

Town of Los Altos Hills

City Council Regular Meeting Minutes

Thursday, December 10, 2009
Council Chambers, 26379 Fremont Road

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Warshawsky called the City Council Regular Meeting to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Dean Warshawsky, Mayor Pro Tem Breene Kerr, Councilmember Rich Larsen (joined meeting at 7:05 p.m. participated in consideration of all agenda items), Councilmember Jean Mordo and Councilmember Ginger Summit

Absent: None

Staff: City Manager Carl Cahill, Planning Director Debbie Pedro, City Engineer/Public Works Director Richard Chiu, Finance Director Nick Pegueros, Public Safety Officer Steve Garcia, City Attorney Steve Mattas, and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Larsen and passed unanimously to reorder the agenda and consider Agenda Item #14 as the first order of business.

Mayor Warshawsky explained that Standing Committee Chair Bart Carey had requested Council consideration of a modification to the Town's Standing Committee Resolution to increase the membership of the Education Committee from ten to eleven members. It was noted that the applications before Council as Agenda Item #1 were from candidates that resided in the Palo Alto Unified School District with children attending Gardner Bullis Elementary School. If appointed, their membership would provide a balance of representation on the committee of school districts and schools serving the Town.

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Larsen and passed unanimously to increase the membership of the Standing Education Committee to eleven members. Resolution No. 68-09

APPOINTMENTS AND PRESENTATIONS

1. Appointment to Standing Committees:

Standing Education Committee:

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Summit and passed unanimously to appoint Jennifer Carlstrom to the Standing Education Committee for a term of four years.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Summit and passed unanimously to appoint Christine Murad to the Standing Education Committee for a term of four years.

Standing Emergency Communications Committee:

Council had before them a request for re-appointment to the Emergency Communications Committee. Member Tierney Smith had completed his term and had confirmed to the City Clerk via email correspondence his interest in re-appointment to the Committee.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Mordo and passed unanimously to appoint Tierney Smith to the Standing Emergency Communications Committee for a term of four years.

Standing Water Conservation Committee:

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to appoint Kit Gordon to the Standing Water Conservation Committee for a term of four years.

CONSENT CALENDAR

Items Removed: #4 (Mayor Pro Tem Kerr) #7 (Councilmember Larsen)

MOTIONED SECONDED AND CARRIED: Moved by Summit, seconded by Larsen and passed unanimously to approve the remainder of the consent calendar, specifically:

2. Approval of Meeting Minutes: City Council Regular Meeting – October 22, 2009
City Council Regular Meeting – November 12, 2009
3. Review of Disbursements: 10/1/09 – 10/31/09 \$1,366,483.39
5. Approval of the 2009 Pavement Rehabilitation Project. Resolution No. 65-09
(Staff: R. Chiu)
6. Notification of Fast Track Approval: Lands of Avery; 27071 Dezahara Way: (File #136-09-ZP-SD-GD) A Request for a Site Development Permit for a 6,718 square foot new residence with a 663 square foot basement (Maximum height: 27') and the removal of one (1) 13" heritage oak tree. CEQA Review: Categorical Exemption per Section 15303 (Staff: C. Richardson)

Items Removed:

4. Approval of Final Parcel Map, Acceptance of all Easements Offered for Dedication, and Acceptance of all Abandonments Shown on Parcel Map for Lot Line Adjustment: Lands of Evershine, 13310 La Paloma Road.
(Staff: R. Chiu)

Mayor Pro Tem Kerr requested additional information on the item. He questioned if a pathway had been considered as a condition of approval. City Engineer Chiu clarified that the item before Council was a Lot Line Adjustment that had been approved by the Planning Director at a Fast Track Hearing. The Parcel Map did offer conservation easements and public utility easements that would be accepted by the Town via the resolution included in the staff report.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed unanimously to approve the Lot Line Adjustment and accept all easements offered for dedication and all abandonments as shown on the parcel map; Lands of Evershine. Resolution #66-09

7. Affirmation of Nomination of Councilmember Rich Larsen to stand for membership on the Santa Clara County Valley Transportation Authority (VTA) Board of Directors

Councilmember Larsen explained that the item before Council would formalize his nomination by the City Council as a candidate to serve as a representative of the North County Cities on the VTA Board of Directors. He noted that the election was scheduled for the next day, December 11, 2009.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Summit and passed unanimously to affirm the nomination of Councilmember Rich Larsen to stand for membership on the Santa Clara County Valley Transportation Authority (VTA) Board of Directors.

PRESENTATIONS FROM THE FLOOR

Nick Dunckel, resident, noted that he was impressed by the Town's efforts to embrace the concept of "green standards and policies." He questioned if the use of lights during the evening hours was necessary at Westwind Barn. He suggested that there were inexpensive alternative options that should be considered during the renovation project.

Mayor Pro Tem Kerr thanked Dunckel for the suggestion and noted that the issue would be reviewed.

PUBLIC HEARINGS

8. Consideration of Award of Contract for Design and Installation of Photovoltaic System at Westwind Community Barn, 27210 Altamont Road. (Staff: R. Chiu)

City Engineer/Public Works Director Richard Chiu introduced the item to Council. Chiu provided an overview of the photovoltaic system and solar components for the Westwind Barn project. In an effort to achieve "Net-Zero" at the facility, staff had utilized the

evaluative bid process authorized in the Government Code to request a proposal from a qualified firm. The proposal before Council to design and install the PV system had been submitted by Cobalt Power Systems, Inc.

Chiu reviewed a spreadsheet with Council that summarized the costs of the energy improvements for the Barn. It was noted that no additional funds were being requested for the project. The project's cost would be offset by an allocation of a percentage of the Sheriff's substation funding, approximately 0.7% of the \$1.3 million total cost of the project (\$9,000 would be funded from the COPS fund). Additionally, Staff was recommending the use of a CEC low interest loan that had been previously approved by the City Council. At this time, staff requested that the loan be modified from 1% to 3% interest given the stringent reporting requirements of the lower percentage loan that could have the potential for time delays to the project. The Town's loan application had been approved by the CEC.

Council had before them on the dais a revised resolution awarding the contract for design and installation of the photovoltaic system at Westwind Community Barn.

Councilmember Larsen offered that he was pleased that efforts had been made by staff to stay within the previously approved budget for the project. City Manager Cahill noted that the project budget was very tight and any additional requests for enhancements would most likely increase the project costs. Staff would return to Council for consideration of any new project components.

OPENED PUBLIC HEARING

Nick Dunckel, resident, questioned the need for a solar hot water system at the Barn. He noted that generally, the proposed systems were not as financially rewarding as a solar system.

Mayor Pro Tem Kerr explained that over fifty percent of the energy costs at the Barn were related to heating water. The proposal before Council was for a total "redo" of the water system at the facility. The outside washing area would remain a cold water only washing station.

CLOSED PUBLIC HEARING

Council discussion ensued. There was a consensus to move forward with the solar photovoltaic system. Council questioned the correspondence from the Packard Foundation regarding a grant of \$15,000 to the Town. It was clarified that the funds were to be applied to soft costs associated with LEED certification of the Barn. Councilmember Larsen reiterated his stance that it was important for the project to remain on budget.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed unanimously to approve the revised resolution awarding a contract to Cobalt Power Systems, Inc. for the design and installation of a photovoltaic system at Westwind Community Barn. Resolution No. 67-09

9. Appeal of the Public Safety Officer's Decision to Not Issue a Dangerous Animal Permit to Ms. Barbara Bonar, 26310 Esperanza Drive

Public Safety Officer Steve Garcia introduced the item to Council. He provided an overview of his staff report. On September 6, 2009, resident Kevin Wheaton was confronted by two dogs while walking on Esperanza Drive. One of the dogs, a German shepherd owned by Barbara Boner, bit Mr. Wheaton on the left elbow. His dog-bite injury required immediate medical attention.

Pursuant to the Town's Municipal Code, the dog was confined at the Palo Alto Animal Services facility on October 6, 2009. A dangerous animal hearing was held on October 8, 2009 with Code Enforcement Officer Bob Cushing serving as the designated Hearing Officer. He heard testimony from the dog-bite victim, dog owner and members of the public. Cushing also reviewed photos, the Sheriff's incident report and other relevant documents.

Code Enforcement Officer Cushing issued a written determination letter on October 15, 2009 stating that the German shepherd was a "Dangerous Animal". He recommended that the City Manager grant a permit for possessing a dangerous animal to the owner Barbara Bonar.

Subsequent to a review of the Town's Municipal Code Section 6-1.603(g), Public Safety Officer Garcia as the City Manager's designee determined that the Town would not issue a dangerous animal permit which would have allowed the dog Prince (German shepherd) to return to Los Altos Hills. Garcia reviewed the three options per the Code that were available to him once the animal had been classified as a dangerous animal. They were: 1) revoke the dog's license and order its removal from Town within 24 hours; 2) order the dog's destruction; or 3) grant a permit for possessing a dangerous animal. Garcia noted that the dog was not currently in Los Altos Hills. The dog was allowed to be released to the owner's daughter who resided in another community after Palo Alto Animal Services had determined that the dog's health was a concern during his confinement at the shelter. The owner had signed an agreement that the dog would not return to Los Altos Hills

Garcia reviewed the process that he had followed in reaching his determination. He had discussions with the City Manager; Superintendent Sandy Sadler of Palo Alto Animal Services; and had carefully reviewed the Sheriff's incident report and testimony from the hearing. Garcia noted that the facts in the Sheriff's report were a key factor in his decision. Garcia provided a summary of the incident noting that the homeowner/dog owner did not assist Mr. Wheaton or make a call to 911 and left the scene. Ms. Bonar had offered that she was too afraid to investigate why there was a man yelling in front of her house and was unaware of the incident. She believed the man was gone when she loaded her dogs into her car and drove away.

The owner was notified via a Notice of Determination dated October 29, 2009 that the Town would not issue a dangerous animal permit. The dog owner did not appeal the dangerous dog determination. However, pursuant to Municipal Code Section 1-4.01, the dog owner had appealed the Town's decision to not issue a dangerous animal permit.

City Council Questions:

Councilmember Larsen inquired if there were any restrictions on where the dog could reside. Garcia noted that he could live anywhere but in Los Altos Hills. It was noted that this was the first dog bite incident on record for the dog.

Mayor Pro Tem Kerr read into the record an email that Council had received from former Los Altos Hills Mayor Craig Jones. Jones is a neighbor of the dog owner and expressed his concern as a father for the safety of his children and voiced his support for the City Council upholding the determination of the Public Safety Officer. Jones noted that he was a dog owner himself but that a dog that had a proven history of biting people was a danger to the neighborhood.

OPENED PUBLIC HEARING

Appellant Testimony:

Dan Dean, Counsel for dog owner Barbara Bonar, addressed the City Council. He noted that his client was very sorry that her dog had bitten Mr. Wheaton. She fully accepted the ruling of Code Enforcement Officer Cushing that had deemed her dog a "Dangerous Animal". Dean referenced Cushing's recommendation that Ms. Bonar be allowed to keep the dog in Los Altos Hills with a permit. Dean explained that his client's appeal was not of the "Dangerous Animal" designation but of the Town's decision to not issue her a permit.

Dean offered there were two points that he wished to discuss with Council. The first issue was a procedural question. He explained that they had been told that Mr. Garcia would be interviewing his client during the determination process; however, no interview had been conducted to see if she was someone that could keep her dog safely contained and meet the conditions of the permit. He noted that Ms. Bonar was willing to meet all of the conditions as outlined in the staff report. Dean questioned how the application for the permit was being denied when no application had been made.

Second, Dean stated his preference that his client be issued a dangerous dog permit. Dean offered that Code Enforcement Officer Robert Cushing had presided over the hearing and determined that the dangerous dog permit was an appropriate resolution. Dean testified that his client was a responsible dog owner and understood the ramifications of the permit.

In conclusion, Dean expressed his opinion that Ms. Bonar had been denied procedural due process and should be allowed the permit or he suggested that the rule, going forward, should be amended to require the removal of a dog from Town after a biting incident.

City Attorney Steve Mattas reviewed with Council the options provided by the Town's Municipal Code once a dog has been identified as dangerous. They included: the destruction of the dog; the granting of a permit to allow the dog to continue residing in Town; or the revocation of the dog's license and order that the dog be removed from Town. The item before Council was an appeal of the Public Safety Officer's decision to revoke the dog's license and order it removed from the jurisdiction. Mattas noted that staff was of the opinion appropriate due process had been provided to Ms. Bonar.

Kevin Wheaton, resident, victim of dog bite, commented that he believed the process that had been followed was fair. There had been a public hearing and the dog had been identified as a dangerous animal. He noted that he was viciously attacked by the dog while walking in the street. Wheaton commented that there was no useful purpose to having a dangerous dog reside in Los Altos Hills.

Charlie Simmons, resident, referenced a recent incident involving Ms. Bonar's other dog getting loose from her property and entering their yard. He suggested this was a reflection on her inability to contain her animals and evidence that she was not a responsible dog owner given the timing of the incident after the dog bite.

Ms. Bonar's daughter addressed Council. She explained that she was the owner of the dog Mr. Simmons was referencing and took responsibility for its actions. She noted that her mother had taken very good care of her other dog and kept it in her yard and under control since the incident.

George Maciag, resident, encouraged the City Council to uphold the decision of the Public Safety Officer. He referenced a recent article in the Los Altos Town Crier regarding Police Dogs that had purported that the dogs were friendly but could be very dangerous when not under control. Maciag spoke to his personal experience training German shepherd dogs and noted that they could be very protective of their property. Many years ago his son had been bitten by another dog owned by the Bonars while he was riding his bike.

Council questioned if the appellant would like to comment. David Dean, counsel for the appellant responded that he would like a moment to confer with his client.

Appellant:

Ms. Bonar, resident, addressed Council. She stated that she was ready and willing to meet the conditions that would allow her to keep her dog. Bonar clarified for Council that she did not know that anyone was hurt and feared for her safety with all of the screaming. She called for her dogs, they ran back through the open front door and then she had loaded them into the car and left. She objected to the Sheriff's report and offered that the statements in the report were erroneous.

Morgan Alexander, daughter of Appellant Bonar, commented that the neighbors on Esperanza have complained for years about their dogs barking. She explained that the Town was previously rural and they were well aware of the new environment. Alexander stated that her mom did not know that Wheaton was injured and had been trained in emergency care and would have responded had she been aware.

David Dean, Counsel, acknowledged the neighbors concerns and noted that the incident had been a traumatic event. He reiterated that the Hearing Officer had recommended that a permit be issued and Ms. Bonar be allowed to keep her dog. Dean suggested that if Council were to uphold the Public Safety Officer's decision, it would set a precedent that if your dog bites one person you would be required to get rid of your dog.

CLOSED PUBLIC HEARING

City Council Discussion:

Council discussion ensued. There was a consensus that their determination on the hearing would not be setting a precedent but would be specific to the incident before them. Council concurred that the resident had demonstrated an inability to control her dogs and the dog had been identified as a dangerous animal and it was in the best interest of public safety to uphold the Public Safety Officer's ruling and deny the permit.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Summit and passed unanimously to uphold the Public Safety Officer's decision to not issue the owner of a dangerous dog a dangerous animal permit and further order the revocation of the dog's license.

10. Introduction of an Ordinance to amend the Fence Ordinance (Section 10-1.507 C&D) to prohibit the construction of fences, walls, and/or gates with points, spikes, and/or sharpened edges which can cause harm to people, pets, and/or wildlife. CEQA Review: Categorical Exemption per Section 15061(B)(3) (Staff-D. Pedro)

The City Clerk explained that due to the failure of the Town Crier to publish the appropriate hearing notice, the item had been continued to the January 14, 2010 regular City Council meeting. She clarified that the notice was not a requirement for the public hearing, but historically the Town in an effort for full transparency, had published a notice of the hearings in the newspaper when similar issues were to be considered by Council.

UNFINISHED BUSINESS

11. Town Goal
 - Hidden Villa Annexation Update (Staff: D. Pedro)

Planning Director Debbie Pedro introduced the item to Council. She proceeded with a PowerPoint presentation that included a map of the affected area located in the southern portion of Town. Additional features of the map included: the urban pockets of unincorporated areas within the Town's Urban Service Area Boundary; the Hidden Villa parcels proposed to be annexed (approximately 1600 acres); and, the additional 11 parcels (50.87 acres) that would be included in the annexation.

Pedro provided an overview of her discussions with LAFCO. LAFCO has advised the Town that pursuant to their policies, the 11 parcels adjacent to Hidden Villa that were also within the Town's Sphere of Influence, had to be included in the proposed Hidden Villa annexation. Additionally, LAFCO was requesting that the Town develop a timeline regarding the annexation of the remaining urban pockets/"Islands" within the Town.

Additionally, LAFCO had raised the issue of the annexation necessitating a possible amendment to the Los Altos Hills County Fire District service boundary. The map before Council reflected the current area of Hidden Villa (developed parcels) that was within the LAHCFD boundary and the portion of Hidden Villa that was outside the LAHCFD Service Boundary. The wild-land area of Hidden Villa outside the LAHCFD boundary was currently being managed by Cal Fire (California Department of Forestry and Fire

Protection). Annexation of Hidden Villa in its entirety would require an approval of the service boundary modification by LAHCFD and a separate application by Fire District to LAFCO for the boundary modification to include Hidden Villa's 1600 acres. In preliminary discussions with the Fire District, concerns had been expressed about the potential increased liability by assuming the responsibility for the wild-land area. The District did not believe they had the resources for the wild-land management. Pedro explained that an alternative option available to the Town would be to redraw the Town's Urban Service Area Boundary to match the Fire District's Service Area Boundary. Staff believed this was the preferable option. If the Town is successful in annexing the revised area, it would include approximately 265 acres of land with 1300 acres remaining outside the boundary line.

Council discussion ensued. They reviewed the option of scaling back the annexation to include only the developed parcels of Hidden Villa. Larsen questioned if it was feasible to annex the entire site and request CDF to continue providing the Fire Service for the wild-land area. Staff explained that LAFCO would require LAHCFD to change their service area boundary to include the wild-land area if the entire 1600 acres of Hidden Villa were annexed by the Town and that the option would most likely not be acceptable to the Fire District.

Mayor Warshawsky summarized the "next steps" in the annexation process. Council discussion ensued. Council provided direction to staff. They recommended: 1) reduction in the overall annexation to include the area that had been identified by staff; 2) gauge the interest of the property owners that would be included in the annexation as required by LAFCO; 3) pro-actively discuss the revised annexation plans with Hidden Villa; and 4) the development of a timeline for annexation of the remaining pockets in Town including the pocket in unincorporated Palo Alto that is within the Town's Sphere of influence (Altamont Circle).

NEW BUSINESS

12. Presentation of Mitigation Strategies for the Local Hazard Mitigation Plan Update (Staff: S. Garcia)

Public Safety Officer Steve Garcia introduced the item to Council. He noted that the City Council in 2006 had approved a resolution adopting the Town's Local Hazard Mitigation Plan (LHMP). The LHMP is an Annex of the Town's Emergency Operations Plan and required by FEMA to qualify for FEMA funding for pre-disaster and post-disaster mitigation funding.

ABAG is the lead agency for Bay Area cities participating in the ABAG Multi-Jurisdictional LHMP 2010 update. ABAG was requiring all agencies under their umbrella to complete their updates by spring 2010. A component of the update was the prioritization of mitigation strategies.

Garcia explained that FEMA requires each agency to provide two venues for public comment and input on the prioritization of mitigation strategies. One of the venues must be a public hearing. Posting of the strategies on the Town's website was an acceptable second venue. The 2010 mitigation strategies had been posted on the Town's website on

December 1, 2009 and residents had the option of submitting their comments to the Public Safety Officer via email.

Garcia advised that the Town's mitigation strategies for the 2010 update had not changed from the strategies submitted in 2005 and approved by FEMA. Examples of mitigation strategies currently in use included: development of a Community Emergency Response Team; removal of excessive fire fuel loads; personal emergency preparedness training for residents; and, the enforcement of Building Codes that would mitigate earthquake induced damage.

Garcia proceeded with a PowerPoint presentation of the Multi-Jurisdictional Local Hazard Mitigation Plan. The next step in the approval process was approval of ABAG's Multi-Jurisdictional Annex by FEMA. The City Council's adoption of the Town's 2010 LHMP was expected in summer, 2010.

Council discussed the fuel load in Byrne Preserve. It was noted that staff would be walking the area in the near future to assess the issue. Downed and dead trees have been removed and sod spraying in the area has been scheduled.

Council thanked Garcia for his report. They cited the efforts of Public Safety Officer Garcia and Los Altos Hills County Fire District consultant Mike Saunders, in preparing and training Town residents for disasters. Councilmember Larsen suggested that the Standing Emergency Communications Committee be added to the plan.

PLANNING COMMISSION REPORT

No report was scheduled. The December 3, 2009 Planning Commission meeting had been cancelled.

COUNCIL MEETING RECESSED AT 10:00 P.M.

COUNCIL MEETING RECONVENED AT 10:10 P.M.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember Reports:

Councilmember Summit reported on the recent Joint Volunteer Luncheon and recognized the "much deserved" award that had been presented to Los Altos Hills resident Jitze Couperus. She also had attended the Santa Clara County Cities Association dinner. Summit acknowledged the recent joint council meeting with the Los Altos City Council and commented that it had been very useful. On November 19th, Summit had attended a joint SCVWD Flood Control Districts meeting. The agenda had included a review of flood control projects throughout the County. She reported that she had received confirmation from the Santa Clara Valley Water District that their Trail and Open Space Grant Program and the Environmental Enhancement Grant Program would be funded. The Town has two projects they would like considered for the grants and applications would be submitted. Projects included a trail from the end of the Evershine property to Robleda and cleaning the creek, removal of invasive species and enhancements to native paths on the Town-owned O'Keefe property. Mayor Pro Tem Kerr requested an opportunity for Council to review

the grant applications prior to submittal. He requested that the options for the O'Keefe site be kept open.

Councilmember Jean Mordo advised Council that the History Committee, as directed by the City Council, had investigated the naming of "Edith Park". They have found documents that reflect the park had been formally named "Anza Corner" in 1976. The item would be scheduled for City Council discussion at their next regular meeting.

Councilmember Larsen reported that the Town had won the Akeena Solar's Mayor's Cup Challenge at this year's Silicon Valley Turkey Trot. The Standing Environmental Initiatives Committee had held their final forum at Town Hall of the three part educational series on energy issues. Larsen had attended the Emergency Managers Association luncheon. Berin Fank, LAHCFD and Town resident, had received an award in recognition of his volunteer services. The Standing Emergency Communications Committee's holiday party was scheduled for December

Mayor Pro Tem Kerr reported that the Town has received notification that the CEC EEGBG block grant application would be moved forward by the California Energy Commission. The application called for grant funds to be used for voluntary audits of high energy use homes, a critical component of the Town's efforts to achieve their carbon reduction goals.

Mayor Warshawsky reported that the Ad Hoc Undergrounding Committee was moving forward with the exploration of potential assessment districts.

13. AB1881-Water Conserving Ordinance for LAH- John Harpootlian, Standing Water Conservation Committee

John Harpootlian, Chair, Standing Water Conservation Committee, addressed Council. He provided an overview of his previous presentation to Council that had outlined the requirements of AB 1881 "Water Efficiency Landscaping Ordinance" and the options open to the Town to be compliant with the new law. The model ordinance for AB 1881 would become effective on January 1, 2010 if the Town did not have an equally effective water conserving ordinance in place. Harpootlian noted that a letter would be sent to the State indicating that the Los Altos Hills ordinance was under development but would not meet the State's deadline. Council had a copy of the draft letter provided by the Bay Area Water Supply and Conservation Agency (BAWSCA) in their packet.

Harpootlian proceeded with a PowerPoint presentation that outlined the draft water efficient landscaping ordinance that was currently being developed by the Standing Water Conservation Committee. New concepts under consideration included: the calculation of a maximum parcel landscape area (MPLA); a parcel water budget (PWB); and the establishment of penalties for exceeding the parcel water budget. The ordinance would initially only apply to new construction, major remodels and rehabilitated landscapes but the parcel water budget could be extended to existing parcels.

Harpootlian reviewed the calculations that would set the MPLA and PWB. He offered that the State's ordinance was very difficult to implement and would not reduce water use. The Committee's proposal would be a fair way of implementing a water budget and

did not require costly audits to measure installed landscaping. Key to the proposal was the fact the responsibility for efficient water use would reside with the homeowner.

Penalties for exceeding the PWB were also a component of the draft ordinance. However, Harpootlian noted that the proposal required careful research to ascertain the legality of the penalties and possible alternatives. It was noted that Town residents received water from two different providers, Purissima Hills Water District and California Water Service Company. The implementation of penalties would have to be considered with both agencies. The proposal before Council was for both providers to collect the penalties from customers exceeding their PWB. Penalty revenues would then be paid to the Town. The parcel water budget process would meet the State's requirement for audits and would be less onerous for residents and the Town. Harpootlian noted that the penalty phase of the proposed ordinance had been crafted by member Brian Holtz and the Water Conservation subcommittee and reviewed and approved by the Water Conservation Committee as a whole.

Next steps proposed by the Committee for Council consideration included: direction to staff to work with a WCC subcommittee to develop an ordinance based on the draft before Council; provide further direction to the WCC and staff regarding strengths and weaknesses of the draft ordinance; and, approval of submission of the draft letter in the Council packet to the State.

City Council Discussion:

Councilmember Mordo thanked Chair Harpootlian and the Water Conservation Committee for their efforts on the draft landscaping ordinance. Mordo offered that the water conservation issue extended to existing landscaping but that a fair and gradual procedure for establishing regulations was needed. He supported the Committee's recommendations and volunteered to work on the proposed Ad Hoc Committee.

Councilmember Summit recognized the committee's efforts on the proposal. She supported sending the draft letter in their meeting packet to the State. Summit concurred with Mordo that existing landscaping should eventually be included in the water conservation efforts.

Harpootlian noted that the Purissima Hills Water District was installing new software that might be used to calculate the PWB for all Town properties. The calculations could be reflected on customers' bills to educate them on their water usage.

Councilmember Larsen offered that the Committee's efforts were headed in the right direction. He concurred with the recommendation to send the letter to the State but he would favor more outreach and education rather than the imposition of penalties. He suggested that increased water rates could potentially reduce use and preferred to give the "law of economics" an opportunity to work.

Mayor Pro Tem Kerr suggested that it was most likely than an environmental surcharge would be imposed by water agencies and requested more information on the collection, distribution and use of the funds. He noted that PHWD would have a tiered rate structure.

Gary Waldeck, President-elect of Purissima Hills Water District, member Water Conservation Committee, addressed the City Council. He reported that the rate structure was currently being evaluated by the District Board. He expected the rates to increase. The last rate increase had resulted in a 7% reduction in water use. Waldeck did expect the new rate increase to have a significant increase in reducing water use. Additionally, the District was implementing conservation programs that incentivize people to conserve water however; he believed that an ordinance that set a standard to set behavior was important. As a water purveyor they could only set rates (sell water).

Mayor Pro Tem Kerr suggested that the District consider reviewing their rates relative to with the consideration that a public interest surcharge on the Districts billing could fund rebates for conservation programs and accomplish the desired water reduction without the Town imposing penalties. Additionally, they should look at ways to reward water conserving customers.

PHWD President-Elect Waldeck offered that the Board has considered setting aside funds for conservation program rebates.

Council discussion ensued. There was a consensus that the penalty phase, if included in the Town's ordinance, be identified by a specified trigger of the Town's water usage. The penalty component was not supported by a majority of the Council.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Larsen and passed unanimously to create an Ad Hoc subcommittee with members John Harpootlian (WCC), Councilmember Mordo and Brian Holtz (PHWD and WCC) to work with staff on the draft ordinance. Council direction was to include all resident parcels in the ordinance (not exclusively new residences, new major remodels) and no imposition of penalties.

Staff was directed to send the letter to the State regarding the Town's status of their ordinance under the Mayor's signature.

14. Consideration of Amendment to Resolution No. 19-09 "Establishing Standing Committees and Adopting General and Special Rules Pertaining Thereto" to Increase the Membership of the Education Committee.

Agenda Item #14 was re-ordered at the direction of the City Council and was considered at the beginning of the agenda.

15. Request for Authorization and Funding of Postcard Mailing to Announce the Open Enrollment for the New BCS 7th Grade – Standing Education Committee

Agenda Item #15 was removed from consideration by the City Council at the request of Standing Education Committee Chair Bart Carey.

STAFF REPORTS

City Manager:

City Manager Cahill queried the Council on their interest in a joint meeting with the Palo Alto City Council. He noted that the recent joint meeting with the Los Altos City Council had been productive. Council authorized the City Manager to broach the subject with the Palo Alto City Manager.

City Clerk:

The City Clerk advised Council that the California Energy Commission had requested several minor changes to the letter that had been sent to them from the Town regarding the Municipal Financing application program (CaliforniaFIRST Program). Santa Clara County would be the lead agency in the application submittal. The Clerk noted that the requested changes did not modify the intent of the letter that would be sent under the Mayor's signature. She would forward a copy of the revised letter to Councilmembers.

City Attorney- No report

ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the City Council at 10:40 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the December 10, 2009 regular City Council meeting were approved as presented at the January 14, 2010 regular City Council meeting.