

MINUTES
REGULAR CITY COUNCIL MEETING
MONDAY, SEPTEMBER 8, 2008

Mayor Mullooly called the regular meeting to order at 6:04 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

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

MINUTES: The minutes of the August 11, 2008 City Council meeting were approved as submitted subject to one wording change. Councilmember Kasten corrected the first paragraph of Agenda Item 10 on page 2 to read "Councilmember Kasten recused himself because he serves on the appellant's charitable foundation."

The minutes of the August 21, 2008 Special City Council meeting were approved as submitted.

PRESENTATIONS:

- Hillsborough Little League All-Star Team, District 52, Certificates of Recognition for winning the 2008 District 52 Championship – Gordon Barrows, Brenden Barrows, Henry Caruso, Brock Cozad, Frankie Ferrari, Grant Goodman, Austin Marcus, Chris Mark, John Murray, Greg Pratt, Will Reilly and Andrew Segre

CONSENT CALENDAR:

Item 7 was removed for discussion. On motion of Councilmember Regan, seconded by Councilmember Kasten, and unanimous on voice vote, Consent Calendar items 1 through 6 and 8 through 11 were approved.

1. MONTHLY CLAIMS: AUGUST 1 THROUGH AUGUST 31, 2008

The monthly claims for the month of August 2008, in the amount of \$4,396,247.53 were approved as submitted.

2. RESOLUTION AMENDING AND RESTATING THE APPENDIX OF DESIGNATED POSITIONS FOR THE CONFLICT OF INTEREST CODE FOR THE TOWN OF HILLSBOROUGH

The resolution amending and restating the appendix of designated positions for the Town of Hillsborough's Conflict of Interest Code was adopted.

3. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH NAPHTALI H. KNOX, FAICP, FOR THE PREPARATION OF THE 2009 HOUSING ELEMENT IN AN AMOUNT NOT TO EXCEED \$62,000

The resolution authorizing the City Manager to execute a contract amendment with Naphtali H. Knox for the preparation of the 2009 Housing Element in an amount not to exceed \$62,000 was adopted.

4. RESOLUTION APPROVING THE EMERGENCY SEISMIC REPAIRS AND MODIFICATION WORK TO FIRE STATION 33

The resolution awarding emergency repairs and modification work to Fire Station 33 to Farallon Company and Alert Door Service, Inc. for a project total of \$35,477, with an appropriation of \$7,750.85 from the contingency fund to cover additional work and a five percent contingency reserve, was adopted.

5. RESOLUTION AUTHORIZING THE TERM LANGUAGE TO BE AMENDED TO THE JOINT POWERS AGREEMENT ESTABLISHING THE CENTRAL COUNTY FIRE DEPARTMENT

The resolution amending the “Term” language contained in the Central County Fire Department Joint Powers Agreement was adopted.

6. RESOLUTION ACCEPTING AS COMPLETE THE CONTRACT WITH CORRPRO WATERWORKS FOR THE CATHODIC PROTECTION REPLACEMENT PROJECT

The resolution accepting as complete the contract with Corrpro Waterworks, Inc. for the Cathodic Protection Replacement Project in the amount of \$64,642 was adopted.

7. RESOLUTION MAKING A DETERMINATION OF THE PROPERTY TAX EXCHANGE PURSUANT TO THE PROVISIONS OF CHAPTER 282, SECTION 50, PART 0.5, IMPLEMENTATION OF ARTICLE XIII A OF THE CALIFORNIA CONSTITUTION, COMMENCING WITH SECTION 95, DIVISION I, OF THE REVENUE AND TAXATION CODE

Councilmember Kasten asked Public Works Director Martha DeBry who would pay for the maintenance cost for the San Francisco Public Utility Commission (SFPUC) section of land at Skyline Boulevard. Ms. DeBry replied that the SFPUC would continue to maintain their section of land at Skyline Boulevard.

On motion of Councilmember Kasten, seconded by Vice Mayor Krolik, and unanimous on voice vote, the resolution making a determination of property tax exchange pursuant to the provisions of Chapter 282, Section 50, Part 0.5, Implementation of Article XIII A of the California Constitution, commencing with Section 95, Division I, of the Revenue and Taxation Code was adopted.

8. RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO ENTER INTO A CONTRACT WITH MANAGEMENT PARTNERS, INC. TO CONDUCT AN ORGANIZATIONAL AND MANAGEMENT ANALYSIS OF THE PUBLIC WORKS DEPARTMENT

The resolution authorizing the Public Works Director to enter into a contract with Management Partners, Inc. to conduct an organizational and management analysis of the Public Works Department was adopted.

9. RESOLUTION APPROVING SUBMISSION OF AN APPLICATION FOR GRANT FUNDS FROM THE HABITAT CONSERVATION FUND PROGRAM

The resolution approving submission of the application for grant funds from the Habitat Conservation Fund Program was adopted.

10. RESOLUTION ACCEPTING A \$49,300 GRANT FROM THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

The resolution accepting a \$49,300 grant from the California Department of Water Resources was adopted.

11. RESOLUTION APPROVING CSG WORK ORDERS FOR ENGINEERING SERVICES FOR THE 2008/2009 STREET REHABILITATION PROJECT, CHATEAU DRIVE REPAIR PROJECT, SUMMIT DRIVE WATER MAIN PROJECT, 2008 GUARDRAIL REPLACEMENT PROJECT, AND SHADY CREEK RETAINING WALL RECONSTRUCTION OVERSIGHT PROJECT

The resolution approving the CSG work orders in the total amount of \$238,840, and allocating \$149,510 from Measure A and Gas Tax and \$89,330 from the 2006 Bond proceeds, was adopted.

OLD BUSINESS:

12. UPDATE OF SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY'S (SBWMA'S) REQUEST FOR PROPOSAL (RFP) PROCESS FOR REFUSE COLLECTION AND SHOREWAY RECYCLING AND DISPOSAL CENTER (SRDC) OPERATIONS

Public Works Director Martha DeBry stated that following the receipt of the proposals by South Bayside Waste Management Authority (SBWMA) regarding refuse collection services, the Town of Hillsborough needs to determine how it intends to issue its next refuse franchise. She explained that Hillsborough established itself as an optional portion of the SBWMA's larger collection contract and, at this point, the Town can continue in the SBWMA's process or consider conducting a separate selection process for collection services.

Ms. DeBry reviewed the status of the SBWMA RFP process, discussed the recommendation of Norcal as the provider of refuse collections services, and proposed changes at the SRDC. She explained that RFPs were issued because of a decline in Allied Waste's customer service in recent years, Allied Waste's inability to offer new or innovative recycling programs to increase diversion rates, and Allied Waste's "cost plus" method of setting rates, which caused volatile changes in proposed rates.

Ms. DeBry stated that there were two RFPs distributed in November 2007 with responses received in March 2008. She explained that the responses were reviewed by a series of committees, including a technical committee of staff and consultants, and a committee with City Managers, Public Works Directors and Finance Directors. She added that under the RFP process, the SBWMA is not required to accept the low bid. She stated that the contract for operations of the SRDC would be awarded by the SBWMA, and the franchise for collection services would be awarded by each SBWMA member agency.

Ms. DeBry explained that the operation of the SRDC would require switching to new single-stream equipment for recyclables and the implementation of an organics program. Ms. DeBry stated that in order to implement this program, the Materials Recovery Facility (MRF) must be updated with new sorting equipment. She explained that modern sorting equipment can yield cleaner commodities with less residual waste than the existing MRF sort line. She added that this will result in higher recycling rates for all SWBWA communities.

Councilmember Regan asked Ms. DeBry to explain the single-stream recyclable system. Ms. DeBry explained that the single-stream recyclable system would allow residents to place all recyclables (paper, plastic, and glass) into one 90-gallon container.

Ms. DeBry stated that there was a short list of bidders under consideration, including Hudson Baylor and South Bay, who both proposed a reduction in operation costs. She stated that negotiations are underway with both bidders and that the successful bidder would be recommended to the SBWMA Board.

Ms. DeBry stated that because collection services in Hillsborough would include new service levels, including automated collection and weekly collection of recyclables and organics (food waste and yard waste), Hillsborough would need to negotiate the kind of vehicles used for collection services, tiered rates for rear/side yard collection, frequency of collection, and the scope of collection events.

Ms. DeBry stated that included in Allied Waste's responses to the RFP for collection was an "Alternate Proposal", which is contingent on Allied Waste's award of both the collection and operations contracts and continues the "cost plus" rate setting model. She stated that the "Alternate Proposal" does not clearly show that it provides a benefit and, therefore, is not a viable alternative.

Ms. DeBry stated at the August 28, 2008 meeting of the SBWMA, Norcal was recommended to the member agencies as the preferred contractor for collection of refuse, organics, and recyclable materials. She explained that Norcal scored the

highest in 4 out of 5 rating categories used to evaluate the responses to the SBWMA's RFP for collection services.

Ms. DeBry outlined the flow of recyclables and solid waste at the SRDC transfer station and recycling plant. Ms. DeBry stated that the process for a Master Plan started in 2006 and architects JR Miller and Associates presented their Master Plan to the SBWMA in April 2007. Ms. DeBry explained that 20,000 more tons of recyclables and 30,000 more tons of organics is projected by 2011 compared to 2006 figures, which will require more vehicles to move the additional recyclables and organics. She stated that the current transfer station has limited space for organics and recyclables, which makes it difficult to sort the materials.

Ms. DeBry stated that several alternatives were presented to the SBWMA Board as a means to implement single-stream recycling with the most viable choices being Option 1A, the retrofit of the existing facility, and Option 2, a new Materials Recovery Facility (MRF). She stated that the Board voted to pursue Option 2, which includes a new 72,000 square foot MRF, a remodeled transfer station, an education center, a new scale house, public recycling center, and a new bridge access.

Ms. DeBry stated that as of June 2008, the cost estimate doubled to \$53 million and the collection rate impact is estimated at 5.18%. She explained that the increased costs can be attributed to low planning estimates, an increase in materials cost (steel, concrete, and asphalt), an increase in sorting equipment cost, the requirement for extensive seismic work, and an inclusion of professional service costs (engineering, studies, landscaping, and signage).

Ms. DeBry stated that Allied Waste's conceptual retrofit plan is estimated at \$11 million, but does not achieve the same goals as the Master Plan. She explained that the retrofit plan would be more expensive to operate on a day-to-day basis and would require additional and substantial capital improvements in the future.

Councilmember Kasten stated that the Town must ensure that the new franchise agreement is advantageous to Hillsborough residents.

City Attorney Norm Book asked what the impetus for moving towards single-stream recycling was. Ms. DeBry replied that the diversion rate for recycling would increase with the single-stream recycling system.

Councilmember Regan asked what Hillsborough's share of the \$53 million cost would be. Ms. DeBry replied that Hillsborough's share would be just under \$1 million.

Ms. DeBry stated that she would return to the City Council meeting with additional information regarding the SBWMA's request for proposal process for refuse collection and Shoreway Recycling and Disposal Center operations.

Mayor Mullooly thanked Ms. DeBry.

13. RESOLUTION APPROVING ISSUANCE OF \$65,455,000 IN DEBT BY THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY (SBWMA) FOR THE IMPLEMENTATION OF THE SHOREWAY MASTERPLAN IMPROVEMENTS

Public Works Director Martha DeBry stated that the Shoreway Recycling and Disposal Center (SRDC) processes all waste materials collected in the SBWMA service area. She stated that the Master Plan included new single-stream recycling services, which will substantially increase recycled tonnage. She explained that in order to implement the changes, the SBWMA must issue new debt to rebuild the Materials Recycling Facility (MRF), build an addition to the Transfer Station, add new scale facilities, acquire sorting equipment, move the public drop-off area, and provide traffic improvements. She stated that the authorization for the issuance of a maximum of \$65,455,000 in debt will cover all expenses related to new construction and refinance the SBWMA's existing debt.

Ms. DeBry stated that Bank of America was selected to assist the SBWMA with bond financing. Ms. DeBry introduced Scott Nagleson of Bank of America. Mr. Nagleson stated that the plan of finance included funding for SRDC improvements and refunding 2000 bonds. He stated that in January 2009, Debt Issue Number 1 for \$13.97 million will be issued in tax exempt notes to refund 2000 bonds for a two-year term at a 3.85% interest rate. He stated that also in January 2009, Debt Issue Number 2 for \$49.5 million will be issued in tax exempt bonds to fund SRDC improvements for a 25-year term at a 5.75% interest rate. He stated that in January 2011, Debt Issue Number 3 for \$15.955 million will be issued in taxable bonds to refund tax exempt notes issued in 2009 for a 20-year term at a 7.75% taxable interest rate. He stated that the total debt would be \$65.455 million.

Mr. Nagleson stated that two-thirds of the SBWMA must approve the issuance of debt and that cost estimates will continue to be revised as the design of the SRDC is completed.

Councilmember Kasten asked Mr. Nagleson why Bank of America is recommending a taxable bond for \$15.955 million at 7.75% interest rate. Mr. Nagleson replied that the Bank of America tax counsel informed him that Debt Issue Number 3 would need to be a taxable bond.

City Attorney Norm Book asked if there was any cost for an early pay off. Mr. Nagleson replied that there would be a 1% prepayment penalty.

Councilmember Kasten asked Ms. DeBry if the collection rate would increase 15%. Ms. DeBry replied that SBWMA-wide the estimated increase would be approximately 5% for SRDC facility improvements and 10% for the new contractor services including weekly collection of organics and recyclables.

Councilmember Kasten asked if Bank of America looked at all assumptions for various scenarios. Mr. Nagleson replied that Bank of America has not looked at all assumptions for various scenarios. He added that in fall 2008, he would have newer numbers to provide the rating agencies.

Councilmember Regan asked Mr. Nagleson if he looked at all possible options for a tax exempt bond for the 2011 debt issue. Mr. Nagleson replied that he was not yet asked to look at all options. Councilmember Regan stated that Mr. Nagleson should look at other options besides the proposed 7.75% taxable bond.

Ms. DeBry stated that she would discuss the taxable bond with the SBWMA. Councilmember Regan stated that it would be preferable not to pay a 7.75% taxable interest rate.

Councilmember Kasten asked that if the 2000 bonds are retired, can the \$16 million be incorporated in a tax exempt bond. Mr. Nagleson replied that he would have the Bank of America tax counsel look into that.

Councilmember Kasten stated that he would like to see a full spreadsheet for the plan of finance and financial analysis for the Shoreway Capital Project and would like to have answers to the questions that were brought up this evening.

Mayor Mullooly asked if anyone from the public wished to speak. There were no comments.

Councilmember Regan asked Ms. DeBry to provide the City Council with additional options regarding the \$16 million bond issue at the October 13, 2008 City Council meeting. Ms. DeBry stated that she will provide the City Council with the requested information and that Kevin McCarthy, Executive Director of the SBWMA, was in attendance tonight and will discuss with the SBWMA the issues that were brought up by the Hillsborough City Council.

Councilmember Kasten stated that the Town should provide clear communication to the residents about the rate increase.

Mayor Mullooly thanked Ms. DeBry.

On motion of Councilmember Kasten, seconded by Vice Mayor Krolik, and unanimous on voice vote, the City Council held over the decision to adopt the resolution approving and directing the issuance of debt by the SBWMA in the maximum amount of \$65,455,000 for the implementation of the Shoreway Master Plan Improvements.

PUBLIC HEARING:

14. ORDINANCE AMENDING CHAPTERS 2.12, 17.04, 17.16, 17.20, 17.24, 17.36 AND 17.56 OF THE HILLSBOROUGH MUNICIPAL CODE – ADOPTION

Director of Building and Planning Liz Cullinan stated that this item was introduced at the August 11, 2008 City Council meeting. She stated that the ordinance amending Chapters 2.12, 17.04, 17.16, 17.20, 17.24, 17.36 and 17.56 of the Hillsborough Municipal Code included eleven changes relating to the role of the Architecture and Design Review Board (ADRB), public notification, second dwelling units, referral to ADRB, privacy, California Environmental Quality Act, nonconforming structures, increased setbacks for homes 8,000 square feet or greater, Fire and Building code requirements, landscaping review thresholds, and the “City Planner” title.

Mayor Mullooly thanked Ms. Cullinan.

Mayor Mullooly opened the public hearing. There were no comments. The public hearing was closed. On motion of Vice Mayor Krolik, seconded by Councilmember Regan, and unanimous on voice vote, the ordinance amending Chapters 2.12, 17.04, 17.16, 17.20, 17.24, 17.36 and 17.56 of the Hillsborough Municipal Code was adopted.

15. ORDINANCE AMENDMENT PREZONING PORTIONS OF SKYLINE BOULEVARD, HAYNE ROAD AND BLACK MOUNTAIN ROAD TO “RESIDENCE DISTRICT” (“RD”) – ADOPTION

Director of Building and Planning Liz Cullinan stated that this item was introduced at the August 11, 2008 City Council meeting. She stated that Town of Hillsborough, in cooperation with the County of San Mateo and the Local Agency Formation Commission (LAFCO), is proposing to annex portions of Skyline Boulevard, Hayne Road and Black Mountain Road from unincorporated San Mateo County into the Town of Hillsborough. She explained that the purpose of this annexation is to improve the traffic flow and backup at the Black Mountain / Hayne Road I-280 freeway off-ramp, improve traffic safety, and create a clear jurisdictional boundary between San Mateo County and the Town of Hillsborough.

Ms. Cullinan added that the area to be annexed is approximately 12.5 acres in size and includes approximately 2,000 feet of Black Mountain Road from Hayne Road to south of Denise Drive and approximately 3,500 feet of Skyline Boulevard from Hayne Road to Chateau Drive.

Councilmember Regan asked if the annexed area would be large enough to do anything with. Ms. Cullinan replied that the General Plan amendment designates the area as “Open Space” within the Hillsborough General Plan. She added that if, in the future, the Town finds another need for the area, the designation and zoning of the area could be changed with an ordinance amendment.

Councilmember Regan stated that the annexation would relieve the traffic backup for vehicles exiting Highway 280 at the Black Mountain / Hayne Road freeway off-ramp. City Engineer Cyrus Kianpour added that the traffic flow changes include adding a

separate right-turn lane, which would relieve traffic during the morning and evening peak traffic periods.

Mayor Mullooly thanked Ms. Cullinan.

Mayor Mullooly opened the public hearing. There were no comments. The public hearing was closed. On motion of Councilmember Kasten, seconded by Vice Mayor Krolik, and unanimous on voice vote, the ordinance amendment rezoning portions of Skyline Boulevard, Hayne Road and Black Mountain Road to “Resident District” was adopted.

DISCUSSION:

16. **DISCUSSION OF PROPOSED MODIFICATION TO ORDINANCE 13.32.110 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING “PROPERTY OWNER RESPONSIBILITY – SEWER LATERALS”**

Public Works Director Martha DeBry stated that the City Council should have received a different version of the redline copy of the ordinance.

Ms. DeBry stated that the proposed modification of Ordinance 13.32.110 “Property Owner Responsibility – Sewer Laterals” of the Hillsborough Municipal Code states the requirement to have a lateral inspected by video at the time of sale, which is consistent with current practice. She added that the modification gives broader discretion to the City Engineer to demand the repair or replacement of the private sewer lateral at the property owner's expense when any video inspection shows damage or defects. She explained that the video inspection of the lateral would occur at the time of sale of the property, in the event of a sanitary sewer overflow or when a scheduled inspection is completed by a Town contractor, either in the course of a capital project or Sewer System Master Plan inspection. Ms. DeBry stated that the Town's current ordinance does not provide the City Engineer with the ability to order repairs or replacement, except at the time of sale or when a nuisance is found.

Ms. DeBry stated that residents may incur substantial costs when instructed to repair or replace laterals as the replacement of a lateral commonly costs between \$5,000 and \$15,000.

Mayor Mullooly asked if it is necessary to have the sewer lateral videotaped prior to pipelining. Ms. DeBry responded that contractors usually videotape the sewer lateral to see the condition of the sewer pipe prior to pipelining.

Mayor Mullooly thanked Ms. DeBry.

PUBLIC COMMENT:

There were no public comments.

CITY COUNCIL ITEMS:

Mayor Mullooly announced that Burlingame School Board trustee, Marc Friedman, invited the Hillsborough City Council to the Burlingame School Board meeting on Tuesday, September 9, 2008, for input on the Board's potential purchase of the property located at Summit Drive and Easton Drive for use as the new Burlingame School District office. Mayor Mullooly stated that use of the property as the school district office could possibly impact Hillsborough residents with an increase in traffic.

Mayor Mullooly announced that the Council of Cities Dinner/Meeting will be held in the City of San Mateo on Friday, September 26, 2008. Councilmember Kasten announced that he would be attending.

Vice Mayor Krolik announced that Disaster Preparedness Day will be held on Saturday, September 13, 2008, from 10:00 a.m. to 2:00 p.m. at the San Mateo Event Center.

ADJOURN:

Mayor Mullooly adjourned the meeting at 8:07 p.m.