

APPROVED MINUTES  
REGULAR CITY COUNCIL MEETING  
MONDAY, JANUARY 10, 2011

Mayor Kasten 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, Benton, Krolik, Chuang, May

Mayor Kasten welcomed the new Councilmembers, Marie Chuang and Larry May, and asked them to lead the Pledge of Allegiance.

Mayor Kasten requested a moment of silence in honor of the victims of the tragedy in Arizona, Arizona Congresswoman Gabrielle Giffords, Christina Taylor Green, Dorothy Morris, Federal Judge John Roll, Phyllis Schneck, Dorwan Stoddard, and Gabe Zimmerman.

**MINUTES:** The minutes of the December 13, 2010 City Council meeting were approved as submitted subject to a few minor changes by Mayor Kasten.

Mayor Kasten announced that the City Council met in Closed Session to consider one potential litigation matter and authorized the City Manager to execute a tolling agreement.

On motion of Councilmember Krolik, seconded by Vice Mayor Benton, and unanimous on voice vote, Consent Calendar items 1 through 9 were approved.

**CONSENT CALENDAR:**

1. MONTHLY CLAIMS: DECEMBER 1 THROUGH DECEMBER 31, 2010

The monthly claims for the month of December 2010, in the amount of \$2,804,690.56 were approved as submitted.

2. QUARTERLY TREASURER'S REPORT

The Treasurer's Report for the quarter ending December 31, 2010, was approved.

3. QUARTERLY INTEREST RATE PRODUCTS (SWAP) REPORT

The Interest Rate Products Report for the quarter ending December 31, 2010, was accepted.

4. RESOLUTION MEMORIALIZING THE SALARY AND BENEFIT CHANGES FOR THE UNREPRESENTED EMPLOYEES

The resolution memorializing the salary and benefit changes for the Unrepresented Employees was adopted.

5. RESOLUTION APPROVING THE CSG WORK ORDERS FOR ENGINEERING SERVICES RELATED TO SCADA CONSTRUCTION MANAGEMENT, SPENCER LAKE DAM DESIGN SERVICES AND MONITORING, AND EL CERRITO/CRYSTAL SPRINGS AGENCY COLLABORATION SERVICES

The resolution approving the CSG work orders in the amount not-to-exceed \$97,635 and allocating funds from the Water Fund in the amount of \$35,450, the General Fund in the amount of \$19,485, and the Sewer Fund in the amount of \$42,700, was adopted.

6. RESOLUTION REQUESTING ADDITIONAL APPROPRIATIONS FOR THE STREET DEPARTMENT PROFESSIONAL SERVICES ACCOUNT IN THE AMOUNT OF \$50,000

The resolution appropriating an additional \$50,000 to the Street Department Professional Services Account for street repairs throughout the Town funded by the General Fund was adopted.

7. RESOLUTION APPROVING CONTINUATION OF THE CONSTRUCTION AND DEMOLITION RECYCLING PROGRAM COORDINATOR SERVICES

The resolution approving continuation of the Construction and Demolition Recycling Program Coordinator Services in an amount not-to-exceed \$50,000 annually was adopted.

8. RESOLUTION APPROVING AMENDMENTS TO THE SHOREWAY OPERATIONS AGREEMENT WITH SOUTH BAY RECYCLING

The resolution approving the amendment to the agreement between the South Bayside Waste Management Authority and South Bay Recycling was adopted.

9. RESOLUTION ALLOCATING UP TO \$30,000 FOR THE EMERGENCY REPAIR OF A FAILED STORM DRAIN AND SLOPE AT CARDIGAN AND AVONDALE ROADS

The resolution allocating up to \$30,000 for the emergency repair of the storm drains and slope adjacent to 1245 Cardigan Road and making findings for the same was adopted.

Mayor Kasten acknowledged Hillsborough employees for making concessions during these challenging financial times and for being flexible. He thanked them for their teamwork and collaboration.

**OLD BUSINESS:**

10. RESOLUTION APPROVING THE DROUGHT ALLOCATION PLAN AS PRESENTED BY THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

Mayor Kasten introduced former Councilmember John Fannon, who serves on the Bay Area Water Supply and Conservation Agency Board (BAWSCA).

Public Works Director Martha DeBry reported that BAWSCA developed a plan for the allocation of water supplied by the San Francisco Public Utilities Commission in the event of a drought. She explained that BAWSCA was required to develop this plan as part of the Water Supply Agreement that was adopted by all BAWSCA members, including the Town of Hillsborough. She stated that the plan provides a means of allocating water in the event of a 20% reduction in supply. She reported that the spreadsheet showing the cutback calculations for the Drought Implementation Plan was missing from the City Council agenda packet. Ms. DeBry stated that the spreadsheet would be provided to the City Council. She explained that all 27 members of BAWSCA must adopt the plan, or, if not adopted by all, the BAWSCA Board will set the percentages. She added that the plan was discussed at the August 9, 2010 City Council meeting and she stated that it was the best option for water allocation among the BAWSCA members. She reported that the plan would require that Hillsborough cut back water usage by 37.4% during a drought.

The Councilmembers, former Councilmember Fannon, City Attorney Norm Book, and Ms. DeBry discussed the Drought Implementation Plan.

Vice Mayor Benton asked Ms. DeBry if she expected any agency to object to the plan. Ms. DeBry replied that she expected the plan would be approved unanimously.

Ms. DeBry stated that the drought allocation plan could be brought back to the February 14, 2011 City Council meeting to allow the Councilmembers the opportunity to review the spreadsheet showing the allocations for each city.

City Manager Anthony Constantouros stated that the City Council could approve the plan, with the proviso that if the allocation calculations are not to the City Council's approval, the plan could be brought back to the February 14, 2011 City Council meeting.

On motion of Councilmember Krolik, seconded by Councilmember May, and unanimous on voice vote, the resolution approving the drought allocation plan as presented by BAWSCA was adopted, with the proviso that if the allocation calculations, which will be provided to the City Council, are not approved by each Councilmember, the drought allocation plan will be brought back to the February 14, 2011 City Council Meeting.

#### 11. 2011 RATE INCREASES FOR REFUSE SERVICE

Public Works Director Martha DeBry provided a Power Point presentation on the refuse rate increase. She reported that in 2010 there were no rate increases, but in 2009, there was an 8% increase in rates and backyard service increased to \$20 per month. She stated that the new franchise development process began in 2005, with the request for proposal (RFP) sent out in 2007, and the franchise with Recology was approved by the City Council in November 2009.

Ms. DeBry reviewed the original projections and explained that changes to the projections included the cost of the Transfer Station/Materials Recycling Facility (MRF), an approximate 3% impact on the rate as costs for equipment, building and financing was higher than originally anticipated. She stated that the alternative fuel vehicles, higher vehicle costs, and higher organics processing costs also accounted for the changes to the projections.

Ms. DeBry stated that the South Bayside Waste Management Authority (SBWMA) projected that a 32% increase is needed to pay all Recology expenses for 2011 and the 25% deficit with Republic (formerly Allied) for the 2010 service year. She explained that the SBWMA projection makes no assumptions about the Ox Mountain reserve held by the Town, does not account for revenue from backyard service or Attachment Q fees, and does not consider a multiple year rate.

Ms. DeBry stated that in 2009, the City Council was shown projections that the new weekly services from Recology would have an estimated 22% rate impact. She added that the RFP projections did not include the end of franchise costs for Republic.

Ms. DeBry reported that the current revenue needed is \$2,972,751, a \$130,000 increase (4.5%) from the projected costs from October 2009. She added that an adjustment may be possible in 2012 because the number of accounts could change and the consumer price indexes will be used to adjust fuel, labor, and other costs.

Ms. DeBry explained that one factor that has increased the cost was the cost of labor, which affects both Republic and Recology due to the new collective bargaining agreements and new collective bargaining units. She added that other factors include the introduction of the curbside household hazardous waste program in 2009, the purchase of green waste carts in 2010, the change in subscription levels, and the cost of organics processing.

Ms. DeBry reported that staff evaluated a multiple year rate and is proposing only the first year change because Republic's costs are not fully known at this time and the Town has up to one year to pay the deficit. She stated that the impact of residents' subscription migration and the total impact of rear/side yard fees and extra services fees are unknown at this time. She added that the Ox Mountain settlement can be used to offset the 2011 rate.

Ms. DeBry reviewed two rate options. She explained that Option A would have a significant increase in the first year (32%), a minor increase in the second year (1%), no increase in the third year, a payment for all costs in the years incurred, a surplus in

every year, and a per gallon cost of \$1.10 for year one and \$1.14 for year two and year three. She stated that Option B would have a significant increase in the first year (23%), a significant increase in the second year (14%), a minor increase in the third year, a payment for 2011 costs and the potential to defer some costs from year two to year three, a surplus in years four and five, and a per gallon cost of \$1.01 for year one, \$1.16 for year two and \$1.18 for year three.

Ms. DeBry reported that Attachment Q was included in the City Council agenda packet and specifies the costs for optional additional services, including backyard service, extra trash bags and tags, extra pickups, and cart cleaning. She stated that failure to adopt this schedule will affect the rate. She also stated that revenue from some optional services would go to the Town and recommended minor changes, including a backyard service minimum tier for 1-100 feet at \$21 per month and an overage bag charge of \$8 each.

Ms. DeBry stated that the next step would be to send out the Prop 218 notice which must be mailed 45 days in advance of the public hearing to set refuse rates. She recommended choosing Option B with a 23% increase in 2011, and setting the public hearing date for March 2011.

The Councilmembers, Ms. DeBry, and SBWMA's Finance Director Marshall Moran and SBWMA's Recycling Programs Manager Cliff Feldman discussed the rate increases, collective bargaining agreement, Ox Mountain settlement, rate options and Proposition 218 noticing requirements.

Mayor Kasten asked if anyone from the public wished to speak.

Hillsborough resident Josh Cooperman stated that he was a rate payer and a member of the Hillsborough Financial Advisory Committee. He reported that a year and a half ago, he attended meetings with the SBWMA to discuss lowering the cost of financing, but his ideas were rejected. He stated that Kevin McCarthy, Executive Director of the SBWMA, did not want to consider his suggestions for lowering the financing costs. Mr. Cooperman further stated that he has a problem with the structure of the SBWMA as the SBWMA manages contracts without any oversight and pays \$1.25 million in salaries with the Executive Director earning \$250,000 per year. He commented that he feels the agency is not looking after the rate payers. He added that the number of staff members has increased from seven to nine, the Office Manager earns \$125,000, and their new offices are quite large (more than ample) and larger than the City Manager's office.

Mr. Cooperman stated that the SBWMA is not looking at cost-savings which has resulted in the individual cities dealing with the increase in costs. He further stated that Ms. DeBry's earlier Power Point slide shows that the end result is an increase in financing costs which is symptomatic with the SBWMA's lack of accountability. He added that the costs have snowballed and asked how the rates are going to be next year. He stated that member agencies of the SBWMA are always playing catch up with the costs and, in essence, they are under the SBWMA's monopoly. He reported that the Town's City Council Subcommittee looked at this problem. He added that the SBWMA has \$1.5 million in overhead costs. He also reported that the SBWMA pays the City of San Carlos \$1 million per year for use of their streets as the Transfer Station/Materials Recycling Facility is located in San Carlos. He stated that the agreement with San Carlos should be looked at to see if the cost is justifiable. He further stated that there is no transparency to what the SBWMA does and how they help us. Mr. Cooperman urged the Town to be more proactive and thanked the City Council.

Councilmember Krolik stated that the bond financing is now costing us more than anticipated and that the SBWMA's lack of accuracy in their projections is troubling. She stated that world-respected financial expert, former Councilmember Paul Regan's and Mr. Cooperman's financing ideas were not taken into account, as it seems they were too complex for some to understand.

Mayor Kasten added that it was not just the SBWMA's lack of understanding of alternate financing options, but also the other member agencies of the SBWMA, and that everyone is now paying the price with higher financing costs. He stated that he is troubled by the inaccurate forecasting by the SBWMA.

The Councilmembers and Ms. DeBry further discussed the rate options. Vice Mayor Benton recommended distributing the Prop 218 notice with a proposed rate increase of 25%.

On motion of Councilmember Krolik, seconded by Vice Mayor Benton, and unanimous on voice vote, staff was authorized to distribute a Proposition 218 notice to propose a maximum rate increase of 25% and other fees as proposed in Attachment Q of the Recology franchise.

Councilmember Krolik asked why the former route drivers were no longer in Hillsborough. Recology's Regional Manager Mark Arsenault replied that as part of the transition through the labor agreement, the routes were bid by seniority, and, therefore, a lot of the drivers are new to the area.

### **NEW BUSINESS:**

#### **12. CITY COUNCIL WORKSHOP: SCHEDULE HALF-DAY SESSION**

City Manager Anthony Constantouros reported that last year the City Council held a half-day workshop to discuss topics related to the Town. He stated that his intent was to schedule another City Council Workshop in 2011. He added that the workshop could include topics from last year, such as budget issues.

Mayor Kasten stated that the City Council Workshop was a terrific idea and recommended that a list of potential dates be provided to the City Council.

Councilmember Krolik proposed holding the City Council Workshop on Saturday, March 12, 2011, which is the date of the Hillsborough Schools Foundation's Dinner/Dance and the usual date for the Hillsborough City School District Board of Trustees/Hillsborough City Council Study Session.

Mr. Constantouros stated that a list of potential dates would be provided to the City Council for consideration.

#### **13. RESOLUTION AUTHORIZING THE TOWN OF HILLSBOROUGH TO BECOME A MEMBER OF A COUNTYWIDE SUBREGION, AN ENTITY THAT WOULD LOCALLY ADMINISTER THE ASSOCIATION OF BAY AREA GOVERNMENT'S (ABAG'S) REGIONAL HOUSING NEEDS ALLOCATION (RHNA) PROCESS AND SUSTAINABLE COMMUNITIES STRATEGY (SCS)**

Director of Building and Planning Liz Cullinan provided a Power Point presentation on the Subregional Housing and Transportation Strategy. She stated that she was proposing that the Town of Hillsborough become a member of a countywide subregion to administer the Association of Bay Area Government's Regional Housing Needs Allocation (RHNA) process and to administer the regional Sustainable Communities Strategy to set greenhouse gas emission reduction targets for the region.

Ms. Cullinan provided background information on Senate Bill 375 (SB 375). She stated that SB 375, also known as California's Sustainable Communities Strategy and Climate Protection Act, became effective January 1, 2009, and calls for the integration of transportation, land use, and housing planning and establishes the reduction of greenhouse gas (GHG) emissions as one of the key goals for regional planning. She explained that the other key goals of SB 375 include the demonstration that there are areas within the region to house our population and to reduce vehicle miles traveled between jobs and housing.

Ms. Cullinan stated that the City/County Association of Governments for San Mateo County (C/CAG) is responsible for implementing SB 375 for the Bay Area. She reported that C/CAG will prepare an SCS to meet a State-determined regional GHG emission reduction target, if feasible, and, if not feasible, prepare an Alternative Planning Strategy (APS) if the SCS is unable to meet the regional target. She stated that C/CAG will also integrate ABAG's planning processes and RHNA, allow for subregional SCS/APS development, and develop a substantial public participation process.

Ms. Cullinan reviewed the benefits of forming a subregion which include greater autonomy and flexibility in developing programs and implementation strategies. She stated that members of the subregion will have the opportunity to exchange housing unit requirements. She reported that due to the longer planning period (2014 - 2022) and revised methodology, ABAG's regional housing needs projections will likely be higher than in past Housing Element cycles. She added that participating in sub-regional efforts could provide important opportunities for the Town to partner with its neighboring jurisdictions to meet countywide housing needs.

Ms. Cullinan reported that in 2006 and 2007, the Town worked with C/CAG and the San Mateo County Housing Department to facilitate the formation and operation of a subregion for San Mateo County. She added that the process was efficient and successful resulting in a "mutual aid" approach to addressing housing needs.

Ms. Cullinan stated that each member jurisdiction of a subregion must submit a resolution to ABAG requesting authority to administer the SCS/APS program through the formation of a subregion by March 16, 2011. She added that ABAG would then adopt a resolution approving the formation of the subregion.

Ms. Cullinan recommended approving the resolution authorizing Hillsborough to become a member of a countywide subregion, an entity that would locally administer ABAG's Regional Housing Needs Allocation Process as part of the regional Sustainable Communities Strategy.

Mayor Kasten stated that San Mateo County is the only county in California to create a subregion, and that Duane Bay, San Mateo County Housing Director, was instrumental in leading the way.

Councilmember May stated that he served on two Housing Element Steering Committees and stated that it was good to see a formalized subregion.

Mr. Bay stated that it was an honor to have the Town of Hillsborough as the first city to finish their Housing Element.

Mayor Kasten thanked Mr. Bay.

On motion of Vice Mayor Benton, seconded by Councilmember Chuang, and unanimous on voice vote, the resolution authorizing the Town of Hillsborough to become a member of a countywide subregion, an entity that would locally administer ABAG's Regional Housing Needs Allocation process as part of the regional Sustainable Communities Strategy, was adopted.

14. APPOINTMENT OF A TOWN REPRESENTATIVE TO THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY (BAWSCA) AND BAY AREA REGIONAL WATER SYSTEM FINANCING AUTHORITY (RFA)

Public Works Director Martha DeBry stated that since former Councilmember John Fannon's retirement from the City Council, a new appointment will be necessary to fill the vacancy to the Board of Directors of the Bay Area Water Supply and Conservation Agency and Bay Area Regional Water System Financing Authority. She requested that the City Council formally appoint a member as the Town's representative to the

Boards of BAWSCA and RFA for the remainder of the term through June 30, 2011. Mayor Kasten volunteered to serve on the Boards.

Councilmember Krolik stated that the City Council was fortunate that Mayor Kasten was willing to serve on the Boards of BAWSCA and RFA.

On motion of Vice Mayor Benton, seconded by Councilmember Krolik, and unanimous on voice vote, the appointment of Mayor Thomas Kasten as the Town's representative to the BAWSCA and RFA Boards until June 30, 2011, was approved.

## **DISCUSSION:**

### **15. WATER USE REPORT UPDATE**

Public Works Director Martha DeBry introduced Ed Cooney, Senior Program Analyst with CSG Consultants, Inc., to provide an update on the Water Use Report. Mr. Cooney provided a Power Point presentation on the Water Use Expansion Project. He reported that 150 residents received the bi-monthly Water Use Report through the original pilot program. He explained that the actual use was compared to the ideal (estimated) water budget and, as a result of this effort, resulted in a 24% reduction in water use by the participants in 2009. He stated that at the February 8, 2010 City Council meeting, the City Council approved the expansion of the reports to all residents in 2011.

Mr. Cooney stated that the Water Use Report will have a new format, better land and water use data by residential parcel, electronic access to reports, the land use data correction form, information, alerts, etc.

Mr. Cooney reported that approximately two-thirds of the Town's water is used outdoors and he provided a chart showing the volume in millions of gallons that were purchased from the San Francisco Public Utilities Commission for the years 2001 - 2009, and the percentage between indoor and outdoor water usage. He stated that 87% of residents are over their estimated water budget (based on the size and type of the irrigated area), but that 50% of residents are within their estimated water allotment in the event of a 20% mandatory rationing event.

Mr. Cooney stated that 69% of parcels are half an acre or greater and 13% of parcels are one acre or greater. He added that 40% of lots have 5,000 square feet or more of irrigated area and 22% have 10,000 square feet or more of irrigated area. Mr. Cooney reported that one-third of Hillsborough residents account for three-fourths of the Town's overuse of water.

Mr. Cooney stated that the Water Use Report shows residents their estimated ration allotment, as defined by the Hillsborough Municipal Code, whereby the formula uses the parcel size, number of occupants and severity of a drought. He explained that the report provides residents with an opportunity to understand their ration allotment before a major drought. He added that the first mailing of the Water Use Report will be in April 2011, with ongoing mailings (unless online access is requested by the resident). Mr. Cooney reported that there would also be resident outreach regarding the Water Use Report and that a Stanford University Department of Psychology study will survey the original participants about the Water Use Report.

The Councilmembers and Mr. Cooney discussed the Stanford study and the Water Use Report.

Vice Mayor Benton recommended revising the water rationing terminology in the Water Use Report to make it more precise and consistent.

Councilmember Krolik thanked Mr. Cooney.

**PUBLIC COMMENT:**

There were no comments.

**CITY COUNCIL ITEMS:**

Councilmember Krolik thanked the Public Works Department for beautifully handling the removal of a large tree branch that fell on her street during the recent storm.

Councilmember Krolik reported that all 20 cities attended the City Selection meeting on Wednesday, January 5, 2011. She stated that South San Francisco Councilmember Mark Addiego was chosen to serve on the Association of Bay Area Governments, Bay Conservation and Development Commission (ABAG/BCDC) representing the South Bay, and Menlo Park Councilmember Kelly Fergusson was chosen to represent the West Bay.

Councilmember May thanked Hillsborough Police Officer Matt Cory and the Hillsborough Police Department for quickly responding to the scene after he was attacked by two stray pit bulls while running in on Bromfield Way. Police Chief Matt O'Connor reported that the two dogs have been taken into custody and have been deemed dangerous animals with the owners facing fines.

Mayor Kasten announced that Rebecca Elliot, Regional Public Affairs Manager for the Peninsula Division's League of California Cities, is retiring. He stated that he will have a certificate prepared recognizing Ms. Elliot for her efforts, which will be presented to her at the Peninsula Division's meeting on Thursday, January 27, 2011.

Mayor Kasten announced that the Council of Cities Dinner/Meeting will be held in the City of Millbrae on Friday, January 28, 2011. He added that the San Mateo County City Selection Committee will be holding the election for the regional seats. Councilmembers May and Chuang announced that they would be attending.

Mayor Kasten stated that he would provide the Councilmembers with the updated list of the various boards and committees that the Councilmembers will be serving on. He thanked the Councilmembers for being willing to serve on these boards and committees.

**ADJOURN:**

Mayor Kasten adjourned the meeting at 8:43 p.m. in memory of Barbara Keller, wife of former Mayor John Keller.