

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

January 12, 2011

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 Humphrey.

PLEDGE OF ALLEGIANCE

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

ABSENT: None

**ALSO PRESENT: City Manager Hoefgen, City Attorney Hogin, Assistant City
Manager Smith, Police Chief Dreiling, Public Works Director Rigg,
City Treasurer Sherwood, Minutes Secretary Monson**

MAYOR'S REPORT – Matters of Community Interest

Mayor Humphrey announced the dedication of the Lunada Bay Disaster District container located at Lunada Bay School to be held on Sunday, February 6th at 1:00 p.m.

CONSENT AGENDA

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

- MINUTES OF CITY COUNCIL MEETING OF DECEMBER 14, 2011
- MINUTES OF SPECIAL CITY COUNCIL MEETING – DECEMBER 21, 2010
- CONFIRM THE APPOINTMENT OF BLAKE LAMAR TO FILL AN UNEXPIRED TERM, ENDING JUNE 30, 2011, ON THE TRAFFIC SAFETY COMMITTEE.
- PLANNING COMMISSION ACTIONS OF DECEMBER 21, 2011

NC-1398/GA-1478-10; Consideration of Neighborhood Compatibility and Grading Applications for a new single family residence located at 529 Via Media. Lots 14 & 15, Block 1510, Tract 6886.

Owner: Sung H. Lim & Soo Y. Ahn

Action: Approved with conditions

M-794-10; Consideration of a Miscellaneous Application for a structure exceeding the maximum allowable height at the single family residence located at 4117 Via Largavista. Lot 23, Block 6312, Tract 7143.

Owner: John & Shannon Corsaro

Action: Approved with conditions

COMMUNICATIONS FROM THE PUBLIC

Chris Carlos of Athens Services invited the Council to tour their state-of-the-art material recovery facility that meets the AB939 needs of many southland cities.

PUBLIC HEARINGS

CONSIDERATION OF A MISCELLANEOUS APPLICATION (M-787-10) FOR NONSTANDARD STRUCTURES WITHIN THE CITY RIGHT-OF-WAY AND A STRUCTURE EXCEEDING THE MAXIMUM ALLOWABLE HEIGHT AT THE SINGLE FAMILY RESIDENCE LOCATED AT 400 VIA ALMAR. LOT 8, BLOCK 1514, TRACT 6886

Mayor Humphrey asked if public notice was properly given. Assistant City Manager Smith said that it was.

Director Rigg said this is a miscellaneous application for non-standard structures in the City right-of-way and a structure exceeding the maximum allowable height at the single family residence located at 400 Via Almar. The application requests three different items: 1) a non-standard curb walkway, 2) a non-standard landing within the right-of-way, and 3) the review of a 6' high fence located within the 30' setback adjacent to Palos Verdes Drive West. The 6' fence exceeds the allowable 42" maximum height in the setback adjacent to the street. On February 17, 2009 a miscellaneous application for an after-the-fact installation of a 6' fence was denied. The fence was placed in Code Enforcement. A Stop Work order was issued for the non-permitted work on the landing and the walkway. These items were also placed in Code Enforcement. All three items were joined together and reviewed by the Planning Commission (PC) on November 16, 2010. The PC reviewed the encroachments and the application and approved the fence but not the landing or the walkway. The Planning Commission did discuss the City Council's policy regarding allowing only open type construction above 42" within the setback adjacent to the street, but did approve the existing solid fence. On November 23, 2010 the PC actions were reported to the Council for review and the Council decided to set this application for public hearing.

Mayor Pro Tem Rea said Ordinance 18.32.010, which deals with the maximum height of fences and walls in a setback, states that 'any fence in the minimum required setback adjacent to a public street shall not exceed 42" in height. There can be a special permit that may be issued by the PC if it finds that the fence shall not adversely affect any other property.' He asked if that included property owned by the City such as the street. Director Rigg said the original intent of the ordinance was to prohibit a "walled-in" effect along streets and alleys within the City – so staff has always interpreted that the finding is also for public property.

Mayor Pro Tem Rea said the property is unusual as it fronted and backed by public streets. If the back of the property were not adjacent to a public street then a 6' solid fence would be okay. The policy adopted by the Council in 2002 essentially says that the PC can approve structures higher than 42" in the setback if similar structures are prevalent in the neighborhood, but they cannot be solid structures. He asked if this policy applies to this particular code section. Director Rigg said the PC has used this interpretation in policy to implement this code.

Mayor Pro Tem Rea said the properties on either side of this property have fences that match in height. Director Rigg said one of the properties has a permit for the wall and the other is a legal non-conforming wall.

Councilmember Bird stated that when this matter was previously before the PC on February 17, 2009 it was denied. He asked if anything had changed or had new facts been presented at the November 23, 2010 PC meeting since the application was denied at the February 2009 PC meeting. Director Rigg said there were not any new facts. Councilmember Bird asked if any 6' wall had been approved for that area. Director Rigg said not within a setback adjacent to the street. Councilmember Bird asked if other walls in a similar situation were denied by the PC in the two years since this application was denied. Director Rigg said there were projects that were denied to have structures over 42" in the setback adjacent to the street and any that were approved were for an open type construction. Councilmember Bird asked if open type fences were discussed at the February 2009 PC meeting. Director Rigg said the PC tried to modify the fence to an open type construction – they agreed to construction over 42" but that it needed to be open type construction. Councilmember Bird said the only difference between the two votes/meetings of the PC was the composition of the PC itself.

There was discussion regarding the various fences/walls that had been approved and/or denied in the surrounding neighborhood.

Councilmember Goodhart wanted it noted that the wall at 404 Via Almar is a solid block wall that was approved. Director Rigg said that wall predated the ordinance and the policy and it was legal non-conforming and had not gone before the PC for approval. Mayor Pro Tem Rea said it had been 'grandfathered' in.

Councilmember Goodhart said this application is the first submittal to the Council for all three of these changes made to the property. Director Rigg said the application had been removed from the previous meeting's Consent Agenda and the Council opted to set the application for a public hearing.

Carol Fabaraz, [PVE Resident], attended the meeting to read a letter from the applicant, Annette Morris, as the applicant was unable to attend and did not want the hearing to be postponed. Ms. Morris' letter said her permit request covered three issues: 1) completion of the walkway on the west side of the lot, 2) approval of the mailbox landing and retainer, and 3) construction of a 6' fence on back and side of the property. She stated that she is disabled and lives alone since her husband passed away in 2009. She said she has installed flagstone around the mailbox due to the mud and uneven terrain and she added the retaining wall as a place to sit if she tires while retrieving her mail. She said her husband replaced a chain link fence with a wooden one that they thought conformed with the fences on either side of their property; it was installed with no ill-intent. She asked the Council to consider: a) who is hurt by the fence being built, b) she feels it is discrimination as two of her neighbors have similar fences on the back and sides of their properties, c) her concern about poisonous trees planted on the City walkway and the fence would keep her grandchildren protected, d) she has bullet holes in her windows which make her feel vulnerable, e) her bedroom windows are in the view of the City walkway, f) people walk their dogs on the City walkway and an open fence would leave her visiting family's dogs open to confrontations, g) high speed traffic on PV Drive West is noisy and a higher fence would help with noise levels, h) City maintains the top of the property is the front yard and requires a 42" fence – she thinks this is ridiculous, i) the two adjacent properties have 6' fences placed at the normal City setback.

Homer Lowe, [PVE Resident], supported the applicant.

Georgiana Rosenkranz, [PVE Resident], lives next to the applicant on the other side of the public access/easement. She has a 6' fence and feels that it is critical due to the poisonous Oleander bushes and the safety concerns with people walking on the easement. Everyone else in the City is allowed to have a solid fence in their backyard and this area is not.

Georgiana Rosenkranz read a letter from another neighbor, Mr. Parks. Mr. Robert Parks, 404 Via Almar, was in support of the applicant. The applicant's property is unique as it has public right-of-way on three sides. This location creates significant privacy and security concerns which need to be considered in the decision making. He supports the mailbox at its current location. The City removed trees, bushes and a wire fence without notice and in so doing removed a privacy barrier. The applicant replaced the fence with a very similar fence to what is in place on either side of their property. The PC approved the fence after much debate given the unique nature of the lot and many of the lower Malaga Cove homes that back to PV Drive have significant fences and foliage. The PC also allowed for a wooden fence to be constructed along the eastern property line bordering the public walkway similar to what is in place at 384 Via Almar.

Mayor Humphrey closed the public hearing.

Councilmember Goodhart asked if the issue with the mailbox is due to its location in the setback. Director Rigg said the retaining wall and the pad are located in the right-of-way and are non-standard encroachments.

Director Rigg clarified an earlier statement saying that along this section of Via Almar and PV Drive West there are actually three homes that have gone before the PC (408, 412, 416 Via Almar) that were approved for open fences exceeding the 42" height limit.

Mayor Pro Tem Rea said the reason he pulled this item from the previous meeting's Consent Agenda was the approval of a solid fence exceeding 42" in height in the setback. This seemed to be contrary to the City policy that the City Council adopted in 2002. He said the Council had a joint meeting with the PC and one of the topics discussed was this policy and if there were circumstances

where exceptions could be made such as on PV Drive. He said this application is a tough call as the only adverse impact of the fence is the portion along PV Drive West that may block a portion of the passing view, but one should not be looking at the view while driving. He wanted to hear the discussion of the other Council members.

Councilmember Perkins said in general she was in agreement with the policy to limit the height of fences and to keep them open. However, she felt this was a unique situation in a unique area. She visited the site and she is willing to differentiate between the street to street lots on Via Almar and PV Drive West and those that front on PV Drive West. She agrees with the denial of 6' fences at 505 and 509 PV Drive West as they would have created a walled-in feeling. She believes the public pathway next to applicant's property does get a lot of use and having a privacy fence is appropriate in this particular situation. She would allow a higher fence. Her initial reaction to the application was to stay consistent with the policy, but upon seeing the unique problems with this area, she would uphold the PC's decision.

Councilmember Bird said he agrees with the previous comments regarding the uniqueness of the lot, but he is concerned about the process. The applicant came before the PC in February of 2009 and was denied the non-permitted fence and was encouraged to apply for an open-type fence permit. In November 2010 the applicant returned and asked for permission a second time, with no new facts, and was approved. The only difference being the composition of the PC. He would approve an open-type fence that exceeds the 42" policy, but not a closed fence. He does not want to set a precedent.

Councilmember Goodhart also visited the site and appreciates why the PC had some difficulty with making a decision on this application. When driving PV Drive West there is a view of the ocean which is part of history of the City, and walling this view in makes him worry about setting precedence. In this instance, the fence is in and it is consistent with the adjacent properties. He asked about the code for handrails along the steep portion of the walkway. Regarding the mailbox, he wished that the applicant had inquired about the requirements prior to installation.

Mayor Humphrey said the historical discussions regarding the walled-in effect had to do with the front of properties – it stemmed from residents installing large gates and fences which gave a walled-in effect. It was always assumed that any property with extenuating circumstances the policy could be set aside. She did not agree with the comments that this would set precedence. She does not believe there are many properties in the City that are fronted and backed by public streets and are adjacent to a public walkway. She wished the process had been followed and the PC did have a very thorough discussion on this issue. Since the property borders busy PV Drive West and a public walkway she supported allowing the fence to stay. She did not support allowing the mailbox or walkway. She supported the PC's decision.

Mayor Pro Tem Rea believes the discussion serves to provide additional guidance to the PC for future decisions. He does not think allowing the fence will adversely affect any other property. This is a very exceptional circumstance and he would approve the fence.

Councilmember Perkins asked if, under this policy, it would be permitted for an open-type fence at the 6' height and then allow solid foliage which would effectively block the view. Director Rigg said it would be allowed if the finding was that the other properties in the neighborhood had similar fences of an open structure. Councilmember Perkins noted that an open-type fence and foliage would effectively block the view also. Councilmember Bird said that option was offered to the applicant and it was not done.

It was moved by Councilmember Perkins to confirm the Planning Commission action to approve M-787-10 for non-standard structure within the right-of-way and a structure exceeding the maximum allowable height at the single family residence located at 400 Via Almar with standard conditions and with the following additional condition: that two structures within the right-of-way are denied, specifically the mailbox and the walkway. It was seconded by Mayor Humphrey.

Councilmember Goodhart asked Director Rigg to clarify what is allowed for the fence on the public pathway. Director Rigg responded that the Council is approving the fence only within the setback which is what the PC approved.

Roll Call Vote: (4-1, Bird dissenting)

Ayes: Councilmember Perkins, Councilmember Goodhart, Mayor Pro Tem Rea, Mayor Humphrey

Noes: Councilmember Bird

Attorney Hogin said staff will bring the Council a resolution memorializing the decision.

NEW BUSINESS

PROPOSED EXPENDITURE OF CITIZENS OPTION FOR PUBLIC SAFETY (COPS) FUNDS FOR FISCAL YEAR 2010-11 AND ADOPTION OF RESOLUTION R11-01

Chief Dreiling said each year the City receives \$100,000 COPS funds which are restricted to law enforcement services. The funds may be used for salary or equipment for supplemental purposes but not to supplant. In 2002, the Council approved the establishment of a School Resources Officer (SRO) position authorizing a sworn police officer at the high school to establish a Student and the Law program at PVHS and at PVIS to teach the DARE program. The School District would provide half of the officer's salary and the City the other half. Concurrently, with the implementation of the SRO program Council approved the addition of a 25th sworn officer position to maintain patrol strength. The SRO program at PVHS never came to fruition and the School District discontinued their funding. In June of 2004, the SRO program was discontinued and the officer returned to patrol duties. The City has continued to finance half of the officer's salary since 2002-03 with the idea of funding the 25th officer position in accordance with the original plan. The Police Department has yet to be fully staffed, therefore, the Chief now recommends discontinuing the use of COPS for this position at the end of the 2010-11 fiscal year. The recently adopted budget does not need to be changed. The beginning fund balance of \$14,210 added to an anticipated receipt of \$100,000 for a total balance of \$114,210 in the COPS funds. The police department budget includes the use of \$53,070 of COPS funds to finance half of a police officer position. In addition, the police department would like to spend \$29,000 to purchase an automatic license plate reader/scanner (ALR). The Chief recommends the residual balance of \$32,140 remain unobligated. An ALR consists of a series of cameras mounted to a police vehicle that is connected to an in-car computer. The cameras automatically scan license plates and run them through the DMV and other data bases. If there is a hit the computer will notify the officer. This equipment is commonly used in South Bay police agencies.

Mayor Humphrey clarified that PVE has not yet received the COPS funds from the State. She said the idea would be to approve the purchase and wait until the money is received.

Councilmember Goodhart asked if the funds are used for purchasing an ALR, will there be monies available to fund the 25th position. Chief Dreiling said if the police department actually gets to full strength at 25 positions, he would not be opposed to using COPS funds for this purpose.

City Manager Hoefgen said there is a County oversight committee that reviews the recommendations each year and every year in the past PVE has been approved. The funds are not allowed to be used to backfill a position – can only be used to supplement a new position.

Councilmember Bird asked if the ALR has the ability to run license plates for expired registration and/or suspended licenses of the vehicles registered owner. Chief Dreiling said it did. Councilmember Bird said these are common violations and would be probable cause to detain a driver which is an asset to law enforcement. He asked if one ALR would be enough for the City. Chief Dreiling said he would prefer to test one first before purchasing any additional units.

Mayor Pro Tem Rea asked if the ALR could take pictures of the drivers of the vehicles. Chief Dreiling said the equipment does not take photographs it reads licenses. Mayor Pro Tem Rea asked what officers would find most useful in the equipment. Chief Dreiling said the ability to capture a stolen plate or car as most crooks use stolen cars to commit crimes. This would help to find the burglars and get them off the street.

Chief Dreiling said the city of Lomita recently found a murder suspect by using an ALR. Officers drove through a motel parking lot and ran all the license plates; one came back registered to a murder suspect.

Councilmember Goodhart asked if other South Bay cities are using this technology. Chief Dreiling said Lomita, Redondo Beach, Torrance, El Segundo, Hermosa Beach, and Gardena are a few of the local jurisdictions that use the ALR.

Councilmember Perkins asked if the purchase included training. Chief Dreiling responded that the manufacturer does include training classes with the purchase.

It was moved by Councilmember Bird, seconded by Councilmember Goodhart and unanimously approved to adopt Resolution R11-01, approving the use of FY 10-11 COPS funds as contained in the City's adopted budget, and approve the additional expenditure of \$29,000 from COPS funds to purchase an automatic license plate reader.

STAFF REPORTS

City Manager's Report

City Manager Hoefgen reported that Governor Jerry Brown released the proposed State budget which attempts to close the \$25.4 billion deficit and indicated staff would closely follow developments.

DEMANDS

It was moved by Mayor Pro Tem Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council, totaling \$246,693.75 be allowed and it was unanimously approved.

It was moved by Mayor Pro Tem Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council, totaling \$234,229.33 be allowed and it was unanimously approved.

It was moved by Mayor Pro Tem Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council No. 518659V, 518705H, 518706H, 518707H, 518717 to 518778 totaling \$503,149.46 be allowed and it was unanimously approved.

It was moved by Mayor Pro Tem Rea and seconded by Councilmember Bird that the demands, as approved by a majority of the City Council No. 518779H to 518782H, 518783 to 518836 totaling \$145,452.98 be allowed and it was unanimously approved.

MAYOR & CITY COUNCILMEMBERS' REPORTS

Councilmember Goodhart reported on his attendance at the "State of Transportation in L.A. County" meeting held in Cerritos.

Mayor Humphrey reported on the PVHA Annual meeting held on January 11th. The Mayor also gave a "State of the City" speech at the Palos Verdes Breakfast Club on January 8th.

ADJOURNMENT

There being no further business before Council the meeting was adjourned at 9:15 p.m. to Tuesday, January 25, 2011 at 7:30 p.m. in the City Council Chambers of City Hall.

RESPECTFULLY SUBMITTED,
MICHÉLE D. MONSON, MINUTES SECRETARY

APPROVED:
ROSEMARY HUMPHREY, MAYOR

CITY COUNCIL
JANUARY 12, 2011