



**CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, November 9, 2004
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

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

1. Closed Session pursuant to Government Code Section §54957.6 to conference with labor negotiators regarding labor negotiations with the American Federation of State, County, and Municipal Employees Local 829 (AFSCME) and Service Employees International Union (SEIU) Local 715. Parties present: David Boesch, City Manager, Bill McClure, City Attorney, Charles Sakai, Labor Attorney and Glen Kramer, Personnel and Information Services Director.

Reconvene in Open Session and Report on Aforementioned Closed Session.

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

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. Swearing in of new Las Pulgas Committee Member.

The Committee Member was absent.

2. Appointment to the Housing Commission.

M/S Kinney/Collacchi nominating Patricia Boyle to serve as Housing Commissioner. Motion carries unanimously.

3. Commission Reports.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation declaring November 15, 2004 America Recycles Day in Menlo Park.

Dianne Dryer, Environmental Programs Coordinator, accepted the proclamation and commended Menlo Park residents for their recycling efforts.

C. PUBLIC COMMENT #1 (*Limited to 30 minutes*) - None

D. CONSENT CALENDAR

1. Acceptance of work for the 2003-04 Sidewalk Repair Project and the 2003-04 Sidewalk Trip Hazard Removal Program.
2. Adoption of Resolution 5562 authorizing the filing of an application for Federal Surface Transportation Program funding for the Sand Hill Road Rehabilitation Project in the amount of \$184,000 and commit matching funds in the amount of \$23,840 for the project.

M/S Collacchi/Jellins to approve the Consent Calendar items. Motion carries unanimously.

E. PUBLIC HEARING

1. Adoption of Resolution 5563 accepting the fiscal Year 2004-2005 State Supplemental Local Law Enforcement Grant (COPS Frontline) in the amount of \$100,000 and approval of a request to use the funds in conjunction with funds from the Fiscal Year 2003-2004 COPS Frontline Grant in accordance with State requirements.

Greg Rothaus, Commander with the Police Department, presented the staff report explaining the department's plans to spend the grant money. These plans include the following areas: technology, labor, tactical equipment, emergency preparedness efforts and training.

Council Member Jellins inquired about the process used in selecting spending priorities for the grant funds. Commander Rothaus offered that staff goes through a prioritization process that gets submitted to the Chief of Police and finally the Council deliberates on it.

M/S Mickie/Jellins to close the Public Hearing. Motion carries unanimously.

M/S Duboc/Jellins to approve the staff recommendation. Motion carries unanimously.

F. REGULAR BUSINESS

1. Waiver of the reading and adoption of Ordinance 930 to repeal Chapter 16.69 of the Zoning Ordinance, Required Artwork for New Commercial, Industrial and Municipal Construction, also known as the "Percent for Art" Ordinance.

Nancy Nuckolls, Business Manager for the Community Services Department, provided the staff report covering the various steps leading to the proposal to repeal the "Percent for Art Ordinance".

M/S Duboc/Winkler to waive the reading of the ordinance and adopt the ordinance.

Council Member Jellins had concerns with combining the two actions in one motion.

The maker and second of the motion withdrew the motion.

M/S Jellins/Collacchi to waive the reading of the ordinance. Motion carries unanimously.

M/S Duboc/Winkler to adopt the ordinance to repeal the "Percent for Art Ordinance".

Council Member Kinney disclosed that he would oppose the motion for reasons outlined in the past.

Motion carries 3 to 2 with Council Members Jellins and Kinney opposing.

M/S Jellins/Duboc directing staff to resolve issues arising from the eight projects currently subject to the Percent for Art Ordinance as described in the staff report. Motion carries 4-1 with Council Member Kinney opposing.

2. Council Direction on Options for Off Leash Dog Activity Areas.

Bob Roessler, Community Services Manager, provided a report on how this topic has evolved. He covered details on the process, which included formation of a subcommittee and the criteria leading to the proposed sites. Mr. Roessler reported that four public meetings were held, and some of the concerns from residents included health and safety. He shared data from surveying other cities showing that many cities offer fenced off leash dog areas.

Council inquired about particular aspects of the dog run area and possible off leash park areas. The hours and signage were discussed. Council queried staff on its preference for a fenced area, and Mr. Boesch interjected by saying that staff believes ultimately the Council makes the decision. Council asked about the cost of drinking fountains for dogs and staff projects these costs between \$3,000 and \$4,000. Certain Council Members inquired about user fees and how much revenue this might create. Council also debated the concept of possible certification and vaccination of dogs using these parks. At the request of the Council, City Attorney McClure explained possible liability issues related to the fencing options and separation of dog use by either setting time limits or space restrictions. City Attorney McClure also clarified that in this context liability pertains to the City's liability and the City has less liability if it doesn't have dog parks.

Mayor Duboc asked for confirmation that Sharon Heights and Lyle Park are no longer being considered as sites for off leash dog parks and staff confirmed this assumption. Council discussed off leash dogs in the Belle Haven area. City Attorney McClure explained the liabilities associated with each type of park, and the benefits of specific hours and fenced parks. Council Member Jellins thanked staff for a well-organized staff report. Various Council Members acknowledged receipt of petitions, and correspondence pertaining to this issue.

Public Comment

Calvin Jones, former Mayor of Menlo Park, referred to a petition he submitted opposing a dog park in Sharon Heights Park. Mr. Jones asked Council to adopt the recommendation from the Parks and Recreation Commission.

George Cole is a dog owner who supports the Willow Oaks and Nealon Parks fenced alternatives. He believes this is a feasible option because it allows for shared responsibility between two parks. Mr. Cole thinks providing a key and a registration system might be helpful.

Kim Reed advocated for multi-use in the park because the fencing might change the character of the park. Ms. Reed opined that drinking fountains aren't needed because dog owners bring their own water.

Kirk Churukian made a presentation illustrating bites that dogs are capable of inflicting. He opposes parks with unleashed dogs, and he is against open dog runs. Mr. Churukian believes that the safety of children should be the priority and not the freedom of dogs.

Monique Johnson presented a petition from Stanford Hills residents who oppose any dog activity in that area. She hopes Stanford Hills doesn't become an option in the future.

William Leroy Henrichs is pleased with the process thus far. He asks Council to focus on safety first. He believes staff should canvass medical offices and emergency rooms in the City to find out how many victims of dog bites exist.

Schel Reyes supports the Nealon Park and Willow Oaks Park options with a fence and generally supports the proposals on the table. She would like to extend the hours in the morning and to include the use of Lyle Park. Ms. Reyes believes in the benefits of having canines in the community.

Susan Traversat presented a petition against any dog activity in the Lyle Park area. Ms. Traversat printed out emails sent to the Council on this issue and in her opinion 70% oppose the off leash dog parks. She believes gates are needed to keep dogs inside.

Stephen Luder, is a member of the Parks and Recreation Commission, and he stated that he has a minority view on the subject. Mr. Luder appreciates the work staff has put into this, and in his opinion staff and the Commission should focus on dual use as an optimal approach. He also agrees with charging a fee. He disapproves of what he believes are scare tactics used by other speakers.

Carolyn Coleman believes the hours of use should be changed at Nealon Park because of noise issues. Ms. Coleman does not support the proposed hours since dogs can be noisy and this impacts residents. She asks for 8:00 a.m. starting time and she hopes the off leash activity is kept between Monday through Friday only.

Paul Wineman opposes off leash dog activity in Sharon Heights. He believes most residents in that area do not agree with this approach based on a survey conducted. He said that residents have concerns relating to noise, activity and danger of dogs.

Kelly Martin presented a petition with 230 signatures from residents who use the Willow Oaks Park. She authored this petition and opposes all day un-fenced park use. She asks Council to approve either a fenced dog park or limited hours. Ms. Martin believes the Willow Oaks Park should be a joint resource and not serve all of Menlo Park. She asks for safe separation between dogs and children.

Christy Wendin hopes that the Willow Oaks Park will not be the only park supporting dogs' needs in the city. She hopes a mixed-use compromise can be found and she asks that hygiene and safety

become the major issues as well as clear signs, boundaries, and allocating resources for Code Enforcement. She asks for a six-month follow-up study to see how this will work.

Robert Wendin echoed the comments made by the previous speaker.

Kelly Blythe supports Willow Oaks Park fenced, Nealon and Lyle Parks with some modifications. He believes that limited hours are one approach but the fenced area is the best approach because it solves the problems of many groups. He does not believe that the limited hours park is the correct approach.

Bruce Schena stated that the safety of children is always the priority over recreation for dogs. Mr. Schena believes children should come first.

Bernard Traversat shared concerns about the safety of children and he does not believe dogs and children should be together. He believes that if there is a remote chance that kids will be harmed then it is not worth it.

Suzanne Brownstein is in support of the Nealon Park as a fenced area and agrees with adding Lyle and Burgess for off leash dog use. She stated that if there is a fenced area, then the safety issue should be addressed. Ms. Brownstein suggests a compromise from parents to include avoiding taking children to the park when the off leash hours are in effect.

David Alfano lives nearby Nealon Park and has given up on using that park because it is over-populated. He stated that Nealon Park has too much dog waste. Mr. Alfano would like residents to have recourse when there are infractions. He does not believe signage works, and he asks Council to consider the safety of children and the cleanliness of the parks.

Susan King stated she has not received notification about this plan and in her opinion the general consensus is that certain residents are against it. She opposes spending money on this issue during tough times. Ms. King would like everyone to be reminded of the Pacific Heights resident who was mauled and died. She asks that Lyle Park be kept off the list of possibilities.

Robert Dreyer is in favor of the revised recommendations for a fenced area in both parks. He understands that there are people who object to dogs using parks because of sanitation and safety. He believes that self-policing should be used and safety could be addressed by creating a fenced area. Mr. Dreyer asked if the City could create an area where the current ordinance wouldn't be enforced.

Mr. McClure, City Attorney, responded that the City should not be creating a situation inconsistent with the law. Mr. McClure explained that the best option is to have the laws affirmative with the Council's actions.

Dennis Karle lives close to the Lyle Park and is against the current plans for any of the off-leash uses in particular in the Willow Oaks Park. He agrees with the fenced option. Mr. Karle stated that if the dogs are unleashed then they want to get involved with other activities, and so he requests the creation of a dog only area.

Mary Watson believes in giving dogs an opportunity to be off leash. Ms. Watson listed what are, in her opinion, the multiple benefits of having animals off-leash. These include better socialization skills and enhancing the community as a whole.

Woodson Martin believes that Willow Oaks Park should be a resource for the community and not just for one segment of the community. He believes a fenced area is needed for the safety of the children. He would like selected off leash hours, well-delineated boundaries, sanitation, and enforcement rules to be part of the plan. He asked Council not to advertise that the Willow Oaks Park is an off leash dog park otherwise the number of users will increase.

Marcia Bever agrees with not fencing the Willow Oaks Park but is not opposed to a mixed-use facility. She is looking for a compromise and in her opinion the Willow Oaks Park should not be the designated park for all dogs in Menlo Park.

Jennifer Bestor opined that an off leash dog facility is the best option possible in Willow Oaks Park. Ms. Bestor was surprised at the sensationalism from certain speakers and she believes that a socialized dog is a safer dog. She advocates that a dog-park will benefit the community.

Marie Richardson lives in the Willows and opposes the all day use of the park because of safety issues. Ms. Richardson stated that there are many dogs that are too friendly and have no concept of space or boundaries. She has concerns about the off leash use and hopes that having other parks with off leash areas will help address the demand.

Bruce Shapiro manages the usage of fields at Kelly Park and he attests that there is no off leash use there. He believes that this is an important issue and off leash dogs are using the Willow Oaks Park. Mr. Shapiro specifically referred to an incident of a lady walking 10 off leash dogs.

Elizabeth Houck asked to speak longer with time donated by Harry Harrison. Mayor Duboc interjected and asked Ms. Houck to speak for three minutes only. Ms. Houck stated that a dog bit her neighbor and killed her chicken. She would have liked to see more information on maintenance costs in the staff report. She referred to various web sites that divulge current lawsuits on the matter. Ms. Houck asked Council not to place an off leash park close to children, seniors or apartments, but if it has to occur she urges the use of double fencing. She urged the Council to direct staff to limit the liability by having dogs use Bayfront Park.

Dan Monahan opposes any type of off leash park in Menlo Park, because he believes there is already a park where the law is not being enforced. Mr. Monahan opposes mixed use because dogs and children don't mix. Mr. Monahan shared concerns about residents unleashing their dogs at the alleyway by the Willow Oaks Park.

Robin Monahan is concerned that dogs chase children at the Willow Oaks Park. She has seen dogs chasing children and snipping at them.

Kevin Heller is opposed to unleashed dog parks due to the cost, and he said that he opposes the City investing money in fences. Mr. Heller opposes spending funds when only a few people will benefit from the investment. He suggested using the Bay Lands area for dogs.

Wendy James is a member of the Willows Mom's group and spoke about the Willow Oaks Park currently having dogs run free, without enforcement. Ms. James stated that dogs have knocked kids down, and for this reason she uses the fenced shoreline park because it is safer. She suggests fencing the Willow Oaks Park if it is going to be used.

Phillip Sanchez said there is no enforcement at Nealon Park and kids will run around because it's their nature. Mr. Sanchez believes there is too much liability for the City. His concern is with the future of the kids.

Russel LaBarre stated that the existing laws are not being enforced at Willow Oaks Park. He has asked dog owners to place their dogs on a leash and he has faced resistance. Mr. LaBarre referred to sanitary issues and safety issues that are not being enforced. He believes that the dogs will not respect boundaries if there is no fence. Mr. La Barre has seen many dogs running around off leash and some owners are unwilling to comply with the current rules.

Greg DeLong is a soccer coach and shared a story that happened 10 years ago in Orinda. Mr. DeLong takes exception to the comment made by another speaker that a child ran and that is why the child was bitten. Mr. DeLong shared another incident where dogs knocked down an 80-year old lady.

Bob Frankle explained that earlier this year the board of American Youth Soccer Organization (AYSO) Region 109 recommended that no dogs be allowed at practices. Mr. Frankle read a resolution passed by the Board of the AYSO opposing the use of dog parks in the areas used for soccer. Such resolution was unanimously passed by the Board.

Hendrick van de Meer objects to having just one park in the city because of the increased amount of users it would bring to Willow Oaks Park. He supports the current dog use but in his opinion if it increases it might become intolerable.

Chuck Podaras would like to clarify that there is no formal agreement between the La Entrada School and the City of Menlo Park for the use of the school grounds. Mr. Podaras explained that there are a lot of emotions surrounding this issue. He suggests separating the issues of safety, and sanitation.

Mayor Duboc announced a five-minute break at 9:50 p.m.

Council Discussion

Council discussed various Nealon Park options, which include a fenced area for use during restricted time periods. The hours of 7:30 a.m. to 10 a.m. on weekdays were suggested, and some Council Members agreed with mixed-use. Council Member Jellins shared concerns about liability, safety and costs. Council Member Jellins thanked staff for its extensive work. Council Member Collacchi thanked all the speakers for their involvement and interest on this matter and reaffirmed how challenging it is to find a solution that pleases all views. Council ensued in discussion over the defacto off leash dog park and how this is a concern.

Council asked questions regarding the Willow Oaks Park lay out, and Council Member Kinney reiterated that he thinks this park is too small to be fenced. Consequently, he does not agree with off leash dogs in this park. Council Member Collacchi believes that a controlled key system could be implemented and logistics of how this would work were debated. Council Member Collacchi would like Willow Oaks Park to be the permanent park and Nealon Park to have a 6-month trial period. Council asked how quickly something could happen at Nealon Park and City Manager Boesch stated that this would be back in one-month but it would need to go out to bid. Council elaborated on signage, waste bags, gate-off areas, and tentative hours. Council shared various possibilities and the trade offs relating to each option. Mayor Duboc believes that a compromise is necessary.

Council Member Jellins said that members of the public that desire earlier times should continue expressing their views to the Council. Council Member Kinney wanted to know if the improvements were included in the budget and Mr. Boesch stated that there is no budget for this project. Mr. Boesch will come back with plans and a recommendation for a supplemental source of appropriation for these improvements. Council asked about hours at Nealon Park and Mr. Roessler explained that dog owners are very appreciative of anything they can get but the earlier the better. Park policies and regulations were discussed.

City Manager Boesch stated that staff understood Council direction based on the discussion and staff will bring back a recommendation including limited hours of use and a fenced area in the Willow Oaks Park.

M/S Duboc/Jellins to have Nealon Park dog use hours between 8 a.m. and 10 a.m. on weekday mornings, and on Willow Oaks Park to create a fenced park with limited hours and the possibility of a key access system with a six-month trial period for both facilities.

After some discussion the maker and second of the motion agreed to have the hours stay as suggested in the staff recommendation.

Council discussed the motion and the maker and second of the motion agreed to establishing hours at a later time.

Motion carries 4-1 with Council Member Kinney opposing.

Council Member Kinney asked if the development of a Bayfront Express off leash dog park could be expedited. Mr. Boesch gave a brief description of where this project stands and how the work of a subcommittee is exploring a development agreement. Mr. Boesch suggested that if this is an important issue, Council could address it as part of its priority setting session.

3. Consideration of state and federal legislative items including decisions to support or oppose any such legislation and items listed under Written Communication or Information Items.

None.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS

1. Consideration of Future Land Uses for the Haven Avenue Area – Status Update.

Mr. Boesch explained that the study is coming back to Council soon and at that time Council will be asked to provide direction to staff.

I. COUNCIL MEMBER REPORTS

Council Member Kinney reported that he is on the negotiating committee for rates at the Bay Area Water Supply and Conservation Agency (BAWSCA) and he will report on this matter in the near future.

Council Member Jellins announced an upcoming C/CAG (County/Cities Association of Government) meeting and Council Members are invited to attend.

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

K. ADJOURNMENT – the meeting adjourned at 10:33 p.m.

Respectfully submitted,

Silvia M. Vonderlinden,
City Clerk

Approved at the City Council Meeting of January 25, 2005.