



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

**Tuesday, August 29, 2006
7:00 p.m.**

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

6:30 p.m. CLOSED SESSION (First Floor Conference Room – Administration Building)

1. Closed Session pursuant to Government Code Section §54956.9 regarding San Mateo County Superior Court Case No. CIV 439361 – Mr. & Mrs. Irwin Derman vs. the City of Menlo Park.
Attendees: David Boesch, City Manager; Kent Steffens, Director of Public Works; William McClure, City Attorney; Dan Siegel, Assistant City Attorney.

Reconvene in Open Session and Report on Aforementioned Closed Session.

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

ROLL CALL – Jellins, Fergusson, Cohen, Duboc, Winkler

STAFF PRESENT – All present

REPORT FROM CLOSED SESSION – None

PLEDGE OF ALLEGIANCE

A. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

1. There are three vacancies on the Parks and Recreation Commission. The deadline for receipt of applications is Thursday, August 31, 2006.
2. Commission Reports:

Fran Dehn thanked everyone for their patronage in the Connoisseur's Market. She addressed the Council and spoke about a new publication of the Chamber of Commerce. Lastly, she spoke about the Golden Acorn Awards at the September 21, 2006 at the Stanford Park Hotel and the various nominees including the Mayor.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation declaring September as Literacy Month in Menlo Park.

Mayor Jellins presented the proclamation to two members of the Menlo Park Project Read, Roberta Roth and Kristi Breisch.

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

Elizabeth Lasensky read a memorandum sent by City Clerk Vonderlinden on a petition submitted to her on August 8, 2006. Ms. Lasensky read: "The petition pertains to Bayfront Park and the heading of each signed page reads: 1. Save Bayfront Park, Menlo Park's Open Space on the Bay. To Mayor Jellins and members of the City Council, Bayfront Park, a public open space accessible to all, is enjoyed by many diverse users for walking, running, cycling, dog walking, kite flying, bird watching, photography, orienteering and picnicking. The trails and vistas of San Francisco Bay and the Peninsula are unique to the western shore of the Bay. We, the undersigned, respectfully request that the City of Menlo Park cease further negotiations to lease part of Bayfront Park to a commercial golf developer that would restrict the open public access to less than half of the park." Ms. Lasensky said the petition gathered 2,200 signatures in favor of keeping Bayfront Park as is.

D. CONSENT CALENDAR

1. Community Development Agency adoption of resolution no. 288 authorizing a budget amendment to appropriate \$142,000 of Redevelopment Agency 2006 Refunding Bond Fund for the Onetta Harris Community Center Roof Replacement Project and authorizing a project budget of \$142,000 for construction, contingencies, engineering, inspection, construction administration, and testing. A contract to State Roofing Systems, Inc. was awarded in the amount of \$109,239 for the construction.
2. Authorization for the Community Development Agency Executive Director to execute a master agreement for contract real estate services for the sale and resale of Below Market Rate (BMR) residences with Re/Max Today and their agent Renee Daskalakis, through June 30, 2010.
3. Adoption of resolution no. 5700 authorizing the destruction of certain records in the Administrative Services Department.

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

F. REGULAR BUSINESS (*taken out of order*)

1. Status report and possible direction regarding further steps in the Request for Proposal process for preschool and school age childcare services at the Menlo Children's Center.

Audrey Seymour, Assistant City Manager, gave a project update and provided details on the bid analysis. Ms. Seymour explained the calculations and the staff review; the committee members also conducted a project review. During the last meeting on August 23, 2006, the committee decided it wants to study the matter further. The next steps in the process are to hold interviews and obtain additional information. She outlined the options and asked for direction.

Council Member Winkler criticized the intimidation tactics used in an anonymous letter provided to Council. Council Member Winkler asked Mr. McClure to comment and he said people have a right to free speech. She asked that the letter be in the public record. Council Member Cohen asked if the bidders had considered the transportation issue and Ms. Seymour said that the committee members shared concerns about the cost of staffing this part of the program. Council Member Cohen asked if the RFP included rent and Ms. Seymour said that was asked of respondents, but was not a requirement.

Ms. Seymour said that eight of the nine committee members selected the City of Menlo Park's proposal as their first-ranked choice. Council Member Duboc said that special interests can intimidate and violate the rights of people. She believes this issue cannot move forward before Council passes the following motion.

M/S Duboc/Fergusson to treat every person who comes before the City of Menlo Park with dignity and respect. We will not condone and will actively discourage personal and professional assaults, attacks that besmirch the reputation of well-intentioned businesses and disintegrate into character assassination.

Public Comment

Lara Hoyem believes it is time to stop the childcare RFP process and award the contract to the city. She believes that we should find other ways to fund and house the program.

Eric Schwimmer urged the Council to stop this process now and cited five reasons. He believes the city's bid was the best.

Brendan Roark said that, initially, the numbers were not correct, so in his opinion the licensing violations are of concern and the RFP voted 8-1 for the city's proposal. He agreed that anonymous communications are not the correct path. He urged Council to stop the RFP process.

Meagan Carabetta shared her concerns about the Council focusing on money but not on the welfare of the children. She said that so much money is spent on other things, but the children's welfare is not being taken into consideration.

Jeff Young does not find the letter a determining factor on the RFP issue. He asked why the Council did not look into subsidizing childcare.

Jeff Staudinger, with time donated by Olivia Ward, spoke about the issue of 8 violations: 6 serious ones in 3 years, which are referenced in the union handout. Mr. Staudinger said that the Building Kidz bid should be discarded. He said these violations were fully documented by State inspectors. He wants Building Kidz removed from further consideration and asked Council to vote against this.

Dan Andersen said that he has children and believes this should be dropped because of the minimal savings and the anonymous communication is reproachable.

Anne Moser said that she was troubled by comments made by Council Member Duboc because it seemed that when her issues are questioned, she drops the subject.

Elias Blawie said that the dollars are not significant and the quality of the program the city currently has speaks for itself. He said that in previous projects, such as the pool, the City did not charge rent. He finds that two Council Members used valuable Council time on a political speech. He expects the Council to discuss the issues on the agenda.

Mr. McClure said that the motion would be out of order because the only matter before Council is the childcare RFP process.

M/S Cohen/Fergusson to postpone the RFP process until the end of the calendar year.

Mayor Pro Tem Fergusson said that this is clearly an issue of ideology versus practicality. She does not find the cost savings figures significant and the risks involved in privatization are high. She said we can expect higher turnover with lower wages. She added that there are many talented parents who take advantage of this program and she believes that childcare is fundamentally business development because it attracts people. She believes enough time and energy has been spent on this.

Council Member Winkler wants to carry on this discussion in another meeting. Council Member Duboc does not believe that there has been a fair comparison. She believes that the savings could be up to \$332,000. Council Member Duboc believes there are issues to explore. Council Member Cohen said the ballot statement was co-endorsed by and believes that John Boyle was the only one that voted for Building Kidz. He believes that this was a filibuster that denies peace of mind for the parents and co-workers. He asked the Mayor to shelve the issue for the remainder of the year. Mayor Jellins said the Childcare Committee had questions about the current proposals and said the established protocol contains additional steps intended to sort out which company would best provide services. He expressed dismay that there weren't more applicants to choose from, particularly given the wonderful facility and the parents who have confidence in staff. Mayor Jellins said that getting an applicant involved and then cutting the process was unfair. He would like more answers and then have the Council decide whether it wishes to move forward.

Mayor Jellins said no action can be taken and either the process will continue or be tabled to a specified date.

Alternate motion:

M/S Jellins/Duboc to continue this approximately three weeks (October 3, 2006) with direction to staff to gather responses to the questions set forth on page 6 of the staff report.

Vote to substitute:

Motion carries 3-2, with Cohen and Fergusson opposed.

Vote on the motion:

Motion carries 3-2 with Cohen and Fergusson opposing.

2. Consideration of state and federal legislative items. None.

E. PUBLIC HEARING (*taken out of order*)

1. Consideration of a request for a General Plan amendment, zoning ordinance amendment, rezoning, planned development permit, major subdivision, Below Market Rate Housing Agreement, heritage tree removal permit, and Environmental Impact Report to construct a mixed-use development, including 135 residential units and 22,525 ft² of commercial space on a 3.45-acre site located at 550-580 Oak Grove Avenue and 540-570 Derry Lane.
(Resolution no. 5701)

Megan Fisher, Assistant Planner, presented the staff report outlining the proposal before Council. Staff outlined the various deadlines. Mayor Jellins asked that staff comment on the letter from Ms. Petitjean and staff asked for additional reviewing time. Robert Steinberg of Steinberg Architects said the goal is to create a welcoming and memorable space: an open villa concept with a series of courtyards, views into the community and a buffer from the Caltrans Corridor. Blake Derry said his family has worked and lived in Menlo Park for over 50 years. He spoke on behalf of the family and thanked many people.

Council asked who will reside there and Mr. Pollart answered single people in their twenties and thirties.

Public Comment

Brady Gallagher said that he hopes to save Fosters Freeze and that he had a petition with about 800 signatures supporting keeping Fosters Freeze. He thanked everyone who helped him with the signatures.

Jean-Pierre Pascal supports this development and he owns the café across the street. He believes this is a good project for the city and the people.

Anne Moser spoke in favor of having any kind of activity in that area.

Elizabeth Lasensky, supports this project and finds it vital. She would like to revive the El Camino Real Corridor.

Vincent Bressler said he did not know why such a project would be approved given the developer's underestimation of the parking situation and the shortfalls of the report. He added that children will definitely be moving in, contrary to what has been stated.

Peter Colby said planners in this project should consider traffic flow and agreed with Fosters Freeze being an historic landmark.

Michael Gullard urged the Council to engage a review of the entire El Camino Corridor.

Faye Mellos spoke in favor of the project and said the ideal resident there would be empty-nesters like her and her husband.

Chuck Bernstein spoke against the project because he believes it violates the General Plan. He commented that it is too dense and did not see why the City would approve a project that has no returns.

Elias Blawie, with time donated by Morris Brown, opposes the project because it does not fit the zoning and he read from the zoning designation. He believes this is piecemeal zoning and he supports more retail.

David Speer agrees that this area is a major gateway to Menlo Park.

Council took a break at 9:48 p.m. and returned at 10:00 p.m.

Chip Taylor, Transportation Manager, said the Derry project would not add traffic and that ingress and egress had been analyzed. The crosswalk across Oak Grove was analyzed as well and a light will be installed there to alert drivers to pedestrians. Council Member Winkler asked about the Garwood Way

parking study and Mr. Taylor answered that a study will treat the area as a whole rather than just that street. He recommended a consultant be hired to examine the parking situation.

Mr. Pollart commented that all the residences will be air-conditioned. Mayor Jellins asked about the storm drainage issues, to which Kent Steffens, Public Works Director, responded that runoff is equal to current levels and he outlined a couple of mitigating factors in the project. Mayor Pro Tem Fergusson expressed concerns about the project's resulting density and added the following main issues: trash pick-up area to be on the property and not on public domain, which is subject to staff review, could result in fewer parking places; include a walkable swale and some kind of green way; and the interior courtyards are not publicly accessible.

Mayor Pro Tem Fergusson wondered whether there was a risk for the City in having to buy back Below Market Rate (BMR) units and Mr. Pollart said there were funds earmarked if that scenario should occur, but that it was a short-term investment in any case and not a risk. He added that it would only be an issue in terms of reselling the units, not with initial buyers. Mayor Pro Tem Fergusson then asked if there was a plan for gating the shared parking. The answer was there will be parking for tenants and guests of the commercial space, which will be accessible to the public from 7 a.m. to 11 p.m. daily. There will be enforcement by a building manager to prevent CalTrain riders from parking in this space. Mayor Pro Tem Fergusson commented that if the same land use approvals are extended to 1300 El Camino, leverage would be lost with the developer and she asked for a consensus from the Council on this issue.

M/S Jellins/Duboc to accept the recommendations from the staff report.

Mayor Pro Tem Fergusson reiterated her aforementioned concerns and added the following: entertainment parking use for the Park Theater – shared use; restrict the General Plan and zoning amendment to the Derry project; and, restrictions of public access to the gated parking area.

Council Member Winkler asked about condo fees for BMR. Mr. McClure said they pay the same fees. She was comfortable with the issue. Mayor Jellins said he was comfortable with the initial resolution without revisions from Mr. Pollart. After further discussion on the gating plan, Mayor Jellins concluded that the gating plan is subject to staff review with a condition and appropriate language that ensures a connection with a future project at 1300 El Camino. As for the gated parking area, it was agreed that not less than 142 spaces will be built.

Mayor Jellins said this project represented a great moment for the City, but expressed concern about the development project catalyzing more development and what form that would take. He mentioned the developable area on the western side of El Camino, which would face similar challenges as the Derry project. In light of the fact that parking for patrons of the Park Theater will need to be shared with surrounding residences and businesses, the Mayor requested a proffer from the developer for the public's benefit in an amount that would allow the City to begin land use studies of the adjacent properties. Mr. Pollart proposed that if the City agreed to go down to 134 parking spaces, with the caveat that a parking study would be conducted one year after being fully leased on whether that was enough, they would return to 142 spaces in the gated area should 134 prove insufficient, he said the developers were willing to proffer \$100,000 for the public benefit.

M/S Jellins/Duboc to approve the staff recommendations as the base for the motion including the amendments provided in the August 29 staff report, with direction to staff on the gating issue subject to staff's assured commitment to 1300 El Camino; give staff flexibility on the gating requirements; the applicant shall perform a parking study one year after full occupancy of the commercial space and increase the minimum number of spaces, not to exceed 151 spaces, if determined necessary as a result of the parking study. There shall be provisions for an unimpeded swale, subject to review and approval by the Director of Public works. The temporary trash enclosure shall be located outside the public way. The applicant shall pay the City of Menlo Park \$100,000 to fund a land use study of properties on the west side of El Camino to facilitate development of those properties. The timing of this study shall be scoped

by staff subject to review and approval by the City Council. The sum shall be paid to the City once the City Council has awarded a contract for preparing the study of development in that area.

Motion carries 4-1, with Cohen opposed.

G. WRITTEN COMMUNICATION – None

H. INFORMATION ITEM – None

I. COUNCIL MEMBER REPORTS

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

K. ADJOURNMENT – the meeting adjourned at 12:12 a.m.

Respectfully submitted,

Silvia M. Vonderlinden, City Clerk

Approved at the City Council meeting of December 12, 2006.