



# CITY COUNCIL and COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, June 28, 2005

7:00 p.m.

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

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## **7:00 p.m. REGULAR MEETING** (Menlo Park City Council Chambers)

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

**STAFF PRESENT** - Audrey Seymour, Acting 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. The Housing Commission has three vacancies to fill three expired terms. The vacancies are for terms that will end in July 2009. There is one additional vacancy to fill an unexpired term ending September 2007. The deadline for receipt of applications is July 20, 2005 at 5:30 p.m.
2. The Library Commission has one vacancy to fill one expired term. The vacancy is for a term that will end July 2009. The deadline for receipt of applications is July 20, 2005 at 5:30 p.m.
3. The Transportation Commission has two vacancies to fill two expired terms. The vacancies are for terms that will end July 2009. The deadline for receipt of applications is July 20, 2005 at 5:30 p.m.
4. Commission Reports.

### **B. PRESENTATIONS AND PROCLAMATIONS**

1. Proclamation declaring July 2005 as Recreation and Parks Month.

Richard Cline, Chair of the Parks and Recreation Commission, received the proclamation. Curtis Brown, Director of Community Services, gave an overview of the services provided by this department.

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

Michelle Knapik, representing Peninsula Volunteers Inc., thanked the Council for approving a contract for services with this agency.

John Conway spoke about declining gasoline sales in Menlo Park due to the fact that other areas sell it cheaper. Mr. Conway shared concerns about Costco expanding to sell gas in Redwood City.

Fran Dehn referred to two publications that were just launched: 1) official map of Menlo Park and 2) community profile booklet.

Dave Delgado spoke about weed control and water conservation in Menlo Park. He is frustrated with current policies and believes the Council should revisit its water conservation policies.

Steve Schmidt referred to communications between the Council and Commissioners and suggests sending correspondence to staff so that the communications come via a third impartial party.

Jeffrey Fenton hopes Council will approve agenda item D5. Mr. Fenton thanked Staff, the Transportation Commission, and the City Council for hearing residents' concerns.

Vic Lovell referred to traffic on Sherman Avenue and Santa Cruz and he believes traffic control is needed. He does not think this is a sidewalk repair project.

Roxanne Rorapaugh spoke about Sherman Avenue and she doesn't mind the delay, but she wants to make sure this gets completed. She believes it is not a sidewalk issue but a safety issue.

#### **D. CONSENT CALENDAR**

##### **Item pulled D1**

1. Approval of an agreement with Peninsula Volunteers Inc. in the amount of \$43,050 for the delivery of senior lunches for Fiscal Year 2005-06 and authorization of the City Manager to execute the agreement.
2. Adoption of Resolution No. 5610 recommending that the San Mateo County Flood Control District impose charges for funding the Fiscal Year 2005-06 Countywide National Pollution Discharge Elimination System (NPDES) General Storm Water Management Program.
3. Adoption of Resolution No. 5611 to accept the easements dedicated to the City for public use at 217 O'Connor Street.

##### **Item pulled D4**

4. Approval of a revised preliminary design for Parking Plaza 5 Improvement Project, and authorization of the City Manager to enter into an agreement with Acterra to pay the City up to \$80,000 for the installation of pervious concrete as part of the Parking Plaza 5 Improvement Project.

##### **Item pulled D5**

5. Rejection of bids for the Sherman Avenue and Santa Cruz Avenue Intersection Realignment Project and authorization to re-bid the project as part of the Sidewalk Repair Accessibility Project.
6. Approval of the Minutes for the City Council Meeting of March 22, 2005.

**M/S Jellins/Fergusson to approve Consent Calendar items D2, D3, and D6. Motion carries unanimously.**

##### **Discussion on item D1**

1. Approval of an agreement with Peninsula Volunteers Inc. in the amount of \$43,050 for the delivery of senior lunches for Fiscal Year 2005-06 and authorization of the City Manager to execute the agreement.

Council Member Duboc acknowledged that every year the City gives funds to non-profits and she would like a notation about the current contract because this agency is generally a grant recipient.

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

##### **Discussion on item D4**

4. Approval of a revised preliminary design for Parking Plaza 5 Improvement Project, and authorization of the City Manager to enter into an agreement with Acterra to pay the City up to \$80,000 for the installation of pervious concrete as part of the Parking Plaza 5 Improvement Project.

Council Member Fergusson could not support the original vote because of the removal of two heritage trees, however in her opinion this is an innovative approach and she supports it. Mayor Pro Tem Jellins clarified that the current project does not relocate the trees and wouldn't impact them.

**M/S Fergusson/Jellins to approve Consent Calendar item D4. Motion carries unanimously.**

##### **Discussion on item D5**

5. Rejection of bids for the Sherman Avenue and Santa Cruz Avenue Intersection Realignment Project and authorization to re-bid the project as part of the Sidewalk Repair Accessibility Project.

Council Member Cohen would like to know what assurances are there that this will be completed in September, and Mr. Ruben Nino explained the timelines. Mr. Cohen asked about the bid results and Mr. Nino explained that staff felt there were insufficient bidders and so enlarging the project might be an attraction to additional bidders. Mr. Nino added that with this process the project would be completed by the end of the year. Council Member Cohen believes the lower bid should be accepted because he is not sure that there won't be significant delays and he has concerns with the hazard on the street. Mayor Pro Tem Jellins opined that accepting bids now isn't his preferred course of action.

**M/S Cohen/Fergusson to accept the lowest bid.**

Council Member Fergusson suggested this be prioritized and include an addendum that stipulates that Sherman Avenue has priority.

**M/S Jellins/Duboc substitute motion to accept staff's recommendation and include an addendum requiring bidders to prioritize work and perform the Sherman Avenue project first.**

Mr. Nino confirmed that an addendum could be added to the bid specifications that were already issued.

**Vote on whether to substitute the original motion for the new motion.**

**Motion passes 4-1 with Cohen opposing.**

**Vote on the substitute - motion passes unanimously.**

**E. PUBLIC HEARING**

1. Adoption of Resolution No. 5612 overruling protests, ordering the improvements, confirming the diagram, and ordering the levy and collection of assessments at the existing fee rates for the Sidewalk Assessment and at a three percent increase for the tree assessment for the City of Menlo Park Landscaping Assessment District for Fiscal Year 2005-06.

Pat Stone, Supervising Engineer, presented the staff report explaining the proposed increase on the tree assessment district. Mr. Stone said this is an annual process and the next step includes presenting the resolution to the San Mateo County. Mr. Stone said the sidewalk program has become more efficient. Ruben Nino, Engineering Services Director, explained that contractor costs have increased and the 3% is the maximum increase allowed. Mayor Pro Tem Jellins is impressed that no recommendation is made for a sidewalk assessment increase and appreciates the integrity of the process and staff.

Mayor Winkler opened the public hearing. No public comment.

**Council consensus was to close the public hearing.**

**M/S Jellins/Fergusson to approve the staff recommendation. Motion carries unanimously.**

2. Adoption of Resolution No. 5613 authorizing collection of a regulatory fee at existing fee rates to implement the local City of Menlo Park Storm Water Management Program (SWMP) for Fiscal Year 2005-06.

Pat Stone, Supervising Engineer, explained the current fees. Council asked questions about the funds. Mr. Nino explained that the funds are spread out and some of the work is contracted out. Mayor Pro Tem Member Jellins asked about the \$25,000 miscellaneous budget and he would like to be able to see what the funds are for. Staff explained these funds are for the San Francisquito Creek and the Watershed Council and it also covers consultants. Council Member Duboc asked if residents get information about the credit for permeable surface, and Mayor Pro Tem Jellins thinks it is good to inform residents about this credit.

Mayor Winkler asked for public comment. There was none.

**Mayor Pro Tem Jellins motioned to close the public hearing. Council consensus was to close the public hearing.**

**M/S Jellins/Winkler to approve the staff recommendation. Motion carries unanimously.**

Mayor Winkler stressed that the city's storm drain system needs to be revisited in the future.

3. Introduction of an Ordinance amending Zoning Ordinance regulations pertaining to single-family residential development, and approval of the Negative Declaration prepared for the Ordinance amendment.

Arlinda Heineck, Community Services Development Director, reiterated that this was based on direction given by the City Council at its January 25, 2005 meeting. Ms. Heineck outlined the proposed five changes regarding one story development: 1) possible change from a discretionary review to a ministerial review process for one story residences on lots with a minimum of 5,000 square feet of area; 2) possible increase or elimination of the lot coverage requirement for one story residences; 3) possible addition of a permeable surface requirement for one story residences; 4) possible increase in the amount of new work that could be done on a non-conforming single story structure before triggering a use permit; 5) other changes to ensure compliance with State laws.

Ms. Heineck explained that the item has been through the Planning Commission and its recommendation was to approve the Negative Declaration and the draft ordinance amendment subject to several changes. Two Commissioners opposed the acceptance of the Negative Declaration but the recommendation to approve the draft ordinance was unanimous. The revised ordinance includes most of the changes proposed by the Planning Commission, Ms. Heineck added.

### **Public Comment**

Elias Blawie supports incentives for single story construction however he agrees with having neighbors work together. Mr. Blawie opined that the Environmental Impact Report (EIR) is deficient.

Patti Fry, with time donated by Ross Wilson, elaborated on what she opposes on this ordinance. Ms. Fry believes streamlining may bring a high cost to neighbors and no real benefit. She believes the proposal dismantles the current neighbor protections and takes away the advice that staff can provide. Ms. Fry recommends administrative review for one story projects, with neighbor notification and right of appeal with design guidelines. She supports the annual review.

Russell Dember opposes eliminating the discretionary review for single story homes because it might take away people's right to protect their property. He would like to see a reasonable compromise.

Mark Costa spoke about what he believes should be the notification and in his opinion it should include a plan view and site elevation.

Dianne Blake believes this proposal will break the spirit of the law. She supports some of the elements of the ordinance but doesn't support losing residents' input.

Don Barnby opined that residents who are affected by new construction should be given a voice and the Council should value this input.

Elizabeth Houck has a substandard lot in Menlo Park, and advocates keeping the discretionary review. She opined that smaller lots need more protection than big lots.

Earl Shelton believes that ministerial process comes too late in the process. Mr. Shelton shared his own experience with the process, and he believes residents will lose the possibility to give input.

Charlie Bourne urges a no vote because he disagrees with removing the rights of neighbors. Mr. Bourne opined that the courtesy notices come too late.

Margaret Spak supports previous speakers and does not believe it is appropriate to remove notification to contiguous neighbors. She urges the Council to oppose these changes.

Anne Perlman said that the impacts of the lack of communication can be everlasting. She believes neighbors need to be involved from the start.

Judy Adams opposes these changes because people should have a voice. She urges keeping a permit process that facilitates neighborly spirit.

Lynne Bramlett lives in a substandard lot and disagrees with the proposal because neighbors should have appeal rights.

Sue Kayton said the Almanac supports this and she believes this is a reasonable approach.

Cynthia Dusel-Bacon appreciates efforts to try and promote one-story development. She believes that notifying neighbors at a late stage is better than nothing but it eliminates the opportunity for a dialogue.

Mary Ratner opposes this proposal because she believes there is a financial risk and it threatens the spirit of the community.

Margaret Fruth does not understand how the referendum rescinded an ordinance and then this comes back. She asked Council to explain whatever action it takes tonight.

Henry Riggs, thanked Council for the Burgess Park, and said it is fair to say that there is a lot of misunderstanding. He said that the Planning Commission worked very hard and he couldn't be more pleased with the process.

Sam Sinnott is generally in favor of this proposal and works mostly for homeowners. He does not believe an attic should make a house a two story structure. Mr. Sinnott believes residents support this.

Natalie Cardenas, with the Silicon Valley Association of Realtors, supports the approach even though in her opinion it is a modest step. She believes there is great fear and so the one year review will be helpful.

Frank Tucker is pleased that the Almanac supports this ordinance. He explained some of the misconceptions mentioned by other speakers. Mr. Tucker believes this is a valid simplification because most of the projects are non-controversial.

Heyward Robinson supports administrative review and applauds the comments made by residents. He believes there are impacts deriving from single story residences.

Lou Deziel, spoke as a resident, and believes this ordinance is anti-development and the people who benefit from this are with their families at home so they can't be here. Mr. Deziel believes this is born out of compromise of 915 and 926 and so the community supports this approach.

Peter Whidden opposes removing neighborhood review and suggests retaining the use permit process. He supports bringing back the lot coverage to 40%.

Lynne Baldassari-Cruz supports this proposal and represents about 98% of her neighbors. Ms. Baldassari-Cruz stated that she represents about 88 households that say "yes" to this.

Elena Ben does not support this because neighbors should have input. She believes that community input is important and she flew in from New Mexico to make her voice heard.

**M/S Duboc/Winkler to close the public hearing. Motion carries unanimously.**

Council discussed the number of possible properties affected by this and Ms. Heineck said that staff does not have a definite number. Council ensued in discussion about the use permit review process and the proposed notification. The ministerial process was explained by Ms. Heineck and how it does not fully exclude dialogue between staff and the applicant on possible impacts. Ms. Fergusson asked if there would be recourse for neighbors in a ministerial process and Ms. Heineck said that there wouldn't.

*Council took a break at 9:50 p.m. and reconvened at 10:00 p.m.*

Permeable surface requirements were discussed and Ms. Heineck said this was discussed with the City Attorney and it was determined that the Negative Declaration covers this component. Council Member Cohen talked about a list of cities that have design guidelines, administrative approvals and discretionary reviews. Ms. Heineck stated this is a complex issue and staff can not make generalizations because more research is needed. The definition of family was discussed and City Attorney McClure explained that this is from case law and this is the legal definition. The height of a structure was discussed and Ms. Heineck stated that height is measured from the existing grade conditions, and there are no zoning regulations about people raising the floor.

Design Guidelines were explained by Ms. Heineck and the applicability of the proposed ordinance. The courtesy notice was discussed and how it is applicable to any residential project of one or two story projects. Attic space was discussed and staff explained that this is not directly addressed by this ordinance but some words were included helping to define it. Council discussed dormers and gables

and how these items were addressed by the Planning Commission. The cost of noticing is currently not being charged to the applicants Ms. Heineck explained and Mr. Cohen would like the notification to occur as early as possible in the process. Ms. Heineck suggested having an attachment to the application letting applicants know about the courtesy notice and encouraging them to communicate with their neighbors.

Council Member Fergusson shared her views on conditions and impacts on neighbors. Ms. Heineck explained that the majority of projects reviewed by staff go through the Planning Commission. Council Member Fergusson believes that there is a lot of detail in the ordinance and she asked for a compromise on this issue.

**M/S Fergusson/Cohen to approve the staff recommendation with one exception and that is to substitute the administrative permit process for the use permit process.**

Council Member Cohen would like Council to work together and find a common ground and this is the chance to do it. Mayor Winkler explained the history of this topic and she believes that two different Councils have agreed on this. She believes there is nothing to fear with this ordinance and she believes this is building on some of the points that have already been agreed to. Council Member Duboc thanked the Planning Commission for its commitment and hard work and she will not support the motion because she believes this ordinance benefits residents who want to remodel one story homes with less expense and in less time. Council Member Duboc read a letter from Dr. Boyd and Jane Paulsen about the benefits of this ordinance and a quote from the Almanac in support of the ordinance. Mayor Pro Tem Jellins provided an overview of the history of this issue and in his opinion this is a fair approach to single story development. Council Member Jellins said that there is a lot of hyperbole and he mentioned a letter sent by the group Citizens for Sensible Neighborhood Development whereby this group disapproves of the proposed ordinance as a whole. Council Member Cohen shared his disappointment at the lack of compromise. Various Council Members made comments explaining their positions.

**Motion fails with Winkler, Jellins and Duboc opposing.**

**M/S Duboc/Jellins to pass the staff recommendation and all its five points plus adding items six and seven:**

- 1) **Make the following findings relative to the Negative Declaration for the Zoning Ordinance amendment:**
  - **A Negative Declaration has been prepared and circulated for public review in accordance with current State of California Environmental Quality Act (CEQA) Guidelines.**
  - **The Planning Commission and City Council considered the Negative Declaration prepared for the proposed project.**
  - **Based on the Initial Study prepared for the Negative Declaration and any comments received on the document, there is no substantial evidence that the proposed ordinance amendment will have a significant effect on the environment.**
- 2) **Make a finding that the proposed ordinance amendment to establish new regulations for single-family residential development would be consistent with the General Plan.**
- 3) **Approve the Negative Declaration for the project.**
- 4) **Introduce an ordinance amending Title 16 of the Menlo Park Municipal Code, Deleting Chapter 16.81 *Family-Nonconforming*, Adding Chapter 16.85 *Notices for Single-Family Residential Development* and Amending Chapters 16.04 *Definitions*, 16.10 *R-E Residential Estate*, 16.12 *R-E-S Residential Estate Suburban*, 16.14 *R-1-S Single Family Suburban Residential*, 16.15 *R-1-S (FG) Single Family Suburban Residential (Felton Gables)*, 16.16 *R-1-U Single Family Urban Residential*, 16.58 *Lots*, 16.67 *Daylight Planes*, and 16.80 *Nonconforming Uses and Structures* (Attachment A).**
- 5) **Direct staff to report to the Planning Commission on the implementation of the ordinance amendment one (1) year after its effective date, with the opportunity for the Commission to report its findings to the Council.**

- 6) **Courtesy noticing shall include elevation drawings.**
- 7) **Include that the Council consider the front property paving issue as a potential Council priority for next year (excluding a use permit requirement for development of proposed new vehicular areas).**

**M/S Fergusson/Cohen substitute motion to take Council Member Duboc's motion and place it on the November 2005 ballot.**

**Vote on whether or not to substitute the original motion for this one.  
Motion fails with Duboc, Winkler and Jellins opposing.**

Mayor Winkler believes that in a year the Council will be sensitive to the findings and recommendations that may come forth at that point.

**Vote on the original motion - motion passes 3-2 with Fergusson and Cohen opposing.**

#### **F. REGULAR BUSINESS**

1. 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**

#### **H. INFORMATION ITEMS**

1. Extension of Exclusive Negotiating Rights Agreement (ENRA) with Clarum Corporation for six months, from July 1, 2005 to January 1, 2006.

#### **I. COUNCIL MEMBER REPORTS**

Council Member Duboc announced two upcoming Budget Advisory Committee meetings and invited the public to attend.

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

#### **K. ADJOURNMENT – the meeting adjourned at 11:35 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of September 13, 2005.