

GENERAL PURPOSE MEETING

Monday, September 16, 2013

6:00 p.m.

Council members: Marc Crawford-Chair, Dave Sadoff-Vice Chair, Cheryl Miraglia, Sheila Cunha, John Ryzanych, Matt Turner, Aileen Chong-Jeung

Location: Castro Valley Library – 3600 Norbridge Avenue, Castro Valley, CA 94646

Summary Minutes

PUBLIC COMMENT

Wayne Dutchover, Castro Valley resident, worked with Supervisor Nate Miley, moved in to Parsons Estate, where there is a security gate at Grovenor Drive, prohibiting park access. This area was never developed for park access. There are other accesses to Lake Chabot Park. Some neighbors are unhappy with the closure of the access to the park at Grovenor Drive.

Kim Gorski, Castro Valley resident, submitted a letter to Bob Swanson. She was warned by neighbors that there was a security issue with access at Grovenor Drive. Mrs. Gorski's children were almost hit by vehicles while playing outside on Grovenor Drive, in addition to her car being broken into. She would like the gate to remain in place.

I. Approval of Minutes - June 17, 2013 Matt Turner moved and Sheila Cunha seconded that

A motion was made by Matt Turner and seconded by Sheila Cunha that the minutes of June 17, 2013 be accepted as corrected. Motion passed 7/0.

II. Community Report – California Highway Patrol – *continued to November 18, 2013*

III. Castro Valley Streetscape Project Plant Revision Recommendations

Marita Hawryluk, Community Development Agency and John Gibbs, plant architect presented a PowerPoint presentation regarding the various plant revision recommendations and possible maintenance solutions for the Castro Valley Streetscape Project.

After the streetscape was completed concerns from the council and some of the residents arose about the plant and grass choices on the Boulevard. July a walk through was organized on the Boulevard to review plants and revisions.

John Gibbs went through the PowerPoint presentation which included background information, thematic zones and plant palettes, maintenance and next steps in the plant revision process.

Speakers:

Peter Rosen: Thanked Mr. Gibbs for addressing a lot of the concerns that were found during the walk through. Mr. Rosen had a question about life span of plants in the dry gardens as some of the plant life will be short-lived; in the dry gardens he suggested the yarrow, salvia and eriogonum. Would like some colored shrubs. Changing the trees solves the problem in the median.

Jody Culves: The trees need to be thinned out. Some of the smaller sycamores should be removed. Ms. Culves does not like the miscanthus grass at all. Prefers the raphiolepis and also crème de menthe shrubs; there should be more shrubs to counter the amount of grasses. More grass should be removed and replaced with shrubs. Some of the big leaf maples are very close to each other, too close.

Councilmembers comments and discussion:

Cheryl Miraglia stated that she would like to see at least 80% removal of the grass; all grass removed from median; is ok with any of the substitutions. In terms of the maintenance, Councilmember Miraglia asked who is responsible for the upkeep and maintenance of the plants.

Bill Lepere, Public Works Agency informed the council that the Agency is still working on a schedule for the maintenance and there is an amount set aside for replacement of plants.

Matt Turner asked if there had been any thought given to tree root problems.

John Gibbs responded that consideration was taken for tree roots to minimize damage to sidewalks.

Marc Crawford would like to see the maintenance schedule and or contract before it is finalized.

Bill Lepere will go over with the architect a contract for maintenance but does not currently have a schedule for maintenance and will bring back to the council. The maintenance includes debris removal and plant replacement.

Matt Turner inquired about plant radius; some plants are too close to some of the benches; some areas of the lavender will grow out into the walk way; take into consideration that the radius of plants and trees does not intrude into the right-of-way. He is happy to see all of the solutions and would like to see the grass removed from the medians.

Marc Crawford requested a copy of the PowerPoint presentation and he was not comfortable with making any decisions at this meeting. However, he would like to know exactly what percentage of grass will be removed and what replacements will be made. There was too much information tonight to just give a go ahead on the plant revision.

John Gibbs will take tonight's discussion and the council will convene a subcommittee and work on a preliminary plan stage.

Sheila Cunha wants to know exactly what resources will be available from the Public Works Agency to maintain the plants.

John Ryzanych asked about the maple tree damage: is it more practical to treat the tree instead of removing the tree; is there an expert that could speak to this issue?

John Gibbs will consult with an arborist that he works with, but his understanding is that it is better to do a replacement now rather than deal with a potential bigger issue later.

Councilmember Ryzanych asked to what extent does the root shield guard against tree roots breaking up sidewalks; how well does it work?

John Gibbs stated that there are many opinions about it; his opinion is that a root barrier does not prevent much; a better option is providing root space for trees, however root barriers can be effective.

Aileen Chong-Jeung stated that she liked the yarrow and the salvia, however she had concerns about other species that tend to overgrow. Councilmember Chong-Jeung would like to see the maintenance issues addressed. The best scenario would an on-going funding stream for maintenance; would like to see the grasses remove; the pillars at the entrance of the boulevard may not be structurally safe and will that be addressed?

Bill Lepere stated that the Agency can take a look at the pillars.

A discussion ensued regarding businesses placing planter boxes with annual flowers in front of the establishments. Areas could be identified to install annual flowers/plants.

Marc Crawford suggested installing flowers in front of some businesses, perhaps in planter boxes.

Marita Hawryluk informed Councilmember Crawford that with long term maintenance that could be considered, however it should be considered in a different environment after the plant revisions is addressed. Ms. Hawryluk is not taking the suggestion off the table, but would rather focus on the current plant and tree palettes.

Concerns discussed regarding the annual flowers included:

- Flower/plant irrigation
- Seasonal flowers/plants
- Installation and on-going maintenance responsibility

The consensus of the discussion is was that this issue will be revisited.

The Council and staff, together with the consultant will set up a subcommittee to review a preliminary plan when it is drawn.

IV. Proposed Tobacco Retailers Licensing Ordinance

Paul Cummings, Pubic Heath Department, Health Care Services Agency, presented a PowerPoint presentation regarding the proposed Tobacco Retailers Licensing Ordinance.

Paul Cummings, Director, Alameda County Tobacco Control Program, presented a PowerPoint presentation regarding the proposed Tobacco Retail License Ordinance.

The proposed ordinance is designed to regulate tobacco retail sales to reduce sales to minors of tobacco products. This ordinance would allow for the County to set meaningful sanctions for non-compliance and violations for stores. Currently if an establishment sells tobacco to

minors the fine for the violation is \$42. Federal and State Laws regulating the sale of tobacco include:

- No selling to persons under the age of eighteen (18) years old
- No self-service displays or vending machines for tobacco products
- No single sales of cigarettes or in packs smaller than 20
- No sale of flavored cigarettes other than menthol cigarettes

Local requirements of the ordinance

- No sale of flavored cigars
- No sale of cigars in packs of fewer than 20
- Exception: this does not apply to “premium” cigars that cost more than \$5 per cigar
- No selling tobacco without a valid local tobacco retailer license

The Program will be administered by the Department of Public Health (PHD) and PHD will contract with the Sheriff’s Department to perform youth decoy operations (“buy stings”). PHD or designee will inspect retailers to ensure compliance with ordinance.

(No self-service displays, single sales of cigarillos or cigarettes, sale of flavored cigars) retailers alleged to have violated the program can have a hearing before an administrative hearing officer, appealable to the Board of Supervisors. Retailers can also choose to pay a fine in lieu of a hearing. Violations will remain on a retailer’s record for five (5) years.

Penalties, Fines and Suspensions

- 1st violation – 30 day suspension or \$750 fine
- 2nd violation – 60 day suspension or \$1500 fine
- 3rd violation – 90 day suspension or \$2500 fine
- 4th violation – 1 year suspension
- 5th violation – license revocation

Cost of the program

The estimated cost to administer and enforce the program is \$80,000. The Public Health Department has proposed an annual fee of \$200 per retailer with approximately one hundred and thirty (130) retailers will generate \$25,000 to cover program costs. The Public Health Department will contribute the remaining \$55,000 needed annually to cover program costs from the Tobacco Master Settlement Funds.

The Tobacco Retailer Licensing (TRL) Program is an established model in four (4) cities in Alameda County: Albany, Dublin, Oakland and Union City.

A discussion ensued regarding the TRL. Concerns discussed regarding the ordinance included:

Are e-cigarettes going to be regulated as part of the TRL?

Does this ordinance attempt to ban adults from purchasing cigars under \$5?

What percent of the tobacco market will be affected by the ban?

How is this ordinance associated with the Bureau of Alcohol Tobacco and Firearms (ATF)?

Has there been a study completed to analyze the loss of potential income and revenue for businesses?

How do the fines compare with other cities TRL in the area?

Has County Counsel weighed in on the ordinance?

How is it that you are banning the sale of items that are legal to purchase?

Cheryl Miraglia commented that since the PHD receives \$1 million dollars from the Tobacco Master Settlement Funds (TMSF) then that money should be spent on this. She does not want the businesses in Castro Valley to be encumbered with another fee. 30 day suspension is a severe penalty.

The Public Health Department was asked to provide documentation at how the PHD arrived at the cost to administer the program.

The Public Health Department will also return to the council and provide documentation on how fines were determined?

Aileen Chong-Jeung had an issue with the PHD having enforcement and regulation of the program. She asked how is the PHD staff being trained to handle the additional responsibilities of administering the program?

Paul Cummings stated that he will not begin any training until after the ordinance has passed.

Tracy Cross, Director, Castro Valley Community Action Network (CV CSAN) asked to address the council because she worked on the TRL with the Public Health Department. The TRL is a \$200 fee once a year to pay for retailers. It will help to keep tobacco products out of the hands of minors. Ms. Cross showed the councilmembers the products they were trying to ban under the TRL.

Speakers

Serena Chen, from the American Lung Association, has been working in tobacco control for 20 years. The smoking rate has been reduced in Alameda County due to comprehensive tobacco control plans. The TRL is holding retailers responsible for keeping tobacco out of the hands of minors. In Oakland, the TRL fee is \$1500 and that fee pays for itself. In Oakland they combined the alcohol ordinance fee with the TRL.

Jocelyn Bonilla, student, worked as a decoy in operation stings at retailers in the unincorporated area and supports the TRL.

Feliciana Marquez, youth advocate for CV CAN, has witnessed retailers selling tobacco products and hookah pens without identification. She supports the TRL.

Karishna Khatri, student, worked as a decoy in operation stings at retailers in the unincorporated area and supports the TRL.

Bill Mulgrew, Castro Valley Eden Area Chamber of Commerce: sent 750 e-mails regarding this agenda item to retailers and received three (3) responses. The sale of these cigars accounts for about \$2000 in revenue per month. There is a feeling that the ordinance would not be effective because youth would go to other areas to buy single cigars. The Chamber welcomes the retailers and the County staff to discuss alternatives to the ordinance.

Sgt. Bret Scheuller, also worked on the TRL with the Public Health Department, the responsibility for administering the ordinance fell on that department because it was decided that this is a public health issue. Law enforcement perspective is neutral. The retailer should be held accountable for employee's actions. The individual would be cited in the sale of tobacco products to minors.

The Public Health Department will come back to the council with answers to their concerns.

Council comments

Dave Sadoff was contacted by a consultant of Goodwill regarding a potential location in Castro Valley. Other councilmembers were contacted as well.

Marc Crawford reported on the Proctor project: There was a subcommittee meeting and there have been several changes to the project. Still discussing what the project is going to look like. The meeting ended with asking Planning staff to craft certain conditions to the project or ask County Counsel if we can require a master plan.

The meeting was adjourned to October 21, 2013.