

**MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL**

1. CALL TO ORDER

The Torrance City Council convened in an adjourned regular session at 5:35 p.m. on Tuesday, October 21, 2008 in City Council Chambers at Torrance City Hall.

ROLL CALL

Present: Councilmembers Barnett, Brewer, Furey, Numark, Rhilinger, Sutherland, and Mayor Scotto.

Absent: None.

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

Agenda Item 18 was considered out of order at this time

18. EXECUTIVE SESSION

The City Council immediately recessed to closed session to confer with the City Manager on agenda matters listed under 18A) Public Employee Performance Evaluation – City Attorney, pursuant to California Government Code §54957.

The City Council reconvened at 7:33 p.m. No formal action was taken on any matter considered in closed session.

2. FLAG SALUTE/INVOCATION

The flag salute was led by Police Chief John Neu.

Councilmember Numark gave the non-sectarian invocation.

3. REPORT OF CITY CLERK ON POSTING OF THE AGENDA / MOTION TO WAIVE FURTHER READING

City Clerk Herbers reported that the agenda was posted on the Public Notice Board at 3031 Torrance Boulevard on Thursday, October 16, 2008.

MOTION: Councilmember Sutherland 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 Brewer and passed by unanimous roll call vote.

4. WITHDRAWN, DEFERRED OR SUPPLEMENTAL ITEMS

Mayor Scotto noted that there was supplemental material available on Agenda Item 13A. No withdrawn or deferred items.

5. COUNCIL COMMITTEE MEETINGS AND ANNOUNCEMENTS

Councilmember Brewer announced a Citizens Development and Enrichment Committee meeting on Monday, October 27, 2008 at 4:30 p.m. in the 3rd Floor Assembly Room. He noted that the public is invited to attend and the items to be discussed will be the design of newly acquired corner of the Madrona Marsh (Sepulveda Blvd./Madrona Ave.) and a possible message board at this location.

City Clerk Herbers provided information about the November 4, 2008 election, noting that people may verify voter registration and check on the status of a vote-by-mail ballot on the L.A. County Registrar's website www.LAVOTE.net.

Police Chief Neu announced a Community Safety Training Day on Saturday, October 25, 2008 from 8:30 a.m. to 11:30 a.m. at Torrance High School, noting that topics to be discussed will include the Neighborhood Watch Program, Internet safety for parents, crime trends, elder abuse, fraud, auto theft, and an overview of the Community Affairs Division.

City Manager Jackson commented on the impact of recent store closures on the City's financial situation. He advised that the City has taken a conservative approach with regard to retail sales projections and no significant changes to the budget are expected at this time. He noted that Torrance continues to be a very desirable location and the City has an aggressive program to attract retailers and manufacturers. He recommended that consideration of the Capital Budget be deferred until after the holiday season when the City will have a better idea of the impact of the economic downturn.

6. COMMUNITY MATTERS

6A. PROCLAMATION RE "MAKE A DIFFERENCE DAY"

Mayor Scotto presented a proclamation declaring October 25, 2008 as **Make a Difference Day** in the City of Torrance to Jason Minter, Community Services Business Manager, on behalf of Tracy Drake, Nature Center Manager.

Mr. Minter invited everyone to participate in Make a Difference Day by helping clean up Madrona Marsh on Saturday, October 25, 2008 at 8:15 a.m.

7. ORAL COMMUNICATIONS #1

7A. Timothy May, Rintaro Matsuoka, Grace McCarter, Tara Trueman and Makaiya von Stentzsch, Fern Elementary School students, urged residents to support Torrance Unified School District Bond Measures Y and Z.

7B. Robert Brandt, Torrance, discussed the need to repair and upgrade facilities at Torrance schools and urged approval of Measures Y and Z. He invited everyone to attend "Hands Across Torrance" on Sunday, November 2, at Del Amo Fashion Center from 1:00 – 3:00 p.m.

7C. Paige Brandt, Richardson Middle School student, reported on deteriorating facilities at her school and encouraged residents to vote "yes" on Measures Y and Z.

7D. Eddie Yi, Torrance High student, stressed the need to repair and refurbish schools and urged approval of Measures Y and Z.

7E. Melanie Dalby and Nicole Cristy, Torrance students, reported that TUSD will be forced to sell school properties to raise funds for much needed repairs if Measures Y and Z fail to pass, which would create overcrowding and health and safety problems.

7F. Debbie Hays, Torrance Historical Society, announced that the last walking tour of downtown Torrance for the year would take place on Sunday, October 26, 2008, at 1:30 p.m. starting at the Historical Museum, 1345 Post Avenue.

8. CONSENT CALENDAR

8A. APPROVAL OF MINUTES

Recommendation

Recommendation of the City Clerk that City Council approve the City Council minutes of August 19 and August 26, 2008.

8B. PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT RE 1800 OAK STREET

Recommendation

Recommendation of the Community Development Director that City Council approve a Partial Assignment and Assumption of a Development Agreement (C2005-191) by and between Standard Pacific Corporation and Asset Management Solutions, LLC for a residential project located at 1800 Oak Street.

8C. PURCHASE ORDER RE REFUSE ROLL-OFF BIN CARRIER TRUCK

Recommendation

Recommendation of the General Services Director and the Public Works Director that City Council authorize a sole-source purchase order with AMREP Inc. of Ontario, California in an amount not to exceed \$114,500 including sales tax and a ten percent (10%) project contingency for complete refurbishment of one (1) refuse roll-off bin carrier truck; City Truck # 9067.

8D. PURCHASE OF DATA NETWORK STORAGE HARDWARE AND SOFTWARE

Recommendation

Recommendation of the Information Technology Director that City Council approve a purchase order with Red Rider Informatics of Long Beach, CA for an amount not-to-exceed \$50,956.90 to acquire a large capacity data network storage device and software to capture and analyze data flowing through our network, including one year of software and hardware licenses, maintenance, and technical support.

8E. CONTRACT AMENDMENT/CHANGE ORDER RE CULTURAL ARTS CENTER CHILLER PROJECT

Recommendation

Recommendation of the General Services Director that City Council:

- 1) Approve a contract amendment with Precision Refrigeration and Air Conditioning (C2008-151) for \$22,339 for a total contract amount of \$170,839 for the Cultural Arts Center Chiller Project (FEAP #664);
- 2) Approve a purchase order change in the amount of \$19,000 for an additional two months with La Brea Air, Inc. (P.O. 2008-1413) for a total purchase order amount of \$77,056 for rental of a chiller; and
- 3) Appropriate \$41,339 from the Building Maintenance Capital Project Fund.

8F. APPROPRIATION FOR AUTOMATED KEY CARD VEHICLE GATES AT TORRANCE AIRPORT

Recommendation

Recommendation of the General Services Director that City Council approve an appropriation of \$20,000 from the Airport Aeronautical Fund Balance to be used for the installation of new controller hardware for the automated key card vehicle gates at the Torrance Municipal Airport - Zamperini Field.

8G. CONTRACT RE UNDERGROUND FUEL TANKS AT FIRE STATIONS #3 & #4

Recommendation

Recommendation of the General Services Director that City Council:

- 1) Award a contract with Tafoya & Associates, Inc. for \$123,200 with a 5% contingency of \$6,160 for the modifications, repairs, equipment replacement, and SB989 testing for the underground fuel tanks at Fire Station #3 and Fire Station #4 (FEAP #445); and
- 2) Approve a 10% project management fee of \$12,320.

8H. CONSULTING SERVICES AGREEMENT RE PAVEMENT MANAGEMENT SYSTEM

Recommendation

Recommendation of the Public Works Director that City Council approve a two-year Consulting Services Agreement in the amount of \$60,000 with Nichols Consulting Engineers, Chtd. to update the City's Pavement Management System for the Pavement Evaluation - Biennial Update, I-47.

8I. CHANGE ORDER TO AGREEMENT WITH SULLY-MILLER CONTRACTING RE TORRANCE BOULEVARD STORM DRAIN IMPROVEMENTS

Recommendation

Recommendation of the Public Works Director that City Council approve Change Order No. 1 in the amount of \$133,876.92 to the Public Works Agreement (C2008-154) with Sully-Miller Contracting Co. for provision of unforeseen work encountered during the construction of the Torrance Blvd. Storm Drain Improvements, I-96.

MOTION: Councilmember Rhilinger moved for the approval of Consent Calendar Items 8A through 8I. The motion was seconded by Councilmember Furey and passed by unanimous roll call vote.

13. HEARINGS

13A. PRE08-00009: 161 PASEO DE LAS DELICIAS – STEPHEN AND JUDY EBEBY

Recommendation

Recommendation of the Planning Commission and the Community Development Director that City Council deny the appeal and adopt a RESOLUTION approving a Precise Plan of Development to allow the construction of a new two-story single family residence on property located within the Hillside Overlay District in the R-1 Zone at 161 Paseo de las Delicias.

Mayor Scotto announced that this was the time and place for a public hearing on this matter. City Clerk Herbers confirmed that the hearing was properly advertised.

With the aid of slides, Planning Manager Lodan reviewed the proposed project and shared photographs of the site taken from various vantage points in the neighborhood. He reported that the project was revised after the initial Planning Commission hearing on July 2, 2008 and the revised project was approved on August 6, 2008 by a vote of 5-1, with an added condition requiring that the Floor Area Ratio (FAR) be reduced to 0.51 by removing a parking space in the garage and converting it to a carport. He noted three neighbors appealed the decision and their primary concern is the roof deck.

Responding to questions from the Council, Planning Manager Lodan reported that the project's FAR would be 0.55 with the third parking space in the garage as originally proposed; confirmed that the roof deck complies with standards in the Draft Roof Deck Ordinance; and clarified that the elevation of the subject property and the three appellants' properties is roughly the same.

Judy Ebey, 161 Paseo de las Delicias, applicant, stated that the project was carefully designed to be a positive addition to the neighborhood and noted that she submitted a list of homes in the vicinity as large or larger than the house being proposed (supplemental material). She reported that she shared the plans with neighbors on either side and to the rear and they have no objections to the project, therefore, she was surprised when neighbors 2, 3 and 4 houses away voiced objections at the July 2, 2008 Planning Commission hearing. She reviewed the revisions made to address their concerns about view and privacy impacts, including shifting the second story forward to provide a 40-foot rear yard setback, eliminating the balcony off the master bedroom, and reducing the size of the roof deck. She contended that the revised project would have no adverse impact on the view, light, air or privacy of neighbors.

Ms. Ebey explained that an elevator shaft and a room for a caretaker were included in the plans in case of future health problems; that these items contributed to the FAR, which is over 0.50; and that being confined to this limit would constitute an unreasonable hardship. She further explained that the third parking space in the garage is necessary due to the limited street parking and it would be in a tandem arrangement so it would not be visible from the street or add to the project's bulk.

Steve Gerhardt, 149 Paseo de las Delicias, appellant, stated that he and the other two neighbors who filed the appeal have no objections to the project other than the roof deck, which amounts to a third story living space that would invade their privacy. He maintained that allowing the roof deck would set a bad precedent because it would enhance the applicant's property value at the expense of neighbors and it could lead others to seek roof decks thereby eroding the character of the Hillside neighborhood. He related his experience that roof decks are seldom used and constitute an invasion of privacy when they are used.

In response to Councilmember Sutherland's inquiry, Mr. Gerhardt indicated that he had no objection to having the third parking space enclosed in the garage.

Patricia Johns, 153 Paseo de las Delicias, appellant, echoed concerns about the roof deck, reporting that there is nothing else like it in the neighborhood. She stated that she also had no objection to a third enclosed space in the garage and it would probably look better than a carport.

Nancy Mansfield-Staudt, 145 Paseo de las Delicias, appellant, wanted to clarify that she also objects to the project's second story because it would impact her pastoral view and because the 100 block of Paseo de las Delicias is primarily a one-story neighborhood. She related her understanding that the two-story addition that was approved at 157 Paseo de las Delicias will most likely not be built.

Judy Brunetti, 4815 Greenmeadows Avenue, voiced objections to roof decks. She reported that a rooftop deck built by her neighbor in 2006 has resulted in a loss of privacy, noise impact, and potential loss of property value. She also cited safety concerns, explaining that the children sometimes jump from the deck into their pool.

Councilmember Rhilinger questioned whether the roof deck next door extends to the edge of the house, and Ms. Brunetti reported that the deck runs the entire length of the rear of the house.

Roberta Blowers, 621 Camino de Encanto, echoed concerns about roof decks. She noted that while the Ebey's may be considerate of neighbors and not hold noisy parties on the deck, there is no guarantee that future owners will not do so.

Ruth Vogel, 114 Via la Soledad, stated that she shares concerns about roof decks and expressed the hope that the Council would address this issue when considering the Draft Roof Deck Ordinance.

John Staudt, 145 Paseo de las Delicias, voiced objections to the roof deck.

Returning to the podium, Ms. Ebey reiterated that none of her immediate neighbors have any objections to the project and related her belief that everything possible has been done to address the concerns of the other neighbors. She noted that the second-story addition next door (157 Paseo de las Delicias), which has been approved, but not yet built, would have a much greater impact on the appellants. She stated that she formerly lived next door to a house with a roof deck and never experienced any problems and pointed out that the City has a Noise Ordinance to deal with any potential problems.

Councilmember Sutherland questioned whether Ms. Ebey would consider eliminating the roof deck since that is the main objection to the project.

After consulting with her husband, Ms. Ebey indicated that they would not agree to eliminate the roof deck at this time.

Deputy City Attorney Whitham provided clarification regarding roof decks and the Hillside Ordinance. She advised that the Hillside Ordinance does not address roof decks in its general provisions and the only reference to roof decks is in the section that discusses the types of construction exempted from the Precise Plan process.

Councilmember Brewer questioned whether there was support for banning roof decks at Planning Commission workshops held on this issue.

Planning Manager Lodan advised that it was the consensus of the Commission to create a review process and development standards to control roof decks rather than prohibiting them.

Councilmember Numark questioned whether the two-story addition next door, which has been approved but not yet constructed, should factor into the Council's decision. He noted that the addition, which would be between the subject property and the appellants' properties, would block much of the proposed addition from their view.

Deputy City Attorney Whitham advised that since there was no guarantee that the addition next door will be built, the Council should be comfortable with the proposed project whether or not it is built.

In response to Councilmember Numark's inquiry, Deputy City Attorney Whitham confirmed that the project next door could be built by a subsequent owner, but noted that construction would have to begin within one year of the approval or the Precise Plan would lapse.

Responding to Councilmember Furey's inquiry, Deputy City Attorney Whitham provided clarification of the findings necessary to approve the appeal and deny the project.

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

Councilmember Brewer commended the applicant for working with neighbors to try to address their concerns, which is something the Council encourages. He indicated that he was inclined to support the roof deck as it complies with development standards in the Draft Roof Deck Ordinance, and favored allowing the third parking space to be enclosed in the garage because the project's FAR does not seem to be an issue.

Councilmember Barnett noted his concurrence with Councilmember Brewer's remarks. He stated that he found it compelling that neighbors on either side and to the rear do not object to the project because they would be the most impacted by it and he did not believe it would have a significant adverse impact on neighbors further away. He

further stated that he thought the roof deck was positioned to cause the least intrusion on neighbors and was inclined to allow the third parking space to be enclosed.

Councilmember Rhilinger stated that she felt the Ebeys had addressed the appellants' concerns as much as possible, noting that very little of the proposed project will be visible to them if the second story at 157 Paseo de las Delicias is built. She related her belief that the roof deck would not adversely impact neighbors due to its limited size and because it is located in the center of the house to protect neighbors' privacy. She reported that she observed a parking problem on this street when she visited the site, therefore she was inclined to support the third parking space in the garage because it would improve the parking situation and it was more likely to be used than a carport.

Councilmember Sutherland voiced support for the project as proposed. He noted that the main concern about the roof deck seems to be noise, however, any outdoor activity can be a source of noise regardless of whether it takes place in a backyard, front yard or on a deck and Torrance has a Noise Ordinance to deal with excessive noise if this becomes a problem.

Councilmember Furey indicated that he could not support the project due to potential privacy impacts associated with the roof deck. He stated that it was difficult to determine simply by looking at the silhouette whether there would be a privacy impact, however, placing a deck on top of the house by its nature would seem to create views into neighbors' yards. He also expressed concerns about approving a project with an FAR over 0.50 although he believed the applicant had made a case that being confined to this limit would be a hardship and the neighbors have no objection.

Councilmember Numark noted that since the elevation of the properties involved is the same, the privacy impact is no different than in other parts of Torrance outside the Hillside Overlay. He indicated that he was inclined to support the project with an FAR of 0.51 because of the accommodations the applicant has made, however, he believes there is a high standard for exceeding this limit.

Mayor Scotto stated that he was also concerned about approving projects with FARs over 0.50 and could not support this project in view of other projects that have been required to comply with this limit. With regard to the roof deck issue, he reported that the majority of residents with whom he has spoken are adamantly opposed to them. He voiced his opinion that roof decks impose on neighbors and only create problems, noting that they are often lighted and equipped with a sound system. He disputed the claim that noise from outdoor activities at ground level has the same impact as noise from roof decks, relating his experience that sound can travel great distances when it's not buffered by houses, walls and fences. He pointed out that the privacy impact will be greatly exacerbated if the addition next door is not built. He urged Councilmembers to carefully consider their decisions because people view them as precedent setting and stressed the need for consistency.

In response to Councilmember Numark's inquiry, Deputy City Attorney Whitham clarified that the privacy impact should still be considered even though the properties involved are at the same elevation, noting that this is common throughout the Hillside Overlay.

MOTION: Councilmember Brewer moved to deny the appeal and approve the project, deleting Condition No. 9, which requires the third parking space in the garage to be converted to a carport reducing the FAR to 0.51. The motion was seconded by Councilmember Rhilinger and the motion failed to pass as reflected in the following roll call vote:

AYES: Councilmembers Barnett, Brewer and Rhilinger.

NOES: Councilmembers Furey, Numark, Sutherland and Mayor Scotto.

MOTION: Councilmember Furey moved to approve the appeal and deny the project without prejudice. The motion died for lack of a second.

MOTION: Councilmember Sutherland moved to deny the appeal and approve the project, retaining Condition No. 9, which requires the third parking space in the garage to be converted to a carport reducing the FAR to 0.51. The motion was seconded by Councilmember Brewer and passed as reflected in the following roll call vote:

AYES: Councilmembers Barnett, Brewer, Rhilinger and Sutherland.

NOES: Councilmembers Furey, Numark, and Mayor Scotto.

RESOLUTION NO. 2008-110

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE DENYING AN APPEAL AND 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 NEW TWO-STORY, SINGLE-FAMILY RESIDENCE ON PROPERTY LOCATED IN THE HILLSIDE OVERLAY DISTRICT IN THE R-1 ZONE AT 161 PASEO DE LAS DELICIAS

MOTION: Councilmember Sutherland moved for the adoption of Resolution No. 2008-110. The motion was seconded by Councilmember Barnett and passed as reflected in the following roll call vote:

AYES: Councilmembers Barnett, Brewer, Rhilinger and Sutherland.

NOES: Councilmembers Furey, Numark, and Mayor Scotto.

17. ORAL COMMUNICATIONS #2

17A. Councilmember Brewer commented on the warm welcome he received at the Pentagon on his recent visit for planning the 50th Annual Armed Forces Day Parade in Torrance.

17B. Councilmember Furey reported that the L.A. County West Vector Control District has confirmed a human case of West Nile Virus in Torrance and two dead birds have tested positive for the virus, noting that the person infected with West Nile Virus experienced a fever but was not hospitalized. He recommended that residents use insect repellent containing DEET when they are outdoors during early morning and evening hours, make sure window screens are tight-fitting and in good repair, and eliminate any standing water from their property.

17C. Councilmember Furey commented on a rally held the previous evening in support of Torrance Unified School District Bond Measures Y and Z. He invited everyone to attend “Hands Across Torrance” on Sunday, November 2, at Del Amo Fashion Center from 1:00 – 3:00 p.m.

17D. Councilmember Numark, with the concurrence of Council, requested that staff look into ways to commemorate Veteran’s Day by conveying a message of thanks and appreciation on marquees throughout Torrance.

17E. Councilmember Numark requested that the Council consider passing a resolution in opposition to the Ocean Wave Project, which would locate a liquefied natural gas terminal in the ocean a short distance from LAX and Palos Verdes. He noted that the project is opposed by L.A. County Supervisor Don Knabe, Congresswoman Jane Harman and the Sierra Club.

City Manager Jackson offered to bring this matter back as an agenda item.

17F. Councilmember Sutherland, with the concurrence of Council, requested that staff prepare an agenda item to subsidize the cost for the use of the Armstrong Theatre and other related costs for a concert of the United States Air Force Golden West Band tentatively scheduled for February 18, 2009.

17G. Councilmember Barnett commended the students who spoke under “Oral Communications #1” in support of TUSD Bond Measures Y and Z.

17H. Mayor Scotto encouraged residents to attend an informational meeting regarding Bond Measures Y and Z at North High School on October 23, 2008 at 7:00 p.m.

18. EXECUTIVE SESSION

Considered earlier in the meeting, see page 1.

19. ADJOURNMENT

At 9:28 p.m., the meeting was adjourned to Tuesday, October 28, 2008 at 5:30 p.m. for an Executive Session with the regular meeting commencing at 7:00 p.m. in Council Chambers.

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Attest: /s/ Frank Scotto
Mayor of the City of Torrance

/s/ Sue Herbers
Sue Herbers,
City Clerk of the City of Torrance

Approved on December 16, 2008