

CITY OF DALY CITY

Regular Meeting - CITY COUNCIL

AGENDA

Monday, June 27, 2011 - 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 Klatt at 7:03 P.M.; 7:03 PM

PLEDGE TO THE FLAG:

ROLL CALL:

PRESENTATIONS:

Presentation to City Manager Patricia E. Martel

Minutes: Albert Teglia, representing Daly City Jobs for Youth, presented a certificate to City Manager Patricia Martel for her support.; 7:05 PM

APPROVAL OF MINUTES:

Special Meeting of May 23, 2011 and Regular Meeting of May 23, 2011

Motion on Approve

Motion to approve the minutes of the Special Meeting of May 23, 2011 and the Regular Meeting of May 23, 2011.

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

APPROVAL OF AGENDA:

Motion on Approve

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.

Motion to approve the agenda.

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

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. HOME Funding for 36-Unit Affordable Housing Development at 7555 Mission Street

Motion on Adopt

Motion to adopt Resolution No. 11-83, Amending 2011-2012 HUD Action Plan Re: HOME Funding for Affordable Housing Development at 7555 Mission Street

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

2. Minor Amendment to Fiscal Year 2011-12 HUD Consolidated Action Plan and Fiscal Year 2011-12 Subgrantee Contract Agreements Under Community Development Block Grant Program

Motion on Adopt

Motion to adopt Resolution No. 11-84, Amending 2011-2012 HUD Consolidated Action Plan and Fiscal Year 2011-2012 Subgrantee Contract Agreements under Community Development Block Grant Program

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

3. Adoption of Government Accounting Standards Board No. 54 Accounting for Fund Balances in the Comprehensive Annual Financial Report

Motion on Adopt

Motion to adopt Resolution No. 11-85, Adopting Governmental Accounting Standards Board (GASB) Pronouncement No. 54 for Fund Balances in the Comprehensive Annual Financial Report

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

4. Fingerprinting Fee Increase

Motion on Adopt

Motion to adopt Resolution No. 11-86, Increasing Fingerprinting Fees for the Daly City Police Department

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

5. Approval of License Agreement with MUSICART STUDIO, INC.

Motion on Adopt

Motion to adopt Resolution No. 11-87, Approving Execution of License with Musicart Studio Inc. (Doelger Art Center 200 Northgate Avenue, Daly City, California)

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

6. Implement Peninsula Library System Hold Fee

Motion on Adopt

Motion to adopt Resolution No. 11-88, Authorizing the Daly City Public Library to Implement a System-Wide Hold Fee Increase

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

7. Authorization to Execute an Addendum to the Agreement with the Jefferson Elementary School District and Appropriation of Grant Funds for the After School Education and Safety Program

Motion on Adopt

Motion to adopt Resolution No. 11-89, Authorizing Addendum to Agreement with the Jefferson Elementary School District and Appropriation of Grant Funds (Afterschool Education and Safety Program)

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

Check Registers :

8. Check Registers for the Month of May 2011

Motion on Approve

Motion to approve Check Registers for the Month of May 2011

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

END OF CONSENT AGENDA

RESOLUTIONS:

9. Appropriations Limitation for Fiscal Year 2011-2012

Staff:

McVey

Recommended Action:

Adopt Resolution Roll Call

Minutes: Director of Finance and Administrative Services Don McVey stated every year the City Council adopts the City's appropriations limits in accordance with the State Constitution. These are the calculations that determine the amount of expenditures that are allowed based on the revenue received, changes in population and personal income. The total appropriations limit for the City is \$85,977,207. Our estimated proceeds of taxes next year is \$50,863,845. We are under the limit by about \$35,113,362.; 7:11 PM
Motion on Adopt

Motion to Adopt Resolution No. 11-90, Establishing City's Appropriations Limitation for Fiscal Year 2011-2012

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

PUBLIC HEARINGS:

10. Public Hearing - National Pollutant Discharge Elimination System Local Stormwater Program Regulatory Fee

Staff:

Sweetland

Recommended Action:

Open/Close Hearing

Adopt Resolution

Roll Call

Minutes: Director of Water and Wastewater Resources Patrick Sweetland stated tonight's public hearing has been duly noticed and published. It is the continuation of the local regulatory fee that has been enacted under Ordinance No. 1219 in 1995 and remains unchanged. The funding necessary for Daly City's local response maintenance activities and cost is outlined in the agenda report.

Staff is requesting at the conclusion of tonight's hearing, the adoption of a resolution to send to the County Clerk's Office to fund the specific amounts as noted in the fee. The amount anticipated for next year's cost is about \$449,000.

Mayor Klatt opened the public hearing.

; 7:13 PM

Motion on Close

Motion to close the public hearing.

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

Motion on Adopt

Motion to adopt Resolution No. 11-91, Maintaining Regulatory Fees Necessary to Fund the City's Local Specific Stormwater Management Plan Program Activities as to the National Pollutant Discharge Elimination System (NPDES) and Authorizing their Collection on the Property Tax Roll

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

11. Appeal of the Decision of the Chief Building Supervisor / Building Official Regarding a Retaining Wall at 62 Avalon Drive

Staff:

Mandapat

Recommended Action:

Council Determination

Minutes: Mayor Klatt explained the process for tonight's hearing. The Building Official will present the decision of the Building Official and his reasons for the decision. Second, the appellant, Mr. Ng, will present his case, third, the City's rebuttal will be heard and fourth, the appellant's rebuttal.

City Attorney Rose Zimmerman stated the appellant has submitted a timely appeal to the City Council of the decision of the Chief Building Supervisor/Building Official regarding the retaining wall at 62 Avalon Drive. The appeal is pursuant to Daly City's Municipal Code Section 15.00.050, which states that any decision of a Building Official shall be appealed to the City Council if requested.

Chief Building Supervisor/Building Official Valentino Mandapat presented before the Council an appeal by Mr. Ng, owner of 62 Avalon Drive, of his decision to perform a final inspection on his retaining wall project. During the course of inspection, it was determined by a field inspector that the site condition did not conform to the approved plans. As a result, the work was stopped until the owner could provide revised plans that demonstrate the site condition and the retaining wall conformed to the Building Code. Since staff has not confirmed the condition of the site since our last inspection, we need access to the site to do an inspection. If the condition is not as they are on the approved plans, staff would need revised plans to be submitted for review and approval. Considering the condition of the wall and the potential risk it poses to the neighboring properties, staff recommends that all work be completed within 180 days of this hearing.

Staff received a citizen's complaint regarding construction without permits at 62 Avalon Drive. Staff investigated and verified an excavation of an uphill slope and possible construction of a retaining wall. A Stop Work Order was issued with instructions to submit engineer plans and to obtain a construction permit for a retaining wall.

After the property owner submitted construction documents for a proposed reinforced concrete retaining wall for review and approval, a building permit and approved construction documents were issued to Mr. Ng. During an inspection, the Building Inspector noticed and informed the property owner that the height of the retaining wall was lower than the height of the excavated hill, and that the condition did not conform to the approved construction documents.

After failed attempts to work with Mr. Ng to resubmit revised plans, another Stop Work Notice was issued with instruction that the re-grading of the slope behind the retaining wall to be steeper than what is shown on the approved plans would not be in conformance with the approved construction documents.

We received a letter from Mr. Ng requesting a meeting with Staff and the Building Official. In that meeting, Mr. Ng asked for a final inspection and sign off for the permit. Mr. Ng was informed that the site condition did not conform to the approved plans and in order for final inspection, amended construction documents and structural calculations prepared by a registered design professional would need to be submitted for review and approval.

Mr. Mandapat gave a PowerPoint presentation on the project site and reviewed the background and recommendation as outlined in the Agenda Report.

Joe Ng, Owner, presented the Council with a written communication outlining the facts and statements submitted by Building Official. Mr. Ng felt all review comments should have been addressed prior to site visits and final building permits approval. Mr. Ng urged the Council to vote for final sign off for the completed retaining wall.

Mr. Mandapat's rebuttal explained that the issue is the slope behind the retaining wall. His decision was based on the September 23rd inspection. They do not know what the site condition is, as of today.

Mr. Ng rebuttals explained that, in comparison, the approved slope will not happen because the existing slope is more than 3 to 1. The Building Official never mentioned that to the design engineer and he expects the 3 to 1 all the way to the back. They should have let him know before they did all the work. It is not reversible without damaging the integrity of the structure.

Discussion ensued with Mr. Mandapat and Mr. Ng answering Council's questions regarding the current condition of the slope and retaining wall and why the applicant will not allow the City access to the site.

Ms. Zimmerman noted for the record there was a packet submitted by Mr. Ng today and that all of the City Council including the City Clerk have received it.

Ms. Zimmerman read the following findings into the record:

- A. Public Hearing was conducted by the City Council in regards to the appeal by Mr. Ng; and
- B. The Council orders Mr. Ng to allow City access to the premises within 10-days of this public hearing to inspect the existing grading conditions with the approved construction documents; and
- C. If after inspection, or upon Mr. Ng's failure to provide access for inspection within 10-days of this public hearing, and the existing grading conditions do not conform with the construction documents, sustain the decision of the Building Official to order Mr. Ng to submit amended construction documents and structural analysis plans prepared by a registered design professional for review by the Building Official; and
- D. Order Mr. Ng to obtain the necessary permits and complete the remedial work specified by the approved amended construction documents within 180 calendar days of this public hearing.

; 7:16 PM

Motion on Deny

Motion to deny the appeal.

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

Motion on Adopt

Motion to adopt Resolution No. 11-92, Adopting Findings of Fact Following Public Hearing
Re: Appeal of the Chief Building Supervisor / Building Official Regarding Retaining Wall at 62
Avalon Drive

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

12. Approval of Benefit Assessments for Linda Vista Area for Fiscal Year 2011-2012

Staff:

Fuller

Recommended Action:

Open/Close Hearing

Adopt Resolution

Roll Call

Minutes: Senior Civil Engineer Robert Ovadia stated staff recommends that the Council conduct a public hearing, approve the Engineer's Report and the Fiscal Year 2011-12 assessments for the Linda Vista Area Benefit. The Linda Vista Area Benefit is comprised of Bay Ridge, Bay Vista and Linda Vista Subdivisions.

Notice was sent to the residents of tonight's public hearing as well as postings on site. Staff has sent notification to homeowners and conducted a neighborhood meeting to outline the proposed assessment as well as the findings of the Engineer's Report.

Last year, during the course of setting the assessments, the residents requested that staff look at setting a long-term fixed assessment rate for the assessment district. Staff met with the Finance Department and investigated options regarding setting those fixed assessments. They then met with the residents of the assessment area and relayed to them the issues with the fixed assessments for a long duration as outlined in the Agenda Report.

On June 7, 2011, we met with residents and it seemed there was not much issue with the assessment. They requested that staff investigate some limited improvements within the basin.

Mr. Ovadia summarized the proposed assessments for Fiscal Year 2011-12 and the past assessments as outlined in the Agenda Report.

Mayor Klatt opened the public hearing.

; 7:56 PM
Motion on Close

Motion to close the public hearing.
Passed For: 5; Against: 0; Abstain: 0; Absent: 0
Motion on Adopt

Motion to adopt Resolution No. 11-93, Approving Engineer's Report and Imposing a Benefit Assessment for Fiscal Year 2011-2012

Passed For: 5; Against: 0; Abstain: 0; Absent: 0

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: Judith Christensen, President of the Original Daly City Protective Association, addressed the Council regarding the past history on developments on Mission Street and the elimination of the Redevelopment Agency as well as the prospect of paying back the \$30,000,000 to the State.

Sonny Quinquini, FRAC, thanked the Council for allowing them to speak at the closed session regarding the Franciscan issue. He offered a possible resolution if the City will open a line of communication on how to help the poor residents at Franciscan Park.

Bill Stipinovich, FRAC, addressed the Council regarding the Franciscan Park issue. Our elderly are on fixed income and cannot afford any increases. Our local government has to be more responsive and alert on where the bond monies are going.

Bob Quinn, FRAC, addressed comments made by the Council regarding former Councilmember Maggie Gomez running for re-election at the City Council's special meeting. He stated Mr. Richard Brugger should have been appointed since he was the fourth highest vote getter in the last election.

Sandee Holman, Franciscan Park, stated there are 1,000 residents living at the Franciscan Park. Many of them are now facing eviction. Most are elderly people on fixed incomes and many are single mothers. We would be willing to sit down and put all the litigation on hold to talk through it. The City needs to show more compassion to its residents.

Maria Perez, representing the seniors and disabled residents of Franciscan Park, asked the Council to take some time to listen to our concerns and to see what is happening at the Franciscan Park. We do not have the money to pay extra. Some of us are losing our homes.

; 8:02 PM

APPOINTMENTS: Board/Commission Membership Committee Appointments

Minutes: There were no appointments.; 8:15 PM

REPORTS:

13. Council Committee

Council Committee Meetings June 13 -June 26, 2011

Minutes: The Council Committee reported on the following:

Westlake Shopping Center Committee: Design Review DR-4-11-3691, 496 Westlake Center – New Building “W” Signage – Parking Structure, Lake Merced Boulevard (Torres/Buenaventura)

Pre-Application Conference PAC-3-11-3619 – Preliminary Review for the New Development of a Boutique Hotel Located on Property along Olympic Way, West of Skyline Boulevard (Buenaventura/Torres)

Mission Street Committee: Design Review DR-5-11-3822, Commercial Tenant Improvement, Blockbuster to Chase Bank -6835 Mission Street (Klatt/Guingona)

; 8:15 PM

14. City Council

Minutes: Mayor Klatt reported that Councilmembers Buenaventura and Canepa and I attended the Friends of the Library 55th Anniversary function yesterday at which time we were presented with a plaque of appreciation for our support.

Councilmember Buenaventura stated on June 16th he attended the Office of Emergency Services meeting at which time they discussed Search and Rescue Operations, how the HASMAT Team would be handled, and an Office of Emergency Service exercise regarding an earthquake. They also discussed Emergency Preparedness Day at the Expo Center, California Great Shake Out, and the Incident Command Center. The American Red Cross did a presentation on their reorganization that is being done nationally.

Councilmember Buenaventura reported he attended the Traffic Alliance Meeting. They discussed the budget and Bike to Work Day on May 12th.

Councilmember Torres announced the next Centennial Committee Meeting is on July 6th to finalize the calendar of events, such as the Centennial Dinner on Saturday, September 24th, City Historian Bunny Gillespie's Book Signing and a Walking Tour of Original Daly City.

; 8:21 PM

15. Staff

Minutes: City Attorney Rose Zimmerman reported the agendaized closed session this evening involved existing pending litigation. Basically, it is an item that requires to legally be in closed session. Members of the public are not part of that closed session when discussing litigation matters.

There was a Federal action that was filed by specific individuals at the Franciscan Park. The Federal case was dismissed. At this point, there was a rent review commission appeal for rent review. Their attorney, Shelley Buchanan, has requested to hold that rent review, pending their discussion with LINC regarding any disputes they have with regards to litigation. The City has agreed to hold off on the rent review hearing until we hear from Ms. Buchanan.

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Ms. Zimmerman advised the City Council that in the event that there is a suit against the City in Superior Court regarding any dealings with the Franciscan, that it remains confidential and any items to be discussed shall be discussed and agendaized in closed session.

; 8:28 PM

ADJOURNMENT:

Motion on Adjourn

Motion to adjourn the meeting at 8:31 P.M. in memory of Leonila Day, Lorraine Reed, Jutta Pappas, and Margaret Choi-Furman.

Passed For: 5; Against: 0; Abstain: 0; Absent: 0