

MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, SEPTEMBER 12, 2005

Vice Mayor Mullooly called the regular meeting to order at 6:00 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough California. There was a moment of silence for the victims of Hurricane Katrina.

ROLL CALL: Present: Krolik, Regan, Fannon, Mullooly
Absent: Kasten

MINUTES: The minutes of the August 8, 2005 City Council meeting were approved as submitted with one correction by Councilmember Krolik to Item 9, Paragraph 4 with additional wording.

ANNOUNCEMENT: Chief Bill Reilly of the Central County Fire Department provided an overview of local response to Hurricane Katrina.

CONSENT CALENDAR:

On motion of Councilmember Regan, seconded by Councilmember Fannon, unanimous on voice vote, Consent Calendar Items 1 - 7 were approved.

1. MONTHLY CLAIMS: AUGUST 1 THROUGH AUGUST 31, 2005

The monthly claims for the month of August 2005 in the amount of \$2,405,587.49 were approved as submitted.

2. RESOLUTION APPROVING FUNDING OF APPROVED BUDGET POSITIONS

The resolution authorizing up to \$135,000 to fund the Human Resources Assistant position and upgrading the Assistant to the City Manager to Assistant City Manager was adopted.

3. CONCEPTUAL PLAN FOR SUBDIVISION, MEADOWOOD ESTATES, LOCATED ON THE NORTHWESTERLY SIDE OF CRYSTAL SPRINGS ROAD, IMMEDIATELY NORTH OF TARTAN TRAIL ROAD

City Council approved the request for a continuance off-calendar which will require new public notices to be mailed when a meeting date is set.

4. RESOLUTION APPROPRIATING FUNDS FOR WINDSOR STORM DRAIN IMPROVEMENTS, PHASE I

The resolution appropriating \$40,000 from the sewer fund for the Windsor Storm Drain Improvements, Phase 1 was adopted.

5. RESOLUTION INCREASING CONTINGENCY FUNDING FOR THE 2005 SANITARY SEWER MAINS CLEANING AND VIDEO INSPECTION, PHASE IV - CHERRY CREEK EASEMENT PROJECT CONTRACT

The resolution increasing contingency funding for the 2005 Sanitary Sewer Mains Cleaning and Video Inspection, Phase IV – Cherry Creek Easement Project contract by the amount of \$76,000 for a new total construction budget of \$519,151 was adopted.

6. RESOLUTION INCREASING CONTINGENCY FUNDING FOR THE 2005 SANITARY SEWER MAINS CLEANING AND VIDEO INSPECTION, PHASE III PROJECT CONTRACT

The resolution increasing contingency funding for the 2005 Sanitary Sewer Mains Cleaning and Video Inspection, Phase III Project contract in the amount of \$95,000 for a total construction budget of \$615,348 was adopted.

7. RESOLUTION AWARDING A CONTRACT TO AGUILAR AND SONS FOR THE 520 HILLSBOROUGH BLVD STORM DRAIN REPAIR PROJECT

The resolution awarding the contract for the 520 Hillsborough Boulevard Storm Drain Repair Project to Aguilar and Sons in the amount of \$9,625 with a contingency in the amount of \$1,000 for a total construction budget of \$10,625 was adopted.

NEW BUSINESS:

8. RESOLUTION APPROVING THE AMENDMENT TO AND RESTATEMENT OF THE JOINT POWERS AGREEMENT ESTABLISHING THE PENINSULA TRAFFIC CONGESTION RELIEF ALLIANCE AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO AND RESTATEMENT OF THE JOINT POWERS AGREEMENT AUTHORIZING THE TOWN OF HILLSBOROUGH TO JOIN THE ALLIANCE

Christine Maley-Grubl, the Executive Director of the Peninsula Traffic Congestion Relief Alliance, gave a brief overview of the Alliance. The Alliance was established in May 2000. City Councilmembers are Board members. The Supervisory Committee consists of seven city staff members and two funders. The Alliance is funded by the Transportation Authority (TA) and City/County Association of Governments (C/CAG).

The Alliance's mission is to reduce the number of single occupant vehicles traveling in, to and through San Mateo County and to improve the air quality by reducing vehicle emissions. The mission will be accomplished through sales, marketing and management of Transportation Demand Management (TDM) programs, through programs provided to commuters, local employers and residents, and through programs to promote alternate modes of transportation.

The Alliance has several programs, including Shuttle Management, Shuttle Marketing/Outreach, Commuter Benefits Consulting, Vanpools, Carpools/School Pools, Emergency Ride Home, Bicycle and Pedestrian Safety Program/Bike Racks and Lockers Incentive, Try Transit, Downtown Dasher/On-Demand Taxi, and General Marketing/Outreach.

As a C/CAG member, each city funds a percentage of the C/CAG Congestion Relief Program. C/CAG, in turn, provides Congestion Relief Funding to the Alliance for TDM programs to mitigate traffic. As the Alliance expands with more cities joining the JPA, the Town will have some say in the Alliance's programming and how funding is spent. There are no additional costs or fees to join the Alliance—just Board participation.

Councilmember Krolik asked if the carpool to BART information would be on the website. Ms. Maley-Grubl answered yes. Councilmember Krolik asked who would own the carpool van. Ms. Maley-Grubl stated that an individual would lease the van and would receive Rideshare Assistance which provides an incentive.

Councilmember Regan asked how often the Alliance met and where. Ms. Maley-Grubl stated they met every other month on the third Thursday from 8:00 a.m. to 10:00 a.m. at the Peninsula Community Foundation in San Mateo.

Councilmember Regan asked what does "TDM" stand for. Ms. Maley-Grubl stated Transportation Demand Management, which is a program to eliminate cars on the road.

Vice Mayor Mullooly asked if the Mayor must attend the meetings. Ms. Maley-Grubl stated that any councilmember may attend. Vice Mayor Mullooly asked City Attorney Norm Book if he looked over the JPA agreement and approved it. City Attorney Book responded yes.

Councilmember Krolik stated that this would be good for high school students. Councilmember Regan added that it would be beneficial for students and teachers.

Councilmember Fannon asked the downside of not joining. Ms. Maley-Grubl stated the involvement of every city in the County would be best to gather complete information and feedback. Councilmember Fannon asked what cities were not involved. Ms. Maley-Grubl answered Portola Valley, Woodside, and Menlo Park. Councilmember Krolik added only three out of twenty cities do not belong to the Alliance currently. Councilmember Regan stated Hillsborough may have a lesser need, but it sounds like a good program.

On motion of Councilmember Krolik, seconded by Councilmember Regan, unanimous on voice vote, the resolution approving the amendment to and restatement of the Joint Powers Agreement establishing the Peninsula Traffic Congestion Relief Alliance and authorizing the Mayor to execute, subject to the City Attorney's legal review, the First Amendment to and Restatement of the Joint Powers Agreement authorizing the Town of Hillsborough to join the Alliance was adopted.

9. RESOLUTION AUTHORIZING TRANSFER OF WATER SERVICES AND WAIVING WATER CONNECTION FEES (CAPITAL CONSTRUCTION DEVELOPMENT FEE)

City Engineer Cyrus Kianpour stated that the Town of Hillsborough has received a request from the City of Burlingame to transfer six water services at 6170, 6172, 6190, 6210, 6216 and 6220 Skyline Boulevard to a Town-owned water main located in the street in front of these homes. The six homes are currently served by an existing four-inch main that is in need of replacement and is located in the rear yards of these homes. Burlingame will be responsible for all construction and material costs associated with this transfer. The transfer of these services is desirable as it increases the Town's revenue base, and more importantly improves water quality by increasing demand at the end of the water system.

Mr. Kianpour stated that Burlingame has requested that connection fees be waived. Town staff has evaluated this request and is recommending a fee waiver as the transfer is highly desirable and such transfers of individual services between the Town and Burlingame will be important for maintaining water quality for both cities.

The homeowners on Skyline will be billed directly by the Town for consumption according to the Town's rate schedule.

Councilmember Regan asked what the cost will be to the Town of Hillsborough. Mr. Kianpour replied that there would be no cost to Hillsborough. Burlingame will pay for all plumbing costs.

Vice Mayor Mullooly asked if the main already existed and if Burlingame would tie into it, and what the rates were. Mr. Kianpour replied that the main was already there, but wasn't sure what the rates were.

Councilmember Fannon stated it sounded like a win-win situation.

Councilmember Regan stated that revenues were down 14% and that we could use the help.

On motion of Councilmember Fannon, seconded by Councilmember Krolik, unanimous on voice vote, the resolution authorizing transfer of water services from the City of Burlingame's water system to the Town's water system and waiving the Water Capital Construction Development Fees for 6170, 6172, 6190, 6210, 6216 and 6220 Skyline Boulevard was adopted.

10. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT FOR TRANSFER OF PROPERTY TO 400 BARBARA WAY

City Engineer Cyrus Kianpour stated that the Town has been negotiating the sale of an excess right-of-way at the corner of Hayne Road and Barbara Way with the owner of the property at 400 Barbara Way. This sale will permit the homeowner to complete his ADRB-approved landscape plan, and improve pedestrian safety by

shortening the crosswalk length and eliminating a gap between the curb and stop sign. City Council authorized the transfer of this small piece of land to improve public safety in March 2005 subject to entering into an agreement acceptable to both parties.

Mr. Kianpour stated the agreement requires the homeowner to construct a new curb and parking strip along the frontage of the property within 90 days.

Councilmember Regan asked how many times the stop sign has been knocked down. Mr. Kianpour replied that he didn't know.

City Attorney Norm Book stated that "ratifying" should be changed to "authorizing" in the wording of the resolution for Item 10.

On motion of Councilmember Regan, seconded by Councilmember Fannon, unanimous on voice vote, the resolution authorizing the City Manager to sign the agreement for transfer of property to 400 Barbara Way was adopted.

DISCUSSION:

11. UPDATE ON COMMUNICATIONS WITH RESIDENTS REGARDING THE BACKWATER PROTECTION PROGRAM

Director of Public Works Martha DeBry presented an update on Public Works' efforts to communicate with residents regarding the backwater protection program. The goal is to eliminate sewer overflows. By January 1, 2007 properties requiring backwater protection will be identified. Residents will be educated about the need for annual sewer lateral/backflow maintenance.

The 2002 Ordinance to Require Verification of an Operating Backflow Device (13.32.110) requires that properties be inspected for the presence of an operating backflow device at the time of transfer. This was communicated to contractors pulling permits and to San Mateo County Association of Realtors (SAMCAR).

In January 2003 the reimbursement program was started. This was communicated with fliers at Town Hall, the Town's website, SAMCAR, letters to 95 high risk properties, and through contractors. A covenant is recorded which requires an annual maintenance of the backflow device.

The Summer 2003 edition of the newsletter had an article titled "Backflow Info". It stated that "...Town requires that each homeowner install and maintain a backflow prevention device on the lateral..." "The homeowner is also responsible for damage occurring due to an improperly constructed lateral, including a lack of a required backflow prevention device..." The article noted that Public Works assistance is available to residents.

The Winter 2003 edition of the newsletter had an article titled "Hillsborough Backflow Reimbursement Program". In November 2003 a letter was again sent to high risk properties. In February 2004, the covenant was clarified and SAMCAR was notified. The Fall 2004 edition of the newsletter had an article titled "Hillsborough at Risk" explaining risks associated with the sewer system. In October 2004 a letter was again sent to high risk properties. In November 2005 the Town will promote ABAG's Backup Buster campaign.

In December 2004 the Backwater Protection Ordinance was adopted by City Council. The ordinance states that by January 2007 all residences must have backwater protection which can include a backflow device, cleanout, ejector pump, etc. In March 2005 a postcard was sent to all residences regarding the new ordinance, the website was updated, and inspections began.

The Summer 2005 edition of the newsletter had an article that stated "preventative maintenance is the best way to avoid sewer lateral problems". It stated that plumbers can assist with the annual maintenance of backflow devices and ejector pumps.

Bill stuffers were sent in the water bills for the May/June, July/August and September/October mailings. A fourth mailer is scheduled declaring November 2005 as “Sewer Awareness Month”.

One Public Works employee is assigned full-time to backflow inspections. Inspections require about one hour, and staff is booked solid until September 27, 2005. We will have the inspection database online this month. The inspection goal is 25%. So far 120 exemptions have been filed.

Ms. DeBry stated that residents have a greater interest in the reimbursement program after reading newsletter articles and bill stuffers. 267 applications for the reimbursement program have been received since the inception of the plan. The average reimbursement is \$400. Currently we have \$23,000 in funds available.

The schedule for the Sewer Risk Outreach Program includes on-going education by updating the website, sending bill stuffers annually in the spring, naming November as Sewer Awareness Month, and reminding residents to maintain their sewer laterals and backwater devices in the winter newsletter.

Vice Mayor Mullooly asked if there will be a reminder in the spring. Ms. DeBry replied yes.

Councilmember Regan asked of the 95 high risk properties how many have installed the backflow device. Ms. DeBry replied 30% to 40% of the high risk properties have installed the backflow device. Councilmember Regan asked if there were more than 95 high risk properties. Ms. DeBry responded that we have identified a few more.

Councilmember Regan asked when will we run out of funding. Ms. DeBry answered in two to three months. Ms. DeBry stated she may request additional funds at the next City Council meeting. Councilmember Krolik asked if that’s a big incentive. Ms. DeBry stated that it sweetens the deal and helps to get folks into early compliance to get the device installed.

Councilmember Fannon stated that he feels confident that the Town has gotten the word out and has communicated to the residents about the sewer risk.

Vice Mayor Mullooly asked if everyone needs the backflow device. Ms. DeBry replied if the lowest plumbing fixture on your property is less than one foot above the nearest upstream manhole you will need a backflow device. You still need a cleanout if you are exempt. Public Works will sign the exemption only if it clearly is at the right elevation.

Councilmember Krolik stated that even while working on the newsletter she hadn’t realized that sewage can back up into and severely damage your home. She suggested that the Town newsletter state more clearly the repercussions if one didn’t have the protection.

Councilmember Regan stated that people think “It won’t happen to me.”

Councilmember Fannon praised Ms. DeBry on doing a good job.

PUBLIC COMMENT:

During Public Comment there was discussion from concerned citizens and representatives of T-Mobile regarding the installation of a cellular antenna within the Town.

Mr. Larry Friedberg of 870 Longview stated that the proposed cell site would be in front of his home. His wife has health concerns because of an immuno-suppressed condition. He stated that no research has been done on the effects of these cell antennas on immuno-suppressed diseases. He was informed of the cell site on August 15th. He stated there has been no research done that shows what effect it will have on people with diseases like his wife has. He stated when he spoke to Bill

Stevens, a Zoning Specialist for T-Mobile, Mr. Stevens said twice that due to his wife's physical condition that they had "special circumstances." Mr. Stevens then said that he thought there was another location to the southwest of their property (on which to install the cellular tower). He said Rod De La Rosa of T-Mobile explained to him that there's nothing he could do. Mr. Friedberg asked Council to consider moving the tower away from his home. He stated that his wife cooks, raises their children, and conducts her life here.

Ms. Phyllis Tankel of 870 Longview Road stated she has rheumatoid arthritis. Her immune system is "haywire". Her body attacks her own body such as her joints and bones. She said she is very vulnerable to germs. It has affected her career and life. It has affected how she parents. Ms. Tankel said her home is her only safe haven. She feels she can be very safe there. She stated no tests have been done to show what a safe exposure level is if a person has no natural immunity.

Ms. Tankel stated that she grew up in New Jersey near an Exxon plant. There was green foam in the water from dumping by companies nearby. Her friend died of lupus. Half of her graduating class has auto immune diseases. Ms. Tankel went on to say that tuna fish was thought to be safe, as were cigarettes and transfats. These are examples of what was once thought to be safe and has been found not safe. She feels she can't be safe in her own home until a study is done for people in her condition because she has no natural immune system.

Mr. Peter Brewster of 20 Laureldale Road stated that he was a mediator for the Fosters, residents of Longview. He stated that no fair notice was given to residents. Two weeks notification was given to both parties, but no notice was given to any others on the street. Mr. Brewster said he feels it's important to group together and asked for additional time to find out what is going on. He stated he has not been given enough time to do research. Mr. Brewster said that we need another meeting with the City Attorney as to what's going on. He stated T-Mobile said it's safe, but he believes it is in everybody's best interest to do research. He requested extending the stay of nine days for a few more weeks.

Vice Mayor Mullooly responded that the Council can't postpone the stay, and that she's here to listen. City Attorney Norm Book clarified that Council can call a special meeting, that Council can direct staff and request that T-Mobile postpone installation, but Council cannot take action.

Vice Mayor Mullooly stated that we do not have all the information; however, we can make some suggestions.

Mr. Brewster said he would like to share information at a reasonable timeframe to come to a reasonable solution.

Mr. Rod De La Rosa of T-Mobile stated he had an encroachment permit to install the antenna and amplifier. The utility pole is already there. They would use the existing telephone pole. They would just attach the antenna and amplifier. They have already talked with the neighbors about their position as well as studies that have been done. The work was supposed to start today.

Mr. De La Rosa stated that ten months ago T-Mobile submitted the application. T-Mobile agreed to delay the project another nine days. T-Mobile notified the adjacent neighbors two weeks in advance. On July 17th they did a bid walk and spoke to folks that were curious about the project. Mr. De La Rosa said on August 30th he spoke to the neighbors about the installation and information about health, which he feels was not well-received.

Councilmember Fannon asked what was the purpose of the cell site. Mr. De La Rosa answered that they wanted to provide the right coverage to folks in the area to receive and send calls, and that there currently was a drop in service. This new cell site will provide better coverage.

Councilmember Fannon asked if the installation was in the right-of-way. Mr. De La Rosa answered yes.

Councilmember Krolik asked whether other sites were looked at. Mr. De La Rosa said that with Hillsborough's hilly terrain the pole that is in the drawing is the best location for coverage.

Councilmember Krolik asked if open space was looked into. Mr. De La Rosa said that sites that do hand off to other sites take time to have to "talk" to each other within a network. They already looked at other open space locations and that there would be a drop in service. No other location will work within the network.

Councilmember Fannon asked if there was only one site in the Town of Hillsborough. Mr. De La Rosa answered yes. Councilmember Fannon asked if he could put it in an area where it doesn't affect anyone, and if there was any expertise besides T-Mobile available.

Mr. Rajat Mathur, an industrial consulting engineer with Hammett and Edison in Sonoma, studied the RF safety and measurements on behalf of T-Mobile and specifically looked to see that the site meets FCC guidelines. The site meets FCC guidelines at .0339. It is 2,000 times below the FCC standards. Mr. Mathur stated that it should be safe for all. There is no reliable scientific data that exists that others are more at risk. There are no verified health effects on exposed human beings. Mr. Mathur said he had not been informed that the resident had rheumatoid arthritis, but would look for any additional research related to the effects of RF frequency on those with this condition.

City Attorney Norm Book asked what was the assumption of the health of the people exposed to the radiation in the studies which have been conducted. Mr. Mathur responded that in the 70's and 80's researchers went through thousands of papers and came up with the standards. The measurement is 2,000 times below the standards, and 10,000 times below what researchers found to be safe.

Councilmember Fannon asked if there was specific research done on those suffering from rheumatoid arthritis. Mr. Mathur replied that he is not an expert in auto-immune disorders.

Councilmember Krolik stated that the FCC is not a health organization and the standards just mentioned were set twenty years ago.

City Attorney Book asked if there was information on those exposed for extended periods of time. Mr. Mathur responded that he could provide a list of those studies.

Councilmember Regan wanted to understand the geography and how far was the antenna going to be from the residents' homes. Mr. Mathur stated that Larry Friedberg's residence at the corner of the kitchen was 39 feet away.

City Attorney Book asked about the megahertz range. Mr. Mathur stated it was 1,950 megahertz. It's shown on Figure 1, the last one of the plans.

Councilmember Mullooly stated that there was a lot of information presented tonight that she didn't understand. Councilmember Mullooly said it seemed to her that the Town should consider a third party review.

Councilmember Regan said we should explore other cell sites that are more than thirty feet from properties. It should be moved to an alternate power pole and that we can't make a decision now. Councilmember Fannon also stated staff needed to work with T-Mobile in finding another location that will fit the community. We need to compromise and find a location that the community can live with as well as T-Mobile. Vice Mayor Mullooly directed staff to work with T-Mobile or a third party. Councilmember Regan stated that T-Mobile should consider other options. He asked counsel to advise Council of their options.

City Attorney Book said that he sympathized with the residents, but stated that federal legislation passed in 1996 does not permit the Town to disallow this type of installation if it complies with FCC regulations.

Councilmember Regan stated that other arrangements in Town could be a compromise.

Vice Mayor Mullooly stated she would like the research reviewed for this health condition. City Attorney Book stated that T-Mobile was probably not aware of any health problems when its application was filed.

Mr. Steve Ledoux, attorney for T-Mobile, stated that T-Mobile hired an independent expert and there is no doubt that they are within all safety requirements according to the FCC standards. The Town can choose to have their own independent study done and T-Mobile will reimburse the Town. The FCC has tightened and upgraded regulations with OSHA and the World Trade Organization. .000039 is infinitesimally small at this location. The mayor of Albany, a physicist, found no evidence that this small amount causes any harm. There are 25,000 reports out there. T-Mobile applied and waited patiently for this installation. Mr. Ledoux stated that T-Mobile will do an independent study post construction. The residents are demanding the service and he feels it's safe.

Councilmember Krolik asked if the site can be at the former water tank site at Crossroads Park. It's only a few blocks away. Mr. Ledoux responded that the topography and foliage can affect the reception. He stated that T-Mobile could look at it, but doesn't know if it will work. T-Mobile followed every procedure and did exactly what staff asked of them. The plans are on file with the Department of Public Works.

Mr. Ledoux stated radio and TV waves have been regulated since television was invented. There is a consensus that standards are very safe. There have been years of study and we have to rely on science.

Vice Mayor Mullooly directed staff to work with T-Mobile in finding an alternate location, and retaining a third party to determine whether the proposed T-Mobile installation conforms with FCC regulations, which T-Mobile offered to pay for.

City Attorney Book stated that it will take longer than nine days. Vice Mayor Mullooly requested that T-Mobile work with us and allow more time to make everyone happy. Mr. Ledoux stated the report will show that it's safe. There is no doubt that it is under the FCC standards. Hammett and Edison or another company can review it by the 20th. T-Mobile is not interested in a delay.

City Attorney Book asked if T-Mobile is willing to look into other sites. Mr. Ledoux stated he could speak to T-Mobile about that. He would have to check. Councilmember Regan added we should move it to a site without any health concerns. We should find another pole that accomplishes T-Mobile's goals. Councilmember Regan asked Director of Public Works Martha DeBry if a new application can be acted upon quickly. Ms. DeBry stated that the encroachment permit won't take too long, maybe a day or two for the encroachment permit, and two weeks notice to the neighbors.

Councilmember Regan asked if a notice is required for the open space. Ms. DeBry responded that no notice is required, but this area of Town does not have a lot of open space.

City Manager Tony Constantouros stated that to date Mr. Ledoux and T-Mobile worked cooperatively with the Town. He suggested the possibility of placing two sites in another location to accomplish the same outcome for T-Mobile.

Vice Mayor Mullooly directed staff to work with T-Mobile to determine possible alternate locations.

CITY COUNCIL ITEMS:

Councilmember Regan reported on the Financial Advisory Committee meeting. A list of \$22,000,000 in sewer and water projects has been prepared and raised affordability issues regarding effectively managing \$15 million in sewer and water

projects. FAC will request \$15,000,000 to \$22,000,000 in bonds. The Town of Hillsborough and Public Works will need additional staff for the backflow circumstance. Councilmember Regan said the Town will need additional people and an additional bond offering. Councilmember Regan commented that it's easy to overlook the sewer problem since it's in the ground.

Councilmember Krolik asked if an election is needed. Councilmember Regan answered no and stated that for the sewer and water departments the Council is the Board of Directors of the Hillsborough Public Improvement Corporation.

Vice Mayor Mullooly attended the JPA paramedic program. A consultant was hired to look at options. The JPA, fire department, and paramedics report to the AMR. They are looking at options that are cost-effective, and authorize the executive committee to enter into discussions regarding improvements to the ambulance program. The system works very well; however, it needs some further review.

Councilmember Regan brought up calendar items. Vice Mayor Mullooly will attend the September 23, 2005 Council of Cities Dinner/Meeting.

There were no comments regarding the monthly reports.

ADJOURN:

Vice Mayor Mullooly adjourned the meeting at 7:55 p.m.