



**CITY COUNCIL  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

Tuesday, May 16, 2006  
7:00 p.m.

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

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**5:30 p.m. CLOSED SESSIONS** (First Floor Conference Room – Administration Building)

1. Closed Session pursuant to Government Code Section §54957.8 to conference with labor negotiators regarding labor negotiations with the Menlo Park Police Officers Association and the Menlo Park Police Management Association (Teamsters 856 representing the classification of Police Sergeant). Parties present: David Boesch, City Manager, William McClure, City Attorney, Bruce Goitia, Acting Chief of Police, Labor Attorneys Charles Sakai and Emily Prescott, and Glen Kramer, Personnel and Information Services Director.
2. Closed Session pursuant to Government Code Section to Government Code Section 54956.8, with real property negotiators David S. Boesch, Executive Director, and William L. McClure, City Attorney regarding price and terms of sale for the potential sale by the Community Development Agency of 735 - 811 Hamilton Avenue, Menlo Park (inclusive and consisting of approx. 2.21 acres of undeveloped land). Note: this Closed Session item is for the Community Development Agency Board.

**Reconvene in Open Session and Report on Aforementioned Closed Sessions.**

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

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

**STAFF PRESENT** – City Manager Dave Boesch, Assistant City Manager Audrey Seymour, City Attorney Bill McClure, and City Clerk Silvia Vonderlinden.

The Mayor announced that there was nothing to report out of Closed Session.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION VACANCIES AND REPORTS**

1. Mayor Jellins recognized outgoing Housing Commissioner John O'Malley as having served the community well on the Housing Commission. Mr. O'Malley continues to serve on the Planning Commission, and he was present to receive the certificate.
2. There is one vacancy on the Housing Commission to fill an un-expired term that expires September 2009. The extended deadline for receipt of applications is Tuesday, May 30, 2006 at 5:30 p.m.
3. There are two vacancies on the Las Pulgas Committee to fill two un-expired terms that expire March 2009. One vacancy is for a business member seat and one vacancy is for a rental owner seat. The deadline for receipt of applications is Tuesday, May 30, 2006 at 5:30 p.m.
4. Commission Reports. - There were no commission reports.

**B. PRESENTATIONS AND PROCLAMATIONS**

1. Proclamation celebrating "Bike to Work Day" on May 18, 2006.

The Chair of the Bicycle Commission, John Fox, and Commissioners Laprais and Smith were present to receive the proclamation. Chair Fox mentioned that they are expanding the school involvement this year, and they are very pleased about that. He encouraged everyone's participation.

2. Chris Beth of the California Parks and Recreation Society (CPRS) presented Awards of Excellence for the Skate Park in the area of Park Planning and Facility Design and the Juvenile Diversion Program in the category of Recreation Programming.

Mr. Beth said that CPRS is the strongest professional organization available to Parks and Recreation professionals in California providing leadership to advance the positive impact and value of the profession. The annual awards program is a competitive process that recognizes excellence in agencies and individuals who publicize, develop and manage programs, parks and facilities that have embodied the core values of the profession moving their organization toward a stronger position within the community.

#### **H. INFORMATION ITEMS** *(item taken out of sequence)*

1. Status report regarding Request for Proposal (RFP) process for Burgess-Based Child Care Services.

#### **Public Comment**

Brandon Roark said that it took his family close to three years to get into the Menlo Park Child Care program after having experienced a high turnover of caregivers at a private institution. He opined that child care goes far beyond cost recovery in terms of the community benefits that are derived. He asked that Council Member Winkler make public the emails she mentioned regarding the topic.

Lara Hoyem suggested that rushing the decision through the summer seems to her to be an attempt to reduce public input. She suggested that tying the decision to the mid-year budget review might be prudent as it would allow for completion of the cost allocation study as well as time for additional consideration of pertinent issues and ongoing dialog between City Council and citizens. She asked Council to take a vote on the matter of expediting the process so that it is a matter of public record.

Rav Suri utilizes the Menlo Park child care services, and he hopes that the City Council will take the appropriate time to have a clear cost picture so that a more informed decision is possible.

Sophie Lo is a new user of the MCC (Menlo Children Center) and has been happy with the consistency of the service. She wants Council to support the original timeline to get the data necessary to make an informed decision.

Assistant City Manager Seymour explained that in terms of the budget figures costs will be reduced with the move to the new facility. Taking that into consideration, Council may wish to allow for a longer timeline for the decision-making process to allow for appropriate consideration of budgetary changes and review of the cost allocation study.

Motion by Mayor Pro Tem Fergusson to delay moving ahead with the RFP process until the budget figures are released. Motion died for lack of a second.

Council asked if the meetings of the task force are open meetings, and Ms. Seymour confirmed. She added that the taskforce is not only made up of Menlo Park residents, but it does include parents involved with the MCC. Council Member Winkler suggested that under affordability the words be revised to say "families with financial need." The timeline allows for a month to report back to City Council though it will be sped up if possible, and Assistant City Manager Seymour explained that she was intending to allow for completion of the interview process as well as follow-up work, reference checks and the development of a report to summarize the process.

Council Member Winkler assured the public that no e-mails that have been sent to her will be posted in a public forum, and she stressed that this is an information gathering process the goal of which is not to decrease the amount of child care but to establish the best way of continuing the service. Ms. Seymour added that the timeline being proposed at this meeting, which is approximately five months, is a refinement of the timeline presented to Council on April 5<sup>th</sup> in which it was estimated to be an eight to sixteen-month process that included an outline of all of the possible steps that might be included in both an RFP phase and an implementation phase. The original timeline also included additional service options, which the Council determined to not be what they were envisioning.

**M/S Duboc/Fergusson to implement the timeline as outlined by the staff recommendation.**

Mayor Pro Tem Fergusson believes that moving ahead with the accelerated timeline will not give appropriate time to allow an apples to apples comparison between City-provided and privatized child care. The goal is to engage in a fair process, and provisions are being made for objective input from a balanced taskforce so that Council can have the information needed to make the best decision possible.

**Council Member Duboc withdrew the motion. Mayor Pro Tem Fergusson withdrew the second.**

**M/S Fergusson/Cohen to delay the RFP until the budget numbers are received in June 2006.**

Mayor Pro Tem Fergusson stated that the basis for the delay is the need for the appropriate fact-finding to obtain the information necessary to make an informed decision, which would include the budget numbers. She questioned why child care is being singled out for outsourcing, and debate took place as to what City programs are outsourced and why. Council Member Cohen stated that what is missing in this process is willingness to have an open process that allows for citizen input before making a decision.

**Motion fails 2-3 with Council Members Cohen and Fergusson voting in favor and Council Members Duboc, Winkler and Jellins opposing.**

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

Sue Kayton asked that the Council direct Planning Services to have a FAQ page that would include interpretations of building requirements. They would be official answers and save a lot of time and money. She also suggested an administrative process for the approval of use permits such that if an applicant meets all of the requirements and has letters of approval from neighbors, it would be approved without coming before the Council

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

1. Approval of a contract with the Ravenswood City School District in an amount not to exceed \$78,000 for the delivery of food services at the Belle Haven Child Development Center and authorization of the City Manager to execute the contract.
2. Adoption of Resolution No. 5668 authorizing the City Manager to execute a contract with the State Department of Education to reimburse the City \$3,385 for Pre-Kindergarten Childcare Service Resource Materials at the Belle Haven Child Development Center.
3. Adoption of a Resolution No. 5669 calling and giving notice of holding a General Municipal Election for three expiring seats on the Menlo Park City Council; requesting that the City Council consolidate said election with the Gubernatorial General Election to be held on November 7, 2006; and, contracting with the San Mateo County Assessor and County Clerk Recorder for election services.
4. Award of contract to Republic Electric in the amount of \$51,200 for the installation of in-pavement lighted crosswalks at Ravenswood Avenue at Alma Street, Oak Grove Avenue in front of the Menlo Park Post Office, and Santa Cruz Avenue at Johnson Street; and authorization of a budget of \$64,820 for construction, contingencies, testing, inspection, and construction administration.
5. Authorization for the City Manager/Executive Director to execute a funding agreement and to submit a letter of interest on behalf of the Community Development Agency, and appropriation of \$75,000 and \$150,000 from the Agency's Fiscal Year 2005-2006 and 2006-2007 Budgets respectively, as the local share to prepare a Dumbarton Rail Station Area Plan.
6. Approval of the City Council minutes for the meeting of March 14, 2006.

**M/S Duboc/Fergusson to adopt the Consent Calendar as presented. Motion carried unanimously.**

#### **E. PUBLIC HEARING**

1. Consideration of request for a tentative map to create nine office condominiums in an existing building, a variance to allow the provision of existing nonconforming parking to continue in lieu of meeting parking requirements for condominium conversions, and a use permit to allow personal services and financial establishments on the ground floor in a C-3 zoned property at 695 Oak Grove Avenue. (This item is continued from May 9, 2006)

Assistant Planner Megan Fisher explained the request before Council and how staff and the Planning Commission recommend approval of this item subject to the outlined conditions. She asked Council to consider an associated policy matter for the parking requirements for commercial condominium conversions. Ms. Fisher elaborated that if Council determines that condominium conversions of existing commercial buildings are not required to meet the current parking requirements or if located downtown can improve the parking situation downtown, the Council should adopt the findings and conditions in Attachment A, which was provided to the Council, subject to the deletion of Condition 6C regarding the payment of a parking in lieu fee. However, if the Council determines that the substandard parking issue should be addressed as part of the project approvals, direction should be provided as to the appropriate method for addressing the substandard parking issue and staff should be directed to prepare revised findings for Council action at a subsequent meeting. She offered four options to address the substandard issue: 1) include a parking in lieu fee based on the structured stalls and the number of stalls not provided by the site costing approximately \$690,000; 2) off-site parking on private property costing approximately \$1.9 million 3) a contribution to an upgrade to Parking Plaza One costing approximately \$129,000 to \$405,000 4) or finally a full or partial contribution to the downtown parking study, which has an overall cost of \$141,000.

Staff provided details regarding the use permit requirement which is being triggered by the fact that the applicant is asking for a blanket use permit to allow certain uses within the building. With regard to retail space, the concept is taking the amount of floor area in terms of square feet that could be used for retail and establishing an annual in lieu fee based upon that. The ballpark number is approximately \$2/square foot, which is a representation of what a general type of retail-use property found in Menlo Park's downtown could generate on an annual basis. Ms. Fisher said that the Planning Commission looked at this as a total package with one set of conditions so that the use permit, variance request and tentative map cannot really be separated from one another. The current tenants on the ground floor are present without a use permit, and their leases began four months prior to the current owner taking possession. However, they have not yet been cited as they have requested the use permit. The owner is a participant in the parking district, which gives them rights to the first 100% floor area ratio being covered by the assessment district.

The applicant addressed the Council and underscored his request as a "pride of ownership" opportunity that would be created for the local professionals who are part of the foundational services of the City. He asked that the Council uphold the unanimous approval and recommendation of the Planning Commission with the exception of the requirements pertaining to the variance. As far as the parking issue, he submitted to the Council language regarding a proposed contribution to be used in conjunction with the downtown parking study proposed by staff. With respect to the existing tenant in the building without a use permit, when the current owner came into the understanding that that was the case, he worked with City staff to develop a definition of financial services so that they could ask for a use permit that would cover the existing uses on the ground floor. Subsequently, a discussion took place with City Attorney McClure, and if the Council would so choose, he would be happy to limit the extent of the blanket use permit to simplify the existing uses and their lease terms.

The applicant said he understood the proposal of the in lieu sales tax fee, which would be approximately \$6,730 annually, and he would be willing to accept it retroactive to the time when he took contractual control of the building. A parking in lieu fee has not been done previously, but there would be an analysis done at the staff level to determine what the parking requirement would be for the extra square footage in the building to determine either what the cost of structured parking would be or acquiring other parking so that actual parking could be provided. The Council can address this not as a legal issue or requirement but as a policy decision as to if an existing building is being converted to a condominium with no change in the occupancy whether it would have to meet parking requirements. An in lieu fee may be appropriate both for the sales tax as well as parking in lieu fees.

Mayor Jellins suggested that the dedication of receipts from the building be invested in Parking Plaza One. His preference would be to have the Planning Commission work further on this. Council Member Winkler would like to incentivize these types of conversions with the City getting parking in lieu fees as a result of

them. She is not comfortable with settling for the sales tax in lieu fee, and she concurred that it should go back to the Planning Commission with regard to the use permit for clarification of the issues prior to precedent-setting action taking place. In addition, making this applicant wait until the Council makes a policy decision may be penalizing him unfairly. However, perhaps with direction the Planning Commission could rectify it rather quickly. Council Member Cohen pointed out that the applicant is part of the solution and is seeking a way to improve the situation. He would like to cut through the red tape and send the applicant on his way with an approval. He questioned whether the applicant could come up with another number to help the City meet the costs of parking in the future so that the Council could reach a decision more quickly.

The applicant suggested that they could go with option number one and provide an upgrade based on the greater than 100% FAR, which would be a negative impact of 23 parking spaces and would be a contribution of \$129,317 to the parking district. In addition, they could pick up the in lieu fee for the retail use on the ground floor retroactive to the beginning of the terms of the leases for both tenants.

**M/S Jellins/Fergusson to approve the tentative map subject to a parking in lieu fee to be established following appropriate hearings before the Planning Commission, and a further hearing before the Council in addition to proposing a retail in lieu fee.**

After further discussion, the applicant suggested that the Council outline for future applicants what the parking in lieu fee may look like. He expressed a desire to operate within option three as proposed by staff. He also expressed appreciation for the discussion regarding allowing medical use on the second and third floors and for the gesture regarding retail not being a viable use on the ground floor.

**Substitute motion:**

**M/S Winkler/Cohen to approve the tentative map to create nine commercial condominiums in the existing building, a variance to allow the provision of existing substandard parking to continue in lieu of meeting parking requirements for a condominium conversion and a use permit to allow personal services and financial establishments on the ground floor in the C-3 zone of the property at 695 Oak Grove with removal of condition 6A regarding limiting medical office to the third floor only. The motion includes permitting medical office on the second and third floors and there will be no in lieu sales tax fee, and the motion accepts the applicant's offer of an in lieu parking fee of \$250,000 with no specific restrictions. In addition, the motion includes a specific finding by the City Council that because there was no policy in place regarding an in lieu parking requirement prior to the time of this application, that this will not be a precedent for the future. Staff will be requested to consider such a policy for any and all future applications.**

**The motion to substitute carried 3-2 with Council Members Fergusson and Jellins opposing.**

**The motion carried 3-2 with Council Members Fergusson and Jellins 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 - None**

## **I. COUNCIL MEMBER REPORTS**

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

## **K. ADJOURNMENT – the meeting adjourned at 10:19 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of October 17, 2006.