.

Mayor Davies – the question is, if we appoint, can we have an amendment to it being somebody that isn't running for election?

City Attorney Dixon – Here are my thoughts on that. If somebody represents to you that they are not a candidate, they will not be a candidate for election in November, it's unclear as to whether or not that would be binding. I can make arguments both ways. I would though, based on my 26 years here and my knowledge of various people if either Marc Winer or Gary Capata said to you, "I am not going to run," I would believe them. I would take that on face value, could I enforce that...

Mayor Davies – I gave you the reasons why I thought it was important to appoint. That we have continuity in government and that we can ensure that this City runs like a good business because this is a business decision. I would be in favor of appointing Gary Capata to sit here for another five and a half months. He's got background on the Gateway, he was on Council when they made those decisions and he's a Chamber Member. I believe you (he) signed the medical marijuana coding or zoning? But you (he) were familiar with the marijuana issue when that was happening. You're a Chamber Member and you're in the community so you do know a lot of items that are going out. So, I would recommend that we do appoint. I think it's important and I would be open to having Gary Capata sit here as a former Mayor.

Council Member Minagar - Madam Mayor, we're jumping too fast on that if I may. I think we should provide the citizens more time, to come and present themselves. With all due respect to my very good friend former Mayor Gary Capata to come here to the podium, so that we make it fair. If my colleagues have other questions you know, on the record we can ask him, and then we make that determination to appoint or not to appoint.

Mayor Davies – I believe we have until July 23rd to the 60 day process, correct?

City Attorney Dixon – Correct.

Council Member Minagar - I wanted to ask former Mayor Capata to be the first one.

Mayor Davies - I want to talk to Council Member Gennawey.

Council Member Gennawey – Again, it's not the voters deciding it's us deciding. I have issues with that. I know Gary, I know his integrity. I am just a little uncomfortable though, the voters not deciding. I know they have selected you a number of times in the past, and I voted for you, but it's still, how do I get over the voters not selecting Gary at this point in time, and would you not run for Council?

Gary Capata - If nominated, I would not run if elected, I would not serve as someone had once said. I would really prefer and I know several of you had talked to me if I wanted to do this. I said pretty much no and I thought there were a lot of other options. But, I'm in the back sweating I'm going let's get one of you guys to go 3-1 on one of these other individuals. I would be honored to, I would do it, I'd be happy to. I would positively, absolutely, definitely, under no circumstances, run in November. I'd put it in writing, I'd put it in blood. I really do think seriously I'd be a good choice but, if I was up there I would try to convince you guys first one to go the other way first with one of the other candidates but if not, yes I'd do it. I'm happy to have this forwarded to the next meeting. I'm happy to answer questions.

Mayor Davies - I think we need to make a decision tonight and we have a short time. Are there any questions?

Council Member Minagar – Well, I know Gary. I served with Gary on the Traffic Commission 20 years ago, so I don't have any specific questions for Gary.

Gary Capata - The only commitment I have is a flight very early tomorrow morning so I would not be able to be at the rest of this meeting. I would commit to being at ever other meeting you all have, but I'll sit down and let you guys talk.

Council Member Gennawey - And you're able to commit to the other time that is involved being on the Council?

Gary Capata – Yes.

Gary Capata - The only other thing I have to ask Terry (City Attorney Dixon) because I'm the Chair of the County Treasurer Oversight Committee and I would have to resign that.

Mayor Pro Tem Slusiewicz – I don't think you have to resign that one. The Chamber maybe. I have a quick comment though. I just want to make a comment to Mr. Winer. Again sir, I was very pleased with what you said and the fact that you were willing to bring that forth and it's no impugnation on your character or your willingness to serve and I want to thank you for that. So, you know, he was on the Council more recently so I just wanted to point that out to you sir. And again, I know Gary, has character, and he'd be an excellent candidate, So with that, I think I made the motion, I think you (Mayor Davies) seconded the motion.

Mayor Davies – We have a motion on the table.

Council Member Minagar - So Mr. Gary Capata is the only candidate applying for the appointment.

Mayor Davies - Mr. Winer, would you like that position? Can you come up? The only one that is not running in November.

Marc Winer – I know Gary and I absolutely whole heartedly endorse Gary. If he wasn't going to do it I would stay in. But he's doing it, absolutely. I think he'd do an absolutely wonderful job. And that's absolutely.

Mayor Davies – Thank you. Is there anyone else interested in coming forth that's not going to be running in November?

Mayor Pro Tem Slusiewicz - My final comment and again, it goes back to following state law and being a general law City. This is what we need to do so again, I have no other comments. I think this is the conservative prudent is to have someone and I'm glad, it looks like we might have consensus so do you want to call the question?

Mayor Davies – So, we have a motion and a second.

Council Member Gennaway – Don't we have a motion on the floor already?

Mayor Pro Tem Slusiewicz - What I did is I submitted a substitute motion. It was a 2 to 2. We had the motion to not appoint, and then I came in with a substitute motion to say why don't we move to appoint, but we'll appoint Gary Capata. So I went and moved, I jumped the first motion, she seconded the substitute motion. Are we in order?

City Attorney Dixon - Whichever way you want to, and you can move ahead with the substitute motion.

Mayor Pro Tem Slusiewicz – The substitute motion is we vote for Gary Capata to become appointed which makes the not appointment vote mute.

Mayor Davies – All in favor of appointing Gary Capata?

A SUBSTITUTE MOTION was made by Mayor Pro Tem Slusiewicz, seconded by Mayor Davies, to appoint Gary Capata to serve the unexpired term of Council Member Jerry McCloskey.

Motion carried 4-0.

City Clerk Gomez administered the Oath of Office to Council Member Gary Capata.

Council Member Capata left the City Council meeting at 9:02 p.m.

CITY COUNCIL

1. **Appointments to Fill Vacancies on City and Regional Commissions, Committees and Boards, including the Orange County Fire Authority**

City Manager Foster provided information as stated in the staff report. He stated that the unexpected passing of Council Member Jerry McCloskey left vacancies on regional commissions, committees and boards and on various City commissions and committees. He stated that Mayor Davies would make recommendations for appointments to those vacancies.

A MOTION was made by Mayor Davies, seconded by Mayor Pro Tem Slusiewicz to:

a. Make the following appointments:

ACC-OC Orange County Best Practices for Economic Development – Council Member Elaine Gennawey

Investment, Banking and Audit Committee – Mayor Pro Tem Slusiewicz

South Orange County Watershed Management Area Executive Committee (SOCWMA) – Council Member Elaine Gennawey

Orange County Fire Authority (OCFA) – Mayor Laurie Davies

Coastal Greenbelt Authority – Council Member Fred Minagar – Representative and Council Member Gary Capata as Alternate

California Joint Powers Insurance Authority (CJPIA) – Mayor Laurie Davies, Alternate

And

b. Adopt Resolution No. 2016-1199;

RESOLUTION NO. 2016-1199

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA,
DESIGNATING AND APPOINTING ITS REPRESENTATIVE TO THE
ORANGE COUNTY FIRE AUTHORITY'S BOARD OF DIRECTORS

Motion carried 4-0-1, with Council Member Capata being absent.

PUBLIC COMMUNICATIONS

Dan Daley, representing Alzheimer's Orange County, announced the Walk for Alzheimer's events on October 22, 2016 at Laguna Niguel Regional Park, November 5, 2016 in the City of Huntington Beach, and on November 12, 2016 at Angels Stadium in the City of Anaheim.

Joel Bergman, resident, representing the Villamira Homeowners Association spoke regarding parking control within the private streets of Villamira HOA.

CONSENT CALENDAR

Mayor Pro Tem Slusiewicz commented that the FBI rankings came out and ranked the City of Laguna Niguel the 11th safest City in the State of California. He also commented that 2 additional deputies were added and the City was saving \$118,000 by eliminating overtime hours that the City was paying.

PUBLIC COMMENTS

Philip Carnahan, resident, spoke in support of short term rentals in the City of Laguna Niguel

Liz Avila, resident, spoke in support of a code amendment to prohibit short term rentals in the City of Laguna Niguel. She also spoke about a sober living facility in her neighborhood.

Mayor Pro Tem Slusiewicz clarified that the Council was voting on consideration of Initiation of a Zoning Code Amendment to Prohibit Short Term Vacation Rentals (STVRs) in all residential zones and that the Planning Commission would be conducting public hearings.

A MOTION was made by Mayor Pro Tem Slusiewicz, seconded by Council Member Gennaway, to approve the Consent Calendar as presented.
Motion carried 4-0-1, with Council Member Capata being absent.

1. **Warrants of June 21, 2016**
Approved as written.
2. **Payroll Summary Register**
Approved as written.
3. **Minutes of the Special City Council Meeting on May 31, 2016 – 4:00 p.m. for Youth Committee Interviews**
Approved as written.
4. **First Amendment to the Amended and Restated Joint Facilities Use Agreement for Crown Valley Elementary School**
 - a. Approved, and authorized the City Manager to execute the First Amendment to the Amended and Restated Joint Facilities Use Agreement for Crown Valley Elementary School; and
 - b. Authorized the City Manager to approve and execute amendments to the other seven Joint Facilities Use Agreements, which are for Niguel Hills Middle School, Hidden Hills Elementary School, Moulton Elementary School, George White Elementary School, Laguna Niguel Elementary School, Marian Bergeson Elementary School, and John Malcom Elementary School, that

reflect similar termination and construction/improvement approval language as stated in the First Amendment to the Amended and Restated Joint Facilities Use Agreement for Crown Valley Elementary School, with the amendment of each Agreement subject to the approval by the City Attorney.

5. FY 2016-2017 Orange County Sheriff's Department Law Enforcement Agreement

Approved, and authorized the Mayor to execute the FY 2016-2017 Law Enforcement Agreement with the County of Orange.

6. Cancellation of the July 5, 2016 City Council Meeting

Cancelled the July 5, 2016 City Council meeting.

7. Approval of Plans and Specifications for the Citywide Pavement Resurfacing Project, Cash Contract No. 16-04

Approved the Plans and Specifications for the Citywide Pavement Resurfacing Project, Cash Contract No. 16-04 and authorized staff to advertise the project for bids.

8. Professional Services Agreements for Landscape Architect Services

Approved, and authorized the City Manager to execute, the Professional Services Agreements with Summers/Murphy & Partners, Inc. and RJM Design Group, Inc.

9. Professional Services Agreement for Community Development Block Grant (CDBG) Administrative Services (B-Adair)

Approved, and authorized the City Manager to execute, the Professional Services Agreement with B-Adair Consulting & Administrative Services for Fiscal Years 16-17, 17-18 and 18-19.

10. Notice of Completion for Laguna Niguel Gateway Signage and Wayfinding Project - Cash Contract No. 14-09

a. Accepted as complete the Laguna Niguel Gateway Signage and Wayfinding Project – Cash Contract No. 14-06;

b. Authorized the recordation of the Notice of Completion;

c. Authorized the release of the 5% retention thirty-five (35) days after the recordation date of the Notice of Completion to the extent allowed by State Law; and

d. Approved the Final Closeout Agreement and authorized its execution by the City Manager.

11. Approval of Plans and Specifications for the Bear Brand Park Soccer Field Synthetic Turf Replacement - Cash Contract No. 16-06

- a. Approved the Plans and Specifications for Bear Brand Park Soccer Field Synthetic Grass Replacement Project - Cash Contract No. 16-06; and
- b. Authorized staff to advertise the Project for bids.

12. Approval of Plans and Specifications for the Bear Brand, Clipper Cove and Seminole Parks Playground Equipment and Hidden Hills Park Shade Structure Replacements, Cash Contract No. 16-07

- a. Approved the Plans and Specifications for the Bear Brand, Clipper Cove, and Seminole Parks Playground Renovations and Hidden Hills Park Shade Structures, Cash Contract No. 16-07;
- b. Authorized staff to advertise the project for bids;
- c. Approved the concept plan for Parc Vista playground structure; and
- d. Authorized staff to issue an addendum to include the Parc Vista playground structure subject to the timely preparation of construction drawings.

13. Initiation of a Zoning Code Amendment to Prohibit Short Term Vacation Rentals (STVRs) in All Residential Zones

Initiated consideration of a Zoning Code Amendment to prohibit STVRs in all residential zoning districts.

14. Test Claim to be Filed with the California Commission on State Mandates Concerning the Requirements of the 2013 NPDES Permit and the 2015 Amendments to that Permit as Issued to the County of Orange and the South County Cities, including the City of Laguna Niguel

- a. Authorized, on behalf of the City of Laguna Niguel, the filing of a test claim with the California Commission on State Mandates concerning the requirements of the 2013 NPDES Permit and the 2015 Amendments to that Permit;
- b. Authorized the City Attorney to enter into agreements with attorneys representing the County of Orange and other cities within Orange County that file or have filed similar Unfunded Mandate Test Claims related to the Orange County MS4 Permits so as to facilitate cooperation in pursuing the Unfunded Mandate Claim and to preserve the privilege and confidentiality of any communications related to this matter to the extent permitted by law; and
- c. Authorized City staff, including, as appropriate, the City Manager, the City Director of Public Works/City Engineer, and the City's Environmental Programs Manager/City Landscape Architect to execute and file with the California Commission on State Mandates all documents necessary for the filing and pursuit of the test claim.

OTHER BUSINESS/COUNCIL REPORTS

1. Council Reports

Council Member Minagar reported he, Mayor Davies, Council Member Gennawey, and Mayor Pro Tem Slusiewicz attended the graduation commencement ceremony at Dana Hills High School, and that he, Council Member Gennawey, and Mayor Pro Tem Slusiewicz attended the graduation commencement ceremony at Aliso Viejo High School. He reported that he, along with his fellow Council Members, attended the State of the City Address held at El Niguel Country Club. He reported that he and Mayor Davies attended a Flag Day Salute Ceremony in Irvine and attended a birthday party for Congressman Dana Rohrabacher.

Mayor Pro Tem Slusiewicz reported he, Council Member Gennawey and Mayor Davies attended a Get Moving OC event. He commented how the vacancy on the City Council was a tough decision and a tough process, and that he was glad the Council had five members.

Council Member Gennawey reported she and Mayor Pro Tem Slusiewicz, attended a Parks and Recreation Commission meeting. She reported she attended a Cox Communications Scholarship Award Luncheon and that Eve Silverman was the Laguna Niguel scholarship recipient. She reported she and Mayor Davies attended a Military Support Committee meeting. She announced a Military Support Committee Golf Tournament Fundraiser, Fairways to Freedom. She also announced a groundbreaking ceremony for the Crown Valley Community Park Tier 2 on June 22, 2016. She thanked everyone who participated in the discussion regarding the vacancy on the City Council.

Mayor Davies reported she attended an Orange County Transportation Authority meeting and that she attended an Orange County League of Cities meeting.

2. City Manager/Department Reports

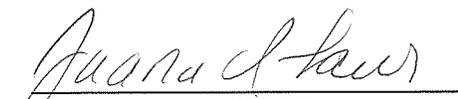
City Staff reported on various events and activities in their departments.

City Manager Foster thanked the City Council for their discussion and actions regarding the vacancy on the City Council.

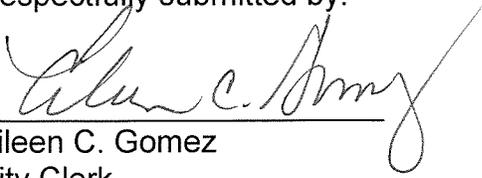
Mayor Davies stated there was no need for a Closed Session.

ADJOURNMENT – Mayor Davies adjourned the meeting at 9:36 p.m.

Prepared by:


Juana I. Laur, MMC
Deputy City Clerk

Respectfully submitted by:

A handwritten signature in black ink, appearing to read "Eileen C. Gomez", written over a horizontal line.

Eileen C. Gomez
City Clerk