

**MINUTES**

**CITY COUNCIL MEETING**

**OCTOBER 28, 2008**

A regular meeting of the City Council of the City of Rolling Hills Estates was called to order at 7:45 p.m. in the City Council Chambers, 4045 Palos Verdes Drive North, by MAYOR ZERUNYAN.

**PLEDGE OF ALLEGIANCE**

The Girl Scout Troop 776 led the assembly in the Pledge of Allegiance to the Flag.

**ROLL CALL**

City Council Members Present: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

City Staff Present: City Manager Doug Prichard  
City Attorney Kristin Pelletier  
Assistant City Manager Sam Wise  
Planning Director David Wahba  
Administrative Services Director Michael Whitehead  
Assistant to the City Manager Greg Grammer

Others Present: Dale Allen, Park and Activities Commission

**4. CEREMONIAL ITEMS**

A. MAYOR ZERUNYAN announced that Chris Boyd, who served as Editor of the Palos Verdes Peninsula News, was leaving his position and wished him well on behalf of the City Council.

**5. ROUTINE MATTERS**

A. CITY COUNCIL MINUTES OF OCTOBER 14, 2008

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILWOMAN SEAMANS

TO APPROVE THE CITY COUNCIL MINUTES OF OCTOBER 14, 2008 AS PRESENTED.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

B. DEMANDS AND WARRANTS – OCTOBER

COUNCILMAN ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN

TO APPROVE WARRANTS 44787 THROUGH 44838 FOR A GRAND TOTAL AMOUNT OF \$282,360.02 WITH PROPER AUDIT.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

**6. CONSENT CALENDAR**

COUNCILWOMAN SEAMANS moved, seconded by COUNCILMAN ADDLEMAN

TO APPROVE ITEMS A-D.

A. READING OF ORDINANCES AND RESOLUTIONS

Reading in full of all ordinances and resolutions presented for consideration to the City Council will be waived and all such ordinances and resolutions will be read by title only.

APPROVED.

B. SEPTEMBER 2008 SCHEDULE OF INVESTMENTS

Recommendation: That the City Council receive and file the Schedule of Investments report for the month

RECEIVED AND FILED.

C. 2008 HOLIDAY PARTY GUEST LIST

Recommendation: That the City Council approve the 2008 Holiday Party guest list with any necessary changes.

APPROVED AS PRESENTED.

D. QUARTERLY CODE ENFORCEMENT REPORT

Recommendation: That the City Council receive and file this report.

RECEIVED AND FILED.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

**7. AUDIENCE ITEMS NOT ON THE AGENDA/WRITTEN AND ORAL COMMUNICATIONS**

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A. SOUTHERN CALIFORNIA EDISON PRESENTATION BY SCOTT GOBBLE

Scott Gobble, SCE Regional Manager, provided an overview of the various lines and circuits throughout the City and the causes for outages.

Mr. Gobble commented that Edison is committed to improving the reliability of their electricity on the hill.

COUNCILMAN ZUCKERMAN requested that a spreadsheet be provided for clarification purposes so the COUNCIL can compare trends from prior years. Additionally, COUNCILWOMAN SEAMANS noted she would like to see a quarterly breakdown.

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**8. PUBLIC HEARINGS/MEETINGS**

**8:00 P.M.**

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A. RESOLUTION NO. 2174 – UNDERGROUND UTILITY DISTRICT PALOS VERDES DRIVE NORTH

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Recommendation: That the City Council: 1) Open the public hearing; 2) Receive testimony; 3) Close the public hearing; 4) Adopt Resolution No. 2174 declaring a designated area along Palos Verdes Drive North as an Underground Utility District.

Assistant City Manager Wise provided a staff report (as per agenda material).

COUNCILMAN ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO OPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

*No public testimony was offered.*

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILWOMAN SEAMANS

TO CLOSE THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

1. RESOLUTION NO. 2174 FOR ADOPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES DECLARING DESIGNATED AREAS ALONG PALOS VERDES DRIVE NORTH AS AN UNDERGROUND UTILITY DISTRICT AND ORDERING THE REMOVAL OF OVERHEAD FACILITIES AND THE INSTALLATION OF UNDERGROUND FACILITIES PURSUANT TO CHAPTER 13.12 OF THE ROLLING HILLS ESTATES MUNICIPAL CODE.

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILMAN ADDLEMAN

TO ADOPT RESOLUTION NO. 2174.

*City Manager Prichard read Resolution No. 2174 by title only.*

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

B. PLANNING APPLICATION NO. 17-08; APPLICANT: MR. AND MRS. SHERWIN WYNTER; LOCATION: 38 AURORA DRIVE

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Recommendation: That the City Council: 1) Open the public hearing; 2) Take public testimony; 3) Close the public hearing; 4) Discuss the issues; and 5) Adopt Resolution No. 2172 and the Encroachment License Agreement.

Planning Director Wahba provided a staff report (as per agenda material).

COUNCILMAN ZUCKERMAN noted that it is City policy not to diminish equestrian trails throughout the community.

MAYOR PRO TEM MITCHELL noted that when homeowners have a horse, they must have access to a trail. She stated for the record that this is a hiking and riding trail.

COUNCILMAN ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO OPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

Dale Allen, President, PVPHA, noted his concern regarding the 6' wide pedestrian trail. He stated that a 10' trail is needed for equipment access and that the resolution refers to a pedestrian trail, but would like to see that language changed to a bridle trail.

Gary Goo commented that he was pleased with the concept presented by staff, but believed there are still details that need to be worked out. He described the history of the existing boundary fence and commented on neighborhood compatibility and property rights. He asked the City Attorney to give the public a summary of her opinion.

At the direction on MAYOR ZERUNYAN, City Attorney Pelletier noted that she was instructed to address the City's rights regarding the existing wall as well as determine how to impose certain requirements on the Applicant. She noted that while there was no case law, it was clear that the City could have authority over materials used on the fence, or require it to be removed, but she would caution against compelling the Applicant to maintain it. She then noted the entire fence, including the portion on the Goo property, was not permitted.

Pinfun Tsai thanked Planning Director Wahba for providing the drawings for her presentation. She provided an extensive history of her property. She noted that the existing wall has been there for over 20 years and, even if it is not permitted, it serves a purpose. She provided a lengthy history of the property and claimed to have records proving that the wall was actually approved.

Mr. Goo then spoke regarding the existing fence. He believed the City needs to review the content of the encroachment permit as well as the neighborhood compatibility issue.

Ms. Tsai submitted a Statement #1 - Encroachment Licenses and Statement #2 - Variance Application for a New Wall (PA 17-08) which will be made a part of the Planning Department file record. She referred to the plan presented to the COUNCIL and then provided a drawing of how she envisioned the fence would look, stating that the design difference between the old and the new fences would be unacceptable.

Mike Russo commented that he and the Goos were not included in the settlement agreement. He noted that it was his understanding the wall was supposed to remain with the new wall mirroring the existing wall. He noted that the current wall design has an abrupt turn which should be softened and made a condition of approval. Mr. Russo noted that the City should consider painting the wall rather than having the Applicant leave it unfinished.

David Brunnemeyer, referred to the bridle trail and requested that it be designated as an access trail in the future. He inquired about an easement in the future if the Applicant should ever move and a new homeowner should come in and want to "fill in" the wall.

Esther Wynter, Applicant, noted that they had a settlement agreement in place. She noted that she would not absorb the cost on the exterior side stucco. In referring to the trail, she emphatically stated that the size and width of the trail would only be 6' and was for pedestrians only. She then stated that the settlement agreement includes a requirement that staff recommends approval of the variance. She also stated that the City previously had no objection to allowing her to remove the existing fence. She again questioned who would have maintenance responsibility for that wall.

Mr. Allen, in referring to the bridle trail, commented that the rights of the horse community must be considered.

COUNCILMAN ADDLEMAN moved, seconded by MAYOR PRO TEM MITCHELL

TO CLOSE THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

City Manager Prichard clarified that the settlement agreement requires a trail with a minimum 6' wide passable area. He noted that the wall separating 37 and 38 Aurora from 4 Bridlewood Circle was not considered by the City negotiating team or the COUNCIL, who approved the agreement, as it was not deemed to be of material concern to the City. If the Applicant chose to remove the wall, the City would not have been opposed to this option, and any conflict with the adjacent property owner would have been a private matter. He noted that the original grant to the City calls the easement in question a riding and hiking trail and that particular wording cannot be changed unilaterally. The settlement agreement, signed by all parties, also calls this easement a riding and hiking trail.

MAYOR PRO TEM MITCHELL inquired as to who is responsible for maintenance of the 6' wall and questioned what happens at this point if the Applicant does not sign the license agreement. City Attorney Pelletier noted that she has been working with Planning Director Wahba regarding the maintenance language. Additionally, she stated that if the Applicant does not sign the encroachment agreement, the wall cannot be built.

In response to MAYOR ZERUNYAN'S inquiry regarding the net cost of the wrought iron fence, Planning Director Wahba noted he had spoken with the Applicant on that issue and said it would cost approximately \$4,000. He suggested that the City might be interested in splitting the cost, but when the Applicant was called upon for discussion, she had since left the meeting.

City Attorney Pelletier noted that she was hesitant to have the wall remain, but if both property owners (the Wynters and Goos) agree to this solution, the City could, in an effort to settle the issue, pay half the cost of the wrought iron up to \$2,000.

After further discussion, MAYOR ZERUNYAN moved, seconded by COUNCILWOMAN SEAMANS

TO DIRECT STAFF TO: AMEND THE RESOLUTION AND LICENSE AGREEMENT AND BRING THE DOCUMENTS BACK FOR FURTHER COUNCIL CONSIDERATION, WITH CONDITIONS TO INCLUDE: 1) HAVING THE CITY SHARE IN THE COST OF THE WROUGHT IRON (UP TO 50% AND NOT TO EXCEED \$2,000) OF THE NEW WALL; 2) REQUIRING THE APPLICANT TO FINISH THE NEW WALL WITH STUCCO AND PAINT ON BOTH SIDES; 3) REQUIRING THE EXISTING WALL TO REMAIN IN PLACE; 4) SPLITTING THE RESPONSIBILITY FOR MAINTENANCE AND CONTROL OF THE EXISTING PLANTER AND LANDSCAPING BETWEEN RESIDENTS AT 37 AND 38 AURORA; AND 5) HAVING THE CITY MAINTAIN THE TRAIL SIDE OF BOTH WALLS.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

1. RESOLUTION NO. 2172 FOR ADOPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES APPROVING A NEIGHBORHOOD COMPATIBILITY DETERMINATION AND A VARIANCE FOR A 6' HIGH WALL IN THE FRONT YARD (2' HIGH MAXIMUM ALLOWED BY CODE) AND AN ENCROACHMENT PERMIT FOR THE SAME WALL TO CONTINUE WITHIN THE PUBLIC RIGHT-OF-WAY AND WITHIN A PORTION OF THE CITY'S BRIDLE TRAIL EASEMENT.

*AS A RESULT OF COUNCIL ACTION AS PREVIOUSLY NOTED, THIS ITEM WAS DEFERRED TO THE NEXT CITY COUNCIL MEETING.*

**10. OLD BUSINESS (Taken out of order)**

A. ENCROACHMENT LICENSE AGREEMENT – MICHAEL AND WENDY WALDMAN

*FOLLOWING CONSIDERATION OF ITEM 8B, STAFF WAS DIRECTED TO AMEND THE AGREEMENT AS PREVIOUSLY NOTED AND BRING IT BACK TO THE NEXT CITY COUNCIL MEETING FOR FURTHER CONSIDERATION.*

**9. NEW BUSINESS**

A. PLANNING COMMISSION MINUTES OF OCTOBER 20, 2008

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILMAN ADDLEMAN

TO RECEIVE AND FILE THE PLANNING COMMISSION MINUTES OF OCTOBER 20, 2008.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

B. LANDSCAPING AND FENCING REQUIREMENTS FOR VACANT COMMERCIAL PROPERTIES

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Recommendation: That the City Council consider the policies for fencing and landscaping requirements for vacant commercial properties and adopt said policies by minute order.

Planning Director Wahba provided a staff report (as per agenda material).

COUNCILMAN ZUCKERMAN suggested installing a horizontal tube across the top of a chain-link fence.

COUNCILWOMAN SEAMANS suggested that an ordinance be created for enforcement.

MAYOR PRO TEM MITCHELL suggested having the proposed requirements, restrictions, etc., brought back for further COUNCIL consideration.

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILWOMAN SEAMANS

TO DIRECT STAFF TO CREATE AN ORDINANCE FOR COUNCIL CONSIDERATION.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

C. RENEWAL MUNISERVICES SALES AND USE TAX AUDIT SERVICES

Recommendation: That the City Council approve the agreement per City Attorney approval between the City and MuniServices, LLC for Sales and Use Tax Audit, Sales/Use Tax Analysis and Reporting Service (STARS), Property Tax Services, and Documentary Transfer Tax Services. In light of the current financial uncertainty, it is further recommended that staff defer the start of any of the fixed fee audits (Cable Television Compliance Review and Solid Waste Hauler Franchise Tax Compliance Program). Finally, it is recommended that the Business License Tax Management Services be brought back for Council consideration once the scope and costs have been finalized.

Administrative Services Director Whitehead provided a staff report (as per agenda material).

COUNCILWOMAN SEAMANS moved, seconded by MAYOR PRO TEM MITCHELL

TO APPROVE THE AGREEMENT PER CITY ATTORNEY APPROVAL BETWEEN THE CITY AND MUNISERVICES, LLC FOR SALES AND USE TAX AUDIT, SALES/USE TAX ANALYSIS AND REPORTING SERVICE (STARS), PROPERTY TAX SERVICES, AND DOCUMENTARY TRANSFER TAX SERVICES, DEFER THE START OF ANY OF THE FIXED FEE AUDITS (CABLE TELEVISION COMPLIANCE REVIEW AND SOLID WASTE HAULER FRANCHISE TAX COMPLIANCE PROGRAM) AND BRING BACK THE BUSINESS LICENSE TAX MANAGEMENT SERVICES FOR COUNCIL CONSIDERATION ONCE THE SCOPE AND COSTS HAVE BEEN FINALIZED AS AMENDED.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

**11. CITY ATTORNEY ITEMS**

NONE

- 12. CITY COUNCIL/REGIONAL COMMITTEE REPORTS:** This item provides the opportunity for Members of the City Council to provide information and reports to other Members of the City Council and/or the public on any issues or activities of currently active Council Committees, ad hoc committees, regional or state-wide governmental associations, special districts and/or joint powers authorities and their various committees on which Members of the City Council might serve or have an interest, which are not otherwise agendized.

**A. COUNCILWOMAN SEAMANS**

1. PENINSULA HOLIDAY PARADE SUBCOMMITTEE MINUTES OF OCTOBER 14, 2008

MAYOR PRO TEM MITCHELL moved, seconded by COUNCILMAN ADDLEMAN

TO RECEIVE AND FILE THE PENINSULA HOLIDAY PARADE SUBCOMMITTEE MINUTES OF OCTOBER 14, 2008.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

**B. MAYOR PRO TEM MITCHELL**

1. NATIONAL LEAGUE OF CITIES ANNUAL BUSINESS MEETING – CONGRESS OF CITIES VOTING DELEGATE

COUNCILWOMAN SEAMANS moved, seconded by COUNCILMAN ADDLEMAN

TO APPOINT MAYOR PRO TEM MITCHELL AS THE VOTING DELEGATE.

THERE BEING NO OBJECTION, MAYOR ZERUNYAN SO ORDERED.

- C. COUNCILMAN ADDLEMAN reported that he attended the PV Transit meeting. He noted that discussion included: 1) The purchase of four buses; 2) Supervisor Knabe providing additional funding for Fiscal Year 2009; and 3) Appointment of him as Chair and Steve Wolowicz as Vice Chair, respectively. Additionally, he is now Treasurer of the Los Angeles County Workforce Investment Board.

- D. MAYOR PRO TEM MITCHELL announced that the South Bay Energy Savings Center (SBESC) is providing a “Holiday Light Exchange” program that entails bringing in two strands of old energy holiday lights in exchange for two strands of LED lights at their location at 3868 Carson Street, Torrance.

- E. City Manager Prichard noted that Assistant to the City Manager Grammer contacted the SBESC regarding energy efficient holiday lights. He stated that they will be donating 66 boxes of LED lights.

**13. MAYOR AND COUNCIL ITEMS:** This item provides the opportunity for Members of the City Council to request information on currently pending projects and/or issues of public concern, direct that an item be agendaized for future consideration and/or make announcements of interest to the public.

A. MAYOR PRO TEM MITCHELL

1. DRAFT 2008 HOUSING ELEMENT – STATUS UPDATE

Recommendation: That the City Council receive and file this report.

Planning Director Wahba provided a staff report (as per agenda material).

MAYOR PRO TEM MITCHELL noted that, since the City received many comments back from the state, it might be useful to form a subcommittee to address those issues in an effort to achieve compliance.

MAYOR PRO TEM MITCHELL and COUNCILWOMAN SEAMANS volunteered to serve on this subcommittee. There being no objection, MAYOR ZERUNYAN so ordered.

Following discussion, it was the consensus of the COUNCIL to receive and file this report.

B. MAYOR ZERUNYAN was pleased to announce the 50<sup>th</sup> wedding anniversary of his parents, Jack Hagop and Ayda Zerunyan who were married on November 2, 1958.

**14. CLOSED SESSION**

NONE

**15. ADJOURNMENT**

At 10:07 p.m., MAYOR ZERUNYAN formally adjourned the City Council meeting to Tuesday, November 4, 2008 at 6:00 p.m. at Giorgio's Restaurant for the purpose of conducting the City Celebration Debriefing meeting.

Submitted by,

Approved by,

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Hope J. Nolan  
Deputy City Clerk

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Douglas R. Prichard  
City Manager