

20. Review, discuss and provided direction to staff regarding Hillside Protection Regulations

Special Projects Manager, Jerry Iserson gave the staff report, stating the purpose of the item is to review, discuss and provide direction to staff regarding potential hillside protection regulations. He said the submittal of the Initiative creates the opportunity to discuss policies and regulations and considers if new regulations are warranted. He said staff would review existing policies and regulations, discuss the potential policies as proposed in the proposed hillside Initiative, identify issues for consideration, and also identify options and receive Council direction regarding a public review process.

He discussed areas where hillside protection currently exist such as the Measure F area, Southeast Pleasanton Hill area, Foothill Road designations, areas where potential landslides may occur, and the Land Use Element through health and public safety zoning. Policies where hillside protection exists include the Public Safety Element, Conservation and Open Space Element, the Community Character Element, a future Ridgeline Protection Ordinance and Scenic Hillside Design Guidelines, the West Foothill Road Corridor Overlay District, and the PUD process.

The existing policy focuses on ensuring the stability of slopes and safety of hillside development and is keyed into the 25% slope, which is present in the hillside Initiative. There are also policies to preserve topographical features, natural land forms of hilly areas, open space and trees, reducing visual impacts, promoting views, protecting habitat areas in wildlife corridors and allowing development that is consistent with those policies and honoring the development of property rights consistent with the General Plan.

Mr. Iserson said the Council has the option of adopting the Initiative or submitting it to the voters; it seeks to amend the General Plan by adopting policies which would not allow grading, to construct structures on hillside slopes of 25% or greater, no development would be allowed within 100 feet of a ridgeline and it would exempt developments of 10 units or fewer. He provided an example of what a 25% slope looks like and examples of properties with such slopes.

Questions could include what areas are subject to the new regulations and whether all hillside areas should be under the protection of a hillside regulation; should it apply to the Vineyard Corridor; if the objective is to preserve views and wildlife, would it make sense to consider all projects rather than setting units at 10 or fewer, as there are many that include land with 25% slopes or more in them; would it apply to structures only on 25% or greater or would it apply to

any grading on slopes of 25% or greater; would restrictions apply to the building pad or would it apply to the entire lot; and, how a ridgeline should be defined.

Mr. Iserson presented a map of properties and described those that might be affected by a hillside restriction, stating that all properties within the City were not included, but more of those major properties yet to be developed in the hillside areas. He illustrated existing developments and how they would relate to the slope on the site and overlays of proposed development, noting there is also the question of style of grading, which is dependent upon the design of the home, lot configurations, slopes, changes in topography, the desire for flat rear yards, split pad lots, building on natural slopes. Another issue is FAR methodology, which can be based on the entire parcel. Examples include reducing limits for highly sloped areas and discounting areas over a certain slope percentage; or, creating a building envelope within the parcel allowing that area to be graded and base the FAR on the building envelope and not the size of the entire lot. There can be disagreements on measuring FAR, slope banks and the base of hills, and moving to a hillside regulation would establish a formula or method for determining FAR and slope.

He said the hillside regulation process is dependent upon how the Council proceeds with the Hillside Initiative; it may want to request staff to do further analysis; pursue hillside regulations to implement, expand or clarify the potential Initiative; the Council might want to establish a process through a task force involving citizens, commissions, or other alternatives used in the past; it may want to consider what the final product the Council is looking for; and whatever is adopted can always be placed on the ballot for voter approval.

Mr. Iserson said the recommendation is for the Council to consider issues relating to hillside regulations and provide feedback and direction to staff, provide direction on the public process and the context of the Initiative process, and also to take advantage of requesting more information from staff on potential impacts of hillside regulations.

Mayor Hosterman said she realized after hearing the presentation that the City already has a number of protections in place that previous Councils have acted on relating to development in the hillsides. Regarding Mr. Iserson's presentation where potential development is proposed but where this Initiative would likely not cover, she asked what properties would be covered. Mr. Iserson said it may be very few, many properties are exempt due to having 10 units or less, and it depends on remaining properties as to where they decide to propose the homes.

City Manager Fialho said the reason the item was placed on the agenda was in response to a request by the Council to explore ways to initiate a City-sponsored Hillside Protection Ordinance or regulation. This provides good foundation for the next discussion which is either to call for the election, adoption, or additional study.

Councilmember McGovern confirmed the Council has a priority to develop a hillside ordinance. She believes there is a place in the General Plan that calls for a hillside ordinance to be developed, and Councilmember Sullivan noted it was in the Open Space Element, 5.1. She said many citizens set out that plan in 1996 and said it also included a grading ordinance. She questioned if Mr. Iserson had an illustration of what Oak Grove would look like. Mr. Iserson said he remembered having a sloped map, and Councilmember McGovern asked to obtain a copy of the slope map prior to the discussion, as well as a copy of the PowerPoint presentation.

Councilmember McGovern said she remembers a discussion where in 1986 there was something in the General Plan about 25% slopes which was removed, and there was discussion that it had been there but removed by accident. She asked to see some of the staff reports from those Planning Commission meetings to assist in her decision-making, and believed the policy

for Pleasanton should be ongoing and not just looking at specific properties as a way to protect whatever would come in the future.

Vice Mayor Thome referred to engineering data that creates a nexus to a view line, and questioned where the 25% came from. Mr. Iserson said in an area where there are unstable slopes, potential geotechnical or geological issues, there is more of a risk of failure if building on it. Additional study is needed to ensure it is safe and this is where 25% was identified. He said there is no one number that would be applicable in every situation, but it was formulated as an average number that made sense and flagged areas that required further review.

Councilmember Sullivan said he would have assumed there had been significant discussion during the 1996 General Plan regarding the 25%, and Mr. Iserson said the references were actually contained in the General Plan prior to 1996, in the 1989 Plan.

Councilmember Sullivan referred to Policy 5.1 in the Open Space Element which states, "develop a hillside protection ordinance", and he questioned why it was in the PowerPoint presentation and not in the agenda report. City Manager Fialho said the premise of Agenda Item 20 is how to go about protecting the hills--by regulation, ordinance or policy. In the background section of the report, staff covered the tools it had on hand today to protect hillside development, such as Measure F, Urban Growth Boundaries, 25% slopes in the Open Space Element and Public Safety Element. And, this policy is clearly there, but it is not an instrument staff currently utilizes. It is not a separate ordinance that we call upon to consider development on affected properties.

Councilmember Sullivan questioned when the Council would talk about options for the housing cap. City Manager Fialho said the Council's direction was to bring back options on hillside development regulations, Item 21 relates to the Initiative which deals with 25% slopes, hillside development and the housing cap. If more information is needed on the housing cap and how a unit is defined, then the Council should ask for follow-up information on that issue under Item 21.

Councilmember McGovern said she found the grading ordinance under Public Health and Safety, Program 7.5; "Develop a grading ordinance which establishes criteria for evaluating and controlling grading due to development."

Councilmember Cook-Kallio said she wondered how the bypass road the Council approved would fall under this, and Mr. Iserson said this was one of the questions to address because it may apply only to roads or to 25% sloped lands where housing would be built upon. She questioned what happens to permits and entitlements already granted prior to this. Mr. Iserson said generally, if the Council has approved a development and found it consistent at that time, it is legal. She believed there was a project issued many sewer permits, and City Attorney Roush said the representation is there have been sewer connection fees paid for a certain development on the Lund property and there would be a question as to whether the payment of this vests that property owner to allow a certain amount of development to go ahead, which is an open question and not something that can be resolved tonight.

Councilmember McGovern referred to the various pictures of developments on page 6 of 9, and said one of the concerns is that the ridge tops seem to be flat or less slope than the sides of getting to them. Even though they are flat, most people do not want houses on top of the ridge tops but she believed this is what was occurring with some projects. She said many homes do stand out and the problem is that slopes were graded to get to the flat top which was on top of a ridge. So, the Council should probably look at restricting building to something like 100 feet.

Councilmember McGovern referred to the west Foothill overlay and confirmed with Mr. Iserson that this was an ordinance approved by the Council, and that a majority of the Council could change this to remove it.

Mayor Hosterman invited public comment.

Mary Roberts said protections have been in place and what the Council is doing right now is an after-the-fact action, given what has occurred with Oak Grove. One of the reasons the Council did not move on at the time was because property owners and neighbors were still in discussions regarding the Linn property and it was the Council's preference to see the conclusion of negotiations rather than introduce a new land use policy at that time. Then the Initiative came along.

Patrick Castanos, Greenbriar Homes, said the City regulates hillside development, encourages preserving trees and habitats, many existing regulations were the result of well-thought out processes and if it is determined additional regulations are needed, a similar process should be used to create such regulations. He encouraged the Council to create a process to create city-initiated hillside protection regulations to augment existing policies and place this on the ballot in November. He believes the PUD process has been successful, believes the vague initiative presented tonight threatens such carefully planned communities and discussed location of units and issues affecting their development.

Anne Childs supported an Initiative on the ballot in November, expressed her personal admiration and thanks to Councilmembers McGovern and Sullivan who have been supportive of putting the issues out for public scrutiny.

Bill Hirst said he along with 8 other families have owned the Castle Ridge properties for many years, urged the Council not to adopt a regulation that would deprive them of the opportunity to construct up to 9 homes on the property which consists of 230 acres and he urged the Council to reject the option reflected in the bullet on page 5.

Kevin Close voiced concerns which included streets and roads getting to developments in the 25% slope restrictions, the Happy Valley Specific Plan, the bypass road for the golf course, and the proposed development in the flat areas, as even the alternate route will be graded at greater than 25% slope. He said the bypass road is mitigation for the development's homes and the golf course and the developer only has rights to 102 units if it dedicates 50 acres of dedicated open space.

Karla Brown said the Initiative qualified and it will be on the ballot in November, said voters need the ridgeline ordinance a part of the General Plan, discussed protections needing to be in place and Oak Grove development slopes.

Carolyn Newton urged the Council to approve the proposed hillside Initiative and if there is a delay, developers will rush to move forward and get their plans approved, expressed her appreciation to Councilmembers McGovern and Sullivan for their work in saving the City's hills.

Julie Testa thanked staff for the visual presentation of what a 25% slope looks like, supported a hillside ordinance, and said the citizen activism process corrects the oversight of the restrictions currently in place.

Brad Hirst said he represents Dr. William Yee and they have an application in for 6 lots down from 17 lots and a vesting tentative map for 14 lots. They filed an application in May 2007 but have not had a public hearing yet. He believes looking at development on a case-by-case basis is best, discussed three flat properties where he believes no building should occur and said critical is geotechnical consideration, as this is why regulations are contained in the Health and Safety Element. He said in 1968, 670 feet was the highest elevation of a house in Castlewood Country Club served with water and many numbers are arbitrarily based. He encouraged the Council to follow staff's recommendation and get expert information prior to putting any Initiative on the ballot.

Kay Ayala said the Initiative has qualified for the ballot and this Council has three options—1) adopt it, 2) put it on the ballot, and 3) put it out for a 30-day study. She fully intends for the Initiative to be on the ballot and if the City wanted to do its own hillside ordinance, the City would need to do an EIR and not make it to the November ballot. She read from the Initiative exactly what it does, said Oak Grove jumped ahead of two other developments and fast tracked and discussed her opinions on the project.

Scott Raty, Chamber of Commerce, said not only was Oak Grove four years in the process, there are more conditions of approval for the project than were conditioned on the Hacienda Business Park, felt there were great current neighborhoods that could serve as not one-size-fits-all examples, asked the Council to put the Initiative on the ballot, believed it is challenging and complicated and it makes sense to look at the history of what has been done in the past. He read page 3 of the staff report regarding developer dedications for open space, bond measures, corporate personal donations, federal and state funding programs, and felt if we are to achieve permanent open space, it must be through examples like Oak Grove. He believes staff should pursue Option C for 30 days and decide whether there should be two measures or one measure on the ballot.

Mayor Hosterman closed public comment.

Break: Council took a 4-minute break and thereafter, Mayor Hosterman reconvened the meeting.

Councilmember McGovern questioned if there were definitions of "slope" in the General Plan and could there be definitions of a "ridgeline." Mr. Iserson said the definition of slope is in the Land Use Element and ridgeline could be added.

Councilmember Cook-Kallio questioned if the definition of a slope describes where it starts and ends, and Mr. Iserson said it was more like a mathematical definition. Councilmember McGovern said the definition is for 100% slope and this does not mean definitions could also be included to identify things in Item 20.

Councilmember Sullivan said there has been comments about 10 units being exempt, and he questioned did that mean if there was a project more than 10 units, they could reduce it to 10 and build on top of a hilltop. Mr. Iserson said if any project has less than 10 units, they could, but there are other regulations in the General Plan, a PUD process would define conditions and necessarily could condition where the homes are built.

Councilmember Sullivan said he objects to the process, does not believe it mirrors public processes followed in the past. Mayor Hosterman said her intent was to allow Councilmembers who felt they had difficulty in separating the issues to make comments on both issues simultaneously.

Councilmember Sullivan said it was disconcerting that many people have left. Regarding the West Foothill Overlay guidelines and when he was working on the General Plan, he saw many projects approved that the Planning Commission either denied or put conditions on that the Council then turned around and approved, sometimes with and without imposed conditions. They went through an extensive exercise in reviewing those guidelines and trying to strengthen them because they believed they were not complied with at the time, and their recommendations died somewhere in the process. He felt the matter is a divisive issue in town, doing initiatives and referendums is not easy or fun, and if people are going to this level of effort and obtain signatures enough to qualify, it should tell the Council something. Policy 5.1 says we should develop a hillside ordinance, so even with these other protections, people decided this is something that should be done.

Councilmember Sullivan said he supported the approach on Oak Grove which had the same goal in protecting the ridge lands, but 5,000 people did not like that process. He suggested engaging the Initiative writers to work through issues, have a broad-based community task force, and by placing a City Council sponsored measure on the ballot and creating some competing measure would widen this divide and disenfranchise people more. He supported holding the 30-day study, form a community task force, bring back answers to questions, and if it is satisfactory to the Council and to the community task force, to move forward.

Vice Mayor Thorne agreed, believed there were good questions in the staff report and he would need answers to them, but he was not sure about having the process to formulate something to go on the ballot would be divisive. He felt it would provide people with an alternative of the public process used and put that on the ballot, but he would like to see what that looks like before agreeing to it.

Councilmember McGovern felt there is definite concern in the community that there are things already contained in the General Plan and Specific Plan and the word "flexibility" keeps coming up, which means a change can be made, and sometimes large changes. What some people are looking for is that some of that flexibility goes away and they want assurances that ordinances passed have a lasting effect on development. She said Measure F was a positive initiative that impacted the western ridgelines, felt the public is happy with it, and she is looking forward to having the Council do something with both the hillside ordinance and grading ordinance. She believes the Council needs to look at policies that affect the ridgelines within the sphere of influence and any lands that could increase the size of the community and is worried that consensus will not be reached through formation of a task force unless there is open-mindedness.

Councilmember Cook-Kallio said she agrees there should be open-mindedness and thought that questions put forth in the staff report regarding considerations illustrate how complex the issue is. She supported including everyone who has a stake in the matter, thinks the Pleasanton ridgeline is geographically different than the Southeast hills and should be treated differently, her interest is to ensure everyone is heard, believed this issue was intertwined with Item 21 and suggested waiting for that item to be discussed.

Mayor Hosterman believed the Council is fervently supportive of hillside preservation, but how it addresses it in the southeast hills is very different than how the Council has addressed the Pleasanton Ridge. She would like to see an economic analysis as to what the Initiative would do, get a clarification on General Plan policies, more analysis as to options the Council can take, and a city-initiated document, as the initiative is extremely clumsy and confusing. She wants the opportunity to engage the entire community in a discussion about hillside preservation and not be reactionary to a few people who came up with the Initiative's language. She wants

language that is legislative in nature and language which can be implemented by the City. She also wants more clarification as to property rights and suggested moving forward and discuss Item 21.

21. Received certification for the Initiative petition to "Save Pleasanton's Hills and Housing Cap" and directed staff to prepare a report on the effects of the Initiative measure

City Attorney Roush said last year an Initiative Petition was submitted to the City and filed with the City Clerk. In April, the petition was turned in, and forwarded to the County Registrar of Voters, who confirmed the requisite number had been received, the City Clerk certified it, and now it is before Council for certification. Following this, there are three choices—1) to adopt the Initiative as submitted; 2) place the Initiative Petition on the November 2008 ballot; or 3) request a report on a number of matters which is to be returned to the Council in 30 days for consideration and decision to either adopt it as written or to submit the matter to the voters.

The report can include any matters, but more specifically, it could talk about the Initiative's fiscal impacts, its effect on the internal consistency of the City's General Plan and its elements, its effect on land use, the impact of availability and location of housing, the ability to meet regional housing needs, impact for funding of infrastructure, impact on the community's ability to attract or retain business, the impact on uses of vacant parcels of land, its impact on agricultural land, open space, traffic, congestion, and any other matters the legislative body requests be in the report.

Therefore, if the Council is not prepared to adopt or refer the matter to Election, staff would request direction in terms of what the report should provide, which can be brought back at the June 17 meeting.

Councilmember Sullivan confirmed with the City Attorney that staff could take all questions and issues that had been raised from the public, staff, and the Council and provide analysis. He said he submitted questions regarding a housing cap and asked for them to be included in the study. The questions deal with the number of units that exist now and how the City has counted units in the past, such as second units and assisted living units.

Vice Mayor Thorne asked how the Initiative defines a "housing unit" and what is its nexus to its impact on infrastructure and the school district. City Manager Fialho said this was on the list and there is ambiguity as to how the State defines it, said staff has worked on the U.S. Census who considers the City's assisted living facility as a "group living quarter" and not a "unit" and not the way the Initiative has defined a unit. He said the housing cap in the General Plan is vague and states units will be counted up to 29,000 residential.

Vice Mayor Thorne said when the City looked at assisted living units for Staples Ranch, a formula was reviewed that drew a nexus between the number of units we were going to count under the cap and the recommended number we were going to count in the cap and its actual impact on the infrastructure and schools and other things. This is what he is looking for, and City Manager Fialho said staff will try to pull something together to address this.

Councilmember Cook-Kallio said according to the Initiative, an extended stay hotel would count toward the housing count. City Manager Fialho said the issue is, how the Initiative changes the way staff goes about counting units. Today, the only exemption the City offers is second units, assisted living, and skilled nursing. Everything else is counted.

Councilmember Cook-Kallio questioned if this was consistent with State law and City Attorney Roush said there is not necessarily a state definition; that what the City has tried to do is to look at whether the unit really impacts the City's infrastructure and the Council has concluded that assisted living facilities does not have a significant impact on infrastructure the same way a single family home or multi-unit development would have.

Councilmember Cook-Kallio said if there was a senior facility for people 55 years or older, with no automobiles or children, the impact would be almost nothing and the increase in the business community might be significant, and City Attorney Roush said there might be an argument for that. Mr. Iserson said other impacts include operational characteristics, such as employees, taxes or fees paid, and zoning goes into the equation.

Councilmember McGovern said one of the reasons the Initiative puts the housing cap in there is because people believe that people 55 and older, if they live in a residence with a kitchen and bath, it is a housing unit, and they should be counted without exceptions. There has also been discussion that affordable housing should not be counted toward the cap as well as others. She thinks there should be a definition for this. Regarding a second unit having a separate address, water meter and billing for sewer, she confirmed with Mr. Iserson that those are not counted toward the cap because State law precludes this. She therefore asked to have a distinction made for second units in order to further understand this better. She also suggested that additional definitions be added to the General Plan to clarify certain areas.

Mayor Hosterman invited public comment on the item.

Lance Smith, Corporate Counsel of Greenbriar Homes, requested the Council not adopt the Initiative as presented tonight; follow recommendation C of the staff report to study the fiscal and legal effect of the Initiative as permitted by Election Code 9212, to present the Initiative to the voters after such study has been done. He also urged the City to establish a process to create City-initiated ridgeline protection regulations to augment the existing policies discussed tonight through a separate ballot measure. He presented a letter of the factual, practical and legal concerns they have with the current initiative and asked for it to be entered into the record. He said the Initiative lacks key terms, there are broad interpretations which could result in severe development restrictions where no exist in today's developments, believe their proposed development could be negatively impacted by the Initiative, and intent language that falls below the line is not the controlling language but the language above, which amends the General Plan. He believes a careful review period will corroborate a number of their concerns, asked the Council not to adopt the Initiative, but to present it to voters after the 30-day review, and asked for a City-initiated Initiative or ordinance be developed which addresses questions raised tonight.

Brad Brownlow, Cox, Castle and Nicholson, Counsel of Greenbriar Homes, is pleased that discussion started on Proposition 98 which crystallizes their primary concern—that often voter initiatives have a scope that are far broader than the rhetoric of the proponents might have the voters believe and it is necessary and appropriate for the Council to order a study on the report so they can get a full understanding of operative terms, ambiguities which might characterize those terms so voters are fully informed. He felt the full scope of the Initiative is much broader than restricting development of single family home sites. He requested that the public and Council testimony given on Item 20 be incorporated into the record for Item 21. He said exemptions only applies to legal parcels as of January 1, 2007, such legal parcels may be subdivided into 10 or fewer parcels for a housing development, but when reading the precise language, it does not exempt that. It exempts housing developments for 10 or fewer housing units on a single property that was a legal parcel as of January 7th, and it does not permit one to

subdivide legal parcels as of January provided that subdivision is for 10 or fewer units. He presented a letter to the Council, asked for the Council not to place the Initiative on the ballot and asked study be done.

Lee Fulton said one thing said over and over is that Oak Grove is the result of exhaustive negotiations with communities. Vintage Hills and Gray Eagle were never included in any negotiations, but with three owners of Kottinger Ranch Homeowner Association and the developer. He personally requested to be included in negotiations early on, without success. He urged the Council not to make the illogical conclusion that since 5,000 voters signed the Initiative, the rest of the voters must not be for it.

John Chapman, Greenbelt Alliance, said they had some debate on the issue, do not feel supportive of the Initiative, they are supportive of the fact more protection is needed for hillsides and believes the process should be public and involve City staff and experts. He believes the Initiative is vague and simplistic and clumsy, said the answer is to do it as a City process to come up with a good Initiative that is tight or better than the one proposed. Also, they are very uncomfortable with housing caps, does not believe in planning by housing caps particularly when it involves a transit-oriented development which is important for climate change and reducing congestion and believes that if the City comes up with a good Initiative, their organization would support it.

Marty Inderbitzen supported the Council studying the matter for 30 days and asking staff to prepare a report according to the Elections Code, believes it is not the intended consequences of the proposed initiative that anyone is concerned about, but the unintended consequences. He said staff did an excellent job outlining many policies and goals in the General Plan that speak to hillside protection, and while no specific ordinance has come forward, the Council has a process of PUD ordinances that is specific to each property. In each case, the Council has reviewed individual plans and those properties are well-protected and asked for the process not to be abandoned.

Mayor Hosterman closed public comment.

Councilmember McGovern supported the 30-day study and for directing staff to prepare a report on the effects of the Initiative. She said when the Initiative is put on the ballot, she confirmed the City Attorney could provide an impartial analysis of the Initiative which could include information regarding fiscal impacts within the 500 word limitation. She questioned and confirmed that if he could provide this when information is brought back under Item C so the Council could review it. She confirmed with the majority of the Council that there was not support for placing the Initiative on the ballot without additional information, and there was support for Item C; to direct staff to make a report on the effects of the Initiative measure, and she confirmed with the City Manager that there was adequate direction as to what the report should entail.

Councilmember Cook-Kallio believed there was also a third choice, a competing Initiative or ordinance on the ballot that is more deliberative. She is frustrated by this being characterized as divisive, did not believe anyone was being malicious, she respects the activism but was bothered by the lack of deliberation when doing an Initiative and it looked as if it was cut and pasted from the Pleasanton Ridgeline Initiative, and she felt this was a bad way of making laws. She would like analysis on how this may affect Staples Ranch or Hacienda or affordable housing. She also would like to see all properties affected by the Initiative, the fiscal impact of this, she would like to see an ordinance crafted by the first part of August, but in the absence of this, she would like an Initiative on the ballot that includes all stakeholders.

Councilmember McGovern questioned how long development would be held up if the City developed a hillside or grading ordinance through a City-initiated process, and City Manager Fialho said it would not be consistent with the way the City addresses its ordinance and he believed it could take 6-12 months. Mayor Hosterman believed we could have language that reaffirms language in the General Plan in order to give people the opportunity to say yes to a deliberative process versus future Councils having to grapple with bad language. City Manager Fialho said he heard Councilmember Cook-Kallio say, a measure to an alternative that would describe a process that eventually would be ratified by the voters, but Mayor Hosterman say, can you put up by way of a measure, existing General Plan policies in place as an alternative to the Initiative, which are two different things. He said this can be done and can be part of the 30-day process, if directed to do so.

Councilmember McGovern felt if the Council uses what the public has put forth and better define items, it would augment the Initiative. Councilmember Sullivan believes there is a split community on these issues, there is a right and wrong way to do this, we need information from the report to make a decision, and his original thought about a task force was to bring people together to arrive at an implementing ordinance and Initiative authors would like to participate in this. But, if we put something competing on the ballot, we would drive a wedge between those authors and a Council-driven process.

Councilmember Cook-Kallio said Council could put something on the ballot that clarified the Council's intent which could include stakeholder comments. Councilmember Sullivan confirmed that this process could be done prior to putting something else on the ballot in order to have a cooperative measure. Councilmember McGovern supported coming back in a way that is not competing but rather an adjunct to what Initiative the people put forward.

Mayor Hosterman said understanding the language in the Initiative cannot be changed, it will either be adopted by the Council or it will be placed on the ballot. For the Council to have an opportunity to have a deliberative process that is all inclusive, she believes we should ask staff to come up with language opportunities that would allow the Council to do this and would make clear to the community the Council's intent is to put together a hillside ordinance that we can implement and that future Councils can support. She confirmed with Councilmembers that they were amenable to looking at the language opportunities to use on the November ballot as well as directing staff to prepare a report.

Vice Mayor Thorne confirmed there were time limitations to place an item on the ballot and supported putting something on the ballot that defines a process and identifies the Council's intent.

Councilmember Sullivan said the entire ordinance would not need to be developed by the time it needed to go on the ballot, but rather work through issues of consistency and work with the stakeholder group, because he was not supportive of a competing measure.

Mayor Hosterman said she does not want a competing measure but wants to engage the entire community in the process. She does not think this can be done in the next 30 days, but the City can put additional language on the ballot which gives people the opportunity for people to go in a different direction and she believed this is important. City Manager Fialho voiced caution in how the City approaches it, as it is bound by CEQA laws. He confirmed that the Council wants, in addition to the Section 9212 analysis, to come up with conceptual ideas for how there might be a complimentary and alternative measure that further refines the Initiative which the Council can debate and discuss when the matter returns in June. He suggested holding off on the City Attorney presenting an impartial analysis, as this is difficult without a Section 9212 report.

Councilmember McGovern said she would prefer having the impartial analysis and City Attorney Roush said he could put forth a draft impartial analysis.

Councilmember Sullivan said he was still concerned with a competing measure because he does not believe it is good public policy and he would hope answers received in the 30-day report would reveal a clearer path.

Motion: It was m/s by Cook-Kallio/Thorne to direct staff to prepare a Elections Code Section 9212 analysis of the Initiative, to return with alternative language that would help clarify a hillside ordinance to be considered in conjunction with whether or not the Council adopts the Initiative or puts it on the ballot in November. Motion passed by the following vote:

Ayes: Councilmember Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman
Noes: None
Absent: None

City Manager Fialho clarified with Council that a draft impartial analysis will come forward as part of the normal Election process.

**MINUTES
CITY OF PLEASANTON
SPECIAL CITY COUNCIL MEETING
June 26, 2008**

CALL TO ORDER

Vice Mayor Thorne called the special meeting to order at 6:30 pm on behalf of Mayor Hosterman who arrived late. Vice Mayor Thorne led the Pledge of Allegiance.

Roll Call

Present: Mayor Hosterman (arrived at 7:00 p.m.), Vice Mayor Thorne, and Councilmembers Cook-Kallio, McGovern and Sullivan

Absent: None

Vice Mayor Thorne discussed the special meeting stating the only item to be presented would be the analysis of the impacts and effects of the Save Pleasanton Hills and Housing Cap Initiative and other hillside regulation issues.

Receive Report Analyzing the Impacts and Effects of the Initiative and Consider Implementation Option

City Manager Fialho said the requisite number of signatures had been gathered to qualify the Save Pleasanton's Hills and Housing Cap Initiative for the ballot. The Council was presented on May 20th with three statutory options to consider; 1) adopt the Initiative as submitted; 2) place the Initiative on the ballot for November 2008; or 3) request an analysis of the impacts and the effects of the initiative otherwise known as a 9212 Report within 30 days.

At the May 20th meeting, the City Council took action on option number 3. In addition to what is allowed by law to be analyzed, the Council also requested that staff respond to questions posed by the Council and the community at the May 20 meeting. In addition, council discussed whether to have a Council-sponsored initiative on the November election.

As a result of further Council discussion on June 17, Council will need to decide whether to place its own initiative on the ballot or to simply do nothing and allow the citizen's Initiative to move forward on its own merits. If the Council directs staff to prepare a Council sponsored measure, the proposed ballot question would be brought forward to the Council on July 15, which is the same date the proposed ballot question and schedule for submittal of arguments pro and con for the citizens Initiative will be made.

Assistant City Attorney Larissa Seto discussed the 9212 Report. She stated that at the May 20 meeting, the City Council asked staff to return with a 9212 Elections Code Report to analyze the impacts and effects of the Save Pleasanton Hills and Housing Cap Initiative. The report analyzes several elements, including how the Initiative could impact land use in the community, as well as the impact on and the consistency with the City's General Plan and any related specific plans. Staff also looked at what the potential impact would be to businesses and employment in the community, and analyzed impacts to vacant land, transportation, open space, and agricultural issues. All questions were answered which had been raised at the May 20th meeting regarding other hillside regulations and the report ends with a fiscal analysis of the citizen's Initiative.

She said the Initiative proposes two different policies to be added to the General Plan; 1) a policy regarding hillside development; and 2) a policy regarding housing units. For the policy regarding hillside developments, the Initiative prohibits housing and structures on slopes of 25% or greater, or within 100 feet of a ridge line. The Initiative also prohibits grading and construction of residential or commercial structures on 25% or greater slopes or within 100 feet of a ridge line. But, the Initiative does have an exemption for projects of 10 or fewer units.

The second element of the Initiative relates to housing units, the definition of which is any unit which includes a bathroom and a kitchen. The Initiative specifically says a kitchen is where there is a sink, a cooking device, and a refrigerator. And a bathroom is where there is a toilet, tub, or shower.

Regarding the report's analysis of the hillside policy, the hillside policy will have effects on development in the community specifically that housing developments will be reduced in the hillside area. And, because the Initiative was not specific about what was a hill area based on its discussion about steep slopes and ridge lines, it will apply to the areas west of Foothill Road, Happy Valley and North Sycamore. It is estimated that approximately 119 to 224 units would be not developed in the hill areas based on the Initiative, and this was based on staff's analysis of the slopes in those areas, as well as what staff understands the term ridge lines and other development limitations.

The Initiative, while it would reduce housing units in the hill area due to its restrictions, would have a limited impact because the Initiative itself includes the provision that housing developments of 10 or fewer units are exempt from the Initiative.

As discussed in the report, these units do not simply disappear from the community, but rather they would move to other areas of the community, more likely flatter, infill areas such as Hacienda Business Park, or other areas where there is already potential redevelopment such as the downtown. These are not what staff would call classic density transfers. The property owners in the hillside area do not receive a benefit from the reduction in density, rather the density simply moves by the nature of the Initiative without any credits being provided to those property owners in the hill area.

The report indicates that because the number of units being changed isn't a large number compared to the total number of units citywide, there is not a citywide traffic impact.

In studying the hillside Initiative policies, there was a discussion about the definitions in the policy and how those would be implemented in the community with a need to define slope, ridge lines, and structures, as well as determine what would be the effect of the Initiative on different types of development, particularly with regard to hillside roads and how the language of the hillside policy would be interpreted and applied. The report recommends that Council would need to consider adopting or implementing an ordinance to clarify these regulations and policies, including adopting specific definitions for issues such as slope, ridge line, and structure, and describe a method to actually measure slope as well as address all the issues that were discussed on May 20 regarding hillside development. Issues were also raised regarding grading styles and split pad or flat pad, how to determine building heights, water issues, visibility, and floor area ratio.

Ms. Seto said in addition to hillside policies, there are issues regarding housing units which is second part of the report. And then the issues about how the language of the Initiative would apply to second units, assisted living units, or extended stay hotel rooms. The Initiative tells the

reader to reference the U.S. Census Bureau and State law definitions of a housing unit to help provide guidance on that area. And when those areas were looked at for their definitions, there was an emphasis that in those types of housing units, as defined by the Census Bureau and State law, occupants live separately and have independent living. When taking a look at that definition and applying it to the City's existing practice, staff realized that it currently counts single family homes, townhomes, condos, mobile homes, below market rate units, and senior housing towards the City's housing cap. However, staff does not count second units, because they are specifically exempted by State law. Therefore, even though the Initiative says that if it includes a bathroom or a kitchen, State law would still prevail and would pre-empt the Initiative as to its application to second units.

The City's current practice with regard to assistant living units is that it considers those commercial types of uses because there are employees and services provided there, such as medical assistance or meal plans. Similarly, with extended stay hotels, staff has not counted rooms at those hotels toward the housing cap because those are considered temporary residences for individuals who are not trying to establish permanent residency. Rather, persons are there on a temporary assignment, usually business-related.

Overall, if the Initiative's definition of housing cap were interpreted to apply to either assisted living units or extended stay hotel rooms, this would have an impact on the City's housing cap by decreasing the total number of units available under the housing cap. As the report indicates, as of January 2007 there were 26,245 units existing or approved under the City's 29,000 unit housing cap. If in the future additional units are counted, based on the application of the Initiative, such as assisted living units, or extended stay hotel rooms, this would decrease the number of units available under the housing cap, and that would have fiscal impacts on the City.

Economic Development Fiscal Officer Emily Wagner stated that the Initiative had two elements to it and, therefore, staff analyzed each one of those separately—the hillside development restrictions and the definition of a housing unit. Staff analyzed the fiscal impact on the City's General Fund, the annual net operating revenues, as well as one-time infrastructure fees paid at the building permit stage which fund the City's capital improvement program. Staff also analyzed the impact on other public agencies. Staff did not look at the impact on those agencies' operating budgets but instead only on the one-time infrastructure fees which are paid at the building permit stage. She noted that the estimates were based on the best available information.

If hillside development is limited, it shifts somewhere between 119-224 homes from the hillside area to the valley floor, or the infill areas that Ms. Seto referenced. Such a shift causes the annual net income to the general fund to be impacted somewhere between a minimum of \$69,000 a year to \$183,000 a year. A hillside home (a single unit) which is approximately 8,500 square feet with a market value at \$3.4 million generates total revenues of about \$10,000 per year and expenditures of around \$9,000 per year. This results in net revenues to the City's General Fund of about \$1,000 annually. These revenues are property taxes and sales taxes, and the expenditures are for fire, police, park, and street maintenance. When comparing those homes to single family homes where the average is 3,500 square feet with a market value at \$1.2 million, the total revenues are about \$5,000 per year and expenditures are around \$4,500 per year, which results in net revenues to the City General Fund of about \$500 a year.

For a multi-family home (or apartment), which is about 900 square feet, with a market value at \$225,000, total revenues are about \$1,000 per year, and expenditures are around \$750 per year, resulting in net revenues to the City General Fund of about \$250 per unit. So if 119-224

homes get shifted from hill side single family homes to smaller single family homes or multi-family units, the impact is somewhere between a minimum of \$69,000 to \$183,000 per year, depending on the assumptions.

Ms. Wagner said staff also looked at one-time development fees. The fiscal impact is a wash for a single family home regardless of the square footage because the development fees are the same regardless of the size. If all the units were multi-family units, the City would receive less in fees, an impact of \$2.8 million. Therefore, the range on the impact from development fees is somewhere from 0 (assuming 100% of the homes were single family detached) to as much as \$2.8 million.

The larger numbers of course are the other agencies and the majority of this is the school district. For cash flow purposes, the school district assumes in its budget 120 homes / year at 3500 square feet. The District is not depending, in its cash flow model, to receive more funds based on a larger single family home. They would still have a loss of revenues as a result of the shift, but it would be less than shown here.

In summary, when discussing the two policies of the proposed Initiative with regard to the hillside aspect, it would reduce the number of housing units developed in the hill area by approximately 119-224 units. Those units would be transferred to other areas of the City. There are questions about how it would apply to various types of development particularly in regard to the issue of hillside roads and how the language of the Initiative would apply there.

Regarding the housing unit definition, how that would apply and be interpreted to assisted living units and extended stay hotels would have financial impacts on the City and other agencies.

Ms. Seto then continued. Regarding the Council wanting staff to return with discussion about complementary and competing ballot options, there are several options that are discussed in the staff report, including one where the Council could proceed with what staff would call a complementary ballot Initiative—a City-sponsored measure for November. The Council could put a measure on the November ballot to ask the community to ratify the idea of a task force, potentially composed of stakeholders of interested parties, to draft an ordinance that would implement the citizens Initiative if that Initiative were to pass. This would address some of the questions that are posed in the report in terms of how to apply it when specific projects come forward.

The Council could also consider a competing ballot matter for the November ballot. One option could be to ask the voters in November to re-affirm the City's existing General Plan policies and regulations and how the City currently handles hillside development based on its ordinances and policies for ridgelines, growth control, and those matters. As a competing measure, if this measure were to receive more votes in November than the citizens Initiative and even if that Initiative were to receive more than 50% of the vote, then the competing measure would control and the other Initiative would not go into effect.

Another option for a competing ballot measure could include posing to the voters whether they would want to establish a task force to develop new policies and regulations for hillside development, grading, and growth control to address some of these issues that have been a concern for the community. As a competing measure, if it were to receive more votes than the citizens Initiative, that would control. Or, the fourth option could be to receive the report and take no further action in terms of considering any matter for the November ballot.

Mayor Hosterman arrived at 7:00 p.m. and questioned whether there was Council support for a clarifying measure to identify major ridge lines and elevations, that would specifically exclude facilities such as roads, trails, and water tanks, and affirming the General Plan language that currently protects the hillsides, similar to Measure F which applies to the Pleasanton Ridge, with the goal to aggressively move forward with developing an ordinance in the next 6-12 months.

Ms. Seto said there would be challenges with identifying major ridge lines, elevations, and how the Initiative would apply, because if the proposal tried to go too far with too much definition, it might call into question the need to comply with CEQA. But if the measure only clarifies, staff might be able to bring that kind of language forward on July 15th.

Councilmember Sullivan spoke regarding the fiscal analysis, stating he wanted to put impacts regarding hillside policy into perspective and compare them to something else to see the real impact. He referred to page 2 of the Report, said the reduction in net revenue per year is \$68,000-\$183,000, and confirmed with Ms. Wagner that if you compare the impact to net revenue, the impact range is from 2%-6% of the annual budget. When compared to the gross annual budget, it's about a 0.1% at maximum. Therefore, the reduction in revenue is fairly insignificant in comparison to the budget.

Councilmember Sullivan questioned the one-time development fees, and confirmed with the staff that the City fees of \$3 million in losses were over a 20-year span, which amounts to \$150,000 per year or a 0.1% of annual gross revenue.

Councilmember Sullivan referred to school fees and confirmed that the school district's cash flow model, which is how they estimate what facilities they need to build, estimated that the City would build only 1,123 more units. They based their fees on a 3,500 square foot house. In looking at the impact of the hillside policy, if 224 units come off the hills and are built in the flats at 3,500 square feet, there is zero impact to the school district's cash flow model. He said what is at stake on the housing cap side are the 396 assisted living units out at CLC. If you take away these 396 assisted living units, there is still no impact on the school districts model because they have only counted on 1123 units being built and the City has 2,000 left under the cap. Neither policy has an impact on the school district's ability to build the facilities they say they need at build out.

Ms. Wagner said the only exception was going back to the hillside homes. If those shifted units were all multi-family, it would have an impact because they are 900 square feet and the school district is estimating 3,500 square feet. There is a \$6 million swing in their impact fees. Shifting to all multi-family homes would have an impact, as they are 900 square feet whereas the school district has been estimating 3,500 square feet. Regarding whether it impacts the model, if the units built are multi-family, they would be getting approximately 1/3 of the fees even if they estimated only 1123 units being built. Therefore, shifting to multi-family would have an impact on them.

Councilmember Sullivan questioned this and thought it would be helpful to clarify those issues beyond what is in the report.

City Manager Fialho agreed that the fees collected will be based on what ultimately gets built; staff had to make some assumptions.

Councilmember McGovern said as a former school board member she thought that school impact fees were to deal with the impact of growth, meaning that if there was no growth there

would be no impact. She had difficulty looking at a loss of funds to the school district when they would not need the funds because they would not need to build schools if development did not occur. She said the same thing happens in the City with mitigation fees. Development is therefore actually causing a reduction in quality of life due to an increase in traffic, water consumption, or energy consumption.

Councilmember Sullivan referred to page 8 of the report under Conservation and Open Space. He said there has been a lot of talk about a potential unintended consequence of the initiative; that if there is an existing exemption for 10 units, anything can go as long as it is less than a 10-unit project. One issue is a conflicting existing General Plan policy that says if there is a slope over 25%, only 1 unit can be built. He questioned how the City is supposed to deal with General Plan policies of the past.

Ms. Seto said that there would need to be some type of harmonizing ordinance to take place if the Initiative passes in November to clarify these types of issues. She said it would be the City's position that while this would not effectively liberalize the amount of development it could always have a property owner make that reasonable argument based on the language of the Initiative. This is why staff recommends some type of ordinance to harmonize these types of conflicts. On page 12, section 5.1 of the report, there are existing standards for hillside regulations in addition to the regulations put forward by the Initiative. Essentially, the City still would apply both sets of regulations and the more restrictive ones would control.

City Attorney Roush said because of the potential conflict between General Plan policies, some attempt to harmonize those or to explain why the more restrictive policy is the better one to follow would be the City staff's recommendation, but even without that language, typically the more restrictive provision would be applied.

Councilmember Sullivan questioned if it passes would all other policies be voided.

Mr. Roush said the policies would not be void, but every time you look at a development plan, you have to make a finding that the development plan is consistent with the General Plan. There are potentially conflicting policies in the General Plan between Program 13-1 and this particular Initiative and a property owner could make an argument that there should be more units allowed by reason of the Initiative. But the City would still apply a typical PUD planning process, CEQA would apply, aesthetics and all planning staff actions would be in effect.

Councilmember Cook-Kallio said that if the Initiative were to pass, it would become law and she clarified with the City Attorney that it would be a law as the General Plan is the legal framework against which the City measures planning applications and that the City must adhere to those policies.

Councilmember Cook-Kallio said she believed an Initiative which is passed becomes an ordinance.

Mr. Roush explained an ordinance is adopted by the Council and codified and planning ordinances need to be consistent with the General Plan. Development plans must be consistent with the General Plan. If the Initiative is adopted, staff will attempt to harmonize those policies so as not to have a conflict that could not be reconciled.

Councilmember Cook-Kallio said the General Plan can be amended, but if citizens put forth an Initiative and in two years, a loophole is found, the only way to rectify that is through a ballot, which is not the same as a Council amendment to the General Plan.

Mr. Roush agreed that this was correct in terms of amending a General Plan. He said it may not be possible to harmonize the two and staff would come back and ask Council to amend that portion of the General Plan which it could amend or have the Council put an Initiative in front of the voters that would amend what the voters had approved.

Councilmember Sullivan referred to page 5 of the agenda report, the competing measure, and said if it passes, then the citizens Initiative would not go into effect.

Mr. Roush said alternatively, if there is a competing Initiative, it would have a provision in it that if both measures pass and the Council-sponsored Initiative got more votes, the other Initiative would not be in force and he provided the example of Propositions 98 and 99.

Sullivan questioned if that provision had been tested in the courts and how legal was it.

Mr. Roush said it has been tested legally.

Vice Mayor Thorne asked staff that if direction were given from the Council to bring back language which would define and identify specific ridge lines to be protected, based on engineering data, view lines, geotechnical data, and define an elevation in south Pleasanton, and provide language for a process for counting houses under the housing cap based on actual impact to the infrastructure, could this be done by July 15th.

Mr. Roush said his concern would be more on the issue of whether there would have to be an environmental analysis that would get in the way of having that kind of substantive Initiative in November.

City Manager Fialho said staff would need to have the Council discuss this in more depth. He said staff spent a lot of time identifying the options in the report and were careful to put them forward the way they are reflected because it knows that in these three instances, staff can accomplish this by July 15th. Staff could bring ballot language to the Council that does not cause CEQA to be triggered.

Vice Mayor Thorne asked if the 119 to 224 units to be developed which would be moved to the valley floor included Oak Grove.

Mr. Iserson said it includes a scenario where Oak Grove would not be built as proposed and the default provisions are included in that range of units.

Councilmember McGovern referred to 25% or greater slope which has been in the General Plan since 1986 and discussed in many forms in the past. She is having a difficult time understanding why there is no definition for 25% slope because the City has been developing on hillsides since 1986 when 25% slopes were first discussed. She believes the City should continue what it has been doing since 1986.

City Manager Fialho said staff can identify from a geotechnical perspective what a 25% slope is, but by prohibiting construction on 25% slopes, staff has to be absolutely clear on the

methodology used. Currently there is a certain degree of flexibility in what is allowed on 25% slopes.

Councilmember McGovern restated that the City has been doing this for 22 years without a lawsuit, it is a historical practice, and referred to Section 5.4, stating that GIS technology could be used to calculate slopes and to designate areas that equal or exceed 25%.

Councilmember Sullivan questioned how the analysis was determined for up to 224 houses to come off of the hillside based on the 25% slope criteria.

Mr. Iserson said staff has an understanding of what a 25% slope is and these methods have been in place for many years. The stakes get a bit higher when you are talking about the number of units and how they are exactly defined. Staff did not intend to say this is an insurmountable issue, but it would be a matter of using GIS and identifying the methodology used across the board. In the past, other methods have been used by looking at different projects proposed or under consideration. In arriving at the number, staff used the GIS methodology as well as other criteria of the Initiative, such as 100 vertical feet to the ridgeline. There were some assumptions they had to make and they used existing development plans and best estimates of the likely impact based on slope and elevation.

Councilmember Sullivan believed that this was therefore a fine-tuning issue of how to nail it down and not an unknown of what it means.

Mr. Iserson agreed and that if there is fine-tuning, staff would recommend it be done through an ordinance and for all parties to get together so no disagreement occurs in the future.

Councilmember McGovern said GIS has been used for projects. She received a copy of what Oak Grove looks like and to her; the City knows what a 25% slope is and she has difficulty in understanding why it must be defined.

Mr. Iserson said the GIS technology assumes a certain methodology in its definition of slope. Staff would need to agree that is the way to do it, but he did believe this should not be a problem.

Councilmember McGovern said she went back to the 1993 Ridgeline Measure passed by the community to protect the Pleasanton ridge lines, and she was concerned about the report talking about foreridges, as it would make more definitions than what is necessary. She preferred the definition in the staff report which makes more sense.

Mr. Iserson said there is a definition in the General Plan of what a ridgeline is, but it has never had to come into play because staff has never had to measure against the actual ridgeline. When looking at a topography map and a piece of property, there are instances where there could be an arguable question as to whether the feature is a ridge, a knoll, or a slope. Staff is suggesting that if the Initiative passes, that there be some mechanism to determine what a predominant ridgeline is, sub-ridgelines, etc., as it does make a difference. He confirmed there was already a definition of a ridgeline in the General Plan.

Councilmember McGovern referred to the assisted living facility to be built on commercial property and asked why this would be changed with the Initiative.

City Manager Fialho said it is specific as to how to count a unit. The Initiative defines the characteristics of housing units. Staff's concern is that if an assisted living facility comes forward that has those characteristics; staff would have to count it. He confirmed the Initiative was not retroactive, so the City would not count what has already been built towards the cap, and the only concern that has been raised in the report is the proposed assisted living facilities on Staples Ranch at this time.

Councilmember Sullivan said the current direction given is to count 240 units toward the cap. Assuming the project gets approved, he confirmed with City Manager Fialho that the last proposal submitted to the City would cause staff to count an additional 396 units towards the cap.

Councilmember McGovern said the City has also used a definition of a housing unit in the past and in looking at the November 29, 2005 Joint City Council/Planning Commission minutes on land use, it talks about the Department of Housing and Community Development and defining a unit. She questioned whether or not assisted living affordable housing units are counted at the below market rate as part of our regional housing needs.

Mr. Iserson said they can be counted and City Attorney Roush noted the City is likely to count as many units as it can toward its regional housing needs.

Councilmember McGovern said even though they are not counted towards the housing cap, they are still of great value toward meeting the City's regional housing needs, especially if they are moderate or low income units.

Mayor Hosterman opened public comment.

Allen Roberts said the Council is interested in placing an Initiative on the ballot to compete with the one signed by 5,000 voters. The Initiative would not have any substantive effect but would be a plan to create a plan but would trump the voter-sponsored Initiative. He questioned if 18 months was realistic and that time frame would give a large enough window for developers to get their projects approved, which would allow something to be enacted to save the hillsides after they have already been ruined. He felt citizens should have the chance to get a vote on the citizen's Initiative without the interference of a Council-sponsored plan. He urged the Council to either do a companion Initiative or Option 4, which is to do nothing.

Lance Smith, Greenbriar Homes, applauded the Council for their decision to not adopt the Initiative but to place it before the voters. He asked the Council to follow staff recommendation 2 of the report to place a measure on the ballot that reaffirms the ridgeline protections in the General Plan and additionally, to establish a simple and clear hillside plan. He discussed benefits Greenbriar Homes provided the City through various developments, discussed projects that do not threaten hillsides or ridge tops and are threatened by the Initiative, discussed issues of the Initiative and questioned what it would protect, noting its vague and confusing language which he believed would result in litigation.

Julie Rasnick said if people want to protect the hillsides they will vote for the Initiative signed by over 5,000 voters and anything else put on the ballot will risk the hillsides and ridgelines.

Carolyn Newton said in the 1996 General Plan, there are clear references for the need to protect hillsides, said the citizen's Initiative has environmental protections through leaving land in its natural state and inevitably developers will threaten to sue the City and try to convince the

Council to make interpretations that will allow development. She asked the Council not to delay the process in writing another Initiative which will take time and during the delay, approvals will be sought to bulldoze trees and hills and she asked not to let this happen. She asked for a moratorium on hillside development until people can vote.

Karla Brown spoke on behalf of all three authors of the Initiative. She said the initiative is not Kay Ayala's alone but that Ms. Ayala one of many who want to protect Pleasanton's quality of life. She clarified that the intent of the Initiative is to protect hills from development, direct development away from lands with environmentally sensitive features or with primary open space values, and to make the General Plan's definition of a housing unit consistent with the federal and state definitions. She quoted portions of the staff report the proponents agree with, believed there was no need for the Council to place a competing Initiative on the ballot and asked for their Initiative to stand on its own for residents to decide. She provided a letter to the City Clerk identifying those portions of the of the staff report that the proponents agree with.

Councilmember Sullivan confirmed with Ms. Brown that the intent of the Initiative is to control construction of residential and commercial structures and not roads that may be on 25% slope and leads to the conclusion that the intent of the initiative is not to preclude construction of the Happy Valley Bypass Road..

Mayor Hosterman questioned how something like an extended stay hotel would be counted.

Ms. Seto said many of those types of commercial facilities have microwaves, stoves, and bathrooms which would arguably fall under the Initiative's definition of a housing unit, but staff's practice has not been to count them.

Steve Brozosky spoke regarding direct access to policymaking processes through the initiative and the referendum process, and quoted the Chair for the Speaker's Commission on the California Initiative process. He said the Council-sponsored Initiative was voted on in 1996 and asked voters to accept a housing unit cap, but there was no definition of what a housing unit was. He said as a school board member, the information about the school district fees was categorically incorrect as well as multi-family houses and impacts and he asked to let the citizen's Initiative stand on its own.

Brian Arkin questioned whether the poison pill aspect could only affect the hillside and not the housing cap aspect. He also believed that the records show that developers have spent hundreds of thousands of dollars on three Council campaigns collectively, and he asked the Council to say no to the competing Initiative.

Dolores Bengston said 80% of the City's open space is in farmland and parks, spoke of her work in saving trees and environmental work, is against the Initiative, and it troubles her that the stakeholders do not have input and the authors added a section that provides a more strict definition of a housing unit. She said the Initiative is not good law, believes everyone is sincere in their desire to make Pleasanton a better place to live, and suggested including residents and other stakeholders the opportunity to participate in a task force to consider new regulations for hillside development which would result in responsible, fair and environmentally sound guidelines.

John Butera said one thing not addressed is the current economy, property values, revenues, and taxes, spoke regarding airport safety and encroaching development, and cited recent fire

dangers. He asked the Council not to disregard what a few people did to judge the Initiative and he asked not to dilute it with the Council's own Initiative.

Laura Danielson asked the Council not to place a competing Initiative on the ballot.

Julie Testa said the time for a task force has passed, and asked the Council to simply allow the citizen's Initiative to go to the voters without a competing one.

John Carroll said it is clear that the Initiative process is necessary for further clarification, as the General Plan was not defined appropriately enough to explain how development is going to occur in the hillsides. He did not believe a competing measure would help clarify things, and said units are needed by BART and other transit providers to address smart growth development and not mansions in the hills.

Mayor Hosterman closed the public comments.

BREAK: The Council took a brief break and the meeting was reconvened thereafter.

Vice Mayor Thorne thanked staff for responding to the Council's request for a 9212 report, said he believes the ultimate objective of the Council is and has been the development of a meaningful hillside protection ordinance and believes that the majority of those who signed the Initiative shares this with the Council. Over the last several months, he spoke to many people about this Initiative and the referendum for Oak Grove and has used the process to calibrate himself. Unfortunately opinions do tend to get polarized for one side or the other. He said most people were not aware that the Council had included the development of a hillside ordinance in a two-year work plan, the vast majority wants the Council to take some action right away, and most would prefer a collaborative public process to develop a hillside ordinance. He also heard and understands that the argument of having a public process on the ballot can be divisive but it does not necessarily have to be, he believes people will appreciate having the choice for either Initiative, thinks one way to make it divisive is to propel someone on the Council, prefers a collaborative public process over this particular Initiative because it is too flawed to be corrected by the definition of a few terms or a restatement of intent. It would become law the way it is written and any ordinance passed subsequently would have to use the Initiative as a guiding document.

Motion: Vice Mayor Thorne moved to approve the third option, with direction to staff to return to the Council with a measure that asks a task force to evaluate the following: to define specific ridges based on engineering data, view lines, and geotechnical information rather than the 25% slope criteria; to evaluate the possibility of defining a specific elevation in South Pleasanton above which no construction could ever take place; to base accounting of housing units under the housing cap on a formula that actually has something to do with the impact those units have on the City's infrastructure; and include a timeframe by which this discussion must take place.

Vice Mayor Thorne referred to the Save Our Community Park Initiative, which he co-authored, and saw a distinct difference between that Initiative and this one. He said the previous Initiative was designed to protect a public collaborative process that had already occurred. The task forces met in open session, were collaborative, there were joint meetings with the City Council and Parks and Recreation Commission, and the Initiative was intended to protect the public process. He sees this Initiative as circumventing a public process that has not yet occurred.

Councilmember Sullivan questioned and confirmed with Vice Mayor Thorne that his motion assumed the council initiative would be a competing measure; he preferred it be a companion Initiative that asks for a collaborative public process.

Councilmember Cook-Kallio said she believes the agenda report identifies some of the problems with the Initiative, as does the number of questions that have been asked. She said the proponents have said they want to protect the southeast hills and so has the Council. It seems that if the common good of Pleasanton were the focus, we would be working together to make sure the protection is clear. If the Initiative passes as is, even with all of the good intentions of Karla Brown explaining what they meant, the bottom line is that it will be the literal language that will prevail. She said if anything, the Council wants to make sure its documents are crystal clear, believes the only remedy will be litigating it or another citizen or Council-sponsored Initiative to fix it. She was baffled by the assertion made that Council has raised collectively \$100,000 worth of developer monies. The perception that this Council is pro-growth is false; the last Councils have approved many more PUD's than this one and she received statistics from the Planning Department. From 1995-2004, between 2200 and 2500 units were built in the City. From 2005-2008, there were only 200, which is significant. She said she is against bad law and bad government, said the Initiative was not a transparent process, and she asked to clarify those issues in order to have a true southeast hills protection regulation that works. She said the 1996 General Plan was meant to be flexible in order to address unintended consequences.

She spoke about the many unclear items in the Initiative, said the definition of a housing unit could redefine what was previously exempted in the housing cap, it has the potential of changing the way the City has counted units, and the purpose of limiting housing units was to limit the impact on infrastructure including traffic. Senior living units have limited impacts yet the positive value of making space for the grandparents of the community outweighs that impact. She said the vagueness of the language begs the question about extended stay hotels and may not be the intent, but the literal language will stand if the Initiative passes, which impacts the availability of workforce housing. The agenda report alludes to the loss of fees from developers to both the City and schools if the Initiative is passed. The bypass road and alignment already approved is the first example that comes to her mind and if the Council learns nothing from the lawsuit against the school district, it should be how important it is to be clear in its documents. She hoped the Council and proponents will do what is best for Pleasanton and help the Council clarify its shared goal of protecting the southeast hills. This could be clarified by using Measure F as a model, believes the Council should honor the commitments already made, voiced concern there are two different issues in this Initiative, major ridgelines need to be identified, make sure there is an environmental review, and it is clear that the time to act is now. She suggested acting in a deliberate, transparent way and be able to think through this in a timely manner. She likes the idea expressed in Section 5.1 of the Conservation and Open Space Element of the 1996 General Plan.

Councilmember Cook-Kallio suggested Option 2 with some clarifying language; to re-affirm the 1996 General Plan and include the commitment that the Council would bring forth an ordinance that would be subject to environmental review (CEQA), and would identify elevation levels and major ridgelines. The measure would trump the other initiative if it received more votes and by putting this on the ballot, it would provide time to do a transparent job with input by other stakeholders.

Vice Mayor Thorne questioned how his motion and Ms. Cook-Kallio's suggested changes correlate.

City Manager Fialho said both could be joined as an outcome by re-affirming the General Plan policies and existing hillside regulations and creating a task force.

Councilmember Cook-Kallio said she did not want a task force and would rather look at a more open process and would rather say, create an ordinance that identifies elevation levels and ridgelines in the same way Measure F did, subject to CEQA.

Vice Mayor Thome requested to include a public, collaborative process.

Councilmember Cook-Kallio agreed.

The Vice Mayor Thome also wanted to define ridgelines, identify what those are, and that the process evaluates whether or not we can define ridgelines other than a 25% slope.

Councilmember Cook-Kallio said she would prefer not to include this but she would ask staff to create ballot language. She suggested keeping the ballot language simple and asked staff to start going about the process of identifying ridgelines and elevation levels.

Vice Mayor Thome said as long as the Council gets to that point, he was supportive of this.

Councilmember Sullivan said initially it was stated the Council has in its work plan to create some sort of hillside ordinance, but Councilmember Cook-Kallio's proposal is for item 2 which is re-affirming the existing General Plan policies.

Councilmember Cook-Kallio said she wants to add additional language to this to say that the Council will re-affirm the 1996 General Plan and include the commitment that the Council would bring forth an ordinance that would be subject to environmental review (CEQA), identifying elevation levels and major ridgelines and to include a provision to trump the other initiative..” She also would ask that we start before the November election so people could see what that process looks like and begin to have input. She said the bottom line is not us against them, but providing a hillside ordinance that does not leave the City open to litigation and actually protects the hillsides.

Vice-Mayor Thome accepted the amendment.

City Attorney Roush stated that if Option 2 goes to the ballot along with the commitment language and it got more votes than the other Initiative, and if the out come of the task force or collaborative public process came up with items that were different than the 1996 General Plan policies, then this would have to go back to the voters.

Councilmember Cook-Kallio referred to Section 5.1 of the General Plan; “Develop a ridgeline preservation ordinance and scenic hillside design guidelines to improve safety and reduce the potential negative visual impacts of development in hilly areas.”

City Attorney Roush said this can be done, but that policy is more of a procedural matter than a substantive matter, and he wants to be sure staff brings back what the Council is looking for.

She said the intent is to have everyone participate in the process and said those decisions can be made before the November election if everyone chooses to do so.

Councilmember Sullivan said he was confused with the direction, said Karla Brown discussed the intent of the Initiative authors and to him, and the significance of this is that the agenda report identified many ways of how things could be interpreted. It seems that by the sponsors saying the intent of what was meant helps not only the voters understand but it also helps the City to understand those issues and provides a direction to develop that implementing ordinance later, which he thinks is necessary after the vote in November. He felt it gives Council guidance as to the Happy Valley Bypass Road, how it affects assisted living units, and plus it is in the public record.

City Attorney Roush said he would generally agree with that; when called upon to interpret Initiatives, because there is no legislative history that might accompany a Council adopted statute or ordinance, courts do look to ballot arguments in terms of what information was presented to voters, and when it came time for staff to apply a particular project to the Initiative, they would look to what was expressed as the intent.

Councilmember Sullivan said it provides some guidance. He said he believes the Initiative, what the proponents and what the 5,000 people who signed it did, is consistent with current General Plan policy, the policy of this City Council, and the priority to do a southeast hills ordinance. The goal of the City Council priority is a Southeast Hills Protection Plan, to reduce development in the southeast hills and get as much open space as possible. To him, this Initiative is exactly a means to achieving that goal. As far as a Council-sponsored Initiative, it could have done this before starting the Oak Grove process. Instead of going first to developing some hillside protection ordinance, we decided to use another process and he was an advocate for that process which was engaging neighbors and the developer to see if a compromise could be reached; not create an ordinance first. Getting enough signatures for the ballot tells him that a sufficient number of people in town did not like that approach and that we should have done the hillside protection ordinance first. Had this Initiative not qualified for the ballot, this Council would not be advocating to quickly put some sort of hillside protections in place, so he therefore disagrees with much of what he has heard. He said the report outlined many possible scenarios with a lot of questions the Council asked, he thinks it is very important that the proponents articulated their intent because it clarifies the more ambiguous items we are pointing to. He thinks the language is simple, straight-forward and reflective of what the community wants, thinks it has been helpful that they want option 1 on page 19 of what the 10-unit exemption means, they have clarified their intent on the housing cap as applied to assisted living facilities, and he thinks the intent on the Initiative as applied to roads answers the question about the Happy Valley Bypass Road.

He said other concerns raised include the fiscal issues which have been demonstrated to be negligible. Regarding the school district, he thinks it is very likely that the Initiative itself would have no impact on the school district as far as their plans to build out facilities. The impact will be when discussion is held on how we want to build out the town. None of the other General Plan policies go away; just because we have a 10-unit exemption doesn't mean we will turn the hills into West Virginia and flatten them out, which he believes is a false argument. Regarding the 25% slope, his conclusion is that it is just fine-tuning what that is.

Some of the positive things the report points out is that this would likely result in more workforce housing. The more houses built in the hills, the less opportunity the City will have to do something else. Regarding options outlined by staff and the current motion, he thinks the Council should do nothing and let the Initiative stand on its own. He thinks we should allow a debate on the pros and cons and let this work itself out in the community and the vote in November. Through this exercise, the citizens of Pleasanton will make an informed decision. It

is no different than the other initiatives, the citizens understand what is important to them and will be able to figure it out, and we are heading toward a competing measure.

Councilmember Sullivan said he thinks the only reason to put a competing initiative on the ballot is that if we believe the Initiative, were it successful, would have some major damaging impact to the City, and there is no evidence of this. The only reason he thinks to put a re-affirming measure on the ballot is that we want to know if the public is satisfied with the current policy. He thinks the people can just vote on the current Initiative. If they are satisfied with the current policy, they will vote no. But a reason to do any of the above should not be because the Council disagrees with the initiative or because they differ politically with the proponents. If the Council disagrees with the Initiative, you should get engaged in the election campaign, debate the pros and cons of the issue and let the public vote, not try to undermine the Initiative or the process by putting a competing Initiative on the ballot. He thinks the Council should use its power of 3 votes very carefully but if we disagree with the Initiative, to try and defeat it by putting something else on the ballot is wrong.

Councilmember McGovern thinks that on July 15 when the report returns, there should be an amended report, on the fiscal impacts—defining what an impact fee is, why it is used, and the fact that if growth is not there, the impact fee is not needed for whatever the mitigation was assigned for originally. Also, there are growth induced negatives not always measurable from a fiscal aspect when it comes to quality of life issues whether it is traffic congestion or need for additional services of any particular kind. She thinks Council needs to be clear to the voters that impacts are not true losses to the City if growth does not develop.

She said she asked the City Manager what his recommendation would be to her and to Council as to what direction should be given and his advice was to receive the report and to take no further action. She said twice staff has recommended something to the Council which had not been followed; one was to appeal the decision in the referendum challenge and now tonight is to take no further action. She thinks the Council should therefore consider what staff has recommended. She feels sad about some of the things that are going on because there are some actual positives about the Initiative in the staff report, which do not come to the top such as, "Transferring residential development from hillside property to infill properties would not impact the city's ability to meet its current regional housing needs since the self-imposed limit to our regional need housing allocation is 29,000 units; the housing cap. However, to the extent that that 224 hillside units are developed in infill areas of the city rather than the hillsides, it is likely that such units would be higher density, multi-family dwellings or smaller single family homes. Some would likely be able to qualify for very low, low or moderate income units." She said this would help Pleasanton in attaining our lower income share of the RHNA numbers, which is a positive. She said another one is section 4.5, page 10, "If the Initiative is adopted, there will be less development than anticipated in the General Plan in those hill properties. This will result in more open space on those properties than has been expected, although some development will still occur. To the extent that the development on those properties is located on the relatively flat portions of the site, the remaining open space may continue to be used for grazing purposes, thus increasing the amount of agricultural land in the hill areas." She said those are positive things that should not be negated in the discussion. Therefore, we should be looking for both negative and positive things said.

Councilmember McGovern said that the reason the Initiative is more protection for the public is that it is voted on by the citizen and cannot be changed without further voter approval. In the General Plan, there are more protections for the environment, open space, agricultural land, and who knows what the new one will look like. Yet, the Council has the discretion through a

majority vote of saying the flexibility is there to change that. When there is a vote, it is much clearer that that vote has to be followed and the flexibility is not as great. Therefore, she would say to the majority of the Council that if you are going to put something on for July 15 to review, it should include something to be voted on by the people, and secondly, that there should be a moratorium on development in the hillsides until any vote of the people is taken on any other Initiative. She said this has come down to two developments; Oak Grove—51 large homes on the top of hillsides, and the Sarich home, with removal of a top of a hill, a 14,000 square foot home and 438 trees so it can be covered. Therefore, she felt this is an important issue to the people of Pleasanton. The Initiative offers positive things for the community and ensures there will be no development on 100 feet from a ridgeline and ensures there is no grading of slopes 25% or more for a residential or commercial unit and ensures a housing unit is finally defined.

Councilmember Cook-Kallio agreed that the reason to put a measure on the ballot is because you have significant questions and concerns, agreed another reason is because one would think it has major, damaging impacts, which she thinks this will have. She said she is absolutely sure that all of this conversation will make no difference when a judge looks at the literal language, and this is why she would ask again that the Council look at this as an opportunity to get everyone involved in the process. She also voiced concern that the Initiative was not inclusive. There were 5,000 signatures, but there was no deliberative process except among the small group of those who collected signatures. She feels what this does is pit large groups of people against property owners. If we are going to be inclusive and deliberative, she said it is incumbent upon us to include all stakeholders which had not been done with the citizen's Initiative, and this is why she would call the measure a clarifying measure.

Councilmember Sullivan said Councilmember Cook-Kallio is stating she objects because the property owners have not been involved, but to him, this is an argument as to whether or not to vote for the Initiative and is not an argument to undermine the Initiative. He said if she does not like that the stakeholders were not involved, then vote no and advocate for that, but he asked not to do something to squash a public process where people have earned the right to have their Initiative voted on. He felt the result is that people will vote no on everything because they are so turned off with the City Council. He thinks the meeting has clarified many items in the Initiative, and even though there are some which still need to be resolved; this can and should happen in a stakeholder process that includes the land owners, Greenbriar Homes, and others. He thinks this should and can happen after the Initiative passes. It may not pass, and the Council still has the opportunity to do something different. He acknowledged his disagreement on the impact issue and his criteria for a competing Initiative does not exist.

Mayor Hosterman discussed Council priorities, said this Council has many, residents demand a lot from the Council, and the Council demands a lot from staff. She discussed some of the many completed Council priorities and the update of the General Plan. She disagrees with some fellow Council members in stating that somehow we are shutting down the public process and she thinks the opposite is being done. Having a clarifying measure on the ballot will give residents the opportunity to say yes, to be able to move forward, be part of the discussion and input, and she feels current Initiative is filled with language that is troublesome as far as being able to be implemented. She also said when projects are approved, the Council does so with input, each residential application comes through the process individually, and open space acreage is able to be preserved for Pleasanton. Property owners have rights which should be balanced with what is also good for the community. She said having a clarifying measure on the ballot is in the best interest of the public process and in the best interest of residents of Pleasanton.

Councilmember Sullivan said Councilmember McGovern brought up a good point; if it is a citizen's Initiative, three members of the Council cannot change the policy. If the motion is voted on and some sort of policy or regulation is developed, it could be put into the General Plan. All it takes is a majority of the Council to change the General Plan, but he does not believe this is what the community wants. He questioned if Councilmember McGovern's suggestion could be considered that whatever ordinance or protections comes from this, i.e., would the Council submit it to a vote of the people. This way, if they agreed with the Council, we would know this is what the public would want, it would be voted on, and then three people cannot change it at a later time.

Mayor Hosterman said she would be willing to consider this, but wanted to consider it thoroughly and suggested acting on the motion as is.

Councilmember McGovern said she also pointed out that you can wait as development can be approved in the southeast hills before any ordinance is done, and she questioned if a moratorium on growth could be included until this is done.

Mayor Hosterman said not at this point, but we could have that discussion on July 15.

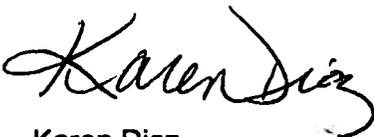
City Attorney Roush indicated that on July 15th, substantive elements of the 1996 General Plan would be included for what is to be placed on the ballot for consideration.

Motion: It was m/s by Cook-Kallio/Thorne to direct staff to prepare a council sponsored initiative for the November 2008 election that would re-affirm the 1996 General Plan policies concerning hillside regulations, define a collaborative and public process to identify ridgelines and hillsides where development should not occur, set a time frame to conclude that process, and otherwise have provisions that would serve as an alternative to the Save Pleasanton's Hills & Housing Cap Initiative. . Motion passed by the following vote:

Ayes: Councilmembers Cook-Kallio, Thorne, Mayor Hosterman
Noes: Councilmembers McGovern and Sullivan
Absent: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:33 p.m.

Respectfully submitted,



Karen Diaz
City Clerk

17. Save Pleasanton's Hills & Housing Cap Initiative Petition:

- a. Continued - Receive report analyzing the impacts and effects of the Initiative and consider implementation option**
- b. Consider options and provide direction concerning the Initiative Petition**

City Attorney Roush said last month the City Council accepted the City Clerk's certification for the Save Pleasanton Hills and Housing Cap Initiative and directed staff to prepare a report under Election Code Section 9212 concerning the effects of the Initiative Measure. This report has been prepared and presented as Item 17a which has been continued. After the Council receives and discusses the report, the Council would move ahead to take action to either adopt the measure without change or order the election and direct staff to return with required documents to place the Initiative Measure on the 2008 Ballot. This would include the time for submitting arguments pro and con as well as the Ballot language itself. Alternatively, if the Council is not comfortable in taking action tonight without having discussed the report, it could also continue the item.

Mayor Hosterman questioned whether the Council could move forward with Item 17b without hearing Item 17a. City Attorney Roush said the Council could move forward; the purpose of hearing the report is to help inform the Council in terms of whether it wishes to simply adopt the Initiative Measure or to have the matter on the Ballot for the election. The other matters contained as part of Item 17a was an adjunct that came out of the Council's discussion on May 20th where the Council asked that the matter be presented.

Councilmember Sullivan said he thought the Council had to take action on the item within 30 days, and City Attorney Roush said the Elections Code indicates that upon receiving discussion of the report, the Council needs to either adopt the measure without change within 10 days or order an election. The ordering of the election does not have a timeframe attached to it and he did not believe there would be any particular harm that would result if the item were continued, other than the fact that the closer the City gets to the August 7th deadline, the less time it has to bring materials back to the Council for discussion and decision.

City Manager Fialho said if the Council calls for the election tonight, it will provide staff with specific direction on July 15 to present the ballot question and also the schedule for arguments pro and con. Purely from an administrative perspective, staff prefers to receive direction tonight on Item 17b. Conversely, another meeting will need to be scheduled to hear the ballot information unless both are heard concurrently at a future date before July 15, 2008.

Councilmember Sullivan said the only advantage he sees of waiting is that when the Council does discuss the report, it may come to the conclusion that it wants to adopt the ordinance outright; however, he believed the changes of this were slim.

Mayor Hosterman opened public comment and noted there were no speakers.

Mayor Hosterman noted the Initiative was written without help from legal and planning staff, said it says nothing about safeguarding the environment in the southeast hills, with no input from the community and in her opinion poorly written. She said preserving the southeast hills has been one of this Council's many priorities for a number of years, and requested staff move forward to work on enacting correct language which can be legally implemented to safeguard the southeast hills.

Councilmember Sullivan said whether individuals think the initiative is poorly written or not, the fact is that signatures were obtained, it qualified for the ballot and it deserves to either be adopted or placed on the ballot. He feels it is not about not liking the initiative but an attack on citizens' rights to referend or create an initiative, which is one of the people's most important rights. He said the Pleasanton Ridge was a citizen's initiative developed without City staff or experts, said Measure D also protects the County from being developed outside of City limits, believed sometimes measures do work and supported putting it on the ballot in a way it does not compromise the integrity of the process.

Vice Mayor Thorne thanked staff for responding as quickly as it did with a very difficult and thorough report, thinks the ultimate objective of the Council has been and is to develop a comprehensive hillside protection ordinance. He believes those who signed the initiative have that same goal and the debate here is the way to get there.

Councilmember McGovern voiced concerns about how the item was being discussed and said the initiative does not remove any of the environmental protection from the General Plan, overlays or anything in place. For the Council to say the Initiative is poorly written and that it had no input from experts is an opinion and assumption. The reason the hillside preservation ordinance is important is because there have been two developments approved with 50 units on ridgelines, with one home where 40 feet was cut off the top of a hill to put in a 14,000 square foot home. This has been in the City's General Plan for over 11 years, and felt the Council should have approved it sooner and believes the issue is that people are concerned that other developments are coming forward will be treated identically. She asked that it be placed on the ballot and have straight-forward honest conversations about the Initiative.

Councilmember Cook-Kallio voiced her concerns with the Initiative's language, thinks all stakeholders were not talked to, does not think the unintended consequences were explored, agreed people do legislation all the time where unintended consequences happen but it is the Council's job to be as careful as possible that it does not happen. She believes the Initiative is vague and is bad law, it should go to the ballot, thinks more discussion is needed, and it may tie the City up in litigation. She confirmed with the City Attorney that voters will be asked to vote on the text of the Initiative; there will be a ballot question and within the voting materials will be the text of the Initiative.

Motion: It was m/s by Hosterman/Cook-Kallio to order the election and direct staff to prepare for the Council's July 15 meeting the required documents to place the initiative measure on the November 2008 ballot. The motion passed by the following vote:

Ayes: Councilmembers Cook-Kallio, McGovern, Sullivan, Thorne, Mayor Hosterman
Noes: None
Absent: None

Regarding a date for a meeting to discuss Item 17a, City Manager Fialho said that from June 19 into August, one Councilmember on any given regular meeting would be out of town and gave the following possible dates as July 8, July 22 and July 29.

Mayor Hosterman questioned timing issues for the ballot if the matter were continued. City Attorney Roush said if the item were continued to July 15 and Council gave direction to staff to bring back a proposed Council-sponsored Initiative, the Council would need to determine a date to hear the matter as well as build into enough time for a date if the item were continued for action to be taken prior to August 8.

Councilmember Sullivan suggested continuing the item to the next regular meeting, as one or two special meetings could be scheduled prior to August 8.

Councilmember Cook-Kallio said she wanted to hold discussion tonight on the matter but preferred holding the meeting earlier rather than later. She believed there is a lot of work involved to ensure the Initiative is clear and felt July 15th was too late to do this in a deliberate way.

Mayor Hosterman and Vice Mayor Thorne both preferred hearing the item sooner than the next regular meeting, if possible. Councilmember McGovern also said it will take her awhile to review her concerns relating to Item 17a and all Councilmembers agreed Item 17a would be the sole item on the agenda.

Councilmembers discussed holding the meeting on other dates, and Councilmember Sullivan believed holding the meeting on 4th of July week would leave many residents out-of-town and an unbalanced audience.

It was m/s by Cook-Kallio/Thorne to set the special meeting date for July 1, 2008. The motion passed by the following vote:

Ayes: Councilmembers Cook-Kallio, Thorne, Mayor Hosterman
Noes: Councilmembers McGovern and Sullivan
Absent: None