

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MONDAY, NOVEMBER 8, 2004**

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:       Fannon, Kasten, Regan  
                              Absent:       Mullooly, Adams

**MINUTES:** The minutes of the September 13, 2004 City Council meeting and October 11, 2004 City Council meeting were approved as submitted.

**CLOSED SESSION:** City Attorney Norm Book announced that the City Council reached an agreement for the Town to sell the Whitwell property in the amount of \$5,000.

**PRESENTATIONS:**

- Reserve Police Officer Daniel Huie M.D., J.D. was sworn in to the Hillsborough Police Department by Police Chief Matthew O'Connor
- The Central County Fire Department announced the winners of the First Annual Central County Fire Department Fire Safety Poster Contest.

**PROCLAMATION:** The City Council proclaimed November 15, 2004 as America Recycles Day.

**CONSENT CALENDAR:**

On motion of Councilmember Fannon and seconded by Vice Mayor Kasten, unanimous on voice vote, Consent Calendar items 1 – 4 were approved.

1.       MONTHLY CLAIMS OCTOBER 1 THROUGH OCTOBER 31, 2004

The monthly claims for the month of October 2004, in the amount of \$2,506,490.42 were approved.

2.       RESOLUTION AUTHORIZING FEDERAL FUNDING FOR THE CRYSTAL SPRINGS ROAD REHABILITATION PROJECT

The resolution providing the required assurances, and authorizing staff to file an application for Federal Surface Transportation Program Funding for the Crystal Springs Road Rehabilitation Project was adopted.

3.       RESOLUTION ESTABLISHING THE LOCAL APPOINTMENTS LIST FOR CALENDAR YEAR 2005

The resolution establishing the local appointments list for calendar year 2005 was adopted.

4.       ANNUAL PROGRESS REPORT ON GENERAL PLAN

The Annual Progress Report was accepted and the City Planner was authorized to forward a copy to the Governor's Office of Planning and Research and the Department of Housing and Community Development.

**NEW BUSINESS:**

5.       FINANCIAL REPORT FOR QUARTER AND YEAR ENDING JUNE 30, 2004

Finance Director Edna Masbad provided the City Council with an unaudited report for the quarter and year ending June 30, 2004. Ms. Masbad gave a presentation highlighting financial operations for the 03-04 fiscal year as summarized in the executive summary of the report.

Ms. Masbad indicated that the Town's general fund reported a \$1 million increase in fund balance. At the end of the current fiscal year, fund balance for the general fund was \$7,735,434 up from \$6,666,273 in 2002-2003. The unreserved fund balance is approximately 55 percent of total general fund expenditures.

Councilmember Fannon commended staff on doing a magnificent job.

Vice Mayor Kasten said this analysis was well done.

Mayor Regan asked the Police Chief about restoring some positions in the police department. Chief O'Connor said that in the following fiscal year Hillsborough will be working with the City of Burlingame to restore 1 or 2 positions.

The City Council accepted the Town of Hillsborough's Financial Report (unaudited) for the quarter and year ending June 30, 2004.

6. **INTRODUCE ORDINANCE AMENDING CHAPTER 15.16 OF THE  
HILLSBOROUGH MUNICIPAL CODE REGARDING SEWER BACKWATER  
PREVENTION**

Public Works Director Martha DeBry introduced an ordinance that would require installation of backwater protection which may include backflow devices pressure relief valves or pump systems. Ms. DeBry proposed two time frames for the installation: January 1, 2005 through December 31, 2006, applies to anyone applying for a plumbing permit; and after January 1, 2007, applies to all properties that need backwater protection systems as determined by the Public Works Department. Ms. DeBry explained when a resident or contractor applies for a plumbing permit, they will first need to complete the certification that protection is already in place, arrange for a backwater protection device to be installed, or receive an exemption from the requirement. Copies of certifications will be kept on file at the Building Department. This ordinance transfers liability to the homeowner if they fail to install and maintain the backwater protection device at their home. Ms. DeBry said other agencies with similar ordinances have seen a reduction in the severity and occurrence of claims.

Ms. DeBry indicated that the ordinance has been modified based on comments made at the October City Council meeting when this proposed ordinance was discussed. Included in the ordinance is a new provision to impose penalties if a property owner does not install or maintain their backwater protection. The penalty will equal 10% of annualized sewer charges for each month the homeowner is out of compliance. Staff is developing a plan for assisting residents with identifying their backwater systems and will present a concept in December 2004.

Councilmember Fannon asked if information would soon be available to residents. Ms. DeBry said yes, she is working on getting the information out in the newsletter, HTV, and website.

Mayor Regan asked who will determine what residences must comply with the requirement. Ms. DeBry indicated that staff will determine each resident's potential needs.

Vice Mayor Kasten agreed with Ms. DeBry that a program to identify all the properties in Hillsborough and advising those who need the device.

City Attorney Norm Book suggested language that would deal with the consistency.

On motion of Vice Mayor Kasten, seconded by Councilmember Fannon, unanimous on voice vote, the ordinance amending Chapter 15.16 of the Hillsborough Municipal Code as amended was introduced and set for public hearing at the December 13, 2004 City Council meeting.

7. RESOLUTION APPROVING REPLACEMENT OF ROOF AT VARIOUS PUMP STATIONS

Public Works Director Martha DeBry explained that the Public Works Department has developed a project to replace the roofs at the Cheery Creek, Forest View, Country Club, Tartan Trail and Syfarm 2 pump stations. The estimated cost of the project is expected to be under \$25,000. Mrs. DeBry indicated that many of the roofs leak and show signs of dry rot.

On motion of Councilmember Fannon, seconded by Vice Mayor Kasten, unanimous on voice vote, the resolution approving replacing roofs at various pump stations for a sum not to exceed \$25,000 was adopted.

8. RESOLUTION APPROVING MUTUAL AID AGREEMENT FOR TRANSFERS OF POTABLE WATER BETWEEN THE TOWN OF HILLSBOROUGH AND CITY OF BURLINGAME

Public Works Director Martha DeBry indicated that the request for the Water Transfer Agreement between Hillsborough and the City of Burlingame was first presented to the City Council in September 2004. This agreement was developed to account for the transfer of potable water between the two cities in the event of emergencies or when water tanks or mains must be removed from service for repairs or replacement. At the September City Council meeting the questioned raised was the reimbursement process with FEMA and the State. Ms. DeBry said the agreement was slightly changed from the previous version of the document introduced in September. The agreement revision provides reimbursement of wholesale cost of water and manpower for both non-emergency and emergency events.

On motion of Vice Mayor Kasten, seconded by Councilmember Fannon, unanimous on voice vote, the resolution approving the Mutual Aid Agreement for transfers of potable water between the Town of Hillsborough and the City of Burlingame was adopted.

9. INTRODUCE ORDINANCE AMENDING SECTION 2.12.010 AND THREE SECTIONS OF TITLE 17 (ZONING) OF THE HILLSBOROUGH MUNICIPAL CODE

City Planner Maureen Morton explained that this ordinance represents the most recent of the “clean-up” changes to the Zoning ordinance and a minor change to the Architecture and Design Review Board ordinance. Ms. Morton indicated that the first proposed change is to eliminate the 2-year term limit for the Chairman of the Architecture and Design Review Board. The second proposed change is to add attached garages to the exception for allowing the expansion of nonconforming structures. The third proposed change is to clarify the point from which building heights are measured. The current code specifies that height is measured from “natural” grade which, if a site has been developed for many years makes often difficult or impossible to determine. The fourth change is to reduce the maximum ceiling height from seven feet to six feet for the basement areas that are not counted in FAR calculations. Ms. Morton added that this new height reflects the basement height limits in a forthcoming revision to the Uniform Building Code and it will help prevent the unauthorized conversion of seven-foot high basement areas into living space.

Mr. Kamran Ehsanipour, Architect and Technical Advisor to the Hillsborough Property Owner's Association said he was concerned about Section 4 of the proposed ordinance reducing the ceiling height from seven feet to six feet for areas exempted from FAR calculations. Mr. Ehsanipour asked that the new height not apply to mechanical rooms and corridors leading to them.

Ms. Morton said that it would be possible to exempt utility rooms from this Section 4 and would discuss this with the Building Official.

The ordinance amending Section 2.12.010 and three sections of the Title 17 (zoning) of the Hillsborough Municipal Code was set again for introduction with changes at the December 13, 2004 City Council meeting.

**PUBLIC COMMENT:**

City Attorney Norm Book explained that this section of the agenda is for public comment, and the Crocker Wood Subdivision issue is not an agenda item; therefore this discussion is for information only, and the City Council can not take any action. He noted that the subdivision map and the mitigated negative declaration for this project were approved in May of 2003, and the appeal period has expired. The individual design for each lot is subject to review and approval by the Architecture and Design Review Board to ensure the homes meet the Town Guidelines. Mr. Book stated that the City Planner provided information to the City Council and City Attorney's office regarding neighbors concerns. Mr. Book suggested that Council's questions be directed to him to provide a written response.

Mayor Regan opened the public comment section of the meeting.

Mr. David Kaiser, said a number of residents have concern about the Crocker Woods Subdivision. Mr. Kaiser believes 2700 Ralston was under a deed restriction of a two acre minimum at one time, so this presents a complicated scenario for Mr. White the developer of the project. Mr. Kaiser said there is no reason to have a driveway on Ralston, and driveway on Chateau. Mr. Kaiser said Hillsborough is proud of its Town design guidelines and the new building proposed for Crocker Woods is not within the guidelines. New homes should conform to homes in the area. Mr. Kaiser asked that the City Council put a moratorium on this project and ensure the driveway issue is carefully reviewed.

Ms. Patricia Hsu indicated that she lives across the street from Ralston and said the existing houses are far lower than the new story poles showing the height of the proposed homes. Ms. Hsu believes the Town Guidelines are objective but is concerned about subjective. Mrs. Hsu concern about safety relates to the amount of construction and traffic the proposed project could impose on children walking to school. Ms. Hsu also believes the Town has each department looking at one specific issue rather than considering the issues as a whole and building a house that fits.

Mr. Robert Waterman said he believes there is a combination of issues with the Crocker Woods Subdivision such as the two acre minimum, reinforcing the guidelines, and compatibility with the neighborhood. Mr. Waterman said developers are not in contact with neighbors, and there are safety issues surrounding the intersection of Ralston and Chateau.

Ms. Maryellie Johnson indicated that she sent a letter prior to the meeting noting the severity of the slope of the property after a large amount of trees were removed. Mrs. Johnson believes safety would be an issue if construction goes forward, and the driveway access is marginal. Ms. Johnson feels that new landscaping is always mentioned as the cure all. Due to the size and slope of the lot larger cranes needed install new trees would not be able to handle the slope of Mr. White's lot. Ms. Johnson said that the focus should be on the fact that this subdivision should have never happened, and feels that the special ambiance of the Town is threatened.

Ms. Bailey Meyer said she was unaware of the subdivision hearings. Ms. Meyer said all the lots in the Carolands are two acres. Mrs. Meyer said she is concerned, and feels a moratorium should be put on this development until resolved by lawyers. The plans submitted indicate massive homes on small lots and there are serious safety issues. Mrs. Meyers said the City Council should help protect the ambiance of the Town.

Mayor Regan explained that the City Council will provide Mr. Book with a list of questions by phone or email. Since Councilmember Adams and Councilmember Mullooly are absent from this meeting he will form a subcommittee including the Mayor, Vice Mayor and staff to review the issues.

City Manager Anthony Constantouros stated at that some concerns fall under non-design issues and should remain with the ADRB.

Mayor Regan asked that the school district also give their comments about the project.

## **OLD BUSINESS:**

### **10. RESOLUTION APPROVING ANNUAL INVESTMENT POLICY**

Finance Director Edna Masbad indicated that State laws require that the Town's investment policy be annually "rendered" to the City Council and its oversight committee. The Town's current policy allows investments in various investment vehicles. However, the Town has traditionally invested its funds in the State's Local Agency Investment Fund – a short-term, very liquid investment that currently pays 1.67%. Staff would like to diversify the Town's investment portfolio and consider other qualified and allowed investment vehicles to improve the current yield. Ms. Masbad said an updated investment policy was presented to the Financial Advisory Committee at the July 26, 2004 meeting for consideration where the committee created a sub-committee to review it. Ms. Masbad added that after receiving input from the sub-committee, on October 18, 2004, the Financial Advisory Committee reviewed and approved changes to the investment policy for the City Council's consideration.

Ms. Masbad included in the agenda packet the following information.

- Memo summarizing the proposed changes to the investment policy
- Current investment policy
- Proposed updated policy reflecting changes approved by the Financial Advisory Committee
- Projected investment strategy based on the updated policy

Mayor Regan asked if the Finance Department talked to any brokerage companies. Mrs. Masbad said she had sent questionnaires to about five brokers, and will submit them to the FAC kept it for review.

Vice Mayor Kasten asked about a portfolio benchmark. Ms. Masbad said the initial benchmark is advisable. Vice Mayor Kasten asked why the Town wasn't using benchmarks, since in his experience portfolios usually used benchmarks for each asset class. Ms. Masbad said at the FAC is not requiring a benchmark at the moment but will consider it in the subsequent years.

On motion of Councilmember Fannon, seconded by Vice Mayor Kasten, the resolution approving the Town's annual investment policy for the fiscal year 2004-2005 was adopted.

## **DISCUSSION:**

### **11. ORDINANCE LIMITING TIME FOR CONSTRUCTION PROJECTS AND REQUIRING A QUALIFIED SUPERINTENDENT**

Chief Building Official John Milke indicated that the proposed draft ordinance is a two part ordinance including a time limitation with monetary penalties for construction projects and a requirement for jobs to have qualified superintendents.

Mr. Milke said the ordinance was drafted to address impacts related to construction projects, especially those which are lengthy and/or poorly managed. This ordinance is comparable to another city with similar construction activity. Mr. Milke said a dollar amount based on the project would be set to require a qualified superintendent for projects over \$750,000.

Councilmember Fannon asked if this draft ordinance has been discussed with any contractors. Mr. Milke from feedback received it sounds like general contractors would be in favor of this new requirement.

Mayor Regan said this might speed up the process with some of these large projects in Town. Mr. Milke said owner builders will be at a disadvantage if they don't have an onsite superintendent and might be subjected to penalties.

Mayor Regan asked what percentage of construction in Town is owner builder. Mr. Milke answered 10-20% are owner builder.

Vice Mayor Kasten asked what would be the grounds of appeal if there were a general carpenter strike, i.e. would there be a way to deal with this before fees were imposed. Mr. Milke said that is something he would have to look into and possibly add to the ordinance.

Vice Mayor Kasten asked Mr. Milke if he felt in his own experience that the time limitation for construction were feasible. Mr. Milke believed the time allowed for construction is generously reasonable.

Mayor Regan asked if the Town collected 2% of the valuation of the project, could this help make construction of homes more neatly and timely, along with reducing traffic and noise. Mr. Milke said yes.

City Attorney Norm Book suggested that we look into utilizing a letter of credit or bond in lieu of cash deposit.

City Manager Anthony Constantouros indicated that since two Councilmembers were missing tonight, it would be an option to discuss this draft ordinance a second time at the December 2004 City Council meeting.

The City Council discussed the ordinance limiting time for construction projects and requiring a qualified superintendent and set for discussion again at the December 13, 2004.

#### **CITY COUNCIL ITEMS:**

Vice Mayor Kasten said he attended Housing Leadership Day in October. It was an opportunity to discuss major issues regarding housing development and affordable housing.

Mayor Regan announced that the General Plan meeting will be held November 19, 2004

#### **ADJOURN:**

Mayor Regan adjourned the meeting at 8:35 p.m.