



**CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, April 13, 2004

7:00 p.m.

701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chamber

6:00 p.m. CLOSED SESSION (Administration Building First Floor Conference Room)

1. Closed Session pursuant to Government Code Section §54957.6 to conference with labor negotiators regarding labor negotiations with the Menlo Park Police Officers Association and Teamsters 856 (representing the classification of Police Sergeant). Parties present: David Boesch, City Manager, Bill McClure, City Attorney, Chris Boyd, Chief of Police, Charles Sakai, Labor Attorney and Glen Kramer, Personnel and Information Services Manager.

RECONVENE IN OPEN SESSION and REPORT ON AFOREMENTIONED CLOSED SESSION

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

The meeting was called to order at 7:10 p.m. and Mayor Duboc announced that the Council held a Closed Session with no action to report.

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

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

PLEDGE OF ALLEGIANCE

A. COMMISSION VACANCIES, AND REPORTS

1. Swear in Sandy Napel, the new Bicycle Commissioner.
Silvia Vonderlinden, City Clerk, swore in the new Bicycle Commissioner.
2. Commission Reports.
None.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation in honor of National Library Week.

Mayor Duboc thanked Library Director Susan Holmer, Commissioners, and Friends of the Library, for their work with the Library. Tim Goode, Vice-President of the Friends of the Library, addressed the Council emphasizing the importance of libraries in the community.

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

Gypsy Achong, has been a tutor with Project READ since 1998, and mentioned the importance of this program to community members. Ms. Achong is grateful for the experience, and stated that it has been valuable to work and support Project READ because it helps individuals gain reading skills.

Clem Brown, a disabled veteran, addressed the Council saying he has much to thank Project READ for. This program has motivated him to learn, and make progress in overcoming many challenges. Mr. Brown is a student of Ms. Achong, and appreciates the tutoring and skills he gains by being part of Project READ.

Pat White stated that a local newspaper has not been fair because it publishes certain views, and omits others. Mr. White stated that a letter he sent to the editor was not published and he requests that the letter be included into the public record.

Mayor Pro Tem Winkler said she has volunteered for Project READ, and it was a rewarding experience. Ms. Winkler thanked Ms. Achong for her work with Project READ. Mayor Pro Tem Winkler also wanted to make a correction in regards to an editorial printed in the Almanac relating to the Percent for Art ordinance. Ms. Winkler clarified that Council does not yet know if the changes are going to be retroactive, and if there are retroactive changes these will apply only to the in lieu fees.

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. Adoption of a Resolution 5503 to accept \$95,710 from the Friends of the Palo Alto Library, amend the Library budget to spend said funds in fiscal year 2003-04 and carry forward unused funds to fiscal year 2004-05, and authorizing the City Manager to enter into an agreement with the Friends of the Palo Alto Library.
2. Approval of the Minutes for the City Council Meeting of March 16, 2004.

M/S Winkler/Kinney to approve the Consent Calendar items as presented. Motion carries unanimously.

E. PUBLIC HEARING

1. Consideration of a General Plan amendment for 1283 and 1305 Willow Road, and consideration of a use permit, architectural control, right-of-way vacation and abandonment and Mitigated Negative Declaration for a Commercial/City Service Center proposal located at 1283 Willow Road. (Resolutions 5504 and 5505).

Council Member Jellins recused himself because of a potential conflict of interest.

Stephen O'Connell, Planning Consultant, provided the staff report covering the specific Plan Amendments. Mr. O'Connell stated that the design tried to take into consideration the whole project area. Council asked questions about hours of operation, and Mr. O'Connell explained that the applicant requests that the hours be 6:00 a.m. to 8:00 p.m.

At the request of Council, Mr. McClure (City Attorney) explained how property taxes would be assessed for each unit. Council inquired about condominiums and insurance costs. Council shared concerns about the access, and how this would impact the neighborhood. Mr. O'Connell explained the options available to drivers if they miss the first turn to the site.

Mayor Duboc thanked staff for its work, and her hope is that this site gets built quickly.

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

M/S Kinney/Winkler to close the Public Hearing. Motion passes 4 to 0 with Council Member Jellins recused.

M/S Winkler/Collacchi to approve the staff recommendations, including the findings and actions for approval in attachment A of the staff report. Motion passes 4 to 0 with Council Member Jellins recused.

Council Member Jellins enters the Council Chambers.

2. Adoption of a Resolution No. 5506 defining the service area for all single-family residences and adopting a 5.0 percent rate increase in the garbage, recycling and plant material collection fees for fiscal year 2004-05 for all single family residences. The proposed fee increase includes a 0.2 percent surcharge to cover Marsh Road Landfill Post Closure Maintenance and Capital Costs for fiscal year 2004-05.

Uma Chokkalingam, Finance Director, presented the staff report and explained that staff reviewed the data provided by BFI for accuracy. Ms. Chokkalingam explained that this is the 25th year the City has renewed this program and this is a mandated program. Ms. Chokkalingam explained that this rate increase is still below what other Joint Powers Authority member cities pay for the same service. Council asked about the applicability of the rate increase and Ms. Chokkalingam explained that this is for single-family residences.

Council Discussion

Council discussed the cost for a second free pick up service and Dianne Dryer, Environmental Coordinator, explained that this would cost approximately \$20,000. Ms. Dryer stated that this amount would be added into next year's calculation of the rate increase by BFI. Ms. Dryer also stated that this estimate is based on data from last year's collection. Council asked about a rough guess of the impact of this increase and Ms. Chokkalingam stated that this might not be equally shared by all but she provided an estimate of about \$1.00 per month. Council asked about a citywide "big trash day", and Ms. Dryer explained that this is not something that BFI is doing anymore because of the cost. Occasionally, BFI will allow for a special event, and customers can call and schedule one special pick up.

Mayor Pro Tem Winkler appreciates the information included in the staff report, and hopes the links and the pamphlet are posted on the web page. Ms. Dryer confirmed that the information is on the City's web page. Ms. Winkler spoke about a comment made by a member of the public linking the public art fee with the garbage fee, and she likes that notion. Legal Counsel McClure stated that such process would have to go to the voters because it would be either a special tax or a general tax. Mayor Duboc referred to an email she received from Robert Mancusso opposing the garbage rate increase.

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

M/S Jellins/Collacchi to close the Public Hearing. Motion carries unanimous.

Council Discussion

Council Member Jellins thanked the staff for its work and research on this topic, and he is interested in giving residents the additional free pick-up.

M/S Jellins/Collacchi to approve the staff recommendations with the addition of one more on call pick-up starting this year.

Council Discussion

Mr. Jellins would like to add the service now as well as for next year. Ms. Dryer stated that the \$20,000 is for next year, and if this was to be implemented now, then BFI will calculate a fee proportionate to the remainder of the year. Council Member Kinney asked if this is for construction or for household garbage. Ms. Dryer explained that this is meant for households. Council Member Kinney asked questions about statistics on these pick-ups, and Ms. Dryer explained that 1,400 pick-ups occurred in 2003, and that this figure is estimated to be 20% of the eligible households. Council asked if this affects renters, and Ms. Dryer said that it would be only applicable to those using garbage cans and not dumpsters.

Mayor Duboc called for the vote. Motion carries unanimously.

F. REGULAR BUSINESS

1. 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 and explained that the Council requested additional information from the Fire District on various items. He explained that most of the answers are provided in the staff report, and introduced various Fire District representatives present to make a presentation to Council. Mayor Duboc acknowledged Fire Chief Paul Wilson, Fire Marshall Jeff Hass, Assistant Fire Marshall Ron Keefer, Fire Inspector Bob Lock, Fire District Board Member Peter Carpenter and others.

Council Discussion

Council asked question about the CalWater upgrade and how residents served by the Menlo Park Water District could be charged for this upgrade. Mr. McClure, Legal Counsel, said in order for Council to discuss this matter this would need to be agendaized. Council inquired about the implications of the proposed ordinance on improvements and Mr. La France explained the requirements proposed by the Fire District and the impacts on remodels. Staff is deviating and asking for a lower percentage. Council asked about the 75% trigger. Mr. Wilson said that neighboring towns such as Atherton and East Palo Alto adopted much more stringent guidelines. Council discussed water rate increases as well as how the 75% or 50% of the square footage gets computed. Mr. La France explained that the percentage is based on the total existing square footage of a home.

Fire Chief Wilson made introductory remarks followed by a video and a slide presentation. Chief Wilson said that the main focus of the Fire District is protection, safety and prevention. Mr. Wilson mentioned that these restrictions are not applicable to tenants, and could not be triggered by the replacement of roofs, or minor renovations. Council Member Jellins asked why bringing the Unified Building Code (UBC) up to date does not suffice, and Mr. Wilson responded that the current UBC does not include the Fire Code or Fire protection features.

Mr. Wilson covered the benefits of indoor fire sprinklers as well as statistics. The Fire Chief asked for the Council's support on the proposed ordinance, which covers houses of 2,500 square feet or larger with a 50% trigger for remodeling. The Fire Chief said this approach saves lives and is cost-effective. Mr. Wilson asked Council for its support because those who will benefit the most are children, seniors and disabled.

Peter Carpenter, member of the Fire District Board, said he feels a responsibility because of his involvement since the inception of the plan. He said that recently there were three deaths in Foster City, and Mr. Carpenter believes it would be very unfortunate if the citizens of Menlo Park did not have this protection. Mr. Carpenter believes that if the City Council does not approve this plan it will have to advise all prospective buyers of its decision.

Michael Lambert, a previous commissioner with the City of Menlo Park, shared information about what points that he believes are misleading. Mr. Lambert believes there are clear contradictions with the approach of the Fire District, and he does not think the Council should follow the recommendations of the Fire District. He believes this plan shifts the burden from the Fire District to the property owner. The solution he proposes is monitored fire alarm systems that promote fast response. Mr. Lambert does not believe that fire sprinklers provide superior protection instead it is his opinion that they may promote a complacent attitude. Mr. Lambert stated that some of the statistics shared by the Fire District are inaccurate, and in his research he found that only .07% of communities require fire sprinklers.

Certain Council Members stated that more time was needed before making a decision.

Public Comment

Tom Neylan thanked the City Council and the staff for the successful Easter Egg Hunt event. Mr. Neylan said that as the President of the Fire Fighters Association he asks Council to support this ordinance and he has responded to a fire that caused a fatality in Menlo Park. He hopes the Council supports the ordinance.

Fran Dehn, representing the Chamber of Commerce of Menlo Park, asks Council and the public to take the comments she will make in a way that does not impair public safety. She requests that Council consider repercussions of this matter; it appears that there exists a lack of understanding about the impacts of these changes on residences, business owners, and tenants. Ms. Dehn said that depending on the lease structure, this may trigger the application of the fire sprinklers, and the cost may be passed on to the tenants. Ms. Dehn requests that Council further study this matter, and while the Chamber of Commerce is not disagreeing with the safety merits of the proposal, it is concerned with the possible impacts on existing properties.

Henry Riggs is an architect in Menlo Park, and he believes the Building Code addresses fire sprinklers and fire protectors. He stated that houses (before changing hands) are checked for installed smoke detectors, and in his opinion he does not think that fire sprinklers are appropriate in our topography. Mr. Riggs asks that the Council not impose a significant cost on Menlo Park homeowners.

Natalie Cardenas, government affairs director for the Silicon Valley Association of Realtors, has concerns with the cost factor especially for smaller homes that are looking to remodel. Ms. Cardenas believes that the burden placed on an individual homeowner can be excessive, and she asks that Council take this matter into consideration.

Harry Harrison said that he has been in the building business for many years and he believes there are many other methods of addressing fire hazards, namely smoke detectors, and a special paint that smothers the fire. He believes the proposal will cost too much to fireproof houses, and there are other more pragmatic methods. Mr. Harrison thanked the Fire Department for making its presentation but he contested some of the statistics shared by this entity.

Mr. Ollie Brown stated that the primary interest of the Fire District is to protect the community, and his career has been dedicated to this cause. Mr. Brown said that this is an effort to prevent suffering by people who might be exposed to fires. Mr. Brown said that the Fire District is an outstanding organization that does its best to protect the community.

Council Discussion

Council Member Kinney stated that he built certain buildings and by including the fire sprinkler systems the buildings were more marketable. Mr. Kinney supports the request from the Fire District, and he agrees with the 50% trigger because he is focusing on the long-term benefit. Mr. Kinney mentioned a few examples of items that make him consider this as a feasible option, even though there might be a cost associated with it. Mr. Kinney stated that over time building standards improve for example, double pane windows and insulation weren't always a requirement.

M/S Kinney/Collacchi to accept the staff report recommendation but changing the 75% trigger to 50% trigger for existing buildings of 2,500 square feet.

Mayor Pro Tem Winkler has concerns because of the volume of information received tonight, and in her research it is hard to get a standard when the cities are all over the board. Ms. Winkler is conflicted because by increasing the cost this might deter residents from remodeling their homes. Mayor Pro Tem Winkler said she could support the requirement for new construction but not the full scope of the proposal, and so she will not support the motion.

Council Member Collacchi is sympathetic towards the Fire Districts' attempts to increase safety, however he would like to obtain answers on issues such as the efficiency of sprinklers. Mr. Collacchi said it is not clear how many buildings this ruling will impact, and he would like to have that information. He could support some kind of alternative proposal.

Mr. Jellins is dis-inclined to approve the current motion as it is, and he is intrigued and grateful that Mayor Pro Tem Winkler and Council Member Collacchi have found an alternative approach one that would recognize the value of sprinklers in new construction and address various triggers. His suggestion is to give staff direction to bring back some additional information that includes a resolution with different language.

Mayor Duboc stated that she has much respect for Ollie Brown, however she would like more information on new homes and how the fire sprinklers trigger will apply to the 1,000 square feet homes. Ms. Duboc finds the efficiency chart intriguing, and would like more information.

Mr. Wilson explained some more details on what the proposed ordinance covers and what is already in place. Mr. McClure clarified that the motion approves the recommendation and places a 50% threshold instead of a 75% threshold on the square footage component.

Mayor Duboc called for the vote. Motion fails 1 to 4 with Council Member Kinney in favor and all others opposed.

M/S Jellins/Collacchi to have staff come back with a recommendation (in the form of a resolution), and this recommendation to include: retaining item one from the staff report as written, but with the option of staff providing more information on the basement data; changing item three of the current staff report recommendation stipulating that the 75% threshold is intended for only construction that is virtually new; keeping item four of the staff report but providing more information on the change of occupancy classification. This motion includes having staff request more information from the Fire District on the effectiveness of fire sprinklers. The maker of the motion said this item is to come back to Council in the near future.

Mayor Duboc called for the vote. Motion carries 4-1 with Council Member Kinney opposing. Council Member Kinney opposed the motion for reasons stated at the beginning of the discussion.

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.

David Boesch, City Manager, informed the Council that he had sent a communication opposing Assembly Bill 2702 because it is another attempt to usurp local land use as it pertains to second units.

Mr. Boesch stated that he is monitoring other bills relating to potential constitutional amendments and dealing with the swap of property tax for sales tax. The City has not taken a position at this time on this matter.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEM

1. Response to April 6, 2004 City Council Meeting comments regarding staff reductions in the Belle Haven Community.

Council Member Kinney mentioned that he was expecting information on how program and service levels would be maintained after budgetary cuts are implemented. Mr. Boesch clarified the information previously requested by Council Member Kinney will be shared on May 18, 2004. With the information report staff wanted to address allegations relating to staff reductions in the Belle Haven Community.

I. COUNCIL MEMBER REPORTS

Council Member Kinney will attend the BAWSCA (Bay Area Water Services Conservation Agency) meeting. Mr. Kinney reported that Council would not have to address the Midpeninsula Open Space District issue because LAFCO has approved it on a 6-1 vote.

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

Matt Henry said that as far as the staff reductions are concerned positions of three women and two men will be cut, and one person will have to handle the work at the community center. He believes there won't be anyone to run various events and this reduction will be like closing the center.

K. ADJOURNMENT – adjourned at 10:22 p.m.

Respectfully submitted

Silvia M. Vonderlinden,
Certified Municipal Clerk (CMC)

Approved at the City Council of May 18, 2004.