

**MINUTES
CITY COUNCIL MEETING
MONDAY, FEBRUARY 11, 2013**

SPECIAL MEETING:

Mayor Benton called the special meeting to order at 5:00 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

ROLL CALL: Present: Benton, May, Chuang, Christianson, Royse

PUBLIC COMMENT:

There were no public comments.

PUBLIC ANNOUNCEMENT OF CLOSED SESSION ITEMS

ADJOURN TO CLOSED SESSION

CLOSED SESSION:

- **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**
(Subdivision (a) of Section 54956.9)

Name of case: Town of Hillsborough v. California Public Utilities Commission, et al.,
San Francisco Superior Court Action No. 512661

Name of case: Newpath Networks, LLC; Crown Castle NG West Inc. v. Town of
Hillsborough, San Mateo Superior Court Action No. CIV518695

Name of case: Jerrold Rosenblatt vs. City of Hillsborough, et al, United States District
Court for the District of California Civil Action No. C 12 5210

ADJOURN CLOSED SESSION

REGULAR MEETING:

Mayor Benton called the regular meeting to order at 6:05 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

REPORT FROM CLOSED SESSION: Mayor Benton reported out that there was nothing to report from the Closed Session.

ROLL CALL: Present: Benton, May, Chuang, Christianson, Royse

PLEDGE OF ALLEGIANCE

MINUTES: The minutes of the January 14, 2013 City Council meeting were approved as submitted.

INFORMATION:

1. WIRELESS COMMUNICATIONS FACILITIES AND THE TOWN'S AESTHETIC CHARACTER

Assistant City Manager Kathy Leroux stated that the Town's Wireless Ordinance was adopted in 2006, and since then there have been significant changes in state and federal laws. She reported that in September 2012, the City Council adopted a moratorium on the processing of all wireless communications facilities. She explained that the purpose of the moratorium is to update the Town's ordinance for consistency with current laws and to allow the community and staff an opportunity to study the issue of how to properly balance wireless needs, infrastructure impacts and community aesthetics, and then to develop a new Town ordinance to reflect that balance. She

stated that in order to develop these policies the City Council will conduct informational discussions during its regular City Council meetings scheduled also on March 11 and April 8, 2013, and that tonight will be the first of several discussions.

Ms. Leroux introduced Jonathan Kramer, the Town's special counsel for wireless matters, and she stated that Mr. Kramer was here to give a brief presentation. She stated that it is recommended that following the presentation the City Council receive public comment, and that Mr. Kramer will respond to issues at the end of public comment. She further stated that there is no action required by the City Council as this is an informational item.

Mr. Kramer provided a Power Point presentation on wireless communications facilities and the Town's aesthetic character. He reported that there have been significant changes in laws, regulations, court rulings, and federal guidance for wireless communications facilities since 2006, including state law changes to wireless site collocations, "significant gap" and "least intrusive means" analysis, and wireless siting rulings regarding the public right-of-way. He also reported that there have been court rulings regarding facial challenges to telecom and wireless ordinances, Federal Communications Commission (FCC) regulations requiring rapid processing of wireless site applications, and federal law changes to wireless site collocations. He stated that there are now upgrades from 2G (second generation) to 3G (third generation) and 4G (fourth generation) upgrades, WiMax and Wi-Fi integration, and changes to the physical configurations of wireless sites, especially in the public right-of-way.

Mr. Kramer explained that the Town adopted the wireless siting moratorium in September 2012 to allow the Town adequate time to carefully consider possible changes to Hillsborough Municipal Code Chapter 15.32 based on new laws, regulations, court rulings and technology. He pointed out that the Town cannot regulate on the basis of health concerns. He reported that the Town will seek input from residents at this meeting and also on March 11, 2013, will seek input from the wireless companies, and then the City Council will need to adopt updated wireless regulations for the Town. As a guide for residents, Mr. Kramer provided a list of questions regarding cell phone service, community aesthetics, and the Town's ordinance.

Mayor Benton asked what type of wireless communications facilities the contractor intends to install in Hillsborough. Mr. Kramer replied that the contractor intends to install 13 sites on existing telephone poles or on new "street light" poles, and also install wireless utility boxes in the Town's rights-of-way to provide enhanced cellular service.

Mayor Benton asked for comments from the public.

Hillsborough resident Lawrence Friedberg commented that the proposed project is a little bit of a nightmare and that he was trying to make an effort to bring logic to the situation. He stated that having a cell tower next to a property would have a deleterious impact and that it was incumbent upon everyone to take it to heart to address this concern. He asked for a copy of the map showing the 13 proposed locations. Ms. Leroux replied that she will provide Mr. Friedberg with a copy of the map. Mr. Friedberg asked how residents can get involved in the selection of the wireless communications facilities locations. Mr. Kramer replied that the locations that have been selected have not yet been approved. He reported that the contractor coming into Hillsborough to install the 13 sites is not a wireless company, but has a contract with Verizon. He stated that the proposed project is early in the application process and how the contractor's map of sites was created has not yet been determined. Mr. Friedberg asked how sufficient the coverage in Town is and asked about using a heat map to determine the wireless service in Hillsborough. Mr. Kramer replied that a heat map is not reliable to provide information on the cell service coverage in Hillsborough. Mr. Friedberg stated that there has got to be a third party that could assess the Town's cellular coverage.

Hillsborough resident David Weinberg stated that he has mini gaps in cell phone service in his home and close to zero service outside his home. He also stated that it was important for him to have wireless service inside and outside his home, but that it was also important to protect community aesthetics. Mr. Weinberg reported that he served

on the San Mateo County Grand Jury which studied each cities' wireless communications facilities ordinances and that he was impressed with the Town of Hillsborough's ability to manage wireless communications facilities information and collect fees for wireless facilities in Hillsborough.

Hillsborough resident Eric Zimits commented that cell phone service is not good in Hillsborough and that the Town does not need to do a big survey to find that out. He reported that he is a wireless industry analyst and investor. He stated that the Verizon plan is the right plan as it is the technological trend for smaller cell support with higher data rates and can be done aesthetically with proper planning.

City Manager Randy Schwartz reported that several residents posted messages on "Hillsborough Together" including a message from Stephen Benzian on February 6, 2013, "I would welcome improved cellular service in the town...it is currently very weak in our neighborhood.", a message from Gallant Chen on February 7, 2013, "I second that. Sometimes we get zero bars of coverage depending on where we are in our house."; a message from Sean Jiam three hours ago, "Sharing a map of the proposed locations of the wireless access points for those of you who may be concerned about the potential health impact of having one of these access points near your home.", and a message from Eric Tilenius two hours ago, who stated that he would like to see improved wireless coverage in Hillsborough and more data, and asked how residents can provide input. Mr. Schwartz also reported that an email was received from Sean Jiam at 5:54 p.m. this evening that stated that since he could not join the Town Hall meeting today due to conflicting work schedules, he wanted to state his objection to the current plan due to potential health concerns. Mr. Schwartz stated that Mr. Jiam attached an article titled "A Cellular Phone Tower on Ossining High School?", maps of the locations, and an article from the International Association of Fire Fighters on their position on the health effects from radio frequency/microwave radiation in fire department facilities from base stations for antennas and towers for the conduction of cell phone transmissions.

Mr. Kramer stated that the Town's hands are not tied, but constrained when it comes to governing the installation of wireless communications facilities in Hillsborough because of the new federal regulations.

Mr. Schwartz stated that there will be more public outreach through the Town's newsletter and other media for more input from residents.

The Councilmembers and Mr. Kramer discussed wireless site regulation and cellular coverage in Hillsborough.

Mayor Benton thanked those who spoke. He encouraged them to come back to the next City Council meeting and to bring their neighbors. He also thanked Mr. Kramer and stated that he looked forward to seeing him at next month's meeting.

CONSENT CALENDAR:

On motion of Vice Mayor May, seconded by Councilmember Christianson, and unanimous on voice vote, Consent Calendar item 2 was approved.

2. MONTHLY CLAIMS: JANUARY 1 THROUGH JANUARY 31, 2013

The monthly claims for January 2013 in the amount of \$3,138,650.96 were approved as submitted.

OLD BUSINESS:

3. PAVEMENT MANAGEMENT PROGRAM UPDATE REPORT PRESENTATION

Director of Public Works Paul Willis provided a Power Point presentation on the Pavement Management Program update report. He reported that Nichols Consulting Engineers performed an inventory of the Town's street system and updated the Town's

Pavement Management Program, which was certified by the Metropolitan Transportation Commission (MTC).

Mr. Willis defined pavement management as the practices of planning and programming, design, construction, maintenance, and rehabilitation of a pavement network with a goal of maximizing the value and service life of the pavement network. He explained that the Pavement Condition Index (PCI) is a universal rating standard of pavement condition based on the distress information collected from the condition survey, and is rated on a scale of 0 to 100. He reported that a brand new roadway would have a PCI rating of 100 and a completely failed roadway would have a PCI rating of 0. Mr. Willis provided a chart on the PCI for Bay Area jurisdictions for 2011 with Foster City at 81, Atherton at 79, Burlingame at 76, and Hillsborough at 72. He provided photos of several roadways in Hillsborough with PCI ratings of 93 to 19. Mr. Willis provided a diagram of a cross section of a road showing the water and gas mains, electricity and telephone cables, sewer line, manhole, roadway and curb. He also provided a graph of the PCI deterioration curb showing that preventative maintenance will extend the life of roadways by five years. He stated that preventative maintenance for a roadway with a 70 to 90 PCI could be slurry sealed at \$4 a square yard, rehabilitation for a roadway with a 50 to 70 PCI could be covered with a thin overlay at \$20 per square yard or \$35 per square yard for a thick overlay for a roadway with a PCI of 25 to 50, and a roadway with a PCI of 0 to 25 would require a surface reconstruction, which is the complete removal of the road, at \$120 per square yard.

Mr. Willis provided a chart on the process of implementing a Pavement Management System which includes network inventory, condition survey, PCI calculations, maintenance and rehabilitation history, decision tree, budget needs, and budget scenarios. He reviewed the functional classifications of the pavement network with arterial roads that connect high capacity urban roads to freeways such as Crystal Springs Road and Skyline Boulevard, collector roads that move traffic from arterials to residential roads such as Black Mountain Road, Chateau Drive, and Hayne Road, and residential roads such as Alberta Way, Darrell Road, and Fairway Circle. He reported that Hillsborough has 4.1 centerline miles of arterial roads, 35.1 centerline miles of collector roads, and 44.1 centerline miles of residential roads for a total of 83.3 centerline miles. He stated that the Town's projected PCI average is 72 for the year 2013. He reviewed the PCI network condition breakdown for the Town's roads.

Mr. Willis reviewed various budget scenarios through 2022 for the Town's roadways based on current funding levels, maintaining the current PCI, improving the PCI by 5, and budget needs for a PCI of 85. He provided charts showing the various budget scenarios.

Mr. Willis reported that the 2013 Street Resurfacing Project includes 10.7 lane miles of crack seals, 5.9 lanes miles of cape seals (slurry seals and micro-surfacing), and 6.3 lane miles of overlays, which would improve the Town's PCI from 72 to 76.

The Councilmembers and Mr. Willis further discussed the Pavement Management Program, the Town's roads and PCI rating.

Councilmember Royse requested ten-year summaries for each of the budget scenarios. Mr. Willis replied that he will provide that information to the Councilmembers.

Mayor Benton thanked Mr. Willis.

PUBLIC HEARING:

4. ORDINANCE AMENDING CHAPTER 12.04 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING STREET PRESERVATION - ADOPTION

Director of Public Works Paul Willis provided a Power Point presentation on street preservation. He stated that the purpose of this amendment was to improve the longevity and quality of roadway improvements within the Town and to preserve newly constructed and repaired roadways. He reported that the current Metropolitan

Transportation Commission (MTC) rating is “good” and can be improved with additional preservation policies to ensure the integrity of roadways and to preserve aesthetic values.

Mr. Willis stated that studies funded by public agencies show that utility cuts within a roadway result in a negative impact on the performance of pavement, a reduction in pavement lives by 15 to 50 percent, a reduction in the Pavement Condition Index (PCI) scores, an acceleration in pavement deterioration, an increase in structural damage and cracking, a reduction in pavement strengths in a zone from three to six feet on either side of the trench, and an economic impact based on an increased thickness of overlay to compensate for utility cuts. Mr. Willis provided a slide showing a Hillsborough road with a utility cut.

Mr. Willis stated that amending Chapter 12.04.130, Subsection A, of the Hillsborough Municipal Code regarding street preservation would not allow any excavation or cut when the street is overlaid with at least one inch of asphalt concrete at any time during the five years prior to the request, or overlaid with a slurry seal at any time during the two years prior to the request. He reported that Subsection B states that the City Engineer may grant exemptions to facilitate development on adjacent properties or provide emergency repairs to subsurface facilities, with exemption costs not limited to plan review, construction inspection, material testing, and any necessary bonding. He further reported that Subsection C states that for work not covered in Subsection A, a slurry seal in-lieu fee is required to cover the cost of a full roadway width slurry seal on that portion of the street affected by the permittee’s excavation.

Vice Mayor May asked if excavation projects are assessed for damage to the Town’s streets. Mr. Willis replied that as part of the Environmental Impact Report for excavation projects, potential roadway damage is calculated and a vehicle impact fee charged to restore any damaged roads.

The Councilmembers and Mr. Willis further discussed street preservation for Hillsborough.

Mayor Benton opened the public hearing.

Hillsborough resident David Weinberg asked if the weekly garbage pick-ups have increased the damage to the Town’s roads. Mr. Willis replied that that the garbage trucks do damage the roads, but that school buses cause more damage and that heavy vehicles also contribute to roadway damage.

Mayor Benton asked if there was any recourse to have Recology reimburse the Town for a portion of the road repairs. Finance Director Edna Masbad replied that the Town does not specifically charge an impact fee to Recology to mitigate costs associated with roads maintenance; however, the Town collects 10% in franchise fees from Recology that could cover these costs.

Mayor Benton closed the public hearing.

On motion of Vice Mayor May, seconded by Councilmember Chuang, and unanimous on voice vote, the ordinance amending Chapter 12.04 of the Hillsborough Municipal Code regarding street preservation was adopted.

Mayor Benton thanked Mr. Willis

5. RESOLUTION APPROVING A REVOCABLE ENCROACHMENT PERMIT APPLICATION FOR 1055 TOURNAMENT DRIVE

Director of Public Works Paul Willis provided a Power Point presentation on the revocable encroachment permit application for 1055 Tournament Drive. He reviewed the existing conditions of the driveway and provided a drawing of the plans for the outdoor fixtures in the right-of-way which include two columns at 24 inches wide by 24 inches deep by 62 inches high, a front pedestrian gate, and an iron fence at 3.5 feet tall

atop a 2.5 foot curb. He stated that the proposed outdoor fixtures will enhance safety, alleviate potential concentrated structural loading and seismic issues on the bridge, prevent vehicles from driving into the entry walkway, and is consistent with neighboring entry ways.

Mr. Willis provided photos of the existing driveway on the bridge and a partial site plan showing the right-of-way encroachment. He stated that design review and approval are required from the Planning Department prior to installation of the outdoor fixtures.

The Councilmembers and Mr. Willis discussed the revocable encroachment permit application for 1055 Tournament Drive.

Vice Mayor May asked if there was any comments received on the project. Mr. Willis replied that only one comment was received and that it was from the homeowner, Mr. Ottavio Rotondale.

Mayor Benton opened the public hearing and asked Mr. Rotondale if he had any comments.

Hillsborough resident Ottavio Rotondale stated that the outdoor fixtures will be an improvement and that it was designed by a licensed Civil Engineer. He explained that the whole intent for the project is to address a leak from the bridge to the house due to the aged membrane, improve the appearance of the house, and also improve safety.

Mayor Benton closed the public hearing.

On motion of Councilmember Chuang, seconded by Vice Mayor May, and unanimous on voice vote, the resolution approving the Revocable Encroachment Permit Application for 1055 Tournament Drive and the issuance of a permit upon the owner's execution of the agreement in the form attached to the resolution, was adopted.

6. CONSIDERATION OF THE 2012 GENERAL PLAN IMPLEMENTATION REPORT

Director of Building and Planning Liz Cullinan provided a Power Point presentation on the 2012 General Plan Implementation Report. She stated that she would be reporting on the key highlights of the 2012 General Plan activities, and will be asking for City Council consideration of the full report, receipt of public comments from any interested members of the public, and City Council acceptance of the report with any changes deemed appropriate.

Ms. Cullinan stated that as part of the 2009 Housing Element certification, the Town committed to conduct surveys of second unit applicants to demonstrate whether second units were available to lower income families versus individuals. She reported that in 2012, 27 percent of Hillsborough's second units approved were two or more bedrooms, and all of the units rented were indicated as available to low income households. She stated that low income households are households with an income of up to \$79,950 for a family of three and rent of up to \$1,905 for a two bedroom unit. She stated that none of the applicants returning the survey indicated an intent to charge more than \$1,500 per month.

Ms. Cullinan reported that the Town also participated in the Sustainable Communities Strategy and the Regional Housing Needs Allocation (RHNA) process, and that in December of 2013, the City Council adopted the resolution confirming participation in the San Mateo County Subregion and endorsing the Town's RHNA numbers of 91 new housing units for the 2014 and 2022 planning period, 70 of which would be within lower income categories.

Ms. Cullinan stated that during the current Housing Element cycle of 2007-2014, the Town is required to plan for the construction of 86 new housing units, 34 of which should be within lower income categories. She noted that there is a correction to the information on page 41 of the City Council agenda packet, or page 6 of the Annual Report, for Program 1-B1 which referenced the number of new units approved rather

than the net new number of units approved. She explained that the net new units indicated on the Power Point slide and draft report do not include homes demolished and replaced, but rather new units on vacant lots or second units only where they did not previously exist. She stated that the information in the City Council agenda packet should read that “During the calendar year 2012, the Town permitted 16 net new housing units, bringing the total net new housing units to 86 for the 2007-2014 Housing Element cycle. Of these 86, approximately 71 were second units.” She added that even with the corrected information, the Town’s goals remain in alignment with the Town’s activity.

Ms. Cullinan stated that as part of the 2009 Housing Element certification, the Town also committed to the State to prepare design guidelines for multi-family housing on private school properties. She reported that in 2012, a subcommittee of the Architecture and Design Review Board (ADRB) worked with staff to prepare draft design guidelines which reflect the Town's current design guidelines, and additionally require sufficient buffer areas such as additional setbacks, landscaping and fencing, and sensitivity towards lighting impacts, vehicles, and higher intensity uses. She explained that through a Permit to Operate, or an Amendment to a Permit to Operate, the City Council would continue to establish the parameters for density, circulation and parking. Ms. Cullinan reported that although the draft guidelines were put on hold pending the completion of the Nueva School's application for an amendment to the Master Plan, staff proposes to move forward with the guidelines during the first half of this calendar year since the formal Master Plan application was just submitted and waiting would substantially delay adoption of the guidelines.

Ms. Cullinan concluded by recommending that the City Council ask any questions of staff, open the public hearing and receive public comment, close the public hearing, and accept the 2012 General Plan Implementation Report.

Mayor Benton opened the public hearing. There were no comments. The public hearing was closed.

On motion of Councilmember Christianson, seconded by Mayor Benton, and unanimous on voice vote, the 2012 General Plan Implementation Report was accepted.

Mayor Benton thanked Ms. Cullinan.

PUBLIC COMMENT:

There were no public comments.

CITY COUNCIL ITEMS:

Mayor Benton announced that the Council of Cities Dinner/Meeting will be held on Friday, February 22, 2013, in the City of Daly City. Councilmember Royse announced that he would be attending. Mayor Benton stated that he will designate Councilmember Royse as his substitute to vote as several board seats will be elected on during the San Mateo County City Selection Committee election at the Friday, February 22, 2013 Council of Cities Dinner/Meeting.

Councilmember Christianson reported that she attended the SFO Airport Roundtable on Wednesday, February 6, 2013, and that Vice Mayor May and Councilmember Chuang were commended for their service on the SFO Airport Roundtable.

Vice Mayor May announced that the Hillsborough Concours d’Elegance will be held on Sunday, July 21, 2013.

Councilmember Chuang announced that she attended the first quarterly town-wide meeting of Hillsborough Neighborhood Network (HNN) on Monday, February 4, 2013, and she reported that 30 residents attended the meeting on Emergency Preparedness. She invited all the Councilmembers to attend the second quarterly town-wide HNN meeting scheduled for Wednesday, May 1, 2013, beginning at 7:00 p.m.

Mayor Benton announced that the Hillsborough City School District / Hillsborough City Council Study Session will be held on Friday, March 1, 2013, at the School District office and that Vice Mayor May will be teleconferencing the meeting.

Mayor Benton announced that the annual City Council workshop will be held at 8:30 a.m. on Friday, March 8, 2013, in the Town Hall Administrative Conference.

Mayor Benton announced that City Manager Randy Schwartz will be introduced to the Hillsborough City School District Superintendent, Hillsborough Schools Foundation Executive Director and President, Hillsborough Beautification Foundation Vice President, Burlingame Country Club General Manager and President, and others at a roundtable meeting scheduled for Wednesday, March 6, 2013.

ADJOURNMENT:

Mayor Benton adjourned the meeting at 8:04 p.m.