



**CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, November 29, 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; 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 Bicycle Commission to fill an un-expired term that ends in April 2007. The deadline for receipt of applications is December 14, 2005 at 5:30 p.m.
2. Commission Reports.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation in honor of Sergeant Andrew M. Kline.

Mayor Winkler presented the proclamation to members of Sergeant Kline's family and to Chief Boyd. Chief Boyd thanked the Mayor and Council for the gesture.

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

David Speer referred to a 1993 mayor selection policy, and he hopes the Council will follow it. Mr. Speer believes the policy ensures fairness and a representative government.

D. CONSENT CALENDAR

1. Award of contract to S&C Ford in the amount of \$43,582 for the purchase of three pick-up trucks; approval of \$6,400 for cargo boxes; and authorization of a total budget of \$54,582 for the purchase of three vehicles, equipment and contingencies.
2. Community Development Agency approval of an agreement in the amount of \$230,000 with Erler & Kalinowski, Inc., for environmental consultant services for the Terminal Avenue Housing Site Remediation; and authorization of a budget of \$270,000 for consultant services, contingency, and staff administration.
3. Award of contract for the Onetta Harris Community Center Landscape Improvement Project to Joseph J. Albanese, Inc., in the amount of \$131,503; deletion of bid line items 6, 11, and 13; reducing the contract amount to \$106,576; and, authorization of a budget of \$116,500 for construction, contingencies, testing, engineering, inspection, and administration.
4. Adoption of Resolution No. 5639 approving the first amended and restated Joint Exercise of Powers Agreement of the South Bayside Waste Management Authority.
5. Adoption of Resolution No. 5640 authorizing the purchase of a Below Market Rate (BMR) housing unit located at 20 Willow Road, unit 33; authorization of the City Manager to execute the Certificate of Acceptance for the Grant Deed on behalf of the City; authorization to utilize a portion of the BMR fund reserved for Purchase Assistance Loan Program (PAL) for the purchase of said unit; and authorization for the resale of the unit in accordance with the BMR Program.
6. Approval of the City Council Minutes for the meeting of October 25, 2005.

M/S Duboc/Jellins to approve the Consent Calendar as presented. Motion carries unanimously.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. Council discussion of the Emergency Preparedness Training for City of Menlo Park Staff and City Council Members.

City Manager Boesch explained that the exercise conducted earlier today is part of training that city employees receive to prepare for emergencies. He mentioned that this particular drill simulated an earthquake, and it was an opportunity for the community and staff to practice how to respond to crisis situations.

Mayor Winkler asked about the need for a quorum when a state of emergency is declared. City Attorney McClure explained that the City Manager has the authority to declare a state of emergency, but within 24 hours the Council needs to convene and act on the declaration of emergency. Mr. McClure explained that under special circumstances Council Members can designate a representative if a Council Member is unable to be present. Additionally, if Council hasn't designated a back up person, the members who are available can designate or select someone to serve. If there are no Council members available, then the Chair of the San Mateo County Board of Supervisors can make the appointments.

Council discussed the need for a quorum in an emergency. Mayor Winkler, with Council consensus, directed staff to place this item on a future agenda.

2. Introduction of an Ordinance to amend the current City of Menlo Park Animal Control Ordinance to reflect the amendments made to San Mateo County's Animal Control Ordinance Code regarding animal control and dangerous animal proceedings.

Commander Boettger explained that he met with members of Dog Owner's Group of Menlo Atherton (DOGMA), San Mateo County and the Peninsula Habitat Society (PHS). Mr. Boettger said the ordinance was slightly edited after these conversations. Council Member Fergusson believes the wording is still loose in certain areas. She asked for statistics on how this ordinance is applied, and Commander Boettger explained that in the last 12 months there were 400 incidents of animals biting other dogs or people, and in all 400 incidents the matter was abated without an animal or a dog being declared vicious or ordered to be put down. These incidents were handled as routine incidents and no further action was taken by PHS.

Mayor Pro Tem Jellins asked about the time delay prior to euthanizing an animal. Mr. Boettger explained that DOGMA's request is to house animals up to 60 days at PHS, with the cost being incurred by the owner of the animal. Mr. Boettger added that the animal owner has an appeal procedure by a writ of mandate to the Superior Court. Mr. McClure clarified that the owner can request a hearing but there is no appeal procedure. Mayor Winkler asked if under the new rules those 400 cases would be handled differently. Mr. Boettger does not believe that would be the case. Mayor Winkler asked if staff could report back in one year on the implementation of the ordinance, and Mr. Boettger confirmed.

Public Comment

Rick Saletta, with time donated by Schel Reyes and Jamie Bubier, thanked the Council and the Menlo Park City staff for the opportunity to comment on the matter. Mr. Saletta believes that "dangerous animals" should be more clearly defined in the ordinance as well as what constitutes an infraction. He opined that the process and the potential penalties should be outlined so people are not confused. He offered suggestions to improve the ordinance and listed seven objections to the current document. Mr. Saletta asked Council to consider the objections since he believes the current ordinance is poorly written.

Council Member Cohen asked if DOGMA communicated with the County, and Mr. Saletta said that it hadn't because that organization is working with Commander Boettger. Council Member Duboc asked what happens if this ordinance isn't adopted, and Mr. McClure explained that PHS will probably not enforce the ordinance in Menlo Park and the City might have to pay extra if an intervention is needed. Mr. McClure added that the contract between PHS and the County, of which Menlo Park is a party, requires the City to adopt an ordinance within 60 days of the County's adoption of its ordinance. If not,

the City could be responsible for enforcement costs. Mr. McClure explained that the difficulty in changing the ordinance is that PHS control officers cover the whole County, and it is hard to apply different laws.

Council Member Duboc asked Mr. McClure if this has been challenged and Mr. McClure said the issues raised are not new. Mr. McClure remarked that in the proposed ordinance the timelines are being extended and there are more owner rights and specificity than in the current ordinance. Mr. McClure doesn't think the constitutional issues raised need to be addressed at this point. He added that PHS is not willing to apply 21 different laws, and so their goal is to make the regulations uniform.

Mayor Pro Tem Jellins asked Mr. Saletta if he has come across other cities where animal organizations got involved in this matter. Mr. Saletta said that it looks like other groups are just now getting organized. Council Member Cohen said he had concerns with the cost of the relationship with the County. He added that after hearing all the objections from Mr. Saletta he has trouble envisioning all the scenarios outlined. Mayor Winkler suggested that dog owners get together and work with County officials to draft a better ordinance over a period of time.

M/S Winkler/Jellins to introduce the ordinance as presented with two additional items:

- 1) review the ordinance in one year**
- 2) make the quarterly reports, received by the Police Department, available to the public.**

Ms. Winkler would like to create a checklist of requirements for the current ordinance. Mayor Pro Tem Jellins agrees with this approach, and it is his belief that the suggestions made by Mr. Saletta do not change the services provided by PHS. Ms. Duboc believes the current ordinance serves a community purpose. Council Member Cohen asked about the deadline to turn this back to the County and Commander Boettger said the deadline is December 1, 2005. Council Member Cohen suggests postponing the first reading so that:

- 1) DOGMA can communicate its concerns with the County and then return to Council with more information, and
- 2) Give DOGMA more time to reach an agreement with the County.

Mayor Pro Tem Jellins suggested introducing the ordinance now but moving its adoption to January 2006. Council Member Duboc believes this is not realistic because it is hard to get a hearing at the County level. Mr. Jellins clarified that Mr. Cohen is asking DOGMA to communicate with County representatives and not necessarily with the Board of Supervisors. Mayor Winkler is skeptical of this approach but she accepts the proposed timing. Mr. McClure reiterated that there is no assurance that by delaying the matter until the second week of January there won't be extra costs. Mr. McClure's suggestion is for Commander Boettger to talk to the County and/or PHS and if there is a possibility of increased costs to the City, because of postponed action, then the matter is to come back to Council on December 13, 2005. The maker of the motion agreed with this approach.

The motion by Mayor Winkler and Mayor Pro Tem Jellins was amended to include:

- 1) introduction of the ordinance**
- 2) inclusion of a one year review**
- 3) inclusion of time frame as specified above by the City Attorney**
- 4) making quarterly reports, received by the Police Department, available to the public**
- 5) sending a letter to PHS requesting that a checklist of requirements be created so that the ordinance is more easily understood.**

Motion carries unanimously.

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

1. Status update on Commercial Streamlining Phase III.
2. Status of the Capital Improvement Program Projects.

Roxanne Rorapaugh opposes delaying installation of the light at University and Menlo Avenue. Ms. Rorapaugh doesn't recall the traffic light installation being contingent on federal funds.

Council Member Duboc asked about the project titled "Trees on El Camino" (Phase III), and Mr. Boesch explained that this is a project for which Stanford is providing the funding.

Mr. Boesch addressed the University and Menlo Avenue issue explaining that the interim measures were successful. He added that staff completed the design for the installation of the traffic signal, but has not been successful finding funding for the total project cost of \$285,000. Since Council did not appropriate the funds, staff is relying on outside funding for the installation. Mr. Boesch added that Council could reconsider this approach at its Priority Setting Session in early '06, or earlier at another Council Meeting.

I. COUNCIL MEMBER REPORTS - None

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

K. ADJOURNMENT – the meeting adjourned at 8:25 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, CMC

Approved at the Council Meeting of January 10, 2006.