



CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES

Tuesday, October 7, 2003
7:00 p.m.
801 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chamber

7:00 p.m. REGULAR MEETING (Menlo Park City Council Chamber)

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

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

PLEDGE OF ALLEGIANCE

A. PRESENTATIONS AND PROCLAMATIONS - None

B. REPORTS

1. There is one vacancy on the Environmental Quality Commission to fill an un-expired term ending August 2004. The deadline for applications is Tuesday, November 4, 2003 at 5:30 pm.

Mayor Jellins invited the public to apply for this vacancy.

2. Council Member Reports.

Mayor Pro Tem Duboc reported that the Belle Haven Community Life Initiative has started small group discussions to find out about community needs and concerns. Ms. Duboc encouraged interested people to attend these community gatherings.

Council Member Kinney reported on attending a BAWSCA meeting, and reported that the water consumption will exceed supply amounts allocated by the current contracts in the year 2010.

Mayor Jellins reported that as the Secretary/Treasurer of the California League of California Cities Peninsula Division he presided over the balloting procedure for updating and revising this body's by-laws. Mr. Jellins reported that the document was approved and will be sent out to all members.

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

Patti Fry (speaking as a resident) asked the Council, residents and the press to keep in mind that it is important to work together. Ms. Fry stated that respect is a very important value and that everybody deserves to be heard. Ms. Fry has met with the City Manager and they are willing to meet with residents who had negative experiences with the Planning Commission to address concerns.

Sam Sinnott stated that the Council should invest in providing training to Planning Commissioners, in regards to roles and expectations. Mr. Sinnott believes that the Council's role is to set policy, and that the Planning Commissioners should not interfere with this role.

Horace Nash suggested a process that includes having the Council share its concerns and issues in advance so the public can respond and address them. Mr. Nash would like Council to share what the big issues are prior to public comment so those present can share their views and address those concerns.

Terry Kent referred to a presentation made by three Planning Commissioners at the end of the last meeting and he was unaware that this was going to take place. Mr. Kent stated that if he had known that this presentation was going to occur he would have stayed until the end of the meeting.

D. CONSENT CALENDAR

Consent Agenda items are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Council, staff or public request specific items to be removed for separate action.

1. Acceptance of work for the Menlo Park Senior Center Re-roofing Project.
2. Approval of the City Council Minutes for the Meetings of September 9, 2003 and September 16, 2003.

M/S Duboc/Kinney to approve the consent calendar as presented. Motion carries unanimously.

Council ensued in discussion about the sequence of items on the Agenda. Council consensus was to address item F 1 before item E.

F. REGULAR BUSINESS

1. Approval to build a dog park at Nealon Park.

Bob Roessler, Community Services Business Manager shared a slide presentation about the issue to be considered by Council. Mr. Roessler explained how staff met with different dog owners who expressed their concerns. Mr. Roessler stated that such meeting showed that people have different opinions. Mr. Roessler explained the dimensions and plan for the dog park, and that the cost is around \$36,000. He also stated that there was some opposition to the dog park from people who live nearby, and not all dog owners supported this plan.

The Parks and Recreation Commission approved building the dog park as presented, with the condition that staff meet with the neighbors and dog owners to address the rules of the park and the conditions prior to the dog park opening.

Council Discussion

Mayor Pro Tem Duboc asked questions about the schedule for this project. Other Council Members asked about the practices of other cities. Mr. Roessler explained that staff had looked at other cities especially regarding hours of operation and fencing areas.

Public Comment

Tom Harrison stated that he was representing the Parks and Recreation Commission and this body wants to build a dog park but they are not sure about the specific location for the project. Mr. Harrison stated that people use the park early in the morning hours and this inconveniences the residents. The Commission could not make a definite determination because of concerns from various perspectives. The noise issue is a real concern for the residents and the Commission recognizes that concern.

Ron Fernandez president of the Dog Owners' Group of the Menlo Area (Dogma) is very appreciative of Council and staff's dedication to this issue. Mr. Fernandez believes that dogs do less damage than of other sports that cause a lot more wear and tear. Mr. Fernandez believes that taking current facilities and allowing dogs to be free is a very good approach, and dog owners are very responsive to the issues mentioned by residents.

Susan Basso former Transportation Commissioner does not oppose a permanent dog park at Nealon Park but she opposes the off-leash option because it will cost a lot of money to the City. Ms. Basso stated that most dog owners are responsible people who also take a supervisory role because they observe and care about the surroundings. Ms. Basso does not advocate having early morning hours.

Elizabeth Burr supports the exploration of multiple uses of parks and she believes off-leash hours are reasonable. Ms. Burr also stated that dog owners are able to manage their dogs while off-leash. She believes this model should be used throughout Menlo Park because it will increase use of local parks.

Janet Davis complimented the Council on what a great job it is doing, and she is particularly happy about the dog park because dogs are great companions to seniors or those who are alone. Ms. Davis stated "more parks for dogs".

Gail Sredanovic stated that as a disabled person it is hard for her to exercise her dog, consequently allowing her dog to run around off-leash is very important for the animal. Ms. Sredanovic supports the words from the previous speaker.

Kim Reed stated that as she exercises her dog she also has a chance to develop a sense of community with her neighbors. Ms. Reed believes that the multi-use of public facilities is a great approach and it creates happier dogs and people.

Brian Bennett stated that the signs are not clear around the current park, and he is in favor of better signage at parks. He would like to stop dog owners from using places at La Entrada because this site has become a non-official dog park even when kids are in school.

Peter Ice thanked the Council for its work to make this park happen. Mr. Ice said he is a supporter of the off-leash hours at the park because it will diffuse the problems that might occur at various parks. Mr. Ice believes the current rules are too restrictive as far as the size of permitted leash. Mr. Ice believes that he is forced to break the law and let his dog run when the law does not permit this.

Mindy Mulligan thanked the Council for considering the issue and for taking this item up as an important matter to the community. Ms. Mulligan accepts the noises that come from the school nearby and so she asks that those residents who don't have dogs accept the dogs and respect their needs. Ms. Mulligan believes there is a need for more neighborhood parks to address dog owners needs.

Discussion

M/S Kinney/Duboc to approve the staff recommendation subject to additional consultation between residents and dog owners.

Council Member Winkler asked about possible conflict with the noise ordinance. Mr. McClure clarified that the noise Ordinance will apply like everywhere else in the city. Council Member Winkler would like additional sites to be found for this purpose. Mr. Boesch stated that at this point staff can include more studies and he suggested bringing this back in January when Council will identify its priorities.

Motion carries unanimously.

Mayor Jellins informed the audience that at 7:45 p.m. the live video feed was lost.

E. PUBLIC HEARING

1. Consideration of an Ordinance amending Zoning Ordinance regulations pertaining to single-family residential development and the Negative Declaration prepared for the Ordinance amendment. (Continued from the City Council Meeting of September 30, 2003.)

Mayor Jellins introduced the item that is being continued because the Public Hearing was not closed at the last meeting. The public may give input and preference will be given to those who have not

spoken before.

Arlinda Heineck, Community Development Services Director, stated that staff was available to respond to questions but no additional staff report was going to be provided.

Mayor Jellins clarified that letters sent to Council are being read by Council at their leisure, and that he would caution speakers against trying to read these letters into the public record at the Council Meeting because these letters, if addressed to Council, are already part of the official record.

Public Comment

Ross Wilson read a letter from Sue Bernside who is against large homes because they are not an improvement. Mr. Wilson read his own letter and he also disagrees with the proposed ordinance and urges the Council to not approve it. Mr. Wilson believes that large-scale renovations are not always harmonious with certain neighborhoods.

Edwin Brink believes the character of a neighborhood needs to be kept intact and people need to be protected when it comes to their investments. Mr. Brink hopes the Council will represent the residents' views.

Marie Kent is in favor of the proposed residential ordinance because it makes it fair for families in substandard lots to improve their properties. Ms. Kent believes the proposed ordinance meets the needs of owners and neighbors. She has worked through the City Planning Department and she is satisfied that Tier-One and Tier-two provide alternatives. Ms. Kent thanked Tracy Cramer for her work and diligence for all her help and explanations.

Carol Brink has issues with the zoning overlay because the requirement of a 2/3 positive vote is going to be extremely difficult to acquire. Ms. Brink also said the 10 days to get the vote is a very short time to get a response in. Ms. Brink suggested that 21 days is a more reasonable response period and 2/3 votes of those who vote.

Chuck Bernstein is against this proposed ordinance because this is a cultural war and he believes that there is a conflict between homeowners and developers. Mr. Bernstein disagrees with the approach used by Mr. Richard Li to get his plan through.

Terry Kent clarified that this is not an issue that pertains to developers but an issue of homeowners who need to expand their homes. Mr. Kent supports the proposed ordinance and thanks Tracy Cramer for all her work. He believes getting rid of the substandard lot is a good approach.

Dan Barnby asked the Council to not create a situation that is going to disenfranchise the public and he wants a process that includes everybody and doesn't keep the Planning Commission and the previous public input out. He urges the Council to hear the Planning Commission and not move forward. Mr. Barnby stated that the residents do not want a process that excludes the citizens' wishes.

Sam Sinnott is in favor of the proposed ordinance and thanked the Council for addressing this matter. He believes this is an improvement because these are more linear regulations and he hopes people will understand the benefit. Mr. Sinnott believes that with this approach the Planning Commission will review fewer projects.

Harry Harrison said the building regulations were changed 35 years ago and he believes that excavating is a problem because two additional feet are needed for the setback. Mr. Harrison does not agree that the footprint is correct in the proposed ordinance. He stated that the neighbors should have a voice, and the expertise that we have should be used. Mr. Harrison referred to a letter he sent Council.

Hersh Shefrin shared concerns about market failure due to the inattention paid to external effects (one persons' impact on other people's circumstances). Mr. Shefrin believes that there has been an imbalance from an overly bureaucratic procedure to a laissez faire system. Mr. Shefrin said the

nature of this proposed amendment is that the legacy might be to alter the character of Menlo Park, which might severely deteriorate the “look” of Menlo Park.

Frank Carney has two strong concerns about the issue of notification because he has had numerous examples of situations when people just go ahead and build without notification. Mr. Carney believes that an EIR (Environmental Impact Report) is needed, and that immediate neighbors need to know what is going to be built around them.

Joanne Goldberg has had her house remodeled twice and she believes notification is very important. Ms. Goldberg believes the Planning Commission did a good job when she was trying to remodel her home. Ms. Goldberg believes the Planning Commission offers a space to air residents’ concerns. Ms. Goldberg asked Council to take into consideration the suggestions made by the Planning Commission.

Les Konce believes that people buy into a neighborhood with all the good and the not so good that it may have. Mr. Konce said that it is important to respect the rights of property owners. He does not believe the current system is acceptable and it is time to move on and adopt the proposed ordinance and try it out for 18 months.

Margaret Betscock shared her appreciation for roses and fruit trees because of the calming effects, and she hopes that we continue to love our neighborhoods instead of just blocks and rows of big houses. She mentioned that some of these homes are lovely but the tone should be more conciliatory and try to please everybody. She asked that the “new dream home” not delete the “old dream home”.

Lisa Shumway is a neighbor of an applicant and she is hurt by tactics used and comments made. She would like to take the high road and compromise if need be. Ms. Shumway believes the current ordinance is incomplete and is not objective. She would like Menlo Park to show that we aren’t just a group of fundamentalists.

Elizabeth Burr spoke about the fact that her house is surrounded by big homes and Ms. Burr strongly believes in notifying neighbors. Ms. Burr stated that on the last case of a project adjacent to her home, notification was very useful because they were able to work with the applicant. Ms. Burr encourages participation and communication.

Mayor Jellins called for a five-minute break.

Council Member Kinney asked the Mayor to allow Ms. Fergusson to speak again. Mayor Jellins stated that he was going to make that happen. Council agreed that the three speakers who had already spoken could address the Council for a second time.

Kelly Fergusson shared pictures illustrating the technical aspects of the proposal. In her opinion these aspects greatly impact neighbors. Ms. Fergusson specifically stated that there are no restrictions on dormers, and this should be a concern.

Henry Riggs stated that he has concerns about the daylight plane in small lots because of the impacts. Mr. Riggs believes that there should be a consensus, and a compromise is the right approach particularly on the first floor issues on smaller lots. He also said that it is important to allow a certain feel and consistency in certain neighborhoods.

Russ Dember shared with Council a Tier-One scenario and illustrated possible scenarios. Mr. Dember would like the discussion to be less philosophical and more practical. He shared various slides with Council explaining the impacts of Tier-One.

M/S Kinney/Winkler to close the Public Hearing. Motion carries unanimously.

Council Discussion

Council Member Winkler presented a written motion to start the discussion. Such motion reads:

Motion to approve the draft ordinance with the following changes:

- 1) **Overlay vote counting 2/3rds of respondents rather than 2/3rds of the owners for overlay one vote per property.**
- 2) **Time extension in overlay voting; from 15 to 45 days**
- 3) **With respect to basements; charge FAL for basements that exceed footprint of house, except for Code mandated egress;**
- 4) **Extension of notification process; contiguous neighbors will be notified when new building or remodeling plans are submitted to the Planning Department for Tier-One approval, and invited to review the plans at City Hall;**
- 5) **Ordinance clean up;**
 - a) **what is level of review at Tier-Two? Ordinance is not clear. Can staff look into that?**
 - b) **clean up language with respect to grade issue and in Sharon Heights.**
- 7) **Application forms for development permit include statement that house is part of a neighborhood. And that applicants be asked to comment on (a) window placement in relation to neighbors, (b) unarticulated vertical walls over 20' (c) impact on existing solar panels.**

Fill in the blanks, Tier-One and two

1. **Length of horizontal second story wall, tier one; 30' set in 3' for 5'**
2. **Second story 40%**
3. **Tier-One below grade side yard encroachment is side yard setback; Tier-Two below grade side yard encroachment up to 3 feet of property line.**

Council asked if this would address all the questions posed by staff. Ms. Heineck confirmed that it would.

Legal counsel Mr. McClure clarified that the substitute motion was to give direction to staff to make these changes and come back with a revised proposed ordinance for introduction. Mr. McClure also stated that the ordinance could only be introduced if the proper language had been circulated and shared with the public in advance.

The maker of the motion, Council Member Winkler, agreed with the comments made by City Attorney McClure.

Mayor Pro Tem Duboc seconded the motion.

Council Discussion

Mr. Kinney can't support the motion because he does not support the Tier-One approach. He also believes that Tier-Two has liabilities associated with it as well and it is a weak approach. Mr. Kinney stated this item has been going on for a long time, and his concerns include the lack of design standards. In his opinion having an ordinance provides rules, however the design standards are still missing. Mr. Kinney believes that neighborhood character should be taken into consideration, and the proposed ordinance does not cover it.

Substitute motion by Kinney/Collacchi to have staff:

- **start the process over at the Planning Commission level**
- **return with a report on the problems found,**
- **include creation of design standards**
- **do away with tier-one and tier-two**
- **simplify the whole process.**

Council Discussion

Council discussed the fact that substitute the motion sent the item back to the Planning Commission and not to staff. Mr. Kinney believes the Planning Commission has more experience in handling this

matter and the matter should return to them. Council Member Collacchi asked Mayor Jellins if he would support this motion if the staff were the ones studying the matter instead of having the Planning Commission. Mr. Jellins said he was still formulating a position on this motion. Council Member Winkler does not agree with sending this back to the Planning Commission because this body opposed the current approach. Mayor Pro Tem Duboc believes it is time for Council to make a decision and set policy instead of sending it back for more debate. Ms. Duboc believes it is time for action. Council Member Kinney does not agree that the proposed ordinance has been around that long because he believes it has only been around for 4 months in its current form.

Vote on the substitute motion

Motion to substitute the original motion with the second motion made by Kinney and seconded by Collacchi. Motion fails 2 to 3 with Jellins, Duboc and Winkler dissenting.

Ms. Winkler stated that in the changes proposed there will be 100% notification for the very first time. Also in the changes proposed the overlay was considered and it has been changed. Ms. Winkler believes this approach will create a healthy neighborhood overlay and that is why she made this motion to change the proposed ordinance.

Council Member Kinney asked that design standards be included in the motion. Council Member Winkler stated that another change included was the addition of a clause where the applicant will clearly have to state how the project will impact the neighbors. Council Member Collacchi posed questions about the process because he would like to have a discussion prior to having a motion on the floor.

Council discussed FAL on small lots and there were divergent views on the lot coverage percentages. Council Member Kinney would like staff to list the most common concerns when a project comes through.

Mayor Jellins asked to include an amendment to re-circulate the ordinance so that the document has no blanks. Council Member Kinney asked that the motion include direction to staff to return with a listing of the most common issues/concerns raised throughout the process. Mayor Jellins paraphrased Council Member Kinney's request to have staff prepare a summary of the types of issues frequently addressed by the Planning Commission.

Ms. Heineck stated that this is a time intensive task but it could be done. Additional discussion ensued.

Council Member Winkler indicated a willingness to have staff identify issues that should be addressed with suggested ordinance language. Council Member Collacchi stated that he has challenges with the process because he would like more discussion on the problems. Mr. Collacchi would like a list of intrusions or a list of adverse impacts on neighbors to determine whether these are addressed in the rules-based approach proposed. Mayor Jellins asked if this item was included in the motion would Council Member Collacchi support the motion? Mr. Collacchi would like to ponder the answer. Mayor Jellins observed that there was not agreement on whether to request additional research or what kind of additional information Council desired.

Mr. McClure stated that Ms. Heineck might have questions, and maybe Council should consider those before voting on the motion. Council agreed and Ms. Heineck posed her questions:

- on item 5A she wanted confirmation that the review is restrictive to Tier-Two; Council member Winkler clarified that the interpretation was correct
- on 5B staff asked for clarification and Council Member Winkler stated that grade would mean the specific grade on the property, and also per building on a lot (and not cumulative)
- clarification on 7 B that it is 20-foot vertical height.

Vote on the original motion by Winkler

Motion passes 3-2 with Council Member Kinney and Council Member Collacchi dissenting.

Mr. Boesch stated that the research requested would be done, the ordinance redrafted then brought back to Council. Mr. Boesch stated that he would keep Council posted as to when this would return to Council.

{Note: Upon review of the videotape of the meeting it was determined that the discussion around having staff perform additional research into past Planning Commission decisions was not included into the approved motion.}

2. 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.

Mr. Boesch stated that in the near future Council might be asked to endorse certain bills.

G. WRITTEN COMMUNICATIONS - None

H. INFORMATION ITEMS

1. Status of City and Redevelopment Agency Capital Improvement Program (CIP) Projects.

Mayor Pro Tem Duboc asked about Kelly Field Park and why this was listed. Mr. Boesch clarified that this might be an opportunity to use new turf, which would allow year around play. He said that analysis is being conducted and it may come back to Council.

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

Elizabeth Houck stated that she was unable to get to the meeting earlier. Ms. Houck stated that no outreach was done and she believes the dog park will add problems to the Nealon Park area. She spoke about her concerns with the dog park that got approved tonight, and she stated that she had submitted a petition against this dog park. She does not believe this is good for the neighbors. Ms. Houck wants to know what she can do about this.

J. ADJOURNMENT – the meeting was adjourned at 10:28 p.m.

Respectfully submitted,

Silvia M. Ponte, City Clerk

Approved at the City Council Meeting of November 18, 2003