



# CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Regular Meeting  
Tuesday, June 25, 2002  
7:30 p.m.  
Menlo Park Council Chamber  
801 Laurel Street, Menlo Park

**ROLL CALL** – Mayor Schmidt called the meeting to order at 7:35 p.m. Mayor Pro Tem Kinney, Councilmembers Borak, Collacchi, and Jellins were present. Staff present included City Manager Boesch, Assistant City Manager Seymour, City Attorney McClure, City Clerk Ramos and other department heads.

## A. PRESENTATIONS AND PROCLAMATIONS

1. Parks and Recreation Month Proclamation.

Mayor Schmidt read and presented the proclamation to Dylan Taylor and Melissa Nuckolls, who are currently enrolled in the City's Parks and Recreation programs.

## B. APPOINTMENTS AND REPORTS

1. Arts Commission (one vacancy) with an application deadline of July 23, 2002; Housing Commission (one vacancy) and the Community Mediation Service (one vacancy) with an application deadline of July 2, 2002 - Mayor Schmidt announced the current vacancies.
2. Councilmember Reports: Schmidt, Kinney, Borak, Collacchi, Jellins.

Mayor Pro Tem Kinney announced the opening ceremonies at Lyle Park. He reported about a meeting with the San Francisquito Creek Joint Powers Authority regarding a grant application for a project along the creek. He also commented about a meeting for the second phase of the El Camino Real tree-planting project.

Councilmember Jellins explained why the Arts Commission vacancy reopened. He reported on the Council of Cities Criminal Justice Council meeting and the election of its new Board with him as Vice Chair, the County's Emergency Services Joint Powers Authority meeting regarding the implementation of an emergency communications network, the League of California Cities Peninsula Division meeting, serving as its Treasurer, regarding the revision of its bylaws to consider the role and function of its regional representative, Rebecca Elliot. He noted that information has been received postponing the matter regarding the San Francisco runway expansion.

Mayor Schmidt reported on the grand opening of the Materials Recovery Facility in San Leandro, noting it is a good model for other cities and agencies.

## C. PUBLIC COMMENT #1

Robert and Natalia Mancuso, Menlo Park, commented about the lack of street sweeping and suggested changing the parking schedule to accommodate the sweepers.

Norman Berger, Menlo Park, commented about the cost of installing and removing the temporary measures for the trial period, and the Fire District's issues on safety. He noted that if the response times of the Fire District are high, that the homeowners' insurance ratings will go down and costs will go up. He said that his information shows a higher number for speeding citations last year than was earlier reported by the police staff. He questioned why police enforcement is not being considered to calm traffic.

Winter Dellenbach, Palo Alto, expressed support of the Park Theater at its present size. She would like to see the interior and exterior of the theater protected during its closure. She said that its closure would impact the Guild Theater because they bolster each other. She noted that other cities subsidize and designate a zoning district for its theaters. She responded to questions regarding seating capacity.

Charlotte Muse, Menlo Park, expressed support for the theater.

Judy Goldberg, Menlo Park, expressed support for the theater and the preservation of its architecture. She added that the theater serves the San Francisco Film Festival and she would like to see that continue.

Irma Villarreal, Redwood City, expressed support for the Park Theater noting that it benefits all merchants and brings people to downtown Menlo Park.

Patrick Daly, Menlo Park, expressed support for the Park Theater because it provides a wealth of cultural life to the community.

Mayor Schmidt commented that the synergy that exists between theaters and business establishments is a valid point and thanked the speakers for bringing it up.

Susan MacDonald, Menlo Park, expressed support for the Park Theater because of its ambience and that it is local.

Lynn Marsh, Menlo Park, urged the Council to retain the Park Theater. She provided information from the District of Columbia about municipal regulations for an uptown art mixed-use overlay district, for staff review and consideration

Dr. A. Cannara, Menlo Park, reiterated his concerns about herbicides in City parks and asked for a status report. He offered to help out if necessary. He is mainly concerned that it is a waste of money and suggested removing any concrete from parks to minimize the growth of weeds and showed photos of Sharon Hills Park depicting piles of left over slabs of concrete.

Mayor Schmidt responded that the City is not currently using herbicides and deferred to staff for additional information about its efforts.

Assistant City Manager Seymour reported that Public Works staff is currently investigating a plan to control weeds without using herbicide and exploring other options. She asked Dr. Cannara to leave his phone number with staff so he could be contacted.

#### **D. CONSENT CALENDAR**

Mayor Schmidt read the consent calendar. Councilmember Jellins pulled consent items 3 and 6.

**M/S Borak/Schmidt to approve consent items 1, 2, 4, 5, 7 and 8. Motion passed 5-0.**

1. Approval of audited bills for period 51 ending June 14, 2002.

2. Authorization of the City Manager to sign an agreement with Unisource Solutions in the amount of \$41,694 for design work, labor and material to rearrange existing City Hall office space and install new furniture partitions and approve a total budget not to exceed \$47,000 for design services, construction and contingencies.
4. Authorization for staff to extend an agreement with Claims Management, Incorporated, for Worker's Compensation Administration Services in the amount of \$65,120.
5. Authorization for staff to extend an agreement with Curiale, Dellaverson, Hirschfeld, Kelly and Sloan in an amount not to exceed \$60,000 annually to provide general legal advice and counsel in the area of labor and employment matters.
7. Approval of the Minutes for the City Council Meeting of March 19 (as amended on April 16, 2002) and May 21 (as amended on June 18, 2002).
8. Community Development Agency Adoption of Resolutions approving the Community Development Agency Budget for the 2002-2003 Fiscal Year, approving a loan from the City for the 2002-2003 Budget, Authorizing an Agreement to repay the City, determining that Planning and Administrative Expenses are necessary for the production, improvement and preservation of low and moderate-income housing. **(Continued from June 18, 2002 meeting)**

City Council Adoption of a Resolution determining the benefit and need for agency funded improvements, and City Council adoption of a Resolution authorizing a loan to the Community Development Agency for the Agency's 2002-2003 budget. **(Continued from June 18, 2002 meeting)**

9. Adoption of a Resolution Authorizing the City Manager/Executive Director to enter into a Professional Agreement with Carneghi-Bautevich & Partners, Inc. for an additional \$15,000 to provide updated appraisals, for Pre-trial Consultation and for Expert Witness Services for land acquisition for the Hamilton Avenue Park and Housing Project.

Pulled item

3. Approval of modifications to and the extension of the Agreement with Turbo Data Systems, Inc. to provide parking citation processing and Adjudication Services for the period of June 30, 2002 to June 30, 2005 and authorization of the City Manager to sign the Agreement and extension.

Staff responded to questions regarding the handling of parking adjudication disputes that arise.

**M/S Jellins/Collacchi to approve item 3 as presented. Motion passed 5-0.**

Pulled item

6. Adoption of a Resolution authorizing the City Manager to enter into a Joint Powers Authority Membership Agreement with Bay Cities Joint Powers Insurance Authority (BCJPIA) that would allow the City to participate in the insurance pool, enter into a three-year agreement with BCJPIA to provide municipal liability insurance for a first-year premium of \$216,840, and enter into three-year agreement with Employment Risk Management Authority to provide employment practices insurance for a first year premium of \$55,420; and Approval of a \$30,000 deposit into a revolving fund for claims disbursement administered by George Hills Company.

Councilmember Jellins expressed concerns that the timing of this item does not provide any opportunity to explore other options.

Staff responded to questions regarding other insurance options, rates, process, equity in the pool and timing.

**M/S Jellins/Kinney to approve item 6 as presented. Motion passed 5-0.**

**E. PUBLIC HEARING - None**

**F. REGULAR BUSINESS**

1. Direction on uses and intensities related to the M-2 Zoning District Study.

Tracy Cramer, Senior Planner, presented the staff report with overheads.

Staff responded to questions regarding FARs at different districts, the basis for the suggested commercial areas, zoning change impact to adjoining existing uses, accessory uses, the M1 district, and the values and standards for performance based process and its effects to the permitted or conditional use process.

Spence Leslie, Tyco Electronics, Menlo Park, expressed support for the study and encouraged the City to engage in discussions with the property owners and tenants about related issues. He commented about Tyco's desire to make a strong presence in Menlo Park and its plan to sell its 8.5-acre parcel. He responded to questions about the presence of toxic materials on this parcel, noting that the biggest restriction on the property is residential.

Clem Clarke, Bohannon Development Corporation, questioned whether the Belle Haven community has had an opportunity to comment on the proposed study. She said that she was hired by Bohannon to study potential development on their properties in east Menlo Park. She said that Bohannon required that the study include input from the Belle Haven community. She noted that after spending some time in that community, she found it to be an active community with real issues. She expressed concern that the Belle Haven community did not receive any information about the process tonight.

Reverend Arnold Townsend, Bohannon Development Corporation, echoed Ms. Clark's comments that Belle Haven is not aware about this process and felt that any development issues in that area should be discussed with the members of that community for input.

John Tarlton, Menlo Business Park, agreed with many of the broad goals of working with planned owners to provide incentives for uses that do not benefit the City. He is concerned that the Council not inadvertently take away the flexibility that enabled the success of Menlo Business Park and the many tenants thereof. He said that he could support a prohibition of professional office but asked for a de minimis exception of five percent of the park from that prohibition. He would also support the proposed 40% general office FAR so long as it is defined broadly enough and that the 40% limitation is applied on a park-wide basis as was intended under the originally approved master plan. He said the Menlo Business Park is the only master plan business park in the M2 zone. He cited examples of problems that the company could encounter under the proposed regulations with some of its tenants.

Thomas Ruby, Menlo Park, AMB/Legacy Partners, noted that Willow Business Park is and functions as a master plan park not as individual buildings. He requested that Council defer any decisions tonight and direct staff to work with the business owners, tenants and residents in the community to address the issues and understand the implications of the proposed

recommendations. He expressed concern about the unintended consequences that could arise from the proposed regulations including the issue of the FAR.

Sheryn Cockett, Legacy Partners/AMB, reiterated the previous comments about working with the business owners, property owners and tenants on issues that could result from the proposed regulations. She expressed concerns about the proposed FARs. She said that permitting hotels would intensify the area which would be contrary to her understanding of the intent of the M2 zoning.

Amy Herman, Sedway Group/Bohannon, commented on the economic aspects of the M2 study. She said the proposal does not address future market and economic trends, market demands in the area and suggested incorporating market financial and fiscal considerations in the study. She responded to questions about regional market figures and statistics.

Councilmember Jellins requested Ms. Herman for a written copy of her comments.

Eric Doyle, Menlo Park, commented about the current high vacancy rates for any type of use. He is concerned that changing the limit to office space within the M2 district would affect the viability of industrial use storage type companies and limit the flexibility for high tech companies. He urged the City to invite outside participation and develop a plan that works for all.

Timothy Tosta, Bohannon Development, noted that industrial zoning is a statewide issue and the real problem is one of realigning antiquated vintage buildings with a new economy of technology and life sciences. He reiterated previous comments that the City needs to conduct economic studies, establish vision and goals other than generating revenue and reducing traffic, and community work. He feels that the City has not taken a broad enough view of what zoning is intended to do and how the community can help in creating a zoning plan.

City Manager Boesch clarified that this is one step in a multi-phased process and that the City plans to do some outreaching to the community. He said that comments about the process being exclusive are inaccurate. He noted that the proposed regulations are conceptual ideas to elicit comments and that the comments tonight have been noted by staff for consideration.

Mayor Schmidt concurred with the City Manager's comments and noted that Belle Haven is not a neglected neighborhood. He suggested holding the next Council meeting about this item in the Belle Haven area.

City Manager Boesch said he would look into the logistics of holding the meeting off site.

Councilmember Jellins clarified that last year the City did not respond to the community's needs when it reviewed its M1 district and believes that this could be the reason and cause for concern.

Councilmember Collacchi noted that the City has been looking at developing an industrial zone for many years, part of which included the compilation and review of market and economic data and community involvement. He felt it is time to move forward.

Staff responded to questions regarding toxic and contaminated soil issues in the O'Brien area and funding opportunities for the redevelopment area.

Councilmember Jellins commented that there is a direct connection between property values and zoning of property and asked that the Council consider that in their decision, not only to benefit the property owner, but as a potential tax increment from increased property values.

General Industrial/Limited Office Designation (depicted in pink)

Councilmember Collacchi expressed support for the designations identified by staff for the general industrial/limited office district (depicted in pink), the intensities of 20% for adjunct office with the possibility of 30% with the use permit. He would like staff to work further on defining professional office use, noting that financial services and software engineering were excluded from the list. He said he would support a definition that has to do with accessory use, non-primary use or supporting primary use with the intent of having enough adjunct industrial use office to go along with any industrial use.

Discussion ensued regarding the range and method of analysis to be undertaken.

Councilmember Jellins stated he does not support the recommended designation for general industrial/limited office district.

Mayor Schmidt expressed support for the proposed general industrial/limited office district designation.

Councilmember Borak expressed support for the proposed designation but questioned how the percentage of office would be determined.

Staff responded to questions including a 45% FAR for office, a 55% on all other general industrial uses. Furthermore, staff commented about the permitted uses for light industrial uses.

Councilmember Borak suggested adding consulting services and engineering services to the proposed definition of professional office.

Staff noted that within the general industrial/limited office district designation, the performance standards were limited to the commercial district but noted that they can be considered for industrial uses as well. Staff also noted that the potential for change in use could be based on the age of the building.

Councilmember Kinney would support the proposed general industrial/limited office district designation with further exploration about its uses and incentives.

Councilmember Jellins said he would prefer using incentive based zoning or performance standards above the prohibitions. He suggested including in list of criteria to base performance-based zoning for the proposed general industrial/limited office district designation and others to include a potential for increase in property tax revenue to the City, potential for employment for existing residents in the area, and whether there are other environmental impacts that would affect the surrounding neighborhoods.

Staff clarified the direction for the general industrial/limited office district designation as follows:

- The sub areas outlined for the general industrial/limited office are acceptable
- The FARs are acceptable with the idea to look carefully at how they will be measured. The measurement methodology should be simple with enforcement ability.
- The idea to provide certainty with flexibility should be further explored
- Work on the definitions of general office, administrative office and professional office. Reference the general office to an accessory use to another main use on the property and not as a stand alone use
- Consulting and engineering services should be considered under professional uses
- Performance standards should be considered in this district as the other districts and in further defining performance standards, to consider different kinds of incentives to desirable businesses as defined by the Council

- Look at potential for increases in property tax, increase or use of employment of residents in Menlo Park and other environmental impacts beyond traffic that may affect adjacent residential neighborhoods.

Business Park Designation (depicted in green)

Councilmember Collacchi expressed support for the 40% FAR for office and up to 45% FAR with the use permit. He would also consider reducing that to 35% FAR. He supports the locations identified for this designation. He would accept Mr. Tarlton's proposal for a de minimis exception to allow a 40% aggregate for Menlo Business Park.

Councilmember Kinney expressed support for the Business Park designation.

Councilmember Jellins suggested that consideration be made to include a market analysis in the study and define the zoning classification whether it is permitted, conditional or prohibited.

Councilmember Borak expressed support for the Business Park designation and provided comments about the market analysis aspect.

Councilmember Jellins reiterated that there is value in a market analysis.

Councilmember Collacchi clarified that the consensus is that the general industrial/limited office and business park designations are acceptable with the exception to reduce the FARs in the business park designation to 35 as a base, going up to 45 with a use permit

Councilmember Jellins said that the suggestion to reduce the FAR is a viable one and he does not see anything wrong with looking at a range of FARs rather than focusing on one FAR.

**There was consensus to approve the proposed regulations for the general industrial/limited office designation and the business park designation and consider a 35 FAR as a permitted use and allow up to a 45 FAR with a use permit for the business park designation.**

Councilmember Collacchi said that all other areas outside the general industrial/limited office designation and the business park designation are still M2 with the exception of the Commercial designation (depicted in brown), and that he sees the area of the AMB/Legacy Partners as falling under a general industrial/limited office designation. He recommended moving forward in two phases or processes as follows:

- Phase 1 – Prepare a temporary zoning ordinance based on the two underlying designations of general industrial/limited office and business park and leave the remaining ones as M2 without the need for an environmental analysis.
- Phase 2 - Do overlays, specific plans, other kinds of rezoning and/or performance zoning. These items would be more complicated and require additional review and discussion with the community.

Councilmember Jellins asked for clarification about the suggested processes with regards to community input and a market analysis.

City Manager Boesch replied that the proposed phased processes outlined by Councilmember Collacchi does not preclude additional outreach and analysis. He asked for clarification regarding designating all uses other than the pink and green areas to M2 consistent with the adjacent property. He commented that a decision would have to be made about an environmental review.

Councilmember Collacchi suggested putting an overlay on the areas with the M2 designation with optional designations.

Discussion ensued regarding the Tyco parcel, performance zoning and master agreements.

Councilmember Collacchi felt that the City should move forward with the underlying zoning.

**Mayor Schmidt summarized the direction to staff as follows: three business park zones (green), a flag on the yellow area that may be an overlay area, the general industrial/limited office area (pink) would include the brown area which is the Willow Park area, the O'Brien area would be an M2 area, and the Tyco 8.5 acre parcel would still have to be considered by Council.**

Councilmember Collacchi noted he is comfortable with either staff's recommendation for the overlay areas, or leaving it open for the Council to decide.

Councilmember Borak suggested keeping the housing element update process in mind while determining residential designations.

Mayor Schmidt declared a recess at 10:50 p.m. and reconvened the meeting at 11:00 p.m.

2. Approval of a General Fund Operating Reserve Appropriation in the amount of \$50,000 to partner with the Sequoia Union High School District in the design of a Performing Arts facility at Menlo-Atherton High School, and direction to staff to negotiate a Joint-Use Agreement with the Sequoia Union High School District for use of a Performing Arts facility at Menlo-Atherton High School.

Curtis Brown, Community Services Director, presented the staff report and responded to questions.

Mayor Schmidt inquired about the possible relationship between this agenda item and the Park Theater.

City Manager Boesch provided some background.

Councilmember Jellins commented about the School District's commitment to build a theater at the Menlo Atherton High School facility with or without the City's funding assistance.

Donalyn Julihn, Arts Commission, expressed support for the collaborative process with the School District. She noted that the cultural needs assessment reflects a strong support for theaters. She suggested that when the project moves forward, the process should be all-inclusive and include other groups in the performing arts community.

Nancy Chillag, Arts Commission, provided some background about the Burgess facility improvement discussions in 1998 which included a performing arts/cultural center. She said that during the discussions, one of the options considered was a joint facility with Menlo Atherton High School. She believes that if the joint facility with the school does not work out, that Park Theater would be a good alternative. She suggested conducting a needs assessment study before spending any money. She commented that although it would be in the City's best interest to explore a joint use with the school, she is not convinced that the City would have equal rights.



Harry Harrison, Parks and Recreation Commission, opposed to a joint venture with Menlo Atherton High School because the arrangement would not provide the City with adequate control. He also expressed concerns about where the theater would be located on campus.

Councilmember Jellins clarified that the proposed location of the theater would be right at the edge of the campus across from the church.

Terry Kent, Chamber of Commerce representative, expressed concern about committing \$2.6M for something that is clearly a school benefit. He said that as a taxpayer, he would want more information and role in the process. He said that the locating a theater in the Menlo Atherton campus would raise additional traffic concerns in that area and suggested exploring an alternative location. He said that he would rather spend \$5,000 for a needs assessment study than \$50,000 for a joint use agreement.

Donalyn Julihn commented that Theater Works is desirous of building a theater in Menlo Park but they do not have the land and Broadway by the Bay is looking to expand. She urged the Council to not commit to the school until these and other options have been explored.

Councilmember Borak suggested deferring any commitment with the school until the City is clear on its role and use of the proposed school facility. She suggested that staff could proceed with discussions on the Park Theater.

In response to Councilmember Jellins, staff responded about the steps it would take to obtain additional information from the school about the City's role and use, gain community input, and identify the form of a joint use agreement, if one could be reached with the high school. Staff also responded to questions regarding the school's timeline and stage space in the Park Theater.

City Manager Boesch explained that to the extent that the Council is interested in exploring the feasibility of some level of City involvement in the Park Theater, staff would need clear understanding and direction from Council on how to proceed in this regard.

Councilmember Jellins said that in light of the comments made tonight and the need to obtain additional information based on those comments, he could not support committing \$50,000 or committing to a joint use agreement for any facility. He suggested that staff should go back to the school district and obtain the necessary information for Council to make an informed decision.

Nancy Chillag commented about a needs assessment study and clarified some of the minimum requirements for a theater, based on past information that she received.

Councilmember Collacchi expressed support to commit \$2.6M to a theater. He suggested that this funding appropriation should be formalized by Council.

Discussion ensued regarding the \$2.6M allocation.

Councilmember Jellins suggested allocating some funding to conduct a historical analysis to determine if there is value or an opportunity for the City to have additional control over the Park Theater.

Councilmember Kinney said that he would not object to committing \$50,000 to the school district, but would like to get a clear understanding of the City's role in the partnership and ability to use the facility. He would also like to see the Arts Commission's involvement in the process. He is concerned that the Park Theater might have some seismic and retrofitting issues.

Councilmember Kinney moved to proceed with a two-track approach to include moving forward with the Menlo Atherton High School joint use agreement and proceeding with exploring the Park Theater.

Motion failed due to lack of a second.

**Mayor Schmidt moved to table the Menlo Atherton proposal and direct staff to take an active role in exploring the Park Theater and other interested parties at this time.**

**Councilmember Kinney seconded the motion with an amendment to direct staff to also work with Menlo Atherton High School and return to the Council with a more solid understanding of the City's role in the partnership and use of the proposed facility.**

**Mayor Schmidt accepted the amendment.**

Councilmember Jellins asked for clarification about the level of staff input necessary in the discussions about the Park Theater.

City Manager Boesch suggested that staff would engage in discussions with the Park Theater owner, the Arts Commission and some of the other parties they have been in communication with over the past years. He noted that some money would have to be spent to do some investigative work in order to come back with additional information sometime in late August.

**Amended motion passed 5-0.**

3. Consideration of legislative items listed in the League of California Cities Bulletin(s), or items referred to in Written Communications or Information Items, including decisions to support or oppose any such legislative, communication or information item – None

## **G. WRITTEN COMMUNICATIONS**

1. Adoption of a Resolution requesting that the San Mateo County Board of Supervisors and the City of San Francisco pledge to oppose any major runway extension and Bay fill construction project at San Francisco International Airport (SFO).

Council concurred to defer this item to a future meeting.

2. Memorandum from David Boesch, City Manager, dated June 20, 2002, regarding the Park Theater – This item was discussed under F2.

## **H. INFORMATION ITEMS**

1. New Terms for First-time Homebuyer Second Mortgage (PAL) Loans – Noted and filed.

## **I. PUBLIC COMMENT #2 – None**

## **J. ADJOURNMENT – 12:10 p.m.**

Susan A. Ramos, CMC, City Clerk  
Approved by City Council on August 20, 2002

