



CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, February 8, 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 and Carol Augustine as the City's new Finance Director. Various department heads and other City staff were also present.

PLEDGE OF ALLEGIANCE

Mayor Winkler recognized Audrey Seymour, Assistant City Manager, for receiving the League of California Cities John H. Nail Award. This award is given to an outstanding Assistant City Manager who makes a significant contribution to the community they serve.

A. COMMISSION VACANCIES AND REPORTS

1. Swear in new Housing Commission member.

Silvia Vonderlinden swore in John O'Malley as the new Housing Commissioner.

2. 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.

Mayor Winkler announced that the next Council Meeting would be held at the Menlo Park Senior Center. The Mayor announced that Agenda item E2 was erroneously listed as a Public Hearing instead of a Consent Calendar item. Council consensus was to move this item to the Consent Calendar.

3. Commission Reports.

B. PRESENTATIONS AND PROCLAMATIONS - None

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

Matt Henry, speaking as a resident, addressed the reorganization at the Belle Haven Center and in his opinion this has been detrimental to the community. Mr. Henry explained that low attendance could be viewed as a sign of problems.

D. CONSENT CALENDAR

1. Authorization of the City Manager to execute a Master Professional Services Agreement with Business 2000, Inc. to provide construction inspection services on an as needed basis.

Consent Calendar item D2 pulled for discussion

2. Adoption of a Resolution to support geographical diversity in the San Mateo County Transportation District Board (Samtrans) Membership.
3. Approval of the Minutes for the City Council Meetings of December 7, 2004.

M/S Fergusson/Duboc to approve Consent Calendar items D1, D3, and item E2. Motion carries unanimously.

Discussion on item D2

2. Adoption of Resolution 5578 to support geographical diversity in the San Mateo County Transportation District Board (Samtrans) Membership.

Mayor Pro Tem Jellins does not support this action because he advocates other ways of resolving the matter. Namely he advocates addressing the problem at a local level first.

M/S Cohen/ Fergusson to approve Consent Calendar item D2.

Council Member Cohen asked why Mr. Jellins opposes this resolution and Mayor Pro Tem Jellins explained that in his opinion the Board of Supervisors should be contacted on this. Council Member Fergusson stated that she believes there is a problem with lack of geographic diversity and under-representation of the South County.

Motion passes on a 4-1 vote with Mayor Pro Tem Jellins opposing.

E. PUBLIC HEARING

1. Consideration of an appeal of a Planning Commission action to deny a Variance at 30 La Loma Drive to construct a two-story addition that would encroach nine feet, six inches into the required 20-foot rear setback.

Mayor Winkler thanked Council Member Cohen for his efforts in trying to generate a solution with the neighbors. Council Member Fergusson disclosed that while she participated in a brief discussion on the La Loma item as a Planning Commissioner in June of 2004, it was a different project at the time. Ms. Fergusson added that no action was taken at that meeting and she is approaching this matter with an open mind.

Julie Thompson, Associate Planner, provided details on the history of the project and the various times the Planning Commission reviewed the matter. The set backs were explained. Staff noted that it had become aware of new information about the setbacks but had not been able to verify it at this point. Council asked questions about the possible impacts of this project on the neighbors' enjoyment of their backyards. Tracy Cramer, Senior Planner, stated that staff considered various factors in its analysis. As a point of clarification Mayor Winkler asked staff if the appeal was late and Ms. Cramer stated that staff had wanted to schedule it earlier but it was not convenient for the applicant, consequently the applicant gave permission for staff to extend the time frame. City Attorney McClure explained that the provision exists as a benefit for the property owner, and in this case the City went over the allotted time but it had the consent of the property owner. Council Member Cohen asked if staff did an analysis of the economic implications of this project for neighbors. Staff stated that this is not a part of the process. Council Member Fergusson asked about the need for a use permit and Ms. Thompson explained that there was none because the existing house is non-conforming.

Robert Carlson, the appellant, addressed the Council sharing a slide presentation covering the reasons for the variance and the level of support from neighbors. Mr. Carlson explained in detail the factors influencing the current design.

Public Comment

Stacey Starcher thanked staff for its analysis and professionalism. Ms. Starcher stated that every requirement from the Planning Commission had been addressed.

Judi Morrill stated that the addition would be intrusive on her privacy. She asks Council to support the decision of the Planning Commission. She opposes the project.

Larry Morrill said he has lived at this address for 30 years and he objects to granting of the variance. In his opinion this will significantly impact his backyard. Mr. Morrill spoke about privacy issues and how this will decrease the value of his property.

Jane A. Jaynes opposes this project because it impacts others' privacy. Ms. Jaynes said she had hoped that consensus could be reached but it doesn't look like that is possible.

George C. Jaynes said that a variance is a major event and he does not believe this has been a neighborly process. He hopes the Council rejects the variance.

May Fox stated that she is 81 years old and flew in from Florida to explain that she exists and her son Bob Carlson is doing this project on her behalf. She shared her frustration with the process and the neighbors' opposition.

Joseph Polverari recognizes the emotional part of this issue but he believes there is a reluctance to change in this neighborhood. In his opinion the current project provides the least impact because it is a small addition. He believes there has been a lot of public outreach.

Elaine Berlin White is a real estate broker and she was consulted to analyze the impact of this addition. Ms. Berlin stated that lack of light and privacy caused by the project would decrease the value of the neighbors' property.

Mary Beth Dorst is a realtor and she stated that privacy is an issue because the Morrills' property value will be affected.

Stephanie Buch referred to an oleander hedge that was trimmed down. Ms. Buch mentioned that in her opinion the addition would look like a sky scrapper.

Thomas Buch said he was disappointed to see the oleanders cut back. He believes that the Council should not override the Planning Commission.

Jane Day has been in the neighborhood for 36 years and in her opinion the addition would be intrusive to the Morrills and could reduce their property value. Ms. Day believes that the best option is to lower the garage and build the addition at the same level as the one story.

Margaret Williams spoke about the Carlsons' qualities and professions. Ms. Williams believes this is a minor addition and will increase property values in the neighborhood.

Sam Chou supports the proposal because it is the least intrusive option so far and the addition in the middle would not be pleasant to the eye.

Winnie Wan believes that the request by the Carlsons is reasonable even though she feels for the Morrills. She believes this is the best option overall, and asked Council to approve the variance.

Susan Haviland is the architect for the Carlsons' and stated that the Carlsons' have tried numerous designs. Ms. Haviland explained various sets of alternatives. She said that the goal is to retrofit the access to the main house in a way that it is handicap accessible.

Stu Soffer addressed the Council stating that economic factors are not part of the variance process.

M/S Duboc/Fergusson to close the public hearing. Motion passes unanimously.

Council Discussion

Council Member Duboc asked about the rejection of the project by the Planning Commission and Mr. McClure explained that the Planning Commission did not get to an agreement and so the project was deemed denied. Mayor Winkler tried to focus the discussion by asking Council various questions about

options related to the project. Some Council Members agreed that light and solar access would be impacted by this addition. Slats were discussed and additional landscaping. Council Member Fergusson asked Mr. McClure to explain finding number three, which states, "that this proposal is not materially detrimental to the public welfare". Mr. McClure explained that this is not a money issue but a level of significance issue. Council Member Cohen mentioned that one of the alternate plans he liked was to turn the garage less than 90 degrees and lower it.

Mr. McClure explained that the balancing act Council has to engage in relates to the impacts to everyone, i.e. the neighbors, the applicant and the community in general. The shadow study was discussed and Ms. Fergusson said that shading is a factor and the loss of the view of the sun is another factor. The issue of view and light were discussed and this is a concern for Council Member Cohen. Three Council Members indicated that privacy was an issue.

Mayor Winkler asked the landscape designer Mary Kay about the screening plan. Ms. Kay said the plan would provide foliage in approximately three to four years. Council Member Duboc asked why the oleanders were cut down, and Mr. Carlson explained that one of the neighbors commented that the oleanders were a safety concern in a letter to the Planning Commission. Mr. Carlson explained that he had then approached Mr. Morrill to let him know that he was going to trim them back, and Mr. Morrill did not oppose it. Mr. Carlson is hopeful that the oleanders will grow back soon.

Council Member Cohen explained that he spent four hours with six neighbors sharing his proposal to turn the garage approximately 45 degrees and lowering it, and then placing the second story on top up. Mr. Cohen reported that no consensus was reached.

M/S Duboc/Jellins to approve the staff recommendation, with the variance allowing the two-story addition to the residence, and encroaching nine feet six inches into the required 24 ft. yard set back. This action is subject to all conditions for the project modifications previously recommended by staff to the Planning Commission, with one addendum that the extra privacy measures are put on the windows, until such time that the landscaping will mitigate the privacy concerns. The maker and second agreed that staff is to work with the homeowner and the architect on the design of the louvers.

Council Member Duboc asked about the louvers, and the landscape designer explained the design of the fixed louvers. Council Member Duboc acknowledged the difficulty of making this decision but she believes that through staff and the Carlson's efforts this is as low impact of a design as possible. She also thanked the neighbors, staff, the Planning Commissioners and other Council Members for their work.

Council Member Cohen made a friendly amendment to have neighbors sit down one more time and arrive at a solution. Mr. Cohen would like the approval to be conditional on one more meeting. Mayor Pro Tem Jellins will neither accept nor oppose the friendly amendment, however Council Member Duboc could not accept it because she does not believe it will work.

Council Member Fergusson explained that her challenge is with the finding that "this is not materially detrimental to the public welfare" because she believes that a combination of various factors will cause an economic loss to the Morrills. Council Member Fergusson explained that it is with great regret that she cannot support the appeal. Council Member Cohen explained that in his opinion the line separating the majority from the minority is the line that neighbors will not have input or receive notice. Mayor Winkler interjected stating that neighbors have had input for the last eight months and the Carlsons' have also tried to accommodate their requests.

City Attorney McClure was asked to clarify the motion:

Motion to grant the appeal, approve the variance subject to the draft findings and conditions of approval, which appears on pages A1 and A2 of the staff report with the additional condition H. This condition has the applicant installing landscape screening to minimize the visual impact of the addition (to the Morrills' and the Jaynes') and installing fixed louvers on the windows facing the Morrills' property to limit the view into their yard. These apparatus shall remain in place until

the landscape grows to a height where the louvers are unnecessary. The removal shall be subject to review and approval by the Director of Community Development or her designee. Motion passes 3-2 with Council Members Cohen and Fergusson opposing.

Mayor Winkler thanked those present for their involvement.

2. Initiation of the Menlo Park Landscape Assessment District proceedings for Fiscal Year 2005-06 and adoption of Resolution 5577 describing improvements and directing preparation of the Engineer's Report (This item was addressed earlier as a Consent Calendar item).

F. REGULAR BUSINESS

1. Approval of a Resolution 5579 designating specific areas at Nealon Park and Willow Oaks Park as Off-Leash Areas for dogs, approving final design of Off-Leash areas for dogs at Nealon Park and Willow Oaks Park, 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 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, explained the outreach efforts carried out by staff. Mr. Roessler reported on nine communications received from the public. Staff is also looking into drainage issues. Council discussed funds in the amount of \$45,000 and Mr. Nino, Engineering Services Director, explained the financial situation. Mr. Boesch explained that this project is already over the Measure T funding, and \$600,000 has already been taken out of the General Fund Reserve.

Council discussed the access to the park and the signage. Mr. Roessler explained that the current access location is the furthest from surrounding neighbors. The signage was discussed and Mayor Winkler would like to add a phone number for Menlo Park and not just the Humane Society. Council Member Fergusson believes that an ideal design would be two entrances one close to the Gilbert entrance and one closer to the sports field. Mr. Roessler stated that the users and mothers were not interested in this option. Council Member Cohen asked if two parks had been considered, one for big dogs and one for small dogs. Mr. Roessler stated that dog owners were not supportive of this option because it would limit the running area for dogs.

Public Comment

Schel Reyes thanked staff and the Council for all the work that has gone into this. Ms. Reyes has raised \$6,000 to help defray the costs of this project, and she would like to donate these funds.

Stephen Luder, Parks and Recreation Commissioner, stated that this has been decided in November 2004 on 4-1 vote. Mr. Luder opined that dog owners are getting a modest proposal and he asks Council to approve it.

Sandy Freschi stated that a well-exercised dog is a good dog. He hopes that this item gets approved, and he supports a double gate.

M/S Fergusson/Duboc to approve the staff recommendation, and include a City telephone number. Motion passes 4-1 with Council Member Cohen opposing.

Council Member Fergusson thanked her colleagues for allowing the waiting period showing the outline of the park.

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 - None

I. COUNCIL MEMBER REPORTS

Council Member Cohen said that he received a note from a resident asking what Council is doing for the wounded troops at the VA hospital on Willow Road. The Mayor said this is not on the Agenda and so Mr. Cohen might want to formally request that this be included at a future Agenda.

Mayor Winkler announced that the next City Council meeting would be at the Menlo Park Senior Center.

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

K. ADJOURNMENT – 9:55 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC

Approved as submitted at the Council meeting of April 26, 2005.