



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, January 13, 2004
7:00 p.m.
801 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chamber

6:00 p.m. STUDY SESSION (Menlo Park Recreation Center, Room 112, 700 Alma Street, Menlo Park)

1. Discussion of a potential development project located at 550 to 580 Oak Grove Avenue and 540 to 570 Derry Lane.

Justin Murphy, Senior Planner, presented the information report on the project proposed by the O'Brien Group. Subsequently, Mr. Jim Pollart with the O'Brien Group shared details about the long-term goals of this proposal, which include a committed ownership that benefits both the property owner and the community. Mr. Pollart covered some design possibilities and Council engaged in a dialogue with staff about applicable zoning, variances and other pertinent items.

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

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

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

Mayor Duboc announced that a Study Session had taken place at 6:00 p.m.

PLEDGE OF ALLEGIANCE

A. COMMISSION APPOINTMENTS

1. Appointment to the Transportation Commission to fill an un-expired term ending July 2006.

Mayor Duboc thanked the nine applicants who submitted applications for this vacancy. Ms. Duboc opened the floor for nominations.

Mayor Pro Tem Winkler nominates Eric Doyle.
Council Member Jellins nominates Sue Kayton.

Council Member Collacchi asked if an application that was received late should be considered. Mayor Duboc stated it should be considered.

Council Member Collacchi nominates Hank Lawrence.
Council Member Kinney nominates John Fox.

Vote on the nominees:

Eric Doyle – two votes from Mayor Duboc and Mayor Pro Tem Winkler.

Sue Kayton – one vote from Council Member Jellins.

Hank Lawrence – one vote from Council Member Collacchi.

John Fox – one vote from Council Member Kinney.

Mayor Duboc announced that since a majority was not reached the Council needed to vote again.

Eric Doyle obtained a majority of votes from Mayor Duboc, Mayor Pro Tem Winkler and Council Member Jellins.

Mr. Doyle is appointed to the Transportation Commission.

2. Appointment to the San Mateo County Mosquito Abatement District – Board of Trustees.

Mayor Duboc appointed Dr. Gerald Weiss to the San Mateo County Mosquito Abatement District.

B. PRESENTATIONS AND PROCLAMATIONS

1. Recognition of outgoing commissioners: Richard Givens, Community Mediation, Dierdre Digrande, Environmental Quality Commission and Amy Cheun, Transportation Commission.

Mayor Duboc thanked the outgoing Commissioners for their service and dedication to the City. Certificates of recognition were handed out to these individuals.

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

Milton Borg spoke about the Percent for Art Program and how difficult it can be for businessmen to comply with the requirements. Mr. Borg referred to a situation where the applicant is encountering various obstacles. Mr. Borg hopes the Council will eliminate the current process and establish a more flexible process.

Joe Webb referred to an incident with the Police Department of Palo Alto and Menlo Park relating to his dog being unattended at a park. He would like the City to have a process to get findings on incidents.

John Arnold with Trees for Menlo commended the City staff on its findings and hopes the Council will support the recommendation on the Agenda. Mr. Arnold believes there is great benefit in supporting this organization.

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.

Mayor Pro Tem Winkler pulled Consent Calendar item D10 and Council Member Collacchi pulled item D7.

M/S Collacchi/ Kinney to approve Consent Calendar items 1, 2, 3, 4, 5, 6, 8, and 9 with Council Member Kinney reclusing himself on item D2. Motion carries unanimously.

1. Authorization of the City Manager to execute Master Agreements with consultants for preparation of environmental documents and traffic studies for various development projects within the City and authorization of the City Manager to sign purchase requisitions for said consulting services in excess of \$25,000 up to a maximum of \$300,000 paid for by privately sponsored developments.
2. Approval of the request by Trees for Menlo to reduce its donation of \$50,000 to \$46,924 for El Camino Real Trees Project Phase II.
3. Adoption of a Resolution No. 5484 authorizing application to San Mateo County for Community Development Block Grant (CDBG) funds in the amount of \$300,000 for fiscal year 2004-2005 for the Housing Rehabilitation Loan Program and authorizing the City Manager to execute related CDBG agreement for 2004-2005.
4. Acceptance of work for the Oak Knoll School Field Renovation Project.

5. Adoption of a Resolution No. 5485 approving the sale of a Below Market Rate (BMR) unit at 1155 Merrill Street, No. 107 (A.P.N. 114 090 070) and to authorize the City Manager to execute a grant deed.
6. Authorization of the City Manager to sign an agreement in the amount of \$40,230 with Alta Planning & Design to develop the City of Menlo Park Comprehensive Bicycle Plan, and authorization of a budget of \$69,000 for consultant services (including contingency) and staff administration and support.
7. Adoption of a Resolution No. 5486 applying for re-issuance of the City's National Pollution Discharge Elimination System (NPDES) Storm-water Permit; and accepting and adopting the San Mateo Countywide Storm-water Management Plan for 2004 to 2009.
8. Authorization for staff to amend an agreement with Linda A. Tripoli, Esq. to provide ongoing legal services resulting in a total agreement amount not to exceed \$60,000.
9. Award of contract to Casey Construction in the amount of \$53,127 for the installation of blow off valves and water sampling stations at various locations; and authorization of a project construction budget in the amount of \$73,127 to cover construction, contingencies and construction administration.
10. Approval of the Minutes for the City Council Meetings of October 21, 2003; October 28, 2003; November 4, 2003; November 18, 2003; December 2, 2003; and December 9, 2003.

Item 7

Council Member Collacchi asked for clarification on exceeding revenues in the same fiscal year and Mr. Ruben Nino, Director of Engineering Services responded that these are higher because of new requirements. Mayor Pro Tem Winkler said this issue is a little alarming and urged staff to work with other communities to share the burden and create a community-wide approach. Mr. Kent Steffens, Public Works Director elaborated that there are elements of the program that are administered by the County and these are conducive to a participative approach.

Item 10

Mayor Pro Tem Winkler asked that on the Minutes of October 28, 2003 a correction on page number 8 be made to show that Ms. Winkler recused herself instead of abstaining.

M/S Winkler/Collacchi to approve item D7 and D10 as amended. Motion carries unanimously.

E. PUBLIC HEARING

1. Introduction of a Zoning Ordinance amendment modifying the Below Market Rate Housing Program to delete the reference to a specific index for calculating annual increases in the commercial in-lieu fee and adoption of a Resolution No. 5487 modifying the Below Market Rate Housing Program guidelines to establish the consumer price index (shelter only) for all urban consumers in the San Francisco-Oakland-San Jose area as the index for calculating annual increases in commercial in-lieu fees. (Continued from 12-16-2003.)

Gretchen Hillard, Housing Coordinator explained why this new index better illustrates the economic reality.

Council Discussion

Mayor Pro Tem Winkler asked about how our fees compare to other cities, and Ms. Hillard explained that in calling other cities the fees vary from city from to city.

Public Hearing

Mayor Duboc opened the Public Hearing. There was no public comment

M/S Kinney/Collacchi to close the public hearing. Motion carries unanimously.

M/S Winkler/Collacchi to approve the recommendation of the Housing Commission to adopt the resolution and introduce an ordinance. Motion carries unanimously.

F. REGULAR BUSINESS

1. Waiver of reading of an Ordinance and adoption of an Ordinance No. 926 amending the Zoning Ordinance to modify the regulations and review process for single-family residential development.

Tracy Cramer, Senior Planner, presented the staff report stating that the focus of the meeting is to adopt the ordinance, which includes four changes previously identified and incorporated in the draft. They are:

- 1) clarify the side setback regulation on R1 zoning district;
- 2) add a new subsection establishing second floor side setbacks in R1 zoning district;
- 3) modify the allowed intrusions sections of the daylight plane provisions to establish maximum height and length of an allowed intrusion;
- 4) establish a monitoring committee for the implementation of the ordinance comprised of: one Council Member, one Planning Commissioner, a member of staff, and an architect.

Ms. Cramer reiterated the staff recommendation and offered to answer questions from Council. Council asked about the Architectural Control body mentioned in the staff report, and Ms. Cramer clarified that it is a formal process established in the Zoning Ordinance and the Planning Commission would be that body (section 11 on page A13).

Public Comment

Russ Dember has been following the ordinance since the beginning and he would like some architects to design maxed out houses with these rules. He is not happy with the changes in the various categories. Mr. Dember believes there are positive items such as the gable intrusion and the 10 ft setback, and the approval of the overlay but he asks for more graphical analysis.

Elizabeth Houck urges the City Council not to pass this ordinance because it is not fully understood by the people of Menlo Park. Ms. Houck said that with this ordinance she would not get any notification if someone wants to put in a basement three feet from her property line. Ms. Houck wants to understand this before it gets implemented. Ms. Houck thanked the Council for its work on this.

Carol Shultz said she was afraid because she does not understand this ordinance and asks that the Council not pass it.

Council Discussion

Council Member Winkler responded to what some of the speakers said by stating that this ordinance has a monitoring committee to let the Council view its impacts, and the public will receive notification. Council Member Collacchi stated that the notification would not empower people to come forth and talk about it.

Council Member Kinney gave a brief slide presentation on his take on the ordinance. He said that there are some good things about it but he cannot support it in its current form because it could be improved. He would like this ordinance to include key design principles that are congruent with the character of neighborhoods. Council Member Kinney covered the items not addressed by the ordinance and recommended a different process that includes:

- 1) Design guidelines;
- 2) More humanity by having applicants inform neighbors about the project;
- 3) Compatibility with the community/neighborhood character;

M/S Winkler/Jellins to waive the reading of the ordinance and adopt it as proposed.

Council Discussion

Council Member Collacchi agrees with the comments made by Council Member Kinney and he has some concerns in regards to character incompatibility. Mr. Collacchi does not believe the current ordinance addresses the impact of residential design such as privacy invasion, shadows, landscaping, and how to evaluate these components. Mr. Collacchi believes the current process has been reasonable and he agrees with the mechanism of having the Planning Commission be a review

body. Mr. Collacchi cannot support a process without review in exchange for a rules based approach.

Council discussed the fact that this ordinance has been in the works for a long time and a discussion ensued on the appointees to the monitoring committee. Mayor Duboc explained that the Planning Commission will pick their representative, and the volunteer architect position will be advertised and then it will be a mayoral appointment.

Vote on the motion

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

2. Consideration of a request by the Menlo Park Fire Protection District for adoption of a Resolution supporting revisions to the District’s Fire Prevention Code that would establish new requirements for automatic fire sprinklers, including new requirements for single-family residences.

Ron La France, Building Official, presented the staff report. Mayor Duboc acknowledged the presence of Fire Chief Paul Wilson, Fire Marshall Jeffrey Hass, Assistant Fire Marshall Ron Kiefer, Fire Inspector Bob Blanc and a few other members from the Fire Protection District. Ron La France clarified that the proposal before the Council would require that fire sprinklers be installed in the following six situations: 1) all new buildings and residences over 1,000 sq. feet in area 2) all new basements and buildings exceeding 250 sq. feet in basement area regardless of the total size of the building 3) all existing buildings and residences with less than 2,500 sq. feet in area when alterations or additions to the building exceed 75% of the existing square footage of the building 4) all existing buildings and residences with more than 2,500 sq. feet in area when alterations or additions to the building exceed 50% of the existing square footage of the building 5) all existing buildings where a change in occupancy classification result in an increased fire hazard and 6) when an existing building provides a basement that exceeds 250 square feet.

Public Comment

Peter Homer does not agree with this proposal because this is too much of a requirement because if he remodels his house he has to install sprinklers and in his opinion the cost is prohibitive for single-family homes.

Council Member Kinney asked staff to clarify if the alterations and or modifications would trigger compliance. Mr. La France confirmed that if someone is adding or remodeling it will trigger the requirement depending on the percent of the square feet.

Terry Kent from Kelly Lane stated that while he supported the residential zoning ordinance he has a concern because this could dramatically change the architecture in his complex. He believes the 75% is too stringent of a requirement and it would discourage expansion in smaller homes. Mr. Kent asked that this be looked at carefully due to possible implications for Lorelei Manor.

Peter Carpenter is speaking as a member of the community, and he believes this whole process is an example of multi-jurisdiction cooperation. He has a concern about the 75% renovation threshold, and he believes the Council should make it uniform by making this as important as other electrical requirements, which are 50%. He commended the staff of Menlo Park, Atherton and East Palo Alto for working together and he supports these proposals.

Council asked questions of Mr. Carpenter regarding long-term savings. Mr. Carpenter stated that this is a not cost saving issue but a life saving issue. Mr. Carpenter referred to statistics mentioned in the staff report and how the pay-off from installing residential sprinklers is substantial. Mr. Carpenter stated that there has been ample opportunity for public comment.

Mayor Duboc acknowledged receipt of a letter from Mr. Michael Lambert with questions on this topic.

M/S Winkler/Jellins to not approve the resolution as proposed.

M/S Kinney/Collacchi alternate motion to table the matter until staff provides more information on the cost factors and experiences related to this issue.

Council Discussion

Council Member Collacchi would also like to get some more data regarding how many houses will be impacted by this action. This Council Member is inclined to table the item to get more information and he is pleased with the smaller size of the homes covered.

Mr. Carpenter came forth stating that the cities were proponents of lower sizes.

Mayor Pro Tem Winkler would like the answers to come from the Fire District staff, and specifically she would like to know how home rehabilitation programs will be affected by this. Ms. Winkler would also like to know the sites of the 33 fires reported and what type of homes they were in. Mayor Duboc stated that while she supports the Fire District's role in safety, she would like to know the consequences of this by obtaining more information.

**Vote to substitute the original motion with the alternate motion. Motion carries unanimously.
Vote on the substitute motion to table the item. Motion carries unanimously.**

City Manager Boesch said the earliest this could come back would be February 24, 2004 because it will take some time for staff to get the information requested. Mayor Duboc said that the Fire District staff could assist with the answers. Mayor Pro Tem Winkler would like the Fire District staff to provide answers to the questions posed on Mr. Lambert's letter to be included. Mayor Duboc thanked all those present.

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.

David Boesch, City Manager stated that the City continues to monitor the dealings in Sacramento and reported that the Governor proposes to take more city taxes in order to balance the State's budget.

G. WRITTEN COMMUNICATION

1. Request by Mayor Duboc to review the One Percent for Art Ordinance.

Mayor Duboc asked that this item be placed on the Agenda for a discussion and to get input from the community as well as from the Arts Commission. Council Member Kinney voiced support for reviewing the Art Ordinance with the intention of improving it but not for the purpose of torpedoing it. Council consensus was to find a specific date to bring this item back with a written summary including comments from the Arts Commission. Council also asked to see what other cities are doing in regards to this issue.

H. INFORMATION ITEM - None

I. COUNCIL MEMBER REPORTS

Council Member Kinney attended the Environmental Quality Commission meeting as Council Liaison and he enjoyed it. He also reported that he will attend another BAWSCA meeting.

J. PUBLIC COMMENT #2 (Limited to 30 minutes) - None

K. ADJOURNMENT – 8:56 p.m.

Respectfully submitted

Silvia M. Vonderlinden

Approved at the City Council of March 2, 2004.