



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, January 25, 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 M. Vonderlinden, City Clerk.
Mayor Winkler introduced Carol Augustine as the City's new Finance Director.
Various department heads and other City staff were also present.

PLEDGE OF ALLEGIANCE

A. COMMISSION APPOINTMENTS, VACANCIES AND REPORTS

1. Swear in new Parks and Recreation and Planning Commission members.

City Clerk Vonderlinden swore in new Planning Commissioner Riggs and the new Parks and Recreation Commissioner Robinson.

2. Appointment to the Transportation and Housing Commissions.

Mayor Winkler opened the nomination period for the Transportation Commission vacancy:

- Council Member Duboc nominated the incumbent George Pappas.
- Council Member Cohen nominated Robert Hubbell.
- Mayor Pro Tem Jellins nominated Henry Lawrence.

The Mayor asked Council to vote on the nominees in the order they were introduced:

- Two votes for the incumbent George Pappas.
- Two votes for Robert Hubbell.
- One vote for Henry Lawrence.

Mayor Winkler asked for another vote to resolve the tie between George Pappas and Robert Hubbell. The incumbent George Pappas received three votes. Mr. Pappas is appointed to the Parks and Recreation Commission.

Mayor Winkler opened the nomination period for the Housing Commission vacancy:

- Council Member Fergusson nominated John O'Malley.
- Mayor Winkler nominated Michele Hook.

Mayor Winkler asked for the vote:

Mr. O'Malley is the new Housing Commissioner having received three votes.

3. Advisory Bodies Attendance Reports for 2004.

Mayor Winkler acknowledged receipt of this report.

4. One vacancy on the Las Pulgas Committee to fill an un-expired term that ends in March 2005 (this vacancy is for a business member seat). The extended deadline for receipt of applications is February 22, 2005 at 5:30 p.m.

Council Member Fergusson inquired about the current vacancy, specifically if the applicant's business could be outside Menlo Park. City Manager Boesch stated that the business has to be within the Las Pulgas project area.

4. Commission Reports.

Mayor Winkler announced that Commission Chairs have been invited to share their priorities with the City Council.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation in recognition of Menlo School and Menlo College students.
2. Proclamation in recognition of Menlo-Atherton High School students.

Mayor Winkler presented the two proclamations to various students, thanking them for their humanitarian efforts.

C. PUBLIC COMMENT #1

Elizabeth Lasensky explained the impacts of discontinuing VTA bus Route 22. She asked Council to address this matter with the Valley Transportation Authority (VTA).

City Manager Boesch explained that the City is aware of this planned service reduction and Transportation Manager Rahimi will follow-up with that entity.

Kelly Bathgate, with the International Children's Art Alliance, invited the public to the grand opening of an art exhibit on February 2, 2005. Some children shared the meaning of their art pieces.

Vin de Silva echoed the comments made by Ms. Lasensky adding that Route 22 is the only bus link to the south county.

Jeffrey Kirshenbaum asked Council to reconsider the matter of 1981 Menalto Avenue so that the applicant could pursue and negotiate a resolution with the neighbors. Mr. Kirshenbaum requested that Council make a motion to reconsider the item.

Mayor Pro Tem Jellins acknowledged receiving a letter elaborating on possible unintended consequences due to Council action. Mayor Winkler, who previously abstained on this matter, excused herself and left the room. Mayor Pro Tem Jellins would like to have the matter reconsidered so that it would be placed back on a future agenda. City Attorney McClure clarified that passing a motion to reconsider will undo the action taken, and will place the matter before Council as if no deliberation had occurred. Mayor Pro Tem Jellins clarified that his intention is to request that the item be placed on a future agenda for consideration and possibly rescind previous action.

Motion by Mayor Pro Tem Jellins to place the item on a future Agenda, and at that time consider rescinding the previous Council action. The motion includes having the applicant work with neighbors to reach an agreement, and have the item come back to Council within 30 days.

Council Member Cohen stated that this project has been in the works for a while and there were attempts to work a compromise but they were fruitless. He is uneasy about voting for this motion because he doesn't believe that there is anything preventing the applicant from going to her neighbors and reaching a solution. Furthermore, he has concerns with the issues raised by the Fire Department. Council Member Duboc opined that Council left the applicant with limited building options. Council Member Fergusson stated that while the applicant was limited to the rear of the property she was not limited in square footage. Mayor Pro Tem Jellins withdrew his motion.

Mr. Kirshenbaum thanked the Council, and explained that when one adds a set back, the side driveway and the carport that leaves the allowed livable square footage at approximately 735 sq. ft.

Council Member Cohen rejected the notion that Ms. Harbottle's options are that limited. Mayor Winkler rejoined the Council at the dais.

D. CONSENT CALENDAR

1. Authorization for staff to enter into a five-year lease agreement with Xerox Corporation for a Nuvera DT100 Digital Copier at an annual estimated cost of \$25,380 and a total cost of \$123,265 over the five-year life of the lease.
2. Approval of a request to change the Environmental Quality Commission meeting time.
3. Approval of the Minutes for the City Council Meetings of November 9, 2004, November 16, 2004 and a Special Meeting of November 15, 2004.

M/S Duboc/Jellins to approve Consent Calendar items D1, D2 and D3. Motion passes unanimously with Council Members Cohen and Fergusson abstaining on item D3.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. Consideration of a Traffic Signal at the Intersection of University Drive and Menlo Avenue; approval of interim safety measures; and, adoption of Resolution 5576 appropriating \$6,500 from the 2004-05 Measure "A" Funds to implement interim safety measures.

Jamal Rahimi, Transportation Manager, presented the staff report stating that this item has been before Council many times. However, further review was needed and subsequently staff conducted a feasibility study of a traffic signal at this intersection. Based on the analysis and state standards it was determined that a traffic signal is warranted. He added that Council decided to defer the item until more outreach was conducted on this issue. Mr. Rahimi elaborated on the various methods of outreach including posting a banner, posters with phone numbers to reach city staff, and mailing invitations for the meeting tonight.

Council Member Duboc asked if Measure A funds could be applied to the traffic signal, and Mr. Rahimi confirmed they could. However, Mr. Rahimi added that the reserve from Measure A is decreasing and it is staff's intention to apply for a federal grant. Council Member Cohen stated that this was the first time he heard about this item, and Mayor Pro Tem Jellins offered to have Commander Goitia provide background on the enforcement issue.

Bruce Goitia, Police Commander, addressed the Council stating that this is a difficult intersection because of its configuration. Council Member Cohen asked if a restriction on a certain turn from the cul-de-sac would improve safety? Mr. Rahimi explained that this might be helpful but it may inconvenience residents. Mr. McClure interjected saying that the crosswalk is dangerous in its current location. Council Member Fergusson asked if there had been a fatality in this area and staff confirmed. She also referred to a letter received from the Auslander family, and she would like to understand why staff does not recommend an additional stop sign. Mr. Rahimi explained that when two stop signs are introduced so close to each other they become counter productive, possibly prompting disrespect for the traffic control devices.

Flags were discussed and Mr. McClure said that the new striping configuration is helpful. He added that the distance between the stop line and the pedestrian crossing needed to be shortened. Council discussed various options and designs for this intersection, as well as the field of visibility from the drivers' perspective.

Public Comment

Gordon Lewin complimented Council and staff on the analysis. He supports the interim solution and the traffic light.

Elizabeth Lasensky addressed concerns from a pedestrian's perspective pointing out that there is a light pole impeding visibility for cars that are stopped. Ms. Lasensky asked questions about access for the duplex and the cul-de-sac residents.

Lewis Calk stated that his sister was killed at this intersection a week before Thanksgiving 2003. He supports the traffic light, and mentioned that the loss of his sister to the family was inestimable. He asks Council to act promptly on this matter.

Dennis Fauchino made two suggestions: 1) that the matter of dealing with Draeger's be referred to the Transportation Commission; and, 2) make Menlo Avenue a one-way street. He does not think a traffic signal will suffice.

Mayor Winkler asked Mr. Fauchino to present his ideas to the Transportation Commission.

Mike Irwin stated he has observed this intersection and in his opinion there is little enforcement. However, he believes that drivers are too aggressive and simply do not stop. He opposes the interim solution.

Megan Polhemus said that crossing either intersection is difficult and there is minimal enforcement. Ms. Polhemus has seen four accidents and she has witnessed cars driving through the intersection and then stopping. She supports a traffic light.

Sanford Carnahan shared concerns that cars can't see pedestrians. He believes the interim plan is good because the flags add visibility.

Lou Deziel spoke as a resident and in his opinion drivers are part of problem because they don't seem to understand that pedestrians are part of the roadway. He agrees with the interim plan and he would like to make the crosswalk safer.

Elaine Calk stated that whatever the Council decides it is important to act since visibility is low and anything is an improvement.

Lydia Cooper believes that a left hand turn might not be appropriate at this intersection and she suggests taking it out.

Scott Polhemus said that not all drivers are responsible and there isn't enough enforcement. He asks for a traffic light to be installed.

Motion by Council Member Duboc authorizing a street light configuration, such as the one shown by the consultant, and hold off on interim measures with the exception of the orange flags. Council Member Duboc explained that spending money in the interim measures, which might only be needed for 6 months, is not something she can support.

City Attorney McClure explained that the installation would probably take closer to one year and he reiterated that it was staff's recommendation to move the stop sign line out closer to the crosswalk. He substantiated the reasons why the crosswalk around Menlo Avenue is important. Council Member Duboc rescinded her motion.

Motion by Council Member Duboc to approve the traffic signal and include the interim measures.

Mayor Pro Tem Jellins said he would second the motion if it means following staff's recommendation. Mr. Boesch clarified that this is a little different from staff recommendation because this would move the project to the top of the priority list and expedite the process.

Mayor Winkler seconded the motion to immediately carry out the installation of a traffic signal at the intersection, and adopt the interim solution. The motion also includes approaching Draeger's, and finding alternative funding options such as Measure A.

Council Member Cohen is eager to see a solution and he believes the burden of the solution should be imposed on Draeger's. He believes the solution should include lighting of the street and the crosswalk.

Council Member Duboc clarified that part of her motion was to find funding through Measure A monies, federal grant monies and approach Draeger's for alternative sourcing. The second agreed with this clarification.

City Manager Boesch explained that at this time there is no outstanding obligation with Draeger's. Council Member Fergusson said that additional street lighting should be investigated and Mr. Boesch said this is not included in the current project proposal. Mayor Winkler stated that the problem is with the intersection and safety is the primary responsibility of a City towards its residents. Council Member Cohen offered a friendly amendment that the City provide enforcement to that intersection as an interim measure. Council Member Duboc stated that this would mean decreasing enforcement somewhere else, and this did not appeal to her. Commander Goitia explained that the drivers can't see the pedestrians because of visibility issues. Council Member Duboc could not accept the friendly amendment because it was her opinion that this has been a lengthy process. Mayor Pro Tem Jellins stated he would reluctantly support the motion.

Council Member Fergusson wanted confirmation that there are no left turn restrictions for those leaving the cul-de-sac. Council Member Fergusson asked if there is anything else that can be done to help drivers understand the new measures. Mr. Rahimi offered that part of the plan is to add pedestrian crossing signs and orange flags.

M/S Duboc/Winkler to immediately carry out the installation of a traffic signal at the intersection of University Drive and Menlo Avenue at the cost of \$285,000 for design and construction. The motion includes moving forward with the interim measures, trying to locate federal money, interfacing with Draeger's and getting money from Measure A. Mr. McClure added that it also includes funding the interim measures, approving the budget adjustment and appropriation. Motion carries unanimously.

Council took a five-minute recess.

2. Consideration of a work plan for a Zoning Ordinance amendment to eliminate Use Permit review for single-story, single-family residential development on lots with a minimum area of 5,000 square feet.

Linda Heineck, Community Development Director, presented the staff report covering the work plan proposed by staff. Ms. Heineck explained that the work plan could be completed in three months if Council rates it a high priority. She added that if Council directs staff to move forward the next steps include: staff will work on drafting language for the zoning ordinance, preparation of the associated environmental review, holding public hearings, review by the Planning Commission and eventually City Council deliberation. Ms. Heineck said this is being brought forward because Council directed such action in September 2004.

Council Member Fergusson asked about the purpose of the changes, and Ms. Heineck explained that it is to expedite the review process for projects that historically have generated little controversy or impacts on neighbors. Council asked for clarification on ministerial review and Ms. Heineck explained that it means applying for a building permit and the review does not have discretion involved with it. So if the applicant meets the requirements then he or she gets granted the permit. Ms. Heineck elaborated on the two types of approval - discretionary decisions and ministerial decisions. Council Member Duboc added that the purpose of this is to encourage one story residential development. The permit costs were discussed and Ms. Heineck said that the applicant makes an \$850.00 deposit.

Council Member Cohen would like to know the estimated staff time it took to draft ordinance 926. Ms. Heineck did not have that figure present but offered to calculate it. Council Member Cohen

asked how staff intends to involve the community in this process, and Ms. Heineck replied that the negative declaration would be available for 20 days prior to the Planning Commission and the Council Meetings. This will be advertised in a newspaper. Costs of staff time were discussed and Ms. Heineck said that staff costs are around \$10,000 and this assumes preparation of documents, attendance at meetings, etc. Council questioned if this is a financial savings or if staff costs are already being recovered. Ms. Heineck stated that staff time is being recovered, however the savings are in picking up other efficiencies.

Council Member Cohen wanted to know what tool will be used to track the success of this process. Ms. Heineck said that staff could track the number of single story homes that get approval without going through the process. Council Member Cohen asked about the appeal rights available to neighbors. Ms. Heineck said that there are no appeal rights and there are no inputs from neighbors. Council Member Fergusson questioned if there has been an audit, and if this is the correct place to become more efficient. Ms. Heineck explained that there are a number of projects that need expediting. Council discussed one-story development and how this approach could be viewed as an incentive because residents try and avoid the current use permit process.

Public Comment

Henry Riggs, speaking as an individual and as a member of the Lorelei Manor Homeowners Association, said he appreciates being able to break down the process in parts. Mr. Riggs believes that Lorelei is a microcosm of what the Council is discussing and that currently there is a big difference between going through the use permit process versus just getting a permit. He supports this approach and a change in lot coverage would be an advantage.

Lou Deziel, speaking as a resident of Menlo Park, believes this proposal will bring benefits to the public. Mr. Deziel shared some economic benefits of this approach.

Natalie Cardenas, with the Silicon Valley Association of Realtors, supports staff's recommendation as a starting point. She believes Council should move forward and modernize the R-1 ordinance.

M/S Jellins/Duboc to approve the staff recommendation; and, in regards to the lot coverage currently set at 35%, he asks staff to bring back options to create more incentive increasing it to 40% - 45%. The motion also directs staff to bring back an increase in the trigger for a use permit on development from the current 50% to 75% trigger. Friendly amendment by Council Member Duboc that the FAL (floor area limit) be at least 25% permeable area. The maker of the motion accepted the friendly amendment.

Council Member Fergusson would like this to be a process that structures a streamline permit process giving property owners the benefit of a faster turnaround but doesn't dilute the benefits of the current use permit process. She does not want to take away the right to a public hearing. Council Member Fergusson referred to a letter from Earl Shelton that points out the impacts in the flood zone, and the main problem he sees is overzealous development on standard lots.

M/S Fergusson/Cohen substitute motion to direct staff to come back with a streamlining proposal that uses a permit process that is more along the lines of the commercial streamlining permit.

Council Member Fergusson believes this will achieve the goal of expediting review without eliminating residents' right to a public hearing.

Council Member Duboc offered that this plan aims to encourage one-story development on standard lots. She believes this will add privacy by having an incentive for people to build one-story homes. Council Member Cohen believes that the City is offering a benefit to those wanting to remodel but are taking away a current benefit. Mayor Winkler thinks that staff is capable of dealing with issues that may come up. Council Fergusson wanted to know why her approach was not appealing. Mayor Winkler responded that the more review Council is added the less predictability there is.

Vote on whether to substitute the original motion for Council Fergusson's motion. Motion fails 3-2 with Council Members Duboc, Jellins and Winkler opposing.

M/S Jellins/Duboc to approve the staff recommendation with two provisos:

- 1) the lot coverage to go up to 40%; and staff to eliminate the lot coverage requirement in lieu of the FAL limitation on single story buildings;**
- 2) staff to bring back an ordinance that shows the trigger for remodels at 75% rather than the current 50%, along with the modifications to comply with state law and include at least 25% permeability.**

Council Member Fergusson wanted confirmation that the 75% trigger was for one-story homes and Mayor Pro Tem Jellins confirmed. Council Member Fergusson said she would not support this motion because in her opinion this is piece meal and it needs to be prioritized at the priority setting session. Council Member Duboc asked for confirmation that staff will still be reviewing these plans, and Ms. Heineck confirmed that was the case through the building plan check process. Council Member Fergusson believes that there are numerous cases when there are problems. Council Member Duboc asked if there is any form of ministerial review that the two dissenting Council Members would agree to? Council Member Fergusson does not believe Council should take away the stick of the appeal process. Council Member Cohen is concerned that this is opening a door that will lead to more streamlining and will take away neighbors' input. Mayor Winkler does not believe that this is the intention at all, and Council Member Fergusson added that guidelines addressing impacts should have been included.

Motion passes 3-2 with Council Members Cohen and Fergusson opposing.

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

1. Letter from San Mateo County Board of Supervisor Richard Gordon inviting Menlo Park to nominate a member to the Housing Endowment and Regional Trust (HEART) for San Mateo County.

Mayor Pro Tem Jellins stated his enjoyment in serving this body for the last two years. He welcomes someone from the Council getting involved. Mayor Winkler nominated Council Member Cohen.

H. INFORMATION ITEMS

1. Review of the City's Investment Portfolio as of December 31, 2004.

Council Member Fergusson asked that more trend information be provided in these reports. She would also like to compare our figures with the returns other cities are getting.

Sanford Carnahan asked details about the gross returns and the dollar amount of fees. He asked if the funds are co-mingled.

City Manager Boesch said that in terms of the gross returns and the fees that he or the Finance Director would have to get back to the resident. However, he explained that the funds are not co-mingled because they belong to discrete funds. Mr. Boesch explained that Council Members had also shared an interest in having the report be clearer in regards to the information provided. Staff is working on this request.

Two Council Members asked that more trend information be included and the actual interest that the City gets from its holdings versus other cities. Mr. Boesch said that to the extent that this information is readily available staff would provide it; otherwise he will need the majority of the Council to direct staff to make this a project.

I. COUNCIL MEMBER REPORTS

Mayor Winkler attended the League of CA Cities Housing Conference and she enjoyed it because it focused on fiscal incentives. Council Member Fergusson attended the League of CA Cities Conference as a newly appointed member of the Environmental Quality Committee and one of the overarching goals is to protect Redevelopment Agency funds.

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

Lou Deziel made a general comment about the zoning ordinance and in his opinion there is a misunderstanding. Mr. Deziel believes that the particular way the findings are being interpreted precludes the applicant from getting to an agreement with neighbors.

K. ADJOURNMENT – the meeting adjourned at 10:59 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC

Approved at the Council Meeting of March 22, 2005.