



# CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Regular Meeting  
Tuesday, September 17, 2002  
7:30 p.m.  
Menlo Park Council Chamber  
801 Laurel Street, Menlo Park

**6:30 p.m. CLOSED SESSION** – Held in the Administration Conference Room located on the first floor at City Hall, 701 Laurel Street, Menlo Park. (Members of the public may speak to the Closed Session item at this time; three minutes per speaker.)

1. Closed Session pursuant to Government Code Section §54956.8 regarding property negotiations for: 525 Hamilton, (APN 055-341-120). Negotiating Parties: David Boesch, City Manager/Executive Director and Bill McClure, City Attorney.

**ADJOURN TO CLOSED SESSION** - 6:30 p.m.

**RECONVENE IN OPEN SESSION** – 7:30 p.m.

**REPORT ON AFOREMENTIONED CLOSED SESSION** – No reportable action taken.

## **7:30 p.m. REGULAR MEETING - Council Chambers**

**ROLL CALL** – Mayor Schmidt called the meeting to order at 7:40 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. Presentation by the State Department of Forestry to Trees for Menlo, Inc.

Steve Wart, Fire Chief of San Mateo and Santa Cruz Counties and a representative from the State Department of Forestry, presented Trees for Menlo, Inc. with a grant award for its El Camino Real tree project.

John Arnold, President and Marilyn Kinney, Treasurer, Trees for Menlo, Inc. expressed thanks and provided a project update.

### **B. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS**

1. Las Pulgas Committee (one vacancy – must be a homeowner in the Redevelopment Area), Housing Commission (one vacancy); Parks and Recreation Commission (three vacancies). The deadline for applications is September 24, 2002.

Mayor Schmidt announced the current vacancies.

2. Councilmember Reports: Schmidt, Kinney, Borak, Collacchi, Jellins.

Mayor Schmidt reported that the County Board of Supervisors approved the Alameda Streetscape Plan with significant changes to County staff's recommendation. He said he would have more information to report tomorrow. He suggested moving item H4 regarding the San Francisco Airport runway expansion project to the beginning of Regular Business.

Mayor Pro Tem Kinney requested to move agenda item F2 (Arborist position) to immediately follow the item regarding the airport runway expansion.

City Manager Boesch reported on the status of the East Palo Alto University Place project as outlined in his memo to Council.

Councilmember Jellins suggested forming a sub committee to work with East Palo Alto regarding the University Circle project.

Mayor Schmidt said that he does not think East Palo Alto will want to further delay the project. He also said that he does not think it is a good idea to form such a subcommittee during election time and suggested discussing it further off line.

Mayor Pro Tem Kinney reported on a City/County Government's Commission conference he attended where there was discussion about California's infrastructure for the 21<sup>st</sup> century and the disconnect and lack of communication between local governments and the state with respect to funding and revenue initiatives that are enacted without the knowledge of local government. He suggested that the City Manager invite a state representative to brief the City Council on the infrastructure 21<sup>st</sup> century plan.

### C. PUBLIC COMMENT #1

Stuart Soffer, Menlo Park, requested to speak on the residential zoning. Mayor Schmidt asked him to send his comments in writing since public comments were closed.

Janet Davis, San Mateo County, expressed concern about the potential traffic impact on Alpine Road from the Sand Hill Road proposal from Stanford University and that it might be the impetus for Stanford to develop projects in the area.

### D. CONSENT CALENDAR

Mayor Schmidt read the consent calendar and noted that the agenda notes that staff pulled items D3 and D6. Councilmember Jellins pulled items D4 and D8.

### M/S Borak/Kinney to approve consent items 1, 2, 5 and 7 as presented. Motion passed 5-0.

1. Approve audited bills for period 9 ending August 30, 2002.
2. Council consideration of staff recommendations to deny claims against the City.
3. **(This item was pulled by staff)** Community Development Agency acceptance of work for the Kelly Park Project.
5. Authorize staff to enter into a professional services agreement in the amount of \$79,800 with Ciardella Associates and AKA Inc. for Landscape Architectural Services for the El Camino Real Street Tree Project Phase III.
6. **(This item has been pulled and continued to September 24, 2002.)** Adoption of two Resolutions 1) Authorizing the Execution and Delivery of Amendment No. 1 to the Indenture Relating to the Gateway Apartments; and, 2) Agreeing to Subordinate the Agency's Promissory Note to the Existing California Deferred Payment Rehabilitation Loan Program Loan; and Authorizing the Executive Director to Execute the Amendment and the Subordination Agreement.
7. Adoption of a Resolution accepting the Public Improvements and releasing the improvement performance bond for the Oak Grove and Merrill Condominiums Subdivision (Menlo Square Subdivision) located at 1145-1195 Merrill Street.

### E. PUBLIC HEARING

1. Appeal of Environmental Quality Commission denial of a heritage tree removal permit at 1155 Santa Cruz Avenue.

Dianne Dryer, Environmental Coordinator, presented the staff report.

Walt Fuji, Contract City Arborist, responded to questions about the condition and maintenance of the tulip trees.

Paul Fay, Menlo Park, Applicant, expressed concern that he did not receive notification about a Commission meeting in June to discuss his application and therefore was not able to present his case at that time. He provided

some background and explained the reasons for his request. He said that the trees blocked the sun and are not totally healthy which could create an unsafe situation if they should break because they are too close to the house. He also noted that his family plans to build a swimming pool and make some improvements to the house in the future and the trees' removal would provide the space. He added that since his application, he has talked with several people and experts and would be willing to change his request to remove only one of the trees. He noted that he does not intend to improve the property and sell it. He said that his arborist, Ralph Newcomb, believes that although the tree is healthy today, because of its type, it could become weak and break in a storm or other disaster. He would like to prevent a potential danger from happening to his home and family. He responded to questions regarding improvements to the home.

Penelope Wong, Menlo Park, expressed support for the removal of the two tulip trees. She commented that the heritage tree ordinance does not take into account property issues like the number of trees on the property and the location of those trees. She said that the tulip trees will not impact the neighbors and provided some information about them including their potential growth of up to 150 feet. She urged Council to grant the request.

Doug Teeter, Menlo Park, opposed the removal of the trees. He said that his property backs up to the applicant's property and his family has enjoyed the view of the trees. He reminded the Council that the arborist disagrees that the trees are a hazard and the Commission and staff denied the request. He urged the Council to uphold the ordinance and deny the appeal. He read a letter to the Commission describing the neighborhood's opposition to the removal of the trees.

Ralph Newcomb, Applicant's Arborist of the applicant, provided some background about the particular type of tree and how it can be removed. He recommended removing the trees before they get bigger because it would be difficult later. He reiterated that the two tulip trees in their present condition would require regular monitoring for the family's safety.

Mary Kenney, Menlo Park, opposed the removal of the trees stating that they are generally healthy and the cavities could be monitored reasonably.

Questions and discussion ensued regarding tree pruning and maintenance.

**M/S Schmidt/Borak to grant the appeal in part as to the removal of the southernmost heritage tulip tree (identified in the plot plan attached to the staff report as Tulip Tree #2), following the issuance of a building permit for the construction of a pool or an addition to the house that will necessitate the tree's removal; deny the appeal in part as to the removal of the other heritage tulip tree (identified in the plot plan attached to the staff report as Tulip Tree #1); and condition the issuance of a building permit for any pool on the installation of solar panels to heat the pool. Motion passed 5-0.**

This item was moved to this section of the agenda:

H4. A Resolution relating to the proposed Runway Expansion into the Bay at San Francisco International Airport.

Mayor Schmidt provided some background.

Dan Cole, Sierra Club, said that the club wrote the initial draft of the resolution and noted that a similar resolution was adopted by another city. He commented that with the economic downturn and reduced traffic in San Francisco Airport, it might be a good time to address this issue. He summarized some of the alternatives for solutions to reducing air traffic delay, as outlined in the brochure he provided to Council, including implementing new air traffic technology and not allowing private aircrafts to land during air peak times.

Pat Walker, Menlo Park, said that she felt there are other issues more important that need to be addressed before degrading the bay and commented about technology to improve flight management. She supports regional planning and urged the approval of the proposed resolution.

Kenneth Lejoy, Menlo Park, commented on his study of the destruction to the bay over the last fifty years and strongly opposed the proposed airport expansion. He expressed support for the proposed resolution. He also responded to questions regarding the sale of Cargill salt ponds and the restoration of the marshlands.

Hank Lawrence, Menlo Park, commented about considering other complimentary forms of transportation to minimize air flights like high-speed trains. He encouraged taking advantage of the alternative modes of transportation that are available in order to help reduce the need to expand airport runways.

Judy Spickler, Menlo Park, concurred with the previous speakers and commented about the technological solutions that may be possible. She encouraged finding other alternatives and urged approval of the resolution.

Arlen Comfort, Menlo Park, expressed support of the resolution. He read an article about the end of the 100-year petroleum era and about global oil and fuel production and reserves.

Phil Spickler, Menlo Park, expressed support of the resolution and commented about stewardship of and responsibility for the environment.

**M/S Schmidt/Kinney to approve the resolution as presented.**

Councilmember Borak clarified that the City is not the deciding entity for this matter and encouraged other bay advocates to express their comments to the City and County of San Francisco's Airport Commission and the San Mateo County Board of Supervisors.

Councilmember Jellins expressed support for the intent of the motion to preserve the natural resources the best way, but questioned some of the contents in the resolution. He said that after talking with staff, he feels the resolution does not adequately reflect the current status of the San Francisco airport project. He asked questions about the draft environmental impact report and process.

City Manager Boesch provided information about the process including environmental review, public comments, timeframe and oversight of the land use and funding aspects of the proposal.

City Attorney McClure provided additional information about legal requirements and oversight in the decision-making process.

Councilmember Collacchi commented about some of the technological methodologies being implemented to manage air traffic. He said he would support the resolution.

Mayor Schmidt commented that there are other transportation alternatives that could be pursued to remove some of the demand from airports and roads but there is not enough interest in taking that approach. He feels that this would be an appropriate position for the City to take and hopes that other cities would follow to follow suit.

Councilmember Jellins said that he does not think it is appropriate for Council to take a position at this time because it is premature without the benefits of an environmental impact report. He would not support the motion because it is not the position or authority of the Council to weigh in on a subject of this kind based on the information that is available.

**M/S Borak/Schmidt to call the question. Motion passed 5-0.**

**Mayor Schmidt called for a vote on the motion on the table. Motion to approve the resolution as presented passed 4-1, with Councilmember Jellins dissenting.**

This item was moved to this section of the agenda:

2. Approve the creation of a new full-time City Arborist position in the Public Works Department, and appropriate \$21,000 from the General Fund Reserve to the fiscal year 2002-03 Budget for the purchase of a new vehicle, computer and office furniture for the City Arborist – This item was moved up on the agenda.

Ruben Nino, Director of Engineering Services, presented the staff report.

Staff responded to questions regarding the City's former arborist position and the budget for the proposed position.

**M/S Jellins/Schmidt to adopt the resolution as presented. Motion passed 5-0.**

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

Councilmember Jellins suggested moving the zoning ordinance discussion to tomorrow night.

## **F. REGULAR BUSINESS**

1. Review of the proposed Zoning ordinance amendments and Design Guidelines pertaining to single-family residential development. (The public comments closed on July 30, 2002). (Continued from August 28, 2002).

Arlinda Heineck, Acting Director of Community Development, presented the staff report and responded to questions.

**Mayor Schmidt reviewed the list of proposed changes to the residential zoning regulations with the Council for comments. Following questions and discussion, there was Council consensus to approve the following proposed changes as listed in the staff report:**

- **#25 Retain provision rezoning a use permit for excavation into a required side setback**
- **#26 Modification of regulations regarding expansion and/or remodel of nonconforming structures**
- **#29 Delete the definition of "Architectural Control Committee"**
- **#30 Delete the definition of " Dwelling Group"**
- **#31 Delete a reference to setbacks for dwelling groups**
- **#32 Delete the chapter on nonconforming families**
- **#33 Delete a reference to use permits being granted to residents as opposed to property**
- **#34 Modify the definition of "family"**
- **#38 Modify the requirements for public hearings**
- **#39 Modify the regulations for architectural feature encroachments**
- **#35 Modify the definition of "garage or carport" – Questions and discussion ensued regarding garage space encroachments, tandem parking and the administrative process.**

**Councilmember Jellins expressed concern about imposing additional requirements on the property owner to make the second tandem parking space, a covered parking space. He suggested codifying the City's existing practice regarding legal nonconforming parking.**

**M/S Schmidt/Borak to approve #35 as proposed. Motion passed 3-2, Mayor Pro Tem Kinney and Councilmember Jellins dissenting.**

**There was consensus to continue discussion of this matter at tomorrow night's special Council meeting.**

2. Approve the creation of a new full-time City Arborist position in the Public Works Department, and appropriate \$21,000 from the General Fund Reserve to the fiscal year 2002-03 Budget for the purchase of a new vehicle, computer and office furniture for the City Arborist – This item was moved up on the agenda.
3. Consideration of state and federal legislative items or items referred to in Written Communications or Information Items, including decisions to support or oppose any such legislative, written communication or information item - None

### Pulled and moved to the end of Regular Business

- D4. Approval of a Resolution authorizing the City Manager to amend the Management Compensation System to adjust control points, to grant compensation increases up to 5.5 percent effective July 1, 2002, and award bonuses up to a maximum of \$5,000 based on merit and in accordance with the Management Pay for Performance System for Employees in positions classified as management.

Councilmember Jellins stated he would not support the resolution.

**M/S Coliacchi/ Borak to adopt the resolution as presented. Motion 4-1, Councilmember Jellins dissenting.**

### Pulled and moved to the end of Regular Business

- D8. City Council (1) certification of the Negative Declaration prepared for the Burgess Theater Demolition Project and (2) award of contract for the Burgess Theater Demolition Project to Soil Enterprises Inc. in

the amount of \$59,840; and (3) authorization of a budget of \$88,840 for construction, contingencies, testing, engineering, inspection and administration.

Staff responded to questions about the volleyball court. Councilmember Jellins suggested considering a basketball court.

City Manager Boesch responded he would ask staff to bring it back with information on costs for a basketball court.

**M/S Jellins/Schmidt to approve the item and bring back information regarding costs for a basketball court. Motion passed 5-0.**

**G. WRITTEN COMMUNICATIONS - None**

**H. INFORMATION ITEMS**

1. Status of the Menlo-Atherton High School Performing Arts Theater – City Manager Boesch provided a status update regarding the draft agreement between the City and the high school.
2. Mid-year Council Calendar review – Noted and filed.
3. Status report on an application from the property owner of 3700 Haven Court to install a twin box culvert adjacent to 3700 Haven Court between Highway 101 and Haven Court to reduce property flooding and protect a part of the existing building foundation – Noted and filed.
4. A Resolution relating to the proposed Runway Expansion into the Bay at San Francisco International Airport – This was moved up on the agenda.

**I. PUBLIC COMMENT #2 – None**

**J. ADJOURNMENT – 11:15 p.m.**

Susan A. Ramos, CMC, City Clerk  
By Marjorie K. Wahlsten, CMC, Interim City Clerk

Approved by the City Council on October 1, 2002