



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, November 16, 2004

7:00 p.m.

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

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

PLEDGE OF ALLEGIANCE

A. COMMISSION APPOINTMENTS, VACANCIES AND REPORTS

1. Commission Reports.

Arthur Traum representing the Library Commission provided a status report on the formation of a Library Foundation. He acknowledged donations by the Friends of the Library, and he thanked the Council, City Manager and the Library Director for their support. Mr. Traum stated that Latham and Watkins have been retained to create Articles of Incorporation on a pro bono basis. He added that the new Board is taking form with five candidates already having been interviewed.

Mayor Duboc congratulated Mr. Traum on the positive developments.

B. PRESENTATIONS AND PROCLAMATIONS - None

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

Michael Johnson, with the National Project Stay Clean, expressed concern about the fact that this organization did not receive funding from the City two years in a row. Mr. Johnson stated that this organization restructured itself and hopes to receive funding to help children and young people.

Mayor Duboc explained that the City's funding is decreasing and it is hard to fund all organizations.

Linda Pugh, with the National Project Stay Clean, shared some disappointment at this program not being funded. Ms. Pugh listed the services offered by this program and how difficult it can be to help kids make the right choices. She asks Council to remember this organization next year.

Joseph Chou, volunteer for the National Project Stay Clean, hopes that donations from local organizations will begin to come in because this organization is helping local kids. Mr. Chou asked Council to reconsider its decision.

Rebecca Amado-Sprigg representing the Shelter Network for the Haven Family House thanked the Council for its support. She offered Council a tour of the Haven Family House and appreciates any help Council may be able to provide.

Sarah Almy, representing Yes Reading, thanked the Council for its support and explained the goals of this organization. Ms. Almy invited Council to come and take a tour of the Center at the Belle Haven School Campus.

Barbara Kalt, Director for the Peninsula Volunteers at Rosener House, invited Council to attend a Thanksgiving luncheon. Ms. Kalt thanked Council for its help and she is appreciative of the grant. She explained the services provided by Rosener House.

Allen Harris explained that his wife Betsy has used the services from Rosener House. He spoke highly of the caregivers and the multiplicity of programs available. Mr. Harris said that Rosener House enriches the lives of Menlo Park residents.

Russ Lawler, representing the Service League of San Mateo County, thanked the Council for its support during the last 12 years. Mr. Lawler invited the Council to visit this organization.

Jeanna Cardinale with the Second Harvest Food Bank of Santa Clara and San Mateo Counties thanked the Council for its support. Ms. Cardinale explained that on average 2,000 seniors are served per week in Menlo Park as part of the Brown Bag Program. She thanked Council for its support.

Kat Lewis is a staff attorney with Legal Aid and she is grateful for the funding provided by the Council. She stated that this organization has served the community for the last 25 years and Ms. Lewis delineated services provided by Legal Aid.

D. CONSENT CALENDAR

Item pulled D1

1. Adoption of Resolution 5566 approving the City Council Subcommittee recommendations regarding the allocation of 2004-05 Community Funding in the amount of \$76,447.
2. Review of the Annual Report on the status of the Traffic Impact, Storm Drainage and Recreation in Lieu fees collected as of June 30, 2004 according to Government Code Section 66001.

Item pulled D3

3. Approval of proposed changes to the Master Fee Schedule to initiate the Half Day Downtown Parking Permits to become effective January 1, 2005.
4. Agency approval of a six-month extension to the Exclusive Negotiating Rights Agreement (ENRA) with Peninsula Habitat for Humanity for City-owned property adjacent to Terminal Avenue and property located at 297 Terminal Avenue, and authorization of the Executive Director to execute the extension agreement.

Item pulled D5

5. Approval of Bay Trail Option Two as the preferred alignment in the Bay Trail Feasibility Study to connect the Ravenswood Open Space Preserve to an existing pathway to University Avenue, near the Southern Pacific Railroad.
6. Authorization of staff to amend the contract with Alta Planning & Design in the amount of \$2,040, resulting in a total contract of \$42,270 for the development of the City of Menlo Park Comprehensive Bicycle Plan.

Item pulled D7

7. Adoption of the City of Menlo Park Neighborhood Traffic Management Program.
8. Adoption of Resolution 5564 to accept the dedication of a parcel of land located in the Oak Grove Plan Line at 846 Oak Grove Avenue to the City for public use.
9. Adoption of Resolution 5565 amending the City's Conflict of Interest Code and Biennial Review.
10. Approval of the Minutes for the City Council Meeting of October 12, 2004.

M/S Collacchi/Kinney to approve Consent Calendar items D2, D4, D6, D8, D9 and D10. Motion carries unanimously.

Item D1

1. Adoption of Resolution 5566 approving the City Council Subcommittee recommendations regarding the allocation of 2004-05 Community Funding in the amount of \$76,447.

Council Member Kinney asked about the funding process for the non-profit organizations. Mr. Boesch explained that the funds appropriated totaled \$76,447.00. Council Member Kinney suggested that Council give up its salary for the next few months to be able to provide more funds. Mayor Pro Tem Winkler explained that a certain process was followed and some tough choices had to be made. Ms. Winkler would not feel comfortable with just changing the process at this point. Mayor Duboc explained the reason behind some of the decisions, such as why Yes Reading was funded. Mayor Duboc stated that another option is to give a lesser amount to a larger number of organizations.

Mayor Duboc addressed concerns posed by the National Project Stay Clean, and she hopes next year they will get funded. Council Member Collacchi is comfortable with the approach, and he understands how difficult the choices were.

M/S Collacchi/Duboc to approve Consent Calendar Item D1. Motion carries unanimously.

Item D3

3. Approval of proposed changes to the Master Fee Schedule to initiate the Half Day Downtown Parking Permits to become effective January 1, 2005.

Council Member Collacchi wanted to make sure this new permit took into consideration the impacts on multiple parking plazas. Mr. Boesch clarified that this is before Council because of a Council recommendation and business owners' requests. Mayor Duboc thanked the Police Department for working with the Chamber of Commerce and the hair salons on this matter. Council Member Jellins asked about printing costs and Commander Goitia explained that there is a set-up cost when new permits are printed. Mr. Jellins would like to get a report on this program so that Council can understand impacts and benefits related to this permitting system.

M/S Jellins/Duboc approving the staff recommendation with the proviso that staff will report on the matter. Motion carries unanimous.

Item D5

5. Approval of Bay Trail Option Two as the preferred alignment in the Bay Trail Feasibility Study to connect the Ravenswood Open Space Preserve to an existing pathway to University Avenue, near the Southern Pacific Railroad.

Council Member Kinney inquired about whom has jurisdiction over the specific location, and Transportation Manager Rahimi explained that the trail is partially in Menlo Park. Mr. Rahimi stated that staff's recommendation matches East Palo Alto's recommendation. This option provides the longest path, closer to the Bay and it costs less. The consultant for the project explained the location of the tentative trail connection and Council asked questions about this topic.

M/S Kinney/Duboc to approve Consent Calendar D5 with trail option number two as specified in the staff report.

Mayor Pro Tem Winkler would like to have trails around the Bay but she explained that one half mile of this trail costs around \$2.5 million and this is exclusive of staff time and Environmental Impact Reports (EIRs). Council Member Jellins referred to page 5 of the staff report and inquired about the EIR on the Dumbarton Bridge. Mr. Rahimi explained that the alignment is unclear until the EIR is concluded and more data is received. Council Member Jellins believes this is prematurely coming to Council and Mr. Rahimi stated that it is important to state a preferred alternative. City Manager Boesch explained the utility of picking an alternative now is to have a document in existence to effect trail connections. Council Member Collacchi agrees with having the City's position clearly stated. Mr. Boesch explained this gives us some leverage for the future.

Motion carries unanimously.

Item D7

7. Adoption of the City of Menlo Park Neighborhood Traffic Management Program.

Council Member Kinney announced he would oppose this item because the threshold is too high. Mayor Pro Tem Winkler suggested a change on page one (bullet point three of the staff report) to read "removal of landscaping that obscures the sight..." such change also to apply to page nine of the NTMP document. Council Member Collacchi inquired if this would be a ministerial process, and Mr. Steffens, Public Works Director, explained that staff's understanding was to install landscaping that restricts the visual corridor. He added that this gives the appearance of a narrower street, which tends to reduce people's speed. Council discussed the correction and the consensus was to strike the item completely. Council Member Jellins would like to make sure staff could address these items directly. Mr. Steffens explained that in special cases staff would bring the item to Council.

The rationale for the installation of textured pavement on Level II was discussed. Mayor Duboc finds it redundant that on page one of the staff report (on bullet number five) this is listed because staff has discretion to address it. Mr. Steffens explained that this formalizes the action and allows staff to bypass the formal NTMP process. Mayor Duboc would like to strike it. Mr. McClure explained that the item on page one gives staff the discretion to bring the matter to Council when need be. Mayor Pro Tem Winkler would like to take away footnote one from the flashing beacons because this is subject to State requirements. Council Member Jellins believes that by leaving these items in Council would have the opportunity to provide input. Mayor Pro Tem Winkler believes that the NTMP provides ways to have a process and she does not want to approve all these exceptions that curtail the process. Mayor Duboc suggested a compromise where one of these discretionary actions could be used per project.

M/S Winkler/Duboc to approve the staff recommendation with the exception of striking bullet five on page one of the staff report and removing landscaping as discussed on page one of the staff report and page nine of the NTMP document.

M/S Jellins/Collacchi alternative motion to include footnote one and references on page ten of the NTMP document.

Even though Council Member Collacchi seconded the motion he disagrees with the content. Mayor Duboc offered a compromise to keep bullet five to crosswalk related items (on page ten of the NTMP document). Council ensued in some discussion about striking the footnote and reference. It was proposed that footnote one remain relating to flashing beacons, crosswalk warnings systems and textured pavement.

M/S Winkler/Duboc new motion to accept deletion of landscape item and deleting in bullet point five anything that does not relate to crosswalks, i.e. gateways and entry treatments.

Motion carries 3-2 with Council Members Collacchi and Kinney opposing.

E. PUBLIC HEARINGS

1. Consideration of a Conditional Development Permit Request for improvements to the Project Site including additions and alterations to the existing church at 825 Pierce Road and converting the building historically used as the Pastor's residence on the adjacent parcel, 1104 Madera Avenue, from residential to church use.

Steven O'Connell, Contract Planner, explained that Starlight Missionary Church is requesting approval of a conditional use permit for improvements to their property. Mr. O'Connell gave details on the proposed alterations. He provided a list of previous permits approved for this property that did not come to fruition. This matter was unanimously approved by the Planning Commission subject to the findings included as attachment A in the staff report.

Council Member Kinney likes the design but he asked about the parking capacity. Mr. O'Connell clarified that the proposed alteration is in compliance with the current regulations. Mayor Duboc asked if there were any objections at the Planning Commission Meeting, and Mr. O'Connell stated that there were none.

Mayor Duboc opened the Public Hearing.

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

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

2. Consideration of a Zoning Ordinance Amendment, to allow personal service as a conditional use in the R-C (Mixed Use) Zoning District, and a Use Permit Revision to operate a personal service use (Day Spa) at 846 Oak Grove Avenue and the negative declaration prepared for the project.

Julie Thompson, Associate Planner, presented the staff report explaining what the applicant is proposing. Ms. Thompson stated that the Planning Commission unanimously approved the item. Council Member Jellins asked if the proposed use would not have been allowed in the current RC-Zoning District and Ms. Thompson confirmed. Council Member Collacchi inquired about the precise addresses included in the RC-Zoning and about the medical office component that was initially suggested. Ms. Thompson explained that the spa is a therapeutic use, which falls under personal service. Council asked questions about height of building and the plan line. Mr. Murphy, Senior Planner, addressed concerns relating to the use permit approval.

Public Comment

Barton Hechtman, representing the applicant, thanked staff for assisting during the application process. Mr. Hechtman explained that the applicant has a chiropractic office at another site. Mr. Hechtman believes the proposed use is a good match for that area.

M/S Kinney/Duboc to close the Public Hearing. Motion carries unanimously.

Mayor Pro Tem Winkler is reluctant because this area has a lot of medical use and she has concerns that hair salons might crowd this area. Various use options were discussed and some Council Members believe this is a hybrid use that could be positive. Certain Council Members believe this is something the community wants.

M/S Kinney/Duboc to approve the staff recommendation, which includes the Zoning Ordinance Amendment, revision of the use permit, and approval of the Negative Declaration. Motion carries unanimously.

3. Approval of an Ordinance amending Zoning Ordinance Regulations pertaining to commercial development and the negative declaration prepared for the Ordinance Amendment.

Justin Murphy, Senior Planner, presented the staff report explaining how these changes affect areas of Menlo Park. The proposed changes include a new type of development permit called Administrative Permit. This is a discretionary permit that could be approved by staff if certain specific findings are made. The process includes public notification and appeal rights. Mr. Murphy explained that the Planning Commission concurred with the proposal. Council Member Collacchi asked about the Negative Declaration for all these items and staff confirmed that only one document was needed. Mr. Collacchi asked about non-conforming structures and structures housing non-conforming uses. Council asked about replacement costs versus real costs.

Council discussed the difference between a non-conforming structure and non-conforming use process. Mayor Pro Tem Winkler would like a less conservative process. Council discussed the 50% threshold and how the Planning Commission influenced that number. Mr. Murphy stated that at this point staff would stand by its recommendation. Council Member Collacchi discussed the appeal basis for certain categories, and Mr. Murphy explained that the appeals could be triggered by the interpretation of specific items in the process.

City Attorney McClure explained this matter applies to non-conforming structures, and structures housing non-conforming uses. Mr. McClure clarified that if an applicant is above the 25% threshold then he or she has to go through the use permit, regardless of the use, if the structure is non-conforming or structures housing a non-conforming use. If it is below 25% then one just

walks in and gets a building permit. Mr. McClure explained that the significant change is the 25% of replacement cost for a non residential non-conforming structure versus 25% of assessed value for a non-conforming structure or structures housing a non-conforming use. The original recommendations were discussed and Mr. McClure explained how this evolved in the Planning Commission discussion.

Mayor Pro Tem Winkler referred to a business round table where it was pointed out that the business permitting process in Menlo Park has to change, and one of the complaints was that it takes a long time to obtain a use permit. Mayor Pro Tem Winkler believes the Council should go for the 50% less conservative approach, instead of the 25%. Council Member Collacchi supports this approach with a friendly amendment that staff reports to Council in two years clarifying how many projects have gone through this process.

Mayor Duboc asked about the notification requirements, and Mr. Murphy explained that State law requires 10-day prior notice. Mr. Murphy explained how currently the City Planning Department exceeds this State mandated standard. Council asked about the next steps associated with changing the permitting process. Mr. Murphy stated that addressing the list of uses is the next step.

Mayor Duboc opened the Public Hearing

Kelly Fergusson addressed the Council explaining that the 25% versus the 50% trigger applies to non-conforming structures and one of the things that make the structure non-conforming is not having enough parking. Consequently, when the building does not have enough parking and it has a retail use that can cause problems. Ms. Fergusson stated that if you are changing the trigger there are no mitigation measures to address the problem of not having enough parking.

M/S Kinney/Duboc to close the Public Hearing. Motion carries unanimously.

M/S Winkler/Jellins to accept staff report including the recommendations from the Planning Commission but change item number five (on page three) to 50% as it was originally proposed by staff. Staff is instructed to report to Council in one-year as to how these changes are impacting building in Menlo Park.

Friendly amendment by Council Member Collacchi to include the numbers for each of the non-conforming structures that would have required a use permit under the old rules.

The maker and second agreed with this friendly amendment.

Motion carries unanimously.

F. REGULAR BUSINESS

1. Consideration of Council Member Kinney's request to install 25-30 trees in the El Camino Real medians between San Francisquito Creek and Middle Avenue.

Ruben Nino, Director of Engineering Services, explained the scope of the proposal and its impacts. He informed Council that funding for the project would come from sources other than City funds. Staff time for administration and maintenance of the trees will be required. Mr. Nino explained that staff will not process the Caltrans encroachment permit until a binding letter from Stanford agreeing to fund the purchase and installation of trees is received.

Mayor Duboc asked if the medians are going to be widened because of the trees, and Mr. Nino said that was not going to be the case. Council Member Kinney explained where the trees would be planted. Council discussed the steps in this process. Mr. Boesch clarified that next staff would bring a design for Council approval, and once the City has obtained Caltrans permits and all the required funding then installation would begin. Mayor Duboc would like to address this item at the priority setting session, instead of crunching staff time now.

M/S Duboc/Jellins to include this matter with the priority list in January 2005.

Council Member Kinney mentioned this has been in the works since 1998 and he doesn't understand why it has been delayed. Mr. Kinney believes this would be one way to make an artistic move and he is disappointed with the Council. Council Member Collacchi asked what is the difference between waiting and taking action now. Mr. Boesch stated if this passes tonight staff would have to begin working on this and resources will go into it. Mr. Nino stated that a total of \$5,000 has been estimated for staff costs. Mr. Collacchi asked why the Council doesn't want to invest this money from the budget. Mr. Boesch stated that this was an unbudgeted amount and if Council approves it staff would have to go find the money. Mayor Pro Tem Winkler would like to see the plans before acting on it. Mr. Boesch stated that if Council Member Kinney has additional information on this subject, it could be continued to November 30, 2004. Council Member Jellins would like to see the full packet of information on this matter prior to action.

M/S Duboc/Collacchi to table this matter until November 30, and Council Member Kinney will provide additional pertinent information to the Council.

Motion carries unanimously.

2. 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

1. Request for reconsideration by Mayor Pro Tem Winkler of the action taken by the City Council on November 9, 2004, to modify the action taken relative to Off-Leash Dog Activity areas to include additional interim measures at Willow Oaks Park.

Mayor Pro Tem Winkler stated that staff advised her that no interim changes could be made until the current ordinance is amended, consequently she would like to withdraw her request. She is satisfied with staff's approach.

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS

Council Member Kinney attended two BAWSCA (Bay Area Water Supply and Conservation Agency) meetings and Mayor Duboc will attend one JPA San Francisquito Creek meeting.

Mayor Duboc wished everyone a Happy Thanksgiving, and announced that the Council would not be meeting next week.

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

K. ADJOURNMENT – 10:40 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC
City Clerk

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