



CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, August 19, 2003

7:30 p.m.

The Menlo Park Council Chambers
801 Laurel Street, Menlo Park, CA 94025

7:30 p.m. REGULAR MEETING (Menlo Park City Council Chamber)

ROLL CALL - Jellins, Duboc, Collacchi, Kinney, Winkler

STAFF PRESENT - David Boesch, City Manager, Audrey Seymour, Assistant City Manager; Dan Siegel, Acting City Attorney; Silvia M. Ponte, City Clerk. Various department heads and other City staff were present.

PLEDGE OF ALLEGIANCE

A. PRESENTATIONS AND PROCLAMATIONS - None

B. COMMISSION VACANCIES, AND REPORTS

1. Mayor Jellins informed the public that numerous applications had been received for the various vacancies.

The Arts Commission has two vacancies to serve four-year terms that expire September 2007. The deadline for receipt of applications is 5:00 p.m. on August 18, 2003.

The Environmental Quality Commission has two vacancies to serve four-year terms that expire September 2007. The deadline for receipt of applications is 5:00 p.m. on August 18, 2003.

The Housing Commission has two vacancies to serve four-year terms that expire September 2007. The deadline for receipt of applications is 5:00 p.m. on August 18, 2003.

The Las Pulgas Committee has one vacancy for a Rental/Owner to serve an un-expired term, ending March 2005. The deadline for receipt of applications is 5:00 p.m. on August 18, 2003.

The Parks and Recreation Commission has one vacancy to serve a four-year term expiring September 2007. The deadline for receipt of applications is 5:00 pm on August 18, 2003.

The Transportation Commission has two vacancies to serve four-year terms that expire September 2007. The deadline for receipt of applications is 5:00 p.m. on August 18, 2003.

2. Council Member Reports.

Mayor Pro Tem Duboc shared concerns about emails and letters received referring to parking downtown. Ms. Duboc requested that staff prepare a report delineating options to extend parking hours, and that this matter be addressed before the holiday season. Mayor Jellins suggested that Mayor Pro Tem Duboc work with Mr. Boesch on this matter, and report back to Council. There was a suggestion to also include the Chamber of Commerce in this discussion.

Mayor Jellins reported on attending the City and County Association of Governments (C/CAG) meeting and he collected a number of materials on the votes of local legislators on various bills. He has directed the City Clerk to distribute this information to other members of the Council.

C. PUBLIC COMMENT #1 (Limited to 30 minutes)

John Conway disagrees with the art regulations imposed by City Ordinance because retail businesses have a hard time meeting all the requirements. Mr. Conway believes the City Council should reconsider the imposed regulations.

Harry Harrison expressed his views on the Burgess Plan and he supports the 25-meter pool. Mr. Harrison disagrees with having a private club use a public pool, however if the project continues he would like the Council to place strict guidelines. He also commented on the Art Ordinance, and in his opinion it is not business friendly. Mr. Harrison stated that the Transportation Commission should be merged with the Engineering Department, and the Environmental Quality Commission should be merged with the Planning Department. Mr. Harrison would like to see Hermosa Street be fixed.

Pat White spoke about the challenges of the Art Ordinance in Menlo Park, and Mr. White believes that the developers already have an interest in keeping their buildings visually pleasant so there is no need for the Arts Commission to regulate this matter.

Milton Borg is the applicant subject to "the Percent for Art" Ordinance, and Mr. Borg does not agree with all the requirements. Mr. Borg stated that this Ordinance is a challenge because in his case his art piece (a bench) will cost \$12,000. Mr. Borg stated that artists working in large-scale public work are hard to find.

Yeong-Ching Foo shared with Council the situation of her fiancée who has been detained in China. Ms. Foo asked the Council to sign a letter requesting the release of Dr. Charles Lee from the Chinese authorities. Ms. Foo is very concerned about her fiancée being mistreated and force-fed.

Clare Li talked about Falung Gong and how she believes this practice is an optimal health practice. Ms. Li believes that this is a complete system of mind and body cultivation. In Ms. Li's opinion this system guarantees a younger look and increases energy levels.

Ma Chang Zi shared with Council her opinion on the prosecution in China of Falung Gong practitioners. Ms. Zi asked that Council call and write to the Chinese Consulate opposing these actions.

Fernando Bravo is the City Engineer for the City of East Palo Alto, and Mr. Bravo made himself available to answer questions regarding IKEA's grand opening scheduled for August 27, 2003. The City of East Palo Alto will be monitoring the traffic for at least the first six weeks, and is invested in following a traffic management plan.

Mayor Jellins noted that Agenda Item H2 could be addressed at this time. Mayor Jellins inquired about contingencies for the period after the initial six weeks, and Mr. Bravo clarified that there is a long-term traffic plan. Council asked for clarification on what streets would be closed and the parking facilities available. Mr. Bravo explained that the only streets planned for closure are in East Palo Alto. Jamal Rahimi, Transportation Manager gave detailed information on how the City of Menlo Park is planning to address this matter which includes being proactive and anticipating the days of most traffic. Mr. Rahimi stated that there is a hotline for residents, a website and extra officers will be on site. Similarly, staff has started counting cars to understand traffic patterns before, during and after the grand opening. Mr. Rahimi stated that based on the studies and observations from police officers, the Transportation Department might install temporary traffic measures.

Council asked specific questions about a \$10,000 reimbursement to the City of Menlo Park. Mr. Bravo stated that the City of East Palo Alto is invested in taking long-term measures to resolve this matter, and Menlo Park should present its request for reimbursement of additional expenses.

Mayor Jellins asked for Public Comment on this matter. There was none.

Mayor Jellins announced that the next City Council Meeting of August 26, 2003 will begin at 7:00 p.m. and will take place at the Menlo Park Senior Center at Belle Haven.

Mayor Jellins announced a meeting of the Bay Area Air Quality Management District on Wednesday September 10, 2003 from 6:30 p.m. to 8:30 p.m. at the East Palo Alto Senior Center at 560 Bell Street in East Palo Alto. The public is invited to attend.

D. CONSENT CALENDAR

1. Adoption of a Resolution 5468 amending the City's Master Fee Schedule to incorporate proposed changes in fees associated with the Tow Service Agreement, adding a fee of \$50. for storage of towed vehicles for 30 days or longer, to become effective September 1, 2003
2. Adoption of a Resolution 5469 Authorizing Payment to Bay Cities Joint Powers Insurance Authority in the Amount \$516,695 for General Liability Coverage, Employment Practices Coverage, Excess Workers' Compensation Coverage, and Crime Coverage for the Period of July 1, 2003 through June 30, 2004 with a Combined Premium Deposit Payment Not to Exceed \$509,413, and \$7,282 in Supplemental Premiums for the General Liability Coverage, Employment Practices Coverage, Excess Workers' Compensation Coverage for the Period of July 1, 2002 through June 30, 2003.
3. Award of contract to Valentine Corporation in the amount of \$256,369 for the Willow Place Bike and Pedestrian Bridge Replacement Project, and (2) authorization of a project budget in the amount of \$401,369 to cover construction, contingencies, material testing and construction administration.
4. Approval of the City Council Minutes for the Meeting of July 22, 2003.

M/S Kinney/Duboc to approve the Consent Calendar in its entirety. Motion carries unanimously.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. Consideration of a request from the Mid-peninsula Open Space District for a Resolution supporting the San Mateo County Coastal Annexation Project.

Silvia Ponte, City Clerk presented the staff report. Ms. Ponte introduced Larry Hasset, Director of the Midpeninsula Open Space District (MPOSD) who stated that Ms. Cathy Woodbury, Planning Director for the project, would provide a brief history of the District and the current status on the proposed coastal annexation. A brief slide presentation was shared illustrating the District's activities and projects.

Mayor Jellins asked questions about the significance of annexing lands and its meaning in real terms. Ms. Woodbury clarified that while specific parcels have not been identified, once parcels are annexed these parcels are dedicated for open space, and natural resources. Ms. Woodbury stated that the land could only be acquired by willing sellers, since eminent domain powers will not be exercised. Council also asked questions about conservation easements, and their implication on property titles.

Public Comment

Carrie German opposes this annexation because the District does not provide sufficient infrastructure such as parking, and out-houses. Ms. German believes that MPOSD is not always a desirable neighbor and there is potential for inept bureaucracy.

Lisa Zadek urged Council to support the resolution presented by the MPOSD because it brings many benefits to communities.

Terry Gossett is in the proposed annexation area, and opposes this project because there are many inconsistencies in the final Environmental Impact Report (EIR). Mr. Gosset believes that even though a policy has been promulgated prohibiting eminent domain those who have had to deal with it still have

concerns. Mr. Gossett stated that attached to the EIR there were 50 pages of people who opposed the annexation. Mr. Gossett asked that Council look at the financial aspects of this annexation.

Council asked questions of Mr. Gossett in regards to the tax numbers he mentioned.

Lennie Roberts was happy to see Mr. Harrison active in the community, and she believes that MPOSD is a great benefit because there are so many people enjoying those open areas. Ms. Roberts believes the District has a very dedicated staff and County Supervisor Mike Nevin supports this annexation.

Peter Daniel, esquire for the Hannig Law firm and representing the Half Moon Bay Coastsides Foundation, stated that the Environmental Impact Report is inadequate because it does not consider significant environmental impacts such as fire danger. Mr. Daniel asked that the City Council follow the action taken by the Town of Woodside and not support a resolution until the issues of CEQA are resolved.

Oscar Braun (with time donated by Andrea Braun) provided reasons why he opposes the MPOSD annexation project and he provided some background on his 501-C3 organization entitled Half Moon Bay Coastsides Foundation. Mr. Braun also represents the Coastal Fire Districts and he believes that this project is not going to help the watershed area. Mr. Braun stated that the EIR should have been presented to the public before it was completely approved and the Draft Service Plan uses a 15-year plan that lacks a multi-hazard mitigation plan. Mr. Braun believes that MPOSD does not have a watershed management plan, a multi-hazard mitigation plan, or an invasive species plan, and for this the District has been disqualified from State and Federal funding. Mr. Braun said that the Environmental Impact Report should have allowed for more public input prior to completion.

April Vargas is a 32-year coastal resident and a member of the Half Moon Bay Chamber of Commerce. Ms. Vargas is the former chair of the legislative committee of that Chamber of Commerce and she believes that open space is good for business and housing. Ms. Vargas reiterated that this project is a direct result of requests from residents and three advisory bodies: the Midcoast Community Council, Pescadero Municipal Advisory Council and the Half Moon Bay City Council. The vast majority of coastal residents want to become part of the District and businesses will benefit from this project.

Nina Pellegrini resides in Montara and believes that people are being omitted from the process. Ms. Pellegrini does not believe MPOSD will take in consideration the small land farmers who will be absorbed by this project. Families that live on the coast need to be protected and the San Mateo Farmer's Bureau opposes this annexation. Ms. Pellegrini believes that if MPOSD wants land it can buy land instead of annexing it. Ms. Pellegrini is also a director of California for Property Rights.

Gerry Andeen, previous Menlo Park Council Member and a board member of the MPOSD, is very impressed with all the deeds this District has accomplished. Mr. Andeen said this District has maintained land for people, and MPOSD buys land and does not confiscate the land. He is very proud to have served in the directorship of MPOSD because this is a small thing that makes a difference.

Barbara Seany believes in the beauty of the coastal lands, open space and hiking trails. Ms. Seany believes that the coast adds to the quality of life and economic vitality of this area. She said this is a long-term plan with long-term benefits and Council should focus on the quality of life of future generations. Ms. Seany requests that Council support this resolution.

Peter Colby spoke about Chuck Taylor's contribution to the coastal areas and the benefits to the public. Mr. Colby gave information about restoration in coastal areas and he believes that MPOSD's proposal might lead to voter-mandated taxes.

M/S Kinney/Collacchi to approve the resolution and support the MPOSD interest for annexation.

Mr. Kinney voted for the formation of the trail systems, and he has seen the management and believes this is a true asset. He believes in the management style and the benefit brought to the community by

MPOSD. Mr. Kinney likes that there is no eminent domain, and the fact that there isn't any cost to the Menlo Park residents.

An alternate motion was made

M/S Duboc/Winkler to table this item. Mayor Pro Tem Duboc explained that she believes this to be an issue related to coastside communities and a zoning issue versus a local matter.

Discussion

Council discussed on one hand it is a good idea to cooperate with coastal communities and their decision-making because our residents benefit from the open spaces. On the other hand, there is a need to be focused on issues that pertain to the City of Menlo Park and not on issues that are related to other communities. Some Council members are uncomfortable with the decision making process because it will affect coastal areas and they don't feel comfortable making decisions that will affect the other communities. Similarly, Mayor Jellins stated that while open space is a true benefit this might not be the City's area to deliberate on. Like other Council Members he is uncomfortable taking a position in a matter that is unresolved.

Council ensued in more discussion and some Council Members would prefer waiting until the matter gets resolved in court, because this is a complex matter that demands much research. The maker of the original motion shared some disappointment at the lack of decision-making since Menlo Park is a member of MPOSD and many other cities have passed the resolution.

The seconder of the original motion urged the Council to be decisive about this matter and not postpone the matter since he believes there is a benefit to the extension of open space, and he views this as a public benefit.

Mayor Jellins called for the vote.

Vote to substitute the second motion for the first. Motion carries three to two with Council Members Kinney and Collacchi voting against it. Consequently, the first motion is now off the table.

Vote on the substitute motion, which is to table the item.

Council Member Kinney requested a friendly amendment "item to return to Council on a date certain to be addressed again". The maker of the motion did not agree with amending the option.

M/S Kinney/Collacchi substitute motion to bring this matter back to Council in three months, on a date certain in the month of November.

Council Discussion

Council Member Collacchi urged the Council to take a stand either way. He stated that the reason he voted against his own motion is because he does not believe in delaying action until the CEQA matter is resolved.

Council discussed having the matter come back after the litigation is addressed. Council inquired about the length of CEQA litigation, and Mr. Siegel said it is not possible to state when this will be complete. Some Council Members expressed sentiments that this is not their issue and wouldn't support the motion. Other Council Members support the acquisition of coastal lands but do not feel competent to address this matter now.

Mr. Collacchi proposes a friendly amendment for the item to come back when the CEQA action is terminated. Such amendment is acceptable to the maker of the motion.

Motion to substitute Mr. Kinney's motion (which includes the friendly amendment) by the motion made by Mayor Pro Tem Duboc to table the item. Motion fails 2 to 3 with Mayor Jellins, Collacchi and Duboc dissenting.

Vote on motion to table the matter indefinitely. Motion carries with Council Member Collacchi and Kinney voting against.

Council stated that this item could come back if a Council Member desires to address it again.

Council recess at 10:02 p.m.

Council reconvened at 10:15 p.m.

2. Approval of an agreement in an amount of \$130,275 with Kennedy/Jenks Consultants for the East Palo Alto/Menlo Park Joint Water Supply Alternatives and Operation Evaluation Study; authorize spending an additional \$13,028 for staff time and contingencies; and authorization of staff to enter into a reimbursement agreement with the City of East Palo Alto for reimbursing the City of the City of East Palo Alto's share of the Study.

Ruben Nino, Director of Engineering Services explained details about the Joint Agreement. Mr. Nino clarified the purpose of the study and how the two municipalities are trying to address water storage in case of disaster. Council asked questions of staff relating to sites being considered, and how East Palo Alto is moving forward and how the cities are working together.

M/S Kinney/Jellins to approve the staff recommendation. Motion carries unanimously.

3. Direction to staff to proceed with negotiations for an option to purchase approximately five acres at the Saint Patrick's Seminary on Middlefield Road for a sports field and water storage reservoir.

Ruben Nino presented the staff report explaining the different options available to Council and preliminary cost figures. Council asked questions about the funds and the suggested allocations, and how feasible it is to get partners in this project. Mr. Nino stated that CalWater has shown some interest. Council inquired about expediting the play fields part of this project. Dan Siegel, Acting City Attorney was asked to explain how this option works. Council also discussed the site options and why other sites were not being considered. Staff reaffirmed that the consultant will look at other options and Mr. Boesch clarified issues relating to partnering on recreational uses (fields) and water storage.

Public Comment

Vincent Bressler is thrilled that this issue is before Council, because he hopes that the community will increase its open space area. Mr. Bressler believes that placing a park on Middlefield Road is the best option since all residents will benefit from this.

M/S Winkler/Duboc to approve the staff recommendation.

Council discussion

Council Member Collacchi asked that the funds be earmarked for this purpose and Council Member Kinney complimented Mr. Nino and Mr. Steffens for their vision and staff report. Council asked questions about the need for a storage reservoir, and Mr. Boesch stated that currently there is no emergency water supply for eastern Menlo Park. Mr. Boesch said that what is needed is to have a storage container that will allow the City to divert water from the western storage tank (Sand Hill Road reservoir) to the eastern portion of Menlo Park. The City Manager also stated that the water needs of all of Menlo Park will be addressed and equity issues will be explored.

Motion carries unanimously.

4. Appointment of a Council Subcommittee to review applications and make recommendations for funding community programs in fiscal year 2003-04.

Ms. Audrey Seymour presented the staff report and requested that Council appoint two Council Members to make recommendations on grant authorizations.

Mayor Pro Tem Duboc and Council Member Winkler volunteered to serve in this capacity and were appointed to this Council Subcommittee.

5. 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.

Mayor Jellins referred to a previously mentioned document that was passed to the City Clerk for dissemination to Council (C/CAG document).

G. WRITTEN COMMUNICATIONS

1. Council discussion of a request by SBC for a Resolution endorsing policies to encourage investment in local telecommunication services infrastructure.

Mayor Pro Tem Duboc asked that Stacy Wagner, External Affairs Director for SBC, address the Council on the resolution of support. Ms. Wagner stated that this resolution of support is important because it assists SBC in having all other companies (that provide similar services) report the same data SBC is required to report. In her opinion this approach increases capital investment and jobs in the city. Council asked questions about the portions of Menlo Park that do not have web access.

Mayor Jellins suggested some edits to the resolution. Council asked questions about cable, satellite and wireless companies not being as regulated as phone companies. Mayor Pro Tem Duboc requested this item be placed on a Consent Calendar for vote on an upcoming meeting.

H. INFORMATION ITEMS

1. Update Regarding the Review of Child Care Needs and Options.

Ms. Audrey Seymour, Assistant City Manager presented the staff report. Council asked questions about the item and its consistency with the intent expressed during the original discussion in regards to the bidding for the construction of the Menlo Children's Center. Council asked about the cost of the Children's Center, and stated that this is a concern for Council.

Ms. Seymour clarified that the Task Force is looking at a variety of options and will come up with a recommendation that does not include redesigning the Menlo Children's Center but includes looking at the Police facility and adding as much usage as possible and spending as little as possible. Mayor Pro Tem Duboc recognized Ms. Seymour, Assistant City Manager for her contributions on this matter.

2. Information regarding the IKEA Traffic Contingency Plan (this item was addressed earlier).

I. PUBLIC COMMENT #2 (Limited to 30 minutes)

J. ADJOURNMENT – 11:35 p.m.

Respectfully submitted,

Silvia M. Ponte, City Clerk

Approved at the City City Council Meeting of September 9, 2003.