

**MINUTES OF A REGULAR MEETING
OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in regular session at 7:01 p.m. on Tuesday, October 12, 1999, in the City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Councilmembers Cribbs, Horwich, Lee, Messerlian, O'Donnell, Walker, and Mayor Hardison.

Absent: None.

Also Present: City Manager Jackson, City Attorney Fellows, City Clerk Herbers, and other staff representatives.

2. FLAG SALUTE/INVOCATION

Boy Scout Troop #310, Bruce Maass, Scoutmaster, led the Pledge of Allegiance.

Father James Bogardus, St. Andrew's Episcopal Church, gave the invocation for the meeting.

Mayor Hardison requested that the meeting be adjourned in memory of former City Clerk of Redondo Beach, Mr. Fred M. Arnold.

3. AFFIDAVIT OF POSTING/WAIVE FURTHER READING

MOTION: Councilmember Lee moved to accept and file the report of the City Clerk on the posting of the agenda for this meeting. The motion was seconded by Councilmember Cribbs and, there being no objection, it was so ordered by Mayor Hardison.

MOTION: Councilmember Lee moved that after the City Clerk has read aloud the number and title to any resolution or ordinance on the meeting agenda, the further reading thereof shall be waived, reserving and guaranteeing to each Councilmember the right to demand the reading of any such resolution or ordinance in regular order. The motion was seconded by Councilmember Cribbs and, there being no objection, it was so ordered by Mayor Hardison.

4. WITHDRAWN/DEFERRED ITEMS

None.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Comprehensive Planning Division will hold a Public Meeting
Wednesday, October 27, 1999
7:00 p.m. – 9:00 p.m.
Torrance Cultural Arts Center, Garden Room A
Subject: Proposed Revisions for Development Standards of
Multi-Family & Detached Condominium Residences

Finance and Governmental Operations Committee Meeting
Tuesday, November 16, 1999
5:30 p.m.
West Annex Commission Meeting Room
Subject: 1st Quarter Budget Review

City Clerk Herbers announced a League of Women Voters TUSD candidate forum and panel discussion on City of Torrance Charter Measure on October 21, 1999, at 7:00 p.m. at the Civic Center Library. She also reminded everyone that under the Political Reform Act, candidates for public office are required to file a Notice of Intention. Full information is available by calling the City Clerk's office at (310) 618-2870.

Fire Chief Bongard announced that Mobil Oil would be testing their siren system during the morning hours of Monday, October 18th and Wednesday, October 20th.

Mayor Hardison announced that on Saturday, October 16th, the City, in sponsorship with the County Sanitation District, will be hosting a disposal of hazardous waste in Torrance at the Hughes facility near the corner of Crenshaw Boulevard and Skypark Drive, 9:00-3:00 p.m.

7. CONSENT CALENDAR

7a. APPROVAL OF MINUTES OF SEPTEMBER 14, 1999

7b. CABLE TELEVISION ADVISORY BOARD ANNUAL REPORT F/Y 1998/99

Recommendation

Recommendation of the Chairperson of the Cable Television Advisory Board that City Council accept and file the 1998-99 Cable Television Advisory Board Annual Report.

7c. 1998-99 WATER COMMISSION ANNUAL REPORT

Recommendation

Recommendation of the Engineering Director and the Water Commission that City Council accept and file the 1998-99 Water Commission Annual Report.

7d. APPROVE FINAL PARCEL MAP 25443

Recommendation

Recommendation of the Engineering Director that City Council approve the South Bay Properties Final Parcel Map No. 25443 located at 2929 and 2933 Carson Street, which substantially conforms to and has met all conditions of approval of the Tentative Map.

7e. **LOSS ALLOCATION AND INCENTIVES**

Recommendation

Recommendation of the Human Resources Director that City Council appropriate \$117,942 from the Self-Insurance Fund to be used to disburse incentives.

7f. **LOMITA/CITY OF TORRANCE MITIGATION AGREEMENT**

Recommendation

Recommendation of the City Manager that City Council authorize the payment of \$750,000 to pay the second installment of the Torrance/Lomita RDA Mitigation and appropriate \$610,000 from the Reserve for Economic Development Infrastructure and \$140,000 from the re-appropriation of Capital Improvement Projects (CIP) I-9 and I-10; Corrugated Metal Pipe (CMP) replacement projects.

7g. **COUNCIL AUTHORIZATION RE REPLACEMENT POLICE VEHICLES**

Recommendation

Recommendation of the General Services Director and the Chief of Police that City Council authorize a purchase order be issued in the amount of \$612,255.92 to Villa Ford, Orange, California, for the purchase of 27 Ford Police Department Certified Interceptors. This purchase price does not include any future equipment or installation costs necessary to complete the police vehicle packages.

7h. **CONTRACT FOR CONSTRUCTION OF STREET IMPROVEMENTS FOR BEAUTIFICATION OF HAWTHORNE BOULEVARD**

Recommendation

Recommendation of the Planning Director that City Council:

- 1) Accept the bid from and award a contract to Tapuz Enterprises, Inc. for the construction of the street improvements for the beautification of Hawthorne Boulevard from Sepulveda Boulevard to Torrance Boulevard, in the amount of \$361,855.00;
- 2) Authorize a 5% contingency in the amount of \$18,100.00;
- 3) Authorize staff to prepare a standard public works agreement between the City and Tapuz Enterprises, Inc.;
- 4) Authorize the Mayor and City Clerk to execute and attest to said agreement; and
- 5) Agreement must be approved as to form by the City Attorney.

7i. **CONTRACT FOR SUPPORT AND INSPECTION SERVICES FOR STREET IMPROVEMENTS FOR BEAUTIFICATION OF HAWTHORNE BOULEVARD**

Recommendation

Recommendation of the Planning Director that City Council:

- 1) Award a contract to Albert Grover and Associates for the construction management support and inspection services for street improvements for the beautification of Hawthorne Boulevard from Sepulveda Boulevard to Torrance Boulevard, in the amount of \$54,000.00;
- 2) Authorize a 5% contingency in the amount of \$2,700.00;

- 3) Authorize staff to prepare an agreement between the City and Albert Grover and Associates;
- 4) Authorize the Mayor and City Clerk to execute and attest to said agreement; and
- 5) Agreement must be approved as to form by the City Attorney.

7j. **PURCHASE APPLICANT LIVE SCAN MACHINE**

Recommendation

Recommendation of the City Manager that City Council authorize a purchase order with Digital Biometrics in the amount of \$36,559 for an Applicant Live Scan machine.

MOTION: Councilmember O'Donnell moved for the approval of Consent Calendar Items a through j as written. The motion was seconded by Councilmember Walker and passed by a unanimous roll call vote.

8. **COMMUNITY SERVICES**

8a. **AWARD OF CONTRACT FOR CONSTRUCTION OF NATURE CENTER AT MADRONA MARSH**

Recommendation

Recommendation of the Parks and Recreation Director that City Council:

- 1) Concur in awarding the bid to EMAE International, Inc. for the construction of the Nature Center at the Madrona Marsh in the amount of \$1,108,736.00; and
- 2) Approve an agreement between the City of Torrance and EMAE International, Inc. for the construction of the Madrona Marsh Nature Center totaling \$1,108,736.

Parks and Recreation Director Barnett related that construction would begin the beginning of November and estimated completion would be in seven months.

MOTION: Councilmember Walker moved to concur with staff recommendations. The motion was seconded by Councilmember O'Donnell and passed by unanimous roll call vote.

12. **HEARINGS**

12a. **CITY COUNCIL CONSIDERATION RE HILLSIDE OVERLAY DISTRICT**

Recommendation

Recommendation of the Planning Director that City Council deny the appeal and approve a precise plan of development allowing the first story addition to an existing one story residence. **RESOLUTION** (PRE99-00004: FERNANDO DE MORAES).

Mayor Hardison announced that this was the date, time and place for a Public Hearing on the matter. City Clerk Herbers confirmed that the hearing was properly advertised.

In a slide presentation, Planning Manager Isomoto described the proposed addition, noting that the addition would bring the total square footage of the residence, including the garage, to 2905 square feet and that the highest portion of the structure would be 18 feet. Offering background information, she explained that Mr. De Moraes had originally proposed a two-story addition; that he had redesigned the project in response to concerns expressed by neighbors at a hearing before the Planning Commission and at a neighborhood meeting conducted by Planning Department staff; and that on August 18, 1999, the Planning Commission approved the revised single-story plan by a vote of 5-2. She stated that the issue of contention is the 18-foot high portion of the addition which the appellants would like eliminated. She explained that the applicant wishes to utilize this tower element to provide light to the center of the house and to enhance the design of the project while the appellants maintain that adequate light can be provided by skylights.

In response to Mayor Hardison's inquiry, Ms. Isomoto provided information regarding an addition at 102 Via Pasqual that includes a turret/tower similar to the one proposed by Mr. De Moraes and that neighbors contend creates a "lighthouse effect." She explained that the turret in this case is actually a small second story with four sets of French doors.

Mr. Fernando De Moraes, 234 Via Pasqual, stated that he had worked very hard over the last several months to try to come up with a plan that would suit everyone and still maintain the aesthetic quality of the design. He voiced his opinion that the tower was a more appropriate and aesthetically pleasing way to bring light into the interior dining room than skylights and that neighbors' concerns about light spilling out into the neighborhood from the windows were unfounded. He explained that he planned to have only soft lighting during dinnertime and that after dinner the lights would be turned off. He submitted a photograph of another home in the area with a tower to demonstrate how it enhances the roofline.

In response to Mayor Hardison's inquiry, Mr. De Moraes indicated that the proposed addition would extend into the backyard as far as the existing roof over the patio and offered his assurance that the tower will not be made into a second floor, explaining that there are ceiling height limitations that would preclude that from ever happening. Planning Manager Isomoto confirmed that the ceiling height of the dining room is 14 feet.

Mr. Kirk A. Edmondson, 429 Via Anita, expressed the following concerns about the project: (1) that light coming from the windows of the tower would detract from the view of city lights from his family room, and (2) that the project would have a cumulative negative impact on the neighborhood because it would encourage others to exceed the 14-foot height limitation when they remodel.

Mr. Arnold Ohashi, 631 Monte d'Oro, voiced his objection to the large Chinese elm tree in Mr. De Moraes' backyard which interferes with power lines and blocks his view.

Noting that she had submitted a letter and photographs outlining her concerns, Ms. Jane Brown, 629 Via Monte d'Oro, stated that the proposed addition would completely block views from her living room and sunroom and greatly decrease the value of her property. She expressed concerns that while Mr. De Moraes promises only

soft interior lighting, there is nothing to prevent a future owner from installing some other form of lighting that could be very intrusive. She contended that the overgrown trees on the property block the view of the silhouette from many surrounding properties to the extent that some neighbors are not aware of what is being proposed. She suggested that if Mr. De Moraes needs more space, he should expand out toward his backyard as he has one of the biggest lots on the block.

Ms. Jindra Wollner, 207 Via Alameda, stated that she feared that should the applicant be allowed to build to a height of 18 feet, other neighbors would copy the design and demand the same treatment and that she was concerned that the tower could be turned into a second story.

Mayor Hardison explained that each case is looked at on an individual basis and that the Council's decision this evening would have no bearing on what is or is not allowed in the future.

Mr. Joe Buck, 433 Via Anita, commented on the importance of enforcing zoning laws in order to avoid haphazard development and maintained that the Planning Commission had not followed the law in granting Mr. De Moraes' application. He contended that the application had failed to comply with provisions of the Hillside Ordinance in the following two areas: (1) No remodel can exceed 14 feet in height unless, because of special circumstances applicable to the property, strict application of the ordinance would deprive such property of privileges enjoyed by other properties; and (2) The development must be designed so as to cause the least intrusion on the views, light, air and privacy of other properties in the vicinity. He stated that Mr. De Moraes had not demonstrated that his property was different from surrounding properties in any way that would make it necessary to exceed the height limitation and that the project was not designed to cause the least intrusion because skylights would be less intrusive than a tower that extends four feet. He commented on a 1974 California Supreme Court ruling pertaining to a land use ordinance with language very similar to City's Hillside Ordinance. He voiced his opinion that the members of the Planning Commission are basing their decisions on their own personal views rather than following the law thereby causing "creeping non-conformance" and creating uncertainty among residents because of the arbitrariness with which the Hillside Ordinance is being applied. He urged the Council to follow the law and to deny Mr. De Moraes' application.

In response to Mayor Hardison's request, City Attorney Fellows addressed Mr. Buck's comments. He stated that the "creeping non-conformance" argument was a variation of the "slippery slope" argument commonly used by attorneys and that it was not applicable in this case because the Hillside Ordinance establishes a discretionary approval process whereby each application is approved or denied based on its own merits. With regard to Mr. Buck's contention that the application failed to demonstrate special circumstances, Mr. Fellows advised that there needs to be evidence on the record explaining what it is about this property that requires the nature of the project being proposed. Referring to the argument that the project had not been designed to cause the least intrusion on views, light, air and privacy, he stated that the term "least" is not an absolute term. Noting that he had not heard anything so far about light, air or privacy issues, he explained that the Council would have to evaluate the record to determine the nature of any potential view blockage and decide whether the proposed design reasonably tries to accommodate those affected and to minimize the impact.

In response to Councilmember O'Donnell's inquiry regarding the possibility of a future owner using the cupola as a viewing tower, City Attorney Fellows advised that such a modification would require additional permits, triggering another review process, and that it was not likely to occur.

Councilmember O'Donnell asked whether the previously mentioned California Supreme Court ruling would have precedence in this matter, and City Attorney Fellows responded that it was not a matter of precedence but a matter of the ruling's applicability to the City's ordinance. He advised that while the ruling does not dictate a particular result in this case, it does indicate that there must be evidence on the record to support findings justifying the approval of this project and that those evidentiary findings need to relate to the City's ordinance in a understandable manner. He offered clarification of the information that Councilmembers should consider before arriving at a decision.

In response to Councilmember Horwich's inquiry, Planning Manager Isomoto confirmed that there are several houses in the area more than 14 feet in height.

Councilmember Horwich stated that since other property owners had been allowed to exceed the 14-foot height limitation, he did not believe that Mr. De Moraes' application could be denied on that basis alone. He noted that he had not been able to visit the site, but indicated that based on his review of all of the evidence, he found nothing that would lead him to deny this project.

Noting that he was a Planning Commissioner when the Hillside Ordinance was originally drafted and a Councilmember throughout its multiple revisions, Councilman Walker stated that there has been a total lack of agreement regarding its interpretation and that ultimately people must rely on Planning Commissioners and Councilmembers to act in the best interests of residents in the area, using the ordinance as a guideline. He expressed support for the project, stating that the four-foot high projection does not meet his definition of a tower; that from a design standpoint, skylights cannot be compared to windows; and that he did not believe the addition would have a negative impact on the neighborhood. He emphasized that projects in the Hillside Overlay District are considered on an individual basis and that any decision the Council makes in this case should not be viewed as precedent setting. He commented on the need for cooperation among neighbors especially with regard to tree trimming.

In response to Mayor Hardison's inquiry, Planning Manager Isomoto offered clarification that the ridgeline of the existing house is 15 ½ feet and that the addition, with a maximum height of 18 feet, represents an increase of 2 ½ half feet. She confirmed that if someone wished to modify the tower in the future to create a second story, a building permit would be required.

Responding to Mayor Hardison's inquiry, Mr. De Moraes confirmed that the elm tree in the front yard is scheduled for removal in order to facilitate construction and stated that he was willing to trim the trees in the backyard, but not remove them.

Mayor Hardison voiced her preference that the removal of the front tree be included as a condition of approval, noting that it would improve the view from one of the nearby residences, and suggested the possibility of including a condition requiring the elimination of the two windows on the east side of the tower in order to decrease its impact on neighbors' nighttime views.

Mayor Hardison commented that the Hillside Ordinance allows for a lot of subjective judgement and that she saw no way to make it more objective than it is. She noted that the majority of hillside cases are resolved amicably without ever reaching the City Council.

City Attorney Fellows requested that Councilmembers indicate for the record whether they had visited the site and made any observations that had influenced their decisions.

Mayor Hardison stated that she had visited the site, including the homes of nearly all of the appellants, and that she was basing her decision mainly on the written information and oral testimony presented at this hearing, but also partly on the personal observations she made while viewing the project from the backyards of the homes she visited.

Councilmember Lee indicated that he had also visited the site, as well as most of the houses with yards and/or rooms affected by the project, and that he had not seen anything other than what was evidenced at this hearing.

Councilmember Cribbs noted that she had visited the site and the Bucks' residence, but indicated that her decision would be based strictly on the written information and oral testimony presented this evening.

Councilmember Messerlian stated that he had visited the site, viewing the impact from several different angles, and had spoken to Mr. Buck, and that his decision would be based on written evidence and testimony presented at this hearing as well as his own field observations.

Councilmember Walker explained that when he visited the site he had observed nothing that would indicate that the project would have an adverse impact and that this, combined with the information provided at this hearing, had led to his decision.

Returning to the podium, Mr. Buck stated that Hillside Ordinance as currently applied is subject to the personal interpretation of Planning Commissioners and Councilmembers and offered as an example Councilman Horwich's comments regarding the 14-foot height limitation. He urged the Council to make sure that the rules are clearly defined so that everyone involved understands them and they can be enforced in a uniform manner.

Noting that he had served as a Planning Commissioner, Councilmember Lee stated that he understood what Mr. Buck was requesting, but that he did not believe that it was possible to come up with a template that would apply to all cases. He pointed out that laws are constantly being reinterpreted at all levels of government, all the way up to the Supreme Court.

Councilmember Horwich offered clarification of his earlier comments, stating that he had only questioned the height of other homes in the area to ascertain whether this project was being afforded special privileges that were not available to other property owners; that he had not meant that this addition should automatically be approved just because there are other homes in the neighborhood that exceed the 14-foot height

limitation; and that he felt the only fair way to consider hillside cases was on an individual basis.

Councilmember O'Donnell indicated that she would be basing her decision entirely on legal precedent.

Mr. De Moraes stated that, contrary to a comment from a member of the audience, it was not true that his lot is the largest one on the block.

MOTION: Councilmember Lee moved to close the public hearing. The motion was seconded by Councilmember Horwich and passed by unanimous roll call vote.

Mayor Hardison noted supplemental material available at the meeting and stated that she had received a letter from Ms. Eileen Dawson that would also be included in the record.

MOTION: Councilmember Lee moved to deny the appeal and approve PRE99-00004 with the following additional conditions: (1) That the elm tree in the front yard shall be removed, and (2) that the easterly windows on the tower structure shall be eliminated. The motion was seconded by Mayor Hardison.

Councilmember Walker offered the following substitute motion:

MOTION: Councilmember Walker moved to deny the appeal and approve PRE99-00004 with the additional condition that the elm tree in the front yard shall be removed. The motion was seconded by Councilmember Horwich and failed to pass as reflected in the following roll call vote:

AYES: Councilmembers Cribbs, Horwich and Walker.
NOES: Councilmembers Lee, Messerlian, O'Donnell and Mayor Hardison

Mayor Hardison called for the vote on the original motion and the motion passed by unanimous roll call vote.

RESOLUTION NO. 99-113

**A RESOLUTION OF THE CITY OF TORRANCE,
CALIFORNIA, APPROVING A PRECISE PLAN OF
DEVELOPMENT AS PROVIDED FOR IN DIVISION 9
CHAPTER 1, ARTICLE 41 OF THE TORRANCE
MUNICIPAL CODE TO ALLOW THE CONSTRUCTION
OF A FIRST STORY ADDITION TO AN EXISTING ONE-
STORY SINGLE-FAMILY RESIDENCE ON PROPERTY
LOCATED IN THE R-1 ZONE AT 234 VIA PASQUAL**

PRE99-0004: FERNANDO DE MORAES

MOTION: Councilmember Messerlian moved for the adoption of Resolution 99-113 as amended. The motion was seconded by Councilmember Cribbs and passed by a 6-1 majority roll call vote, with Councilmember O'Donnell dissenting.

15. **ORAL COMMUNICATIONS**

15a. City Attorney Jackson related that the Safety Fair at the Mall was an interesting event with a large crowd.

15b. Fire Chief Bongard thanked the Del Amo Mall and citizens for their support of the event and related that over 2,500 helmets were distributed.

15c. Fire Chief Bongard noted a first place finish by the team comprised of staff from Mobile and two Torrance Firefighter/Paramedics in a technical rescue competition.

15d. Mayor Hardison thanked Parks and Recreation Director Barnett and his staff for the fine "Topping-Off Ceremony" at the Wilson Park Gymnasium.

15e. Cable Television Administrator Smith announced the Second Annual "Great City Hall Tune-in" to promote government access. He emphasized the need to draw attention to local government and that over 50 cities throughout the County will be participating.

15f. Mayor Hardison suggested the possibility of having the public call in by phone or e-mail.

15g. Councilmember O'Donnell related that she had received a letter from a lady in Torrance who suggested our Cablecast telecast could be held in the mall and include members of the community.

15h. Councilmember Horwich related that he had recently attended the League of California Cities Conference, which was quite interesting and will share the information during the next several weeks.

15i. Councilmember O'Donnell announced the current Torrance Library System and Gallery production, El Norte, October 16 – December 2; Joslyn Center Reception, Saturday, October 16th, 2:00-4:00 p.m.

15j. Councilmember O'Donnell related that in addition to the sign-ups for Rose Float volunteers, and they would be selling See's candy bars at the West Wing of City Hall

15k. Councilmember O'Donnell announced that the Health Fair meeting will also be in October.

17. **ADJOURNMENT**

At 8:40 p.m., City Council and Redevelopment Agency adjourned to Tuesday, October 19, 1999, at 7:00 p.m. in the Council Chambers.

*
**Adjourned in Memory of
Fred M. Arnold**
*

Mayor of the City of Torrance

ATTEST:

City Clerk of the City of Torrance

Kris Koga
Recording Secretary