

**MINUTES
CITY COUNCIL MEETING
FRIDAY, AUGUST 14, 2020**

On March 17, 2020, the Governor issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means. Pursuant to the Shelter-in-Place Order issued by the San Mateo County Health Officer on March 16, 2020, and which was updated and extended on March 31, 2020, April 29, 2020, May 15, 2020, and May 28, 2020, the statewide Shelter-in-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines which discourage large public gatherings, the Council Chambers were not open to the public for the August 14, 2020 Hillsborough City Council meeting. The Town conducted the City Council meeting via Zoom.

CLOSED SESSION:

Mayor Christianson called the meeting to order at 3:00 p.m.

Mayor Christianson stated that today's meeting will be conducted in a virtual setting using Zoom. She reported that Councilmembers and staff are participating from remote locations and everyone is practicing appropriate social distancing. She stated that members of the public may view and listen to the meeting this evening as noted on the agenda.

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

PUBLIC ANNOUNCEMENT OF CLOSED SESSION ITEMS

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)
Crown Castle NG West LLC v. Town of Hillsborough, et al.
United States District Court for the Northern District of California

B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)
Hillsborough Citizens Alliance's August 6, 2020 correspondence indicating that they are exploring their legal options under Government Code Section 91003 (Correspondence was included as an attachment to the agenda)

City Attorney Christopher Diaz stated that Councilmember Benton will be recusing himself from the Closed Session because of the potential conflict of interest that was raised regarding Councilmember Benton's investment in Crown Castle stock.

Mayor Christianson announced that the meeting is being recorded and will be posted along with written public comments on the Town's website.

PUBLIC COMMENT:

Hillsborough resident Orna Resnekov asked how is the public supposed to enter into dialog in real time if the City Council does not allow public comment after closed session. She stated that public comment is meant to be interactive and that there is no way that anybody can interact with the City Council on the report out before the public gets that report. She stated that the City Council needs to have a public comment session after the closed session report.

Hillsborough resident Patrick Shannon asked what is the point of having public comment before the topic is discussed. He stated that the whole idea is to get public comment on what has been announced, and asked for a response to that. He asked what is the purpose of public comment before the report out, and stated that it is an absolute vacuum to what the public is responding to. He stated that he felt that this is another violation of the Brown Act. He stated that this is not an offer for public comment and that it is a show. He stated the Zoom room should be kept on for people to be able to speak their minds as that is what public comment is for. He stated that the City Council

meetings have a history of blocking people out from public testimony by subterfuge and asked that to stop.

City Attorney Christopher Diaz stated that per the Brown Act mandate, a public comment period is included on every agenda. He explained that having public comment before closed session allows the City Council the benefit of taking into consideration any public comments before City Council discussion of the issue in closed session.

Mr. Shannon stated that the public does not know what the issues are, and therefore there are no issues to respond to. He asked what is the point in that, and how is the public supposed to have a dialogue in the dark. He stated that this was a sham public notice. He stated that obviously the public can only have a discussion if they know what the City Council's point is. He asked how can the public respond to something when it is completely opaque and undisclosed. He stated that this is a basic government procedure. He stated that he was shocked.

Mayor Christianson stated that the closed session items are clearly listed on the agenda. She stated that the public comment period is held before closed session to allow comments before the City Council adjourns to closed session discussion.

Ms. Resnekov pointed out that the City Council normally has two public comment periods – one at the beginning and one at the end of the meeting that deals with all items on the agenda. She asked that the City Council follow that practice so that the public can respond to whatever the City Council reports out after their closed door session. She agreed with Mr. Shannon that this is basic governance, and that the City Council should not want to be in violation of basic governance once again.

Mr. Diaz stated that having an additional public comment period after closed session is up to the City Council.

Mayor Christianson stated that she had no problem with two public comment periods. The City Council committed to returning to open session at 5:00 p.m. for the report out and public comment.

City Manager Ann Ritzma read a public comment received from Hillsborough resident Leslie Ragsdale. Ms. Ragsdale wrote "The Hillsborough Citizens Alliance does not speak for all of the Town's citizens, despite its claims to the contrary in its August 6th letter ("HCA joins with Hillsborough's citizens to express its grave concerns"). While I am not a conflicts of interest expert, nor a personal acquaintance of Councilmember Benton, as ten year resident of this Town who has seen Mr. Benton in several professional settings, I am appalled by the HCA's accusations against and disrespect shown toward Councilmember Benton. He is a long-term devoted public servant with care of the community as his only concern. One need only attend a Council meeting and hear him speak to understand his integrity and professionalism. If there is indeed a potential conflict of interest, it will be handled from now forward, I am confident. If the HCA has problems with the Town's cell coverage decisions, this new tactic is not productive toward a reasonable solution that balances neighbors needing cell coverage with their aesthetic concerns. The HCA members should continue to work with the Town in the already-established citizens' committee and not attempt to damage the reputation of a fellow citizen who has spent so many years selflessly giving of his time and compassion to this Town."

Mr. Diaz stated that he received correspondence today from Hillsborough resident John Lavrich related to a Public Records Act request, and stated that it is not a discussion topic on today's closed session.

ADJOURN TO CLOSED SESSION

REPORT FROM CLOSED SESSION:

City Manager Ann Ritzma stated that as noted at the August 10, 2020 City Council meeting, there was a potential conflict of interest related to Councilmember Benton's

ownership of stock in Crown Castle at the time the City Council was managing the litigation and contemplating settlement. She stated that at this time, the City Council is directing the City Attorney to seek advice from the Fair Political Practices Commission, the independent outside state agency charged with enforcing state conflict of interest laws, on how the Town and City Council can move forward on this issue. She stated that the City Council takes this issue seriously and is hopeful that the Fair Political Practices Commission can provide independent advice on this issue for the benefit of the City Council and the Town's residents. She stated that the Town will make available a copy of the request for advice once prepared and will share the advice from the Fair Political Practices Commission once received by the Town.

City Attorney Christopher Diaz stated that he wanted to respond to two points in the letter received from the Hillsborough Citizens Alliance. He stated in regards to the request for an assessment of Form 700 compliance, staff will be bringing forward the local conflict of interest code update either next month or the month thereafter, as it did two years ago in compliance with state law, to update the code based on new Town positions. He stated that discussion will occur in open session and will provide an opportunity for education and public discussion.

Mr. Diaz reported that the Ninth Circuit issued its decision this week and with regard to the request for a community meeting on the wireless design standards, it would be premature to hold that community meeting until such time that staff is able to analyze the decision in the context of the Town's current standards.

PUBLIC COMMENT:

Hillsborough resident Larry Friedberg stated that the settlement agreement with Crown Castle is tainted as Councilmember Benton had a conflict of interest yet continued to participate in 20 closed door sessions before and after his purchase of Crown Castle stock last year. He commented that a long-term devoted public servant should know better particularly in light of the fact that Crown Castle has been at the center of one of the most heated local issues in recent memory. He stated that Hillsborough Citizens Alliance conducted an email straw poll on Friday, August 7, 2020, among 800 confirmed residents and within two days over 100 responded. He reported that 92% strongly agreed with the statement that Councilmember Benton's actions were a breach of public trust and the Town should take no further action regarding changes to the wireless design standards or the Crown Castle settlement agreement until an independent investigation is completed. He stated that Councilmembers May, Chuang and Christianson filed Form 700s disclosing no investments, and that may be clean and cool, but he would expect that there would be a thorough revelation, particularly with respect to telecom infrastructure. He stated that there may be a lack of process and a need for checks and balances. He stated that the City Attorney or City Manager needs to provide a backstop to make sure that these things are thoroughly completed. He stated that the Council must bring in a neutral third party to conduct a thorough investigation into a lack of transparency related to Councilmember investments. He stated that the San Mateo Journal is paper of record, but they had no record of this meeting. He stated that there is supposed to be a 72-hour advance notice of City Council meetings, and he asked why did that not happen and what is process for communicating special meetings such as these. He stated that this was not an emergency meeting.

Hillsborough resident Rajesh Parekh stated that he shared the concern about the lack of transparency that leads to a lack of confidence that the Town has come to the right decision regarding design standards. He stated that he lives in a house that is right next to where a tower is going up and feels that the entire process has not been as transparent as it can be in a town like Hillsborough. He stated that the recent conflict of interest issues adds confusion and raises more concerns on due process, and he urged the City Council to not be hasty despite pressure that they might feel, which the community might not be aware of. He stated that there are open questions about the Wireless Communications Advisory Community, such as how members were selected, what was their expertise, and what was the experience and expertise of external consultants used. He stated that transparency will go a long way to build confidence. He seconded Mr. Friedberg's comments about an independent review.

Hillsborough resident John Lavrich thanked the City Council for taking the issue seriously as transparency, due diligence and fair representation of the will of people is the job of the City Council. He stated that this meeting is an example of the Town's violation of due process as there should be a 72-hour notice period. He stated that he had to rush to provide some comment ahead of time and he was not sure it was received. He stated that the Town failed in its obligation for noticing. He stated that he checked Fire Station 33 and the Affidavit of Posting is dated August 13, 2020, in violation of Town's rules regarding public noticing. He stated that it is also not posted on the Town's public notice webpage. He stated that he is concerned that the Town has become a serial violator of the Open Government Act. He stated that there has been a lack of transparency with residents and the backdrop of this is the cellular communication issues with respect to Crown Castle and AT&T. He stated that he hoped that the Town could start to operate more transparently.

Hillsborough resident Annie Pong stated that she has lived in Hillsborough for a long time on Marlborough Road and that it seems like the Marlborough water tank site is the garbage can of cell towers. She stated that the City Council is doing nothing to preserve the sanity of the neighborhood. She stated that people live in homes surrounding that water tank site and yet there is a 100 foot AT&T proposal and a 50 foot Crown Castle one right there. She asked the City Council if the proposals in that neighborhood mean anything to them. She stated that residents pay huge property taxes, but no consideration has been given to this neighborhood, and that it seems that people can take whatever they want from it. She stated that a lot of residents do not want cell towers, and that the cell towers should be built in front of the homes of residents who do and that they will have wonderful reception.

Hillsborough resident Tito (Manoj) Pombra thanked the City Council for the meeting. He stated that he got the letter about AT&T pulling out of Marlborough Road, which is behind his house and that he is excited about that. He stated that his only comment is that he has been in the legal compliance industry for 30 years for asset management. He stated that Councilmember Benton stated that his ownership was small; however, if making a profit on non-material, non-public insider information – even a penny – the Securities and Exchange Commission (SEC) will go after you even if you make five dollars. He stated that it is not about how much money Councilmember Benton made – it is about ethics and integrity. He stated that the City Council needs to do what is in the best interests of residents and nobody else. He asked why the other Councilmembers have not disclosed anything as it is hard to believe that they live here and have no assets to disclose. He stated that the Councilmembers are misleading residents. He stated that he strongly encouraged that if anyone has any conflicts, they should come forth with that now as this is how ethics work.

Mayor Christianson closed the public comment period.

Mr. Diaz stated that Councilmember Benton did recuse himself from the closed session as noted previously. He noted that the Brown Act allows special meetings to be held with a 24-hour posting of the agenda. He stated that the desire to hold a special meeting was to be responsive to residents based on the letter that was received last week relating to the potential conflict of interest.

ADJOURNMENT:

Mayor Christianson adjourned the meeting at 5:30 p.m.