



City of Palos Verdes Estates City Council Agenda & Staff Reports

DISCLAIMER

The following City Council agenda includes text only version of the - reports associated with the business matters to be brought before for the City Council at its Regular Meeting of this date. Changes to the - reports may be necessary prior to the actual City Council meeting. The City Council may elect to delete or continue business matters at the beginning of the City Council Meeting. Additionally, - reports attachments, including but not limited to, pictures, plans, drawings, spreadsheet presentations, financial statements and correspondences are not included. The attachments are available for review with the official agenda package at the Reception area at City Hall as well as the Malaga Cove Public Library.

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****CLICK HERE FOR CITY COUNCIL AGENDA & REPORTS**

May 26, 2009
6:30 P.M.
City Hall
Council Chambers

**AGENDA
OF A REGULAR MEETING
OF THE CITY COUNCIL OF THE CITY OF
PALOS VERDES ESTATES, CALIFORNIA**

Copies of the staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the office of the City Clerk and are available for public inspection. If applicable, materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's office during normal business hours. Any person having any question concerning any agenda item may call the City Clerk to make inquiry concerning the item. Upon request, the agenda and documents in the agenda packet can be made available in appropriate alternative formats to persons with a disability in compliance with the Americans with Disabilities Act. Please contact the City Clerk at 310-378-0383, at least 48 hours prior to the meeting to request a disability-related modification or accommodation.

The City Council welcomes and encourages public participation at the Council meetings; however, to allow for the orderly progression of business, each person wishing to comment or make a presentation shall be limited to three (3) minutes. Anyone wishing to address the City Council must fill out a green speaker's card available at the end of each row in the Chambers. The card permits the City to identify persons for purposes of City Council minute preparation. Please see specific agenda sections below for any other requirements related to meeting participation. The City Council, at the direction of the Mayor with concurrence of the Council, may modify the order of items shown on the agenda.

**NEXT RESOLUTION NO. R09-15
NEXT ORDINANCE NO. 09-693**

CALL TO ORDER

CLOSED SESSION (6:30 p.m. – 7:30 p.m.)

• **CONFERENCE WITH LABOR NEGOTIATORS**

Pursuant to Government Code Section 54957.6

Agency Negotiators: Joe Hoefgen, Judy Smith, and Scott Tiedemann

Employee Organizations: Public Service Employees Association and Palos Verdes Estates

Police Officers' Association

**CITY COUNCIL AGENDA
MAY 26, 2009**

At the conclusion of the Closed Session, the Council may reconvene to Open Session to take formal action on any item discussed, as it may deem appropriate.

PLEDGE OF ALLEGIANCE

ROLL CALL

MAYOR'S REPORT – Matters of Community Interest

CONSENT AGENDA (Items 1-8)

All items under this heading are considered to be routine and will be enacted by one motion, unless a Councilmember, staff, or member of the public requests that an item be removed for separate discussion, with the exception of Planning Commission Actions – Item #8a-c. An applicant or interested citizen who wishes to appeal any Planning Commission decision may file an appeal with the City Clerk's office within 15 days after the date of the Planning Commission's decision.

Any item removed from the Consent Agenda will be considered immediately following the motion to approve the Consent Agenda.

1. Minutes of City Council Meeting of May 12, 2009

Recommendation: Review and File.

2. Treasurer's Report – April 2009

Recommendation: Receive and File.

3. Monthly Financial Report – April 2009

Recommendation: Receive and File.

4. Adoption of Ordinance 09-689; Amending Section 18.32.010 of the Palos Verdes Estates Municipal Code Relating to Heights of Walls, Fences, and Accessory Structures in the R-1 and R-M Zones

Recommendation: It is recommended that the City Council adopt Ordinance 09-689; an Ordinance of the City Council of the City of Palos Verdes Estates amending Section

18.32.010 of the Palos Verdes Estates Municipal Code relating to heights of walls, fences, and accessory structures in the R-1 and R-M zones.

5. PW-560-09; Award of Contract for City Hall Janitorial Services for FY 2009-10

Recommendation: It is recommended that the City Council award the janitorial services contract for FY 2009-10 to Come Land Maintenance for Proposal 2, which includes the environmentally-friendly cleaning products certified or approved by EcoLogo; GreenSeal GS37; or Design for the Environment in the amount of \$1550 per month.

6. Special Event Application and Posting of Patriotic Signs for the Palos Verdes Independence Day Celebration on Saturday, July 4, 2009, to Also Include July 3rd for Set-Up at the Lunada Bay Elementary School Grounds

Recommendation: It is recommended that the City Council approve this Special Event Application for the 48th Annual 4th of July Celebration at the Lunada Bay Elementary School grounds, allow the Celebration Committee to post promotional signs at the two City-permitted locations one week prior to the event, and to place flags at each promotional sign.

7. Parklands Committee Meeting Item of May 11, 2009

Recommendation: Review and Approve.

- a. PC-299-09; Application to remove 1 Olive tree in the city right-of-way located adjacent to 2560 Via Olivera and a grouping of five Yucca plants in the Parkland across the street for view restoration

Applicant: Kurt and Fran Kupiec
2560 Via Olivera
Palos Verdes Estates, CA 90274

Actions: Approved (5-0). The applicant is approved to remove one Olive tree in the City parkway located adjacent to 2560 Via Olivera and top a group of 5 Yucca plants across the street in parklands according to the ‘Standard Conditions for Tree Removal Approvals’. The replacement tree is to be a 36-inch box Olive tree (Olea europa ‘Swan Hill’).

8. Planning Commission Actions of May 19, 2009

Recommendation: Receive and File.

- a. **M-710-09;** Consideration of a Miscellaneous Application for non-standard encroachments at the single family residence located at 3708 Via La Selva. Lot 3, Block 6212, Tract 6887.

Applicant: Mark Panepinto
8715 W. Los Angeles Ave.
Moorpark, CA 93021
Owner: Carol Edwards

Action: Approved (5-0) with standard conditions and the following additional condition: 1) The owner shall enter into an encroachment agreement for the non-standard driveway.

- b. **NC-1267R-09**; Consideration of a revised Neighborhood Compatibility Application for revisions to the new single family residence located at 4121 Via Largavista. Lot 24, Block 6312, Tract 7143.

Applicant: Craig Weber & Associates
950 Santiago Ave.
Long Beach, CA 90804
Owner: Raffi Ounanian
2715 Via Anita
Palos Verdes Estates, CA 90274

Action: Approved (5-0) with standard conditions.

- c. **M-711-09**; Consideration of a Miscellaneous Application for a structure exceeding the maximum allowable height at the single family residence located at 540 Paseo Del Mar. Lot 4, Block 1412, Tract 6886.

Applicant: KAA Design Group
4201 Redwood Ave.
Los Angeles, CA 90066
Owner: Marcus Linden
1811 Agnes Rd.
Manhattan Beach, CA 90266

Action: Approved (4-0, Vandever recused) with standard conditions.

COMMUNICATIONS FROM THE PUBLIC

This portion of the agenda is reserved for comments from the public on items which are NOT on the agenda. Due to state law, no action can be taken by the Council this evening on matters presented under this section. If the Council determines action is warranted, the item may be referred to staff or placed on a future Council agenda.

PUBLIC HEARING

9. Resolution R09-13: Approving the Annual Report and Setting the Rate for the Sewer User Fee to Finance the FY 09-10 Program of Sanitary Sewer Improvements

Recommendation: It is recommended that the City Council open the public hearing in accordance with Health & Safety Code Section 5470, receive public input, close the public hearing and adopt Resolution R09-13; approving the Sewer User Fee Annual Report, prepared in accordance with Ordinance No. 03-649, establishing the sewer user rate for FY 09-10 sanitary sewer improvement program.

ORDINANCES

Actions to introduce or adopt an ordinance shall be deemed to have the title read and further reading waived.

10. Introduction of Ordinance 09-692; Restating and Amending Municipal Code Chapter on Nuisances

Recommendation: It is recommended that the City Council introduce for first reading, by title only with further reading waived, Ordinance No. 09-692.

OLD BUSINESS

NEW BUSINESS

11. Review and Approval of Palos Verdes Beach and Athletic Club FY 2009-10 Operating and Capital Budgets and Adoption of Resolution R09-14 Approving a \$10 Increase in Monthly Dues

Recommendation: It is recommended that the City Council:

- Approve the Palos Verdes Beach and Athletic Club FY 2009-10 operating and capital budgets, and
- Adopt Resolution R09-14; approving a \$10 increase in monthly dues.

12. Request for Rate Adjustment in Refuse Collection by Athens Services

Recommendation: It is recommended that the City Council approve a \$2.97 monthly rate decrease, per single family residence, to the solid waste and recycling collection services, to be effective July 1, 2009, to bring the total new monthly rate, including the AB

939 fee, to \$31.01; and approve invoicing for the decrease during Athens' next available 2009 billing cycle.

STAFF REPORTS

13. City Manager's Report

DEMANDS

14.
 - a. Authorize Payment of Motion #1 – Payroll Warrant of May 15, 2009
 - b. Authorize Payment of Motion #2 – Warrant Register of May 26, 2009

Recommendation: Authorize Payment of Motions #1 and #2.

MAYOR & CITY COUNCILMEMBERS' REPORTS

ADJOURNMENT TO FRIDAY, MAY 29, 2009, IN COUNCIL CHAMBERS OF CITY HALL AT 2:00 PM FOR THE PURPOSE OF A BUDGET STUDY SESSION.

- *This City Council meeting can be viewed on Cox Cable, Channel 35, Wednesday, May 27, 2009, at 7:30 p.m., and Wednesday, June 3, 2009, at 7:30 p.m.*

TO: JOSEPH HOEFGEN, CITY MANAGER
FROM: JUDY SMITH, ASSISTANT CITY MANAGER
SUBJECT: FINANCIAL REPORT FOR APRIL 2009

The Issue

What is the status of the FY 2008-09 budget after 10 months of the fiscal year?

Analysis of Graphs

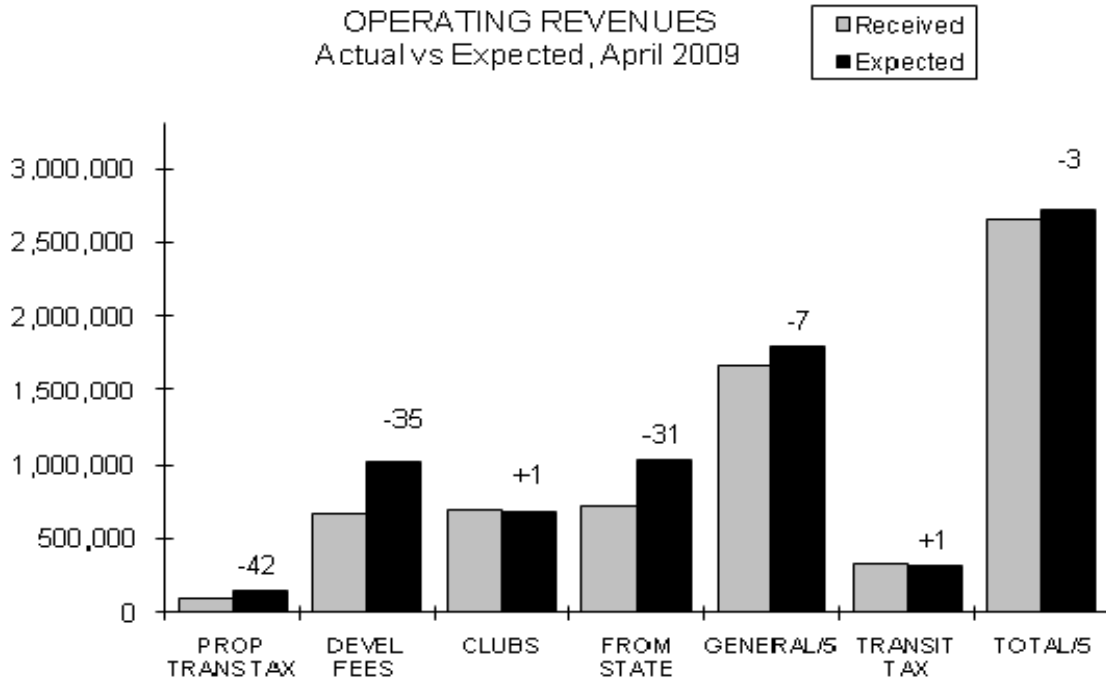
As mentioned in last month's report, April includes receipt of a major allocation of property tax and special fire parcel tax moneys distributed by the County. While both general fund and total revenues continue to fall short of expected performance, the year-to-date positions have improved as a result of these receipts. General fund revenue is now 7% below expected and total operating revenue is 3% less than expected. These figures will put us close to our estimated performance for fiscal year end in which we have projected a revenue shortfall compared to budget.

On the expenditure side, total operating costs are 6% below expected. Individual operating departments are all at or below budget, ranging from (-0%) deviation for fire services; (-9%) for the Police Department and (-10%) for administration. We will incur three payroll periods in May, which will result in the operating departments more closely tracking to budget, though we do project savings in the operating budget at fiscal year end and still anticipate a general fund operating surplus.

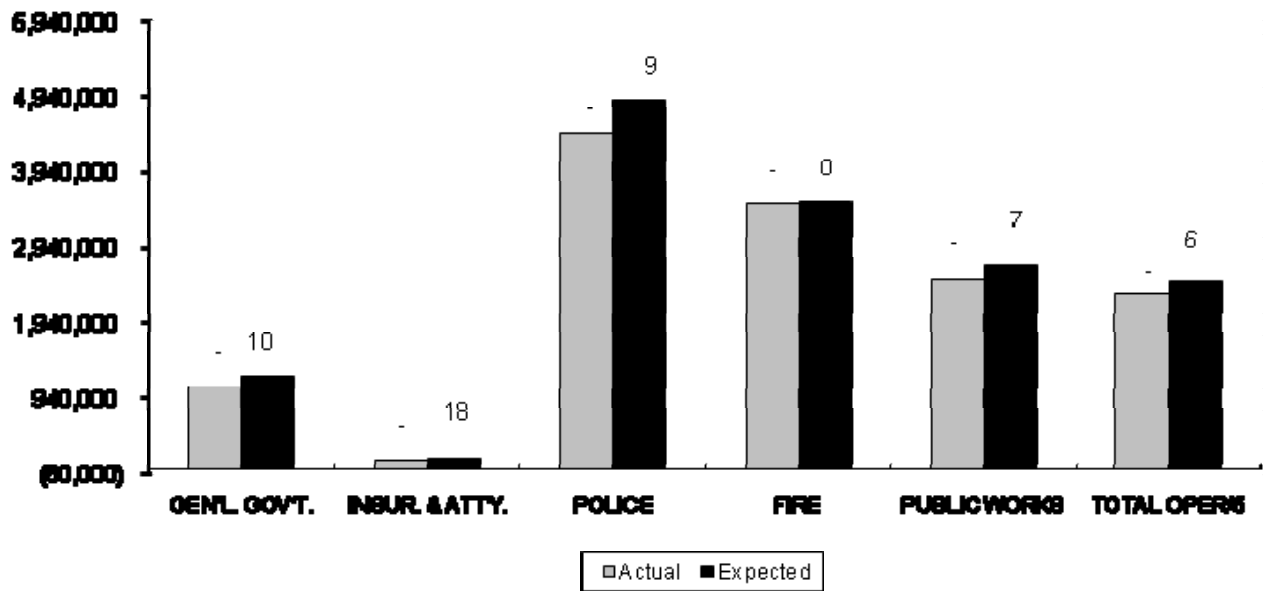
Spot Reports

On May 18, the County Assessor's Office released the preliminary County-wide estimate for change in assessed values for FY 09-10. Not surprisingly, the overall values are projected to decline 1.06% compared to FY 08-09. This is an aggregate figure meaning some jurisdictions will experience an increase in values, while some will experience a decrease, likely in excess of the 1%. Valuations for individual cities will be released in late July. As you will recall when budgeting for FY 09-10, the budget assumed no increase in assessed values for Palos Verdes Estates and this figure is still a valid estimate for budget purposes, given what we know about 2008 sales transactions and the 2% CPI adjustment as permitted by Proposition 13.

OPERATING REVENUES
Actual vs Expected, April, 2009



OPERATING EXPENDITURES
Actual vs Expected, April, 2009



Agenda Item #: 4
Meeting Date: 5/26/09

TO: JOSEPH M. HOEFGEN, CITY MANAGER

FROM: ALLAN RIGG, PLANNING DIRECTOR

SUBJECT: ADOPTION OF ORDINANCE NO. 09-689; AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALOS VERDES ESTATES AMENDING SECTION 18.32.010 OF THE PALOS VERDES ESTATES MUNICIPAL CODE RELATING TO HEIGHTS OF WALLS, FENCES, AND ACCESSORY STRUCTURES IN THE R-1 AND R-M ZONES

DATE: MAY 26, 2009

The Issue

Should the City Council adopt Ordinance No. 09-689, an ordinance of the City Council of the City of Palos Verdes Estates, amending Section 18.32.010 of the Palos Verdes Estates Municipal Code relating to heights of walls, fences, and accessory structures in the R-1 and R-M zones?

Background and Analysis

The City Council introduced Ordinance No. 09-689 at their meeting on May 12, 2009. The ordinance revises the walls and fences section of the code to include outdoor fireplaces, trellises, gazebos, detached garages, and pool houses. The main modification to this chapter is the addition of the term “accessory structure”. Sections D and E define the term “accessory structure” and note that a silhouette may be required at the discretion of the Planning Director and/or Planning Commission. Per the request of the City Council, the definition of an “accessory structure” has been modified since the May 12th review to provide clearer language.

Alternatives Available to the City Council

1. Adopt Ordinance 09-689, an ordinance of the City Council of the City of Palos Verdes Estates, amending Section 18.32.010 of the Palos Verdes Estates Municipal Code relating to heights of walls, fences, and accessory structures in the R-1 and R-M zones.

**CITY COUNCIL AGENDA
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2. Direct staff to modify the Ordinance 09-689 and bring back the ordinance to the City Council for reintroduction.
3. Decline to act.

Recommendation from Staff

Staff recommends that the City Council adopt Ordinance No. 09-689, an ordinance of the City Council of the City of Palos Verdes Estates, amending Section 18.32.010 of the Palos Verdes Estates Municipal Code relating to heights of walls, fences, and accessory structures in the R-1 and R-M zones.

Staff report prepared by:
Stacey Kinsella
Planning Department

TO: JOSEPH M. HOEFGEN, CITY MANAGER
FROM: ALLAN RIGG, PUBLIC WORKS DIRECTOR
SUBJECT: PW 560-09; AWARD OF CONTRACT FOR CITY HALL JANITORIAL SERVICES FOR FY 09/10
DATE: MAY 26, 2009

Introduction

Should the City Council award the City Hall Janitorial Services Contract for Fiscal Year 2009/10 to Come Land Maintenance Company in the amount of \$1,550.00/month?

Background and Analysis

The existing Janitorial Services contract will expire June 30, 2009. To ensure that the City's janitorial service continues without interruption, staff has completed the bid process and is seeking an award of this contract for a start date of July 1, 2009.

Staff advertised in Bid America, Daily Construction Services, and FW Dodge. The Request For Proposals requested two possible bids: 1) with the monthly cost of providing janitorial services with the use of regular cleaning products and 2) the monthly cost of providing janitorial services with the use of environmentally-friendly cleaning products certified or approved by EcoLogo; GreenSeal GS37; or Design for the Environment.

Four potential bidders attended the initial building walk-through conducted on April 29, 2009: All Care Industries, Inc., Century Maintenance, Come Land Maintenance and Jani-King. Only two proposals were received by the deadline of 5:00 p.m., May 11, 2009. The bidders were All Care Industries, the City's current contractor, and Come Land Maintenance. All bidders were responsive, and the proposals were as follows:

| Contractor | Proposal 1 (regular cleaning products) | Proposal 2 (environmentally-friendly cleaning products) |
|---------------------------|---|--|
| All Care Industries, Inc. | \$1832 per month | \$1932 per month |
| Come Land Maintenance | \$1465 per month | \$1550 per month |

The City's current contract with All Care Industries is \$1632 per month (\$19,584 annually). Come Land Maintenance's, the lowest bidder, monthly cost of Proposal 1 of \$1465 (\$17,580 annually) is currently \$167 less than the City's current contract; Proposal 2 of \$1550 (\$18,600 annually) is currently \$82 less than the City's current contract. This represents an ~11% reduction for Proposal 1, or a ~5% reduction for Proposal 2.

Alternatives Available to Council

The following alternatives are available to Council:

1. Award the Janitorial Services contract for FY 2009/10 to Come Land Maintenance for Proposal 2, which includes the use of environmentally-friendly cleaning products certified or approved by EcoLogo; GreenSeal GS37; or Design for the Environment in the amount of \$1550 per month.
2. Award the Janitorial Services contract for FY 2009/10 to Come Land Maintenance for Proposal 1, which includes the use of regular cleaning products in the amount of \$1445 per month.
3. Decline to Act.

Conclusions and Recommendations

Staff recommends that the City Council award the Janitorial Services contract for FY 2009/10 to Come Land Maintenance for Proposal 2, which includes the environmentally-friendly cleaning products certified or approved by EcoLogo; GreenSeal GS37; or Design for the Environment in the amount of \$1550 per month.

Fiscal Impact

This contract will be funded through the City Properties Contractual Services budget. The annual cost of janitorial services for FY 2009/10 would be \$18,600 and the total budget for Contractual Services is \$25,310. Therefore, sufficient funds will be available for this contract. The contract also provides for the possibility of a one-year extension at the same monthly price. A contract extension will be determined at the end of the fiscal year based on the City's satisfaction with the contractor's services, and the cost of service for the upcoming year.

Attachments

Staff report prepared by:
Alexa D. Davis
Administrative Analyst

**CITY COUNCIL AGENDA
MAY 26, 2009**

TO: JOSEPH M. HOEFGEN, CITY MANAGER

FROM: ALEXA D. DAVIS, ADMINISTRATIVE ANALYST

SUBJECT: SPECIAL EVENT APPLICATION AND POSTING OF PATRIOTIC SIGNS FOR THE PALOS VERDES INDEPENDENCE DAY CELEBRATION ON SATURDAY, JULY 4, 2009 TO ALSO INCLUDE JULY 3rd FOR SET-UP AT THE LUNADA BAY ELEMENTARY SCHOOL GROUNDS

DATE: MAY 26, 2009

ISSUE

Shall the City approve a Special Event Application for the Palos Verdes Independence Day Committee to hold its annual celebration at the Lunada Bay Elementary School grounds?

BACKGROUND AND ANALYSIS

The 48th Annual Palos Verdes Independence Day is scheduled on Saturday, July 4, 2009. The program begins at 9:30 a.m. and ends close to 3:00 p.m. The event includes children's patriotic bicycle parade, apple pie baking contest, puppet show, singing, picnics, and music. This event is an annual tradition in the City.

The celebration is held on school district property and been traditionally held at the Malaga Cove school grounds. Due to construction and landscape renovation at Malaga Cove School, event sponsors have secured the grounds of Lunada Bay Elementary School. The City's primary concern is traffic control, which is coordinated with the Police Department. The event is well-managed by the Independence Day Committee, which includes a City representative. The event has always been held without incident.

The City's current sign policy, revised in October 2006, recognizes that the Palos Verdes Independence Day Celebration is a City-sponsored event, and therefore is eligible to post promotional signs on public property. According to the policy, however, signs are only permitted at the City-approved locations, which include the median strip adjacent to Malaga Cove Plaza at Via Corta, and the median strip across from the Lunada Bay Fountain area. Signs may only be posted one week prior to the event. The Committee is requesting the signs be posted from June 27-July 5.

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The signs include the following wording:

"Family Fun, 4th of July Picnic, Lunada Bay Elementary School, 9:30 a.m." (Plus the name of the guest speaker.)

The Committee also requests permission to erect red, white, and blue flags with the permitted promotional signs. The request has historically been approved each year.

The Special Event Application has been reviewed and preliminarily approved by all municipal departments. Also, all public safety departments are aware of the change in location and approve without any additional conditions. Because of the tradition of this event and the City's involvement, the City waives the fee requirements of the Special Event Application. The Indemnification Agreement has been received, and the Certificate of Insurance will be received prior to the event date.

ALTERNATIVES AVAILABLE TO COUNCIL

1. Approve the application, posting of promotional signs in the two City-permitted locations one week prior to the event, and placement of flags.
2. Decline to approve the application, signs and flags.
3. Approve the application with conditions, and condition the posting of signs and placing of flags.

RECOMMENDATION:

Approve this Special Event Application for the 48th annual 4th of July Celebration at the Lunada Bay Elementary School grounds, allow the Celebration Committee to post promotional signs at the two City-permitted locations one week prior to the event, and to place flags at each promotional sign.

TO: JOSEPH HOEFGEN, CITY MANAGER
FROM: ALLAN RIGG, PLANNING DIRECTOR
DATE: MAY 26, 2009
SUBJECT: PLANNING COMMISSION ACTIONS OF MAY 19, 2009

The items attached were acted upon by the Planning Commission on May 19, 2009.

The Council may, within fifteen days after the date of the decision on or before the first day following the first Council meeting after the date of the Planning Commission decision, whichever occurs last:

1. Confirm the action of the Planning Commission and grant or deny the application;
2. Set the matter for public hearing and dispose of it in the same manner as on an appeal; or
3. Amend, modify, delete, or add any condition of approval which the Council finds is not substantial under the circumstances relative to or affecting the property subject to the application for a development entitlement. Any determination of the Council pursuant to this paragraph shall be conclusive and final.

In the event the Council does not take one of the actions specified above within the period of time required, the decision of the Planning Commission shall be final.

Recommendation:

Receive and file.

TO: JOSEPH HOEFGEN, CITY MANAGER

FROM: JUDY SMITH, ASSISTANT CITY MANAGER

SUBJECT: RESOLUTION R09-13 APPROVING THE ANNUAL REPORT AND SETTING THE RATE FOR THE SEWER USER FEE TO FINANCE THE FY 09-10 PROGRAM OF SANITARY SEWER IMPROVEMENTS

The Issue

Shall the City Council adopt Resolution 09-13, which approves the Sewer User Fee Annual Report and sets the rate for the sewer user fee to finance the FY 09-10 program of sanitary sewer improvements?

Background

FY 09-10 represents the seventh year of the ten-year Sewer Master Plan. The master plan outlines recommended upgrades and refurbishment of the City's sanitary sewer facilities based upon an initial ten-year program. A sewer user fee was approved in June 2003 after a public process dictated by law. The amount of fee is set annually, and combined with interest earnings, generates approximately \$1.5 million per year in order to fund the ten-year program of improvements. The sewer user fee is levied under authority of Section 5471 of the Health and Safety Code, appears on the property tax bill and is collected at the same time as payment for property taxes.

Analysis and Findings

The sewer fee calculation involves the following factors: estimated sewer use based on water consumption, maximum/actual sewer unit rate and the sewer program budget. Estimated sewer use is based on water consumption using the three lowest month's water use in the City as a whole, which provides a factor for landscape water that does not enter the sewer system (three lowest months equal the wettest months, thereby minimizing for landscape use). Each parcel's water use, based on the City's three lowest months, is averaged and multiplied by 12 months to determine that parcel's annual estimated sewer use. The total of all properties use equals the estimated total sewer units.

The history of the sewer fee calculation since inception in FY 03-04 is attached to this report. When the City selected water consumption as the basis of the fee, it was recognized water use could vary from year-to-year and that this would add an element of uncertainty in generating the annual fee revenue. For the FY 09-10 fee calculation, the three lowest months water use were January,

February and March 2008. Using these three months to calculate the average annual water use for each eligible property connected to the sewer system results in 1,214,548 units of estimated sewer use. This is a decrease of 21% compared to FY 2008-09 when 1,539,421 sewer units were recorded.

The sewer fee unit rate is determined by dividing the annual improvement budget (minus interest earnings, plus administration) by the total estimated sewer use (total sewer units). The sewer unit rate may not exceed the maximum allowable rate as provided by ordinance. The maximum unit rate for FY 09-10 totals \$1.31 (FY 08-09 maximum unit rate of \$1.23 times the inflation factor of 6.7% - Engineering News Record (ENR) Construction Cost Index for Los Angeles County). Even though a maximum unit rate of \$1.31 is permitted for FY 09-10, a lower the unit cost of \$1.02 will generate sufficient fee revenue to finance the FY 08-09 sewer program.

The \$1.02 unit rate is also the same unit rate approved in the initial year of the program (FY 03-04). By not exceeding this rate, the City is not subject to new noticing requirements under state legislation which became effective January 1, 2009. The legislation involves noticing for previously authorized inflationary factor increases affecting property-related fees (water, sewer, refuse). In future years of the current ten-year program, even though our adopted sewer fee ordinance includes an inflationary adjustment factor, if the sewer unit rate exceeds \$1.02, the City will be required to provide notice by mail to each property owner at least 30 days advance of the effective increase (July 1).

Using the \$1.02 unit rate, the average sewer fee for a single-family residence totals \$250, a decrease of \$48 from last year's average of \$298. The data shows that 3,437 properties will have a decrease (68%), while 1,639 properties (32%) will experience an increase. Of the properties with an increase, 49% went up less than \$100 compared to the prior year. When looking at all properties, 67% have a fee increase or decrease within \$100. These figures are comparable to prior year results when 71% of all properties had a change (+ or -) within \$100.

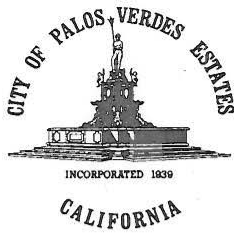
The program of sewer improvements for FY 09-10, as presented in the City's budget, totals \$4,580,000 and includes design, administration and construction for the two city-owned sewer pump stations (Via Barri and Rocky Point Road). In accordance with the fee ordinance, interest earnings (\$200,000) are applied toward the budget and reduce the required sewer fee. Administrative costs (\$10,850) reflect the assessment engineer's preparation of the attached report and the cost charge by Los Angeles County to levy the fee on property tax bills. The fee budget, representing costs that need to be funded by the current year sewer fee, totals \$1,238,839, which are supplemented by the existing fund balance to finance the total FY 09-10 sewer program.

Alternatives Available to the City Council

1. Adopt Resolution R09-13, which approves the Sewer User Fee Annual Report and sets the sewer user fee rate for FY 2009-10, prepared in accordance with Ordinance No. 03-649.
2. Decline to adopt Resolution R09-13. Without approval of the annual report and sewer user fee rate, there is no authority to levy the fee.

Recommendation

It is recommended that the City Council open the public hearing in accordance with Health & Safety Code Section 5470, receive public input, close the public hearing and adopt Resolution R09-13; approving the Sewer User Fee Annual Report, prepared in accordance with Ordinance No. 03-649, establishing the sewer user fee rate for the FY 09-10 sanitary sewer improvement program.



MEMORANDUM

Agenda Item #: 10
Meeting Date: 5/26/09

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM: JOSEPH W. PANNONE, CITY ATTORNEY
JUNE AILIN, ASSISTANT CITY ATTORNEY**

**SUBJECT: INTRODUCTION OF ORDINANCE RESTATING AND AMENDING
MUNICIPAL CODE CHAPTER ON NUISANCES**

DATE: MAY 26, 2009

The Issue

Should the City Council introduce Ordinance No. 09-692 to restate and amend Chapter 8.48 of the Palos Verdes Estates Municipal Code to memorialize the City's process for abating nuisances on public property and in public rights-of-way?

Background

Section 8.48.015 declares those actions, activities and conditions of property which create public nuisances. Section 8.48.020 of the Palos Verdes Estates Municipal Code provides an express process for the City to abate public nuisances when they occur or are found on private property. The City has relied on its inherent police powers for abatement of those public nuisances which occur or are found on public property and public rights-of-way. The City Attorney believes it would be better to memorialize the City's current abatement process for public nuisances occurring on public property and rights-of-way. That will assist the public in better understanding the process the City will continue to use to abate public nuisances that may occur on public property and rights-of-way and to prevent the misuse of public property and rights-of-way.

Analysis

The proposed ordinance expressly establishes a summary process for abating public nuisances occurring on public property and rights-of-way. If the City Manager, or his designee ("Manager"), is unable, with reasonable effort, to find the person or persons responsible for the public nuisance occurring on public property or rights-of-way, then the

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Manager may immediately abate that nuisance. When nuisances on public property or rights-of-way occur, which could create imminent hazards to public safety, this immediate summary abatement process restates the City's inherent authority to protect the public from those hazards.

If the Manager is able to find the person or persons responsible for a public nuisance occurring in a public right-of-way, then he must give at least 12-hours' but not more than 72-hours' notice to that person to abate the public nuisance. If the Manager is able to find the person or persons responsible for a public nuisance occurring on public property other than a public right-of-way, then he must give at least 7-days' but not more than 30-days' notice to that person to abate the public nuisance. If, in either situation, the nuisance is not timely abated, then the Manager may cause abatement of the nuisance. These processes restate the City's inherent authority to protect its property and public rights-of-way from misuse and are similar to the uncodified process already in use.

In either the summary or noticed abatement process, the Manager's determinations are final and not appealable to the City Council. That again is to ensure the timely abatement of the misuse of City property and rights-of-way.

The proposed ordinance also restates, in its entirety, Chapter 8.48. In conjunction with adding the above express provisions regarding public nuisances on public property and rights-of-way, other changes and clarifications were made to various provisions of that chapter. As part of your agenda materials for this item, a redlined version of the current Chapter 8.48 is included to show those changes, as well as highlight the new provisions. A clean version of the new Chapter is also included.

Section 2 of the proposed ordinance states the Council's intent in adopting the ordinance will not in any way affect the City's current policy for abatement of encroachments in the public rights-of-way or on other public property as established by Resolution No. R05-32.

Alternatives Available to Council

The following alternatives are available to the City Council:

1. Introduce Ordinance No. 09-692.
2. Introduce Ordinance No. 09-692, with modifications
3. Not introduce Ordinance No. 09-692 and provide other direction to the City Attorney and staff as deemed appropriate.

Recommendation

The City Attorney and staff recommend the City Council introduce for first reading, by title only with further reading waived, Ordinance No. 09-692.

TO: JOSEPH HOEFGEN, CITY MANAGER

FROM: JUDY SMITH, ASSISTANT CITY MANAGER

SUBJECT: REVIEW AND APPROVAL OF PALOS VERDES BEACH AND ATHLETIC CLUB FY 2009-10 OPERATING AND CAPITAL BUDGETS AND ADOPTION OF RESOLUTION R09-14 APPROVING A \$10 INCREASE IN MONTHLY DUES

The Issue

Shall the City Council approve the FY 2009-10 Palos Verdes Beach and Athletic Club (PVBAC) operating and capital budgets and adopt Resolution R09-14 approving a \$10 increase in monthly dues?

Analysis and Findings – FY 09-10 Operating Budget

The PVBAC Board of Directors reviewed and approved the FY 09-10 budgets at their meeting of May 11, 2009. On Monday, May 19, City Council liaisons to the PVBAC, Council members Rea and Goodhart, and the Assistant City Manager met with Mr. Chris Manos, Manager, Ms. Julie Taylor, President and Mr. Richard Govenar, the Club's Financial Consultant, to review the budget.

The Club's FY 2009-10 operating budget assumes a \$10 increase in monthly dues effective July 1, resulting in total operating revenue of \$1,271,730 and expenses of \$1,209,570 with projected net income of \$62,160. This is the first dues increase proposed by the Club in three years. Without it, the FY 09-10 operating budget would be in deficit. The Club carefully considered the amount of the increase, especially given the economic climate. It is likely a smaller increase would have required the Club to again raise monthly dues when budgeting for FY 10-11. Because of the dues, revenues show a 7% increase compared to the current year budget, while expenditures represent a 4% increase compared to current year. Areas of increased cost include labor (+4.5%); building maintenance and pool/spa maintenance, in part because of the second Jacuzzi. The Club has a proven track record of realistic budgeting.

Proposed Capital Budget FY 2009-10

The capital fund balance as of April, 2009 totals \$764,000. The capital fund is financed by initiation fees, which are restricted for this use. Through April, the club had nineteen (19)

membership turnovers for FY 08-09. As a result of turnover, and an increase in the percentage of total membership eligible to be held as resalable, approved by the City Council in September 2008, the Club had income from initiation fees of \$164,500 for the fiscal year to date.

The Club anticipates initiation fees of \$120,000 and interest income of \$36,000 during FY 09-10 with expenses of \$136,000, including a \$25,000 contingency line item for emergencies. The capital budget provides \$51,000 for replacement of strength and cardio equipment; \$25,000 for recreation room patio waterproofing and retiling; \$15,000 for ocean sea wall and fire escape railing replacements; as well as \$16,000 for new fitness room flooring. In the event use of funds from the capital contingency is necessary during the fiscal year, the Club will notify the City and the Council liaisons will be consulted before any obligation for expenditure is incurred. The budget anticipates an increase in the capital fund balance of approximately \$5,000 at fiscal year end June 2010.

The Council liaisons were supportive of the budget as presented.

Alternatives Available to the City Council

1. Approve the FY 09-10 operating budget (\$1,209,570) and capital budget (\$136,000) as presented and approve the \$10 increase in monthly dues.
2. Do not approve the budget as proposed. This would require the Club and Board of Directors to change the budget to address City Council concerns.

Recommendation

It is recommended that the City Council:

- Approve the FY 2009-10 Palos Verdes Beach & Athletic Club operating and capital budgets, and
- Adopt Resolution R09-14 approving a \$10 increase in monthly dues.

Budget Impact

The PVBAC is a non-profit entity whose budget is separate from the City's. The PVBAC pays a 10% concession fee on gross revenues to the City. It is expected the PVBAC concession fee will generate ~\$125,000 in FY 09-10.

TO: JOSEPH M. HOEFGEN, CITY MANAGER

FROM: ALLAN RIGG, PUBLIC WORKS DIRECTOR

**SUBJECT: REQUEST FOR RATE ADJUSTMENT IN REFUSE COLLECTION BY
ATHENS SERVICES**

DATE: MAY 26, 2009

The Issue

Should the City Council approve a \$2.97 monthly rate decrease, per single family residence, to the solid waste and recycling collection services, to be effective July 1, 2009, to bring the total new monthly rate, including the AB 939 fee, to \$31.01?

Background and Analysis

On July 1, 2005, the City entered into an Agreement for Solid Waste and Recycling Collection with Norcal Waste Systems, Inc. On November 13, 2007, City Council approved the transfer of the contract to Arakelian Enterprises DBA Athens Services, with the condition that Athens Services assumes all of the obligations under the Norcal Waste contract. The agreement is scheduled to terminate on June 30, 2012.

The Agreement allows the Contractor to approach the City on an annual basis to request a rate adjustment, and Section 11 of the Agreement stipulates the method by which the Contractor may petition the City for such an adjustment. The adjustment is based on a specific formula, governed by the CPI Modification (the change in the Consumer Price Index (Transportation Group) Los Angeles – Orange County – Riverside area as published in April of each year by the United States Department of Labor, Bureau of Labor Statistics), and the changes in solid waste and green waste landfill disposal costs. The contract allows the monthly rate charged to residents to be increased by 86% of the CPI Modification, by 6% of the percent increase in generated refuse, and by 8% of the percent increase in generated greenwaste. The contract does not address the issue of decreases in monthly rates.

Currently, residents are charged \$33.98 per month, which consists of an actual rate of \$33.50 for refuse, green waste, and recycling collection and a \$0.48 AB 939 fee. The AB 939 fee will remain the same and is not used in the calculation of a new actual rate.

Athens Services submitted a request to the City for a rate decrease based on this formula, to be effective July 1, 2009. Their request and calculations are attached as Exhibit A. Staff calculations are attached as Exhibit B, along with support documentation. Staff computations and Athens Services' computations concur.

According to staff calculations, a \$2.97 decrease would bring the total monthly resident rate for waste hauling to \$31.01, an 8.87% decrease under the current rate without the AB 939 fee, or an 8.74% decrease under the total Resident Rate which includes the AB 939 fee.

The proposed rate adjustment would be effective July 1, 2009, but would be invoiced to residents during the next billing cycle. Staff has requested that Athens Services include an explanation on the first invoice showing the decrease.

Alternatives Available to Council

The following alternatives are available to the City Council:

1. Approve a \$2.97 monthly rate decrease, per single family residence, to the solid waste and recycling collection services, to be effective July 1, 2009, to bring the total new monthly rate, including the AB 939 fee, to \$31.01. Approve invoicing for the decrease during Athens' next available 2009 billing cycle.
2. Deny the request for a rate adjustment to solid waste and recycling collection services.
3. Decline to act.

Recommendation from Staff

Approve a \$2.97 monthly rate decrease, per single family residence, to the solid waste and recycling collection services, to be effective July 1, 2009, to bring the total new monthly rate, including the AB 939 fee, to \$31.01. Approve invoicing for the decrease during Athens' next available 2009 billing cycle.

Fiscal Impact

Individual property owners pay for refuse and recycling service. There is no fiscal impact to the City.

Staff report prepared by
Floriza Rivera
Public Works Department

**CITY COUNCIL AGENDA
MAY 26, 2009**