



**SPECIAL MEETING  
CITY COUNCIL  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

**Tuesday, March 15, 2005  
6:30 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
Menlo Park City Council Chambers**

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**6:30 p.m. SPECIAL MEETING** (Menlo Park City Council Chambers)

**ROLL CALL** – Winkler, Jellins, Cohen, Duboc, Fergusson

**STAFF PRESENT** - David Boesch, City Manager; William McClure, City Attorney; and Silvia M. Vonderlinden, City Clerk. Various department heads and other City staff were also present.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION VACANCIES AND REPORTS**

1. One vacancy on the Environmental Quality Commission to fill an un-expired term that ends in August 2006. The deadline for receipt of applications is April 4, 2005 at 5:30 p.m.
2. Three vacancies on the Las Pulgas Committee to fill terms that will expire in March 2009. The deadline for receipt of applications is April 4, 2005 at 5:30 p.m.
3. Commission Reports.

**B. PRESENTATIONS AND PROCLAMATIONS - None**

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

**D. CONSENT CALENDAR**

1. Award of contract to Golden Gate Truck Center for vehicle purchase in the amount of \$27,284 and authorization of a budget of \$40,000 for vehicle purchase, vehicle bed modifications and contingency.

**M/S Duboc/Fergusson to approve Consent Calendar item D1. Motion carries unanimously.**

**E. PUBLIC HEARINGS - None**

**F. REGULAR BUSINESS**

1. Adoption of Resolution No. 5585 approving solid waste collection rates to Menlo Park commercial customers and multi-family residential customers that are unchanged from prior year rates, including a 0.2 percent increase in the amount paid from solid waste fees to cover the Bayfront Park landfill costs; and, approving a 0.8 percent increase in the Franchise Fee Rate paid by Browning Ferris Industries (BFI) to cover the impact of refuse vehicles on residential street maintenance costs, effective January 1, 2005.

Carol Augustine, Finance Director, explained the reason for the increase in the amount paid to cover landfill costs as well as the process that staff undergoes to propose the increase on commercial clients. Staff is not recommending a rate decrease because staff wants to continue having a stable balancing account with BFI.

Council asked why Menlo Park has one of the lowest rates on the peninsula. Ms. Augustine believes this is the result of good management practices. Dianne Dryer, Environmental Coordinator, explained

that the City has kept a good fund balance with BFI so that rates don't fluctuate. Ruben Nino, Engineering Services Director, answered questions about the landfill fees. Council asked if the garbage truck impact fee is to be an occasional or a regular item. Mr. Nino said that this is to be done every year.

Mayor Pro Tem Jellins asked if there are other cities imposing a refuse and impact fee, and Mr. Nino confirmed that cities like Petaluma, San Rafael, Alameda, Napa, and Belmont have similar fees. City Attorney McClure explained that cities are using different terminologies for the same fee. Mayor Pro Tem Jellins would like to ponder the correct approach, whether it is passing the fee on to the consumer or charging the service provider the fee. Council discussed the options around the fee.

Mayor Winkler welcomed public comment. There was none.

Mayor Pro Tem Jellins asked to meet off line with the City Attorney McClure to discuss the franchise fee and subsequently have the item return as a Consent Calendar item. Council agreed with splitting the items.

**M/S Jellins/Duboc to adopt a resolution approving solid waste collection rates to Menlo Park commercial customers and multi-family residential customers that are unchanged from prior year rates, including a 0.2 percent increase in the amount paid from solid waste fees to cover the Bayfront Park landfill costs for commercial and multi-family residential customers that Browning Ferris Industries (BFI) bills within the City limits of Menlo Park.**

**Motion carries unanimously.**

**M/S Jellins/Duboc moved to table consideration of the second portion of this matter related to establishment of a refuse vehicle impact fee and have the item is to come back on the Consent Calendar.**

**Motion carries unanimously.**

2. Approval of final design for the Menlo Children's Center Project; award of contract to Zaskorn Construction Company dba ZCON Builders in the amount of \$2,080,000; and authorization of a budget of \$3,000,000 for construction, contingencies, testing, engineering, inspection, fees, furniture, equipment and administration. (Continued from the City Council Meeting of March 8, 2005)

Art Morimoto, Supervising Engineer, presented the staff report providing background on this project. Mr. Morimoto explained the bid process and the scope of work. The proposed floor plan and program areas were explained in detail. The modular building was also covered and how it will house part of the after school program. Mr. Morimoto provided a complete breakdown of the expenses for a total project cost of \$3,000,000 as well as the project schedule. Council asked questions about the modular construction and the finishes. George Hansen from BSA Architets gave details on the modular and how it will have a permanent foundation, with a wood frame building and a pitched roof. The exterior finishes are to compliment the nearby buildings. Council asked if there are other child care modular centers and the architect said that they have built a modular building in Tiburon. The entrances to the building were discussed.

Council asked questions about the bids received, and Mr. Morimoto said that staff picked a favorable bidding window. Council Member Fergusson asked about the untempered glass that is to be used, and Mr. Steffens stated that the building has been through a full building code review and some of the windows that are close to the ground will be tempered glass and the other ones away from the floor will be regular glass. Mr. Steffens explained that the use is taken into consideration. He added that the building code does consider the occupancy and if Council so directed tempered glass could be used. Fire sprinklers were discussed and Council Member Fergusson queried why Fire Chief Wilson had not reviewed the plans. Mr. Steffens said that drawings were provided to the Fire District. Jerry Mintz, with BSA, said that the plans had been submitted to the Fire Department, and a meeting took place and feedback was provided and incorporated.

Council Member Fergusson asked about the standards of child care in Menlo Park and the issue of accreditation, stating that she believes the Menlo Park standard has been the State's minimum requirement and this may not be appropriate. Michael Taylor, Senior Manager, explained that the City operates meeting all standards, but that the City is evaluating getting involved in accreditation procedures.

### **Public Comment**

Mary Gilles said this is about obstructing progress and delaying the implementation. Ms. Gilles believes that sound fiscal decisions are needed.

Mary Beth Suhr opposes building a new center and supports the remodel. Ms. Suhr stated that Council should balance the needs of all, and she listed projects needing Council's attention.

Sheri Baer read a letter from Heyward Robinson who was unable to be present. Ms. Baer said that whether it is a new or remodeled building the same amount of money will be spent from Measure T.

Elizabeth Lasensky commends Menlo Park for providing child care and she would have liked the figures on the cost of a new building. She hopes that a compromise can be reached.

Mary Jo Borak does not believe the old police station is a good building. In her opinion, a promise was made to voters to build a new child care center and Menlo Park does not deserve trailers on its Civic Center. She is disappointed with what she believes is a lack of transparency.

Stephen Luder opined that it is time to stop talking and start making decisions.

Jeff Kleck opined that residents should be grateful for the City being in the child care business. He said Council has done a lot to put together a child care center and he believes that we should move forward and take action.

Irene Searles (with time donated by Nur Zaveri, Lara Hoyem, Greer Hoyem) made a presentation expressing that a brand new child care center building has public support. Ms. Searles shared memos and staff reports that in her opinion show that this was one of the highest priorities in the past. She believes that the costs of the center were distorted and that it hasn't been an apples to apples comparison. Ms. Searles said that other communities support child care. She believes that private meetings were held at the Stanford Park Hotel to possibly speak against the child care center. She showed headlines of newspapers and she believes residents were betrayed. Ms. Searles gave a full recount of the building, and she believes this will be a mediocre center. She listed details about its defects and how the number of child care slots was reduced. Ms. Searles stressed the need for a quality building. She urges the Council to vote against the remodel of the Police Station.

Judy Morley does not approve the remodel of the police station. She believes it is against Measure T because she believes she voted for a new building. Ms. Morley asks Council to reconvene a new task force to look at value engineering and then compare the options.

Michelle Harbottle believes that the fiscally responsible solution is to move on with City business and accept staff's recommendation and approve the project.

Lynne Fovinci expressed concerns from parents regarding the life expectancy of the building, and how the cost estimates for the remodel facility may go up. She has concerns about the meetings not being open.

Sue Kayton said that the City needs a facility that is fiscally prudent and she believes that a quality program comes from staff and not the building. Ms. Kayton does not remember promises being made about a new building. She believes the Brown Act issue is a smoke screen because nobody is deliberately trying to violate the Brown Act, and what happened was simply that somebody forgot to post the agenda. This is an oversight and it wouldn't have changed the results.

Lou Deziel, speaking as a resident, said that to allow the Brown Act issue to delay the award of bids would lead to a loss of benefit that is far more material than the Brown Act violation. Mr. Deziel said that a delay tonight will lead to Menlo Park possibly never building a child care center. Mr. Deziel said that the City's financial situation is not good and he asks that if a Council Member does not vote

in favor of the remodel then he asks that they explain their reasoning so the constituents can understand.

Nancy Travers said that it bothered her that the City never went out to bid for a new building. She understands that there were many compromises from both sides but she would have liked to know what the cost for a new building is.

Kirsten Keith expressed her appreciation for the City offering child care. She hopes Council votes on this and she believes the remodel is a reasonable approach. She supports this remodel and accepts increasing the contingency to make sure there is enough money.

Dick Poe stated that he served on the Measure T committee and it was a private entity not City run. He said that if things were said that misled the voters he apologizes, however he believes there has been a massive change in the economy since that time and the General Fund has been impacted.

Hank Lawrence said that the overflow was supposed to come from the General Fund and this has now changed. He added that the Don Dommer building had seven kitchens and sometimes there are circumstances that can't be anticipated. Mr. Lawrence believes the fire sprinklers issue should be reviewed. He said that being a former police station does not matter because the integrity of the building is what is important.

Shirley Chiu spoke about what she believes was an innocent oversight by staff. Ms. Chiu does not believe the current Council bears any responsibility for this oversight. She urged Council to either award the contract or consider not providing child care services.

Toni Stein (with time donated by Ingo Lange) said that she had written many emails about the California Environmental Quality Act (CEQA). Ms. Stein believes this project is not exempt from CEQA. In her opinion this is an unsafe building because the lead paint abatement is not adequate for children. Ms. Stein shared her views about the traffic study and how in her opinion there are impacts on the indoor area because of exhaust. She is concerned that there is no outside play area for children. Ms. Stein said that the modular does not specify acoustic requirements and the design has flaws that will cause problems later on. Ms. Stein pointed out that there is a tree that is going to be taken out and this is a loss. She would like this tree to be preserved.

Marilee Moy said that she has been following this issue since Measure T was on the ballot because in her opinion it is so hard to find quality child care. She believes the current facility at the Burgess Center is at risk due to safety issues, and she asks Council to reconsider its approach.

Chuck Bernstein said he is a believer in providing educational services in a financial and responsible manner. He supports the remodel but he is not sure if the City should provide these services. Mr. Bernstein does not believe that it is fair to say that Ms. Duboc did not want the press present at the meetings. He clarified that it was him who suggested that the press wait until later to find out what was being discussed. Mr. Bernstein said that years ago focus groups met in the dark and there was no Brown Act compliance. He opined that child care services are being subsidized at the tune of \$500,000 and the City should consider getting out of this business.

### **Council Discussion**

Mayor Winkler said that she would like to frame the discussion by stating the options in case this is not approved: 1) terminate the child care due to lack of safety in the current location and not build anything; 2) build the Don Dommer building and she provided details on this building which included 40 sinks and six kitchens. Mayor Winkler compared the two footprints (remodel versus the new building). She added that if the remodel bid is approved what she views as options include: 1) build a facility and run the program with some costs to the community; 2) build the facility and run the program in a true cost recovery system including many of the overhead costs that currently are charged to the taxpayers instead of the parents.

Council Member Duboc asked about the CEQA issue and Mr. McClure acknowledged some correspondence with Dr. Stein regarding this matter. He added that staff outlined in the original report the determination and the reasons why the project is categorically exempt as a Class III project. Mr. McClure believes it is categorically exempt and if Council disagrees, it is its prerogative

to direct staff to reexamine that decision. Mr. McClure stated that the Planning Commission concurred with the exemption. The reasons leading to this determination were explained.

Council asked about the contingency amount and Mr. Steffens replied that the contingency is 15% and this is a higher amount than the usual 10%. Mr. Steffens is confident about this amount. Value engineering was discussed and other potential savings. Council discussed a tour of the current police station, and Mr. Morimoto explained that the tour was an Agenda item. Mr. Steffens explained that it took place and Council members, press representatives, and four or five members of the public were in attendance.

Council Member Fergusson offered another option which is to build a new facility that would be a high quality economical facility that would fulfill the promise to the voters. Ms. Fergusson believes the facility has a lot to do with the quality of the care and the experience for the child. She believes there are other deficiencies with the proposed space and design. She would like some value engineering to be done. Ms. Fergusson wants a facility that has the highest standard and she believes the remodel is a mediocre solution. Council Member Duboc respectfully disagreed with Ms. Fergusson and Mayor Pro Tem Jellins added that he never gave direction on the design or specifications of any facility. He remains skeptical that the Don Dommer facility is where the funds should be spent. He supports child care for the City of Menlo Park, however he believes that the community should be heard on whether or not this is something the City should provide. Mayor Pro Tem Jellins believes the community needs to state its position on the issue. Mr. Jellins asked if there are improvements to the existing facilities that may enable the City to operate the current facilities in a safer manner. Mr. Taylor explained the steps staff is taking to keep the facility safe, which include having the children supervised when they go to the bathroom, secured bathrooms and the gates being locked. Mr. Steffens said that steps could be taken to reconfigure a portion of the Burgess Recreation Center to improve the current facilities, but the cost is close to \$100,000.

Ms. Duboc explained this was looked at carefully and all the options reviewed. Council Member Cohen wishes he had been here from the beginning and he wished zero-based budgeting was being done now. Council Member Cohen is not ready to make decisions that will impact people and he would like to address the issue of whether or not the City should provide this service. At this time he probably would not vote for either building. He believes this does not need to be decided right now and right here, and that if there is a tight budget then this can wait a year. Mr. Cohen would like to defer it for a period of one year.

Council Member Duboc believes this is a good project and she has been here since the beginning. She said that she has Measure T literature that refers to a renovated child care center and other literature that mentions a new center. Council Member Duboc referred to a list of various projects that Measure T was to fund. Council Member Duboc believes this will be a good facility. She further stated that contrary to what some people say, there was no tendency to shift the opinion of the consultant. Ms. Duboc believes this remodel will keep the character of the campus. Mayor Winkler reiterated that she has faith in this project.

**M/S Winkler/Duboc to put this project out to bid.**

Council Member Fergusson wants more information on the options. She wants to address the issues suggested by the Fire District and its recommendations. She would also like to add a pathway that connects the entrance to the existing walkway. Mr. Steffens mentioned that staff looked at this option and it will cost an additional \$7,000 and Council could decide to add it.

**M/S Cohen/Fergusson substitute motion to reject all the bids and defer taking any action on the child care until the Council votes on the budget of 2006-07 in May of 2006.**

Mayor Pro Tem Jellins acknowledged all the comments and for him the bottom line is that \$1.6 million is coming from Measure T and the rest is coming from the General Fund Reserve. Mayor Pro Tem Jellins would support accepting the low bid and spending some extra money on the windows.

**Council Member Cohen withdrew his motion.**

Ms. Fergusson believes the price difference is not that big in real terms. Council Member Fergusson believes there is a chance of this going over budget and she is concerned about the safety glass and other things that are missing and may have been overlooked. She added that she spoke with the City's previous building official and he had concerns about this facility. Council Member Fergusson would like to have all the suggestions or recommendations made by the Fire Marshall included in the remodel. Mr. Kent Steffens elaborated on the Fire Marshall's requirement and how the City is in compliance. However, staff could look at placing tempered glass in the windows that are exposed to the play areas.

**Friendly amendment by Council Member Fergusson to include the recommendations of the Fire District. The maker of the motion, Mayor Winkler, agreed that staff should have the authority to incorporate the suggestions from the Fire District as well as the pathway option suggested by Council Member Fergusson.**

City Attorney McClure restated the motion:

**Approval of final design for the Menlo Children's Center Project; award of contract to Zaskorn Construction Company dba ZCON Builders in the amount of \$2,080,000; and authorization of a budget of \$3,000,000 for construction, contingencies, testing, engineering, inspection, fees, furniture, equipment and administration and include the above mentioned friendly amendment.**

**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.

**G. WRITTEN COMMUNICATION - None**

**H. INFORMATION ITEMS - None**

**I. COUNCIL MEMBER REPORTS**

Mayor Winkler reported that U.S. House Representative Anna Eshoo informed constituents about the passing of bill HR3 that provides for nine modified traffic signals on Willow Road, between Middlefield Road and Hamilton Avenue.

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

**K. ADJOURNMENT – 10:00 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden

Approved at the Council Meeting of June 21, 2005.