

**MINUTES**  
**REGULAR CITY COUNCIL MEETING**  
**MONDAY, DECEMBER 12, 2005**

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

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

**MINUTES:** The minutes of the November 14, 2005 City Council meeting were approved with a few minor language changes from Councilmember Krolik.

**ELECTION OF MAYOR:** Councilmember Fannon nominated Thomas M. Kasten for Mayor. The nomination was seconded by Councilmember Krolik and was unanimous upon voice vote. Thomas M. Kasten was elected Mayor for a one-year term.

**ADMINISTRATION OF OATH OF OFFICE:** Mayor

The oath was administered to Thomas M. Kasten by Police Chief Matt O'Connor.

**ELECTION OF VICE MAYOR:** Councilmember Krolik nominated Catherine U. Mullooly for Vice Mayor. The nomination was seconded by Councilmember Regan and was unanimous upon voice vote. Catherine U. Mullooly was elected Vice Mayor for a one-year term.

**ADMINISTRATION OF OATH OF OFFICE:** Vice Mayor

The oath was administered to Catherine U. Mullooly by Fire Chief Bill Reilly.

**PRESENTATION:** Johnny Wilson, who swam between Alcatraz Island and the San Francisco shoreline, and three of his friends, who raised \$45,000 in pledges for the Hurricane Katrina victims, were recognized.

**CONSENT CALENDAR:**

On motion of Vice Mayor Mullooly, seconded by Councilmember Fannon, unanimous on voice vote, Consent Calendar Items 1 through 9 were approved.

1. MONTHLY CLAIMS: NOVEMBER 1 THROUGH NOVEMBER 30, 2005

The monthly claims for the month of November 2005 in the amount of \$3,476,210.64 were approved.

2. RESOLUTION AUTHORIZING COMPENSATION ADJUSTMENTS FOR UNREPRESENTED EMPLOYEES, PUBLIC WORKS/CLERICAL UNIT, IAFF FIRE UNIT

The resolution authorizing compensation adjustments for Unrepresented Employees, Public Works/Clerical Unit, IAFF Fire Unit and Fire Administrators was adopted.

3. RESOLUTION AUTHORIZING THE PURCHASE OF TWO REPLACEMENT PATROL POLICE VEHICLES, ONE ADMINISTRATIVE VEHICLE, AND ONE EXPEDITION SPECIAL SERVICE VEHICLE

The resolution authorizing the purchase of two black and white 2006 Crown Victoria units and one administrative 2006 Crown Victoria for the bid of \$68,907.88 from S&C Ford of San Francisco from the Vehicle Replacement Fund and one 2006 Expedition Special Service Vehicle for the bid amount of \$29,996.16 from S&C Ford, which would be funded through the SLESF Grant, was adopted.

4. RESOLUTION APPROVING THE CONTRACT WITH FERMIN SIERRA CONSTRUCTION, INC. FOR THE RECONSTRUCTION OF A DAMAGED STORM DRAIN LINE AT THE BELLEVUE/PEPPER INTERSECTION AND ALLOCATING UP TO \$10,000 FOR THE EMERGENCY REPAIR

The resolution approving the contract with Fermin Sierra Construction, Inc. for the reconstruction of a damaged storm drain line at the Bellevue/Pepper intersection, and allocating up to \$10,000 for the emergency repair, was adopted.

5. RESOLUTION APPROVING THE CONTRACT WITH PACIFIC TRENCHLESS, INC. FOR THE RECONSTRUCTION OF A DAMAGED SANITARY SEWER MAIN ADJACENT TO ROWAN TREE LANE AND ALLOCATING UP TO \$22,000 FOR THE EMERGENCY REPAIR

The resolution approving the contract with Pacific Trenchless, Inc. for the reconstruction of the damaged sanitary sewer main adjacent to Rowan Tree Lane, and allocating up to \$22,000 for the emergency repair, was adopted.

6. RESOLUTION AUTHORIZING \$100,000 TO FUND THE BACKFLOW DEVICE REIMBURSEMENT PROGRAM

The resolution authorizing \$100,000 to fund the backflow device reimbursement program was adopted.

7. RESOLUTION ACCEPTING AS COMPLETE THE SHADY CREEK RETAINING WALL/EROSION REPAIR PROJECT

The resolution accepting as complete the Shady Creek Retaining Wall/Erosion Repair Project, and authorizing staff to file a Notice of Completion for the project, was adopted.

8. RESOLUTION AUTHORIZING THE PURCHASE OF A FORKLIFT

The resolution allocating funds from the Water Fund and authorizing the purchase of one forklift from Pape Material Handling in the amount of \$21,623 was adopted.

9. RESOLUTION APPROVING THE CSG WORK ORDER FOR ENGINEERING DESIGN FOR THE UPGRADE OF THE SKYFARM AND TOURNAMENT PUMP STATIONS

The resolution approving the CSG work order for engineering design for the upgrade of the Skyfarm and Tournament Pump Stations in the total amount of \$128,800 and authorizing funds from the 2003 Water and Sewer Bond was adopted.

#### **NEW BUSINESS:**

10. PRESENTATION OF CONSULTANT'S REPORT PREPARED FOR THE HILLSBOROUGH CITIZEN'S TRUST: RESIDENTIAL ZONING STANDARDS

Ms. Maryellie Johnson stated that the Hillsborough Citizen's Trust (HCT), a group of Hillsborough residents concerned with large homes on small lots, contracted with the firm of Dyett & Bhatia to compare the Town's residential standards with other communities to protect Hillsborough's ambiance and rustic charm and to limit oversized homes. She stated that the intent of the Hillsborough Citizen's Trust was to provide an independent review and possibly offer some recommendations regarding Hillsborough residential zoning standards for the City Council to consider.

Mr. Michael Dyett of Dyett & Bhatia stated that the focus of the study was to review Hillsborough's zoning standards that control house size and the Town's approach to design review regarding height, coverage, setbacks and limits on floor area, to compare the Town's standards and procedures to similar communities, and to

suggest strategies for the Town to consider based on this analysis and Dyett & Bhatia's national experience with zoning.

He stated that the issues he studied were the height and massing of house sizes, setbacks in relation to the street and the differences between flat and upslope lots, the location of parking, and the design review process.

He stated that the study used the communities of Atherton, Ross and Woodside for comparison purposes. Two of the three have population densities similar to Hillsborough; only Woodside is significantly lower. There are 1,770 persons per square mile in Hillsborough vs. 1,480 in Atherton and 1,500 in Ross. Mr. Dyett said he found that all of the peer communities regulate house size. Two have a design review process. Atherton has "as-of-right" development for homes meeting specified standards.

Mr. Dyett stated that from his observations of the analysis he felt that Hillsborough was the least restrictive in terms of Floor Area Ratio (FAR) limits and other controls. Critical factors are front setbacks, particularly on upslope lots, height and massing, particularly on second and third stories, location of parking, and landscaping and screening.

He stated that his strategies to address house size includes reducing FAR limits to 0.20 for lots under 32,760 square feet, 0.18 net lot area between 32,761 square feet and one-acre, 0.12 for one to two acres, 0.10 for net lot area over two acres. His proposed plan would allow up to 10% "bonus" floor area if Council determines that the proposed design is evidence of architectural excellence; building and planting materials and finishes are compatible with and will enhance the character of the neighborhood; neighbors' privacy and views are protected; the home is setback at least 50% more than required from the front lot line (50 feet or more for upslope lots); garage entries are screened from view; and no significant adverse impacts on the environment would occur.

Mr. Dyett stated that his strategy to address house size would require Council approval of any home with more than 6,500 square feet of total covered floor area vs. 8,000 sq. ft. today, and reduce the building envelope size for upslope lots and require larger front setbacks. Mr. Dyett stated that he would like to establish more specific criteria for design review and require specific findings for approval, consistent with the General Plan and Residential Design Guidelines.

Mr. Dyett stated that the draft code amendments he proposes have a specific focus on FAR and the building envelope. He added that these are the minimal changes needed to achieve HCT's objectives and feels that they are consistent with the General Plan and Residential Design Guidelines.

Mr. Dyett stated that the potential steps for City Council would be to initiate a process for broader public review of HCT's proposals, refine HCT's proposals based on residents' input, and adopt amendments to the Municipal Code consistent with a consensus that emerges from the community consultation process.

Mr. Bob Waterman, who is part of HCT and has lived in Hillsborough for 35 years, stated that Hillsborough's zoning standards need improvement as the Town is a tempting target for developers. Ms. Johnson added that the report shows that Hillsborough's zoning laws are the least restrictive of the peer communities, which makes us attractive to developers. The ADRB needs the tools to protect the rural character of the Town.

Councilmember Fannon stated that a subcommittee looked at the Town's codes and standards five and ten years ago. The Town reviews the zoning codes periodically. He added that of the 4,000 homes, 86% of the community would be confined from building larger homes. Mr. Dyett replied that there is a 10% bonus, which would allow 3,800 sq ft to be increased to 4,200 sq ft. Homeowners would have a right to build a minimum size house.

Councilmember Fannon asked Mr. Dyett if he spoke to real estate agents regarding his proposal. Mr. Dyett stated that he has not talked to realtors yet. He added that he feels the reduction is not significant and that this is a starting point as HCT is very concerned about the smaller lots.

Councilmember Regan recommended that the Town create a committee, with the ADRB participating in choosing the new committee, consisting of a broad base of the Town's citizens. Of the options outlined in the staff report, Councilmember Krolik recommended Option 4 to form a citywide impartial resident committee to meet and discuss the report and return to the Council with recommendations.

Vice Mayor Mullooly agreed with Councilmember Regan's recommendation. She stated that Woodside is a larger area with ranches and is not comparable to Hillsborough. Hillsborough has been subdivided into smaller lots and that needs to be taken into consideration. 86% of the homes in Town are on one acre or less. We need to hear from the community. She stated that Ross discourages single story houses, but many of Hillsborough residents are opposed to second story homes. The Town must be careful about comparing Hillsborough to Ross. She agreed that the FAR issue needs to be addressed, but that the report was not complete. Vice Mayor Mullooly appreciated HCT's moving ahead with the study, but the Town needs to be more inclusive with a broader committee.

Mayor Kasten stated that he found some of the information presented in the report to be intriguing and some problematic. Woodside grants many exceptions, and the Town wants to avoid these. He opened the issue to comments from the public.

Mr. Stephen Benzian of 2426 Oakdale Road questioned whether the proposed changes were representative of the Town's view and if it is what the citizens want. He stated that the new regulations would be fairly restrictive on sloped lots and that the Town needs more information from residents.

Mr. Richard Reisman, a resident at 410 West Santa Inez and an ADRB member, stated that there is a complex array of issues presented. The Town could get a list of homes that are considered "McMansions". He added that there is a national trend for larger families and homes, and that the Town needs to be sensitive to this trend.

Mr. Reisman stated that the title of the report reflects the opinion of the group, but the Town needs to be sure of the accuracy of the research and recommendations. He added that the Town needs to compare itself to Burlingame and other neighboring cities.

Mr. Reisman stated that he looked forward to studying, reviewing, and contributing his input to the study. He added that developers are not the worst applicants the ADRB sees, and we must be careful not to give developers different rules to follow.

Mr. John Stewart, who has worked as an architect in Hillsborough for 25 years, stated that this is the third time this issue has come up. Atherton has no design review board. Woodside has a very schematic plan. With a 25 foot setback on upslope lots, most lots would be unbuildable and must be disclosed at the time of the sale as being unbuildable.

Mr. Sidney Liebes lived in Atherton before moving to Hillsborough and stated that he feels Atherton should not be used as a role model as it is being overwhelmed by large buildings. Hillsborough should not follow Atherton's standards.

Ms. Patricia Hsui of 2715 Ralston stated that she supported a lot of things in the report, but felt it would pit resident against resident. It would be important to open the dialogue with the citizens of Hillsborough to hear both sides. Lots of properties are less than an acre. She stated that houses have gone up that are awfully big. The Town needs more objective guidelines.

Councilmember Fannon recommended creating a citizens advisory committee. Mayor Kasten thanked everyone. He directed staff to provide a copy of the report to

the ADRB. Mayor Kasten will consider who will serve on a citywide impartial resident committee to meet and discuss the report, and return to Council with recommendations.

Mayor Kasten thanked Mr. Richard Reisman for his service on the ADRB. He stated that Mr. Reisman will be stepping down as Chair and will continue to serve on the ADRB for six months to assist with the transition. Mr. Walter Heyman has been appointed Chair of the ADRB. Mr. George Jewett and Ms. Jennifer Werbe agreed to serve a second term on the ADRB.

11. RESOLUTION APPROVING THE ISSUANCE AND FINANCING OPTION AND AUTHORIZING THE FINANCE DIRECTOR TO SIGN RELATED CONTRACTS FOR THE 2006 \$12M BONDS – WATER AND SEWER IMPROVEMENT PROJECTS

Finance Director Edna Masbad stated that the Public Works Department needs additional financing to continue the water and sewer Capital Improvement Program previously approved in 2001, as the remaining bond proceeds from the 2003 issue are projected to be spent.

She stated that the Public Works Director initially presented a “needs” assessment to the Financial Advisory Committee (FAC) at their September 2005 meeting. The FAC, at their subsequent meetings, approved for recommendation to Council, the issuance of \$12M in bonds to continue the Capital Improvement Program.

Ms. Masbad stated that staff also recommended seeking “request for proposals” (RFPs) for underwriting services, bond counsel, trustee, printer, remarketing agent, disclosure and liquidity facility counsel and other bond-related services. Staff has gone out for bids and the FAC subsequently approved utilizing the services of JP Morgan to underwrite the bonds and Holland and Knight to serve as bond counsel.

She stated that on November 30, 2005, JP Morgan presented to the FAC several financing options and approved for Council recommendation, 1) to issue \$12M variable bonds, enter into an interest rate contract to exchange the variable rates to a “68% of LIBOR” swap; and 3) further to enter into a “forward” swap to lock in current rates since the bonds are to be issued early next year. Council was presented excerpt reports from that presentation containing the summary of financing options whereby Option C-1 as discussed above, was being recommended for approval.

Mr. Josh Cooperman of the FAC provided further information and background to Council.

Ms. Masbad presented Council a letter from Mr. Richard Hiscocks of Orrick, the Town’s bond counsel for its previous bond issues, requesting Council to reconsider hiring his firm as bond counsel for the new issue, on which Council took no action.

Mr. Jay Benton, FAC Chairman, provided further explanation and an overview, and stated that the Public Works Department should be looking at a three to five year window for projects.

Councilmember Krolik asked what the Town’s bond history has been in the past. Ms. Masbad stated that \$30M in bonds have been issued in the past.

Councilmembers Krolik and Regan thanked everyone for all their help.

On motion of Councilmember Regan, seconded by Councilmember Fannon, and unanimous on voice vote, the resolution approving the issuance of \$12M variable bonds and entering into an interest rate contract for a fixed rate at “68% of LIBOR” forward swap and authorizing the Finance Director to sign bond-related consultant contracts for the 2006 \$12M Bonds – Water and Sewer Improvement projects, was adopted.

12. RESOLUTION APPROVING THE SWAP AGREEMENT FOR THE 2006 \$12M BONDS – WATER AND SEWER IMPROVEMENT PROJECTS

Finance Director Edna Masbad presented the resolution required to implement the swap transaction as discussed above.

Finance Director Edna Masbad stated that on November 30, 2005 JP Morgan presented to the Financial Advisory Committee several financing options, and approved for recommendation to Council, to issue \$12M “68% of LIBOR Swap-to-Fixed” bonds and further approved to enter into a “forward swap” to lock in current rates since the bonds are to be issued early next year.

Ms. Masbad stated that there were two changes to the resolution. “. . . and sewer system” should be added to the second paragraph after “municipal water”, and #2 on page 2 should read “Pursuant to Section 5922(a) of the California Government Code, this Town Council hereby finds and determines that the Swap is designed to reduce the amount of interest rate risk and result in an expected lower cost of borrowing when used in combination with the issuance of the Bonds.”

She stated that the swap agreements allowed the Town to enter into swap agreements with JP Morgan from a variable to a “forward 68% of LIBOR Swap-to-Fixed”. The rate is estimated at 3.62%.

On motion of Councilmember Regan, seconded by Councilmember Krolik, and unanimous on voice vote, the resolution to approve authorizing Town representatives to enter into a swap agreement and related documents for the 2006 \$12M Bonds – Water and Sewer Improvement Projects reflecting changes outlined above, was adopted.

13. RESOLUTION AWARDED A CONTRACT TO ICOMMM, INC. FOR MAINTENANCE MANAGEMENT SOFTWARE SYSTEM

Public Works Director Martha DeBry explained that this project involves the purchase and implementation of an ICOMMM, Inc. maintenance management software system for the Town’s wastewater collection system. The new system, the ICOM3 Management System, will serve a significant role in the Public Works Department’s efforts to implement a Sewer System Master Plan (SSMP), as mandated by the State Water Resources Control Board.

Ms. DeBry stated that the system would provide a robust platform for preventive maintenance scheduling, track sewer system overflows and help identify vulnerable locations in the wastewater collection network, provide analysis tools for risk assessment and capital improvement planning, interact with the Town’s GIS database, and enable staff to more rapidly locate and mitigate wastewater collection system failures in order to reduce the likelihood of damage to public and private property.

Ms. DeBry stated that the Town solicited eight bidders for the project. Six bidders provided product demonstrations, and only one bidder submitted a full proposal. ICOMMM, Inc. provided a proposal totaling \$36,500 for the first year and \$18,000 for subsequent years. She stated that as a fully hosted program, the ICOM3 Management System would require neither the purchase of a server nor any increase in computer support.

Mayor Kasten asked if the system could include the backwater protection program. Ms. DeBry replied that could be achieved and that in time the Town could use the system for the water flushing schedule.

Councilmember Krolik asked if any other towns were using the system. Ms. DeBry replied that Millbrae and Sausalito have been using the system and have found the system easy to use and helpful.

Mayor Kasten thanked Ms. DeBry. On motion of Councilmember Fannon, seconded by Vice Mayor Mullooly, and unanimous on voice vote, the resolution

awarding ICOMMM, Inc. the contract for providing a maintenance management software system for the wastewater collection system for one year in the amount of \$36,500 and authorizing funds from the 2003 Water and Sewer Bond was adopted.

14. RESOLUTION APPROVING THE FIRST AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY

Ms. DeBry stated that in 1982, Peninsula agencies formed a Joint Powers Authority (JPA) called the South Bayside Transfer Station Authority (SBTSA) to assist with the administration of refuse franchise agreements. The SBTSA was transformed into the South Bayside Waste Management Authority (SBWMA) effective December 9, 1999, when the JPA acquired ownership of the San Carlos Transfer Station and Recyclery through a bond issue. She added that Hillsborough is one of 12 local agencies in the SBWMA, which also includes the cities of Atherton, Belmont, Burlingame, East Palo Alto, Foster City, Menlo Park, Redwood City, San Carlos, San Mateo, West Bay Sanitary District and the County of San Mateo. She stated that all SBWMA members have individual franchise agreements with Allied Waste (formerly BFI) for solid waste, recyclable and plant material collection. Ms. DeBry stated that the SBWMA has a Board of Directors and that she has served as the Town's representative for the past nine years.

Ms. DeBry explained that since the acquisition of the transfer station, management of the SBWMA contracts with Allied Waste for the operation of the transfer station and for the disposal of waste at Ox Mountain has become a time intensive activity. She added that for that reason, the SBWMA Board voted to create a full-time Executive Director position and that recruitment for this position is underway.

Ms. DeBry stated that the SBWMA Board is recommending that member agencies approve the amendment to the Joint Powers Agreement to implement several changes. (A copy of the amendment was given to Council in their agenda packet.)

Ms. DeBry added that under the existing SBWMA JPA Agreement, Section 10.8, two-thirds of the governing bodies of the SBWMA agencies must vote in favor of the revisions to be implemented. To date two agencies have voted in favor of the amendment: Atherton and Foster City. The City of Belmont and the West Bay Sanitary District have voted against the revision, as they continue to lobby for elected officials to serve on the Board of Directors.

On motion of Vice Mayor Mullooly, seconded by Councilmember Fannon, and unanimous on voice vote, the resolution approving the First Amended and Restated Joint Exercise of Powers Agreement for the South Bayside Waste Management Authority was adopted.

15. ORDINANCE ADDING CHAPTER 15.32 TO THE HILLSBOROUGH MUNICIPAL CODE REGARDING WIRELESS COMMUNICATIONS FACILITIES AND AMENDING SECTIONS 2.12.070 AND 17.16.010 OF THE HILLSBOROUGH MUNICIPAL CODE – INTRODUCTION

Public Works Director Martha DeBry explained that this ordinance creates an application and permit process for the installation of wireless communications facilities in the Town. Recent experience with the location of a micro cell facility on Longview Drive demonstrated that the Town's informal procedure is not adequate to deal with the issues and that an ordinance setting forth the process with specificity will benefit everyone. The ordinance also amends two other sections of the municipal code to clarify that wireless communications facilities are a permitted use within the residence district and that ADRB review will be required for wireless communication facilities that are proposed for installation on private property.

She stated that the proposed Chapter 15.32 is carefully drawn to comply with federal law while taking into account the Town's unusual characteristics. Undergrounding of ancillary equipment is preferred and encouraged because of the rural nature of the Town. Ms. DeBry stated that the contents of the permit application, as set forth in the ordinance, are designed to encourage collocation.

Ms. DeBry stated that staff discussed a draft ordinance with Council at the November 14, 2005, meeting. Following that discussion, consultation with the Town's advisor, Mr. Jonathan Kramer, and additional review by staff has the ordinance now before the Council. Features of the proposed ordinance include a detailed review process that includes third party review of plans for FCC conformance both in project design and installation; noticing requirements and comment opportunity; a hierarchy of preferred sites, including collocation requirements and the option to locate on private property; design standards; and permit requirements and provisions for renewal, modification, and revocation.

Mayor Kasten asked if the design standards emphasize undergrounding the support equipment. Ms. DeBry replied that it is specified as a preference in the ordinance.

Mayor Kasten asked that if the wireless communications facility is not in use for a period of 90 or 120 days, instead of 180 days, could it be deemed abandoned. Assistant City Attorney Penny Greenberg stated that the ordinance could be changed to 90 days rather than 180 days.

Mayor Kasten asked if the permit renewal could be changed from five years to two years, since technology changes so quickly; boxes could be obsolete or could get smaller. Ms. DeBry stated that San Mateo County has a two year renewal and the County says it is an administrative burden and are considering changing the renewal to five years.

Mr. Larry Friedberg of 1870 Longview Road stated that there appears to be no language addressing the wireless cell sites located near homes on utility poles and suggested deleting item #9. Ms. Greenberg stated that this issue was discussed and that protective factors have been implemented in the ordinance and that #9 would be the least on the priority list as this gives the Town as much flexibility as possible.

Ms. Greenberg advised Council that after review with the City Attorney she is recommending that the following changes be made to the ordinance. The first and last lines of 15.32.100 would be changed to three years and three-year, rather than five. 15.32.110 A. 1. would be changed to "Change in" rather than "Increase in" and the last line of paragraph D of 15.32.110 would be changed to "maintenance or reconfiguration" rather than just reconfiguration. 15.32.120 A.2 and B.2 both would have added "(who shall be subject to all the provisions of this chapter)".

Vice Mayor Mullooly stated that the Town should review this ordinance in a year or so.

On motion of Vice Mayor Mullooly, seconded by Councilmember Fannon, and unanimous on voice vote, the ordinance adding Chapter 15.32 to the Hillsborough Municipal Code regarding wireless communications facilities as amended and amending Sections 2.12.070 and 17.16.010 of the Hillsborough Municipal Code was introduced, as amended by the suggestions of Mayor Kasten and changes made by Assistant City Attorney Greenberg, and the public hearing date was set for January 9, 2006.

16. ACCEPTANCE OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR) TOGETHER WITH THE INDEPENDENT PUBLIC ACCOUNTANT'S REPORT ON THE INTERNAL CONTROL FOR YEAR ENDED JUNE 30, 2005

Finance Director Edna Masbad stated that local ordinances and state statutes require that the Town publish a complete set of financial statements at the close of each fiscal year presented in conformity with generally accepted accounting principles (GAAP) and audited in accordance with generally accepted auditing standards (GAAS) by a firm of licensed certified public accountants. Pursuant to that requirement, the Town's CAFR, audited by Vavrinek, Trine, Day & Co., LLP, Pleasanton, CA, was submitted to Council.



Ms. Masbad stated that the Town has received an unqualified opinion on the financial statements. The report was presented and reviewed by the Financial Advisory Committee, which approved it for recommendation to Council for approval at the November 30, 2005 meeting.

Mayor Kasten thanked Ms. Masbad for her excellent audit report. On motion of Councilmember Regan, seconded by Vice Mayor Mullooly, and unanimous on voice vote, the Comprehensive Annual Financial Report together with the independent Public Accountant's report on the internal control for year ended June 30, 2005 was accepted.

#### **PUBLIC HEARING:**

17. POSTPONEMENT OF PUBLIC HEARING REGARDING AN ENCROACHMENT PERMIT REQUESTED BY HILLSBOROUGH CITY SCHOOL DISTRICT FOR THE REMOVAL OF EUCALYPTUS TREES ON RALSTON AVENUE

Public Works Director Martha DeBry announced that at their meeting of December 7, 2005, the Board of Trustees of the Hillsborough City School District (HCSD) directed their staff to postpone the encroachment permit application to the Town of Hillsborough for removal of 43 Eucalyptus trees located on the north side of Ralston Avenue at Crocker Middle School. The Board is requesting the postponement because it intends to engage in a more active community education process prior to determining the timing and scope of the project.

Ms. DeBry stated that HCSD has retained an urban forest consultant, Ralph Osterling, to further study the condition of the Eucalyptus trees. His report will provide more specific data regarding the condition of the trees to identify any immediate hazards. Should the report indicate a need to immediately remove some trees, HCSD has indicated that they may request an encroachment permit specifically to remove hazardous trees. Typically, such encroachment permits are issued administratively. However, given the public interest in this project, the Council can require a public hearing to afford an opportunity for public input and Council approval prior to the issuance of the permit unless there is an immediate danger. If an application is made to remove certain trees, the Town will require HCSD to post notice boards on the street to advise residents of the limited scope of work.

18. ORDINANCE AMENDING SECTIONS 13.20.030 AND 13.20.040 OF THE HILLSBOROUGH MUNICIPAL CODE TO INCREASE WATER CONNECTION CHARGES AND SERVICE RATES EFFECTIVE FOR BILLINGS AFTER JANUARY 1, 2006

Finance Director Edna Masbad explained that the Town's water rates have not changed since July 2004 due to the previous periods' healthy operations and the decrease in wholesale water rates starting April 2005. However, the consumption level has changed drastically during the last 15 months. Usage has gone down 14% during fiscal year 2004-2005 and the trend continues to the first quarter of fiscal year 2005-2006.

She stated that the Town's enterprise operations include fixed debt service costs to pay the debt issued to finance its extensive capital improvement program approved in 2001. Additionally, staff is seeking approval to issue additional debt in early 2006 to continue the program. Covenants covering these debts required a certain level of revenues to cover operating expenses and the debt service. In order to meet these legal requirements and to ensure that the Town maintains its credit ratings, it is necessary to request a water rate change to raise revenues as required. A 15% rate increase for water connection charges and service rates is requested to allow the Town to meet its legal obligations and to maintain its high credit ratings. Changes to the water connection charges and service rates require a modification of the Hillsborough Municipal Code.

Ms. Masbad stated that the new rates, if approved, would go into effect for billings after January 1, 2006. This ordinance was introduced at the November 14, 2005 Council meeting.

Mr. Jay Benton of the Financial Advisory Committee stated that a water bill insert discussing the rate change and a short discussion of the capital improvement program and its financing requirement was included in the November and December water billings. Vice Mayor Mullooly commented that the water bill insert was excellent and interesting.

Mayor Kasten opened the public hearing. There were no comments. The public hearing was closed. On motion of Councilmember Fannon, seconded by Councilmember Kroluk, and unanimous on voice vote, the ordinance amending Sections 13.20.030 and 13.20.040 of the Hillsborough Municipal Code to increase water connection charges and service rates effective January 1, 2006 was adopted.

19. RESOLUTION APPROVING THE 2005 URBAN WATER MANAGEMENT PLAN

Public Works Director Martha DeBry explained that State law requires that all urban water providers serving more than 3,000 customers submit a plan for management of water within their system to the Department of Water Resources. Hillsborough's first Urban Water Management Plan (UWMP) was prepared in 2001. The UWMP is a long-range planning document that provides data to regional water planning agencies, outlines the availability of water resources, projects water usage and describes conservation programs. UWMPs must be updated in years that end with "0" or "5". Hillsborough's UWMP has been updated in cooperation with the San Francisco Public Utilities Commission (SFPUC) and the Bay Area Water Supply and Conservation Agency (BAWSCA). This hearing and the previous hearing at the November 14, 2005 City Council meeting were noticed in accordance with State law, and the document has been available for review by the public.

Two updates to the UWMP were distributed to Council.

Mayor Kasten opened the public hearing. No comments were made. The public hearing was closed. On motion of Vice Mayor Mullooly, seconded by Councilmember Regan, unanimous on voice vote, the resolution approving the Urban Water Management Plan was adopted.

20. ORDINANCE AMENDING TITLE 6 OF THE HILLSBOROUGH MUNICIPAL CODE TO CONFORM TO THE DANGEROUS ANIMAL ORDINANCE REVISIONS ADOPTED BY THE COUNTY OF SAN MATEO

Police Chief Matt O'Connor explained that in September 2005 San Mateo County revised the County's Dangerous Animal Ordinance and forwarded it to all the cities in San Mateo County. The Town's dangerous animal ordinance is required to conform substantially to the County's ordinance and when the County amends its ordinance, the Town must do likewise. This ordinance was introduced at the November 14, 2005 City Council meeting.

Mayor Kasten opened the public hearing. There were no comments. The public hearing was closed. On motion of Vice Mayor Mullooly, seconded by Councilmember Fannon, unanimous on voice vote, the ordinance amending Title 6 of the Hillsborough Municipal Code to conform to the Dangerous Animal Ordinance revisions adopted by the County of San Mateo was adopted.

21. ORDINANCE AMENDING CHAPTER 8.32 (NOISE REGULATIONS) OF THE HILLSBOROUGH MUNICIPAL CODE FOR CLARITY AND SIMPLIFICATION

Assistant City Attorney Penny Greenberg stated that Chapter 8.32 sets forth the noise regulations of the Town. At a recent meeting of the City Council, there was some confusion about the specifics of the Town's noise regulations. Staff reviewed the current language of Chapter 8.32 and concluded that the existing provisions could be written more simply to make them easier to understand and enforce

without changing the substance of the regulations. The ordinance does that and also incorporates a few additional administrative and general plan clarifications.

Mayor Kasten opened the public hearing. There were no comments. The public hearing was closed. On motion of Councilmember Krolik, seconded by Vice Mayor Mullooly, unanimous on voice vote, the ordinance amending Chapter 8.32 (Noise Regulations) of the Hillsborough Municipal Code for clarity and simplification was adopted.

**PUBLIC COMMENT:**

There were no comments.

**CITY COUNCIL ITEMS:**

Councilmember Krolik thanked the Hillsborough Beautification Foundation for the beautiful “Light Up the Town” event and thanked the Town staff for accommodating the event indoors this year.

Vice Mayor Mullooly thanked members of the Fire Department for a job well done in saving the life of a gentleman suffering from a heart attack.

Mayor Kasten announced that he would attend the Council of Cities Dinner/Meeting on Friday, December 16, 2005. Mayor Kasten asked Council for input on candidates to fill vacancies in the City Selection Committee.

Mayor Kasten recognized the Sewer Department crew and Building Inspector John Mullins for receiving notes and words of appreciation.

**ADJOURN:**

Mayor Kasten adjourned the meeting at 9:55 p.m. in memory of Ms. Janet Pomeroy.