

**MINUTES
CITY OF PLEASANTON
CITY COUNCIL MEETING
July 18, 2006**

Mayor Hosterman called the meeting to order at 6:00 p.m., with Councilmember McGovern absent.

Council adjourned to closed session for the following purpose:

CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION

Pursuant to Government Code §54956.9(b):

- City's Housing Element, based on a letter received from Public Advocates, Inc.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code §54956.9(a):

- City of Pleasanton v. Kevin Sweeney, et al.
- Fasulo v. City of Pleasanton

The closed session recessed at 6:50 p.m.

1. **CALL TO ORDER:** Mayor Hosterman reconvened the meeting in open session at 7:03 p.m. Councilmember Brozosky led the pledge of allegiance.

Councilmember Brozosky announced that members of the Pleasanton 4-H Club were recipients of many awards at this year's Alameda County Fair and that the Jr. Livestock auction made over \$600,000. He noted that August 1st is "National Night Out" and that members of the Council, city staff and public safety personnel would be out in the community visiting the various neighborhood events. He advised that staff continually trains for emergency preparedness and that the City Council would be receiving their training this fall. He encouraged residents to take advantage of Community Emergency Response Team (CERT) Program training offered by the Fire Department. Concerning the City Sister Association, Mr. Brozosky advised that the Association would be holding a barbeque fund raising event and that a delegation from the City of Tulancingo, Mexico would be visiting Pleasanton in September. He noted that these events and many more can be found on the City's Website Community Calendar.

2. **ROLL CALL**

Present: Councilmembers Brozosky, Sullivan, Thorne, and Mayor Hosterman
Absent: Councilmember McGovern

3. **AGENDA AMENDMENTS:** None

4. CONSENT CALENDAR

- a. Approved as amended by Councilmember Brozosky the Regular City Council Meeting Minutes of June 20, 2006 with Councilmember Sullivan abstaining. Approved as submitted the May 23, 2006 General Plan Workshop Minutes
- b. Accepted Actions Report of the Zoning Administrator and Planning Commission (IR 06:026)
- c. Approved the May 2006 Monthly Disbursements and Investment Report (SR 06:174)
- d. Approved Consultant Agreement with Kimely-Horn & Associates for a cost not-to-exceed \$124,738 to provide Engineering Services for the Design of Street Improvements for Old Stanley Boulevard, CIP No. 055022 and authorize the City Manager to execute said agreement; and authorized the City Manager to approve and execute contract amendment for a contingency amount not-to-exceed \$12,000 (SR 06:177)
- e. Approved a Professional Services Agreement with Christian Church Homes of Northern California to Conduct a Predevelopment Analysis for the Kottinger Place Development Project (SR 06:178)
- f. Approved Plans and Specifications, Reviewed Bids and Awarded Contract to low bidder, HSR General Engineering Contractors, Inc., in the amount of \$1,524,140 and authorized City Manager to enter into said contract for Bernal Channel Restoration, Project No. 037049 (SR 06:119)
- g. Approved appointment of Councilmember Brozosky as the Voting Delegate and Councilmember Thorne as the Alternate to the League of California Cities' Annual Conference (SR 06:187)
- h. Approved Consultant Contracts with TJC & Associates, Inc. in the amount of \$21,954 and Beyaz & Patel, Inc. in the amount of \$29,800 to Conduct Feasibility Studies to Repair the City's McCloud Water Tank, Project No. 051023 and authorized the City Manager to execute said contracts; and authorized the Director of Public Works to execute contract amendment up to 10% of contract amounts (SR 06:16)
- i. Adopted Resolution No. 06-053 approving Certification of Taxes and Assessments to be placed on the 2006-2007 tax rolls as required by Proposition 218 and authorized the City Attorney to sign the Certification and Indemnification Agreement (SR 06:193)

- j. Accepted report on PUD-14-2M, Greenbriar Homes' application for a minor modification to an approved PUD development plan to allow an eight-foot tall deer fence with eight-foot tall access gates to be located around portions of 1333 Montrose Place (Lot 18) in the Bordeaux Country Estates Subdivision. Zoning for the property is PUD-MDR/OS/Vineyard (Planned Unit Development – Medium Density Residential/Open Space/Vineyard) District (IR 06:027)
- k. Continued second reading of Ordinance No. 1936 approving the application of Kazuo and Takiko Hatsushi for PUD Development Plan as filed under Case PUD-99-14. Due to the lack of a voting quorum this item will be rescheduled to the August 15, 2006 meeting.
- l. Accepted report on PUD-81-29-9M, Pleasanton Village Homeowners Association's application for a minor modification to the PUD design standards for the Pleasanton Village subdivision to allow two-story exterior additions to the existing two-story homes located on Bowen Street, Krause Street, Armstrong Drive, Delucchi Drive, Alexander Way, Alexander Court, and east of Rheem Drive and west of Oakland Avenue, and is zoned PUD-MDR (Planned Unit Development – Medium Density Residential) District (IR 06:028)
- m. Accepted report on PUD-89-14-05M, Bernal Associates, LLC application for a minor modification to an approved PUD development plan, Case PUD-89-14, to modify Condition No. 1 of PUD-89-14-04M to expand the approved square footage for medical uses within the existing Amador Dental and Orthodontic building from 5,025 square feet to the building's total area of 22,848 square feet, located at 5000 Pleasanton Avenue and is zoned PUD-O (Planned Unit Development – Office) District (IR 06:029)
- n. Approved acceptance of Public Improvements for Tract 6951 Kolb Ranch Estates and authorized the City Clerk to file a Notice of Completion (Century Land Corporation) (SR 06:188)
- o. Approved amendment to extend Consultant Agreement with Dowling Associates in an amount not to exceed \$250,000 for FY 2006/07 to provide on-call Traffic Modeling Services, and authorized the City Manager to execute said agreement (SR 06:191)
- p. Authorized the City Manager to execute the Second Amendment to the Consultant Contract with Mundie & Associates to prepare an Environmental Impact Report for PUD-33, the application for Planned Unit Development Plan approval of 98 single-family detached homes and ancillary improvements on a 562-acre property located near the present terminus of Hearst Drive, on the southerly sides of the Vintage Heights I and the Grey Eagle Estates developments, and is zoned PUD-RDR/OS (Planned Unit Development – Rural Density Residential/Open Space) District (IR 06:030)

- q. Approved commendation marking 20 years of WHEELS Bus Service
- r. Approved award of Construction Contract for the Veterans' Memorial Building (CIP 008039) to BBI Construction in the amount of \$3,780,146; approved \$25,000 for specialty inspections; approved project contingency in the amount of \$210,000 (5%); authorized the transfer of \$300,000 from the Replacement Reserve and \$224,759 from the CIPR; and authorized the City Manager to execute said contracts (SR 06:151)

Motion: It was m/s by Brozosky/Thorne to approve the Consent Calendar as recommended and as noted. Motion carried.

5. MEETING OPEN TO THE PUBLIC

- a. Recognition of Gold LEED (Leadership in Energy and Environmental Design) Certification for Fire Station 4

Fire Chief Bill Cody stated that the major requirement for building the new station was that it be built to green building standards. He described the various design innovations that went into the building and noted that 54,000 kilowatt hours have been saved since the building opened.

Mayor Hosterman noted that this was the first fire station to be awarded this recognition.

Councilmember Sullivan advised that a number of people contributed to the ideas for the buildings design and served on the Energy Committee. He acknowledged the efforts of Assistant Director of Public Works/Operations Scott Baker, Wendy Sommer with Stopwaste.org, Assistant Fire Marshall Scott Deaver, City planning and fire department staff, former Fire Chief Stewart Gary and the former council members.

In response to Councilmember Brozosky, Chief Cody advised that he should receive the PG & E audit within the next couple months and he would provide Council with a report.

Chief Cody presented the recognition plaque to the City Council and stated that it would be mounted at Station 4.

- b. Recognition of WHEELS for 20 Years of Bus Service

Councilmember Brozosky presented Barbara Duffy, CEO of Wheels with the proclamation recognizing the 20 years of service WHEELS Service.

Ms. Duffy acknowledged the City continued support and noted the month long activities taking place to celebrate WHEELS 20th anniversary.

Councilmember Brozosky spoke about the BART and express bus service to Livermore.

Doug Miller expressed his concern with the Mayor promoting personal interest though her capacity as an elected official. He referred to the Mayor's recent speech in Vancouver which was covered in two national communist party political journals.

Jerry Wagner read a prepared statement voicing his objection for being billed for water and sewer meter changes on vacant and unoccupied spaces in his mobile home park.

Kurt Kummer, Chair of the Trails Ad Hoc Committee announced that this summer the Iron Horse Trail will be completed. He advised that the City of Livermore is looking at the possibility connecting their portion of the Arroyo Mocho Trail to the Pleasanton portion. He also noted that Cities of Pleasanton and Dublin, EBRPD, Zone 7 Water Agency and Caltrans are exploring the possibility of building a trail segment under the freeway to connect the Alamo Canal Trail from Pleasanton to Dublin.

Kevin Close referenced recent comments by the Mayor about the golf course making money, and noted the need to complete the mitigation measures which allowed for the building of the golf course.

Fred Norman directed his comments to Mayor Hosterman who speaks in favor of peace, which is done outside of all the other work done on behalf of the City. He referred to her support for New Orleans in aftermath of Katrina, and said he was proud to have a Mayor advocating peace around the world. He suggested that the criticism be curtailed.

Reza Jannatpour said he was a new resident of Pleasanton and a member of the architectural review committee within his subdivision. He asked if all the residents within his GHAD are assessed under a uniform policy. He advised that CC&R's put money aside for a new gate at Foothill Park main entrance on Las Positas and inquired as to the status of the gate.

City Attorney Michael Roush advised that all properties within their respective districts are assessed equally. Concerning that gate, he advised that Public Works staff would contact him.

6. PUBLIC HEARINGS AND OTHER MATTERS

- a. Adopted Resolution No. 06-054 declaring the cost for weed abatement, impose liens on subject properties, and approve the cost accounting report for the 2006 Weed Abatement Program (SR 06:181)

Fire Marshall Eric Carlson introduced the staff report noting that only 23 properties, 16 of which belong to the railroad, were not voluntarily abated by the property owner. Thus, the weeds on these parcels were abated by a contractor hired by the City. Staff recommends that the City open the public hearing and adopt the proposed resolution declaring the costs for weed abatement and authorize placement of liens on property taxes.

City Manager Nelson Fialho referred to Exhibit A attached to the staff report and noted that two of the parcels list the same address with different assessor parcel numbers. He advised that one of the parcels may belong to the school district and that staff would be following up on the issue.

Mayor Hosterman opened the public hearing. There being no one wishing to speak, she closed the hearing.

Motion: It was m/s by Brozosky/Thorne to adopt Resolution No. 06-054 declaring the cost for weed abatement, impose liens on subject properties, and approve the cost accounting report for the 2006 Weed Abatement Program as recommended by staff. Motion passed by the following vote:

Ayes: Councilmembers Brozosky, Thorne, Sullivan, Mayor Hosterman

Noes: None

Absent: Councilmember McGovern

Abstained: None

- b. Approved 2006-07 Annual Assessments for Landscape and Lighting Districts and adopted Resolution No. 06-055 for 1984-1 (Ponderosa – Del Prado); Resolution No. 06-056 for 1993-1 (Windsor); Resolution No. 06-057 for 1993-2 (Bonde Ranch); Resolution No. 06-058 for 1994-1 (Oak Tree Farm); and Resolution No. 06-059 for 1995-1 (Moller Ranch) (SR 06:186)

Scott Baker, Assistant Public Works Director/Operations advised that this is the time of year when Council sets the annual assessments for each of the Lighting and Landscape Maintenance Districts. He noted that no increases are being recommended.

Councilmember Thorne noted that it appears to be a large amount of accumulated funds in these districts that are set aside for project yet to be completed.

Motion: It was m/s by Thorne/Brozosky to approve the 2006-07 Annual Assessments for Landscape and Lighting Districts and adopt Resolution No. 06-055 for 1984-1 (Ponderosa – Del Prado); Resolution No. 06-056 for 1993-1 (Windsor); Resolution No. 06-057 for 1993-2 (Bonde Ranch); Resolution No. 06-058 for 1994-1 (Oak Tree Farm); and Resolution No. 06-059 for 1995-1 (Moller Ranch) as recommended by staff. Motion passed by the following vote:

Ayes: Councilmembers Brozosky, Thorne, Sullivan, Mayor Hosterman
Noes: None
Absent: Councilmember McGovern
Abstained: None

- c. Approved recommendation of Proposed Naming Rights and Donor Recognition Plan for the Firehouse Arts Center (SR 06:183)

Jim Wolfe, Director of Parks & Community Services summarized the staff report and advised that the Cultural Art Foundation has initiated an ambitious fundraising campaign to support construction of the Firehouse Arts Center. He noted the Civics Art Commission received and approved the proposed plan and that the plan being presented tonight reflects the recommendations of the Parks and Recreation Commission. He requested that the Council take the following actions, (1) designate “Firehouse Arts Center” as the exclusive name of the City’s Downtown arts facility; (2) approve the Naming Opportunity and Donor Recognition Plan as proposed by the Pleasanton Cultural Arts Foundation and (3) Invite the Foundation to return in the near future with specific monetary recommendations for each level of gift and corresponding method of donor recognition as outlined in the proposed plan.

John Wall and Greg Resnick representing the Pleasanton Cultural Arts Foundation (PCAF) provided an overview of the history of the Firehouse and a brief overview of the project. The project would be a celebration of community involvement through a public/private partnership. They requested that Council consider: “Firehouse Arts Center” as the facility permanent name; recognition opportunities offered to prospective donors that will include rooms and functional areas with the Center and other elements such as structures, furnishing, fixtures, and décor elements which will be commemorated with signage located in and around the facility; PCAF to coordinate with the Commission, facility designers, city staff and the Council in developing the donation levels that correspond to various recognition opportunities.

The Council commented the on need to have tasteful signage; types of signage; other cities who have similar projects; and fund raising efforts; the facilities name; and donor recognition. Concern was expressed about the use of corporate.

City Manager Fialho suggested that the Civics Art Commission handle signage design approval.

Motion: It was m/s by Brozosky/Thorne to approve "Firehouse Arts Center" as the exclusive name of the City's Downtown arts facility; approve the Naming Opportunity and Donor Recognition Plan as proposed by the Pleasanton Cultural Arts Foundation and (3) Invite the Foundation to return in the near future with specific monetary recommendations for each level of gift and corresponding method of donor recognition as outlined in the proposed plan. Motion carried.

City Manager Fialho stated that the project is currently in the design review stage of the development process and that staff anticipates the plans and specifications will be ready for Council approval in late fall. He noted that about \$8.5 million has been set aside for the project.

- d. Consideration of approaches to regulate, prohibit or continue the Moratorium on Medical Marijuana Dispensaries (SR 06:185)

Assistant City Attorney Larissa Seto presented the staff report and provided an overview of state laws on medical marijuana (Prop. 215 & SB 420) and its conflicts with federal law. Based on the continued conflict between State and Federal law, cities and counties throughout the State have adopted varying approaches to medical marijuana and the related dispensaries. She advised that the existing moratorium is set to expire August 5, and that the City has received at least two inquiries about establishing dispensaries within the past 5 months. She outlined the following options regarding dispensaries: (1) allow dispensaries subject to regulations; (2) ban dispensaries; (3) continue the moratorium. She recommended that Council extend the moratorium for 12 additional months to protect the public health, safety and welfare as noted in the staff report.

Mayor Hosterman expressed interest that someone in Pleasanton or the Tri-Valley who is sick and needs the type of relief offered by medical marijuana, have the ability to obtain it.

Police Chief Tim Neal explained that patients and caregivers are able to obtain the drug. There are dispensaries in Castro Valley, one in Tracy that delivers, and a number of other dispensaries that will deliver to the South Bay. Patients and their caregivers can also cultivate for their own use. He continued by describing the negative secondary effects associated with dispensaries. He noted that dispensaries cause an increased demand on police services. He advised that by policy the Police Department does not seize plants under 8 ounces from individuals who are within the parameters Prop. 215

Councilmember Thorne felt the Federal Government stopped short in addressing the issue.

Councilmember Sullivan asked if staff was aware of any cities operating successful programs. Chief Neal advised that he is unaware of any cities that have successful programs.

Chief Neal advised that SB 420 requires counties to establish an ID card program. An Alameda County resident would be able to obtain the medical marijuana at the three county facilities.

Councilmember Sullivan noted that Supervisor Nate is working to get Fairmount Hospital designated as a dispensary.

City Manager Fialho acknowledged that residents have access to obtain the medical marijuana and the ability to grow it. The issue before Council is one of land use.

Councilmember Brozosky felt it unfortunate that local government is left to figure out how to regulate dispensaries. He expressed concern with the amount of resources it would take to regulate this type of business. He asked if the County could put a dispensary in an unincorporated area within the City's sphere of influence.

City Attorney Roush felt the County could not because the issue would be about land use.

Mayor Hosterman opened the public hearing.

Kevin Close voiced his support for staff's recommendation.

There being no one else wishing to speak, the public hearing was closed.

Councilmember Thorne said he was prepared to make a motion to extend the moratorium and ban dispensaries. Councilmember Brozosky said he would second the motion.

Councilmember Sullivan expressed support for extending the moratorium but opposed an outright ban. He said he would like to know if the resident's needs are being filled, if the county program and ID cards are working, and if there are any cities with successful programs.

City Manager Fialho advised that a four-fifths vote is needed to adopt the ordinance extending the moratorium. He suggested that the Council consider an additional providing direction to staff and bifurcate the motion.

Motion: It was m/s by Thorne/Brozovsky to Introduce and adopt Urgency Ordinance No. 1937 extending for 12 months the Moratorium on Medical Marijuana Dispensaries as recommended by staff. Motion passed by the following vote:

Ayes: Councilmembers Brozosky, Thorne, Sullivan, Mayor Hosterman
Noes: None
Absent: Councilmember McGovern

Motion: It was m/s by Sullivan/Hosterman to direct staff to research the following: are the needs of residents requiring medical marijuana being met; is the County program working; are there any cities operating successful dispensaries; proceed concurrently with the development of an ordinance to ban dispensaries throughout the City if the conflict between Federal and State law is not resolved; and return to Council with a report and recommendation for review within 6 to 8 months. Motion carried with Councilmember Brozosky voting no.

- e. Approved Affordable Housing Agreement with Stoneridge Associates Concerning the Stoneridge Condominiums and authorize the City Manager to execute said agreement (SR 06:162)

Assistant City Manager Steve Bocian introduced the staff report. He said this is not a condo conversion and that the additional 35 units will count toward the regional numbers. He outlined the various components of the agreement.

Councilmember Sullivan asked if the City has any jurisdiction over this project since it is not a condo conversion.

City Attorney Roush explained the legal process concerning condo conversion, and Mr. Bocian advised that the owner is working cooperatively with the City

Mayor Hosterman opened the public hearing. There being no one wishing to speak she closed the hearing.

Councilmember Sullivan requested that staff look into an ordinance concerning condo conversions.

Motion: It was m/s by Throne/Sullivan to approve the Affordable Housing Agreement with Stoneridge Associates concerning the Stoneridge Condominiums and authorize the City Manager to execute said agreement as recommended by staff. Motion carried.

7. MATTERS INITIATED BY COUNCIL

Councilmember Thorne reported on his recent tour of the Sharks facilities in San Jose and preliminary discussions with the owners of the Sharks concerning the potential for locating a proposed complex that would include four ice rinks, a sports bar and other amenities to be part of the Staples Ranch development located at El Charro Road. He requested that the item be placed on a future Council agenda for full Council discussion.

Councilmember Brozosky expressed concern with the Mayor Hosterman's Campaign Website being linked to the Mayor's Report. Mayor Hosterman thanked Mr. Brozosky for bring this to her attention.

Councilmember Sullivan questioned the process for the City's voting delegate to cast votes on the city's behalf at the Annual League Conference. Mr. Brozosky stated that he would make every attempt possible to bring the Annual Resolutions to the Council for consideration; however, sometimes the information is not received in time.

City Attorney Roush advised the item Council requested concerning the voting policy will be placed on the September 19 agenda.

8. COUNCIL REPORTS

Councilmember Brozosky reported on the recent meeting of the LCC Employee Relations Policy Committee.

Councilmember Thorne reported on the LCC Environmental Quality Policy Committee meeting.

9. CLOSED SESSION: The meeting reconvened in closed session at 9:45 p.m.

The meeting reconvened in open session at 9:59 p.m. with no closed session action to report.

10. ADJOURNMENT: There being no further business, the meeting adjourned at 10:00 p.m.

Respectfully submitted,

Karen Diaz
City Clerk