



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, March 2, 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 the Park Theater.

Howard Crittenden and John Baer addressed the Council on the issue of returning the Park Theater, which they state would require an annual City subsidy of \$91,000 for ten years. The developer explained that the community wants to preserve this building, but there are costs involved in doing so. Council asked questions about what happens after the ten years of subsidy, and how the City could recover this money. Council stated that more information is needed about next steps and related costs.

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

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

PLEDGE OF ALLEGIANCE

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

A. COMMISSION VACANCIES, AND REPORTS

1. One vacancy on the Parks and Recreation Commission to fill an un-expired term ending September 2006. The deadline for receipt of applications is 5:30 p.m. on March 15, 2004.

One vacancy on the Bicycle Commission to fill an un-expired term ending April 2007. The deadline for receipt of applications is 5:30 p.m. on March 22, 2004.

Mayor Duboc announced the vacancies.

2. Commission reports.

None.

B. PRESENTATIONS AND PROCLAMATIONS - None

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

Toni Stein referred to a book by Rick Pruetz, titled "Putting Transfer of Development Rights to Work in California". According to Ms. Stein the book explains how TDRs don't always cost the city money. Ms. Stein shared concerns that at the Study Session no public comment was heard.

Bruce England asked the Council to look at the long-term investments and not just the 10-year subsidy. Mr. England believes that in the future the City could gain with the Park Theater.

David Boesch, City Manager, probed the Council about its interest in further discussing the matter. Some Council Members asked for clarification on next steps and related costs. Council discussed

the possible benefits to the City of embracing this venture. Mr. Collacchi would like this item on a regular Agenda, so the public would have an opportunity to speak.

Council consensus was that it should consider whether further study on this matter was a project priority. Project priorities will be a topic of discussion at the April 6, 2004 Council 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. Approval of the Minutes for the City Council Meetings of January 13, 2004; January 27, 2004; the Budget Workshop of January 31, 2004; and the Study Session of February 3, 2004.

Mayor Pro Tem Winkler made a correction on the Minutes of January 13, 2004 page 6, line 19 to read: "Mayor Pro Tem Winkler would like the Fire District staff to provide answers to the questions". Council Member Kinney stated that on the Minutes of January 27, 2004 he was absent so the vote should reflect that. Mr. Kinney added to the Minutes of January 13, 2004 (item G1) to read: "Council Member Kinney voiced support for reviewing the Art Ordinance with the intention of improving it but not for the purpose of torpedoing it."

M/S Kinney/Winkler to approve the minutes with the above mentioned corrections. Motion passes unanimously.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. Council action on a Certified Petition to repeal Ordinance No. 926.

Silvia Vonderlinden, City Clerk, presented the staff report covering background, process, results, and Council options on the petition filed to repeal Ordinance No. 926. Mrs. Vonderlinden delineated the steps and timelines of each event that occurred, i.e. when the petition was filed, number of signatures presented, review of the petition format, County's raw count and random sample verification of signatures, and certification. She concluded that based on the format, number of signatures presented, and the County's verification of valid signatures the petition is certified. The County's verification of signatures concluded that 91.2% (out of a random sample of 500 signatures) qualified. This 91.2% extrapolated to the number of signatures submitted represents 2,314.7 valid signatures. Because this amount is larger than the 1,731 required signatures, the petition is certified.

Public Comment

Toni Stein stated that the proposed ordinance is not on the web site and she feels that people cannot easily get this information. Ms. Stein referred to section 16.84.02 (Publication and Mailing of Notice) and how it contrasts with the new section 16.85.01.0. The new verbiage in the latter section notifies only contiguous neighbors of the project site. She believes this is a change in the public process. Ms. Stein encourages the Council to rescind the ordinance.

David Boesch, City Manager, stated that it might be easier to focus the comments on the matter that is before Council, and not discuss the content of the ordinance. Mr. Boesch stated that the action tonight is for Council to decide what to do in light of a petition that has been certified.

Mayor Duboc thanked Mr. Boesch for his comment and directed staff to rectify possible lapses on the web page.

Kelly Fergusson, representing "Citizens for Sensible Neighborhood Development", requested that ordinance 926 be repealed in its entirety. She believes ordinance 926 will be detrimental to Menlo Park residents, and is radical because it deletes previous protections. Ms. Fergusson has concerns

that larger, more intrusive home designs will be permitted. She thanked the circulators and signers of the petition. Ms. Fergusson said a group of residents is prepared to work with the Council to craft a more neighbor-friendly ordinance, one that streamlines but also preserves an element of design, review and quality.

Ted Sorenson, former Mayor of Menlo Park, said the comments of the last speaker do not represent the people of Menlo Park. Mr. Sorenson believes the ordinance should go on the November ballot, and the Council should direct the City Manager to write a report about what the ordinance says in a way that the lay person understands it. Mr. Sorenson believes a Special Election costs too much and shouldn't be pursued.

Mary Gilles stated that the petition drive included misunderstandings, and the old ordinance is ineffective. Ms. Gilles said the proposed ordinance is the result of a long five-year process with much input from many people. Ms. Gilles believes the current Council was elected to serve the majority of residents in Menlo Park who want a fair and reasonable ordinance. She doesn't think residents want their neighbors to design their million dollar homes, but instead want the freedoms of property ownership. Ms. Gilles supports the new ordinance and believes some signature gatherers mislead the people by saying that there was no neighbor notification in the proposed ordinance.

Elizabeth Houck asked the Council to repeal the ordinance because Council and residents should work together instead of dividing people. In her opinion Council should work towards an ordinance that brings people together.

Maria Hilton is a Suburban Park resident who supports the new residential ordinance, and was a member of the residential task force. Ms. Hilton said that the homeowners of Suburban Park do not like being told what to do, and instead ask those who want to do so to create restrictive ordinances applicable to themselves only. She said that Suburban Park residents, the silent majority, will speak in November and this ordinance will stand.

Milton Borg stated that he is very familiar with the referendum process and he believes it is a great thing to have this on an election because we are informed, educated voters, and he supports this ordinance but he is also for the referendum because people have argued about it in such depth that more people are sick of it than informed about it. Mr. Borg believes that now the sub-standard lots are in limbo. He has asked a lot of people what they thought about getting input from their neighbors and everybody said they did not want input from neighbors.

Joanne Goldberg is saddened by the hostile attacks and when she took petitions to neighborhood to be signed 85% to 95% of the people knew nothing of the ordinance that just passed. Ms. Goldberg believes this is an opportunity to educate people, and maybe to get more input from people who didn't contribute to the process before. The advantage of rescinding is that something more appropriate for this community can be worked on, sooner. The advantage of an election is that there will be more time to discuss the alternatives, and for more people to get educated.

Sam Sinnott stated that he is in favor of ordinance 926 but also believes the ordinance can be improved. Mr. Sinnott stated that a guideline section could be added to educate applicants, staff, commissioners, neighbors, and a few illustrations could also be included. Thirty days is inadequate for the process of an ordinance that has such a dramatic impact on property values and the quality of life. Please keep Ordinance No. 926 off the ballot and keep refining it.

Jim Harvey supports the proposed ordinance because it is the right thing and whoever had an interest in finding what is in the ordinance had a chance to do so. He believes the information has been available, and the process to produce the ordinance was open, and lengthy (nearly five-years). He favors a rules based ordinance, so that residents can improve their properties knowing the rules.

Sue Kayton believes there is a lot of misinformation and she has tried to get a copy of the right ordinance without success. She believes it is time for the voters to know what is right and she

would like the Council to direct the Planning staff to write something that is correct and tangible. Ms. Kayton believes that if the ordinance gets placed on the November ballot there will be plenty of time for people to understand it, and those who are not satisfied with the old or the new ordinance can set up their own Special Zoning District just like Felton Gables did. Ms. Kayton believes this is a very contentious item and needs to be put to the voters.

Russell Dember believes ordinance 926 should be rescinded because it needs to be fixed and strengthened. He said neighborhood character is not reflected in the ordinance, and while some Council Members might have gotten passed the character issue not everybody has. Mr. Dember believes guidelines are needed. He showed illustrations and made references to various comments from previous meetings.

Patti Fry stated that she gathered signatures and when she spoke with people they were 1) uninformed about the issues 2) thought there should be more consensus building 3) they weren't aware of the specifics of what was ineffective. Ms. Fry said it is unfortunate that this item is becoming so political and so many personal attacks occur. She offered to spend time with anybody who wants to address concerns. She was a member of the RTF, Residential Task Force, and the recommendations were very different and there was not time to build consensus. Ms. Fry would like citizens to be involved, and include multiple perspectives including pictures to clarify design.

Hank Lawrence said that this is like a gridlock and the answer is to have both sides work it out and defend the interests of the community and the power of the individual. He does not believe repealing the ordinance is the answer. Instead Mr. Lawrence believes the right thing is to give up a little and he encourages the Council to appoint a commission to represent both interests. He believes that both sides need to talk about the options and find something that adequately represents the interests of both.

Bruce Felt believes repealing 926 removes a safe harbor for sub-standard rights. He believes that if ordinance 926 is repealed then there is an unfair transfer of rights from the owner of a property to someone else. He said the draft of 926 understood this inequity and specifically intended to correct it. He believes that neighborhood review might sound fair but it can be very harmful. Mr. Felt knows that many who signed the petition did not know exactly what they were trying to repeal. He thinks that many people would withdraw their signature if they new all the details. Mr. Felt stated that a better process is to hear people out and not subject this to the voters.

Natalie Cardenas, Government Affairs Director for the Silicon Valley Association of Realtors, is in favor of the new zoning ordinance. She asks that Council not repeal it, but instead place it on the ballot for the people to vote on it. She believes it is a shame that this is being delayed because there have been five-years of debate with community volunteers. She urges the Council to place it on the ballot, and hopes that an honest dialogue takes place to educate the citizens of Menlo Park about the benefits of this new ordinance.

Mathew Ackerman is in support of a rules-based approach, however he believes that not everybody understands the detail. He asks Council to keep it off the ballot and work towards improving it.

Vincent Bressler said that by walking around his neighborhood he realized that residents won't support this ordinance. Mr. Bressler believes the ordinance will not pass and he thinks it would be a better solution to find a compromise.

Peter Suhr supports placing this ordinance on the ballot, and he agrees with most of the speakers that are in favor of the ordinance. He would like to see this on the ballot for a resolution.

Reg Rice empathizes with the Council, but he believes the real problem is traffic congestion and gridlock. Mr. Rice believes the public should allow the elected officials to do what they were elected to do. He would like to see this resolved whether via an election or a commission but the Council should get back to focusing on traffic challenges.

Frank Tucker believes this matter is for the voters to decide in November because he believes it is a good ordinance with proper process. During the time people were collecting signatures for the referendum position, the statement he heard was that by signing the petition it did not reflect a position on the ordinance but was merely a statement for the desire to have a vote on it. Mr. Tucker disagrees with the statement that 2,500 people oppose this ordinance. Mr. Tucker believes that most people who find out the terms of the ordinance (on both conforming and non-conforming lots) support it.

Bill Weselo stated that people have lost sight that this ordinance is a win-win for everybody. One of the advantages is that with ordinance 926 there will be fewer lots designated sub-standard. He believes this ordinance has benefits to eradicate substandard and monster homes. He encourages the Council to move forward with this matter.

Mark Louie said there is an enormous lack of predictability in the current process and people get frustrated and move somewhere else. His observation is that there is a need for predictability, and most people do not want to build ugly homes. However, most people don't want their neighbors to design their homes either. Mr. Louie said the debate has been going on for at least 4 ½ years and the tenor of the discussion has become unpleasant. He appeals to everybody to keep a more civilized and less accusatory tone.

Council Discussion

Mayor Pro Tem Winkler offered to frame the discussion on the basis of a motion, however she said she would not like to inflict the cost of a Special Election on the City. She does not believe Council is ready to make a decision on the ballot measure issue at this time. Mayor Pro Tem Winkler intends to speak to people on both sides about the matter, in order to inform them about the facts, and rectify misinformation.

M/S Winkler/Jellins to table the item and bring it back to the City Council at the Meeting of June 8, 2004 and not conduct a Special Election.

Council Member Jellins thanked all the residents for expressing their views especially on election night. He believes the process is democratic, and he is not certain of what the decision should be. Mr. Jellins believes it is reasonable to hear from the community on what they would like the Council to do 1) place the ordinance on the ballot or 2) effectively rescind the ordinance. For these reasons, Council Member Jellins seconds the motion.

Mayor Duboc would like to add an amendment to have the website include the correct ordinance, and have staff produce a fact sheet to clarify the matter. The amendment was accepted by the maker and second of the motion.

Council Member Kinney asked for clarification on the outreach Ms. Winkler is proposing. She stated that her goal is to reach out to the community. Council discussed the merits of a compromise, but some Council Members stated that this ordinance is already a compromise. Ms. Winkler gave examples of the compromises in the ordinance such as creation of an ordinance monitoring committee.

Mayor Duboc called for the vote.

Motion passed 4 to 0 with Council Member Collacchi abstaining.

Council Member Collacchi said he would like to have an opportunity to discuss the matter, and he has some questions about the materials staff will prepare. Mr. Collacchi thanked all speakers who asked to have more information. He asked for a statement of differences, and pictures and illustrations to be included in the materials to be prepared. Mayor Duboc agrees with Council Member Collacchi. As a point of clarification, Mr. Collacchi stated that the Planning staff should generate these materials, and the Council would review them later. **Council agreed with this approach.**

Council asked Acting City Attorney Mr. Siegel if he would discuss the ordinance with Council. Mr. Siegel said that if it is placed on the ballot, the City Attorney is obligated to prepare an impartial analysis, after a resolution calling for election is brought forth.

Council Member Kinney inquired if the clarifying materials created by staff were to be mailed to every house. City Manager David Boesch stated that staff would prepare objective information to bring back to Council, and this would happen in the near future.

Mayor Duboc made a statement that it is not her nature to table items, but based on the seriousness of the issue she needs time to ponder this matter.

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.

None

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEM - None

I. COUNCIL MEMBER REPORTS

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

Kelly Fergusson stated that based on discussions with her attorney, Council's actions tonight are not legal.

K. ADJOURNMENT – 8:45 p.m.

Respectfully submitted

Silvia M. Vonderlinden, CMC

Approved at the City Council Meeting of April 6, 2004.