

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

October 14, 2008

A regular meeting of the City Council of the City of Palos Verdes Estates was called to order this day at 7:30 p.m. in the City Council Chambers of City Hall by Mayor Joseph C. Sherwood.

PLEDGE OF ALLEGIANCE

**ROLL CALL: Councilmembers Rea, Humphrey, Mayor Pro Tem Perkins,
Mayor Sherwood**

ABSENT: Councilmember Goodhart

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

CEREMONIAL MATTERS

Police Chief Dreiling introduced police officer candidate Timothy Hong who attended Rio Hondo Police Academy. Chief Dreiling administered the Peace Officers Oath and Officer Hong's mother pinned on his badge.

CONSENT AGENDA

Mayor Sherwood requested that Item #2, August Treasurer's Report, be removed from the Consent Agenda.

It was moved by Councilmember Humphrey, seconded by Mayor Pro-Tem Perkins and unanimously approved that the following Consent Agenda items be approved (4-0, Goodhart absent):

- MINUTES OF CITY COUNCIL MEETING OF SEPTEMBER 23, 2008
- MONTHLY FINANCE REPORT – SEPTEMBER 2008
- RESOLUTION R08-29, AUTHORIZING THE DESTRUCTION OF OBSOLETE RECORDS OF THE CITY TREASURER AND FINANCE DEPARTMENT

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- SPECIAL EVENT APPLICATION FOR THE COMPASSIONATE FRIENDS ORGANIZATION TO HOLD A LOCAL EVENT OF THE WORLDWIDE CHILDREN'S MEMORIAL CANDLE LIGHTING AT THE FOUNTAIN IN MALAGA COVE PLAZA
- AUTHORIZE THE CITY MANAGER TO FINALIZE SERVICE AGREEMENT BETWEEN THE CITY AND BEACH CITIES HEALTH DISTRICT ESTABLISHING THE CITY'S EMPLOYEE WELLNESS PROGRAM

TREASURER'S MONTHLY REPORT – AUGUST 2008

Mayor Sherwood asked Treasurer Ritscher to report on the well-being of the City's finances due to the uncertainties in the world financial market.

Treasurer Ritscher reported on the safety of the City's funds and his obligation as the Treasurer to follow three words – safety, liquidity, and yield. The majority of the City's funds are in the State of California Local Agency Investment Fund (LAIF). The remainder of the money is comprised of \$2.5 million in the Federal Home Loan Bank and \$1.5 million in the Federal Home Loans Mortgage Association (Freddie Mac). Freddie Mac was taken over by the federal government on September 8th, 2008. He also stated that the City's bank, Union Bank, has been a very good bank for the City and the current contract will expire in 2010. Union Bank is one of the 25 largest banks in the United States based on assets. The market price of Union Bank for the day was \$73.40.

Councilmember Rea moved, it was seconded by Mayor Pro-Tem Perkins, and unanimously approved to receive and file the August Treasurer's Report. (4-0, Goodhart absent)

COMMUNICATIONS FROM THE PUBLIC

Alfred Interian [PVE RESIDENT] wrote to the City several months ago regarding a “dangerous situation” at the intersection of Via Cerritos and Grandvia Altamira. He reported that traffic at the intersection was hard to negotiate due to the width of the street and the catering trucks that had started parking there. He thanked the City Council, City Manager, Police Chief, and Police Officers for addressing the situation and resolving the problem.

PUBLIC HEARINGS

NC-1226RII-08; REVISED NEIGHBORHOOD COMPATIBILITY APPLICATION FOR ADDITIONS TO THE SINGLE FAMILY RESIDENCE LOCATED AT 4101 VIA PICAPOSTE, LOT 9 AND PORTIONS OF LOT 10, BLOCK 6314, TRACT 7143

Planning Director Rigg reported that this project consists of a Revised Neighborhood Compatibility Application for additions to a single family residence requesting after the fact approval for two new chimneys. The chimneys were denied approval by Staff in December 2007 due to the concerns that the Planning Commission expressed regarding the height and massing of the project. Following the

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Planning Commission review of the revised project the City Council, at the September 9th Council meeting, set the item for this Public Hearing.

The original Neighborhood Compatibility application was reviewed by the Planning Commission on February 21, 2006 where it was continued due to the project's size and height. It was again reviewed on March 21, 2006 where it was approved with standard conditions and one additional condition to reduce the main ridge height by six inches. The project was reviewed on April 17, 2007 for proposed revisions to the floor area which were again approved with the previous standard and additional conditions imposed. At the latest Planning Commission review, on August 19, 2008, the revised plans requested after-the-fact approval for the two chimneys that had previously been denied by Staff at the counter. At this meeting there was discussion about whether the chimneys were on the City's approved plans. Director Rigg stated the chimneys were never on any plans that were ever approved either by the Planning Department or the Building Department. After reviewing the project, the Planning Commission did approve the application for after-the-fact approval of the chimneys.

Mayor Sherwood asked if Public Notice was properly given. Assistant City Manager Smith affirmed that it had been.

Councilmember Humphrey asked how the City discovered that the chimneys had been built. Director Rigg replied that one of the City's planners was at a project down the street and noticed the chimneys had been built.

Councilmember Rea asked if the chimneys had been permitted. Director Rigg said they were not.

Mayor Pro-Tem Perkins clarified that there had been a counter request for approval of the chimneys that had been denied. Director Rigg said the process for any entitlement that is granted by the City, a minor modification, allows the Staff to approve, per specific guidelines within the Municipal Code, non-substantial changes to previously approved entitlements. These are small changes that are approved to spare the applicant going back to the Planning Commission for approval. Staff will not approve anything that they feel would not have been approved absolutely by the Planning Commission.

Mayor Pro-Tem Perkins established that the normal process, after a denial at the counter, would have been for the applicant to return to the Planning Commission prior to building the chimneys. Director Rigg agreed. Mayor Pro-Tem Perkins said that in this case the chimneys were built without any prior approval after being denied by Staff. Director Rigg agreed.

Mayor Sherwood declared the Public Hearing open.

Project Architect Russ Barto, 3 Malaga Cove Plaza, said he sent a letter to the City Council outlining the poor way he handled the application and his sincere apologies for his mistakes. He hoped to learn from this and move on. He said the chimneys are at the minimum height permitted by code, they are internal to the house, they do not present a view issue with the neighbors, and the adjacent neighbors have approved and signed the plans that include the chimneys. He believes the Planning Commission made the correct decision in approving the chimneys.

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Mayor Sherwood confirmed with Mr. Barto that the letter of apology was written after the City's Planner discovered the chimneys. Mr. Barto said it was written October 3 when he realized the project would go before the City Council.

Owner David Semmer [PVE RESIDENT] said he had been through the several arduous steps of the planning approval and the chimneys were never addressed at a Planning Commission meeting. He has a set of approved plans with inspections passed by the City inspectors that show the internal chimneys. The issue is the chimneys were not shown on the elevations. He and his wife were not aware of the problem until six to nine months ago. They were told by Russ Barto not to worry about it. He and his wife respect the approval authority of the Planning Commission; they did not knowingly do something that wasn't permissible.

Councilmember Rea asked if the chimneys were shown on any of the plans submitted to the Planning Commission in 2006 or 2007. Director Rigg responded that the reason the Planning Commission did not address the chimneys is because they were never on the plans. There may have been some confusion in that there may have been plans on the project site that were approved by the Art Jury that had the chimneys on them.

Mayor Pro-Tem Perkins clarified that the first time the chimneys were brought to the City for approval, not the Art Jury, was when it came to Staff for a minor modification. Director Rigg concurred. He then indicated the second time staff saw the chimneys were when they were resubmitted to the Planning Commission after staff caught them after they were built. Staff still has not seen them yet on the Building plans.

Mayor Sherwood declared the Public Hearing closed.

Mayor Pro-Tem Perkins was concerned by the lack of process that was followed and the careless disregard or intentional disregard for the process. The fact is that Mr. Barto was denied approval by Staff and the proper approach would have been to go to the Planning Commission to get approval instead of disregarding the disapproval and going ahead and building the chimneys anyway. Mayor Pro-Tem Perkins was in attendance at the August Planning Commission meeting and she feels they were generous in their approach which was "Would they have approved the chimneys if they had come before the Planning Commission?" Their decision was to approve the chimneys. She agrees that the Council should not be reviewing the procedural flaws that occurred but looking at the four factors of Neighborhood Compatibility. She agrees with three of the Planning Commission findings, but she does not agree that the northerly chimney is reasonably compatible with the existing neighborhood character. The height of the building was discussed at the original Planning Commission meetings. She feels the northerly chimney is excessively high and looming and does not meet the standard of the existing neighborhood homes. She would approve the westerly chimney but not the northerly one.

Councilmember Humphrey agrees with a lot of Mayor Pro-Tem Perkins remarks. She asked if the home is currently occupied. Director Rigg did not know. She said Staff was right to deny the application at the counter level due to the Planning Commission's previous concerns with the height and mass of the project. The problem is that the contractor was not using the stamped plans approved by the City. She is troubled by the northerly chimney also and would like to hear what the rest of the Council has to say.

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Councilmember Rea recently looked at the house on several occasions. He appreciates Mr. Barto's candor in his letter to the Council. He assured Mr. Barto that he is not upset or angry and clarified that he is just dealing with the problem. He feels the chimneys do add to the apparent height, size, and massing of the house. The house is very visible from all sides due to its location on a corner. If the chimneys had been on the original plans, the Planning Commission may have required the roof ridge to be lowered further or the square footage of the house be lessened. He is also troubled by the northerly chimney; it adds to the looming nature of the house. He leans toward not approving the northerly chimney, but will listen to the Council discussion.

Mayor Sherwood agreed with the other Councilmembers. He believes that with the removal of the taller (northerly) chimney the house could still have a gas operated fireplace with a vent in the roof which would solve the problem.

Mayor Pro-Tem Perkins asked Councilmember Rea if he saw any way of adjusting the height of the chimney. Councilmember Rea said the decorative cap could be removed, but it would only reduce the height by about 18 inches.

Mayor Pro-Tem Perkins moved to confirm the Planning Commission's approval of NC-1226R11-08, a Revised Neighborhood Compatibility Application for additions to the single family residence, located at 4101 Via Picaposte, with the exception of the north chimney which is to be removed. The motion was seconded by Councilmember Rea and unanimously approved (4-0, Goodhart absent).

CONSIDERATION OF PROPOSED USE OF COPS (CITIZENS OPTIONS FOR PUBLIC SAFETY) FUNDS IN THE AMOUNT OF \$100,000 FOR FISCAL YEAR 2008-09 AND ADOPTION OF RESOLUTION R08-28, CONFIRMING THE USE OF THESE FUNDS AS CONTAINED IN THE CITY'S ADOPTED BUDGET

Mayor Sherwood asked if Public Notice was properly given. Assistant City Manager Smith responded that it had been.

Assistant City Manager Smith reported that the City receives \$100,000 in COPS funds from the State each year. The funds require a Public Hearing adopting a Resolution and the funds must supplement and not replace existing City funding for law enforcement services. The beginning balance in 2008-09 includes \$22,270 from last year and when added to the \$100,000 the City will receive this month the total balance is \$122,270 available for 2008-09. The Police Department budget includes \$78,660 for the use of the funds for partial funding of a patrol officer position. The Police Chief and Asst. City Manager Smith recommend the Council allocate the remaining balance of \$43,610 to the men's and women's locker room project. When the budget was previously presented to the Council, it included \$31,000 for new men's lockers and the Council requested that Staff investigate replacing the women's lockers as well. Staff is in the process of obtaining formal bids. If a budget adjustment is necessary over and above what the Council allocates this evening, Staff will bring that back to Council at the end of the fiscal year.

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Mayor Sherwood opened the Public Hearing and seeing no one wishing to speak, closed the hearing.

Councilmember Rea asked if the money has been received from the State. City Manager Hoefgen said the money should be in hand by the end of October and the purchase order will not be signed until the funds are received from the State.

Councilmember Humphrey moved that the Council approve adoption of Resolution R08-28 approving the use of FY 2008-09 COPS funds as contained in the City's FY 2008-09 adopted budget. The motion was seconded by Councilmember Rea and unanimously approved (4-0, Goodhart absent).

STAFF REPORTS

City Manager's Report

City Manager Hoefgen said the City is anticipating a Safe Routes to School call for projects from CalTrans. Staff has been working on a service contract with a traffic engineering firm to help the City work with the School District to put together a potential Safe Routes to School application. Staff will come to Council with the service contract and then go through the Traffic Safety Committee and the School District to identify potential projects.

Manager Hoefgen said that there is an increased risk of wild fires as we enter the Santa Ana season and Council is aware that the current budget allocated a significant number of additional funds for brush clearing and vegetation management. The work is near completion and proceeding well.

DEMANDS

It was moved by Councilmember Humphrey and seconded by Mayor Pro-Tem Perkins that the demands, as approved by a majority of the City Council, totaling \$228,537.74 be allowed and it was unanimously approved.

It was moved by Councilmember Humphrey and seconded by Mayor Pro-Tem Perkins that the demands, as approved by a majority of the City Council, No.514164V, 514167V, 514188H to 514194H, 514205 to 514313 totaling \$212,732.36 be allowed and it was unanimously approved.

MAYOR & CITY COUNCILMEMBERS' REPORTS - none

ADJOURNMENT

There being no further business before Council the meeting was adjourned at 8:20 p.m. to Tuesday, October 28th, in the City Council Chambers of City Hall.

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RESPECTFULLY SUBMITTED,

MICHÉLE D. MONSON, MINUTES SECRETARY

APPROVED:

JOSEPH C. SHERWOOD, JR., MAYOR

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