



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES
ADJOURNED MEETING FROM
July 18, 2006 to Wednesday, July 19, 2006
At 4:30 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers**

MEETING CONTINUED FROM TUESDAY JULY 18, 2006

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 other City staff.

REGULAR BUSINESS

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

Mayor Jellins introduced the item saying that Council heard public comment on the matter the night before but he invited further public comment. There was none. Mayor Jellins acknowledged a memorandum prepared by the City Manager and for the purpose of discussion made the following motion:

M/S Jellins/Cohen directing staff to come back at the next regularly scheduled Council Meeting with an ordinance proposing a Utility Users Tax (UUT) that would include: leveling the tax at 3% for electricity, gas, water, telecommunications, and video but include exemptions for low income residents. The ordinance will not have a sunset provision but a cap of \$50,000 is included. In addition the Council, by super majority vote, could suspend the UUT for 280 days.

Council Member Cohen added that he would like to include a sunset of four or three years and exemption of those utility users who have installed solar generated power on their property. Mayor Pro Tem Fergusson stated that she sees a benefit to taxing primarily the consumptive utilities as opposed to telecommunications and cable TV. She wanted to know what the impact of that would be, and Finance Director Augustine said it would be roughly 20%. She suggested that the public may appreciate the tax being structured in such a way. Council Member Winkler said she has a different approach, and the City should be striving to cover its deficit with this tax. Consequently, it would have to raise \$2 million. She sees a cap of \$500 per month and feels very strongly about that to make Menlo Park a business friendly community. She also thinks that it should sunset in two or four years, and therefore a temporary suspension is not necessary. Council Member Winkler suggested that a company or individual be given a choice of paying \$500 a month or paying the assessment as it applies to each utility so that the person who chooses to pay the cap would not have a utility user tax. Staff stated that could be done through the issuance of a Notice of Exemption and that there would be some administration expense to it.

Finance Director Augustine stated that typically caps are set very high and regulated by the City. If it is a lower cap, the utility user must show that they exceeded the cap and a refund is processed by the City. City Manager Boesch expanded upon the reasons that the staff had come up with the \$50,000 cap. His expectation is that if the cap was substantially lower, in order to achieve the revenue goal the tax would have to be 4%. The burden would then essentially be shifted back to homeowners and others who are not going to qualify for the maximum.

Mayor Jellins said that he is skeptical that with a \$6,000 yearly cap per user the City would be able to raise sufficient income. Council Member Duboc addressed comments from the public the previous night about their desire to roll some of the revenue into business development. She likes the list of utilities covered, and it gives the City more wiggle room as the telecommunications is 25%. She thinks the Council has to

keep in mind that a majority told them they didn't want this to facilitate costly employee pension programs. She wanted to know if there is any way to direct the tax along a similar vein as the proposed tax increase for the parks. However, that cannot be done as it would then be a special tax, which would require a two-thirds vote. If there is a confluence of support on certain Items from both businesses and residents perhaps that would avoid the problem of an organized resistance. Mayor Jellins pointed out that takes place by way of the campaign. Council Member Cohen stressed that simple is the way to go. A self-enforcing law is the best law, and he is against regressive taxes. He does not object to a cap, but he thinks any business in Menlo Park can be satisfied by comparing to Redwood City's burden.

Discussion took place regarding whether to require a super majority or simple majority vote to modify or suspend the tax. Mayor Jellins would like to keep the rate lower. He added that in terms of the goal staff estimated for every 1% \$800,000 would be generated in revenue. To just achieve the \$2 million target, it would require 2.5% across the board. If caps and exemptions are put in, the revenue number gets smaller so to hit the target the percentage needs to go up. Staff pointed out that without specific numbers and knowing what will be included and excluded it is hard to predict the gain. Council Member Cohen reiterated that the simpler it can be done the better.

Mayor Pro Tem Fergusson spoke in support of the motion. Council Member Winkler believes the City needs to look at different ways other than just more taxing. Council Member Duboc said the Council must be careful and show to the voters that the Council is not just proceeding to do what the voters said they didn't want. A \$2 million cap is a way to show that it is being done in good faith, but it would be a significant accounting cost to administer that.

Clarification on the motion:

M/S Jellins/Cohen to direct staff to return with an ordinance at next week's meeting introducing a UUT that: 1) states a 3% to 4% range to include the full range of utilities but also includes as an optional analysis of what would occur if consumptive utilities are taxed at 1% higher than non-consumptive utilities (this does not include a low income PG&E-based exemption). Staff to analyze a cap at the high end of \$50,000 annually and at the low end of \$6,000 annually. The ordinance should allow for a sunset provision and include a suspension or reduction by vote of the then sitting Council and whether a super majority or simple majority is required will be subject to further discussion.

City Attorney McClure explained that there will be language in the Ordinance that allows the Council to make changes in the Ordinance so long as it does not increase the tax or impose a new tax. Council Member Winkler explained that to her mind all of the utilities are consumptive, and she would like an analysis of it without separating the utilities. She would like to see an analysis of the \$500/month cap, and she wants the goal to be \$2 million. Her assumption is that the City will grow its way out of the deficit over time. Mayor Pro Tem Fergusson supported a spirit of compromise and unanimity.

A vote was conducted on the motion, and the motion carried unanimously.

PUBLIC COMMENT #2 (Limited to 30 minutes)

Hank Lawrence would like to see the City provide Business Development Manager Johnson with more resources to recruit people into the business community to actually increase the tax base. He also suggested open competition on the provision of services so the City can award those services to whatever entity can provide the best value. The tax must not be used to provide relief to the public employee unions.

K. ADJOURNMENT – the meeting was adjourned at 5:48 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of November 14, 2006.