

**MINUTES
CITY OF PLEASANTON
REGULAR CITY COUNCIL MEETING
February 5, 2013**

1

CALL TO ORDER

Mayor Thorne called the regular meeting to order at the hour of 7:00 p.m. Councilmember Brown lead the Pledge of Allegiance and provided introductory remarks.

ROLL CALL

Present: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Absent: One Vacancy

AGENDA AMENDMENTS: None

CONSENT CALENDAR

Administrative Services

1. Approved regular meeting minutes January 15, 2013

Community Development

2. Received actions of the Zoning Administrator and Planning Commission
3. Accepted public improvement performed by Rosas Brothers Construction for the Annual Curb and Gutter Replacements project, CIP No. 115009; authorized the City Clerk to file a notice of completion and the payment of retention in the amount \$20,262.75
4. Waived second reading and adopted **Ordinance No. 2056** approving amendments to Title 18 (Zoning) of the Pleasanton Municipal Code to modify Chapter 18.08 (Definitions) and add a new Chapter 18.105 (Cottage Food Operations) establishing a permit process and performance standards for home-based food production and sales in residences
5. Waived second reading and adopted **Ordinance No. 2057** approving the application for a Planned Unit Development (PUD) to subdivide an approximately 10-acre lot at 6010 Alisal Road into two single-family residential lots as filed under case PUD-88 Sherman and Cheryl Balch
6. Waived second reading and adopted **Ordinance No. 2058** approving the application for Planned Unit Development (PUD) to construct a four-lot detached single-family home development on an approximately 2.23-acre site located at 362 Sycamore Road and a vacant lot (APN 948-17-7-4), within the North Sycamore Specific Plan area as filed under case PUD-93 Bruce Myers, Danville School Street Investment
7. Waived full reading and adopted **Resolution No. 13-593** amending the Master Fee Schedule to add a zoning processing fee for Cottage Food Operations

Community Services

8. Introduced and waived full reading of **Ordinance No. 2059** amending Municipal Code Chapter 2.28 (Human Services Commission), 2.32 (Parks and Recreation Commission), 2.34 (Library Commission), and 2.39 (Civic Arts Commission) to add one youth to each as a non-voting member on a two year trial basis

Mayor Thorne noted the appointment of youth members to several of the City's Commissions.

9. Approved the location at the Museum on Main of the public artwork, "Joyful Empowerment"

Finance

10. Accepted the Monthly Disbursements and Investment Report for December 2012

MOTION: It was m/s by Pentin/Cook-Kallio to approve Consent Calendar. Motion carried by the following vote:

Ayes: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Noes: None
Absent: One Vacancy

MEETING OPEN TO THE PUBLIC

11. Recognition of out-going Commission and Committee Members

Mayor Thorne recognized out-going Commissioners and Committee members for their service to the City: Civic Arts Commission: Jo Molz, Howard Seebach; Economic Vitality Committee: Dan Faustina, Pamela Hardy, April Mitchell, Grant Raeside; Committee on Energy & the Environment: William Carrick, Mike McGinley, Mark Posson; Planning Commission: Jerry Pentin; Alameda County Mosquito Abatement District: Edgar Centeno.

12. Oaths of Office to Committee and Commission Members

Mayor Thorne introduced the following recently appointed Commissioners and Committee members: Civic Arts Commission: Heidi Massie, Stephanie Wedge, Judy Wheeler; Economic Vitality Committee: Kristin Kuse, James Paxson, Janice Sangster-Phalen, Dean Schenone, Carrie Williams; Committee on Energy & the Environment: Brett Illers, Robert Jayson; Human Services: Varsha Clare; Library Commission: Gene Litvinoff, Joan Nibert; Planning Commission: Greg O'Connor, Mark Posson; Youth Master Plan Oversight Committee: Valerie Arkin.

Deputy City Clerk Gonzales administered the Oath of Office.

13. Public Comment - None

PUBLIC HEARINGS AND OTHER MATTERS

14. **Public Hearing:** P12-1778; City of Pleasanton General Plan Amendment related to Alameda County Updated Livermore Municipal Airport Land Use Compatibility Plan

Planning Manager Stern presented the staff report, stating that the State Aeronautics Act requires county commissions to prepare and implement Airport Land Use Compatibility Plans (ALUCP). In July 2012, the Alameda County Airport Land Use Commission (ALUC) adopted an update to the 1986 ALUCP and provided an official release date of October 1, 2012. The purpose of the ALUCP is to ensure that incompatible land uses do not occur on land surrounding the airport. The Government and Public Utilities Code provides that within 180 days of adoption of such a plan by the County, local governments affected the plan must update their General or Specific Plans for compliance. Alternatively, the Council may override the plan through special findings passed by a 2/3 vote if they find some objection to the plan. Staff believes that the City can support the plan with the addition of

some clarifying language and forwarded the proposed General Plan amendments to the ALUC in December 2012.

Ms. Stern reviewed the areas of the updated ALUCP that pertain to and could potentially affect Pleasanton.

- *Airport Influence Area (AIA)* – Defined as an area in which the ALUC finds potential for overflight, safety or airspace issues that could necessitate restricted land uses. The ALUC is authorized to review certain land use actions within this area including General Plan amendments, Specific Plan amendments, rezonings and building regulations. The newly adopted AIA boundary differs slightly from the previous plan, as demonstrated in the staff report. The East Pleasanton Specific Plan area is contained within the boundaries of the AIA.
- *Airport Protection Area (APA)* – Added to the ALUCP in 1993, the APA prohibits new residential land use designations and the intensification of any existing residential development within its boundaries. The APA is intended to prevent the encroachment of incompatible land uses near the Livermore Airport.
- *Safety Compatibility Zones* – The former Airport Safety Zone has been replaced with seven new Safety Compatibility Zones developed in accordance with the California Airport Land Use Planning Handbook. Of the seven new zones, Zones 4, 6 and 7 extend into and could have some impact on Pleasanton. Zone 4, the outer approach or departure zone, allows some retail and office uses, prohibits children's schools, large daycare centers, hospitals, nursing homes, hotels, and indoor or outdoor large assemblies. Zone 4 also prohibits uses that might present bird hazards, which include golf courses, field crops, dry farms and fish and game reserves. Zone 6, the traffic pattern zone, allows residential, retail and office uses but again prohibits large assemblies, children's schools, golf course, field crops, dry farms and fish and game reserves. Zone 7 also allows residential, retail and office uses but prohibits field crops, dry farms and fish and game reserves.
- *Height Referral Area* – The Height Referral Area, which is referred to in the current General Plan, delineates the area in which the ALUC does not wish to see construction projects exceeding 200 feet in height. Few buildings exceeding this height restriction exist within Pleasanton and staff does not feel this should be of great concern to the City.

Councilmember Brown noted the staff report indicates that Zone 4 allows lower density, single and multiple family residential, as well as retail and office space uses.

Ms. Stern explained that in Pleasanton Zone 4 is also situated entirely within the Airport Protection Area, which does not allow those uses. The portion of Zone 4 located in Livermore is outside the protection area and therefore would allow those limited uses.

Councilmember Pentin noted that Zone 7 and perhaps some of Zone 6 cover nearly all of Staples Ranch. He asked how this affects some of the parks and wildlife areas that are part of the site's Master Plan. Ms. Stern explained that Staples Ranch has both an approved Master Plan and Vesting Tentative Map, which qualify as existing uses and cannot be referred back to the ALUCP.

Ms. Stern reviewed the General Plan amendments, which include minor language and diagram changes to the Public Safety Element's Background Section, as well as acknowledgement of the new ALUCP in the Safety Element's Goals, Policies and Programs. As already noted, staff believe the plan is workable with the clarifications outlined in Appendix C. These include a definition of the existing uses for Staples Ranch and the East Pleasanton Specific Plan area for the purposes of the ALUCP and acknowledgement that these do not require further review by the ALUC. Staff included an expectation

of support for the relocation of existing projects within the same ALUCP zone, outlined specifically which projects would require ALUC review, and provided some minor process clarifications.

Councilmember Pentin asked and Ms. Stern confirmed that it would be amendments, not the entire existing plans, that would be subject to review.

Ms. Stern stated that the Planning Commission reviewed the proposed General Plan amendments in January 2013. Much of the discussion focused on Section 3.3.2.6 of the ALUCP and a section of the Appendix C. Section 3.3.2.6 allows modification of the APA by Livermore in order to accommodate a transit oriented development around the proposed BART station as Isabel/I-580. Appendix C had previously included a similar clarification that Pleasanton should be afforded similar consideration if it should request an amendment to the APA. This was based on the idea that Pleasanton might wish to look at the location of residential development in the East Pleasanton Specific Plan Area or Staples Ranch that is located within the APA. The Planning Commission disagreed with the proposal and staff subsequently deleted this from the recommendation. The Commission also recommend several small wording changes, as outlined in the staff report and included in Attachment 1.

On January 16, 2013 staff met with the ALUC to discuss the amendments submitted in December as well as the Planning Commission's recommendations. The ALUC did not make a final determination as to consistency but did provide several comments. They requested clarification regarding which projects in the East Pleasanton Specific Plan area would be submitted to the ALUC for review and asked that the City enter into an agreement to refer future projects on Staples Ranch to the ALUC. Staff believes Appendix C makes clear that the draft East Pleasanton Specific Plan will go to the ALUC for review, as would any zoning map amendments. With regards to Staples Ranch, there is not authority under state law that would require referral of projects consistent with the Staples Ranch Specific Plan Amendment and Vesting Tentative Map. The City has already completed detailed land use, compatibility and safety analyses as part of the Environmental Impact Report, which was previously reviewed by the ALUC. The ALUC requested some wording changes related to the APA exception for Livermore, which staff believes is addressed in the language submitted to the Council. The ALUC also requested that the adopted Safety Zone diagram be included in the General Plan amendment and staff has agreed to working with them to ensure the correct information is included.

Ms. Stern stated that staff recommends that Council adopt the resolution approving the General Plan amendments, as recommended by City staff and the Planning Commission.

Mayor Thorne asked how the Regional Housing Needs Assessment (RHNA) views vacant land that might be contained within the various protection zones.

Mr. Fialho said RHNA has nothing to do with available land. The number is allocated based on jobs/housing imbalances and it is then up to the local authority, in this case Pleasanton, to find the available land whether that be within the Urban Growth Boundary or outside the APA.

Mayor Thorne said he was under the impression that somewhere in the RHNA formula that they do consider all vacant land. He asked what the impact would be if the City decided to do something different than what is planned today for Staples Ranch.

Ms. Stern said there would be no impact in this context if the changes were consistent with the Specific Plan and Vesting Tentative Map. Any changes not consistent with those approvals would likely be submitted to the ALUC for review.

Councilmember Pentin asked and Ms. Stern confirmed that in that event, the Council would have the ability to overrule the ALUC's response.

Councilmember Brown asked if the City receives noise complaints regarding the airport with the current APA. Ms. Stern reported that there were approximately 472 total complaints between Pleasanton and Livermore in 2012. Of the 366 complaints originating from Pleasanton, 349 were generated by one household. 10 other complaints were generated by one additional household and the remaining 7 were citywide.

Mayor Thorne opened the public hearing.

Kelly Cousins reported a significant increase in the presence of larger planes and anticipated that airport noise would only worsen. She shared her concern over the potential for residential development in this area and commended the Planning Commission for its recommendation. She asked that the Council take a careful look at this area in terms of future density.

Valerie Arkin said she too had issues with airport noise. She also commended the Commission on eliminating the modification proposed by staff and said she had particular concerns over children's safety if a school were ever to be developed in the area.

Barbara Blisserd said she is a former member of both the Pleasanton Noise Commission and the Livermore Airport Master Plan Committee as well as a pilot. She commended the City on its current recommendation and said it is very important to pilots that they have a buffer zone within which to safely land in an emergency. She said she hoped the East Pleasanton Specific Plan would call for nothing of significant density within this area either. She acknowledged that while some residents refuse to accept it, testing has proven that the noise pollution from the airport falls within acceptable standards.

Mayor Thorne closed the public hearing.

Mayor Thorne said he supported the recommendations of the Planning Commission. He also said that while he hates the idea of giving up any measure of local control, airport safety is a serious matter and he would support staff's recommendation.

Councilmember Brown said it was very concerning to think that the City could look at developing residential housing in Zone 4. She referred to page 3 of staff's recommendation, which states that "No City of Pleasanton residential land use designation are located within the APA." While this is true at present, she said a General Plan amendment should look to the future and amended her second to include the request that "are" be replaced with "shall be."

Councilmember Pentin said he was satisfied with the wording as presented by staff. In making the motion, they are acknowledging how things are structured today but also that the Council reserves the future right to decide what happens in those areas. To state today that something in the future shall not be is language that he cannot accept.

Vice-Mayor Cook-Kallio concurred but noted that it would be grammatically correct to say "is" rather than "are". She also noted that if read without the stricken language and with the grammatical correction, the syntax would not be correct with "shall."

City Manager Fialho confirmed that this is simply a statement of the fact that no housing exists within the APA.

MOTION: It was m/s by Pentin/Brown to waived full reading and adopt **Resolution No. 13-594** approving a City-initiated General Plan Amendment related to the Alameda County Updated Livermore Municipal Airport Land Use Compatibility Plan, as filed under Case P12-1778. . Motion passed by the following vote:

Ayes: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Noes: None
Absent: One Vacancy

15. Accept the Comprehensive Annual Financial Report (CAFR) and other related audits for the year ending June 30, 2012

Finance Director Wagner presented the staff report, stating that the Comprehensive Annual Financial Report (CAFR) is prepared annually by City staff and audited by an independent accounting firm. Vavrinek, Trine, Day & Co. is a local firm in the second year of a 3 year contract with the City.

The CAFR, prepared following the guidelines recommended by the Governmental Finance Officers Association (GFOA) and the standards adopted by the Governmental Accounting Standards Board (GASB), is dated June 30, 2012. It contains an unqualified clean opinion, which means the auditors took no material exceptions to the City's financial reports. For the 15th consecutive year, the City's CAFR has met the highest standard in government accounting and financial reporting, for which the GFOA has issued the City a certificate of achievement of excellence.

Ms. Wagner reviewed the highlights of the financial statement. She reported that total assets exceeded liabilities by \$872.4 million at the close of the fiscal year. Of this, \$157.8 million is unrestricted funds and of this amount, \$101.5 million is contained in governmental funds to be used mainly for operating purposes. The City's total outstanding debt is \$25.7 million, the majority of which relates to the Callippe Golf Course.

She discussed unfunded pension and other post retirement benefit (OPEB) obligations, which are disclosed in the notes to the financial statements. Proposed legislation known as GASB 68 would change this current practice so that pension liabilities are recorded against net assets. If The City were to implement this new rule today, an additional \$119.7 million in liabilities would be recorded against assets, thereby reducing unobligated, uncommitted and available assets to \$38.1 million. The proposed change however does not take effect until the June 30, 2015 financial statements.

She noted that the pension obligations disclosed in the CAFR are prepared on an actuarial basis, as of June 30, 2011, and are based on CalPERS assumptions about life expectancy, reinvestment rates, salaries, and benefit packages. "Entry age normal accrued liability" represents the total outstanding pension liability for all those who have retired and those currently employed, separated by bargaining unit. Less the value of assets paid into the pension program, which again are based on an actuarial value that assumes a reinvestment rate of 7.5%, the unfunded actuarial liability including retiree medical is \$131 million. The financial statements also provide a market value alternative to the CAFR disclosure. Using the same accrued liability determined by PERS, the net present market value of unfunded liability is \$162.2 million due to the decreased market value of assets.

Ms. Wagner reviewed changes to the pension and OPEB obligations over the last three years. In an actuarial basis, the unfunded liability grew from \$120 to \$135 million and then decreased by 4% this past year to a net total of \$131 million. Using market value, the liability grew from \$180 to \$185 million but decreased by 13.8% this past year to \$162 million. In examining the funding ration, the actuarial value has remained near the benchmark of 80% since 2006. However the market value, which was almost 100%, has decreased to an average of approximately 70% within specific categories.

The Council has expressed significant concern about the present and future pension liability and in 2011 adopted a fiscal policy aimed at reducing the liability by at least 10% over the next 5 years. In order to achieve this policy, \$1 million has been set aside annually into a PERS Stabilization Fund used to pay down the liability. As labor agreements have expired, the City has negotiated the pickup of the PERS employer rate by the employee and reduced retirement benefits for future hires. The City also

paid of the Police Side Fund Loan in 2011 of \$7.8 million, which resulted in a \$3.5 million savings in interest payments as well as a reduction in the unfunded actuarial liability.

Ms. Stern stated that the Audit Committee reviewed the CAFR and related audits on January 22, 2013. The CAFR has been made available for public review at both the library and on the City's website. Staff and the Committee are recommending that the Council formal accept the audit reports.

Mayor Thorne opened the item for public comment.

David Miller said he has seen considerable improvement since he first voiced concerns over the City's financial statement. While the journey is far from over, he commended the progress made thus far and said he was very pleased to see this level of transparency from the City. He asked what impact the market has had on reducing the unfunded liability and whether the adjustments made are material enough to survive another downturn in the economy.

Mayor Thorne closed public comment.

Vice Mayor Cook-Kallio noted that she and Councilmember Brown sit on the Audit Committee. She complimented staff and the auditors for preparing such a thorough yet readable report. She requested a breakdown of the unfunded liability as it relates to current and retired employees. While the overall liability is alarming, it is balanced somewhat by the fiscal responsibility of the City in terms of assets. It is also important for the public to see the breakdown and understand that this amount will never be due all at one time.

Ms. Wagner said she could not recall but would provide the Council with that information.

Councilmember Brown commended Ms. Wagner. She assured the public that the entire Council is very aware of the unfunded liability and will continue to work diligently to meet the City's fiscal benchmarks and goals in this respect.

Mayor Thorne said he enjoyed his time on the Audit Committee, which he retired from this year, and extended his compliments to staff.

Councilmember Pentin also extended his compliments to staff.

In reference to Mr. Miller's question, Mr. Fialho noted that the values in the CAFR are June 30, 2011 values. He explained that most of the pension changes implemented by the Council did not take effect until later in 2011 so the changes reflected here are largely market-driven.

Ms. Wagner added that they did see significant improvement in the police group as a result of paying off the side fund and changes in CalPERS reporting. She explained that numbers prior to 2011 were an estimate of the City's portion of a pool comprised of 275 different cities, whereas CalPERS is now required to disclose a city's specific obligation within a pool. She estimated there would be additional improvements on an actuarial basis in 2012 as a result paying in an additional \$2 million and the changes noted earlier.

MOTION: It was m/s by Cook-Kallio/Brown to accept the Comprehensive Annual Financial Report (CAFR) and other related audits for the year ending June 30, 2012. Motion passed by the following vote:

Ayes: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Noes: None
Absent: One Vacancy

16. Review and approve a Memorandum of Understanding for the designation of a permanent Altamont Commuter Express (ACE) Train Station

City Traffic Engineer Mike Tassano presented the staff report, stating that the Altamont Commuter Express (ACE) Train Station has operated at the same location on Pleasanton Avenue for nearly 15 years. The site was first identified as an interim lot in 1998, with a three year horizon on the interim status, in order to determine the noise, safety and circulation impacts on the local community. In 2001 it was recommended to keep the station in a centralized downtown location was examining the potential to include the Bernal property in the Bernal Specific Plan – Phase II, which ultimately was not the selected alternative. The Pleasanton ACE station has the second highest ridership of all stations along the route with over 600 passengers entering and exiting the station daily. The station also contains a multi-use parking lot shared with the Alameda County Fairgrounds for staff and weekend events.

In the Fall of 2012, Pleasanton teamed with Alameda County to make certain modifications to Pleasanton Avenue including construction of a new bus pullout pocket, adjustments to the fairgrounds site to allow proper bus circulation to and from Bernal Avenue, construction of a new sidewalk on the east side, a lighted crosswalk, and repaving of the entire multi-use lot. Both parties agreed that this would be made a permanent location following completion of these improvements as the interim status presents certain obstacles in attempting to secure funding for additional future improvements.

The proposed Memorandum of Understanding (MOU) would recognize this as a permanent location and establishes a funding agreement that calls for Alameda County Fairgrounds to contribute 25% of needed funds, with the remaining 75% from Pleasanton. The MOU also discusses ongoing operations, which are in consistent with the practices and policies adhered to over the past 14 years.

Councilmember Brown asked and Mr. Tassano confirmed that the multi-use lot is free to the public. She asked whether there is any concern that the County may change its policy in allowing use of the lot.

Mr. Fialho said “no,” this agreement resolves any outstanding dispute pertaining to use of the lot.

Mayor Thorne opened the item for public comment

Eileen Ng, office of Alameda County Supervisor Nate Miley, thanked the Council for considering the proposed MOU and City staff for their work in developing the agreement.

Mayor Thorne closed public comment.

MOTION: It was M/s by Brown/Cook-Kallio to approve a Memorandum of Understanding with the County of Alameda designating the Alameda County Fairgrounds Pleasanton Avenue Park lot as the permanent Altamont Commuter Express (ACE) Train Station. Motion passed by the following vote:

Ayes: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne
Noes: None
Absent: One Vacancy

MATTERS INITIATED BY COUNCIL

Mayor Thorne requested and received Council support to agendize consideration of a letter supporting the Governor’s initiative to streamline and modernize the California Environmental Quality Act and associated processes.

COUNCIL REPORTS

Mayor Thorne provided a brief overview of his recent trip to Washington, DC with the other Tri-Valley Mayors and said he would make full reports available at a later date. He described the trip as both successful and educational and said he found it exceptionally beneficial to lobby as five Mayors as opposed to an individual city. He said he also enjoyed the Inauguration.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:20 p.m. The Council extended a tribute to our nation's men and women serving in the military. We wish to honor the memories of those who have died in past wars in defense of our country, including those who have died in the current conflicts in Iraq and Afghanistan.

Respectfully submitted,

Karen Diaz
City Clerk

**MINUTES
CITY OF PLEASANTON
SPECIAL CITY COUNCIL MEETING
February 5, 2013**

1. CALL TO ORDER

Mayor Thorne called the special meeting to order at the hour of 8:30 p.m.

2. ROLL CALL

Present: Councilmembers Brown, Cook-Kallio, Pentin, Mayor Thorne

Absent: None

One Vacancy

3. PUBLIC COMMENT: None

4. ADJOURN TO CLOSED SESSION FOR THE FOLLOWING PURPOSE:

CONFERENCE WITH REAL PROPERTY NEGOTIATOR pursuant to Government Code §54956.8: Property: 401 Old Bernal Avenue, Pleasanton, California

Agency negotiator: Nelson Fialho

Negotiating parties: San Francisco Public Utilities Commission

Under negotiation: Price and Terms

CONFERENCE WITH LABOR NEGOTIATORS pursuant to Government Code §54957.6:

Agency representatives: Nelson Fialho and Julie Yuan-Miu

Employee organizations: Pleasanton City Employees' Association

5. ADJOURNMENT: The special meeting adjourned at 9:21 p.m.

Respectfully submitted,

Karen Diaz
City Clerk