



CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Regular Meeting
Tuesday, October 8, 2002
7:30 p.m.
Menlo Park Council Chamber
801 Laurel Street, Menlo Park

6:00 p.m. CLOSED SESSION – Held in the Administration Conference Room located on the first floor of City Hall, 701 Laurel Street, Menlo Park.

1. Closed Session pursuant to Government Code Section §54956.9 regarding anticipated litigation or significant exposure to litigation as disclosed in a letter from Steefel, Levitt & Weiss dated September 30, 2002 regarding the proposed Zoning Ordinance Amendments and Rezoning of portions of the M-2 General Industrial District. Parties present: David Boesch, City Manager, Arlinda Heineck, Acting Director of Community Development, and Bill McClure, City Attorney.

7:25 p.m. CLOSED SESSION ENDED

ROLL CALL - Mayor Schmidt called the meeting to order at 7:31 p.m. in the City Council Chambers and stated there was nothing to report from the closed Session. Mayor Pro Tem Kinney, Councilmembers Borak, Collacchi, and Jellins were all present. Also present were City Manager Boesch, Assistant City Manager Seymour, City Attorney McClure, Interim City Clerk Wahlsten, and other department heads.

A. PRESENTATIONS AND PROCLAMATIONS

1. Presentation of the San Francisquito Creek Joint Powers Authority Year-end Report.

Assistant City Manager Seymour introduced Cynthia D'Agosta, Executive Director of the JPA. Ms. D'Agosta thanked the City Council for providing them office space in City Hall and particularly Mayor Pro Tem Kinney and Councilmember Borak for their assistance and support. She highlighted achievements of the JPA this year and stated they have adopted their work plan for the upcoming year. Improved internal communications between the five member agencies is a primary focus.

Councilmember Jellins asked if each member agency had received this type of presentation. Ms. D'Agosta stated they had all received copies of the written report and she was making oral reports as requested by the individual agencies.

B. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

1. Environmental Quality Commission (one vacancy), Las Pulgas Committee (one vacancy - homeowner in the Redevelopment Area) and Housing Commission (one vacancy). The deadline for applications is October 29, 2002.

Mayor Schmidt announced the vacancies.

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

There were no reports given.

C. PUBLIC COMMENT #1

Pat White, Menlo Park, believes the City should have a formal code of ethics. He cited backing of specific candidates in the November 5, 2002 election.

D. CONSENT CALENDAR

1. Award of contract to Scapes Inc. for the El Camino Real Trees Project Phase II in the amount of \$422,940; and authorize a budget of \$524,940 for construction, contingencies, and construction administration.
2. Adoption of Resolution No. 5409 approving a memorandum of Understanding (MOU) between the City of Menlo Park and Service Employees International Union (SEIU), Local 715, Temporary Employees Unit for the period beginning upon Council approval and ending June 30, 2005.
3. Approval of Minutes for the City Council Meeting of August 27, 2002 and the Special City Council Meetings of August 28, 2002 and September 25, 2002.

Councilmember Jellins requested Item 1 be pulled from the Consent Calendar. M/S Borak/Schmidt, to approve Items 2 and 3. Motion passed unanimously. Mayor Schmidt noted that Item D-1 would be heard in order as Item F-4.

E. PUBLIC HEARING – None

H. INFORMATION ITEMS

3. Burgess Pool 50 Meter Option.

Mayor Schmidt stated he would take this item out of order. It was on the October 1, 2002 agenda but was carried over to this agenda.

Roy Sardina, Menlo Park, stated the community really does need a 50-meter pool in addition to the shorter teaching pool.

2. Status report regarding a review of the City's Child Care Program.

Councilmember Jellins suggested and the Council concurred to hear the speaker on this item at this time rather than have her wait for the end of the agenda.

Pauline Burke, Menlo Park, a member of the Menlo Children's' Center Parents' Association, stated they support studying the services, but not revisiting the construction of the new facility, which they see as two separate issues.

F. REGULAR BUSINESS

1. Status report and direction regarding the Bayfront Park funding analysis.

Staff report summary given by Assistant City Manager Seymour. She noted that Peter Diebler of Brown Vence & Associates, the consultant hired by the City Council to perform the funding analysis, is present to answer questions. The purpose of this update is to review the parameters

and revenue options that will be included in the funding analysis model and to get feedback before the model is finalized.

Chris Goldy, Redwood City, requested that the City Council continue with the decision to keep this area in open space and make it passive, not active.

Council concurred to separate the park and landfill costs and look at revenue generation separately.

M/S Jellins/Schmidt, to direct Brown Vence & Associates to study how the City could impose a solid waste fee on residential and commercial users to pay only the landfill costs; and staff to study how the park could be funded through active user partnerships. Staff will return with the issue of exploring private partnerships as a priority project in January. Motion passed 5-0.

Following discussion, Mayor Schmidt concurred to re-order Item F-3 to next on the agenda.

3. 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 October 1, 2002).

Acting Director of Community Development Arlinda Heineck stated the City Council completed review of two of the six sections of the Design Guidelines at its October 1, 2002 meeting. Councilmember Collacchi and Mayor Pro Tem Kinney have prepared a proposal for the additional four sections that was distributed electronically yesterday. Councilmember Jellins stated he had just received a copy and was not aware of the request to review it before this meeting. He requested a short recess.

Mayor Schmidt called for a recess at 9:45 p.m. The meeting was reconvened at 10:00 p.m. with all Councilmembers present.

Mayor Schmidt stated that the Child Care item (H-1) will be carried over to the October 15, 2002 agenda and that the Council would take up Item F-2 next.

Councilmember Jellins stated he would prefer to take Item F-2 first in order to allow staff and the consultants to not have to wait until the Council was finished with the Design Guidelines item. Council concurred.

2. Approve asset classes for valuation under the Government Accounting Standards Board (GASB) 34; select method of reporting the Value of Infrastructure on financial statements; and authorize the City Manager to enter into an agreement with Berryman and Henigar to perform Phase II services to develop asset management systems and establish an annual update procedure required by the Government Accounting Standards Board (GASB) statement 34 in the amount of \$44,950 plus a 15% contingency.

Yaw Owusu with the City's Engineering Staff, presented the staff report, together with a representative from Berryman & Henigar, the City's consultant.

M/S Schmidt, Borak, to approve staff recommendation to: 1) approve the networks and subsystems classification identified by the consultant; 2) that assets acquired prior to 1980 be valued in order to have a complete asset inventory; and 3) authorize the City Manager to enter into an agreement with Berryman & Henigar in an amount of \$44,965, plus 15% for contingencies for Phase II services. Motion passed 5-0.

3. 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 October 1, 2002).

Council discussed the most efficient way to review these guidelines and concurred to make a motion to approve an entire section, and then amend from there.

M/S Borak/Schmidt to accept the Privacy Guidelines (Section C) as presented by Councilmember Collacchi and Mayor Pro Tem Kinney.

Councilmember Jellins thanked Councilmember Collacchi and Mayor Pro Tem Kinney for their attempts to streamline the process. He asked them for background on how they went about making their changes to the Guidelines staff had presented to the City Council. Councilmember Collacchi stated the process was similar to what the Council followed at their October 1, 2002 meeting in seeking to simplify and clarify. They tried to give the principal and when a guideline was explaining the principal they put it as a sub-bullet.

Councilmember Jellins suggested "Avoid the placement of windows, balconies and decks that would prevent direct sight lines into neighbor's windows and livable backyard areas", as the principal and the other items as sub-bullets.

Councilmember Collacchi called for the question. Motion carried 4-1 with Councilmember Jellins dissenting.

Motion to accept Section C carried 4-1 with Councilmember Jellins dissenting.

M/S Borak/Kinney, to accept Sunlight (Section D), as presented by Councilmember Collacchi and Mayor Pro Tem Kinney. Amendments suggested were:

1) Change the Prohibited bullet to "New homes and additions that interfere with existing solar collectors or panels, *or passive and active solar features that are used as source of energy....*"

2) Delete "passive and active solar features or" from the first bullet under Preferred.

3) Amend the second bullet to read, "Articulate building massing or lower building heights to minimize loss of solar access *to adjacent properties and structures.*"

4) Amend the third bullet to read "Restrict dormers, *chimneys* and gable ends, at the north-facing sides of a property."

5) Amend the fourth bullet to read, "Avoid north-facing dormers, *chimneys* and gable ends that cast excessive shadows."

6) Define north as being within 30 degrees of north.

M/S Collacchi/Schmidt to call for the question. Motion carried 4-1 with Councilmember Jellins dissenting.

Motion to accept Section D as presented and amended carried 4-1 with Councilmember Jellins dissenting. Councilmember Jellins objected to redundancy and lack of precise language.

M/S Schmidt/Borak to accept Ancillary Structures (Section F), as presented by Councilmember Collacchi and Mayor Pro Tem Kinney.

Councilmember Jellins asked staff if they had reviewed the proposal. Director Heineck stated she had done a detailed comparison between the proposed draft and the October 1 staff report and she feels the changes made are compatible with the direction the Council had given on the Compatibility and Mass and Bulk Sections. Staff does have some concern about the term ancillary structures with fences and driveways included in the section.

Amendments included:

- 1) Change the section title to “Site features, lighting and ancillary structures.”
- 2) Amend second bullet under accessory structures to read, “Accessory structures should be compatible with the architecture of the main structure.”
- 3) Add the second bullet to the “Compatibility” section.
- 4) Combine first and second bullets under “Outside Equipment” to read, “Screen, filter, and/or baffle air conditioning, pool, residential generator or other outside equipment from view, smell, or sound from an adjacent property.”
- 5) Add word “visually” to third bullet to read, “Locate residential satellite dishes in inconspicuous places that will not visually impact adjacent property owners.”

Motion to accept the Outdoor Lighting, Accessory Structures, and Outside Equipment as amended passed 5-0

M/S Schmidt/Borak to approve Fences and Driveways sections, amended as follows:
Fences

- Fences near the street should be compatible with the streetscape and neighborhood patterns.
- Use landscaping to make blank faces of fences or bare walls more visually interesting.
- When gates are used, they should allow at least one car length clearance between the gate and the right of way to allow for the gate to be opened without blocking pedestrian, bicycle, or automobile passage.
- Gates should slide open or open inwards towards property instead of opening on to the street or sidewalk.

Driveways

- Driveways should be designed to minimize glare to adjacent properties from headlights.

Motion passed 5-0

M/S Schmidt/Kinney, to accept Architectural Details (Section E) as presented by Councilmember Collacchi and Mayor Pro Tem Kinney. Amendments included changing the sub-bullet under the second bullet under Roof, to read, “Articulate roof into primary and secondary roof forms” and delete the third bullet under Garages. Motion carried 5-0, with Councilmember Jellins noting he is not in favor of the prohibition of 3-car garages since there are some lots in the City that are large enough to support a 3-car garage.

Councilmember Jellins requested and received assurance that staff has discretion to interpret the second bullet under Garages as suggested by Director Heineck that the style of the door provide some architectural interest that is compatible with the house design.

Director Heineck noted that at the October 1, 2002 meeting the Council voted to move wording from Compatibility section to Architectural Details, “Entries should be well-related to surrounding properties in terms of scale and proportion.” Council concurred to leave it out.

Director Heineck noted that at the October 1, 2002 meeting the Council voted to move wording from Compatibility section to Architectural Details: "Integrate entry features into the overall building design." Council concurred to leave it out noting it is just part of good design.

Director Heineck requested Council give direction on:

1) The implementation procedure and whether all sections of the guidelines would apply to review of all projects;

2) How the guidelines relate to the zoning ordinance and specifically the zoning overlay process. It is currently written to allow for changes only in the regulations stated in the Ordinance. The Council has discussed neighborhoods being able to "turn off" and "turn on" certain sections of the guidelines. Are there some sections that neighborhoods cannot turn off?

3) At what point projects that are currently in the review process would be subject to any new requirements. Possible points could be projects that are filed with complete application for planning review but have no approval; projects that have planning approval but no building permit; projects that have applied for a building permit.

Council concurred with Councilmember Kinney's suggestion that if you have a completed application filed you are exempt no matter where you are in the pipeline.

City Attorney McClure stated a simplified process would be to put everything that was required of everyone into the zoning ordinance, and put the sections that could be "turned off" by neighborhoods in the design guidelines, rather than having a zoning overlay district. There still might be a zoning ordinance amendment that would list the neighborhoods that have "turned off" specific design guidelines.

Director Heineck pointed out 5 items in the October 1 staff report that Council could consider moving from the zoning ordinance into the design guidelines: 35% second story Floor Area Limit; height of one-story and two-story residences; daylight plane standards; permeable surface requirements; and encroachments into setbacks of architectural features.

M/S Schmidt/Collacchi to move 35% second story FAL into prohibited category under Mass and Bulk section of the guidelines. Neighborhoods could not "turn off" the Solar, Privacy, and Site Features, Lighting and Ancillary Structures sections of the Design Guidelines. No neighborhoods can "turn off" any provisions until the Ordinance is adopted. "Turning off" would require a petition signed by 20% of the property owners and affirmative votes of 60% of returned votes. Appendix A & B are not part of the Guidelines. Motion passed 4-1 with Jellins dissenting.

Councilmember Jellins stated he could not support the motion if there is no expedited process for neighborhoods that want to opt out from the outset based on prior input from those neighborhoods.

City Attorney McClure asked the City Council if they want the ordinance to be effective in the customary 30 days from adoption or give a longer time to allow neighborhoods time to make their applications to opt out. The Council can discuss that when the ordinance is introduced. Mayor Schmidt asked for a hypothetical timeline on how long it would take a neighborhood to opt out when this item comes back to the Council on October 29, 2002.

4. 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.

There was no discussion.

G. WRITTEN COMMUNICATIONS - None

D. CONSENT CALENDAR

1. Award of contract to Scapes Inc. for the El Camino Real Trees Project Phase II in the amount of \$422,940; and authorize a budget of \$524,940 for construction, contingencies, and construction administration.

Mayor Schmidt noted that Councilmember Jellins had pulled this item from the Consent Calendar. Councilmember Jellins asked Engineering Services Director Nino questions regarding the proposed project and what impact the fully-grown trees would have on the visibility of the business signs in the area.

**M/S Kinney/Schmidt to award the construction contract for El Camino Real Tree Project Phase II to Scapes Inc. in the amount of \$422,940 and authorize a budget of \$524.940 for Construction, Contingencies and Construction Administration.
Motion carried 4-0-1 with Jellins abstaining.**

I. PUBLIC COMMENT #2 - None

J. ADJOURNMENT – 12:05 a.m.

**Marjorie K. Wahlsten, CMC
Interim City Clerk**

Approved by the City Council on October 29, 2002