

**MINUTES
CITY COUNCIL MEETING
MONDAY, NOVEMBER 12, 2013**

SPECIAL MEETING:

Mayor Benton called the special meeting to order at 4:48 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:

- A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Section 54956(d)(2) of the California Government Code: One potential case

- B. PUBLIC EMPLOYEE APPOINTMENT
Title: Finance Director

Section 54957

- C. CONFERENCE WITH LABOR NEGOTIATOR
Section 54957.6

Agency Negotiator: Kristin Armbruster, Human Resources Specialist

Employee Organization: Police Unit - HPOA; Public Works Supervisors Unit - Teamsters Local 350; Public Works/Clerical - Teamsters Local 856; Unrepresented Employees - Police Chief, Police Captain, Police Lieutenant, Executive Assistant, Public Works Director, Public Works Superintendent, Management Analyst, Associate Civil Engineer, Planning and Building Director, Building Official, Associate Planner, Finance Director, Assistant Finance Director, City Manager, Assistant City Manager, City Clerk, Human Resources Specialist

ADJOURN CLOSED SESSION

REGULAR MEETING:

Mayor Benton called the regular meeting to order at 6:03 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

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

PLEDGE OF ALLEGIANCE

REPORT FROM CLOSED SESSION: Mayor Benton reported out that during the Closed Session, the Councilmembers had the opportunity to meet and speak with Jan Cooke, the top candidate for the Finance Director position. He announced that Ms. Cooke accepted the offer for the Finance Director position and will begin on Monday, December 2, 2013. Mayor Benton congratulated Ms. Cooke.

MINUTES: The minutes of the October 7, 2013 City Council meeting were approved as submitted with two changes from Mayor Benton. He stated that the wording referencing a public hearing for Agenda Item #7 should be removed as there was no public hearing for this

agenda item. He also corrected the second sentence in Agenda Item #12 to read “He reported that he attended recent board meetings and *reported that both Recology and South Bay Recycling are in negotiations with their respective labor unions regarding contracts which expire October 23, 2013.*”

PRESENTATION:

- Mayor Benton introduced Hillsborough Schools Foundation (HSF) President Mairin Macaluso. Ms. Macaluso introduced HSF Executive Director Cynthia Foster and HSF President Elect Laurel Miranda. She reported that HSF funding is responsible for 17% of the school district’s overall budget, and that this year HSF donated a record \$3.45 million to support continued excellence in education plus an additional \$50,000 for the 2013-2014 school year. She stated that with the community’s support, HSF provides the public schools with exceptional teachers, small class sizes, excellence in math and reading, and dedicated counselors. She reported that the school district is “Number One” in test scores for K-8 in California. Ms. Macaluso stated that more than 250 HSF volunteers came together to help raise funds for the School District. She announced that Pledge Day was Tuesday, November 5, 2013, and that \$2 million has been raised so far. She urged everyone to support the Hillsborough City School District. She announced that the HSF Dinner Dance and Auction will be held on March 8, 2014. She also announced that HSF is now accepting nominations for the Community Care and Citizen of the Year Awards. Mayor Benton thanked Ms. Macaluso, Ms. Foster and Ms. Miranda and wished them luck for the 2013-2014 campaign.
- Mayor Benton stated that the Central County Fire Department will present the winners of their Tenth Annual Fire Safety Poster Contest. Fire Inspector Julie Parenti stated that the fire department received 195 posters from students from North, South and West Schools. She announced the names of the winners of the poster contest and Fire Inspector Christine Reed presented the winners with certificates and t-shirts.

CONSENT CALENDAR:

Items 2 and 6 were removed for discussion. On motion of Vice Mayor May, seconded by Councilmember Christianson, and unanimous on voice vote, Consent Calendar items 1 and 3-5 were approved.

1. MONTHLY CLAIMS: OCTOBER 1 THROUGH OCTOBER 31, 2013

The monthly claims for the month of October 2013 in the amount of \$3,525,097.83 were approved as submitted.

2. RESOLUTION APPROVING AMENDMENT #2 TO THE FRANCHISE AGREEMENT BETWEEN THE TOWN OF HILLSBOROUGH AND RECOLOGY SAN MATEO COUNTY FOR RECYCLABLE MATERIALS, ORGANIC MATERIALS, AND SOLID WASTE COLLECTION SERVICES AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AMENDMENT

Councilmember Royse asked Finance Director Edna Masbad if the elimination of the Initial Missed Pick-Up Incentive/Disincentive and modification to the 90-Second Call Hold Time Disincentive would result in a diminished level of service. Ms. Masbad replied that she was assured that the elimination of the Initial Missed Pick-Up Incentive/Disincentive and modification to the 90-Second Call Hold Time Disincentive would not result in any drastic change to the service level.

Mayor Benton added that it was not worth spending money to audit these provisions which provide little or no value to the rate payers and Member Agencies.

On motion of Councilmember Royse, seconded by Councilmember Christianson, and unanimous on voice vote, the resolution approving Amendment #2 to the franchise agreement between the Town of Hillsborough and Recology San Mateo County for recyclable materials, organic materials, and solid waste collection services, and

authorizing the City Manager to execute the amendment on behalf of the Town was adopted.

3. RESOLUTION ESTABLISHING THE LOCAL APPOINTMENTS LIST FOR CALENDAR YEAR 2014

The resolution establishing the Local Appointments List for calendar year 2014 was adopted.

4. ORDINANCE DELETING SECTIONS 15.20.040 AND 15.20.050 AND AMENDING SECTIONS 9.88.030, 9.88.035, 9.88.040.C AND 9.88.040.E OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING FIREWORKS – ADOPTION

The ordinance deleting Sections 15.20.040 and 15.20.050 and amending Sections 9.88.030, 9.88.035, 9.88.040.C and 9.88.040.E of the Hillsborough Municipal Code relating to the prohibition of fireworks was adopted.

5. RESOLUTION ALLOCATING \$18,270 FROM THE SEWER FUND AND APPROVING THE PURCHASE OF A HYDRO-JETTER FROM WECO, INC.

The resolution approving the purchase of a hydro-jetter from WECO, Inc. in the amount of \$46,270, of which \$28,000 is to be allocated from Sewer Capital Outlay, Account Number 80.790.00, and the remaining \$18,270 to be allocated from the Sewer Fund was adopted.

6. RESOLUTION ACCEPTING AS COMPLETE THE CONTRACT WITH G. BORTOLOTTO & COMPANY, INC. FOR THE 2013 STREET RESURFACING PROJECT

Councilmember Chuang complimented Public Works Director Paul Willis on the Town's improved pavement rating with the Metropolitan Transportation Commission (MTC) and asked if the rating of 72 to 76 for the Town's roads will be maintained yearly. Mr. Willis replied that the 2013 MTC ratings will show up in September/October 2014 as the MTC rating shows up a year behind. He reported that the next street resurfacing project is scheduled for 2015.

Mayor Benton asked Mr. Willis if he was pleased with the street resurfacing done by G. Bortolotto & Company, Inc. Mr. Willis replied that he was very pleased with Bortolotto's work as the overall quality was good and he received positive comments from residents.

On motion of Councilmember Chuang, seconded by Councilmember Christianson, and unanimous on voice vote, the resolution accepting as complete the contract with G. Bortolotto & Company, Inc. for the 2013 Street Resurfacing Project in the amount of \$1,853,547.08, and authorizing staff to file a Notice of Completion for the project was adopted.

PUBLIC HEARING:

7. FUNDRAISING EVENT PERMIT APPLICATION 13-08 FOR CRYSTAL SPRINGS UPLANDS SCHOOL'S MADCAP 2014 ANNUAL FUNDRAISING AUCTION

City Clerk Miyuki Yokoyama stated that Crystal Springs Uplands School submitted a fundraising application for their Madcap 2014 Annual Fundraising Auction to be held on Saturday, March 1, 2014, from 6:00 p.m. to 11:00 p.m. in the Crystal Springs Uplands School's gymnasium located at 400 Uplands Drive.

Ms. Yokoyama stated that public notices have been sent to homeowners located within a 500-foot radius of the property and that no comments have been received. She added that staff recommends approval of the application subject to the restrictions and conditions of the Police, Fire and Building and Planning Departments.

Ms. Yokoyama stated that Charlene Hampton and Karen Sparks were available to answer questions about the event.

Ms. Sparks stated that she was a Crystal Springs Uplands School parent volunteer and appreciated the Town's support. She reported that the financial objective for the event is to raise funds for education and for teachers' growth opportunities. She introduced Ms. Hampton, who would be taking over the fundraising application process in the future, and also Gwendy Scampavia.

Mayor Benton asked how much the Madcap event raises for the school. Ms. Scampavia replied that the Madcap event raises \$250,000 to \$400,000 each year and that the funds are used for faculty and special student programs.

Mayor Benton wished Ms. Sparks and her colleagues much success with the Madcap 2014 Auction.

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

On motion of Vice Mayor May, seconded by Councilmember Chuang, and unanimous on voice vote, Fundraising Event Permit Application 13-08 for Crystal Springs Uplands School's Madcap 2014 Annual Fundraising Auction on Saturday, March 1, 2014, subject to the conditions recommended by staff was approved.

8. ORDINANCE ADDING SECTION 17.48.070 TO CHAPTER 17.48 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING PRIVATE SCHOOL SIGNS - ADOPTION

Interim Management Analyst Kevin Buchanan reported that the ordinance adding Section 17.48.070 to Chapter 17.48 of the Hillsborough Municipal Code regarding private school signs was introduced to the City Council on September 9, 2013, and that at that meeting, per a request from the Executive Director of Nueva School, the word "prominently" was added to Subsection 17.48.070.A, so that it reads "Private schools may post signs on campus that are not prominently visible from the street." He also stated that Subsection 17.48.070.B allows private schools to post one sign per year promoting a fundraising event that is visible from the street so long as the event is open to the public and follows size limitations.

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

On motion of Councilmember Christianson seconded by Councilmember Chuang, and unanimous on voice vote, the ordinance adding Section 17.48.070 to Chapter 17.48 of the Hillsborough Municipal Code regarding private school signs was adopted.

9. ORDINANCE AMENDING CHAPTERS 2.12 AND 17.16 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING THE DESIGN REVIEW PROCESS AND REQUIREMENTS FOR PRIVATE SCHOOLS - ADOPTION

Director of Building and Planning Liz Cullinan reported that the ordinance amending Chapters 2.12 and 17.16 of the Hillsborough Municipal Code regarding the design review process and requirements for private schools was introduced on September 9, 2013. She stated that the ordinance includes language changes to incorporate noise as a consideration for "buffer areas" in Section 17.16.030(B)(6)(b) and for language consistency as agreed to at the September 9, 2013 City Council meeting.

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

On motion of Vice Mayor May, seconded by Councilmember Royse, and unanimous on voice vote, the ordinance amending Chapters 2.12 and 17.16 of the Hillsborough

Municipal Code regarding the design review process and requirements for private schools was adopted.

10. ORDINANCE ADOPTING UPDATES AND AMENDMENTS TO TITLE 15 OF THE HILLSBOROUGH MUNICIPAL CODE RELATING TO BUILDING AND CONSTRUCTION AND FIRE AND LIFE SAFETY CODES - ADOPTION

Building Official Tim Anderson reported that the ordinance amending Title 15 of the Hillsborough Municipal Code relating to building and construction and fire and life safety codes was introduced at the October 7, 2013 City Council meeting.

Councilmember Royse recommended that staff continue to monitor future State energy codes as he was concerned that it will become too expensive for residents to comply with those codes.

The Councilmembers, Mr. Anderson and Director of Building and Planning Liz Cullinan discussed the new energy codes. Ms. Cullinan reported that it is the State's goal that all new homes are "zero net energy", but it is not mandatory at this time. She stated that the Town currently has a Climate Action Plan, and that during the next triennial construction code update, staff will monitor the implementation of the State's "zero net energy" goal to help make sure the resulting codes are feasible for new home improvements in Hillsborough.

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

On motion of Vice Mayor May, seconded by Councilmember Christianson, and unanimous on voice vote, the ordinance amending Title 15 of the Hillsborough Municipal Code relating to building and construction and fire and life safety codes was adopted.

NEW BUSINESS:

11. CITY MANAGER'S REPORT ON THE EUCALYPTUS TREE GROVE ON RALSTON AVENUE

City Manager Randy Schwartz reported that when he started working for the Town in the early part of 2013, he met with Hillsborough City School District Superintendent Anthony Ranii to talk about the areas of commonality. He stated that they discussed the history of eucalyptus trees on Ralston Avenue and identified the need to have the trees reassessed. He further stated that he contacted Kevin Kielty, an independent arborist who has worked for many cities on the Peninsula and has previously evaluated the Ralston Avenue eucalyptus trees. He reported that the tree analysis, submitted on October 14, 2013, shows a total of 52 trees in the grove, and of the 52 trees, none are in good or excellent condition, 41 are in fair condition, 11 are in poor condition, and all of the trees are in a state of decline.

Mr. Schwartz stated that the health and safety impacts of the grove are significant due to the proximity to a heavily used roadway. He further stated that the Town and District understand the importance of the grove to the Hillsborough community and wish to retain the area as a well tree-lined roadway in perpetuity. He reported that last week, he and Superintendent Ranii met with a Hillsborough Beautification Foundation (HBF) representative to discuss the condition of the trees, potential safety impacts, the interests of the community, and a process for public discussion. He stated that the City Council will be discussing the topic tonight and that the School Board will discuss the topic at their meeting tomorrow.

Mr. Schwartz stated the City Council and School Board will be asked if they are interested in forming a subcommittee to work with staff, HBF and the public to create a general vision for the grove, seek public comment and develop an action plan.

Mayor Benton asked Mr. Schwartz if he had any recommendation for the tree grove. Mr. Schwartz replied that if no action is taking in the next few years, the trees will all

reach the end of their life spans at approximately the same time and the Town would need to clear cut the area. He would rather take a proactive approach and look at options for the next year or two to keep a well-forested avenue.

Councilmember Royse agreed that the Town should look at options to keep a well-forested avenue, and he volunteered to serve on the subcommittee. He suggested adding a bike path at the same time.

Vice Mayor May stated that he and Councilmember Christianson were both on the School Board when the eucalyptus trees were a topic and that it was much appreciated to have fresh eyes on the subcommittee.

Councilmember Chuang also agreed that the tree-lined avenue should be kept and offered to serve as an additional subcommittee member or alternate.

Councilmember Christianson asked if there was any immediate need to do something about any of the 11 trees that are in poor condition. Mr. Schwartz replied that a few of the trees with ratings in the 30s are in need of immediate action, but the other trees can be included in the overall plan.

Mayor Benton recommended that staff provide a timeline by June 2014. Mr. Schwartz stated that he should have a timeline well before June 2014. He further stated that he would like to see staggered plantings and removal of the trees over time to ensure that the area will not be bare and to maintain the character of the Town.

Vice Mayor May stated that the trees can only be removed during certain times of the year because of raptor nesting.

Councilmember Christianson stated that she was very much in favor of keeping the beauty of Ralston Avenue, but any threat from the trees in poor condition must be kept in mind.

Mayor Benton asked Mr. Schwartz what HBF's thoughts were on the eucalyptus tree grove. Mr. Schwartz replied that HBF understands the safety impact from the eucalyptus trees and will assist with the action plan for the tree grove.

Mayor Benton thanked Mr. Schwartz.

12. RESOLUTION AWARDING THE SEWER REPAIR PROJECT TO EPS, INC. (DBA EXPRESS PLUMBING)

Public Works Director Paul Willis provided a Power Point presentation on the Grade 4 and Grade 5 Point Repair Project bid award. He stated that he would provide a quick and brief background on the sewer repair project, which was included in last year's Capital Improvement Plan. He explained that sanitary sewers are rated on a score of 1 to 5, and a low number is good while a 5 means that a sewer pipe has failed or will likely to fail. He provided a chart showing the grade, description and estimated time for failure, and reported that most of the Town's sewer pipes are Grade 3, which is fair to moderate condition.

Mr. Willis provided an index map showing the approximate point repair locations throughout Hillsborough. In summary, he reported that the project includes repair of 87 sewer mains, 16 Grade 5 point repairs, 80 Grade 4 point repairs, 3.75 miles of main cleaning, and 1.65 miles of video inspection.

Mr. Willis provided a slide of the Town's webpage showing the various projects, bid dates, engineer's estimate and bid package cost, so that prospective bidders can determine if they can bid on a project. He stated that there were 14 plan holders who purchased plans for this project through the Town's website. He reported that 12 contractors were contacted by email and by a follow up phone call prior to the bid opening. He added that the project was advertised in the San Mateo County Times for

three days per week for four weeks. He stated that only one bid was received from EPS, Inc. (Express Plumbing) with a bid amount of \$422,348.

Mr. Willis reported that EPS, Inc.'s bid was evaluated and compared with a 2011 bid by J. Howard Engineering in the amount of \$483,926, which was \$2,072 per point repair (based on comparing 76 locations), \$2.53 per foot for cleaning, and \$2.37 per foot for video inspection. He stated that EPS, Inc.'s bid is \$3,125 per point repair, but only \$1.07 per foot for cleaning and \$1.00 per foot for video inspection. He explained that the project includes 87 smaller projects providing an economy of scale. He also reported that the emergency bid on August 27, 2013, for 140 Stonehedge Road had a cost of \$4,900 per point repair and \$5.00 per foot for video inspection.

Mr. Willis stated that staff learned from post bid outreach that the project size was too small for general engineering contractors because they prefer single larger projects rather than 87 smaller projects, and also that the previous contractor from 2011 was too busy to take on additional work.

Mr. Willis recommended awarding the contract for the Grade 4 and Grade 5 Point Repair Project to EPS, Inc. in the \$422,348 with a 10% contingency for a total amount of \$464,582.80. He stated that the City Council has the alternative to reject all bids and direct staff to rebid the project at a later date.

Councilmember Christianson asked if the bid amount was under the engineer's estimate. Mr. Willis replied that the bid amount was under the engineer's estimate of \$425,000. Councilmember Christianson asked if Mr. Willis worked with EPS, Inc. in the past. Mr. Willis replied that he has worked with EPS, Inc. in the past and has had no issues with EPS to date.

On motion of Councilmember Christianson, seconded by Councilmember Chuang, and unanimous on voice vote, the resolution awarding the Grade 4 and 5 Point Repair Project to EPS, Inc. (dba Express Plumbing) in the amount of \$422,348.00, allocating funds from Sewer System Repairs – Point Repairs, CIP #603.47, and authorizing the City Manager to execute the contract on behalf of the Town and to approve a 10% contingency, if needed, was adopted.

DISCUSSION:

13. STATUS OF DISCUSSION ON TAX EXEMPT LAND USE IMPACTS

Interim Management Analyst Kevin Buchanan commented that this presentation on tax exempt land use impacts does not refer to any specific project or development with the Town of Hillsborough and is meant to speak generally to the concepts of property taxes and nonprofits. He provided a Power Point presentation and stated that at the City Council's goal setting session held on March 8, 2013, the City Council wanted staff to study whether tax exempt organizations should compensate local jurisdictions for service impacts. He further stated that one of the goals from the 2013-2014 Adopted Budget was to review community cost recovery. He added that Hillsborough staff met with Nueva School and Crystal Springs Uplands School to give them advanced notice that this topic would be presented at tonight's City Council meeting.

Mr. Buchanan stated that there are two ways to look at the issue of nonprofits and property taxes. He explained that there are two competing views about nonprofits as one camp believes that it is only fair to expect exempt property owners to make some contribution towards the cost of municipal services they consume, and the other camp believes that nonprofits have tax exemption for a reason – they provide a service to the community that lessens the burden on government.

Mr. Buchanan stated that property taxes are the single largest source of revenue for Hillsborough and that while property taxes are approximately 1% of the assessed value of a property, Hillsborough gets only 17% of that. He reported that 57% of the Town's General Fund comes from property taxes. He stated that of the 4,187 parcels in Hillsborough, 68 are tax exempt (11.7% by acreage), and of the 68, 59 are Town owned.

Mr. Buchanan reported that private schools must have a minimum of 7 acres. He stated that there are 27 properties larger than 7 acres in Hillsborough, of which fifteen are Town owned, 2 are public schools, 2 are private schools, 4 are owned by the golf course, and 4 are private residences. He stated that adjacent parcels could be purchased and combined to create a single lot of 7 acres or greater.

As an example of the revenue to the Town, Mr. Buchanan reported that a property valued at \$3,000,000 would have a property tax payment of \$30,000 and Hillsborough's tax portion would be \$5,100. As another example, he reported that a property valued at \$40,000,000 would have a property tax payment of \$400,000 and Hillsborough's tax portion would be \$68,000. He stated that if the properties were converted to a tax exempt status the Town's revenue would be zero.

Mr. Buchanan explained that using a working draft from an Urban Economics consultant, if a school has 300 students, it is estimated that each student would use about \$400 per year in core public services, and a property of 9 acres would be using about \$120,000 in public services. However, he stated that the 17% of property taxes would not cover all the public services being used, and that it would actually take about .0044% of the land value to cover the cost of public services. He stated that if a private residence is sold and the property becomes tax exempt the demand on public service increases while property tax dollars would decrease.

Mr. Buchanan reported that a potential option for the Town is to require Payment In Lieu of Tax (PILOT), where payment is negotiated and rates would be based on a variety of factors, such as property size and service impact. He reported that at least 210 jurisdictions in 28 states have used PILOTS since 2000. He stated that another option is Service In Lieu of Tax (SILOT) where the use of school facilities or school assistance to reduce the impacts on Town service is negotiated. As examples, he explained that a school could offer use of fields or change the class start time to reduce traffic congestion.

Mr. Buchanan reiterated that this information was not meant to refer to any specific development projects. He added that this information is for information only and no action is to be taken tonight. He stated that the next steps were to consider community input, receive the staff report and provide guidance as desired, and consider a City Council subcommittee.

The Councilmembers, Mr. Buchanan and Mr. Schwartz discussed the tax exempt land use impacts.

Vice Mayor May stated that the City of Belmont negotiated a substantial dollar amount for public services when Crystal Springs Uplands School proposed building a Belmont campus.

Councilmember Royse recommended having the Financial Advisory Committee (FAC) provide input on the establishment of the Town's compensation for public services from local nonprofits.

Vice Mayor May stated that what is legally required would set the threshold for setting rates for compensation for public services.

Councilmember Chuang asked how Mr. Buchanan came up with the core services numbers for his presentation. Mr. Buchanan replied that his data came from a report issued by an Urban Economics consultant and that the data was specific to Hillsborough. He explained that the consultant's methodology was to take the number of police calls divided by the population. He added that similar formulas were applied to Public Works and Fire to come up with the dollar amount per year for core services.

Mayor Benton agreed that the FAC should provide input on the establishment of the Town's compensation for public services from local nonprofits.

Mr. Schwartz stated that staff will continue to do more research on nonprofits compensating the Town for public services, such as PILOTs and/or SILOTs. He further stated that staff would be meeting with the private schools to discuss tax exempt land use impacts, bring the item to the attention of the FAC and will keep the City Council updated.

14. UPDATE ON THE ORDINANCE AMENDING CHAPTER 15.32 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING WIRELESS COMMUNICATIONS FACILITIES

Assistant City Manager Kathy Leroux stated that on October 30, 2013, the Wireless Subcommittee consisting of Councilmembers May and Christianson, along with City Manager Randy Schwartz, staff members and City Attorney Norm Book met via phone with Special Counsels Joe Van Eaton and Gail Karish. She reported that Mr. Van Eaton and Ms. Karish have completed an initial review of the draft ordinance and have talked with Special Counsel Jonathan Kramer. She added that they do have some suggestions for modifications, but they felt for the most part the ordinance was sound. She stated that the attorneys will be working on a revised ordinance and that staff is planning to bring the draft ordinance to the City Council at its December 9, 2013 meeting for the first reading and public hearing.

Ms. Leroux stated that on October 31, 2013, the group met with carrier representatives from Crown Castle, AT&T, T-Mobile and Verizon. She added that Ms. Karish participated via conference call to hear firsthand what the carriers presented. She reported that the carriers expressed that the Town should remain focused on visual impacts as they stated that they felt the ordinance focuses on certain design and location preferences, and they felt that could be seen as dictating or excluding certain technologies. She further reported that the carriers objected to the language that proposes wireless facilities must fill a “significant gap” and language that the facilities are of the “least intrusive design”.

Ms. Leroux stated that the carriers said the draft ordinance attempts to define terms under Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012. She reported that one key point of objection is the definition of “substantial change in the physical dimensions” including changes by more than 10% in any direction. She also reported that the carriers felt that the ordinance does not clearly distinguish between proposals of wireless facilities in the right of way from those on public or private property and that they have issues with the priority list for placement of facilities.

Ms. Leroux stated that consideration of establishing criteria for faster processing times, voluntary pre-application meetings and utilizing common sense was also discussed. She asked the Wireless Subcommittee if they would like to comment.

Councilmember Christianson stated that it is highly unlikely to satisfy all the carriers’ concerns but that the meetings have been constructive.

Vice Mayor May stated that the draft legislation is not optimal, but the meetings with the carriers have been productive. He stated that AT&T and T-Mobile do not want Hillsborough’s wireless communications facilities ordinance to set a precedent.

Ms. Leroux added that the carriers are fearful that the Town’s ordinance will set a precedent and make it difficult for them to install wireless communications facilities in other cities. She reported that the draft ordinance has been reviewed by the attorneys and will be reviewed further before submittal to the City Council.

Councilmember Christianson stated that the Subcommittee has tried to be responsive to the communities’ concerns about emission allowances, but that emission allowances cannot be addressed in the Town’s ordinance.

Ms. Leroux reported that Crown Castle has moved the hearing date for the pending lawsuits to January 2014, which will allow additional time to work on the ordinance. She

further reported that regarding the California Public Utilities Commission (PUC), Assistant City Attorney Mark Hudak just learned that PUC Commissioner Mike Florio has submitted an alternative resolution that would grant the Town's appeal due to the ongoing conflict between the Town and the carrier over the parameters of the project. She stated that the matter is currently scheduled for November 14, 2013, and that Mr. Hudak will be preparing an update for the City Council.

Mr. Hudak reported that the PUC's decision on the Town's appeal has been continued several times by PUC Commissioner Michael Peavey and that Commissioner Michael Florio has submitted an alternative resolution that would grant the Town's appeal. Mr. Hudak stated that because of the conflicting resolutions before the PUC, a hearing will not take place until December 19, 2013, at the earliest and could be delayed further to allow the City Council to draft the new ordinance. He added that he will provide the City Council with updates on the appeal.

Mayor Benton asked if any other California municipalities are amending their wireless communications facilities ordinances. Mr. Hudak replied that through the City Attorney's listserve, he was not aware of any municipality in the last six to eight months amending their ordinance, but that he would ask Mr. Kramer as he was a good resource. Mayor Benton recommended that Mr. Hudak send an email out on the City Attorney's listserve to find out if any other California municipality is amending its ordinance. Mr. Hudak replied that he will do that.

Councilmember Christianson stated that Senator Jackie Speier's office is aware and is being kept abreast about the situation with wireless communications facilities in Hillsborough.

Ms. Leroux stated that she and Vice Mayor May met a Crown Castle attorney and their Director of Government Affairs, and that they all agreed that they would like to move forward and avoid litigation. She further stated that the focus of the meeting was to talk about how the Town and Crown Castle could work together. She reported that one concept that was discussed was the idea of staff meeting with interested carriers to have discussions about hypothetical installations. She stated that Crown Castle has said it is primarily looking at distributed antenna system (DAS) for Hillsborough and AT&T would consider a macro tower rather than DAS in Hillsborough. She added that these discussions could help staff from the Building and Planning Department and Public Works Department address the carriers' different needs and come up with a plan which will help in the revision of the ordinance.

Ms. Leroux reported that the ordinance is currently going through further revisions and could be reintroduced at the December 9, 2013 City Council meeting or, if the City Council chooses, staff and the Subcommittee can work collaboratively with the carriers to address their needs before reintroduction of the draft ordinance.

Councilmember Royse stated that he would like staff to work together with the carriers to help address the carriers' needs as he would like an ordinance that will not be challenged in court.

Vice Mayor May commented that the City of Huntington Beach has been in litigation for years over two wireless communications poles which has cost the city a huge amount of money.

Councilmember Christianson stated that the Town now has the opportunity to work in a cooperative fashion with the wireless carriers.

Councilmember Chuang stated that if the Town has the opportunity to work with the wireless carriers it could be a win-win situation for both the carriers and the Town.

Mayor Benton stated that it seems that the sense of the Councilmembers and staff is to work collaboratively with the wireless carriers to address the carriers' needs before reintroduction of the draft ordinance.

Mayor Benton thanked Ms. Leroux.

PUBLIC COMMENT:

Hillsborough resident Bailey Meyer stated that she just wanted to say that the Hillsborough Garden Club was terribly concerned about the Town issue with the proposed wireless communications facilities. She asked if the new wireless attorney that was hired by the Town has been participating in the amendment to the draft wireless communications facilities ordinance. City Manager Randy Schwartz replied that Special Counsel Joe Van Eaton has been very helpful and has reviewed the draft ordinance, and a member of his firm teleconferenced the October meeting with AT&T, Crown Castle and Verizon. Mr. Schwartz stated that Mr. Van Eaton generally approved of the ordinance that Special Counsel Jonathan Kramer drafted, but has a few points that are being cleaned up for the carriers to understand and for staff to implement.

Ms. Meyer asked at what stage a public hearing would be held on the draft wireless communications facilities ordinance. Mr. Schwartz replied that the reintroduction of the draft ordinance has been pushed back, but a public hearing for the reintroduction of the ordinance will be held in the near future and that there will be a full public notice of the public hearing.

Ms. Meyer asked if there are still 13 cell towers sites proposed. Mr. Schwartz replied that the number of cell towers has changed and that only 4 new poles may be needed as 9 wireless facilities may be installed on existing sites, and that the 4 new poles may be on 18-foot stop signs or speed limit signs, and not the 35-foot poles originally proposed by the wireless carriers. He added that the Town is looking at all possible sites for the wireless facilities.

Ms. Meyer commented that she praised all the work that staff and the Subcommittee have done and thanked them very much.

Mr. Schwartz thanked Ms. Meyer and the public for their comments and assistance.

CITY COUNCIL ITEMS:

Vice Mayor May reported that he and Councilmember Christianson each have attended the Hillsborough City School District Forward long-term planning meetings. Councilmember Christianson stated that she attended the meeting on Thursday, October 17, 2013. They both commented that it was very rewarding to participate in the meetings.

Vice Mayor May stated that Patty Anixter of the Burlingame Library Foundation has a campaign to raise funds for the Burlingame Main Library and that may possibly be on the December 9, 2013 City Council agenda.

Vice Mayor May also stated that he attended the Housing Endowment and Regional Trust (HEART) Board meeting on Tuesday, October 23, 2013, where their budget was discussed.

Councilmember Chuang reported that she attended the Hillsborough Neighborhood Network Shakeout drill on Thursday, October 17, 2013, and she thanked Police Sergeants Nelson Corteway and David Young for their assistance. She added that the final number of responses to the drill will be reported at the HNN meeting scheduled for Thursday, November 14, 2013.

Councilmember Chuang reported that she and Councilmember Christianson attended the Wednesday, October 23, 2013 Connector13 meeting put on by Assemblymember Kevin Mullin and San Mateo County Board of Supervisor Warren Slocum regarding transparency and authenticity through social media such as Twitter and Facebook. Councilmember Christianson commented that the event was a fabulous presentation suggesting that everyone should be tweeting and keeping up with social media.

Councilmember Royse reported that he attended the Council of Cities Dinner/Meeting in the City of Millbrae on Friday, October 25, 2013, and that Carl Guardino, President and CEO of the Silicon Valley Leadership Group, was the guest speaker. Councilmember Royse stated that the Silicon Valley extends from the South Bay to San Francisco and that the statistics for economic growth is a collaborative effort as every job has a ripple effect in the Silicon Valley.

Councilmember Royse reported that he responded to a complaint of the airplane noise from a resident in Hillsborough and sent a letter to the San Francisco Airport Roundtable Committee.

Mayor Benton reported that the labor negotiations with Recology and South Bay Recycling labor unions expired on October 23, 2013, and that he was not aware of any activity, but that he will not know until the labor negotiations are resolved.

Mayor Benton announced that the Council of Cities Dinner/Meeting will be held on Friday, December 13, 2013, in the City of Colma and that there will be eight positions up for the San Mateo County City Selection Committee election, including positions on the Bay Area Air Quality Management District (BAAQMD), California Identification System (CAD-ID), Domestic Violence Council, and San Mateo County Transportation Authority (SMCTA). He stated that he would not be able to attend and that he hoped that one of the Councilmembers will be available to vote for the Town. Councilmember Christianson stated that she may be able to attend.

Mayor Benton announced that Recology has a “Coats For Kids” program and that a receptacle is located in the Town Hall lobby for coat donations. Councilmember Christianson added that coats of all sizes will be accepted.

Mayor Benton thanked staff for all their work on tonight’s meeting.

ADJOURNMENT:

Mayor Benton adjourned the meeting at 8:45 p.m.