

**MINUTES  
CITY COUNCIL MEETING  
MONDAY, JANUARY 14, 2019**

Mayor Christianson called the meeting to order at 2:30 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

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

**PUBLIC COMMENT:**

Adeola Obasa, a Palo Alto resident, thanked the Councilmembers for responding to her original letter and for replacing the sign at Black Mountain Road and Skyline Boulevard, and for reviewing her claim and written comments. She stated that she believes that she was not the only one that had an accident in that area and that she found it devastating that there was no sign at the sharp turn and that others had probably suffered the same fate as she did. She stated that she was the last car to have an accident in the area and others may not be as lucky as she was. Ms. Obasa stated that she will not go further with the claim and would like to settle for a reasonable amount. She commented that lights and additional signage could prevent additional accidents in the area.

**PUBLIC ANNOUNCEMENT OF CLOSED SESSION ITEMS**

**A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Section 54956.9(d)(2) of the California Government Code: Four potential cases

Rejection of Claim: Adeola Obasa, 48 Shorebreeze Court, Palo Alto, CA

Rejection of Claim: James Cozzolino, 11853 San Mateo Road, Half Moon Bay, CA

Rejection of Claim: Sean Becker, 959 Rich Avenue, Mountain View, CA

Rejection of Claim: Trax Auto Sales, 4310 South El Camino Real, San Mateo, CA

**B. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to Section 54956.9(d)(4) of the California Government Code: Two potential cases

**C. PUBLIC EMPLOYMENT**

Government Code Section 54957

Title: City Manager

**D. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Government Code Section 54956.9(d)(1)

Name of Case: Crown Castle NG West LLC v. Town of Hillsborough, City Council of the Town of Hillsborough, and Does 1-10, United States District Court for the Northern District of California, Civil Action No. C 18-2473 JSC

Councilmember May arrived at the Closed Session at 3:05 p.m.

**ADJOURN CLOSED SESSION**

**CITY COUNCIL MEETING:**

Mayor Christianson called the regular meeting to order at 6:10 p.m. at the Hillsborough Town Hall, 1600 Floribunda Avenue, Hillsborough, California.

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

**PLEDGE OF ALLEGIANCE**

**REPORT FROM CLOSED SESSION:** City Attorney Christopher Diaz reported out that the City Council voted 4-0 with Councilmember May absent to reject the Obasa, Cozzolino and Trax Auto Sales claims, the City Council voted 4-0 with Mayor Christianson recusing herself and not participating to reject the Becker claim, and the City Council voted 5-0 to authorize the initiation of litigation against the property owner at 45 Berryessa Road regarding code enforcement violations on the property.

**MINUTES:** The minutes of the December 10, 2018 City Council meeting were approved as submitted.

**CONSENT CALENDAR:**

On motion of Councilmember May, seconded by Councilmember Benton, and unanimous on voice vote, Consent Calendar items 1 through 6 were approved.

1. MONTHLY CLAIMS: DECEMBER 1 THROUGH DECEMBER 31, 2018

The monthly claims for the month of December 2018 in the amount of \$4,258,099.30 were approved as submitted.

2. QUARTERLY TREASURER'S REPORT FOR THE QUARTER ENDING DECEMBER 31, 2018

The Treasurer's Report for the quarter ending December 31, 2018, was approved.

3. QUARTERLY INTEREST RATE PRODUCTS (SWAP) REPORT

The Interest Rate Products Report for the quarter ending December 31, 2018, was accepted.

4. APPLICATION FOR A NEW SIGN FOR THE HILLSBOROUGH SCHOOLS FOUNDATION'S VANITY AFFAIR FUNDRAISING GALA EVENT

The application for the Hillsborough Schools Foundation's Vanity Fair fundraising gala sign was approved.

5. ORDINANCES AMENDING CHAPTER 17 OF THE HILLSBOROUGH MUNICIPAL CODE REGARDING ACCESSORY DWELLING UNITS (ADUS OR SECOND UNITS) - ADOPTION

The second reading was waived and the ordinances titled "Ordinance of the City Council of the Town of Hillsborough Amending Title 17 of the Hillsborough Municipal Code Regarding Accessory Dwelling Units (ADUs or Second Units)" and "Ordinance of the City Council of the Town of Hillsborough Amending Title 17 of the Hillsborough Municipal Code to Provide for Discretionary Exceptions and Additional Benefits for Accessory Dwelling Units (ADUs or Second Units)" were adopted.

6. RESOLUTION AWARDING A CONTRACT FOR A CLASSIFICATION AND COMPENSATION STUDY TO KOFF & ASSOCIATES IN THE AMOUNT OF \$58,826

The resolution awarding the contract for the Classification and Compensation Study to Koff & Associates in the amount of \$58,826, and authorizing the City Manager to execute the contract on behalf of the Town was adopted.

**INFORMATIONAL:**

7. UPDATE ON THE HIGH-WATER PIPELINE PROJECT

Director of Public Works Paul Willis provided a PowerPoint presentation and introduced consultants Donald Duggan of G&E Engineering Systems, Inc. and Dennis Diemer of Diemer Engineering Inc.

Mr. Willis reported that the Town operates many water pressure zones from near sea level to over 700 feet above sea level and normally receives water from the San Francisco Public Utilities Commission's (SFPUC) pipelines' low zones and pumps the water to the Town's upper zones. He stated that the High-Water Pipeline (Highline Pipeline) Project will take water from the Harry Tracy Water Treatment Plant, which is located at a higher elevation, and deliver it to the upper zones of Hillsborough.

Mr. Duggan stated that several alignments are being considered and evaluated on the basis of construction cost, participation from the cities of Burlingame and Millbrae, alignment-specific benefits, operations benefits and costs, community benefits and impacts, and permitting issues. He provided slides showing the Highline Pipeline schematic and early schematic alignments, and stated that benefits of the project include providing earthquake preparedness, a wildland and urban fire water source, and operational benefits. Mr. Duggan reviewed the benefits, engineering issues and conceptual costs, which is approximately \$15 million for design, construction, right of way and environmental permitting.

Mr. Diemer reported that an initial feasibility study, initial communications with the SFPUC and the Bay Area Water Supply and Conservation Agency (BAWSCA) have been completed and that communication about partner participation with the cities of Burlingame and Millbrae are currently in progress. He reviewed the next steps which include final project planning for the conceptual design, permitting and right of way; project funding; California Environmental Quality Act (CEQA) documentation; public outreach; the final design; and project construction, testing and startup. For project funding, Mr. Diemer reviewed the grant and loan opportunities.

The Councilmembers, Mr. Willis and Mr. Diemer discussed the Highline Project. No action was required.

#### **PUBLIC HEARING:**

8. ADOPTION OF URGENCY ORDINANCE AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTERS 12.12 AND 15.32 OF THE HILLSBOROUGH MUNICIPAL CODE RELATING TO WIRELESS COMMUNICATIONS FACILITIES AND UTILITY INFRASTRUCTURE
9. RESOLUTION ADOPTING CITY COUNCIL POLICY NO. 19-\_\_ ESTABLISHING LOCATION AND DESIGN STANDARDS FOR WIRELESS COMMUNICATION FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS

Director of Public Works Paul Willis provided a PowerPoint presentation and introduced Special Counsel Gail Karish of BB&K and Robert "Tripp" May of Telecom Law Firm. Mr. Willis reviewed the timeline for the amendment to the Town's wireless ordinance from November 2018 through January 2019 and stated that additional meetings will be held to continue improving the Town's wireless standards.

City Attorney Christopher Diaz announced that both Agenda Item 8 and 9 will be presented and will be followed by a public hearing for both items.

Ms. Karish provided a recap on the regulatory situation for local governments. She stated that local governments mainly regulate placement and aesthetics, wireless providers and telephone companies have a limited right to use the public rights of way and utility infrastructure for their facilities, the California Public Utilities Commission (CPUC) is mainly responsible for rules on the safety of infrastructure, and the Federal Communications Commission (FCC) small cell order put new limits on local time for review and on aesthetic rules among other things.

Ms. Karish reported that the small cell order establishes shorter shot clocks for processing "small wireless facilities" applications; clarifies that all required authorizations are included in shot clocks; clarifies the definition of "collocation"; redefines "effective prohibition" standard; establishes a test for permitted fees and sets out presumptively reasonable one-time and recurring fees for permits, use of rights of way, and use of

government property located in the rights of way; and establishes a test for permitted aesthetic, undergrounding and spacing standards.

Ms. Karish reported that the Town's approach to updating the wireless policies was to minimize changes and target revisions to address the latest FCC order, respond to community feedback and make some minor clean ups; maximize flexibility to allow the Town to respond more nimbly; and reasonably comply with the FCC order.

Ms. Karish reported that the major changes to the wireless ordinance included the addition and modification of definitions to match the FCC order's "small wireless facility" and "collocation" definitions; the requirement of a list of minimum requirements for structural and safety analysis, materials for public noticing and a photo image of the storyboard; the delegation of authority to staff for applications; the addition of requirements that public noticing be upon submittal rather than completeness and that same notice parties receive a notice of decision; City Manager discretion to broaden the public notice radius, and the requirement that the applicant post a storyboard at the proposed location within two business days of filing an application.

Ms. Karish reported that design standards were removed from the ordinance and delegated to the City Council to adopt via a resolution, Hillsborough Municipal Code Chapter 12.12 was also amended to make utility boxes subject to design standards approved by the City Council resolution, conditions of approval and operational standards were removed from the ordinance and delegated to the City Council to adopt via the resolution, and the time for filing an appeal for applications with short shot clocks was shortened to seven calendar days.

Ms. Karish reported that the ordinances will need to be amended regarding filing of the request to the 10<sup>th</sup> Circuit to stay the September order as the request was denied.

Mr. Tripp May stated that for the resolution and policy establishing location and design standards for wireless communication facilities and other infrastructure deployments the Town took a light touch approach and took the subjective standards and made them objective. He reported that the guiding principles were to achieve compliance with the new federal law regarding objective standards and evenhanded application of potentially subjective standards, to extend guidelines to all utility infrastructure, and to maximize local control and preserve the community's character by never allowing anything that harms the public health and safety, avoiding and minimizing new or enlarged obstructions in the rights of way, mandating concealment and requiring undergrounding whenever possible, and facilitating community involvement.

Mr. May stated that from the January 7, 2019 City Council Study Session, comments were received from the City Council, Wireless Communications Advisory Committee and the public, and specific changes were made, which included broader undergrounding requirements, less emphasis on new streetlights, an emphasis on "concealment" over "camouflage", clarification on undergrounding requirements in areas with backyard utility easements, and greater flexibility for replacement trees if the best location requires removal.

The Councilmembers, Mr. May and Ms. Karish discussed the amendments to Chapter 15.32 and the design standards for infrastructure deployments. The City Council recommended adding the word "and" before "within the public rights-of-way" on the 2<sup>nd</sup> line and the word "the" before "maximum extent technically feasible" on the 16<sup>th</sup> line of Section A of the Design Standards on page 207 of the City Council agenda packet.

Mayor Christianson opened the public hearing.

Former Mayor and Hillsborough resident Paul Regan, Chair of the Wireless Communications Advisory Committee (WCAC), requested that the word "Once" in Section 15.32.060.B on page 187 of the City Council agenda packet be changed to two or three days as "once" is somewhat vague. The Councilmembers, Mr. Regan, Mr. May and Ms. Karish discussed the request.

Hillsborough resident Patrick Shannon recommended changing the set back requirement from 250 feet to 500 feet in Item 19 on page 237 of the City Council agenda packet, requiring a certificate from the pole owner that the pole can handle the additional load, changing the fifteen days in Section 15.32.080(A)2 on page 190 to 21 days, revising the wording in Section 15.32.080(C)2 on page 190 so that local law is preempted by state or federal law, and removing Section 15.32.080(E) on page 191 as it is already covered in Section 15.32.080(C).

Hillsborough resident Orna Resnekov requested that the City Council consider requiring bonds for the maintenance and repair of each piece of equipment that is installed, a separate bond for decommissioning each piece of equipment, and quarterly reports from each provider of equipment showing how many residents are using the equipment and are subscribers. She recommended that equipment should be removed if it is not being used by a certain number of residents because technology changes quickly and companies go bankrupt. She stated that if a company uses space in the public right of way, it should prove that it is providing a service to residents or, if not, remove the equipment for safety and aesthetic considerations of the right of way.

Hillsborough resident John Lavrich recommended taking a more hard line approach for undergrounding equipment in the public rights of way in Section E.1 on page 209 of the City Council agenda packet, making Section E.10 on page 211 more strict and defined regarding the removal of heritage trees, enforcing the plumbness of poles when tacking on equipment as leaning and shored up poles are quite displeasing to the eye, requiring proof that equipment is being used and not abandoned, being mindful of slopes to prevent infrastructure being at eye level, and having restrictions on vertical heights to prevent a visual blight.

The public hearing was closed.

The Councilmembers, Mr. May, Ms. Karish and Mr. Willis discussed the public comments and changes to the ordinances and resolution.

City Attorney Christopher Diaz read into the record the changes recommended by the City Council to both the urgency and regular ordinance: 1) Item 7 will be revised to read "The appeal coalition subsequently filed a request to the 10<sup>th</sup> Circuit to stay the September Order but that request *was denied.*", 2) In Section 15.32.060(B) "Once" will be deleted and replaced with "No more than 3 business days after" and will include "with complete noticing materials as required by this Code", 3) Section 15.32.060(D) will be revised to read "No more than thirty days *but not less than twenty-five days* before *the date the applicant believes*", and 4) For Section 15.32.080(C)(2), the wording "or that denial is otherwise preempted by state or federal law" will be added to the end of the sentence.

On motion of Councilmember Benton, seconded by Vice Mayor Royse, the reading was waived and the Urgency Ordinance titled "Urgency Ordinance of the City Council of the Town of Hillsborough Enacted Pursuant to California Government Code Section 36937, Amending Chapters 12.12 and 15.32 Relating to Wireless Communications Facilities (WCFs) and Utility Infrastructure" was adopted as amended with a 5-0 roll call vote.

On motion of Councilmember Benton, seconded by Councilmember May, and unanimous on voice vote, the reading of the Ordinance titled "Ordinance of the City Council of the Town of Hillsborough Amending Chapters 12.12 and 15.32 of the Hillsborough Municipal Code Relating to Wireless Communications Facilities (WCFs) and Utility Infrastructure" was waived beyond reading of the title and February 11, 2019, was set as the date to consider adoption of the ordinance as amended.

Mr. Diaz read into the record the changes recommended by the City Council to the resolution: 1) In Section E.19, 250 feet will be changed to 500 feet, and 2) The word "and" will be added before "within the public rights-of-way" on the 2<sup>nd</sup> line and the word "the" will be added before "maximum extent technically feasible" on the 16<sup>th</sup> line of Section A of the Design Standards.

On motion of Councilmember Chuang, seconded by Councilmember Benton, and unanimous on voice vote, the resolution adopting City Council Policy No. 19-01 establishing location and design standards for wireless communication facilities and other infrastructure deployments was adopted as amended.

**NEW BUSINESS:**

10. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT AND RELATED DOCUMENTS FOR SECTION 115 PENSION TRUST SERVICES ADMINISTERED BY KEENAN FINANCIAL SERVICES AND AUTHORIZING FUNDING OF \$2.4 MILLION INTO THE TRUST

Finance Director Jan Cooke provided a PowerPoint presentation and introduced Account Executive Nick Gedestad of Keenan Financial Services and Senior Institutional Consultant Cary Allison of Morgan Stanley.

Ms. Cooke stated that this agenda item is for the award of the contract to Keenan Financial Services (Keenan) for Section 115 pension trust services and for the authorization of funding \$2.4 million into the trust. She stated that following the City Council discussion of the pension trust at the October 8, 2018 City Council meeting, staff and the Financial Advisory Committee (FAC) working group have conducted an extensive analysis and reviewed the information with the FAC. She reported that the Town's annual CalPERS required contribution of \$2.7 million will double in the next ten to fifteen years, and that the Unfunded Actuarial Accrued Liability (UAAL) is \$25 million and is at a 74% funded ratio. She stated that there is no legal limit for the amount that can be funded into the trust and distribution is limited to the annual required contribution amount. She stated that the strategic funding policy is to fund \$2.4 million now and \$2.4 million at a later date, and target an earlier 90% UAAL funded status using additional payments to CalPERS.

Ms. Cooke reviewed the benefits of the Section 115 pension trust, such as providing flexibility, acting as a reserve fund to offset volatility, providing a potential higher net investment return than the Town's portfolio, and being irrevocable to protect the plan assets. She reviewed the disadvantages which included requiring assets be used to reimburse the Town for CalPERS contributions, not improving the funded status over time, providing likely lower returns than CalPERS investment funds, providing no offset to Governmental Accounting Standards Board (GASB) 68 Net Pension Liability on Statement of Net Position, and having a risk to investment returns with market fluctuations. She also reviewed what the other San Mateo County cities are doing to help mitigate the impact of rising pension costs.

Ms. Cooke reported that the Section 115 pension trust vendor selection was an extensive Request for Proposal (RFP) process and that Keenan was selected because of the lowest cost, ease of program, customer service, portfolio performance, qualifications and references. She stated that the FAC working group participated in the interviews and approved the vendor selections and funding recommendations.

Mr. Gedestad stated that MuniPST is a solution designed to prefund pension costs and is designed for California public agencies. He reported that Keenan will be the Program Coordinator/Administrator, Benefit Trust will be the Discretionary Trustee, and Morgan Stanley will be the Registered Investment Advisor. He stated that MuniPST works by providing funding, investment and withdrawal strategies to mitigate the impact of pension costs.

Mr. Allison stated that the portfolios are designed to take minimum risk to achieve target returns over a full market cycle, and he reviewed the various portfolios and performance as of September 30, 2018. He stated that the MuniPST fees are 10 basis points each for Keenan, Benefit Trust and Morgan Stanley.

Ms. Cooke stated that the FAC working group recommended the Moderate Growth Portfolio and recommended adoption of the resolution awarding the contract to Keenan

Financial Services and funding \$2.4 million into the trust. She thanked the FAC and the FAC working group for their time and guidance during the process.

The Councilmembers and Ms. Cooke discussed the Section 115 pension trust.

On motion of Vice Mayor Royse, seconded by Councilmember Chuang, and unanimous on voice vote, the resolution authorizing the City Manager to execute the agreement and related documents for Section 115 pension trust services administered by Keenan Financial Services and authorizing funding of \$2.4 million into the trust was adopted.

### **DISCUSSION:**

#### 11. CITY COUNCIL COMMITTEE AND COMMISSION ASSIGNMENTS

Mayor Christianson announced that there were no changes to the City Council committee and commission assignments.

#### 12. SAN MATEO COUNTY CITY SELECTION COMMITTEE ELECTION

The Councilmembers discussed the open regional seats for election at the January 25, 2019 San Mateo County City Selection Committee election. Mayor Christianson appointed Councilmember Chuang to serve as her alternate to the City Selection Committee meeting.

### **PUBLIC COMMENT:**

There were no public comments.

### **CITY COUNCIL ITEMS:**

Councilmember Chuang provided an update on the Cities/County Association of Governments (C/CAG) meeting held on Thursday, December 13, 2018.

Vice Mayor Royse provided an update on Assemblymember Kevin Mullin's meeting held on Friday, December 14, 2018.

Councilmember Benton provided an update on the South Bayside Waste Management Authority (SBWMA) meeting held on Thursday, January 10, 2019.

Mayor Christianson announced that this was Police Chief Doug Davis' first City Council meeting as Police Chief.

### **ADJOURNMENT:**

Mayor Christianson adjourned the meeting at 9:39 p.m.