



**CITY COUNCIL  
and  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

**Tuesday, May 11, 2004  
7:00 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
Menlo Park City Council Chamber**

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**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 M. Vonderlinden, City Clerk. Various department heads and other City staff were present.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION APPOINTMENTS AND REPORTS**

1. Swear in the new Library Commissioner.  
Anna Zara was sworn in by City Clerk Vonderlinden.
2. Commission Reports.

**B. PRESENTATIONS AND PROCLAMATIONS**

1. Proclamation to the Second Grade classes of Ms. Porro and Ms. Hirsch at Laurel School.

Mayor Duboc presented a proclamation to Sabrina and Sophia who are students at Laurel School. Pictures of the Arbor Day Tree event were projected and the Mayor acknowledged the teachers and students for creating a book and a song especially to celebrate this day.

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

Hubert J. Morel-Seytoux spoke in favor of Senate Bill 921 and how it attempts to provide health care for all Californians. Mr. Morel-Seytoux provided statistics on health coverage and he believes coverage for everyone is only fair. He asks Council to endorse Bill 921.

Matt Henry referred to the last Council Meeting, and how he disagrees with the reorganization of the Onetta Harris Community Center. He suggests that staff talk to each other and find out from those affected why this reorganization will not work. Mr. Henry shared concerns with the process.

Elizabeth Houck stated that she agrees with the previous speaker because the process is not good. Ms. Houck stated that she had 50 reasons why the dog park is not a good idea, and she listed them. She asks that Council stop this project and begin a comprehensive plan addressing homeowners and dogs needs.

Irene Searles addressed the Council on the Children's Center matter, and how she disagrees with the Council's decision to remodel. Ms. Searles referred to literature disseminated on Measure T and she does not believe promises have been kept. She believes the remodel option is more costly and creates a building with less quality.

Rick Cirardella spoke in favor of grade separations and stated that the Chamber of Commerce would like to hold information sessions for the businesses to become aware and provide input.

*Council Member Jellins left the Council Meeting due to illness.*

#### **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.

##### **Item D1 pulled**

1. Adoption of a Resolution No. 5515 approving a budget amendment to increase the water operating fund budget in the amount of \$500,000 for the purchase of water from the San Francisco Public Utilities Commission.
2. Adoption of a Resolution No. 5513 authorizing the Director of Engineering Services to execute master agreements, program supplemental agreements, fund exchange agreements and fund transfer agreements for state and federal-aid projects.
3. Approval of a Resolution No. 5514 supporting the City of Palo Alto's efforts to address alleged franchise violations in Comcast's construction of the institutional network.
4. City Council approval of an agreement with Chrisp Company for Citywide street striping for the remainder of fiscal year 2003-04 in an amount not to exceed \$40,000 with authorization to exercise an option to renew the contract annually for an additional two years with the contract amount not to exceed the budgeted amount annually for this program.

**M/S Kinney/Winkler to approve Consent Calendar items D2, D3 and D4. Motion carries unanimously with Council Member Jellins absent.**

##### **Item Pulled D1**

Council Member Collacchi asked about fees and why the City is not recovering these fees. Ruben Nino, Engineering Services Director, clarified that the cost is passed on to the users however the current rates are too low. Mr. Collacchi stated that he is trying to reconcile the difference between what is taken in and what the City charges, and Mr. Nino stated that because of a different rate structure, the City is not recovering the full cost. However, Mr. Nino stated that with the new rate study the City will recover more. Council Member Kinney shared information about the Hetch Hetchy water system and asked Mr. Nino about water conservation plans. Mr. Nino said that over the next five-years this is something staff will be asking for Council support on. Council Member Collacchi asked if this will alter the balance or deficit for the current year. Mr. Boesch clarified that this is from an enterprise fund, and it will be addressed at next week's budget meeting.

**M/S Kinney/Collacchi to approve Consent Calendar item D1. Motion carries unanimously with Council Member Jellins absent.**

#### **E. PUBLIC HEARING**

1. Approval of the design of the Ivy Drive Streetscape Project; certification of the Final Environmental Impact Report (FEIR) for the Ivy Drive Streetscape Project; adoption of the findings with overriding considerations of the FEIR; and adoption of the mitigation and monitoring program of the FEIR.

Art Morimoto, Supervising Engineer, presented the staff report stating that the central concept of this project is the plaza. Mr. Morimoto covered some of the benefits, which include additional median, sidewalks, and improvements in the landscape. He also disclosed that based on the traffic analysis there are impacts in the following streets Hamilton Avenue, Newbridge Street, Terminal Avenue, Newbridge Street and Hamilton Avenue. There is not a feasible mitigation to reduce these impacts. Staff has met with the Fire District to review this matter, and this entity is in agreement with the project. Mr. Morimoto stated that the environmental and traffic consultants were available to answer questions.

### **Council Discussion**

Council Member Kinney asked if there have been any complaints since the temporary closure. Mr. Morimoto stated that there were no complaints at this time, and these conditions have been in place since October 2001. Mayor Pro Tem Winkler asked if there was any daytime parking allowed on Ivy Drive. Mr. Morimoto stated that there is. Council asked about upcoming timelines for this project and Mr. Morimoto stated that bids were opened and it seemed like there were some irregularities.

### **Public Comment**

There was no public comment.

**M/S Collacchi/Winkler to close the public hearing. Motion carries unanimously, with Council Member Jellins absent.**

**M/S Kinney/Collacchi to approve all of the staff's recommendations. Motion carries unanimously with Council Member Jellins absent.**

2. Consideration of an appeal of a Use Permit to allow for a conditionally permitted social hall use at the rear of the building in conjunction with a permitted retail use, and for architectural control to make exterior modifications to the façade of the structure located at 700 Santa Cruz Avenue.

Jeffrey Smith, Associate Planner, provided the staff report stating that the applicant is requesting approval of a use permit. He provided some historical background and mentioned that this appeal may relate to a policy decision and Council should direct staff. Mr. Smith stated that should Council deny the appeal, staff requests that the basis for that denial be specified.

### **Council Discussion**

Council Member Collacchi asked about the social use that is being requested by the appellant and Mr. Smith explained that large events and special events are included. The Council Member further inquired about the in-lieu fee and Mr. Smith clarified that the fee would increase with time. Mr. Collacchi asked for clarification on the square footage for the social hall, which is 5,250 ft.

Tom Davis, the operations manager for the Menlo Park Presbyterian Church, the applicant, addressed the Council explaining the various functions that take place in the club. Mr. Davis stated that there is a letter of intent with a hardware store for part of the space. Council asked about the need for an extra hour in the hours of operation, and Mr. Davis explained that this is for the set-up and take down time.

Council Member Kinney wanted to go on record stating that he has been a member of the Presbyterian Church for many years. Mr. Kinney stated that the site is being under utilized and he asked about traffic studies. Mr. Smith stated that a traffic study has not been conducted. Mr. Davis stated that the traffic would be okay. Council asked questions about the 6-month period and the in-lieu fee. Mr. McClure stated that it all depends on the negotiations, but he explained that this is an in-lieu fee instead of the sales tax.

Council asked about the review period and whether it is too long. Council asked about the in-lieu fee and the applicant made additional comments to the Council stating that they have accepted the 16 conditions and are prepared to create the written requirements generated by the Planning Commission.

### **Public Hearing**

Patti Fry stated that she was speaking on her behalf and she wanted Council to focus on a particular fee that has been around for six years and might not be appropriate. Ms. Fry noticed that on the minutes of a meeting from 6 years ago the same rate was quoted. She personally respects the people in the church, however she has concerns about this location and she has concerns that the space allocated is too small for a hardware store.

Barbara White-Huber says she has been a long time resident and opposes the social club use on two grounds: concerns about the impact on the town commercial area, and feeling that the business area

should be welcoming to everybody. A church use won't be welcoming to everybody. She stated that this church has provided many good things to the community.

Harry Morey asks that Council not approve this project because this will alter the downtown of Menlo Park and its retail vitality. Mr. Morey stated that there have been hardware stores here before, and they're not here any longer for some reason. There is no reason to change the C3 zoning that has been reserved for downtown Menlo Park. This location is a core business area and there has been a great loss of business. He asks that Council deny this appeal.

Pat White addressed the Council speaking about 700 Santa Cruz, and he believes the Menlo Presbyterian Church has been a good neighbor of the City. Mr. White believes that some of the buildings the church has on Santa Cruz Avenue are old, and it would be more beneficial to have this church redevelop one of those buildings and have all their facilities on their campus. He has doubts about the success of the teen center.

Harry Harrison spoke about hopes that another use is found that is retail sales because he would like to see downtown kept retail sales. He hopes the Council will build the city up, and he said the town is dying slowly. Mr. Harrison warned against ending up with one less possibility for retail sales on the main street of Menlo Park.

Lou Deziel would like to support the local downtown merchants, and he asks that the church consider the possibility of another site. Mr. Deziel believes the church will bring people downtown but he suggests that Council remove all time constraints to avoid the space being idle. He urges the Council to support a fully used business versus an empty building.

**M/S Kinney/Collacchi to close the public hearing. Motion carries unanimously with Council Member Jellins absent.**

#### **Discussion**

Council asked about access to the building through the back, and Mr. Smith explained how the traffic would flow, and how it would not be possible to have access to the hardware store through the back. The applicant came forth to explain that the problem of providing public access through the back door is complex because there is a need for additional area for exit and storage. Mr. Davis stated that this has been discussed and the church has tried to negotiate some type of storage. Also if a large item is purchased, the church will permit access on a case by case.

Council asked how long this place has been vacant, and the applicant said that at least one year. Dave Johnson, Business Development Manager, was present and was asked to comment. He stated that while numerous spaces downtown appear to be vacant, some properties are just turning over. Mr. Johnson stated that the ideal model is to have this evolve, with the hardware use expanding. He also reiterated that this is a temporary solution for the church. Council Member Kinney asked what was Mr. Johnson's opinion and he said that since this is a temporary solution he supports it, however if this were a 10-year plan he wouldn't support it. He believes that the bottom line is that this property is vacant, and the alternative is this collaboration, which is better than vacant space. Council asked about decreasing the lease to three years and Mr. Davis said that he can deal with five but three years is too little.

**M/S Winkler/Kinney to adopt the use permit as outlined in the staff report, and as part of that motion make a formal statement that a social hall should not become a policy precedent, and is not to become an acceptable use for the downtown, but this is a rear store operation and does not front on Santa Cruz Ave.**

Council Member Collacchi said he will not support this motion, and while he believes the speakers did a good job and he doesn't question the goodness of a social hall, he does not think the location is right. Mr. Collacchi shared concerns about protecting the retail core, and he is concerned for the demise of the downtown vitality. Mr. Collacchi stated that this social hall would probably not be a great generator of income. He does not think it is vibrant enough. Mr. Collacchi stated that the Chevron station is a great example of a great job done by staff and it adds vitality. He believes that some patience would be best.

While he is not telling the church to take a second story location, he would like to see retail extended all the way to Menlo Ave. He believes the loss of sales tax is a concern.

Council Member Kinney differs slightly because the church could always move and in five-years the permit goes away and maybe the hardware store expands. Mr. Kinney stated that this is a bird in the hand and it is vacant now, so bringing people in is a good thing. Mayor Duboc commended the staff and the Planning Commission for their approach, and she does not believe this is an incompatible use. Mayor Duboc would like to support these efforts, and it is a tight permit so she is encouraged that the church will find an alternative site as soon as possible. The Mayor stated that as she walked the streets of Menlo Park many residents expressed the need for a hardware store.

Mayor Duboc called for the vote.

**Motion passes 3-1 with Council Member Collacchi opposing and Council Member Jellins absent.**

## **F. REGULAR BUSINESS**

### 1. Action on a Certified Petition to repeal Ordinance No. 926.

Mayor Duboc shared concerns about addressing this matter without a full Council present and possible a divided vote. Council Member Collacchi suggested that public comment be heard, and then close the public comment and have Council make a decision at an upcoming meeting. The Council agreed with this approach.

Silvia Vonderlinden, City Clerk, presented the staff report asking for Council's direction to either place the ordinance on the ballot or rescind ordinance 926. Council Member Kinney asked about the costs associated with including this matter on a regular election. Ms. Vonderlinden clarified that the low end of the estimate is \$14,300 and the upper end of the estimate is \$18,800. Mayor Pro Tem Winkler asked if this is within the retainer of Mr. McClure. The City Attorney said he would need to prepare impartial analysis and there might be disputes of the arguments, consequently a lot of time is spent in making findings and making rulings on the ballot arguments. Mr. McClure researched the City's last referendum (leaf blowers) and according to his records \$15,000 was spent in these procedures.

### **Public Comment**

Earl Shelton addressed the Council asking it to rescind ordinance 926 and revise the City's residential zoning ordinance. Mr. Shelton stated that the current Council rescinded ordinance 915, and he thinks residents need information. Mr. Shelton asked the Council to start a new process and have voices from all residents.

Patti Fry, speaking on her behalf, stated that Council should be complimented for the changes approved with the tree ordinance. Ms. Fry asks the Council to rescind 926 because there is an opportunity to save money and get better rules and better processes. She stated that Council should embrace public discourse and providing more information to the public with drawings. Ms. Fry stated that in the spirit of open government she hopes Council will explain the full ordinance to the residents of Menlo Park.

Gail Slocum echoed the comments made by previous speakers and she hopes the Council creates a better ordinance. Ms. Slocum explained her own story and how in her dealing with the construction next door, there wouldn't have been dialogue because under this ordinance this project might have fallen under the Tier One. She believes human judgment is a good, and hopes the Council will rescind the ordinance.

Anne Perlman urges the Council to rescind ordinance 926 and not incur in the expense to place it on the ballot. Ms. Perlman respects the Planning Commissions' expertise and knowledge. Ms. Perlman urged all to work on a better ordinance, and stated that residents were uninformed and did not have drawings of what is being proposed.

Elizabeth Houck said there are fifty reasons why this ordinance should be rescinded and she enumerated them. She asks for a win-win situation and a process that gives people more say and respect. Ms. Houck has met with most of the Council and believes it is a smart Council and kind people.

Catherine McMillan stated that she hopes the Council will take the higher road and educate people and find a consensus. She believes the Council should have a respectful approach towards the residents and commit to respecting diverse points of view. Ms. McMillan would like to see a town meeting at which experts would explain the aspects of this ordinance. Ms. McMillan asks that the public outreach process be transparent and non-partisan.

Toni Stein thanked the Council for the opportunity to speak, and she asks Council to consider not wasting money on placing this matter on the ballot. She asks Council to rescind 926 because it removes essential protections for various homeowners such as solar panels and does not include the needed design guidelines.

Russel Dember showed an illustration of a house that could be built under ordinance 926. Mr. Dember explained various facets of these designs and how there are no restrictions on this type of homes. He focused on a three-foot bay window and he thinks it is excessive. He asks Council to rescind 926 and hire architects to provide drawings and offer more outreach.

Mayor Pro Tem Winkler stated that she suspects the illustration shows a house that is outside of Tier One.

Margaret Betsock stated that in general she has great respect for those who serve on the Council. She believes this ordinance is too lenient towards developers, and takes away the rights from of homeowners. She wants to make it clear that not all residents are ignorant or unaware. Ms. Betsock asks Council to rescind 926.

Lou Deziel offered his respect to the Council and wished everybody were more respectful. In his opinion the cost of an election is inconsequential because it is a public right. Mr. Deziel believes that this matter should be on the ballot and he advocates for the wisdom of Tier One. He also stated that regardless of the ordinance, this will never have a happy ending because full consensus is impossible.

Kelly Fergusson, with time donated by Charlie Bourne, urged the Council to rescind ordinance 926 and she said that she has a cadre of 50 volunteers who are ready to start their campaign. Ms. Fergusson said that if Council rescinds this ordinance this group is ready to move forward and work with the Council to reach a consensus and get the needed facts to make it a better product. She suggests that facilitated mediation be used to find a reasonable solution. Ms. Fergusson stated she would like to move forward with a better process.

Harry Harrison said that he is a little upset with the adversarial attitude of some of the speakers and in his opinion this City has been fighting for 20 years and it is time people work together. He hopes particular residents will be respectful and work as a group.

Mayor Duboc said that she respects her Council Members and feels privileged to serve with them, and even though not everybody agrees all the time they are good people to work with. Mayor Duboc would like this to be part of the record and would like Council Member Jellins to be part of this discussion and provide input.

City Manager Boesch stated that the May 25, 2004 meeting might be an appropriate time to bring the item back.

**M/S Duboc/Colllacchi to table this item until the May 25, 2004 Council Meeting. Motion passes 4-0 with Council Member Jellins absent.**

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.

City Manager Boesch stated that Assistant City Manager Seymour will be in Sacramento representing the City's interests, in regards to legislation, and upon return she will possibly present a brief written report.

## **G. WRITTEN COMMUNICATION**

1. Request by Mayor Lee Duboc to place on the agenda for discussion the location and/or operational aspects of the Nealon Dog Park, and the possibilities of placing dog park/off-leash hours in other areas of the City.

Mayor Duboc asked that this item be placed on a future agenda. She would like to have a discussion on the locations available for consideration and send this back to the Parks and Recreation Commission. Council agreed to place it on an agenda.

2. Request by Mayor Pro Tem Winkler to place on the agenda Council discussion and consideration of installing a ventilation system in the Burgess Gym.

Mayor Pro Tem Winkler stated that she was at the Burgess Gym and it was 104 degrees. She would like to place this item on a future agenda and would like the following information from staff: cost of a ventilation system, and whether the City can borrow from Measure T monies. Council agreed with placing this on a future agenda.

City manager Boesch would like to know a little bit more regarding on what Council is requesting. Mr. Boesch has spoken to Mr. Steffens, Public Works Director, and it looks like the cost would be in the order of \$50,000 to \$100,000. Mr. Boesch wants the Council to know these figures so staff comes back with a complete proposal for Council to give direction on. Various Council Members provided input that they would like to see what the options are.

3. Request by Council Member Kinney to place on the agenda Council discussion and consideration of T-Ball at George Lyle Park for 5-7 year olds.

Council Member Kinney would like this matter to go to back to the Parks and Recreation Commission because he has heard from constituents who miss this service. Council agreed with this approach.

## **H. INFORMATION ITEM**

1. Status of the Grade Separation Study.

Mr. Boesch said this was just an information item but he was available to answer questions. Council asked about the Baby Bullet and Mr. Boesch explained that the service would be launched on June 6, 2004. Council Member Kinney asked questions about options and Mr. Boesch stated that at this point staff will continue studying the implications of grade separation of the City's four intersections or some lesser number.

## **PUBLIC COMMENT**

David Montague has been a resident for 25 years and he believes that while he is a proponent of grade separation he is concerned with the impact to the residents. Mr. Montague stated that the challenge is that a shadow would be cast on properties and areas that are residential in nature. Also, the option of raising the tracks 10 to 15 feet might bring forth the issue of electrification going through residential areas. He strongly urges that there be more public discussion on the options available, and that CalTrain's options may not be the best for the residents of Menlo Park.

Judith Orasanu, is concerned with the grade separation and the tracks going through the city because the raised tracks will create a visual barrier, and give an industrial feel to this area changing the character of residential Menlo Park. She echoes the concerns of the previous speaker, and she shared concerns that the Transportation Commission is proceeding without public outreach. Ms. Orasanu recommends that the City Council come and visit these neighbors and see the real impact of these plans.

Earl Shelton spoke about the impacts of the raised tracks, especially the noise and how it needs to be looked at carefully. He asks that the noise aspect be considered and studied, along with the construction impact on residences.

## **I. COUNCIL MEMBER REPORTS**

Council Member Kinney thanked the staff for the repaired wood kiosks downtown, and he also mentioned that the goats are back in Sharon Heights.

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

Elizabeth Houck thanked the City Manager and the City Council for listening to her, and asks the Council to stop construction of the dog park in Menlo Park in its current location. She begs the Council to rebid the project without this dog park, or put it on hold until a better location is found. Ms. Houck has met with the DOGMA group and they don't think this is an ideal location either. She believes the construction is eminent and she is concerned.

Council Member Kinney would like to understand what are Council options. City Manager Boesch explained that the contract has been dully awarded, and he can bring back to Council some timelines. Mr. Boesch stated that there have been numerous meetings and there has been much support for the current dog park location. Mr. Boesch stated that this has been through the public process and there was very little opposition for the exception of Ms. Houck. Mr. Boesch stated that he needs Council to provide him direction as soon as possible because the contractor is on target. Council consensus was to discuss at the next meeting logistically what is possible to do with the project.

**K. ADJOURNMENT – 10:20 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, CMC  
Certified Municipal Clerk

Approved at the Council Meeting of July 20, 2004.