CITY OF DALY CITY

Regular Meeting - CITY COUNCIL

AGENDA

Monday, April 26, 2010 - 7:00 PM

For those wishing to address the City Council on any Item on the Agenda or under Public Appearances/Oral Communications, please complete a Speaker Card located at the entrance to the Council Chambers and submit to a Staff Member as early in the meeting as possible.

Persons with disabilities who require auxiliary aids or services in attending or participating in this meeting should call the office of the City Clerk at 991-8078 as soon as possible.

CALL TO ORDER:

Minutes: The meeting was called to order by Mayor Guingona at 7:00 P.M.; 7:03 PM

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

Minutes: Nadia Holober, Western Alliance for Nature, announced there will be an event called "Save the Whales" on Sunday, May 23rd in San Mateo County at the Pacifica pier to stop the International Whaling Commission from repealing the moratorium on whale hunting and replacing it with a quota system. ; 7:13 PM

AVAILABILITY OF PUBLIC RECORDS:

All public record to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City Clerk's Office, City Hall located at 333 90th Street, Daly City, CA during normal business hours, at the same time that the public records are distributed or made available to the legislative body.

Proclamation for the West Nile Virus & Mosquito & Vector Control Awareness Week - April 26-30, 2010

Minutes: Mayor Guingona presented a proclamation proclaiming April 26-30, 2010, as West Nile Virus & Mosquito & Vector Control Awareness Week to Christine Fuller, Daly City Representative to San Mateo County Mosquito and Vector Control District and Dr. Chindi Peavey, Lab Director for the Mosquito and Vector Control District.; 7:03 PM

Proclamation Designating May 2010 as Lyme Disease Awareness Month

Minutes: Mayor Guingona presented a proclamation proclaiming May 2010 as Lyme Disease Awareness Month to Christine Fuller and Dr. Chindi Peavey.; 7:08 PM

APPROVAL OF MINUTES:

Motion on Approve

Motion to approve the minutes of April 12, 2010.

Passed For: 4; Against: 0; Abstain:

0; Absent: 1

Regular Meeting of April 12, 2010

APPROVAL OF AGENDA:

Motion on Approve

Motion to approve the agenda.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

CONSENT AGENDA

All items listed on the Consent Agenda are considered to be routine and may be approved by one roll call vote of the City Council. There shall be no separate discussion of the matters on the Consent Agenda unless requested by a member of the City Council. If discussion is required, that item will be removed from the Consent Agenda and will be considered separately at the end of the Agenda.

Resolutions :

1. Approving Plans and Specifications, Affirming CEQA Determination and Authorizing Solicitation of Bids for Street Slurry Seal and Cape Seal 2010 Project

Motion on Approve

Motion to adopt Resolution No. 10-40, Approving Design Documents and Authorizing Bid Invitations Re: Street Slurry Seal and Cape Seal 2010 Project
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

2. Commending Sue McGuirk on the Occassion of her Retirement

Motion on Approve

Motion to adopt

Resolution No. 10-41, Commending Sue McGuirk on the Occasion of Her Retirement
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

3. John F. Kennedy Elementary Student Mural Project at Hillside Park

Motion on Approve

Motion to adopt Resolution No. 10-42, Authorizing Student Wall Mural at Hillside Park
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

END OF CONSENT AGENDA

PUBLIC HEARINGS:

4. Consideration of the City's HUD Consolidated One-Year Action Plan for Fiscal Year 2010-11

Minutes: Housing and Community Development Supervisor Betsy ZoBell requested that the City Council conduct a public hearing and adopt a resolution regarding the One-Year HUD Consolidated Action Plan for Fiscal Year 2010-2011. The 2010-2011 Action Plan describes how HUD will be allocated to various activities for

the coming fiscal year.

The Action Plan was reviewed and recommended by the Community Development Block Grant Advisory Committee, comprised of Vice-Mayor Klatt and Councilmember Gomez, who met with staff on March 15. The City received over $2.5 million in request for a total of $1.75 million in available block grant funds. The Action Plan also describes how it's going to utilize Federal HOME funds. For 2010-2011, the City will receive a direct allocation of $556,794 in Federal HOME funds. The committee recommends that these funds be used to subsidize the development of new affordable housing.

Ms. ZoBell summarized the Committee's recommendations for specific activities and allocation of available block grant funds as outlined in Exhibit A in the Agenda Report.

We have provided

ample opportunities for public input. To date, we have not received any public comments regarding the 2010-2011 Action Plan. However, we did receive an email from John's Closet regretting that they could not attend this meeting but expressed their appreciation of the City funding their program.

Mayor Guingona opened the public hearing.

The following individuals expressed appreciation for the Council's support:

Ann Sims, representing Bayshore Child Care
Yvonne Frazier, representing Service League on behalf of Michael Nevin
Janet Howley, Mercy Housing California
Rosemary Mayer, Manager of Client Services for CORA
Seana O'Shaughnessy, Rebuilding Together
Denise Kelly, representing North Peninsula Food Pantry and Dining Center of Daly City
Maryam Bhiimji,

representing Samaritan House/Safe Harbor
Angela Bruno-Castro, representing Mental Health Association - Friendship Center
Ray Pittsinger, Center for Independence of the Disabled
Holly Fulghum-Nutters, representing Project Read
Melissa Platte, representing Spring Street Shelter/Santa Barbara Permanent Housing
Kimberley Gillette and Bernadette Frias, representing Daly City Youth Health Center
Doran Martin, representing North Peninsula Neighborhood Center
Ann Marquart, Project Sentinel
Brian Greberg, Shelter Network
Tippy Irwin, representing Ombudsman Services
Laura Fanucchi, HIP Housing

; 7:17 PM
Motion on Close

Motion to close the public hearing.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1
Motion on Adopt

Motion to adopt Resolution No. 10-43, Approving the City's One-Year Action Plan for Fiscal Year 2010-2011 (July 1, 2010 through June 30, 2011)

Passed For: 4; Against: 0; Abstain: 0; Absent: 1

COMMUNICATIONS:

5. Planning Commission - re: Use Permit and Environmental Assessment for a New T-Mobile Wireless Facility at 75 Margate Street

   A. EA (Categorical Exemption)
   B. Findings
   C. UPR-12-09-1543

Minutes: Planning Manager Tatum Mothershead stated the applicant is requesting approval of a use permit application to install a new wireless facility at 75 Margate Street.

The site is located on the southside of Margate Court between Shipley Avenue and Gellert Boulevard. Since the site is zoned R-A, Single-Family Residential, it requires approval of a use permit for any wireless facility. The site is currently used

as a reservoir site.

Ms. Mothershead gave a PowerPoint presentation on the proposal to replace an existing light pole with a new taller light pole that includes three panel antennas and an equipment area. An EMF Study has been prepared by Hammett and Edison, Engineers. It does meet the FCC standards and is in compliance with the 1996 Telecom Act. No mitigation were recommended or required. The applicant has indicated they are considering revising their plans to address some of the concerns that the residents have made.

The Council has copies of the correspondence that residents have submitted opposing the project.

John McCarthy was concerned that the new pole was going to block the views from homes on Shipley and Margate and a hazard to people in the immediate area. Children also play in

that parking lot.

Anita Jackson was concerned about the danger of installing a much higher structure.

Edel Antiniw was opposed to the construction of this facility in a residential area. It poses a health risk to residents and the environment because of the transmission of electronic magnetic fields and waves, and would also reduce property values.

Isidro Antiniw submitted a petition signed by residents in the neighborhood opposing the wireless facility at the Planning Commission meeting, a copy of which is attached to the Agenda Report.

Jerry Love was opposed to the construction of the wireless facility. He thanked Vice Mayor Klatt's husband for providing information on emwatch.com. He submitted a document with pictures and news articles he received from citizens from Southern

California.

Kip McGrath was opposed to the construction of the facility. She complained that the Parks and Recreation Department has neglected the park. Ms. McGrath stated the pine trees are destroying their homes.

John Santiago asked for data on the number of complaints they have received. Mr. Santiago was concerned with the health risk and environmental issues. He submitted a couple of signatures opposing the facility.

Arian Guzman was opposed to this facility being constructed near her mother's home. She is concerned that her children's health may be affected while they are being taken cared of.

Brian Lew was opposed to the facility being constructed near his home because it might affect the health of his children.

Larry Pellinacci

submitted copies of news documents for Council's review.

Greg Guerazzi, representing T-Mobile, stated T-Mobile is working to improve its network in Daly City to provide in-building coverage, which will allow Daly City customers access to their T-Mobile network, data and internet services, as well as voice services. He explained this site was selected because of its location and its existing utility site. T-Mobile is working to modify the design to address the Council Committee and the neighbors concerns.

Mr. Guerazzi introduced Paul Albritton, T-Mobile Counsel and Bill Hammett of Hammett & Edison, Inc., who were present to answer Council's concerns.

Vice Mayor Klatt motioned to continue this item so the Council can discuss the issues regarding the maintenance of the cabinets, the size and height of the

poles and to get more information.

Councilmember Gomez asked the applicant to bring more comprehensive EMF studies. Councilmember Canepa asked that the applicant address the neighbors' concerns.
; 7:53 PM
Motion on Continue

Motion to continue Use Permit UPR-12-09-1543 to the meeting of June 14, 2010.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

6. Planning Commission - re: Use Permit and Environmental Assessment for Co-location of a Clearwire Wireless Facility at 515 Westmoor Avenue

A. EA (Categorical Exemption)
B. Findings
C. UPR-12-09-1549

Minutes: Planning Manager Tatum Mothershead gave a PowerPoint presentation of the property site and reviewed the applicant's requests for use permit approval for the co-location of a wireless facility installation on an existing monopole at 515 Westmoor Avenue.

Vice-Mayor Klatt asked that the add a condition to maintain the landscaping.

; 8:42 PM
Motion on Concur

Motion to concur with the Categorical Exemption under CEQA requirements.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1
Motion on Adopt

Motion to adopt Resolution No. 10-44, Adopting Findings of Fact and Imposing Conditions of Approval on Use Permit (UPR-12-09-1549), for Co-Location of a Clearwire Wireless Facility (515 Westmoor Avenue)
Passed For: 4; Against: 0; Abstain: 0; Absent: 1
Motion on Approve

Motion to approve UPR-12-09-1549, subject to the Conditions of Approval, as amended.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

RESOLUTIONS:

7. RESOLUTION ESTABLISHING FEES AND CHARGES FOR PROGRAMS, CLASSES, FACILITY RENTALS AND FIELD RENTAL USE
FOR 2010/11 FOR THE PARKS AND RECREATION DEPARTMENT

Minutes: Director of Parks and Recreation Michael Stallings recommended that the City Council adopt a fee schedule resolution establishing and increasing various fees and charges for specific Parks and Recreation Department programs and services.

Mr. Stallings stated the Parks and Recreation Department program fees and charges were not analyzed as part of the City's 2008 fee study. As a result, the current level of the general fund subsidy for these programs and services continue at this historic level.

Shortly, Staff will commence a comprehensive fee study of all Parks and Recreation programs and services with the objective of returning to the Parks and Recreation Commission and City Council later this year with the fee study results. At that time, the City Council may wish to modify or add fees and charges to reduce the existing

general fund subsidy.

However, because of some program and budgeting issues, the summer program and the City's unprecedented economic crisis, various increases and new fees and charges are recommended at this time. Establishing and increasing fees and charges for various programs and services with currently little or no existing fee would allow the City to preserve these programs and services by recovering a portion of their cost currently funded by the City's General Fund.

Mr. Stallings gave a PowerPoint presentation summarizing the Parks and Recreation's fees and charges as outlined in the Agenda Report, a copy of which is on file in the Office of the City Clerk.

Bernie Vidales, staff from Jefferson School District, suggested the Council consider a sliding fee scale for

the After School Programs versus the flat rate that is currently being considered.

Adam Duran, representing Daniel Webster PTA, asked if the Parks and Recreation Department will provide a tax identification number if requested, so parents can claim it at the end of the year for the child care credit. He also asked what is considered a non-resident when it comes to the after school program. He was concerned for the families who could not afford the fees. He gave statistics on the school lunch program, where nearly ½ of the parents cannot afford to feed their children.

Mike Pacelli, Doelger Supporter, was concerned about the proposed Active Adult fees. He suggested that Council consider putting the fees on members or non-members instead of resident or non-resident. Many non-residents offer many volunteer hours and

may not be able to afford the extra fees.

Denise Kelly stated the three-hour after school program fees are not a fair price for child care. The fees total sixty-six cents per hour. She stated that parents who can afford to pay more then sixty-six cents per hour should and parents who cannot afford the childcare should pay less.

Discussion ensued with Staff answering questions raised by Mr. Duran and Mr. Pacelli as well as Council's questions.

; 8:48 PM
Motion on Adopt

Motion to adopt Resolution No. 10-45, Approving Various Fees and Charges for Parks and Recreation Programs
Passed For: 4; Against: 0; Abstain: 0; Absent: 1

ORDINANCES:

8. Extension of Temporary Moratorium on the Establishment and Operation of Medical Marijuana Collectives

Minutes: Assistant City Attorney Kelly Schott recommended

that the Council by a 4/5 majority vote, waive reading and extend a temporary moratorium on the establishment and operation of medical marijuana collectives for a period of 12 months.

Ms. Schott stated on March 22, 2010, the City Council, by a 4/5 majority vote, adopted a temporary moratorium on the establishment and operation of medical marijuana collectives for 45 days.

Pursuant to Government Code Section 65858, the initial 45-day moratorium will expire on May 6, 2010. Under state law, the City Council may extend the interim ordinance for a maximum of 22 months and 15 days. Government Code requires that ten days prior to the expiration of the interim ordinance or any extension thereof, the City must issue a written report describing the measures taken to alleviate the condition that led to the

adoption of the ordinance. This report serves as the report required by the Government Code.

In addition to adopting the temporary moratorium, the City Council appointed a sub-committee to review and evaluate the issue of medical marijuana oriented businesses. On April 12, 2010, the Sub-Committee held its first meeting. The Sub-Committee will be setting up a series of meetings in order to receive input directly from a variety of stakeholders on this issue.

Following these Sub-Committee meetings, it is the recommendation of the Sub-Committee that the City Council conduct Town Hall meetings to give the community an opportunity to provide input on the issues related to the establishment and regulation of medical marijuana oriented businesses. At the direction of the Sub-Committee, Staff will

continue to research the impacts of medical marijuana oriented business within the community and make additional analysis of the current law relating to medical marijuana collectives. Staff will continue to research the regulatory options available to the City.

Sharon Keenan was concerned that the Council has already made up its mind to have Medical Marijuana Collectives in Daly City. Mrs. Keenan was opposed to having these establishments in Daly City.

Raymond Keenan was opposed to the establishments of Medical Marijuana Collectives in Daly City.
; 9:17 PM
Motion on Adopt

Motion carried by a four/fifth vote to waive the reading and adopt the following ordinance:

Ordinance No. 1351, An Interim Ordinance of the City Council of the City of Daly City Extending a Temporary

Moratorium on the Establishment and Operation of Medical Marijuana Collectives

Passed For: 4; Against: 0; Abstain: 0; Absent: 1

PUBLIC APPEARANCES/ORAL COMMUNICATIONS:

NOTE: Speakers are limited to two minutes, unless modified by the Mayor. The Council cannot take action on any matter raised under this item

Minutes: There were no speakers; 9:29 PM

APPOINTMENTS: Board/Commission Membership Committee Appointments

Minutes: There were no appointments.; 9:29 PM

REPORTS:

9. Council Committee

A Council Committee Meetings, April 12-25, 2010

Minutes: There were no reports.; 9:29 PM

10. City Council

Minutes: Vice-Mayor Klatt reported on the Pilipino Bayanihan Resource Center function they held the other evening. They are a group that helps young people who need help in our community.

Mayor Guingona reported that he attended the Rebuilding Together event held at the Doelger Senior Center. He weeded the garden and helped cook food for the people working on the projects.

Councilmember Gomez reported that they attended the Chamber of Commerce Business Week and the Hampton Inn Remodeling.

; 7:03 PM

11. Staff

Minutes: City Manager Patricia Martel expressed appreciation for the work the Lions Club does for our community and for the work Webcor and its volunteers have done on Rebuilding Together at the Doelger Senior Center.

; 9:31 PM

ADJOURNMENT:

Motion on Adjourn

Motion to adjourn the

meeting at 9:40 p.m. in memory of Olga Rizzo and Kevin Restani.
Passed For: 4; Against: 0; Abstain: 0; Absent: 1