

**MINUTES OF A REGULAR MEETING
OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA**

September 8, 2009

A regular meeting of the City Council of the City of Palos Verdes Estates was called to order this day at 6:30 p.m. in the City Council Chambers of City Hall by Mayor Perkins.

ROLL CALL: Councilmembers Bird, Rea, Goodhart, Mayor Pro Tem Humphrey, Mayor Perkins

ABSENT: None

ALSO PRESENT: City Manager Hoefgen, City Attorney Pannone, Police Chief Dreiling

CLOSED SESSION: Council recessed to Closed Session at 6:33 p.m.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(a)

Iannitti v. City of Palos Verdes Estates, Case No. BS117627

CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

Pursuant to Government Code Section 54956.9 (c) – One (1) Potential Case

RECONVENE: Council reconvened at 7:35 p.m.

ALSO PRESENT: City Manager Hoefgen, City Attorney Pannone, Assistant City Manager Smith, Treasurer Sherwood, Police Chief Dreiling, Public Works Director Rigg, Administrative Analyst Davis, Minutes Secretary Monson

Mayor Perkins announced that the City Council had finished the Closed Session meeting on two items. The first item was regarding Iannitti v. City of Palos Verdes Estates and there was no reportable action. The second item was regarding possible initiation of litigation. She reported the City prosecutor will pursue a code enforcement action against the property owner at 605 Paseo del Mar. The City Attorney will pursue a civil action against the property owner if the Code Enforcement action is not effective.

PLEDGE OF ALLEGIANCE

MAYOR’S REPORT – Matters of Community Interest

Mayor Perkins reported on National Night Out held on August 4th. She acknowledged the safety personnel from L.A. County who responded to the “Palos Verdes” fire and remembered the two County firefighters killed while battling the Station Fire – Captain Ted Hall and Firefighter Arnie Quinones. She reminded residents of the importance of defensible space and a family emergency plan.

CONSENT AGENDA

It was moved by Councilmember Goodhart, seconded by Mayor Pro Tem Humphrey, and unanimously approved that the following Consent Agenda items be approved:

- MINUTES OF CITY COUNCIL MEETING OF JULY 28, 2009
- CITY TREASURER’S REPORT – JULY 2009
- ADOPT RESOLUTION R09-27; ADJUSTING THE FY09-10 BUDGET TO REFLECT RECENTLY APPROVED/IMPLEMENTED WAGE AND BENEFIT PROVISIONS WITH THE CITY’S EMPLOYEE ASSOCIATIONS

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- ADOPT RESOLUTION R09-28; AUTHORIZING THE DESTRUCTION OF SPECIFIC OBSOLETE RECORDS OF THE CITY MANAGER, CITY CLERK, POLICE DEPARTMENT AND PUBLIC WORKS DEPARTMENT
- ADOPT RESOLUTION R09-29; DECLARING THAT THE CITY PUBLIC WORKS DIRECTOR IS AUTHORIZED TO EXECUTE FEDERAL MASTER AGREEMENT NO. 07-5283R AND SUPPLEMENT AGREEMENT NO. 004-N, AND ALL INSTRUMENTS AND DOCUMENTS FOR SAID PROJECT AS IS NECESSARY
- AWARD A PROFESSIONAL ENGINEERING AND INSPECTION SERVICES CONTRACT IN THE AMOUNT OF \$89,915 TO HUITT-ZOLLARS, INC. FOR THE PALOS VERDES DRIVE WEST ROADWAY STABILIZATION PROJECT
- APPROVE A LICENSE AGREEMENT WITH PVPUSD PERMITTING USE OF SCHOOL PREMISES TO PLACE CONTAINERS TO STORE EMERGENCY SUPPLIES AND MATERIALS TO BE USED BY CITY-DESIGNATED DISASTER WORKERS IN THE EVENT OF AN EMERGENCY
- SET THE DATE OF THE PUBLIC HEARING FOR SEPTEMBER 22, 2009, TO CONSIDER VESTING TENTATIVE PARCEL MAP NO. 70848 FOR THE DIVISION OF 3000 PASEO DEL MAR AND ASSOCIATED MITIGATED NEGATIVE DECLARATION FOR THE DIVISION OF THE VACANT LOT LOCATED AT 3000 PASEO DEL MAR
- PLANNING COMMISSION ACTIONS OF AUGUST 18, 2009

MAP-104-08; Consideration of Vesting Tentative Parcel Map No. 70848 for the division of the vacant lot located at 3000 Paseo Del Mar and Associated Mitigated Negative Declaration for the Division of the Vacant Lot Located at 3000 Paseo Del Mar. Lot 1, Block 2252, Tract 7144.

Owner: Brian Choi

Action: Recommended approval with conditions

CDP-75/NC-1363-09; Consideration of Coastal Development and Neighborhood Compatibility Applications for additions to the single family residence located at 209 Rocky Point Road. Lot 25, Tract 17606.

Owner: Eric & Lisa Nakkim

Action: Approved with conditions

NC-1355/GA-1451/M-719-09; Consideration of Neighborhood Compatibility, Grading and Miscellaneous Applications for a new single family residence located at 3429 La Selva Place. Lot 7, Block 6102, Tract 6887.

Owner: Bo & Dawn Kaplan

Action: Approved with conditions

NC-1358/GA-1453-09; Consideration of Neighborhood Compatibility and Grading Applications for a new single family residence located at 4017 Via Solano. Lot 17, Block 6201, Tract 6887.

Owner: Royal & Linda Park

Action: Approved with conditions

NC-1352 -09; Consideration of a Neighborhood Compatibility Application for additions to the single family residence located at 2209 Via Guadalana. Lot 17, Block 1636, Tract 7330.

Owner: Mr. & Mrs. George Lee

Action: Approved with conditions

M-725-09; Consideration of a Miscellaneous Application for non-standard walls and fences within the setback adjacent to the street at the single family residence located at 364 Palos Verdes Drive West. Lot 8, Block 1614, Tract 6885.

Owner: Jeff Stoner

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Action: Approved with conditions

COMMUNICATIONS FROM THE PUBLIC

R. Chapman, resident of PVE, thanked the City for initiating litigation regarding the unauthorized, illegal use for non-residential purposes at 605 Paseo del Mar. He moved to PVE from Manhattan Beach to avoid the kind of noise he has endured for the past year from 605 Paseo del Mar.

Malcolm Field, [resident], has been a resident of PVE for 47 years and has never heard anything like the noise coming from 605 Paseo del Mar. These parties are illegal and must be stopped. He felt that if permitted to continue, other residents will start renting their homes out also.

Jim Anastassiou, [resident], parents reside at [redacted], commended the City for taking necessary actions. He commented that the issue is not just the parties, but the all day long arrival of equipment and supplies and the valet service that continues all evening. He asked that the Council review and instruct the City Attorney to obtain an injunction for 605 Paseo del Mar, and to review the City's laws to see if they need to be made tougher so there is not a long drawn-out process for investigations in order to stop this type of activity.

Richard Sahroian, [resident], said he lives next door to the party venue and it is almost unbearable to be in his house over the weekends with the coming and going of people and trucks. He said considering the high property taxes he pays and the cost of maintaining his home he hoped that something will be done quickly so he can return to the peace and tranquility that he had.

Louise Lohman, of the La Venta Inn and PVE resident, said she was in attendance to represent La Venta Inn which is a licensed facility and taxpaying venue. She said the event planner for 605 Paseo del Mar presented the facility as a fully licensed and accredited party venue which was accepting bookings for 2009 and 2010. The event planner also stated they had insurance and had been health inspected. Ms. Lohman told her staff that she would not be booking events at 605 Paseo del Mar and has had to turn down bookings for that venue which is tough to do in this economy. She resents that she is losing business to this venue that is not inspected, licensed, insured, or paying taxes.

Betsy Treynor, [resident], said she was in attendance to represent the Malaga Cove Homeowners' Association. MCHA does not want to see a commercial use of a private property with no restrictions.

Fred Christie, [resident], said he and his wife have been out of town during most of the events but were in town over the past weekend and experienced the substantial noise from 605 Paseo del Mar. He expressed appreciation to the Police Department for their handling of the situation.

Martin Bruechle, [Redondo Beach resident], wanted to make the Council aware of the Marine Life Protection Act. He said that by December there may possibly be a reserve in Palos Verdes from Flat Rock to Lunada Bay. He believes that the Police Department will be charged with policing the coast line. He reported that Redondo Beach has set up a task force in response to the situation. He asked that the Council gather information and get educated since there are only a couple of months left before it becomes law in this area.

PUBLIC HEARINGS

REQUEST TO APPEAL PLANNING COMMISSION DENIAL OF M-717-09; MISCELLANEOUS APPLICATION FOR NON-STANDARD STRUCTURES WITHIN THE CITY RIGHT-OF-WAY AT THE SINGLE FAMILY RESIDENCE LOCATED AT 1809 PALOS VERDES DRIVE WEST. LOT 18, BLOCK 1276, TRACT 7140

Public Works Director Allan Rigg reported that the application is for non-standard structures within the City right-of-way. The application asks for after-the-fact approval of stone borders in the 18' right-of-

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way and he noted that outdoor lighting also exists within the right-of-way, but the applicants purport that the lighting was installed prior to their purchase of the property. The City became aware of the non-standard construction in 2009 while work was being completed at the property. The Code Enforcement officer and Mr. Rigg observed the work and issued a stop work notice for installation of the stone borders. The applicant was informed that the non-standard work could be removed or an application could be submitted for review by the Planning Commission. The Planning Commission reviewed and denied the application at the July 21, 2009 meeting. The applicant is now appealing the denial to the Council and the appeal states that the stone borders mitigate the soil erosion that usually occurs at the front of the property. He said the City has fairly strict standards for the type of work that is allowed in the public right-of-way due to safety, liability, expense, etc. The stones, as installed, could cause someone to trip or injure themselves. Mr. Rigg stated that there are many walkways installed throughout the City without walls like this to keep dirt off of them. Typically the grading of the dirt and vegetation is completed in a manner to minimize dirt coming onto the walkway.

Councilmember Rea asked if the walkway was part of the appeal. Mr. Rigg responded that it was not.

Councilmember Goodhart asked if, during the final inspection of the project, the landscaping complied with City Code. Mr. Rigg said that the inspector usually inspects the private property and he would not have inspected the right-of-way. The plans submitted to the Planning Commission did not show any type of walkway. Mr. Goodhart said that if there were any violation in the right-of-way would the inspector have noted it and withheld approval. Mr. Rigg said the inspector would have written a correction if he noted a non-standard condition and there was no walkway at the time of final inspection.

Councilmember Goodhart asked what dictates the design of the elevations in the right-of-way. Mr. Rigg responded that the driveway apron is designed so the back of the apron is equivalent to the standard curb height plus .5% within that width. This is designed so that the apron and curb can contain the same amount of water from the street.

Councilmember Bird reiterated that the walkway was not shown on the initial plans. Mr. Rigg said that it was not, but that it is not required to be shown. Mr. Bird said there were no subsequent permits issued for the walkway. Mr. Rigg said that staff was able to find a permit for the driveway and other items, but not for the walkway. Councilmember Bird asked if the current walkway met the City's Code. Mr. Rigg said it did not. Councilmember Bird asked if the Planning Commission has approved this type of border on any property within the last several years. Mr. Rigg said they have not.

Mayor Pro Tem Humphrey asked what the lighting issue was. Mr. Rigg responded that the lighting was not a specific part of the application, but if the Council would like to have the lights removed the City will do so.

Mayor Perkins said the edging stones along the walkway are the issue before the Council. She confirmed that the City had not approved the design of the stone edging. Mr. Rigg said staff has checked the data base and the address file and there is no permit on file.

Appellant David Armitage, [resident], said the primary issue is about a house that was moved into when it was brand new and he assumed the City had signed off on everything. During the first 2-3 years during the rainy season, he replaced the soil around the walkway about 4-5 times. The area is very sloped which causes the dirt to spill onto the walkway. He asked how this kind of situation could get by the Planning Commission. He believes there is a hazard when the mud and silt sits on the walkway. He has seen many homes in PVE with similar stones and it is not fair to have selective enforcement. He has a \$1 million insurance policy on the house and would be willing to have the City held harmless.

Margaret McCarthy, [resident], President of the Malaga Cove Homeowners' Association, said she is amazed the City is trying to have the residents take out the stones. The property is beautiful and she is confused why the City would go after an owner that is taking care of their property when there are so many unkempt properties that should be addressed.

Councilmember Goodhart said the City does not have the time or the money to selectively enforce non-compliance with right-of-way standards. He is inclined to uphold the Planning Commission's action. His observation is that there is too much dirt and if the excess is removed it should not runoff into the pathway. He suggested that planting grass would retain the dirt.

Councilmember Bird said that the stone border is a violation of the City's rules and laws and he would not approve it. The home and landscaping are beautiful, but the stones are a hazard. He would also be in favor of removing the non-conforming lights. As for other violations in the City, the City will deal with those as they are found.

Mayor Pro Tem Humphrey said the City never approves non-conforming encroachments. She does not want to set a precedent. The City has had previous experience with signing a hold harmless agreement and it did not hold up in court.

Councilmember Rea agreed that a grass border would retain the dirt. He does not believe the City is singling this property out for enforcement; we are addressing what is before us which is an appeal to an application. He would uphold the Planning Commission's decision.

Mayor Perkins said the landscaping is aesthetically pleasing, however, she agrees it is a non-permitted encroachment and does not want to set precedence.

It was moved by Councilmember Rea, seconded by Councilmember Goodhart, and unanimously approved to uphold the Planning Commission's decision to deny M-717-09; Miscellaneous Application for Non-Standard Structures Within the City Right-of-Way at the Single Family residence Located at 1809 Palos Verdes Drive West. Lot 18, block 1276, Tract 7140

There was discussion on what direction to give staff to enforce other non-conforming encroachments. Staff is to continue to enforce non-conforming encroachments as they are made aware of them.

ORDINANCES

INTRODUCTION OF ORDINANCE 09-693; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES REPEALING CHAPTERS 1.08; 2.20; 3.15, 3.20 AND 5.16 OF THE PALOS VERDES ESTATES MUNICIPAL CODE

Assistant City Manager Judy Smith reported that staff is working on updating the Municipal Code and the first step is to eliminate obsolete sections in chapters of the Code. There are five obsolete sections altogether which are: the designation of the front entrance and address of City Hall, the Fire Reserve Corps, the Utility Users Tax, Telephone Users' Tax, and a chapter dealing with taxicab regulations.

It was moved by Mayor Pro Tem Humphrey, seconded by Councilmember Bird, and unanimously approved to introduce Ordinance 09-693; an Ordinance of the City Council of the City of Palos Verdes Estates repealing Chapters 1.08; 2.20; 3.16; 3.20 and 5.16 of the Palos Verdes Estates Municipal Code.

NEW BUSINESS

PW-554-09; AWARD OF CONTRACT FOR THE PALOS VERDES DRIVE WEST ROADWAY STABILIZATION PROJECT IN THE AMOUNT OF \$566,595 TO CALEX ENGINEERING COMPANY FOR THE COMPLETION OF THE PALOS VERDES DRIVE WEST ROADWAY STABILIZATION PROJECT

Public Works Director Allan Rigg reported that staff have spoken to the issue of the Bluff Cove landslide and the stability of Palos Verdes Drive West many times over the past couple of years. There have been several investigations to fully understand the landslide movement and the different alternatives available to either stop the landslide or build a bridge over the top. Over time the City has come to agreement that the best option is to build a wall along the west side of PVDW that will

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preserve the roadway as the landslide slips away. The design of the wall includes soldier piles with tiebacks underneath PVDW to secure the best long-term solution. The Council directed staff to proceed with the design of the soldier pile wall. Staff has worked with the engineers at GMU Geotechnical to design the final set of plans and the Council approved both the plan specifications and estimates for the project. The project was put out to bid. The City received nine bids ranging from \$566,000 up to \$1.1 million. The initial estimate from the construction engineer was \$923,000. The lowest bid received was from Calnex Engineering for \$566,695. Staff researched Calnex to ensure they were reputable and there were no mistakes in the bid. Comparing Calnex's unit cost to the engineer's estimate, there are a few areas of significant difference. The clearing and grubbing bid from Calnex is \$15,000 and the engineer's estimate was \$30,000. Also, Items three and four, the excavation of fill, the total bid by Calnex was \$88,000 and the engineer's estimate was \$175,000. Items 17, 18, and 19, for the tiebacks, the Calnex bid was \$112,500 and the engineer's estimate was \$264,000. Staff checked the bid to make sure that the costs listed were not mistakes. Staff discovered that Calnex has completed soldier pile wall projects of similar size for the City of Los Angeles Bureau of Engineering, the City of Los Angeles Public Works Department, the City of La Habra Heights, the County of Los Angeles Department of Public Works, and the County of Santa Barbara which are very large and very similar projects. Staff feels comfortable that the reason the bid is competitive is that Calnex is very good at this type of work. Calnex recently completed a soldier pile wall with tieback anchors project for the Los Angeles County Department of Public Works. Engineer Floriza Rivera called the various agencies and Calnex was given overwhelmingly positive reviews. Director Rigg anticipates the work beginning at the end of October and to be complete by the middle of December. Staff has worked to make the traffic impacts as minimal as possible during construction.

Mayor Perkins asked staff to explain, for the benefit of the public, the specific sources of funding. City Manager Hoefgen said that several years ago the City was concerned that there would not be enough funding to complete the project. The City has been awarded \$500,000 of federal stimulus funds to help complete the project with the remainder of the funds coming from State bonds.

Councilmember Goodhart inquired as to how much of the engineering and inspection services contract that was approved earlier in the meeting, was allocated in the budgeting process for this part of the project. Mr. Rigg believed it was projected as 10% of the estimated construction budget. He said the actual cost is higher than usual +20% due to the materials testing for the concrete and the steel and the records requirements of the federal and state governments.

Councilmember Bird asked if the bonds referenced in the Article 8 of the Public Works contract are completion bonds. Mr. Rigg said one is a performance bond and the other is a payment bond.

Councilmember Bird asked the City Attorney if that these bonds mean that the two companies are guaranteeing that the work will be completed and they will pay for the work if the contract company becomes problematic. City Attorney Pannone said that is the purpose of the performance bond. He explained that the purpose of the payment bond is to make sure the contractor pays the people he is supposed to pay.

Councilmember Rea commented that just a couple of years ago the City was concerned that the cost of the project would cost well more than \$1 million and it is remarkable that the cost of the project is relatively small.

Mayor Perkins credited the staff for being on the ball and ready with the application when the federal stimulus funds became available.

City Manager Hoefgen added that the construction schedule is not completely within the control of the City due to the federal funds requiring reviews by outside agencies. Mr. Hoefgen said the City will do their part to keep the project on schedule.

Mayor Perkins suggested that the City's website have the construction schedule listed so residents can stay up-to-date with the progress of the project.

It was moved by Councilmember Bird, seconded by Councilmember Goodhart, and unanimously approved to award a construction contract in the amount of \$566,595 to Calex Engineering Company for the completion of the Palos Verdes Drive West Roadway Stabilization Project.

STAFF REPORTS

City Manager's Report

City Manager Hoefgen would like to send a letter of opposition to the Governor regarding SB802 which would reduce retention withholding on Public Works projects from 10% to 5%.

DEMANDS

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council, totaling \$234,900.54 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council, totaling \$231,088.32 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council, totaling \$249,650.14 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council No. 515916 to 515920 totaling \$14,980.72 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council No. 515897V, 515903H to 515905H, 515921 to 515959 totaling \$33,509.73 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council No. 515862V, 515970 to 516051 totaling \$651,867.93 be allowed and it was unanimously approved.

It was moved by Councilmember Rea and seconded by Mayor Pro Tem Humphrey that the demands, as approved by a majority of the City Council, No. 516062 to 516119 totaling \$267,783.96 be allowed and it was unanimously approved.

MAYOR & CITY COUNCILMEMBERS' REPORTS

Mayor Pro Tem Humphrey reported that she and City Manager Hoefgen attended the L.A. Division of the League of California Cities and City Selection Committee meetings on September 3.

Councilmember Goodhart reported on his attendance at the July and August South Bay COG meetings:

- The October meeting of the L.A. Division of the League of California Cities will have a presentation on 'Managing Emotional Audiences.'
- There will be a lunch meeting in November regarding the area economic forecast.

- The South Bay Cities COG conducted a traffic study that surveyed drivers on the route to and from LAX asking where drivers believed the worst congestion points were. The SBCCOG will be working with the local cities to help resolve the traffic congestion issues.
- L.A. County is now a member of the SBCCOG.
- The Marine Life Protection Act has three possible plans and one of these plans would affect PVE. Comments need to be submitted by September 10, but the MLPA would not take effect until 2010.

Councilmember Bird said that National Night Out was a wonderful opportunity to meet with residents and thanked Chief Dreiling and his staff for organizing the event. He said the recent fires on the Peninsula and around L.A. County remind us to be prepared for a disaster.

Councilmember Rea said it is important to prepare ahead of time for an emergency. He has experienced the loss of a home from fire and during an emergency it is difficult to think clearly.

ADJOURNMENT

There being no further business before Council the meeting was adjourned at 9:15 p.m. to Tuesday, September 22, at 7:30 p.m. in the City Council Chambers of City Hall.

RESPECTFULLY SUBMITTED,

MICHÉLE D. MONSON, MINUTES SECRETARY

APPROVED:

ELLEN PERKINS, MAYOR