



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, October 10, 2006

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 – Jellins, Fergusson, Cohen, Duboc, Winkler

Staff present - David Boesch, City Manager; William McClure, City Attorney; Silvia Vonderlinden, City Clerk. Other staff was present in the audience.

PLEDGE OF ALLEGIANCE

There was a suggestion to have the order of the agenda rearranged and have the Tyco item be heard before the appeal. There was consensus on following this approach.

A. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

1. Commission members and Chamber of Commerce reports.

B. PRESENTATIONS AND PROCLAMATIONS - None

C. PUBLIC COMMENT #1

No speakers for Public Comment #1.

D. CONSENT CALENDAR

1. Authorization of the City Manager to enter into an agreement with Wohlford Consulting in an amount not to exceed \$47,750 to provide a City Wide Cost Allocation Plan, User Fee Study and Hourly Labor Rate Study.
2. Adoption of Resolution No. 5708 authorizing the installation of a "No Parking" zone on the West Side of Santa Cruz Avenue between Sherman Avenue and Sharon Road.
3. Authorization of the Public Works Director to accept the work by Vanguard Construction for the Fiscal Year 2005-06 Sidewalk Repair Project.
4. Authorization of the Public Works Director to accept the work by Taurus Roof Services, Inc., DBA Waterproofing Associates, for the Sand Hill Road Reservoir No. 1 Roof Replacement Project.
5. Adoption of Resolution No. 5709 authorizing the City Manager to execute a contract with the State of California Department of Education to reimburse the City up to \$2,436 for instructional materials and supplies at the Belle Haven Child Development Center.
6. Approval of the Special City Council Meeting minutes of April 19, 2006 (attachment); the regular City Council Meeting of April 25, 2006 (attachment); the Study Session of May 2, 2006 (attachment); and the

City Council and Community Development Agency, and Joint Powers Public Financing Authority Meeting of May 9, 2006.

M/S Duboc/Fergusson to approve the Consent Calendar as presented. Motion carries 4-0-1 with Council Member Cohen absent.

Council Member Cohen arrives at the Council Chambers.

F. REGULAR BUSINESS (item taken out of sequence)

1. Discussion of and possible direction on a General Plan amendment, rezoning, and sales tax revenue sharing-cooperation agreement related to the 21.98-acre Tyco property located at the southwest corner of the intersection of Bayfront Expressway (Route 84) and Willow Road.

David Johnson, Business Development Manager, presented the report. He introduced two representatives from General Motors and other interested parties. Mr. Johnson mentioned a letter from Tyco to GM announcing its interest in selling approximately 20-acres. Mr. Johnson spoke about the loss in revenues from the auto sector.

The Haven Avenue site was discussed and Mr. Johnson explained the challenges with pursuing that area. The Tyco site emerged as an opportunity because there is one property owner for the whole area and there are fewer environmental unknowns. He covered other reasons why the Tyco property is a good prospect. He explained the current situation and the agreement that is being negotiated by the parties involved. Staff explained the due diligence period activities and what those entail for the City of Menlo Park. Mr. Johnson outlined the benefits to Tyco, General Motors and the City of Menlo Park of the proposed deal and he believes this is a win/win situation for all parties involved. The next steps were covered in some detail.

Mr. Gentry, with GM, addressed the Council elaborating on his company's interest in being represented in this market.

Spencer Leslie from Tyco addressed Council and reiterated his interest in pursuing this project.

Council Discussion

The Council expressed an interest in providing direction to pursue this matter and that it come back to Council with more concrete action steps which may include a policy decision. A Council Member asked about figures presented by staff and Mr. Boesch provided details. Environmental issues were discussed and Tyco answered questions about the current remediation and testing that is going on at the site. This has been a process that has been going on for many years. The vision for the site was discussed and one Council Member wanted staff to elaborate on how to incentivize business/retail in that area. Council discussed GM's plans for different products and if hybrid vehicles were part of the plan.

Jim Gentry clarified that GM is aware of the need for economical and efficient vehicles.

Council asked about internet sales and Mr. Gentry provided details.

The issue of signalization of the Bayfront intersection was discussed in the context of a broader traffic plan for that area.

Council asked staff about revenue projections. Mr. Johnson explained how staff based its assumptions on information provided by GM. Staff added that it is hard to predict revenue levels because the product lines have not been selected yet.

The Mayor asked for public comment.

Elias Blawie spoke about the need for more studying and to conduct a market check.

Dennis Plante supports this plan and hopes it comes to fruition.

Council posed questions about the franchise agreements. William McClure, City Attorney, provided details on what is permitted and not permitted under the franchising and state laws.

Mr. McClure explained that the motion could read to “enter into negotiations and bring back an agreement with a timeline that is feasible for the parties involved.”

M/S Jellins/Duboc to approve the staff recommendation. Motion carries 5-0.

Mr. McClure clarified that the proposal before Council is a refined proposal and there has been some discussion on the matter and what would be a fair deal for all parties.

Mayor Pro Tem Fergusson supports moving forward with this.

M/S Duboc/Fergusson to give direction to staff to write into the agreement that GM will develop the 8 1/2 acres of the property as soon as possible. Mayor Jellins believes the motion is unnecessary since staff understands the direction. The motion was withdrawn by Council Members Duboc and Fergusson.

2. 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.

None.

E. PUBLIC HEARING

1. Consideration of an appeal of the Planning Commission’s decision to approve a Use Permit revision and variances at 1981 Menalto Avenue for the construction of a new, one-story dwelling unit with access from an alley that runs between Elm Street and Walnut Street. (Staff Report #06-181)

Council Member Winkler recused herself because she lives close to the property.

Thomas Rogers, Assistant Planner, provided the staff report explaining details about the project and the appeal. Council Member Cohen asked about the zoning ordinance and variances as applicable to this project. Council discussed the original plan and staff provided information on the original proposal which was a two-story unit and no variances.

The Chair of the Planning Commission, Harry Bims, addressed Council and explained the vote of 5-1 from that body. He provided the reasons for the Planning Commission's decision.

The appellants addressed Council and expanded on the reasons for the appeal.

Mayor Jellins opened the Public Hearing.

Stephanie Zeller opposes this project because the alley would be used as a sole access. She pointed out the problems with that approach.

Jim Lucas spoke about the 10-foot set back being proposed and he opined that it is hard to maneuver with a car.

Matt Henry said that he thinks Ms. Harbottle has been through a lot with her project. He questioned how disconnected one staff person is from the item.

Raymond Meyer spoke about the alley and he walks there almost everyday. He is opposed to the building project because it would interfere with the character of the alley. He read a letter from Sandra Drake.

Linda Webel said it was a weed overgrown valley and now it has been paved it is tidy and is charming. Ms. Webel said that half the area is gravel and half paved. She supports the project.

Robert Chopect representing Kristin Powell said that there has been no change since the January 2005 decision.

Diane Mavica with time donated by Eileen Dugail said that the main issue is the alley access. She is not opposed to development but this application does not meet the Council's intention. She said that 50% of the residents in the alley are appealing this project. She does not believe staff's integrity should be questioned.

Horacio Teron lives on the alley and he believes it is everybody's responsibility to take care of it. He believes this is a policy issue that should not be looked at on a case by case.

Lou Deziel speaking as an individual believes there are new items since the meeting on January 2005. He said that the Fire District has made its position clear versus the generalities they used at the meeting of January 2005.

Tom Jackson said that he is directly behind the applicant, two doors down, and he has never seen a car down the alley. He said that he cleans the alley regularly. He welcomes Ms. Harbottle's application.

Lupe Harbottle said that she is Michelle's Harbottle and is here to support her. She said that she supports her daughter's project and she believes it would be better to have a garage through the alley.

Michelle Harbottle, the applicant, believes her project is reasonable. She said that with the variances she would be able to offer a reasonable compromise especially because of the one story home. She believes she is trying to do what is right for the neighbors.

Richard Li is surprised that this is before the Council. He opined that he was a victim of the current planning process. He said that the facts have been discussed ad nauseam and enough hearings have taken place.

Dick Poe supports the applicant's project and hopes Council will support Ms. Harbottle's project for reasons of equity.

M/S Jellins/Duboc to close the Public Hearing. Motion carries 5-0.

Council Discussion

Chief Aus was asked to clarify the position of the Menlo Park Fire District. Mr. Aus provided details about the previous position of that entity and its current assessment of the situation.

Council Member Cohen asked Chip Taylor, Transportation Manager, about the alley access. Mr. Taylor said that the width of the alley is a concern and it does not allow for two way traffic. He said that this could create new intersections and the area was not designed for that. Mr. Taylor said that another concern is the fence and the lack of visibility for residents and pedestrians.

Mayor Pro Tem Fergusson asked Mr. Bims about mitigating the traffic issues.

Mr. Bims responded that the Planning Commission discussed particular steps that could be taken to mitigate the traffic concerns such as lowering the fence heights and trimming the vegetation.

Ms. Heineck, Community Development Director, said that if the private owners are in compliance with the zoning ordinance then staff has little power over it.

Mayor Pro Tem Fergusson asked about the use of the alleys. Mr. McClure explained details on the history of the alley ways. Cumulative impacts were discussed and Mayor Pro Tem Fergusson asked Mr. McClure about setting a precedent and he said that the approval of one house is categorically exempt and it does not set a precedent.

Council took a five minute break at 9:55 p.m.

The Council resumed the meeting at 10:00 p.m.

M/S Fergusson/Cohen to grant the appeal and adopt the findings that are attached to the staff report as attachment B.

Motion fails 2-2 with Jellins and Duboc opposing.

Mayor Pro Tem Fergusson said that a key component is the safety issues associated with the alley. Council Member Duboc will not support the motion and she does not think the safety issue of the alley way is bigger than access through Menalto.

Council Member Cohen said that he remembers a meeting with Ms. Harbottle, Mayor Jellins and himself to try and reach consensus. He believes that the ultimate decision will please the applicant but not half of her neighbors. He is saddened that a compromise was not reached.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEM - None

I. COUNCIL MEMBER REPORTS

Council Member Duboc is saddened about the comments made regarding Planning Commissioners.

Council Member Cohen said that Council Member Duboc and two other Council Members appointed the current Planning Commission.

Mayor Pro Tem Fergusson commented on what she said are hecklers that are attacking referenda signers.

Mr. McClure said that staff is aware and that specific direction and training is being provided to the Police Officers involved.

Mayor Pro Tem Fergusson attended the opening of the Opportunity Center in Palo Alto. This is a center that provides services to homeless individuals and family. She mentioned that Mayor Jellins had given many hours of pro bono services to this Center and she recognized him for that. Mayor Pro Tem Fergusson presented a picture of the new Opportunity Center in Palo Alto to Mayor Jellins for its placement at City Hall. Mayor Jellins thanked her and said this has been the result of much cooperation between various entities.

J. PUBLIC COMMENT #2 - None

K. ADJOURNMENT - the meeting adjourned at 10:28 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the City Council Meeting of December 19, 2006.