



**CITY COUNCIL  
and  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

Tuesday, October 18, 2005  
7:00 p.m.

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

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**6:00 p.m. CLOSED SESSION** (First Floor Conference Room – Administration Building)

1. Closed Session pursuant to Government Code Section §54956.9 (a) to discuss the Allied Arts court ruling. Parties present: Audrey Seymour, Acting City Manager and Bill McClure, City Attorney.
2. Closed Session pursuant to Government Code Section §54956.9(c) to discuss potential litigation. Parties present: Audrey Seymour, Acting City Manager and Bill McClure, City Attorney.

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

The Council reconvened in open session and the Mayor announced there was no reportable action.

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

**STAFF PRESENT** - Audrey Seymour, Acting City Manager; William McClure, City Attorney; Silvia Vonderlinden, City Clerk. Various Department heads and other City staff were present.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION VACANCIES AND REPORTS**

1. Swearing in of two Parks and Recreation Commissioners.  
City Clerk Vonderlinden swore in Patricia Watkins and Heyward Robinson.
2. Commission Reports.

**B. PRESENTATIONS AND PROCLAMATION**

1. Proclamation celebrating the 20<sup>th</sup> Anniversary of Project Read.

Mayor Winkler presented a proclamation to Alice Bradshaw, Assistant Literacy Coordinator for Project Read, tutors and students of Project Read Menlo Park.

2. Presentation by Assembly Member Ira Ruskin to update the City Council on Assembly matters and future legislative priorities.

Assembly Member Ruskin addressed the City Council explaining he had authored 18 bills, and seven were signed into law. Mr. Ruskin highlighted particular bills in the areas of global warming, and transportation. He thanked the Council for its efforts in reopening Kepler's.

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

Bill Critzer, President of the Menlo Park Library Foundation, announced the foundations' intentions to establish an endowment. He is hopeful the City can support these efforts by providing matching funds.

Fran Dehn, representing the Chamber of Commerce, presented a letter about Consent Calendar D1 and

she shared how this organization has two comments 1) personal services, financial establishments, and office uses should be limited to those serving the general public and 2) these uses should be conditional instead of permitted.

Hank Lawrence spoke about Kepler's reopening ceremony and he did not find it appropriate that one elected official endorsed political candidates at the event.

Milton Borg referred to a bill he received from the West Bay Sanitary Sewer District, and he believes the terms of payment were unreasonable. He believes this places a burden on small businesses.

City Attorney McClure said that the West Bay Sanitary Sewer District is not associated with the City.

Joan Sykes-Miessi and Betsy Inez are current members of the East Palo Alto Sanitary District and they asked for Council's endorsement on their reappointment.

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

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

1. Waiver of the reading of and adoption of an ordinance rezoning the Safeway Store property located at 525 and 625 El Camino Real from C-4 (general commercial, applicable to El Camino Real) to C-4-X (general commercial, applicable to El Camino Real, conditional development).

##### **Item pulled D2**

2. Approval of a \$23,500 increase in the Agreement with Community Focus, a Project of the Tides Center, resulting in a total agreement of \$85,780 for the provision of services to support the Your City/Your Decision Budget Process and adoption of Resolution No. 5627 appropriating \$23,500 from the General Fund Reserve to fund this increase.

##### **Item pulled D3 (only minutes for September 23, 2005)**

3. Approval of the City Council Minutes for the meetings of August 23, 2005 (revised) August 30, 2005, September 6, 2005, September 13, 2005, September 20, 2005, and September 27, 2005.

**M/S Jellins/Duboc to approve item D3 with the exception of the Minutes for September 25, 2005. Motion carries unanimously.**

##### **Discussion on Item Pulled D1**

1. Waiver of the reading of and adoption of an ordinance rezoning the Safeway Store property located at 525 and 625 El Camino Real from C-4 (general commercial, applicable to El Camino Real) to C-4-X (general commercial, applicable to El Camino Real, conditional development).

Council Member Duboc asked if a potential change in the treatment of different uses could be addressed tonight, and City Attorney McClure said that to discuss changes the item should come back. Ms. Duboc asked Mr. Berndt, Safeway representative, for a status report. He commented that Safeway is working with Caltrans and architectural firms to move forward. Council Member Fergusson would like to continue the item so that the Chamber of Commerce's suggestions could be incorporated. Mr. McClure commented that since the permit is not on the agenda, Council can't discuss it tonight but can reconsider it at a next meeting. Mayor Pro Tem Jellins is unclear about what changed since Council approved the project. His preference is to move forward. Council Member Fergusson said she disagrees with language allowing a wide range of uses. Ms. Fergusson believes this was always labeled retail and the permit should reflect that understanding. Mr. Cohen believes the permit should not include office space. Mr. McClure was asked to clarify permitted uses and he added that a financial institution could occupy up to 11,500 square feet.

**M/S Fergusson/Cohen to continue adoption of the ordinance to a later date, scheduling the matter for reconsideration, with a possible modification to the conditional development permit adopted by the City Council at its meeting of September 27, 2005. Motion carries 4-1 with Duboc opposing.**

Mayor Winkler said the item would come back the first or second week in November 2005.

Mr. Berndt said that Safeway would not like the approval of uses to be done through administrative review. He would not like the uses mentioned by the Chamber of Commerce to be conditional uses, adding that going through the Planning Commission can be difficult for small businesses. He would also prefer to not include personal services in this approach. Mr. McClure said that staff can bring back administrative and conditional approaches.

### **Discussion on Item Pulled D2**

2. Approval of a \$23,500 increase in the Agreement with Community Focus, a Project of the Tides Center, resulting in a total agreement of \$85,780 for the provision of services to support the Your City/Your Decision Budget Process and adoption of Resolution No. 5627 appropriating \$23,500 from the General Fund Reserve to fund this increase.

Council Member Cohen asked about the increase and if there had been a miscalculation. Ms. Seymour, Acting City Manager, explained that the changes in cost were due to an increase in scope, including the addition of an online version of the budget survey. She added that other things required more reliance on the consultant's work than anticipated. Council Member Cohen believes this has been well worth it, because the changes were substantial and improved the result. He also believes that the electronic survey was a good addition. Ms. Seymour said that the high return rate on the survey was due to the budget advisory committee outreach and the electronic version. Ms. Seymour added that there were close to 1,100 hard copies of the survey, and on the online version over 800 users made an initial attempt to view the survey online. Council Member Cohen asked if the budget advisory committee (BAC) was instrumental in the changes, and Ms. Seymour confirmed.

Some Council Members asked if staff anticipates other cost overruns. Ms. Seymour said this wasn't expected; however, the budget had no contingencies. Mayor Winkler was concerned about how the delays would affect the upcoming budget and was told by Ms. Seymour that the budget would not be delayed. The timeline of the two upcoming work shops was discussed. Ms. Seymour explained that there was a lot of work to be completed before the community forums could take place, such as looking at results and staff coming up with balancing strategies. Mayor Pro Tem Jellins shared concerns about future contract increases for the balance of the process. Ms. Seymour said that staff could bring the item before Council if there were any unanticipated increases. Council Member Cohen, speaking as a Council liaison to the BAC, offered that initially it was difficult to align the BAC role with what staff had envisioned; however, there was some compromise in the end.

**M/S Duboc/Cohen to approve Consent Calendar D2. Motion carries 4-1 with Fergusson opposed.**

### **Discussion on Item Pulled D3**

3. Minutes for the Council Meeting of September 27, 2005.

Council Member Fergusson would like a little bit more detail on the minutes of September 27, 2005. Ms. Fergusson would like to have the parallel about Kepler's included.

**Council consensus was to table the item,**

## **E. PUBLIC HEARING**

1. Consideration of an Appeal of a Planning Commission action to approve a Use Permit with imposed conditions to construct a new six-foot tall wood fence within the front yard setback where a maximum of four-feet is allowed and in the required 35-foot by 35-foot street corner triangle where a maximum height of three-feet is allowed for property located at 448 O'Connor Street.

Deanna Chow, Associate Planner, presented the staff report explaining that the appellant is requesting a higher fence. Council Member Cohen asked about the appellants' counter proposal and Ms. Chow explained that this includes a 6-foot setback from the sidewalk on O'Connor Street. Staff is recommending a 12-foot setback from the property line and that is the main distinction. Ms. Chow explained that the

Planning Commission would prefer a 7-foot setback along Byers Drive and a 12-foot setback on O'Connor Street which is consistent with staff's recommendation. The Transportation Commission's recommendation was discussed as well as the neighbor's preference.

Tim Rochte, the appellant, provided a slide presentation illustrating the original plan as well as the physical implications of the fence and setbacks. Mr. Rochte explained his counter proposal and in his opinion it doesn't have a line of sight impact. Council asked why the fence should be closer to the sidewalk. Mr. Rochte explained that the primary reason is to create more space for his children to play. The hedge was discussed and its possible impact on impairing line of sight for drivers. Council asked about the landscape and Ms. Fenzl said that the goal is to have plants and greenery so that the fence will not be visible.

Mayor Winkler opened the Public Hearing

Jeff Myers addressed Council expressing discontentment that the appellant did not report that Mr. Myers did not sign the petition.

Ms. Fenzl interrupted the speaker and said she was sorry for the omission.

Jeff Myers continued sharing concerns with safety in the area and his belief that the fence might be detrimental to police visibility. Mr. Myers spoke about the area as a whole and the impact of a fence on the greater context of a cul-de-sac.

Thurman Logan said that this used to be a violent area and he does not have a problem with the fence but he does think the setback should be 3-feet. He is in favor of the fence.

Joe Zirker said he is in favor of increasing land opportunities for the children. Mr. Zirker said that the violence has decreased but he believes the goal should be to protect the children.

Eva Zirker thanked Assembly Member Ruskin for bringing up global warming. Ms. Zirker supports the fence and she believes little children are important for the neighborhood. She complimented the appellants for beautifying their lot. She said that there are no gun shots in the neighborhood.

Sylvester Bass objects to a 6-foot high fence because the police will not have visibility. He thinks it is too high and if it is shorter he is okay with it.

Ms. Fenzl addressed Council saying that the neighbor whose car was burglarized supports the fence, even though she had to leave early. Ms. Fenzl said she wants a higher fence to keep her children safe and make sure people can't reach them.

Peter Presta is concerned about the safety of his grandchildren and he would prefer no fence at all. He said O'Connor Street is not a quiet street and he believes the fence is aesthetically unpleasant. Mr. Presta said the appellant did not talk with him or welcome his input. Mr. Presta did not appreciate Ms. Fenzl's rebuttals to each speaker.

Mayor Winkler asked that Ms. Vonderlinden read the letter from Suzanne Wight in support of the fence.

### **Council agreed to closing the Public Hearing.**

Mayor Pro Tem Jellins explained the uniqueness of the lot and the placement of the house in the lot. He said that most property owners on a similar lot could place a fence with no need for this type of review. He believes that there has been great consideration of the neighbors and safety issues. Mr. Jellins is comfortable with the counter proposal.

### **M/S Jellins/Duboc to approve the appellants' counter proposal, contained in the most recent documents submitted.**

Various Council Members expressed views about the item and the concerns for their family safety. Council Members spoke about safety and how in their opinion the appellants have met many of the concerns. Council Member Fergusson agreed with the comments made by Mayor Pro Tem Jellins that without a use permit in this location the property owners have the right to build a fence right on the property line. Ms.

Fergusson supports the analysis of the appellant. Mayor Winkler would rather not see a 6-foot fence along the public right of way because it gives a fortress type of feeling; however the applicant has done a good job at substantiating the request. Mayor Winkler asked if there are other houses in similar circumstances and a member of the public volunteered an answer.

Mr. Presta confirmed that this track was built in 1958 and it is a conforming neighborhood. He said that there are two homes facing Byers Drive in similar circumstances plus two additional homes.

**Motion carries 4-0-1 with Winkler abstaining.**

**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**

1. Request by Mayor Winkler to include correspondence from William Critzer, President of the Menlo Park Library Foundation, regarding City matching funds.

Mayor Winkler would like to publicize the existence of this Foundation. Ms. Fergusson requested that this item be placed on a future agenda so she could understand the ramifications of the request. The Council asked if funds for this end could come from the community grants that a Council subcommittee will be reviewing. Ms. Seymour, Acting City Manager, clarified that upon review of the policy this request does not fit the policy for the community funding program. Council Member Duboc suggested this be placed on the priority list and have staff write a staff report about it. Mayor Winkler invites people to donate to this Foundation because it deserves the community's support. Mr. Jellins echoed the Mayor's words.

**M/S Fergusson/Duboc to bring this back with some staff analysis. Motion fails with Cohen, Winkler and Jellins opposed.**

**H. INFORMATION ITEMS - None**

**I. COUNCIL MEMBER REPORTS**

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

**K. ADJOURNMENT – the meeting adjourned at 9:31 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, CMC

Approved at the Council Meeting of November 8, 2005.