

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

May 26, 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.

PLEDGE OF ALLEGIANCE

ROLL CALL: Councilmembers Bird, Rea, Goodhart, Mayor Perkins

ABSENT: Mayor Pro Tem Humphrey

ALSO PRESENT: City Manager Hoefgen, Assistant City Manager Smith

CLOSED SESSION: Council recessed to Closed Session at 6:35 p.m.

- **CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code Section 54957.6

Agency Negotiators: Joe Hoefgen, Judy Smith, Scott Tiedemann

Employee Organizations: Public Service Employees Association and Palos Verdes Estates

Police Officers' Association

RECONVENE: Council reconvened at 7:30 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL: Councilmembers Bird, Rea, Goodhart, Mayor Perkins

ABSENT: Mayor Pro Tem Humphrey

ALSO PRESENT: City Manager Hoefgen, Assistant City Attorney Ailin, Assistant City Manager Smith, Police Chief Dreiling, Assistant Engineer Rivera, Assistant Engineer Kinsella, City Treasurer Sherwood, Administrative Analyst Davis, Minutes Secretary Monson

CONSENT AGENDA

It was moved by Councilmember Goodhart, seconded by Councilmember Bird and unanimously approved that the following Consent Agenda items be approved:

- MINUTES OF CITY COUNCIL MEETING OF MAY 12, 2009
- CITY TREASURER'S REPORT – APRIL 2009
- MONTHLY FINANCIAL REPORT – APRIL 2009
- ADOPT ORDINANCE 09-689; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES AMENDING SECTION 18.32.010 OF THE PALOS VERDES ESTATES MUNICIPAL CODE RELATING TO HEIGHTS OF WALLS, FENCES, AND ACCESSORY STRUCTURES IN THE R-1 AND R-M ZONES
- AWARD THE JANITORIAL SERVICES CONTRACT FOR FY 2009-10 TO COME LAND MAINTENANCE FOR PROPOSAL 2, WHICH INCLUDES THE ENVIRONMENTALLY-FRIENDLY CLEANING PRODUCTS CERTIFIED OR APPROVED BY ECOLOGO; GREENSEAL GS37; OR DESIGN FOR THE ENVIRONMENT IN THE AMOUNT OF \$1550 PER MONTH

- APPROVE SPECIAL EVENT APPLICATION FOR THE 48TH ANNUAL 4TH OF JULY CELEBRATION AT THE LUNADA BAY ELEMENTARY SCHOOL GROUNDS, ALLOW THE CELEBRATION COMMITTEE TO POST PROMOTIONAL SIGNS AT THE TWO CITY-PERMITTED LOCATIONS ONE WEEK PRIOR TO THE EVENT, AND TO PLACE FLAGS AT EACH PROMOTIONAL SIGN

- PARKLANDS COMMITTEE MEETING ITEM OF MAY 11, 2009

PC-299-09; Application to remove 1 Olive tree in the city right-of-way located adjacent to 2560 Via Olivera and a grouping of five Yucca plants in the Parkland across the street for view restoration

Applicant: Kurt and Fran Kupiec

Action: Approved

- PLANNING COMMISSION ACTIONS OF MAY 19, 2009

M-710-09; Consideration of a Miscellaneous Application for non-standard encroachments at the single family residence located at 3708 Via La Selva. Lot 3, Block 6212, Tract 6887.

Owner: Carol Edwards

Action: Approved with conditions

NC-1267R-09; Consideration of a revised Neighborhood Compatibility Application for revisions to the new single family residence located at 4121 Via Largavista. Lot 24, Block 6312, Tract 7143.

Owner: Raffi Ounanian

Action: Approved with conditions

M-711-09; Consideration of a Miscellaneous Application for a structure exceeding the maximum allowable height at the single family residence located at 540 Paseo Del Mar. Lot 4, Block 1412, Tract 6886.

Owner: Marcus Linden

Action: Approved with conditions

COMMUNICATIONS FROM THE PUBLIC

Kathy Huben, [PVE Resident], said Callie Bell has been the western trainer at the PV Stables for over 10 years and received a 15 day eviction notice from HGS Management on May 22nd. Ms. Huben called David McLewee to inquire about the eviction, he said there were various reasons, including conflicts, for the eviction. Ms. Huben feels that HGS is violating the Concession Agreement in regards to conflict resolution. She believes this should have been handled through the Stable Committee which has not yet been established by the new management. She requested the City intervene in the matter within the next 15 days due to the timeline of the eviction notice.

Pat Benjamin, [PVE Resident], stated her concern regarding the current western riding program. She fears the program will be a casualty of the conflict between Callie Bell and the new Concessionaire. The current program is a safe, quality, and comprehensive program that is worth maintaining.

Rose Mary Berman,[PVE Resident], has a daughter that trains with Callie Bell. She fears for the survival of the training program. She values Callie as a trainer. She said she was assured that there would not be any changing of the trainers when the new management took over. She requested that the City intervene in the matter. The program affects many other trainers and horses.

Jeff Littrell, [Manhattan Beach Resident], has a daughter that rides with Callie Bell. He also boards a horse at the PV Stables. He believes there are not many choices for western training in the area and Callie's program is an asset to the community. He does not think that a 15 day notice is appropriate as this program is how Callie makes her living. It is unreasonable to ask her to up-end her business and move her animals in 15 days. He would like the City to find a better way to resolve the conflict.

Joe Bell, [RHE Resident], has been involved with horses for over 20 years.

He said Callie has been with PV Stables for 10 years and is an asset to the program. He believes a 15 day notice regarding her livelihood doesn't make sense. He hopes the conflict can be resolved and asked the City to step in and help.

Mary Tu, [PVE Resident], the 15 day eviction notice affects not only Callie but many other families. Fifteen days is short notice. She asked the City to step in and help to find a solution.

Callie Bell, [San Pedro Resident], said she was given the eviction notice out of the blue. She feels the program has been successful for 10 years and she is not clear why she is being evicted. She believes it is unfair that one person can decide that she cannot continue her business at the stable. She asked the City to look at the situation.

City Manager Hoefgen reminded everyone that the Council is not allowed to engage in discussion on the matter. He said the Concessionaire is required to maintain instruction in both english and western styles of riding. The decision on who provides that style of training is up to the Concessionaire and is so stated in the agreement. Also, there is a requirement for a Stable Committee to be in place. The new Concessionaire has not formed a committee yet as the first three months has been a settling in period. They do intend to form a Stable Committee. The decision as to who provides services at the stable is squarely with the Concessionaire.

Councilmember Goodhart asked if the language in the agreement gives a timeline for forming the Stable Committee. City Manager Hoefgen said there is not a specific timeframe created in the agreement; just the requirement for a Stable Committee and dispute resolution process.

Councilmember Goodhart asked if the process is for boarders or employees. City Manager Hoefgen said the language in the agreement is for boarders and those that use the stables. He looks at the situation as an employer/employee type relationship. The trainers work at the stables through the Concessionaire. It is supposed to be a partnership in an ideal sense. The Concessionaire has an agreement with trainers that meets the needs of the stables, the community, and the Concessionaire. He noted that two of the four current trainers have signed agreements with the Concessionaire – Ms. Bell has not signed an agreement. He said that virtually everyone at the stables has a boarding agreement in place except Ms. Bell. He has encouraged Ms. Bell to deal directly with Mr. McLewee. This approach has worked for the other trainers.

Councilmember Goodhart was not clear regarding the requirement for the Stable Committee. Mr. Hoefgen read that portion of the agreement – ‘The Concessionaire shall establish a Stable Committee which shall consist of such number of representatives of those persons using the property (i.e. -persons boarding horses, trainers, and persons utilizing programs offered at the property) as Concessionaire deems reasonable. The Stable Committee shall meet at any time when the Concessionaire deems circumstances warrant such a meeting, but not less than once each year. Such meeting shall be open to all persons boarding horses at the property, to all other persons who pay for any service or program at the property, and to such representatives as the City may choose to attend. The scheduled time, place, and date of each meeting of the Stable Committee shall be provided to the City Manager not less than one month in advance and shall be posted at the property in a location accessible to the public.’

Assistant City Attorney Ailin stated that further discussion would be going beyond what is allowed within the Brown Act.

PUBLIC HEARINGS

RESOLUTION R09-13; APPROVING THE ANNUAL REPORT AND SETTING THE RATE FOR THE SEWER USER FEE TO FINANCE THE FY 09-10 PROGRAM OF SANITY SEWER IMPROVEMENTS

Assistant City Manager Smith reported that FY 09-10 represents the seventh year of the City's ten year Sewer Master Plan. In 2003 the City Council adopted an ordinance implementing a Sewer User Fee to fund the improvements. The fee appears on the property tax bill and is collected at the same time as the payment for property taxes. Ms. Smith discussed the formula the City uses to determine annual estimated sewer use for each property which is based on water consumption. The total sewer units estimated for the City were 1,214,000 which is a decrease of 21% compared to the

total units accrued in 2008-09. The maximum unit rate for FY 2009-10 would be \$1.31 – the current rate is \$1.23. Even though the maximum rate is \$1.31, given the consumption history and the estimated sewer units use, the fee of \$1.02 would generate sufficient revenue to fund the Sewer Master Plan for next year. The single family residence average cost will be \$250 which is a decrease of \$48 from last year. The 2009-10 budget calls for \$4.58 million in design, construction, and administration related to the two sewer pump stations at Via Barri and Rocky Point Road. The Sewer User Fee will generate approximately \$1.2 million and the balance of the sewer program will be funded from accumulated fund balance.

Mayor Perkins opened the Public Hearing and seeing no one wishing to speak closed the Public Hearing.

Councilmember Rea was happy to see the sewer fee at the lowest rate since its inception.

Mayor Perkins said it is remarkable the City can charge up to the maximum rate of \$1.31, but will charge only what is needed to fund the sewer program at \$1.02.

It was moved by Councilmember Rea, seconded by Councilmember Bird, and unanimously approved to adopt Resolution R09-13; approving the Sewer User Fee Annual Report, prepared in accordance with Ordinance No. 03-649, establishing the sewer user rate for the FY 09-10 sanitary sewer improvement program. (Humphrey absent)

ORDINANCES

INTRODUCTION OF ORDINANCE 09-692; RESTATING AND AMENDING MUNICIPAL CODE CHAPTER ON NUISANCES

Assistant City Attorney Ailin reported that Ordinance 09-692 is a complete amendment and restatement of the chapter of the Municipal Code dealing with nuisances. The City has long followed a process for nuisances on public property, right-of-way and Parklands parcels in particular, that is slightly different from what is in the Municipal Code dealing with nuisances on private property. The basis for the policy that the City has followed is the City's inherent police power for controlling its own property. However, it is better for the public to know that there is a separate process for nuisances on public property which is why it is proposed to make it explicit in the Municipal Code that there is a somewhat different and abbreviated process. The proposed process is what the City has been following – if the person responsible for the nuisance cannot be located, the City Manager has City forces deal with the problem. If the person responsible can be located and the nuisance is in public right-of-way, the City Manager will give the person notice allowing 72 hours to deal with the hazard. If the responsible person does not deal with the hazard the City will. On other types of City property the person responsible will have a longer period of time to respond – 7 to 30 days. If not promptly dealt with the City will take care of the hazard. There is no appeal to the City Council on these types of nuisance abatements and, consequently, there is no provision for the City to recover costs related to dealing with these kinds of nuisances. The purpose is to let the public know that there is a separate process for nuisances and non-permitted encroachments on public property.

Councilmember Goodhart recused himself and left the chamber based on the location of his residence.

Councilmember Rea said that the Council is codifying the existing practice which will serve to educate the public on what the practices are.

Assistant City Attorney Ailin said it is very clear what has and has not been changed when you read the red-lined version of the Code. It has been clarified what pertains to private property, public property, or both.

Councilmember Bird thinks the proposed ordinance 8.48.0825 pertaining to public property is very helpful in giving notice to what has been the policy of the City. It makes good sense from a public safety standpoint.

Mayor Perkins agreed that it makes good sense to clarify and codify the existing policy. She also appreciated the clarification that the amendment is not intended to change or have an effect on Resolution R05-32 regarding encroachments on the Parklands.

City Attorney Ailin reminded the Council that there is a portion of the City where a number of houses have encroachments on Parklands parcels along the border with Torrance. There was an agreement reached with those property owners to remove those encroachments at a certain time in the future and this agreement is not affected by this ordinance.

It was moved by Councilmember Rea, seconded by Councilmember Bird, and unanimously approved to introduce for first reading, by title only with further reading waived, Ordinance No. 09-692. (Humphrey absent, Goodhart recused)

NEW BUSINESS

REVIEW AND APPROVAL OF PALOS VERDES BEACH AND ATHLETIC CLUB FY 2009-10 OPERATING AND CAPITAL BUDGETS AND ADOPTION OF RESOLUTION R09-14 APPROVING A \$10 INCREASE IN MONTHLY DUES

Assistant City Manager Smith reported that on May 19th there was a Beach and Athletic Club Liaison meeting attended by Council Liaisons Rea and Goodhart and the PVBAC representatives to discuss the Club's FY 09-10 budget. The FY 09-10 budget assumes a \$10 increase in monthly dues effective July 1, 2009 which would result in operating revenue of \$1.271 million and expenses of \$1.209 million with projected net income of approximately \$62,000. The last dues increase was three years ago. The capital budget proposed expenditures of \$136,000 with initiation fee income estimated at \$120,000 and interest income of \$36,000.

Councilmember Rea said the new Jacuzzi is gorgeous and adds to the appearance of the entire Club. He supports the proposed budget.

Councilmember Goodhart agreed with Councilmember Rea. He was impressed with the budget presentation given by Chris Manos and also the thoroughness with evaluating upcoming costs. He also supports the proposed budget.

Mayor Perkins was appreciative of the detail of the PVBAC budget.

Attorney Ailin commented that Councilmember Goodhart is a member of the Beach Club, but since it is a non-profit corporation, his voting on the item is not a conflict of interest.

Councilmember Bird moved, it was seconded by Councilmember Rea, and unanimously approved to approve the Palos Verdes Beach and Athletic Club FY 2009-10 operating and capital budgets. (Humphrey absent)

Councilmember Bird moved, it was seconded by Councilmember Rea, and unanimously approved to adopt Resolution R09-14; approving a \$10 increase in monthly dues. (Humphrey absent)

REQUEST FOR RATE ADJUSTMENT IN REFUSE COLLECTION BY ATHENS SERVICES

Assistant Engineer Floriza Rivera reported that the solid waste and recycling agreement allows Athens Services to approach the City on an annual basis to request a rate adjustment based on a specific formula governed by the change in the CPI and changes in the solid waste and green waste landfill disposal costs. Currently residents are currently charged \$33.98 per month. When the adjustment formula is applied, it results in a \$2.97 decrease which would bring the total monthly resident rate down to \$31.01. The rate adjustment would be effective July 1, 2009 and billed on the next 2009 billing cycle.

Director of Governmental Affairs for Athens Services ,Chris Carlos, said Athens is not contractually required to seek the rate reduction, but they believe the decrease is appropriate in the current economic

climate. They desire to build good will in the community and create a long-term mutually beneficial relationship with businesses and residents in PVE. Mr. Carlos mentioned that Athens desires to transition to a more efficient backyard service model that is used successfully in other cities they service.

It was moved by Councilmember Goodhart, seconded by Councilmember Rea, and unanimously approved to approve a \$2.97 monthly rate decrease, per single family residence, to the solid waste and recycling collection services, to be effective July 1, 2009, to bring the total new monthly rate, including the AB 939 fee, to \$31.01; and approve invoicing for the decrease during Athens' next available 2009 billing cycle. (Humphrey absent)

DEMANDS

It was moved by Councilmember Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council, totaling \$221,010.93 be allowed and it was unanimously approved. (Humphrey absent)

It was moved by Councilmember Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council, No. 515462H to 515463H, 515474 to 515523 totaling \$233,150.82 be allowed and it was unanimously approved. (Humphrey absent)

MAYOR & CITY COUNCILMEMBERS' REPORTS

Councilmember Goodhart raised the issue of leaf blower noise and requested possible consideration and future discussion regarding an increase in the days which they are banned from use in the City. He would like to have two days per week of peace and quiet.

Councilmember Rea asked staff to also look at the alternatives to gas leaf blowers, i.e. electric, battery, and water brooms. City Manager Hoefgen suggested that he discuss it with the Mayor and Mayor Pro-Tem and bring the item back to Council at a future meeting.

Mayor Perkins said she and the City Manager attended the Lunada Bay Homeowners' Association Annual meeting. She said it was an honor to attend the Memorial Day services at Green Hills Memorial Park.

ADJOURNMENT

There being no further business before Council the meeting was adjourned at 8:40 p.m. to Friday, May 29, 2009 at 2:00 p.m. in the City Council Chambers of City Hall for the purpose of a budget study session.

RESPECTFULLY SUBMITTED,

MICHÉLE D. MONSON, MINUTES SECRETARY

APPROVED

ELLEN PERKINS, MAYOR