



**CITY COUNCIL  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

Tuesday, July 18, 2006

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 §54957.6 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, Chief of Police, Labor Attorneys Charles Sakai and Emily Prescott, and Glen Kramer, Personnel and Information Services Director.

**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, City Clerk Silvia Vonderlinden and numerous members of City staff.

The Mayor announced that there was nothing to report on the Closed Session.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS**

1. Swearing in of a new Environmental Quality Commissioner.

City Clerk Vonderlinden swore in Mr. Jeff Jahnke as the new Environmental Quality Commissioner.

2. 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 is for a rental owner seat. The extended deadline is Monday, July 31, 2006 at 5:30 p.m.
3. There is one vacancy on the Environmental Quality Commission to fill one expired term that ends August 2006. The new term will run until August 2010. The deadline for receipt of applications is Tuesday, August 15, 2006 at 5:30 p.m.
4. Commission Reports.

**B. PRESENTATIONS AND PROCLAMATIONS - None**

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

Marilu Serrano addressed the Council regarding East Palo Alto residents. She said that in 2000 many residents of East Palo Alto came together to develop a community vision for what they wanted for a certain tract of land. The City Council paid \$100,000 to consultants to help develop that vision, and the community met three months in a row. She made comments about a developer purchasing such land.

**D. CONSENT CALENDAR**

1. Waiver of the reading and adoption of ordinances no. 948 and 949 amending the Zoning Ordinance to establish the R-1-U (LM) single-family urban residential (Lorelei Manor) zoning district and rezoning the Lorelei Manor neighborhood from R-1-U single family urban residential to the R-1-U (LM) district.

**Item Pulled for Discussion**

2. Authorize the Public Works Director to accept work for the Menlo Children's Center Project.

**Item Pulled for Discussion**

3. Adoption of resolution no. 5685 designating the Mayor as the voting delegate, a voting alternate and a second voting delegate for the 2006 League of California Cities Annual Conference.

**M/S Fergusson/Winkler to approve items D1 and D4 as presented. The motion carried unanimously.**

**Discussion on item D2**

2. Authorize the Public Works Director to accept work for the Menlo Children's Center Project.

Mayor Pro Tem Fergusson stated that she was pleased that changes were made to the original design. She asked that the lighting timers be fixed, and Mr. Steffens indicated that the problem had been corrected. She also asked if anything could be done about the shaking movement in the modular building, and Mr. Steffens indicated that the movement is to be anticipated. Finally, Mayor Pro Tem Fergusson pointed out that the trash enclosure is next to the connection to the main center of the Burgess Campus. Mr. Steffens indicated that it could be addressed.

**M/S Fergusson/Jellins to approve the staff recommendation. The motion carried unanimously.**

**Discussion on item D4**

4. Approval of resolution no. 5684 authorizing the City of Menlo Park to become a member of a countywide sub-region consortium with the purpose of locally administering the Association of Bay Area Government's (ABAG) regional housing needs allocation process.

**Mayor Pro Tem Fergusson was appointed as an alternate by unanimous acclamation.**

**E. PUBLIC HEARINGS**

1. Adoption of resolution no. 5686 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 a three percent increase for the Tree Assessment for the City of Menlo Park Landscaping Assessment District for Fiscal Year 2006-07.

Pat Stone, Engineering Supervisor, presented the staff report. He said that on June 13<sup>th</sup> Council directed staff to reduce the General Fund contribution to the tree program from 26% to 25%, and by adopting of this resolution staff could submit the proposed tax assessment to the County for inclusion in the '06/'07 tax bill.

Mayor Jellins opened the Public Hearing, but there was no public comment whereupon the hearing was closed.

**M/S Duboc/Jellins to approve the staff recommendation. The motion carried unanimously.**

2. Adoption of resolution no. 5687 approving the final report of the City Manager regarding unpaid garbage collection fees for Fiscal Year 2006-07 and approving the placement of unpaid single-family garbage service fees on the 2006-07 property tax roll.

Carol Augustine, Finance Director, said that this is an annual staff report. She stated that a notice went out to residents on the amount due, and those who did not pay will be placed on the County tax roll.

**M/S Fergusson/Jellins to approve the staff recommendation. The motion carried unanimously.**

3. Adoption of resolution no. 5688 authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for Fiscal Year 2006-07.

Pat Stone, Supervising Engineer, presented the staff report, saying that adoption of the resolution allows staff to submit the fee to the County for inclusion in the '06/'07 tax bill to proceed with the local storm water management program.

The Mayor opened the Public Hearing, but with no comment and no objection, the Public Hearing was then closed

**M/S Duboc/Jellins to approve the staff recommendation. The motion carried unanimously.**

## **F. REGULAR BUSINESS**

1. Consideration of an advisory ballot measure to gauge public support for construction of sports fields at Bayfront Park.

Kent Steffens, Public Works Director, presented the staff report illustrating the locations reviewed by staff. Four sites were evaluated in Menlo Park for additional sports fields, with the goal to add at least one full-sized adult soccer field. A preliminary feasibility study was also conducted with regards to placing sports fields at Bayfront Park. Staff wanted to provide the Council with more information so that it could decide whether to place an advisory measure on the November ballot.

The four sites that were considered included Kelly Park, a vacant property on Hamilton Avenue, Burgess Park and Bayfront Park. Criteria were set for the field selection process. With regard to Kelly Park, alternative one looked at overlapping fields, which would accommodate a full-sized baseball field and two under-sized soccer fields. The findings for this alternative were that it would require demolition and relocation of recent park improvements including the soccer field, existing softball field, restroom building and picnic areas. The overlapping fields would affect play as play could only take place on one or the other at any given time. Under option two, they tried to fit a full-sized baseball field and soccer field. It did come out a little short. Option two would entail similar demolition as option one. It would result in a net gain of 23 parking spaces, but it would still be undersized fields. Option three would accommodate a full-sized baseball field and a smaller soccer field. There would have to be similar reconfigurations, and there would be a gain of 20 parking stalls but no net increase in the number of fields available. With regard to the property at Hamilton, three alternatives were considered. Neither a full-sized baseball field nor a soccer field would fit. Alternative number two would be an under-sized soccer field with off-street parking. The fields would not be able to have lights, and staff's recommendation is not to pursue it as a sports field site.

With regard to Burgess Park, staff tried to see if two full-sized soccer fields could be incorporated utilizing some of the existing parking area. Staff found that would not work. The fields would be under-sized, both soccer and baseball. In addition, it would require demolition of the newly installed skate park, basketball court and picnic areas and would require replacement of the restroom building and consolidation of parking resulting in a net loss of 44 parking spaces. The existing little league and softball field would be lost, and there would be a net gain of one under-sized soccer field. In a slightly different configuration, the skate park and basketball court would be preserved. The length of fields would fit but not the width resulting in two under-sized soccer fields and an under-sized baseball field that overlapped with one of the soccer fields. It would also result in the relocation of a restroom, demolition of the picnic areas, the loss of seven heritage trees, and the overlapping of fields, which would affect play. The existing little league and softball fields would be removed, and with the proximity to residents, it would not be conducive to lighting. A third layout for Burgess resulted in similar findings. Full-sized fields would not fit, and many of the existing improvements had to be removed. The staff's recommendation for Burgess is that additional sports fields should not be pursued for that location due to the impacts on other newly constructed facilities.

The final site that was considered is Bayfront Park. In considering Bayfront Park, staff looked at some of the constraints around the parks including, the salt flats that are part of the salt pond restoration project, existing pathways, existing parking lots and the existing waste water facility site that is not owned by the City. In addition, there is a facility that is part of the landfill operation at the site that does make some noise. One of the evaluations was to look at the slopes of the existing site. The area that would be most suitable is essentially the area that is flattest and large enough to accommodate the number of sports fields that are under consideration. The location would allow utilization of an existing paved access road. The first concept plan included two full-sized

championship soccer fields overlapped by a full-sized adult baseball field accommodating 100 to 120 parking stalls common to all fields along with a restroom facility. The configuration would require an area of 10 to 12 acres. The overlapping fields would reduce the footprint but would also have an impact on play and usage. The estimated project cost for the layout is \$10 to \$12 million.

The second site concept for Bayfront Park is similar, but essentially the difference is that the fields do not overlap. Three separate team sport activities could be going on at the same time. It is larger and would require 14 to 16 acres with an estimated project cost of \$13 to \$15 million. Site concept three looked at a four-field configuration, and the fields are the same size except that there would be a multi-use athletic field added, which could be used for a variety of sports. It would be designed in the shape of a baseball field, but it could be used for a smaller soccer or lacrosse field for smaller age groups. It would require 15 to 17 acres, and the estimated cost would be \$15 to \$17 million.

SES engineers conducted a feasibility study, and they found that the layout is feasible. There would be settlement resulting in higher maintenance costs than what would be incurred for similarly constructed fields on an area that was not a landfill. Numerous projects like this have been permitted on landfills by the regulatory agencies in the Bay area, and natural or artificial turf could be utilized. The potential funding sources for development of Bayfront Park include the rec in lieu fund, which is a development impact fee that allows the City to expand its inventory of recreational facilities as additional housing is added in Menlo Park. The current balance in the fund is approximately \$300,000, and additional revenues are anticipated this fiscal year in the amount of \$1.3 million from projects that are already approved. Potential revenue from future projects is estimated at \$6.5 million. The total potentially available would be \$8.1 million.

Staff added that the next potential funding source is Measure T, which is a voter-approved, City-wide property tax that was estimated to generate \$38 million over its 38-year life. The fund must be used to expand or improve recreational facilities, and approximately \$13 million of improvements have been completed to date. The first bond issue of \$13 million has essentially been spent for the parks renovations projects completed to date. There is an estimate from a bond advisor that if bonds were sold in 2007, it could generate between \$5 and \$6 million of additional revenue. The amount would vary depending on the aggregate value of assessed property and interest rates. Another potential funding source is the San Mateo County Parks for the Future measure, which is a sales tax measure that has been discussed by San Mateo County. It is a proposal for a one-eighth cent countywide sales tax increase over the next 25 years, and it does require that the County Board of Supervisors approve it before it goes on the Ballot. Based on information received from the sponsors, Menlo Park would receive \$329,000 annually. The annual revenue could also be used for debt service on bonds.

Mr. Steffens said that the Parks and Recreation Commission made two motions after seeing the presentation. They were interested in further exploring options at Kelly Park, with the suggestion of eliminating additional parking and expanding alternative three to try to maximize the size of the soccer field. They also included in their motion consideration of a layout that would include a running track with a field inside the track, and they wanted cost estimates for the Kelly Park alternatives. The Commission ultimately did not make a recommendation on whether to pursue the advisory measure. It didn't feel it had enough information at the meeting to do that. The issue before the Council is whether to include an advisory measure on the November 2006 general election ballot regarding sports fields at Bayfront Park. If the council wishes to proceed, staff would return with a resolution on July 25<sup>th</sup>. The cost of holding an election has been estimated at approximately \$30,000.

Mayor Pro Tem Fergusson stated that Council received a letter from the Bay Conservation and Development Commission (BCDC) in December mentioning that they had read about Menlo Park's potential plans for Bayfront Park in the newspaper and asking that they be included in the loop. She asked how many discussions staff has had with BCDC since then, and Mr. Steffens said that they did share a copy of the site plan for the sports fields at Bayfront Park with Steve McAdams at the BCDC. He reviewed the site plan, and essentially he didn't see any problems with the proposal. Mr. Steffens said that BCDC would have jurisdiction, and the City would have to amend the existing permit but he didn't see any hurdles to doing that.

Mayor Pro Tem Fergusson said that there was no mention in the report of the fact that the Don Edwards National Wildlife Refuge is adjacent to the property. She asked if there was a reason for

the omission or if that was deemed irrelevant. Mr. Steffens explained that certainly they would consult with the Don Edwards National Wildlife Refuge if fields are pursued at Bayfront Park. She further asked about the vote on the Park and Recreation Commission and Mr. Steffens said that he believes the votes were unanimous.

Council Member Winkler asked about bonding if the County sales tax measure were successful. A number of communities are looking at that as a dedicated revenue source against which they could issue revenue bonds. Council Member Duboc asked about a staff recommendation with regards to Kelly Park, and Mr. Steffens said that there is potential for that park. One full-sized soccer field could not be placed there, but other fields could be included. It would involve removing the new parking lot and a plaza area around the restrooms. Two new picnic areas would be moved, and if a natural turf field was installed the fields that are there could be extended. If an artificial turf field is installed, the existing field would need to be removed. It would maximize the hours of use but would also minimize the maintenance cost. It would result in one full-sized baseball field and a slightly smaller than full-sized soccer field. Council Member Duboc asked if an EIR would be needed, and Mr. Steffens said that would have to be a Council decision.

Council Member Duboc asked if the SES report was presented to the Parks and Recreation Commission and Mr. Steffens said no. Mayor Pro Tem Fergusson asked additional questions for clarification of the Kelly Park layout options. Council Member Cohen asked questions about Kelly Park in regards to the timeline to get approvals from the appropriate agencies. Staff said that if difficulties in the process are encountered, it could certainly add time to the process. Mayor Pro Tem Fergusson pointed out that the EIR process and neighborhood objections could also extend that period. For Kelly Park, the estimate is 24 months. Council Member Cohen also asked particular questions in regards to Kelly Park alternative two and the possibility of expanding the property boundaries, but based on their analysis, it would not fit with the buffer for the out-of-bounds area.

Mayor Jellins asked about the utilization of the Kelly Park fields, and Mr. Steffens said they are under utilized and not fully booked for team play. Mayor Jellins asked what possibility if any exists for the development of full-sized fields at Flood Park. Mr. Steffens said that there are fields at that park now, but he does not think it would be feasible to add new fields because of the large trees. In addition, the park is not owned or maintained by the City.

### **Public Comment**

Richard Cline, speaking on behalf of the Parks and Recreation Commission, said that they didn't have all the information and so they were unable to make a recommendation at the meeting. Mr. Cline pointed out that the prioritizations for measure T are firm, and the gymnasium is next on the horizon. He asked Council for more time to make the right decision.

Heyward Robinson said that he was also at the Parks and Recreation Commission meeting, and he did not see the staff report. He feels that there is an opportunity to build a full-sized field at the Burgess Center. He said that instinctively it would be much cheaper to remodel Kelly than to develop Bayfront Park, and he had particular questions with regard to breaking the cap at Bayfront Park.

Rob Silano, also a member of the Parks and Recreation Commission, said that cost, size and time are the three factors being dealt with. Bayfront will be expensive and will involve regulatory issues. He would like Council to consider alternative three at Kelly Park.

Elizabeth Lasensky asked why when the Sand Hill Road project was being negotiated there were no fields suggested for that area. She also asked about the maintenance cost for Bayfront Park. Finally, she believes traffic would be an issue because there is only one way in and one way out.

John Slater addressed the Council about Kelly Park being an easier option. He also addressed the issue of the contract with the other four cities when Menlo Park took over the landfill. He believes the voters should be informed, and he would estimate that 60% of the users are from Redwood City.

Carol Taggart referred to a letter she sent to Council outlining the concerns she has with the proposed playing fields at Bayfront Park. She recommended a wildlife educational center as an alternative. She does not understand why consideration would be given to changing an enormously successful environment that means so much to so many people.

Anne Moser believes Council does not have enough information to place the matter on the ballot. She opined that long-term maintenance costs are unknown. She commented that Redwood City is looking at what uses may be replacing the salt fields. She suggested the creation of a regional sports facility for everyone's benefit.

Karl Vonder Linden spoke about the lack of a geological report, and he said that he is surprised that it was missing. He believes the costs have been under-estimated.

Don Brawner opined this is a maneuver to get votes on the ballot during an election for City Council. He shared concerns about traffic and asked why the fields have to be full-sized. He asked why staff did not negotiate land with other land owners.

Robin Winslow-Smith does not support placing the matter on the ballot because people will not get the full picture. Ms. Smith mentioned that the area will get one million more people over the next 25 years, and open space will be far more valuable than playing fields.

Eileen McLaughlin referred to a map that is being published by the salt pond project. She supports improvements that can be made to the Bayfront Park with funds coming into the Park, and there is even the possibility of working with Redwood City toward regional improvements. She does not support a ballot measure.

Nancy Borgeson thinks it is a bad idea to present to Menlo Park voters the choice of multi-million-dollar sports fields some four to five years in the future or nothing. Given that the fields east of 101 are under-utilized now and that the drive time to Bayfront Park for many Menlo Park schools on weekday afternoons could be 30 to 40 minutes, it is not necessarily true that if you build them, they will come. She believes Kelly Park should be investigated further.

John Boyle said even if fields are adjacent to each other, they often can't be used at the same time. He can't imagine that the Kelly Park neighbors would put up with more traffic. He stressed that people should not lose sight of the fact that it would be roughly 10% of Bayfront Park.

Lindsay Bowen pointed out that it would be an advisory measure on the ballot. He supports it and hopes that people look at future growth and plan ahead.

Elias Blawie opposes placing this on the ballot because he does not think that it has been reasonably considered or carefully studied. He believes that the Council majority diverted \$2 million of money from Measure T that was slated for school field improvements and has failed to work along with the management of the City in its utilization.

Henry Riggs said that there are political aspects to the debate, but the staff report and the SCS document deserve much more credit. If the conclusion is reached that one or more full-sized, lighted fields are needed, then land should be added to the parks and recreation system.

*Council took a break from 9:19 p.m. until 9:31 p.m.*

### **M/S Duboc/Winkler to place this on the ballot as an advisory ballot measure.**

Mayor Jellins asked for an explanation regarding the statement that the Council had misappropriated \$2 million in Measure T funds, which had been determined for upgrades or improvement of sports fields at local schools but had been used for cost overruns for other development projects. City Manager Boesch stated that he believed the project that was being alluded to was the Hillview Field renovation project, which the school district and City mutually agreed to delay pending their ongoing master planning effort. Mr. Boesch said that the Council has not misappropriated funds.

Mayor Pro Tem Fergusson asked about the issue of breaking the cap at Bayfront Park, and Mr. Miller stated that it can be done with prudent controls and is subject to regulatory approval. It is commonly managed in the industry. Mayor Pro Tem Fergusson also pointed to questions about the costs that remain unanswered. The consultant responded that the costs are for the landfill grading and capping only and are based on this firm's experience. They do not account for site development elements. Mayor Pro Tem Fergusson asked for more information about the fill, and that will have to be evaluated as part of the environmental review. She went on to say that she found the landscape consultant report to be superficial. Mr. Fletcher spoke about the estimates being in the low range

and that there are a lot of unknowns including environmental mitigation. The intent of the report was to take a look at the feasibility of the project, and the purpose of the range of cost was to cover the unknowns.

Mayor Pro Tem Fergusson said that different criterion was used for different parks in the City. She had asked for a comprehensive study of the feasible places and a rating of fields as well as a list of all potential sites. She doesn't feel that all possibilities were explored and in particular the option of lighting for the fields. Staff responded by saying that they haven't ruled lighted fields in or out of any site, but they simply gave an opinion as to the four sites that were studied. Council Member Duboc commented that through the years there have been hundreds of people who have stated the need for sports fields, and Bayfront Park needs to be considered. The consultant said that sports fields can be done at Bayfront Park, and there may be options that the staff has outlined to gain additional fields as well. In fact, the sales tax increase can only be used for new sports facilities. Council Member Duboc believes it is time to move forward and develop solutions to the need for sports fields. There are these fictitious fields out there that the City hasn't even purchased, and the land itself could cost up to \$70 million. She said that even if they go with Kelly Park, they will lose existing fields for two years. She would like to know the will of the voters, and she believes an advisory ballot is the best possible process. Council Member Winkler asked City Attorney McClure to explain an advisory election, and he explained that it is non-binding on the City or staff. She believes that only Bayfront Park will offer full-sized fields, and most of the park will remain as it is.

Mayor Pro Tem Fergusson stated her belief that it had been a perfunctory process, and the Commissions were not used. Bayfront Park is a precious resource and she believes that this project will rip the heart out of it. The cost guidelines are very loose, and there are not even maintenance cost estimates. In her opinion, if a measure is placed on the ballot, of course people will say yes, but it is not giving the voters a realistic choice. Council Member Cohen said that when he said he would support an advisory ballot, he assumed a sound process would ensue utilizing the Parks and Recreation Commission. He believes this was not done properly, and this is a politically-motivated action to garner support for the current Council majority.

Mayor Jellins recalled 1998 when the predecessor Council passed a measure intending to ban the use of gas-powered leaf blowers. He said that one can never know what happens in the give and take of politics. He has been working on this for the last eight years, is very familiar with the process, and knows what the discussions about play fields have been. He is also acutely aware that any proposal to change in any way the use of Bayfront Park has and will in the future meet with stiff and vehement opposition. Mayor Jellins agreed that there are many technical, environmental, regulatory and good neighbor issues associated with this, but he believes the Council should go to the voters to make sure the public has a voice since it is a political matter.

**A roll call vote was taken and the motion carried 3-2 with Fergusson and Cohen opposed.**

Mr. McClure said that if there are Council Members who have suggestions for alternate wording for the ballot, they can submit it to him in the next twenty-four hours.

2. Review of Community Opinion Research regarding a possible tax measure and direction to staff.

Assistant City Manager Seymour explained that the City is more than four years into a structural budget deficit created by declining revenues and increasing costs. A variety of short and long-term strategies have been implemented to address the imbalance. To understand the community's views, the City embarked on an unprecedented process to engage residents and local businesses to get their input on resolving the deficit. The City learned what services were a priority for people and what trade-offs they would be willing to make. A combination of net cost reductions and taxes was the favored solution. Assistant City Manager Seymour explained how they then went through the RFP process, and the purpose at the meeting is to present the survey methodology and findings.

Brian Godbe and Brian Murray with Godbe Research provided the report including the results of the voter portion of the study, the business version of the survey and the conclusions. The research objective was to identify likely voter support for placing a tax measure for general City services and identify the tax threshold at which it would be supported along with key features and arguments of the

measure that would resonate with voters. They also wanted to identify support within the business community.

The results of the survey showed that the top issues were fire, preserving the environment, improving education and maintaining library services. The lowest rated issue was preventing local tax increases. When the actual language on the ballot was read to individuals, there was 64% support. In terms of the tax rate, support at a rate of 3% was fairly similar to 4%, which was 52%. At 2% it was 69%, and at 1% it was 73%. Voters were more likely to vote for the measure if the funds were going to go to police services, emergency preparedness, library services and maintaining City streets. At the level of \$8 per month on \$200 worth of utility bills, 41% stated that knowing this calculation they would be more likely to vote for the measure, at 3% there was 46% support, at 2% again 46% and 51% support at the 1% level. After the survey questions, the support for the measure did fall from 64% to 60%. In terms of a business license tax and parcel tax, the support for a \$350 parcel tax was 25%, and support for an increase in the business license tax to approximately double its current rate was at 30%. The business survey was conducted via mail, and 36% of the businesses said they would support the measure and 32% opposed. As far as what the funds would be used for, the business survey ranked police services first followed by maintaining City streets and maintaining storm drains.

Council Member Duboc asked how they went about distributing the surveys and whether or not they were trying to find a certain statistical representation. Mr. Murray said surveys were sent to every business that had employees, which was an effort to eliminate the venture capitalist firms. Every business had the opportunity to fill out and return the survey, but unlike the voter's survey, which has a wealth of detailed information that you can segment the survey on and weight it based on, the business list doesn't have that available. It is just a random self-selection, which is basically who returned it.

Continuing on with the business order, the top issues that came out as arguments against the tax were that the tax would support a costly City pension program, the tax put a disproportionate burden on businesses, and increased business taxes in today's economy would chase business away from Menlo Park. Similar to the voter survey, after the businesses were presented with some features of the measure, some arguments in favor and some arguments opposed, they were asked if they would support the measure. Support dropped from 36% to 30%, and based on the error rate that could be as high as 39% and as low as 21%. Businesses were also asked about other tax rates in the business survey as in the voter survey. Support at 3% and 2% was fairly similar to the 4% rate at 35% and 36% respectively. Support fell at the 1% rate to 23%. As far as the parcel tax and increasing the business license tax, the parcel tax support was similar to the UUT. A \$350 parcel tax had 36% support, which was the same as the 4% UUT on the initial ballot test. Support at \$280 was 39%, and for \$180 it was 36%. Support fell again at the lowest level of \$90 to 23%. Support for increasing the business license tax came in at the lowest at 17%.

The conclusions based on the two portions of the study are that there is adequate voter support for a utility user's tax to be placed on the ballot. It also shows that it can be as high as 4%. If the Council does decide to place the measure on the ballot, the language should reflect the ballot language that was used in the survey. The general City services that the money would be used for should be stated, and the order of those services should follow the survey results in rank order. In addition, there should be substantial communication run by an independent campaign committee in order to maximize success. Outreach to the business community is going to be important based on the results of the business survey. What the business survey is really saying is that it is a critical constituency in Menlo Park and potentially one that could be involved in a negative campaign. The independent effort must happen and time must be spent reaching out to the business community.

Council Member Cohen asked about the various businesses that were surveyed. He questioned whether the company had been in contact with Mr. Johnson regarding what businesses are in Menlo Park, the size of them and the nature of their business before conducting the survey. They did obtain a list of businesses, but they were not allowed to obtain information as to the size, annual revenues, or anything of that nature. Council Member Cohen also had a list of cap provisions on the user utility tax in various nearby cities. He wanted to know if any questions were asked of the respondents as to whether a cap would be important. Mr. Murray explained that to do that in a survey isn't going to



provide very useful data. Reaching out to the individual 25 businesses that are listed and speaking to them is probably the more appropriate way to deal with the cap issue. In the list of cities, Council Member Cohen noted a reduction in the tax rate in Palo Alto from 5% to 3% and then again to 2% when the bills exceed certain amounts. Council Member Cohen asked if they would suggest reaching out to businesses to investigate the desirability of such a cap and Mr. Murray confirmed.

Council Member Winkler said that she requested the cap information because she is not only concerned about the opposition that businesses might mount against the process, but she is concerned about the fact that a major effort is being undertaken to attract businesses to Menlo Park and wonders what this may do to prevent them. In addition, it makes her very uncomfortable to suggest to the populace that they should support the tax or else the police and fire programs will be cut.

In conclusion, City Manager Boesch pointed out that this really is a step further down the path that the City began over a year ago, and while the consideration of raising taxes is a very serious matter and a decision that should not be taken lightly, it has become clear to staff that in Menlo Park there is both the need and opportunity to do so at this time in order to provide the services that the community has said that they want. Mr. Boesch said that the City has been in a budget-cutting/budget-balancing mode now for in excess of four years using a variety of strategies including cost cutting, fee raising and most recently the use of general fund reserves in order to achieve that balance. Although there are certainly more cost-cutting measures that could be employed, the budget that the Council adopted just a few short weeks ago is not in balance in the amount of almost \$2 million. Some of the harder choices that were put on the table Council decided to delay action on in order to receive the results of the survey work and the cost allocation study as well as the consideration of whether or not to privatize childcare services. There is no doubt that there is a need for the City to take the necessary steps in order to achieve a truly balanced and sustainable budget. What has been heard is that the community recognizes and values the services that are provided at the levels they are currently provided, and in all three of the efforts to receive community feedback, the citizens have said that taxes are a part of the solution. Mr. Boesch also stressed the importance of speaking with a unified voice.

### **Public Comment**

Spence Leslie provided an overview of his company and how he has supported many of the City's initiatives. His utility costs for Menlo Park are \$8 million year. A 5% utility tax would be \$400,000 a year, and a 4% tax would be \$327,000. He asked that some cap be placed on the tax, and he said that he is in the midst of attracting various businesses.

Henry Riggs said that he certainly has \$70 to contribute annually to the City, but the business impact was not clearly presented in the BAC and it was not discussed in the roundtables. Once taxes are enacted, they rarely go away and businesses are concerned about a UTT.

Terry Kent said that the City has been working for the last three to five years to improve the business environment that has been negative when it comes to businesses locating in Menlo Park versus the other peninsula cities. He hasn't seen anything that really evaluates the impact this may have on businesses coming in, and he believes that really needs to be a consideration. His other concern is regarding the survey and whether it is a good representation of the Menlo Park businesses.

John Boyle spoke as a former member of the BAC pointing out that a lot of time was spent trying to study and understand the impact on the Menlo Park budget. The consensus among most of the committee members was that the best thing that could be done was to do business development and grow the business revenue tax base over time as the number one priority. He suggested that first the City needs to worry about whether it is the right thing to do and then worry about how to sell it.

Riko Mendez, representing local SEIU 715, encouraged the Council to move ahead with the UUT. Menlo Park has had to make some difficult and serious decisions with regard to cuts including freezing positions, cutting services, contracting out facilities and conduct costly surveys in order to fill a \$2.9 gap in the budget. This is a chance to increase revenue on a continuous basis, which would allow the community to continue to enjoy City services. He pointed out that the surrounding cities already have a UUT of between 3% and 7%.

Elias Blawie does not believe that this has had adequate study or review. He thinks it is probably not the way to solve a longer-term structural problem with the budget. He talked about the union negotiations that are under way and hopefully through the collective bargaining process and other processes for the non-union employees, the City will be able to work out something within the means of the City budget. He suggested that there needs to be consistency in putting issues before the voters.

Fran Dehn, Executive Director of the Chamber of Commerce, took issue with whether or not the responses were representative. She received a number of calls asking whether it was a legitimate survey. She understands why the City would not want to be identified as funding the survey for one reason or another, but there was no identification of the consultant's company on the survey itself, only on the return envelope. In her opinion, utilities were not well-defined so people didn't understand how to calculate what their increased cost might be.

City Attorney McClure and City Manager Boesch provided input on the time frame that must be considered. As a result, it was decided that the meeting would reconvene July 19, 2006, at 4:30 p.m.

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**

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

Elias Blawie said that in terms of the Measure T funds that were utilized from the school field projects, he cited previous meetings and reports to substantiate his claim that there was misappropriation of funds.

**Motion by Jellins to adjourn the meeting until 4:30 p.m., on July 19, 2006.**

**K. ADJOURNMENT – the meeting was adjourned at 11:40 p.m. to July 19, 2006 at 4:30 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of November 14, 2006.