

CASTRO VALLEY MUNICIPAL ADVISORY COUNCIL

Minutes for May 26, 2009

(Approved as submitted June 8, 2009)

A. CALL TO ORDER: The Chair called the meeting to order at 6:02 p.m. Council members present: Cheryl Miraglia, Vice Chair, Sheila Cunha, Dean Nielsen, Dave Sadoff and John Ryzanych. Council members excused: Jeff Moore, Chair and Andy Frank. Staff present: Sonia Urzua, Tona Henninger, Bob Swanson and Maria Elena Marquez. There were approximately 10 people in the audience.

B. APPROVAL OF MINUTES OF APRIL 27, 2009

The minutes of April 27, 2009 will be continued to the next meeting.

C. PUBLIC ANNOUNCEMENTS / OPEN FORUM

1. Debra Pugh, resident at 1875 Strobridge Avenue, disagreed with the Planning Director's characterization of a structure placed on an adjacent property. She stated her dissatisfaction with the scheduling of the matter before the MAC.

Council member Miraglia told Ms. Pugh that the Council could not take any action because the matter was not on the agenda but that the Council will refer it to the Planning Department.

2. Peter Brooks, resident at 2594 Stanton Hill Road, owner of Pete's Gear Shop, Inc., expressed concerns with the requirements to renew his conditional use permit, which was originally issued in 1986. In particular, he objected to the required fee.

Council member Miraglia referred this issue to staff.

D. REGULAR CALENDAR

1. **ADMISTRATIVE CONDITIONAL USE PERMITS, PLN-2009-00013, 14, 15, 16, 17, and 18** – Appeal to the Board of Supervisors of Marketshare, Inc. from conditions (4) and (6) of the Planning Director decision to approve applications PLN 2009-00013, 16, and 18 for temporary placement of off-site directional tract signs. Condition (4) directs the applicant to, in digital, print, and all other media, guide visitors on routes through the City of Hayward where logical, rather than via Fairview Avenue for north and east bound traffic. Condition (6) approves said applications for a period of six months, rather than for one year. Marketshare, Inc. also appeals the Planning Director decision to deny applications PLN-2009-00014, 15, and 17 for temporary placement of off-site directional tract signs. **Staff Planner: Damien Curry. (Continued to June 8, 2009).**

2. **An Ordinance of the Board of Supervisors of Alameda County, CA, Adding Section 470 "Construction and Demolition Debris Management" to the Alameda County Municipal Code Chapter 15.08, Building Code. Presentation by Allen Lang, Building Inspection Department**

Mr. Allan Lang, Alameda County Building Official, summarized to the proposal of the new ordinance, and said that staff recommends that this Council approves the proposed ordinance.

Council member Ryzanych asked Mr. Lang for clarification of the term “structure” and “work area” under the proposed ordinance. Mr. Lang clarified both terms.

Council member Nielsen expressed concerns about the fee structures while noting that no mention is made about fees. Mr. Lang explained that for projects under \$100,000 they will charge half an hour staff time, or \$62.50. For projects between \$100,000 to \$300,000, it would be one hour staff time or \$ 125.00. For projects over \$300,000 they will charge 5% of building permit fees. Council member Nielsen asked Mr. Lang how the County is to verify how the applicant handled disposal of waste. Mr. Lang explained that a form would be provided. Basically is an approval, review and verification process that involves staff.

Council member Miraglia stated that she understood that the fee is for the review of the plan.

Council member Sadoff asked Mr. Lang if disposal receipts will be required at any time.

Council member Ryzanych suggested that definition for work area be included in the definition section and also under 470.8 # 1. He asked Mr. Lang if there were any definitions for “impracticability” and “impossibility”. Mr. Lang said no.

Public testimony was called for.

Ken Carbone, resident at 18846 Sandy Road, aid that the Castro Valley Sanitary District has negotiated deals with Waste Management (WM) for disposal fees, recycling and everything else. He asked why the Building Department is getting involved. The Castro Valley Sanitary District already received payment for recycling and they have a negotiated agreement with Waste Management. He told Mr. Lang to reconsider how this is being done and request the most accurate information from the Castro Valley Sanitary District.

Council member Miraglia added that the controversy is about the monopoly that the Waste Management actually has. Mr. Carbone said that Waste Management is the only one that can remove debris from your property. The Sanitary District is very meticulous on recycling.

Council member Nielsen and Mr. Carbone continued to discuss the Castro Valley Sanitary District’s with regard to recycling construction debris.

Council member Nielsen said that it does not make sense to have two competing functions within the County handling the same thing and paying a fee to both of them.

Mr. Lang explained that the Castro Valley Sanitary District had expressed concerns with their ability to implement their own C&D ordinance. He also explained that the proposed C&D ordinance would apply to the entire county, not just Castro Valley.

Council member Nielsen continued to express concerns with the apparent redundancy with the Castro Valley Sanitary District process and the proposed ordinance. Mr. Lang said that after the Building Department adopt this ordinance, the Sanitary District will

have to change its ordinance. He understands that contractors are exempt from using the Waste Management container. Council member Nielsen suggested that this item should be continued while more research is conducted.

Council member Sadoff said the Council needs to hear from the Castro Valley Sanitary District.

Council member Miraglia moved to continue this item to a date to be determined.

**3. Redevelopment of Old Castro Valley Library Site
Presentation by Redevelopment Agency staff**

Eileen Dalton, Redevelopment Agency Director, spoke about the disposition of the old Castro Valley library site. She summarized the discussion and action from the last Castro Valley Redevelopment Citizens Advisory Committee meeting. She invited Aki Nakao, General Services Agency Director and Ann Hammond, Deputy County Librarian, to provide information about the old library site. Jean Hofacket, the Alameda County Librarian, was out of town but sent a letter to the Council. The item was presented before the CAC on May 13 and had a discussion looking at maintaining it as a county property and pursue the re-use of the site. They also amended a five year implementation plan and added a Castro Valley Community Center as a new project. The CAC asked who owned it. The sentiment of the CAC was that the site should be maintained as a county building for some kind of civic or community use. There was also some discussion about the facility being at the civic center. She invited Ann Hammond to the podium to talk about the library and its ownership.

Council member Nielsen raised the issue of the Castro Valley bond issue and whether Castro Valley already paid for the building whether it is a library. He noted that the entire motion was to study having the library be a community center and how we can do it and how the rent would be handled and how the property would be managed. He said that one of the possibilities was that the Chamber of Commerce, one of the court tenants, watch over the building as far as its use and that way the community would retain the control of the community center and not necessarily be a county facility. Part of the legal question is looking at how that can be done, first we don't want to pay for the building twice, secondly, we do need to have a community center in Castro Valley because we don't have one.

Ms. Dalton said that the library will be the civic part of Castro Valley to include a 10,000 square foot office space next to the library. The intention was to have a place for Supervisor Miley and if there are other county offices that want to locate in Castro Valley. In the master plan the idea was to create a civic park out of the Castro Valley library and have the library be the place to have large community meetings because it is hard to find meeting space.

Council member Nielsen said that the county building was not approved. Ms. Dalton said that there is no money for that building.

Ann Hammond, Deputy County Librarian, read a letter sent by Jean Hofacket, County Librarian, which was entered into the record. The letter contains information concerning the ownership of the Castro Valley Library building and site.

Council member Nielsen and Council member Miraglia asked Ms. Hammond about the financing of the library through the bond. She asked Mr. Nakao if he might be able to answer the questions about the special assessment, where did they find out the exact wording of the bond measure that was passed. Ms. Dalton said that she asked the specific question about the ownership and the sentiment of the CAC was that Castro Valley needs to pay for it. Jean Hofacket's research found that it was paid out of special district which is this larger area. She said she will ask again. Also, she said that she never heard about a local bond issue.

Council member Miraglia said that she personally would like to see the original documents because she has been hearing that Castro Valley paid for it.

Ms. Dalton concluded her presentation and that Mr. Aki Nakao, from the General Services Agency, can answer further questions.

Mr. Nakao explained the county's process of disposing of properties.

Council member Nielsen asked that because Castro Valley does not have a municipal government, per say, does Redevelopment qualify as other government body. Mr. Nakao said yes. Council member Nielsen said if the Castro Valley taxpayers did in fact pay for the property, if the community center use then it could be justified then Redevelopment could be the entity to handle that process. Mr. Nakao said that Redevelopment has the right to acquire, so there will have to be another sponsor agency to actually hold responsibility for the property and then pay for the operating costs. Council member Nielsen asked Mr. Nakao if the county could retain title and the community center operate under Redevelopment. Ms. Dalton said that the Redevelopment Agency can purchase the building, but could not fund operations and maintenance,

Council member Miraglia asked if a value has been determined on this property. Mr. Nakao said that it was appraised about 6 or 7 years ago.

Council member Ryzanych asked who owns the Community Center on Redwood Road. Council member Miraglia said that it is owned by HARD.

Council member Sadoff asked about the logistics if there were two separate owners.

Public testimony was called for.

Ken Carbone, resident at 18846 Sandy Road, stated that the site should stay public property and that housing is not the solution.

Council member Miraglia said that she is looking forward for the new library but it is unfortunate that we did not get an adequate size for a community center in that building because it was really the best location for it. She referred to the draft general plan which includes a policy regarding public facilities remaining public.

Carolyn Moskovitz, manager of the Castro Valley Library, described all the amenities included in the new library site. It is going to fulfill a lot of functions of the community center. There has been an incredible community effort.

Council member Nielsen asked what is the time line as far as disposition of the building.

Mr. Nakao spoke about the fiscal aspects of the library. Council member Nielsen asked what is the overall shortfall as far as completing the library and what is still outstanding. Mr. Nakao said that the state grant was 13.7 million.

Council member Miraglia said that the Council needs more information before it can make a recommendation.

**4. Proposed Ordinance Amendments to the Junk Vehicle, Neighborhood Preservation and Zoning Ordinances.
Presentation by Tona Henninger, Assistant Deputy Director, Code Enforcement Division**

Tona Henninger summarized the staff report for the proposed ordinance. Attachments A, B and C were entered into the record. They include a summary of proposed changes, a draft proposed language and a draft language showing changes.

Council member Miraglia raised questions about the use of the term “attractive nuisance” the 3-day term for graffiti abatement, the fines. Council member Miraglia asked Ms. Henninger about the letters regarding the trash and recycle containers, how often the inspector can go and re-inspect the property. Ms. Henninger said every 3 days. Code Enforcement we will document it, and send them another letter telling them they are still not in compliance.

Council member Nielsen asked about the notification regarding garbage cans that are left at the curb. How does the inspector know that the problem has been corrected. Ms. Henninger said that the specifics are in the letter about how to correct it. Actually, they get two re-inspections and they are not charged for those two. Council member Nielsen said the definition what is considered an inoperable vehicle is helpful.

Council member Miraglia asked about illegal businesses. Ms. Henninger explained how the fines are increased. She said that she expects that with this fine schedule it will motivate people to move quickly to an area where they are supposed to be versus impacting residential neighborhoods.

Council member Ryzanych asked about the definition for broken, under 6.65.020. Ms. Henninger said that it is a separate definition. She said that vehicle repair was a big issue. A discussion ensued regarding the definition of front yard as it related to location of garbage cans.

Council member Cunha asked about the responsibility to abate overgrown vegetation. Ms. Henninger said the property owner is responsible for taking care of overgrown vegetation. This time of the year overgrown vegetation and weeds is huge for Code Enforcement. The property owner has to hire somebody or Code Enforcement hires a contractor and the property owner is responsible for paying the fee. Property owners get cited for overgrown vegetation but our legal requirement is based on their property.

Council member Miraglia asked for a motion to recommend approval of this amended ordinances with the clarification on the applicability fines and proposed amendments to Title 17 and also clarification on front or street side wall definition 6.65.020. Council member Cunha moved to approve the amendments to the proposed ordinances. Council member Sadoff seconded. Motion passed 5/2/0 with council members Moore and Frank excused.

E. Chair's Report – None.

F. Committee Reports

- **Eden Area Alcohol Policy Committee**
- **Redevelopment Citizens Advisory Committee**
- **Ordinance Review Committee - Cancelled**
- **Eden Area Livability Initiative**

G. STAFF ANNOUNCEMENTS, COMMENTS AND REPORTS

Bob Swanson gave an update on the Castro Valley Farmers Market. Council member Nielsen asked Mr. Swanson if persons interested could buy a spot instead of a table to sell other things other than vegetables like handicrafts, aprons, etc. Mr. Swanson said that the Farmers Market is a state certified Farmers Market, people can sell produce that they grow, arts, food vendors. Persons interested can fill out a vendor form.

H. COUNCIL ANNOUNCEMENTS, COMMENTS AND REPORTS

Council member Miraglia said that there are going to be 3 public hearings on what is going to happen to San Leandro Hospital on June 8, 11 and 18 at the San Leandro Library. She encouraged everybody to attend. The Eden EIR will still be going in June to the Board of Supervisors.

Council member Sadoff asked Mr. Swanson if there will be a meeting tomorrow at Supervisor Miley's office regarding the San Lorenzo Cemetery. Mr. Swanson said yes at 1 p.m.

Council member Cunha asked Ms. Henninger about ordinances regarding real state signs, she said that all cities have them. Ms. Henninger said it is pretty generic if it is a temporary sign. There are multiple jurisdictions within the county versus the city. She will look at that.

Council member Miraglia asked Ms. Henninger if Mr. Lang will be in touch with the Castro Valley Sanitary District or if this Council will contact them to tell them the need to come. Ms. Henninger said that Planning Department will follow up.

Council member Miraglia said that she would like to know if they can legally require people to only use Waste Management for their dumpsters. She would like to have County Counsel's opinion on whether or not that is legal.

Ms. Urzua said that we need County Counsel's opinion on whether Castro Valley Sanitary District mandate specific use of Waste Management dumpsters. Council

member Miraglia said that the Council would like to hear from the Building Inspection Department on how other sanitary districts handle the waste and recycling.

Discussion continued among council members regarding what the Building Official's presentation should include.

Council member Miraglia said that when the Eden EIR went to the Board of Supervisors it was continued for basically 30 days. The Planning Department was going to address the impacts before it goes back to the Board. She said that she contacted both Supervisor Miley's office and Planning CDA to say that she wanted to talk about that, to meet on that subject. That has not happened yet. She wanted staff to make sure that the socio-economic impact caused by the closure of the San Leandro Hospital, because it is a physical change, is going to be addressed before it goes to the Board of Supervisors.

I. Adjourn

The meeting was adjourned at 8:08 p.m.

Next Hearing Date: Monday, June 8, 2009