

MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, JANUARY 13, 2003

Mayor Regan called the regular meeting to order at 6:00 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough California.

ROLL CALL: Present: Mullooly, Fannon, Adams, Kasten, Regan

MINUTES: The minutes of the December 9, 2002 City Council meeting were approved as submitted.

PRESENTATIONS: Certifications of Appreciation were presented to the:

- Citizens Communication Advisory Committee - Christopher Zwingle
- Architecture and Design Review Board - Jane Ellis and Marshall Shambarger
- Housing Element Steering Committee - Jean Auer, Don Brandenburger, Steve Benzian, Carlene Cheetham, Jim Curry, Suresh Gandhi, Mark Johnson, Frank Kappler, Jack Ken, Larry May - Chair, and Roger Mertz
- City Council Liaisons - Thomas Kasten and Catherine Mullooly

CONSENT CALENDAR:

On motion of Councilmember Kasten, seconded by Councilmember Adams, unanimous on voice vote, Consent Calendar items 1 through 8 were approved.

1. MONTHLY CLAIMS

The monthly claims for December 2002 were approved.

2. QUARTERLY TREASURER'S REPORT

The Quarterly Treasurer's Report ending December 31, 2002 was approved.

3. REJECTION OF CLAIM: AARON GIOVARA, 1035 LANCASTER ROAD

The claim filed by Aaron Giovara, 1035 Lancaster Road was rejected.

4. RESOLUTION AUTHORIZING PURCHASE OF TWO REPLACEMENT ADMINISTRATIVE POLICE VEHICLES

The resolution authorizing purchase of two replacement administrative police vehicles was approved.

5. TOWN OF HILLSBOROUGH INVESTMENT POLICY

The Town of Hillsborough Investment Policy was approved.

6. RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC EMPLOYEE'S MEDICAL AND HOSPITAL CARE ACT

The resolution fixing the Employer's Contribution under the Public Employee's Medical and Hospital Care Act was adopted.

7. EMERGENCY STORM LINE REPAIR; W. AVONDALE ROAD AND SHADY LANE

The emergency storm line repair located at W. Avondale Road and Shady Lane was approved.

8. RESOLUTION APPROVING COMPENSATION CHANGES

The resolution approving compensation changes effective December 30, 2002 was adopted.

PUBLIC HEARINGS:

9. APPEAL OF THE ARCHITECTURE AND DESIGN REVIEW BOARD'S APPROVAL OF A TEARDOWN, NEW HOUSE, LANDSCAPE PLAN AND TREE REMOVAL AT 570 PULLMAN ROAD; Pearl Wu, MD, and James Yan, MD, applicants; Mr. Christopher Zwingle, et al., appellants

City Planner Maureen Morton explained that an appeal of another application at this same address was considered at the September 14, 2002 City Council meeting and was sent back to the ADRB for a hearing do novo. The new proposed house is 5,559 sq. ft., including five bedrooms and a three-car garage. A chart included in the agenda report shows that all setbacks are greater than required and a floor area ratio lower than the maximum permitted. Ms. Morton added that at the ADRB meeting, neighbors spoke in favor and against the proposed project. Vice Mayor Tom Kasten had attended the ADRB meeting. The project was approved by a unanimous vote (5-0) based on findings, which reflect for pre-hearing meeting with Council. Acting City Attorney Linda Noeske prepared a letter in response to those requests regarding policy and procedures for Town meetings.

Mayor Regan opened the public hearing.

Christopher Zwingle, 560 Pullman explained that the Town's policy and procedure was affecting this application. Mr. Zwingle indicated that he believes that this house was not compliant with the Town's written guidelines and the new application is still the same design that was submitted by the applicant in September. Mr. Zwingle said that he was told the files and current plans were available for viewing, but in fact were not available after the application was accepted. The new application was submitted with out changes and the design proposal was actually larger than the application submitted in July. Mr. Zwingle indicated that the causes of appeal were that the project was not compatible with the neighborhood, not compatible with the public guidelines, or compatible in size or style, with the design guidelines, and issues of adjacent neighbors were not properly addressed. Mr. Zwingle stated that he would like to see a new application submitted to Council.

Mark Haesloop, attorney for the applicant, indicated that the property owners and architect worked diligently with the city to meet the criteria of the guidelines. The last appeal was referred back to the ADRB due to the 3-0 vote. There was no mandate to revise the design. The applicant had addressed the ADRB conditions regarding architectural detail by improving the window treatments, and revised the landscape plan to address the comments of the Town's Consulting Landscape Architect. There had been an outreach program to each resident in the neighborhood. A letter was sent out indicating the property owners of 570 Pullman would be available at any time to meet with neighbors to discuss issues regarding the project. Mr. Haesloop indicated that he personally knocked on the doors of each of the neighbors asking to discuss issues regarding the project and held three open houses meetings. Mr. Haesloop also asked the neighbors to attend a meeting with the San Mateo County Conflict Resolution Center, and the appellants refused the offer. He contacted three mediators all of whom were available, and submitted their names to the appellants. Mr. Haesloop said the plans provided to Council tonight were submitted to the Planning Department on October 1, 2002 and were available for review by the public at all times. Mr. Haesloop added that the applicant did attempt to reach out to the community and resolve the concerns of the neighbors. Mr. Haesloop added the design guidelines reflect the "best" examples in the neighborhood with respect to compatibility, 610 Pullman that is two stories and 1000 sf. Larger, and 575 Pullman, is also larger than the proposed project. Mr. Sun also withdrew his opposition of the 570 Pullman project. Only 10½ ft. of this house is visible about street level.

Rusty Rhoades, 575 Pullman Road indicated that this project was appealed back in October of 2002 and there was a petition signed between 20-30 neighbors.

Mr. Rhoades said that it is time to let 570 Pullman build their beautiful home and get on with this project.

Michelle Carlborg, 610 Pullman Road believes that 570 Pullman is a beautiful home and this new home will enhance the neighborhood and add to the property values. Mrs. Carlborg said that the applicants have been through the process, the homeowners have done all they've been asked to do, and should be allowed to move forward and build their houses.

Mayor Regan closed the public hearing.

Councilmember Fannon quoted the minutes of the ADRB meeting indicating that boardmember Heyman said, "the architect and owners have been responsive to previous comments from the Board and the neighborhood, he pointed out that this was not the only two story house in the neighborhood, the site was below the road, which mitigates its visual impact, it had a significant front setback and the applicants reduced the height and eliminated the Mediterranean design". Mr. Fannon added that at the last Council meeting, the appellant and applicant were asked to get together to work this out, and it appears that the applicants held several open houses to meet. Mr. Fannon asked Mr. Zwingle why didn't he take advantage of the open house meetings. Mr. Zwingle indicated that he did not want to meet with the applicant's attorney, but has always been willing to meet with the property owners. Mr. Fannon added that the applicant was not required to submit new plans. They had considered and rejected suggested modification and offered to lower the house 6 inches and documented efforts to pursue mediation through Peninsula Conflict Resolution Center. Mr. Zwingle added that the neighbors are not trying to deny this home being built, but trying to give suggestions to scale down the large multi level home.

Vice Mayor Kasten indicated that he attended the ADRB meeting, and the board voted 5-0 in favor of the project. Mr. Kasten added that it appeared that the applicant addressed the concerns of the board, and tried to address the concerns of the neighbors.

On motion by Councilmember Kasten, seconded by Councilmember Fannon, unanimous on voice vote, the appeal of the Architecture and Design Review Board's approval of a teardown, new house, landscape plan and tree removal at 570 Pullman Road was denied and the ADRB's approval of the project was upheld based on the same findings and subject to the same conditions of approval.

On a side, Councilmember Mullooly, noted that this house is under 25% of the Floor Area Ratio and set back from the adjacent property. The ADRB unanimously approved this project and the design was consistent with all Town guidelines. Mrs. Mullooly found it very sad that the neighbors have not worked out their differences.

10. CONCEPTUAL PLAN FOR SUBDIVISION OF PROPERTY AT 2700 RALSTON AVENUE; Mr. Kevin White, applicant; Mr. Jet King-Shing Ho, owner

City Planner Maureen Morton explained that Mr. Kevin White is proposing a conceptual plan for the subdivision of the vacant 3.4-acre property at 2700 Ralston Avenue. A 500'-radius public notice mailing was conducted for this hearing. Ms. Morton indicated that the plans include provisions for three new parcels, the installation of public improvements, the under grounding of existing overhead utilities, and the removal of eucalyptus and acacia trees. The applicant has also provided a demonstration that there is a suitable building site for a house on each of the proposed lots and that each lot can be served by a driveway developed to Town standards. All new driveways are proposed on the Ralston Avenue frontage. Ms. Morton also indicated that a tree report identifying all the trees, including those proposed for removal, has been prepared by Ralph Osterling and Associates and is included as a part of the application.

Ms. Morton said that staff does not plan to prepare an EIR for this project since it is basically an "infill" development, already served by City street, which complies with density, lot size, and other Town standards. A Negative Declaration, focusing on issues such as soils and geotechnical, tree removal and replacement, utilities, and drainage will be prepared and circulated, consistent with provisions of the California Environmental Quality Act. Ms. Morton added that the Conceptual Plan has been routed to the Consulting City Engineer for review and comment; his report is included in the City Council's agenda packet.

Mr. Kevin White, prospective purchaser of the property at 2700 Ralston Avenue explained that this is a unique remainder piece of property left over from three other subdivisions. The three lots in consideration all conform to the Hillsborough zoning code. Mr. White indicated that the site is known for its amount of unhealthy eucalyptus trees. The arborist report proposes removal and replacement at a 3-1 ratio, of newly planted assorted trees. Mr. White has worked with Ms. Morton and felt she gave him good direction on this tree proposal.

Councilmember Fannon asked what was the current owners position regarding this development. Mr. White said the owner who lives mostly in Hong Kong intends to sell this site for development.

Councilmember Adams asked why Parcel B seems so narrow. Mr. White indicated that it might look narrow, due to the fact that Ralston is so wide, but the lot sizes are large and do meet Town standards.

Councilmember Mullooly said she had a concern about the shared driveways. Mr. White indicated that he would create a legal document between neighbors.

Councilmember Fannon asked if he had met with the neighbors, and if they were in favor or against the project. Mr. White said he met with all five neighbors, and they wished him luck on the project. The eucalyptus trees and power lines seem to be the biggest issue for the neighborhood.

Mayor Regan opened the public hearing.

Ruth Glick, 2705 Ralston Avenue said her only concern was the eucalyptus trees and above-ground utilities. She hoped the new project would include putting most of the Ralston utilities underground.

Councilmember Adams asked if restriction on the size of the homes could be made at this time. Ms. Morton explained that this is only a conceptual plan, and during the environmental assessment, if some reason is indicated, mitigation measures would be developed.

Mr. White talked briefly on the future of this project, and wanted Council to be direct as to whether they would like to see this land developed.

Vice Mayor Kasten spoke with concern about the school and asked if it wanted to purchase the property. He also voiced his concern about soil erosion, mass and bulk of the new homes, and visibility around the driveways, including possible blind spots.

Councilmember Adams believes this is a great site to clean up and improve.

Mr. White indicated that he spoke with the School District and understood that they were not interested in purchasing the site.

Councilmember Fannon had concerns about the congested traffic at times in that area.

Mayor Regan said the properties across the street are well below street level so the developer needs to be sensitive to those properties. He also believes that 3 separate driveways would be better than a shared driveway concept.

Mayor Regan closed the public hearing.

11. ORDINANCE AMENDING TITLE 17 OF THE HILLSBOROUGH MUNICIPAL CODE (Zoning Ordinances) AND RELATED SECTIONS OF OTHER TITLES, AND NEGATIVE DECLARATION

City Planner Maureen Morton explained that the revised zoning ordinance substantially updates, clarifies and improves the current Title 17. The draft ordinance, which was developed by the Assistant City Attorney with input from the City Planner and other staff members, was reviewed by a City Council Subcommittee consisting of Councilmember Adams and Kasten, and was subsequently modified as a result. Ms. Morton said that the changes included in this ordinance reflect current policies, practices and state law. Provisions for private schools that have been historically generally understood, but not necessarily clearly stated, are now clarified and included in the ordinance. The schools were all provided notice of the draft ordinance and this hearing. Ms. Morton indicated that one letter was received with concern from Crystal Springs Uplands School. She felt it would be best to adopt the ordinance and attempt to work out the issues with the schools at a later time. Ms. Morton added that it should be clarified that this ordinance, which was initiated over a year ago, does not include standards for public facilities, a new tree removal ordinance, or implementation of the landscaping recommendations adopted by the ADRB on November 18, 2002. Other than clarifying this it is legal to rent out rooms, it also does not include implementation for the Town's Housing Element policies. These items will be the subject of future proposed ordinances. Ms. Morton stated that this ordinance would become effective 30 days after adoption. Staff has alerted the developers, architects and designers who do business in Town about the draft ordinances.

Mayor Regan opened the public hearing.

Richard Drew, head of Crystal Springs Uplands (CSU) School distributed a letter to Council, which addressed some issues the school has related to the proposed amendment to the Town's Zoning Ordinance. Mr. Drew indicated that the school would like to gain clarity on specific provisions that regulate the land use of private schools. Mr. Drew explained that CSU feels the proposed amendment is too broad and inflexible. Currently drafted, private schools would have to apply to the Architecture and Design Review Board, or to the City Council, or both, in order to propose any minor change to the school. Mr. Drew believes this is a good approach to certain types of changes that have important land use concerns; however in some instances, this process would be unnecessary. Mr. Drew added that it seems unreasonable for the Town to require a public hearing for all proposals to "modify" parking facilities or "increase" the size of any structure, play area or athletic area without regard to whether those changes could reasonably be expected to have a discernible effect on the community. Mr. Drew said CSU would like to suggest that the proposed amendment be modified to allow for the Town planning staff to grant an administrative exception from the public hearing requirement for those private school projects that staff determines will have only a minor impact on the community.

Mayor Regan closed the public hearing.

Mayor Regan believes that some of the concerns CSU is proposing should be considered. Mayor Regan encouraged Council to adopt the ordinance and allow staff to consider revisions.

Vice Mayor Kasten commented that a lot of work has gone into clarifying this ordinance and asked if any other schools were affected.

Diane Rosenburg of Nueva Day School agreed with Mr. Drew that small changes should not require Council review.

Councilmember Adams believes the Town should make changes as needed.

Penny Greenberg asked if representatives from the schools were available to meet in the next week for a meeting to further discuss their concerns.

On motion of Councilmember Mullooly, seconded by Councilmember Kasten, unanimous on voice vote, the Council approved the Negative Declaration and approved the ordinance amending Title 17 of the Hillsborough Municipal Code and related sections of the other Titles. Staff and Council agree that staff would work with representatives of the private schools and bring back to the Council and ordinance further amending section 17.16.030 as necessary to clarify the administrative matters raised by the private schools.

NEW BUSINESS:

12. ORDINANCE AMENDING CHAPTER 13.20 (WATER CHARGES) OF THE HILLSBOROUGH MUNICIPAL CODE; Introduction

Finance Director Edna Masbad explained to Council that it had become necessary to amend the code section relating to water charges, to align the Town's billing process with the State of California statutory requirements and to allow the Town to utilize legal remedies to ensure a timely collection of the water billings.

Councilmember Adams indicated that 19 days within which to pay the water bill before a penalty is assessed, was not enough time.

Assistant City Attorney Penny Greenberg added that this is the minimum time allowed.

Councilmember Fannon indicated that the due date should be 30 days from the date mailed.

Vice Mayor Kasten added that there should be a 15 day period for disputing a water bill and that in addition to the service charge for bounced check, there is a liability for treble the amount of the check.

On motion of Mayor Regan, seconded by Councilmember Adams, unanimous on voice vote, the ordinance amending Chapter 13.20 (Water Charges) of the Hillsborough Municipal Code was introduced and set for public hearing at the February 10, 2003 Council meeting.

OLD BUSINESS:

13. ENFORCEMENT OF BUSINESS LICENSE ORDINANCE

Finance Director Edna Masbad explained to Council that the Town's business license ordinance is not currently enforced on all businesses. The City Attorney's office has advised that the Town may legally enforce its business license ordinance on residential rental property and the other entities identified by the Finance Director as having been overlooked.

Mrs. Masbad indicated that a survey of municipalities showed that at least 11 cities of those responding tax the rental of single-family dwellings. She then outlined the implementation plan if the recommended action is approved. A letter would be sent to homeowners that rent their property and to other businesses including private clubs, architects, landscape designers, etc. together with excerpts of the business license ordinance and the current fee schedule.

Mrs. Masbad added that information to maintain the list of homeowners that rent residences would be obtained from the application for water services and the annual update of the property tax roll. The names of architects, landscaping designers and other related businesses could be obtained through the building permit process.

Mrs. Masbad said that staff would meeting with the representatives of the Burlingame Country Club and the Hillsborough Racquet Club should this recommendation be approved.

Council held a brief discussion on matters related to the enforcement of the business license ordinance.

On motion of Councilmember Adams, seconded by Councilmember Fannon, unanimous on voice vote, staff was authorized to enforce the Town's business license tax with respect to private clubs, architects, landscape designers, etc., and owners of rental property with an effective date of July 1, 2003.

PUBLIC COMMENT:

Director of Public Works, Michael Meloni introduced Cyrus Kianpour and Dave Bishop from CSG Consultants Inc. who is now working in the Engineering Department. Mr. Meloni also introduced John Milke who is now the Chief Building Official.

COUNCIL ITEMS:

Mayor Regan asked who would be attending the SamCat meeting on Wednesday. Councilmember Mullooly volunteered to attend.

Mayor Regan indicated that Tom Kasten, Mike Meloni, and Martha DeBry attended the PUC meeting. The Attorney for the 280 CC did a good job in representing the group. Mr. Regan indicated that this would be a long and involved process.

City Manager Anthony Constantouros indicated that the League of California Cities sends out email as to what is going on in the State, and asked if the Council would like to be included in those emails.

Vice Mayor Kasten commented on the arrival of the new Fire Fighter Ron Novelli and commended his achievements in the academy.

Vice Mayor Kasten talked about the new Fleeer unit the Police Department was able to purchase with grant money.

Mayor Regan commented on the Fire Chiefs letter to Rick Valez in the Fire Department for the help with the \$82,000 grant funds.

Mayor Regan adjourned the meeting at 8:25 p.m.