



CITY OF LAGUNA HILLS ORDINANCE CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LAGUNA HILLS)

I, PEGGY J. JOHNS, City Clerk of the City of Laguna Hills, California, DO

HEREBY CERTIFY that the attached is a true and correct copy of:

ORDINANCE NO. 2009-7

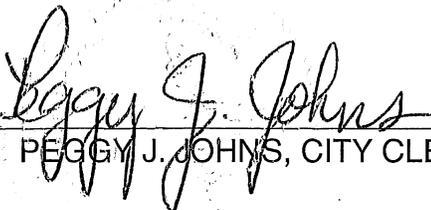
AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, ADDING CHAPTER 9-47 TO TITLE 9 OF
THE MUNICIPAL CODE RELATING TO LANDSCAPE
WATER EFFICIENCY

This Ordinance was adopted by the City Council of the City of Laguna Hills, California, at a regular meeting thereof on the 8th day of December 2009, by the following vote:

AYES: Council Members Carruth, Lautenschleger, Songstad, and
 Mayor Bressette

NOES: Mayor Pro Tempore Scott

ABSENT: None



PEGGY J. JOHNS, CITY CLERK

Dated this 10th day of December 2009.

ORDINANCE NO. 2009-7

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, ADDING CHAPTER 9-47 TO TITLE 9 OF
THE MUNICIPAL CODE RELATING TO LANDSCAPE
WATER EFFICIENCY

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Laguna Hills hereby finds, determines, and
declares as follows:

A. The City Council of the City of Laguna Hills finds that the addition of
specific zoning provisions regulating landscape water efficiency is necessary pursuant
to Government Code § 65595 and State regulations which will shortly come into effect.

B. The waters of the State are of limited supply and are subject to ever
increasing demands.

C. The continuation of California's economic prosperity is dependent on the
availability of adequate supplies of water for future uses.

D. It is the policy of the State to promote the conservation and efficient use of
water and to prevent the waste of this valuable resource.

E. Landscapes are essential to the quality of life in California by providing
areas for active and passive recreation and as an enhancement to the environment by
cleaning air and water, preventing erosion, offering fire protection, and replacing
ecosystems lost to development.

F. Landscape design, installation, maintenance, and management can and
should be water efficient.

G. Article X, Section 2 of the California Constitution specifies that the right to
use water is limited to the amount reasonably required for the beneficial use to be
served, and the right does not and shall not extend to waste or unreasonable method of
use of water.

H. Orange County has an established, large reclaimed water infrastructure
system.

I. Tiered water rate structures allow public agencies to document water use
in landscapes.

J. Incentive-based water use efficiency programs have been actively implemented within Orange County since before 1991.

K. Current local design practices in new landscapes typically achieve the State's water use goals.

L. All water services within the City are metered.

M. Orange County is a leader in researching and promoting the use of smart automatic irrigation controllers with more than 4,500 installations as of June 2009.

N. All new irrigation controllers sold after 2012 within Orange County will be smart controllers.

O. Landscape plan submittal and review has been a long standing practice in the City.

P. The average rainfall in Orange County is approximately 12 inches per year.

Q. The City Council's purpose and intent of this ordinance establishing landscape water efficiency standards is to promote the health, safety, and general welfare of the residents and businesses within the City.

R. This zone text amendment is consistent with the intent of the goals and policies of the General Plan as a whole, and is not inconsistent with any element thereof in that the amendment reduces water consumption by encouraging, and, as applicable, requiring, the use of low water use landscaping, water efficient plumbing, and water reclamation techniques in public and private projects.

S. This zone text amendment is necessary to prescribe reasonable controls and standards for affected land uses to insure the compatibility and integrity of those uses with other established uses in that the amendment promotes the development of water efficient practices.

T. This zone text amendment is necessary to provide reasonable property development rights while protecting environmentally sensitive land uses and species in that the amendment implements a water conservation program to ensure adequate water supplies for the future.

U. This zone text amendment is necessary to correct discrepancies in standards or policies within the land use category in that the amendment updates the City's municipal code in a timely way to conform to State laws which will shortly come into effect.

V. This zone text amendment is necessary to protect the general health, safety, or general welfare of the community as a whole in that the amendment encourages, and, as applicable, requires, developments to apply water-conserving principles, including such techniques and materials as native or low water use (drought-tolerant) plants, low precipitation sprinkler heads, bubblers, drip irrigation systems, and timing devices.

W. The City Council of the City of Laguna Hills has considered information presented on the proposed Ordinance by City staff, the public and other interested parties at a Public Hearing held on November 24, 2009.

SECTION 2. Chapter 9-47 is hereby added to Title 9 of the Laguna Hills Municipal Code to read as follows:

CHAPTER 9-47

LANDSCAPE WATER EFFICIENCY

Sections:

- 9-47.010** **Applicability.**
- 9-47.020** **Implementation procedures.**
- 9-47.030** **Landscape water use standards.**
- 9-47.040** **Delegation.**
- 9-47.050** **Definitions.**

9-47.010 **Applicability.**

- A. Beginning January 1, 2010, all planting, irrigation, and landscape-related improvements required by this Water Efficient Landscape Ordinance shall apply to the following landscape projects:
1. New landscape installations or landscape rehabilitation projects by public agencies or private non-residential developers, except for cemeteries, with a landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature;
 2. New landscape installations or landscape rehabilitation projects by developers or property managers of single-family and multi-family residential projects or complexes with a landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 2,500 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature;

3. New landscape installation projects by individual homeowners on single-family or multi-family residential lots with a total project landscaped area, including pools or other water features but excluding hardscape, equal to or greater than 5,000 square feet, and which are otherwise subject to a discretionary approval of a landscape plan, or which otherwise require a ministerial permit for a landscape or water feature.
- B. Section 9-47.030.B. of the Landscape Water Use Standards of this Water Efficient Landscape Ordinance shall apply to:
1. All landscaped areas, whether installed prior to or after January 1, 2010; and
 2. All landscaped areas installed after January 1, 2010, to which Section 9-47.010.A. is applicable.
- C. This Water Efficient Landscape Ordinance does not apply to:
1. Registered local, state, or federal historical sites;
 2. Ecological restoration projects that do not require a permanent irrigation system;
 3. Mined-land reclamation projects that do not require a permanent irrigation system; or
 4. Plant collections, as part of botanical gardens and arboretums open to the public.

9-47.020 Implementation procedures.

- A. Prior to installation, a Landscape Documentation Package shall be submitted to the City for review and approval of all landscape projects subject to the provisions of this Water Efficient Landscape Ordinance. Any Landscape Documentation Package submitted to the City shall comply with the provisions of the Guidelines.
- B. The Landscape Documentation Package shall include a certification by a professional appropriately licensed in the State of California stating that the landscape design and water use calculations have been prepared by or under the supervision of the licensed professional and are certified to be in compliance with the provisions of this Water Efficient Landscape Ordinance and the Guidelines.
1. Landscape and irrigation plans shall be submitted to the City for review and approval with appropriate water use calculations.

2. Water use calculations shall be consistent with calculations contained in the Guidelines and shall be provided to the local water purveyor, as appropriate, under procedures determined by the City.
3. Verification of compliance of the landscape installation with the approved plans shall be obtained through a Certification of Completion in conjunction with a Certificate of Use and Occupancy or Permit Final process, as provided in the Guidelines.

9-47.030 Landscape water use standards.

- A. For applicable landscape installation or rehabilitation projects subject to Section 9-47.010.A. of this Water Efficient Landscape Ordinance, the Estimated Applied Water Use allowed for the landscaped area shall not exceed the MAWA calculated using an ET adjustment factor of 0.7, except for special landscaped areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water-efficient in a manner acceptable to the City; as provided in the Guidelines.
- B. Irrigation of all landscaped areas shall be conducted in a manner conforming to the rules and requirements, and shall be subject to penalties and incentives for water conservation and water waste prevention as determined and implemented by the local water purveyor or as mutually agreed by local water purveyor and the local agency.

9-47.040 Delegation.

The City may delegate to, or enter into a contract with, a local agency to implement, administer, and/or enforce any of the provisions of the Water Efficient Landscape Ordinance on behalf of the City.

9-47.050 Definitions.

The following definitions are applicable to this chapter:

“Applied water” means the portion of water supplied by the irrigation system to the landscape.

“Budget-based tiered-rate structure” means tiered or block rates for irrigation accounts charged by the retail water agency in which the block definition for each customer is derived from lot size or irrigated area and the evapotranspiration requirements of landscaping.

“Ecological restoration project” means a project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

"Estimated applied water use" means the average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the Guidelines. It is based on the reference evapotranspiration rate, the size of the landscape area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

"ET adjustment factor" or "ETAF" is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Guidelines. The ETAF is calculated in the context of local reference evapotranspiration, using site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area.

A combined plant mix with a site-wide average plant factor of 0.5 (indicating a moderate water need) and average irrigation efficiency of 0.71 produces an ET adjustment factor of $0.7 = (0.5/0.71)$, which is the standard of water use efficiency generally required by this Water Efficient Landscape Ordinance and the Guidelines, except that the ETAF for a special landscape area shall not exceed 1.0.

"Guidelines" refers to the Guidelines for Implementation of the Water Efficient Landscape Ordinance, as adopted by the City Council, and as subsequently amended by resolution of the City Council, which describes procedures, calculations, and requirements for landscape projects subject to this Section.

"Hardscapes" means any durable material or feature (pervious and non-pervious) installed in or around a landscaped area, such as pavements or walls. Pools and other water features are considered part of the landscaped area and not considered hardscapes for purposes of this Water Efficient Landscape Ordinance.

"Homeowner installed landscape" means any landscaping either installed by a private individual for a single family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of this ordinance, is a person who occupies the dwelling he or she owns. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under this ordinance to the requirements applicable to developer-installed residential landscape projects.

"Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum average irrigation efficiency for purposes of this Water Efficient Landscape Ordinance is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

"Landscaped area" means all the planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance and Estimated Applied Water Use calculations. The landscaped area does not include

footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or non-pervious hardscapes, and other non-irrigated areas designated for non-development (e.g., open spaces and existing native vegetation).

"Landscape contractor" means a person licensed by the State of California to construct, maintain, repair, install, or subcontract the development of landscape systems.

"Landscape documentation package" means the documents required to be provided to the City for review and approval of landscape design projects, as described in the Guidelines.

"Landscape project" means total area of landscape in a project, as provided in the definition of "landscaped area," meeting the requirements under Section 9-47.010 of this Water Efficient Landscape Ordinance.

"Local agency" means a city or county, including a charter city or charter county, that is authorized by the City to implement, administer, and/or enforce any of the provisions of the Water Efficient Landscape Ordinance on behalf of the City. The local agency may be responsible for the enforcement or delegation of enforcement of this Water Efficient Landscape Ordinance including, but not limited to, design review, plan check, issuance of permits, and inspection of a landscape project.

"Local water purveyor" means any entity, including a public agency, city, county, or private water company that provides retail water service.

"Maximum Applied Water Allowance" or "MAWA" means the upper limit of annual applied water for the established landscaped area as specified in the Guidelines. It is based upon the area's reference evapotranspiration, the ET Adjustment Factor, and the size of the landscaped area. The Estimated Applied Water Use shall not exceed the Maximum Applied Water Allowance.

"Mined-land reclamation projects" means any surface mining operation with a reclamation plan approved in accordance with the Surface Mining and Reclamation Act of 1975.

"New construction" means, for the purposes of this Water Efficient Landscape Ordinance, a new building with a landscape or other new landscape such as a park, playground, or greenbelt without an associated building.

"Non-pervious" means any surface or natural material that does not allow for the passage of water through the material and into the underlying soil.

"Pervious" means any surface or material that allows the passage of water through the material and into the underlying soil.

"Permit" means an authorizing document issued by local agencies for new construction or rehabilitated landscape.

"Plant factor" or "plant water use factor" is a factor, when multiplied by ETo, that estimates the amount of water needed by plants. For purposes of this Water Efficient Landscape Ordinance, the plant factor range for low water use plants is 0 to 0.3; the plant factor range for moderate water use plants is 0.4 to 0.6; and the plant factor range for high water use plants is 0.7 to 1.0. Plant factors cited in this Water Efficient Landscape Ordinance are derived from the Department of Water Resources 2000 publication "Water Use Classification of Landscape Species."

"Recycled water" or "reclaimed water" means treated or recycled waste water of a quality suitable for non-potable uses such as landscape irrigation and water features. This water is not intended for human consumption.

"Reference evapotranspiration" or "ETo" means a standard measurement of environmental parameters which affect the water use of plants. ETo is given expressed in inches per day, month, or year as represented in Appendix A of the Guidelines, and is an estimate of the evapotranspiration of a large field of four-to seven-inch tall, cool-season grass that is well watered. Reference evapotranspiration is used as the basis of determining the Maximum Applied Water Allowances.

"Rehabilitated landscape" means any re-landscaping project that meets the applicability criteria of Section 9-47.010.A., where the modified landscape area is greater than 2,500 square feet, is 50% of the total landscape area, and the modifications are planned to occur within one year.

"Smart automatic irrigation controller" means an automatic timing device used to remotely control valves that operate an irrigation system and which schedules irrigation events using either evapotranspiration (weather-based) or soil moisture data.

"Special landscape area" means an area of the landscape dedicated solely to edible plants such as orchards and vegetable gardens, areas irrigated with recycled water, water features using recycled water, and areas dedicated to active play such as parks, sports fields, golf courses, and where turf provides a playing surface.

"Turf" means a ground cover surface of mowed grass. Annual bluegrass, Kentucky bluegrass, Perennial ryegrass, Red fescue, and Tall fescue are cool-season grasses. Bermudagrass, Kikuyugrass, Seashore Paspalum, St. Augustinegrass, Zoysiagrass, and Buffalo grass are warm-season grasses.

"Valve" means a device used to control the flow of water in an irrigation system.

"Water feature" means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially

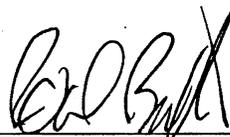
supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

SECTION 3. The City Council of the City of Laguna Hills hereby finds that environmental review is not required under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15307 (the activity will enhance or protect a natural resource) and 15060(c)(3) (the activity is not a project as defined in Section 15378), Title 14, California Code of Regulations, because adoption of the ordinance will conserve water, a natural resource, and otherwise has no potential for resulting in a physical change to the environment, directly or indirectly.

SECTION 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

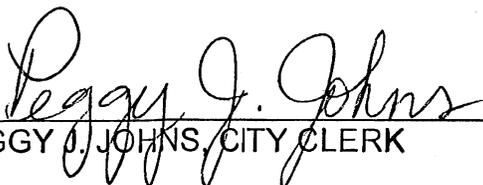
SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this 8th day of December, 2009.



RANDAL BRESSETTE, MAYOR

ATTEST:



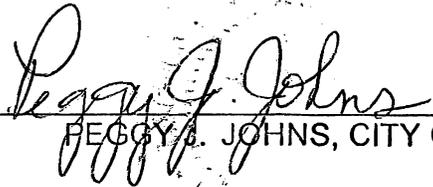
PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Peggy J. Johns, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. 2009-7 was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the 24th day of November 2009, and that thereafter, said Ordinance was duly adopted and passed at a Regular Meeting of the City Council held on the 8th day of December 2009, by the following vote, to wit:

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

(SEAL)



PEGGY J. JOHNS, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

AFFIDAVIT OF POSTING
AND PUBLICATION

PEGGY J. JOHNS, being first duly sworn, deposes and says:

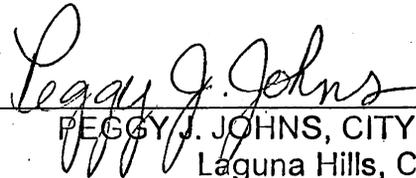
That she is the duly appointed and qualified City Clerk of the City of Laguna Hills;

That in compliance with State Laws of the State of California, ORDINANCE NO. 2009-7, being:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS,
CALIFORNIA, ADDING CHAPTER 9-47 TO TITLE 9 OF
THE MUNICIPAL CODE RELATING TO LANDSCAPE
WATER EFFICIENCY

on the 29th day of November 2009 was published in summary in the Register Newspaper and on the 18th day of December 2009, was published in summary in the Saddleback Valley News; and was, in compliance with City Resolution No. 2004-05-25-2, on the 25th day of November 2009, and on the 9th day of December 2009, caused to be posted in three places in the City of Laguna Hills, to wit:

Laguna Hills City Hall
Laguna Hills Community Center
La Paz Center



PEGGY J. JOHNS, CITY CLERK
Laguna Hills, California



CITY OF LAGUNA HILLS ACTION OF THE CITY COUNCIL

A regular meeting of the City Council of the City of Laguna Hills, California, was held on December 8, 2009. The following named members were present:

Roll Call

Present:

Randal Bressette, Mayor
R. Craig Scott, Mayor Pro Tempore
Melody Carruth, Council Member
Joel Lautenschleger, Council Member
L. Allan Songstad, Council Member

ITEMS REMOVED FROM THE CONSENT CALENDAR

4.9 ADDITION OF CHAPTER 9-47 OF TITLE 9 OF THE MUNICIPAL CODE RELATING TO LANDSCAPE WATER EFFICIENCY (0230-35)

As of January 1, 2010, State law will require the City to adopt either a State Model Water Efficient Landscape Ordinance or a local alternative which was "at least as effective" as the State Model Ordinance. The Orange County Division of the League of California Cities has developed an alternative local Model Water Efficient Landscape Ordinance supported by the Orange County Chapter of the Building Industry Association intended to promote local control. The Countywide Model Ordinance accomplished focused landscape water efficiency objectives for those landscape projects to which it applied and met the requirements of the State law. The Countywide Model Ordinance had several advantages over the State Model Ordinance. First, certification by a landscape professional of landscape water efficiency documentation packages for landscape projects reduced the need for city resources and fees to perform this function. Second, the extensive technical details contained in the State Model Ordinance were split by the Countywide Model Ordinance into a separate Guidelines document to be adopted by minute order and amended by City Council Resolution, allowing the City's landscape water efficiency standards to be amended or updated more easily than what the State Model Ordinance provided. The proposed Guidelines are attached and were recommended for adoption concurrent with the adoption of the Countywide Model Ordinance. Third, the Countywide Model Ordinance was tailored to local conditions, such as

incorporating direct references to Orange County Fire Authority Regulations and clarifying that the Orange County Fire Authority Regulations take precedence in the event of a conflict between the Orange County Fire Authority Regulations and the Countywide Model Ordinance.

There was no direct fiscal impact on City operations associated with the adoption of this Ordinance. To the extent additional plan checking of private projects was required as a result of the proposed Ordinance; the applicant's plan check deposit would cover that cost.

The City Council at its meeting on November 24, 2009, adopted the Countywide Model Ordinance developed by the Orange County Division of the League of California Cities, and introduced the Ordinance at that meeting. It was in order to adopt the Ordinance and also to adopt the Guidelines for Implementation of the City of Laguna Hills Water Efficient Landscape Ordinance.

Mayor Pro Tempore Scott indicated that his purpose in pulling this item from the Consent Calendar was to allow a separate vote on the item. He indicated that he opposed this Ordinance when it was introduced and now intended to vote against the adoption of the Ordinance.

IT WAS MOVED BY COUNCIL MEMBER CARRUTH, SECONDED BY COUNCIL MEMBER LAUTENSCHLEGER, TO ADOPT ORDINANCE NO. 2009-7, AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADDING CHAPTER 9-47 TO TITLE 9 OF THE MUNICIPAL CODE RELATING TO LANDSCAPE WATER EFFICIENCY; AND TO ADOPT THE GUIDELINES FOR IMPLEMENTATION OF THE CITY OF LAGUNA HILLS WATER EFFICIENT LANDSCAPE ORDINANCE.

The motion carried by the following vote:

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

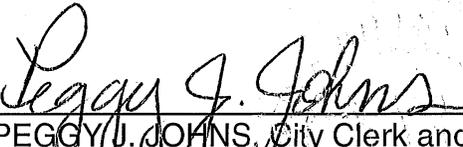
Action of the City Council
December 8, 2009
Item No. 4.9
Landscape Water Efficiency Ordinance
Page 3

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LAGUNA HILLS)

I, PEGGY J. JOHNS, City Clerk and ex-officio Clerk of the City Council of the City of Laguna Hills, California, do hereby certify the foregoing to be the official action taken by the City Council at the above meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 10TH day of December 2009.

(SEAL)



PEGGY J. JOHNS, City Clerk and
ex-officio Clerk of the City Council
Laguna Hills, California