



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, January 4, 2005
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 – Winkler, Jellins, Cohen, Duboc, Fergusson

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. One vacancy on the Transportation Commission to fill an expired term that ends in January 2009. The deadline for receipt of applications is January 11, 2005 at 5:30 p.m.
2. One vacancy on the Las Pulgas Committee (for a business member seat) to fill an un-expired term that ends in March 2005. The deadline for receipt of applications is January 18, 2005 at 5:30 p.m.
3. One vacancy on the Housing Commission to fill an un-expired term that ends in July 2005. The extended deadline for receipt of applications is January 18, 2005 at 5:30 p.m.
4. Appointment to the Parks and Recreation Commission.

Mayor Winkler opened the nominations period.

Council Member Cohen nominated Heyward Robinson.

Council Member Duboc nominated Kelly Blythe.

Mayor Pro Tem Jellins nominated Terry Fuqua.

Council Member Fergusson nominated Elizabeth Houck.

Mayor Winkler asked for Council to vote on the nominees.

Kelly Blythe received two votes.

Terry Fuqua received one vote.

Elizabeth Houck received no votes.

Heyward Robinson received two votes.

Mayor Winkler asked Council to vote on the two nominees who received two votes: Kelly Blythe and Heyward Robinson.

Mayor Winkler and Council Member Duboc supported Kelly Blythe and Mayor Pro Tem Jellins, and Council Members Cohen and Fergusson voted for Heyward Robinson.

Heyward Robinson is the new Parks and Recreation Commissioner.

5. Commission Reports. - None

B. PRESENTATIONS AND PROCLAMATIONS - None

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

Rich Shapiro, believes that each police officer should carry a tape recorder to replay what occurs at each incident. He believes this is one way of getting objective information about interactions with officers. Mr. Shapiro expressed frustration in dealing with police officers in Sunnysvale.

D. CONSENT CALENDAR

Item pulled D1

1. Approval of an agreement in the amount of \$64,000 with Davis Langdon for the City Buildings Infrastructure Study, and authorization of a budget of \$75,000 for consulting services, contingency and staff administration.
2. Approval of the Minutes for the City Council Meeting of October 26, 2004.

M/S Jellins/Duboc to approve Consent Calendar item D2 and include in future minutes the title of the item pulled prior to the discussion section. Motion carries 4-1 with Council Member Fergusson abstaining.

Discussion on Consent Calendar Item D1

1. Approval of an agreement in the amount of \$64,000 with Davis Langdon for the City Buildings Infrastructure Study, and authorization of a budget of \$75,000 for consulting services, contingency and staff administration.

Council Member Fergusson focused on the scope of work (page A2). She would like to include on item A.6.1 (fourth bullet point) clarification that the condition is to be assessed. Mr. Boesch stated that the words "and condition" could be included because it is clearly the intent. Council Member Fergusson also referred to A.7.1 and she believes the word "component" should be added to "recommendations for potential building component replacement costs". Mr. Boesch agreed with the modification. Mayor Winkler explained that she had asked staff questions about the scope of work and how it will be reviewed with the consultant.

M/S Fergusson/Duboc to approve Consent Calendar item D1 with the above mentioned changes. Motion carries unanimously.

E. PUBLIC HEARING

1. Community Development Agency adoption of the proposed Redevelopment Implementation Plan for the Las Pulgas Community Development Project Area, Fiscal Year 2004-2005 to 2008-2009.

Gretchen Hillard, Housing and Redevelopment Coordinator, provided the staff report explaining that every five years the Implementation Plan is updated. The purpose of this Plan is to provide guidance and find new opportunities. Council Member Fergusson stated that she was able to meet with staff and she was satisfied with the different parts of the Plan. Council Member Fergusson asked about page A13 and the list of projects. She asked for a description of the Haven Avenue Land Use study, and Ms. Hillard explained that this was a study approved by Council in the fall focusing on the economic capabilities of this area. City Manager Boesch added that this study has been completed.

Council Member Fergusson inquired about the East Hamilton/Tyco Study and Mr. Boesch explained that this is going to the Planning Commission. The City Manager explained the boundaries of this area and how it involves working collaboratively with Tyco and doing community outreach to determine the best uses. Mr. Boesch explained that in the next few months this item would come to Council. Council Member Fergusson asked about commercial improvements West of Highway 101 in the Willow Area. Mr. Boesch explained that the City has been working with business owners to improve facades and fund streetscape improvements. Mr. Boesch stated that the planned expenses associated with Plan projects are not budget decisions.

Council Member Cohen inquired about the possibility of opening the Belle Haven pool because Menlo Park is without a pool. Mr. Cohen would like to find out if there are Redevelopment Agency funds to improve the lighting of that pool. City Manager Boesch explained that to the extent that there are capital improvements that can be done to the Belle Haven pool to improve its usefulness during the off months this could be prioritized at the priority setting session scheduled for March 1, 2005. Meanwhile, Mr. Boesch will find out if there are capital improvements that can be made using Redevelopment Agency funds. Council Member Duboc thanked staff for its work and she hopes the Housing Commission can find ways to assist homeowners in beautifying the area. Mayor Winkler asked about the Dumbarton Rail Station since it is listed as a capital improvement project. Mr. Boesch explained that this is listed as one of the projects that the Agency might be interested in because of lighting, station improvements, etc. however at the time there is no specific plan.

Mayor Winkler opened the Public Hearing.

No public comment.

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

M/S Fergusson/Duboc to approve the staff recommendation.

Council Member Fergusson commented that she has an interest in broadening the scope of the Havens Avenue Land Use Study. She will make a request to have this addressed at the March 2005 priority setting session.

Motion carries unanimously.

F. REGULAR BUSINESS

1. Waiver of the reading and adoption of Ordinance No. 933 amending Section 9.12.010 of Chapter 9.12 of the Menlo Park Municipal Code regarding Off-Leash areas for dogs; and approval of a Resolution **a)** designating specific areas at Nealon Park and Willow Oaks Park as Off-Leash areas for dogs, **b)** approving final design of Off-Leash areas for dogs at Nealon Park and Willow Oaks Park, **c)** approving an appropriation from the General Fund Reserve in the amount of \$45,000 to fund the construction of the Off-Leash areas for dogs at Nealon Park and Willow Oaks Park, and **d)** authorizing a budget of \$45,000 for construction, administration and contingencies of the Off-Leash areas for dogs at Nealon Park and Willow Oaks Park.

Bob Roessler, Community Services Manager, presented the staff report providing details on the proposed off-leash areas at Willow Oaks and Nealon Parks. Mr. Roessler explained the staff recommendation and the various aspects of the process including the public outreach. He also covered issues relating to the ordinance. Mr. Roessler gave details about hours, proposed entrance/exit, cost estimates for maintenance, and gates. Staff explained the challenges associated with a key system.

Council Discussion

Council Member Cohen thanked staff for the report, and asked staff about the number of complaints registered at Nealon Park during the off-leash period. Mr. Roessler explained that there were a total of 27 complaints but no citations were issued. Mr. Cohen asked why Bayfront Park was ruled out as a location for an off-leash dog park. Mr. Roessler explained that there were environmental concerns and this was not a solution that the Parks and Recreation Commission felt could be pursued in the short term. Council Member Cohen asked if it was an inconvenience to have a park so removed from the City. Mr. Roessler explained that the Commission had timelines and in order to meet deadlines it was not feasible to pursue this site. Curtis Brown, Community Services Director, explained that during the community outreach phase all parks were on the table. However, this was not an option that was pursued at the time but if this were something the Council would like to consider it could be brought back. Council Member Duboc stated that she was at the Parks and Recreation Commission meeting and the consensus was that the Bayfront Park could come back to Council for further development.

Council Member Cohen opined that the decision to give up Bayfront Park was premature. His concerns with Nealon Park are that this is a multi-use area. He shared concerns about hygiene and health issues. Council Member Cohen would like to find out what cautions will be taken to keep the area clean. Mr. Roessler stated that dog owners will be primarily responsible for most clean up but staff would monitor it carefully and in six-months staff would report on problems. Council discussed the cost of replacing the grass if the canines damage it. Ruben Nino, Director of Engineering Services, said that the cost to replace all the sod would be between \$60,000 and \$70,000. Council Member Cohen would like to find out if other cities have reported increased maintenance costs associated with dog parks, and Mr. Nino explained that staff included additional maintenance costs. Mr. Cohen stated that the ordinance does not stipulate criteria on how many complaints would take to close the park. He suggests that ten complaints should suffice to close the park temporarily.

Mayor Pro Tem Jellins addressed the hygiene issue by asking staff if this has been an issue in the past. Mr. Roessler explained that there haven't been many cases in the City when the effect of the dogs was detrimental. Mr. Roessler explained that once in a while there was an occasional "surprise" in the fields but nothing more than that. He also explained that a lot of neighboring communities are considering decomposed granite. Council Member Jellins wants to know what staff will do in the future to monitor the issue. Mr. Roessler stated that on a monthly basis staff would monitor the park use. Mr. Brown explained that this would also be placed on the Parks and Recreation Commission Agenda on a monthly basis and this body would be a sounding board. Staff also explained that it would be talking to dog owners so they can understand that they need to pick up after their dogs.

Council asked staff how it would handle complaints, and Mr. Roessler explained that staff would continue working closely with Code Enforcement to address issues that arise. Mr. Brown explained that if Council approves this recommendation tonight a letter would go out explaining to those immediately impacted, that this has been approved by Council and if there are problems a City telephone number would be provided. Council asked about the types of complaints received. Mr. Roessler explained that some complaints related to barking dogs and others were about off-leash period. Council Member Fergusson wanted clarification on the design and the recommendation of the dog owners group. Mr. Boesch mentioned that at this point staff seeks direction and these issues have been discussed in the past. Council discussed trial periods at Willow Oaks Parks, and staff said that there haven't been any. Mr. McClure explained that this park has been a defacto dog park so there hasn't been a trial period because this has been going on for years. Council asked questions of Mr. McClure in regards to the resolution and Mr. McClure explained why it incorporated the language that it did.

Council Member Duboc thanked staff as well as dog owners in general for their joint work and commitment. Ms. Duboc stated that she does not consider Bayfront Park out of the picture. She feels comfortable with the public process and she offered to monitor the development at these two parks and report on anything that is out of the ordinary. Mayor Winkler asked about the violation process, and Commander Molakides could not specify what the fee would be for violations. The Mayor wanted it to be noted that there is a penalty associated with infractions.

Public Comment

Elizabeth Houck shared statistics related to dog bites and listed health dangers associated with dogs in parks. She suggested that staff take pictures of the parks before and after dog use. Ms. Houck supports Bayfront Park as an option. She suggests temporary fencing be used at Willow Oaks Park before the project implementation. She is looking forward to off-leash dog parks in Menlo Park.

Kelly Blythe is satisfied with the plan and the amount of thought and input that has been placed into it. Mr. Blythe supports the ordinance and hopes the Council will vote for it.

Kelly Martin stated that Nealon Park is already being used as an off-leash park and so with this plan the fence will be an improvement. Ms. Martin said that at the moment and without a fence it is

uncomfortable. Ms. Martin believes that the Willow Oaks Park needs to also be available so that the Nealon Park doesn't end up being the only area for off-leash dogs. She suggests that Council revisit Burgess Park as a possibility.

M/S Cohen to postpone adoption of the ordinance and hold off on the staff recommendation for the period of three-months, directing staff to investigate Bayfront Park in lieu of the options presented. Motion fails for lack of a second.

M/S Duboc/Winkler to accept the staff report. Friendly amendment by Mayor Winkler to revisit the topic in one year or less, and include signs and have staff come back in March with a user and registration fee.

Mayor Winkler believes the user fee and registration form are ways of indicating to dog owners their responsibilities. Mayor Pro Tem Jellins asked for a point of clarification on the administrative fee. Mayor Pro Tem Jellins would like to decouple the administrative issue from the motion.

M/S Fergusson/Cohen substitute motion to approve staff recommendation number one and waive the reading of the ordinance and adopt it.

Mayor Pro Tem Jellins asked for a point of information from Council Member Fergusson and she stated that she would like to divide the question. Mr. McClure stated that the Council has to vote whether to divide the question.

Vote on the substitute motion on whether to divide the question. Motion carries with Cohen, Winkler, and Fergusson in favor. Mayor Pro Tem Jellins and Duboc oppose.

Vote to waive the reading and adopt the ordinance. Motion carries 4-1 with Council Member Cohen opposing.

Vote on the motion approving the staff recommendation adopting the resolution.

Discussion

Council Member Fergusson shared concerns about leaping to a permanent structure at Willow Oaks Park. While she believes the City has done a conscientious job of outreach, she thinks some of the public might be caught by surprise. She would like to add one more step to the process, which is to include a temporary indication of the outline of the park with a notice of what is going to come.

M/S Fergusson/Cohen to continue the approval of the resolution for the next six weeks with immediate direction to staff to place some type of temporary ribbon and boundaries showing what the final product will look like.

Mayor Pro Tem Jellins asked staff if this would be possible and Mr. Roessler confirmed that it would. Staff suggested including temporary stakes and temporary fencing. Mr. Boesch explained that staff had considered this option but staff had concerns about its stability and that the aesthetics of the temporary fencing might engender a negative reaction. Council Member Fergusson reiterated that she would like this mock up to be up for a limited time period. Council Member Duboc is wondering if a descriptive poster or banner explaining what will happen would be sufficient. Mayor Winkler is ready to vote on the permanent park because this process has been long and she does not believe in investing additional dollars to delay the project.

Council Member Duboc asked if the maker of the motion would consider the following friendly amendment: direct staff to post a banner or poster informing the public and include a City telephone number to receive public comments. Council Member Fergusson was in agreement.

City Attorney McClure clarified the motion:

- **table the resolution for a period of 30 days or more**
- **post an information sign at Willow Oaks Park showing and explaining what is to be installed**

- include a phone number for residents to contact staff

At the end of this period the resolution is to be brought back to the Council for action with a report on whatever input the City staff received.

Council Member Fergusson suggested adding:

- include temporary fencing to simulate what it will look like
- delineate the off-leash dog park space with appropriate ribbon.

The motion includes placing both parks (Nealon and Willow Oaks) on hold until this additional step is concluded.

City Manager Boesch stated that this might delay the process because the contractor will need to readjust the schedule. Mr. Boesch wanted to alert the Council that this might cause additional expenditure.

Motion on whether to substitute the original motion for this motion.

Motion passes 4-1 with Mayor Winkler opposing.

Vote on the substitute motion as outlined above by Mr. McClure and include tabling the item until February 8, 2005 until which time there will be some delineation at Willow Oaks Park indicating the size and boundaries of the dog park. The motion also includes placing an information sign with a phone number for the public to contact City staff. 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.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS -

Council Member Fergusson asked if Council Member Cohen had an information item. Council Member Cohen said he did not.

I. COUNCIL MEMBER REPORTS

Council Member Duboc spoke about a Draft Environmental Impact Report relating to plans in Palo Alto to build 250 housing units at the corner of Page Mill Road and El Camino Real. Council Member Duboc announced there would be a public hearing on January 12, 2005 and she asked that a link to this item be placed on the City's web page.

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

K. ADJOURNMENT TO A CLOSED SESSION - 9:20 p.m.

CLOSED SESSION (First Floor Conference Room – Administration Building)

1. Closed Session pursuant to Government Code Section §54956.9(c) to conference regarding potential litigation with Browning Ferris Industries (BFI). Parties present: David Boesch, City Manager, Bill McClure, City Attorney, Kent Steffens, Director of Public Works, Dianne Dryer, Environmental Coordinator and Bob Hilton, Principal with Hilton, Farnkopf & Hobson.

Reconvene in Open Session and Report on Aforementioned Closed Session.

L. ADJOURNMENT – the meeting adjourned at 10:35 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC

Approved as submitted at the City Council Meeting of March 1, 2005.