



**CITY COUNCIL  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

Tuesday, October 24, 2006

7:00 p.m.

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

Item G2 was added.

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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 Teamsters 856 (PMA) representing Police Sergeants, Local 715 Service Employees International Union (SEIU) and the American Federation of State, County, and Municipal Employees Local 829 (AFSCME). Parties present: David Boesch, City Manager, Bill McClure, City Attorney, Labor Attorney Emily Prescott and Glen Kramer, Personnel and Information Services Director.

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

The Mayor announced there was no action to report from the Closed Session.

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

1. Commission members and Chamber of Commerce reports.

Fran Dehn spoke about holidays and she invited the public to attend various upcoming events.

Mayor Jellins said that the Council has supported events organized by the Chamber of Commerce and he invited the public to attend these.

**B. PRESENTATIONS AND PROCLAMATIONS - None**

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

Brian Black, with the Stanford Lincoln Mercury dealership, announced an upcoming mixer in conjunction with the Chamber of Commerce.

Marilu Serrano spoke about candidates to the City of East Palo Alto and the School District and shared her views on the various people running.

Shirley Chiu believes Team Sheeper is offering a program that is enjoyed by many. She supports certain candidates and outsourcing as a means to ensure revenues.

Hank Lawrence spoke about sales tax revenues and the current budget situation. He read from a local newspaper and spoke on other election matters.

Elias Blawie asked residents to vote for those who have respect and behave properly. He believes there is a serious sales tax problem and he is not satisfied with the leadership of the last four years.

Nick Naclerio commented on what he believes are positive aspects of the last four years. He is glad to hear that there is a surplus in excess of \$1.3 million but he opined that there are still long term challenges.

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

1. Approval of the minutes for the City Council meeting of June 6, 2006 (attachment)
2. City Council approval of the design of the Willow Road Improvements Project; Community Development Agency Board award of a contract for construction of the Willow Road Improvements Project to JJR Construction, Inc., in the amount of \$369,000; and Agency authorization of a budget of \$430,000 for construction, contingencies, testing, engineering, inspection, and administration. (Staff Report #06-188)
3. Authorization of the City Manager to execute the following for the San Francisquito Creek Bonde Weir Alteration Project: an agreement with the National Fish and Wildlife Foundation to receive a grant in the amount of \$178,000; an agreement with Acterra for a subcontract in the amount of \$70,000 from a National Oceanic and Atmospheric Administration Community-Based Restoration Grant; and contracts with Northwest Hydraulic Consultants in the amount of \$51,049 for Design Services, Olberding Environmental, Inc., in the amount of \$29,500 for Environmental Permitting Services, and David J. Powers and Associates, Inc., in the amount of \$21,800 for environmental review services. (Staff Report #06-189)
4. Authorization of the Public Works Director to accept the work performed by Joseph J. Albanese, Inc., for the Onetta Harris Community Center Landscape Improvement Project. (Staff Report #06-190)
5. Award of various contracts to various vendors and authorization of a budget totaling \$253,126.92 for the purchase of five police patrol cars, a Public Works F-350 truck, four Public Works compact pickup trucks, the purchase and installation of police car emergency equipment, the transfer of computers for the new police vehicles; the purchase and installation of a dump bed and lift for the F-350 truck. (Staff Report #06-191) **(Item Reconsidered at a Later Time)**
6. Authorization of the Public Works Director to accept the work performed by Golden Bay Construction, Inc., for the 2005 Belle Haven Overall Street Improvements Project. (Staff Report #06-197)

#### **Item D7 pulled**

7. Approval of a transitional funding strategy for Other Post Employment Benefits and establishment of a designation of the City's General Fund Balance in the amount of \$1.3 million as of June 30, 2006. (Staff Report #06-199)

**M/S Cohen/Duboc approve Consent Calendar items D1 through D6. Motion carries unanimously.**

#### **Discussion on item pulled D7**

7. Approval of a transitional funding strategy for Other Post Employment Benefits and establishment of a designation of the City's General Fund Balance in the amount of \$1.3 million as of June 30, 2006. (Staff Report #06-199)

For the benefit of the public, Finance Director Augustine explained details on Other Post Employment Benefits (OPEB). Council discussion included a suggestion by the Mayor to wait and get additional information from CalPERS and review the matter at mid-year review.

Mayor Pro Tem Fergusson asked Ms. Augustine questions about the specifics of the current budget and the operating surplus. Mayor Pro Tem Fergusson mentioned that the gap between the sustainable revenues and sustainable expenses is still there. She asked additional questions of staff. Mayor Pro Tem Fergusson mentioned that she is concerned that the OPEB was not included in the budget deficit.

Council Member Duboc believes the current budget situation is an accomplishment and she is happy about it. She thanked staff for its diligence. Ms. Augustine explained some of the savings which pertained to reduced payrolls and expenditure savings in the 2005-06 fiscal year. When asked when the City needs to address the OPEB liability, City Manager Boesch explained that the GASB requires the city to deal with this OPEB liability in the 2007-08 fiscal year. Council Member Cohen supports the staff recommendation and Ms. Augustine provided details of what it entails.

Mayor Jellins invited public comment.

Chuck Bernstein said that he was a member of the BAC (Budget Advisory Committee) and he is a proponent of a balanced budget. He believes that this is similar to an IOU that is being issued to people. He supports a defined contribution pension plan.

Hank Lawrence supports a two-tier contribution system that separates the previous and existing employees from new employees.

Nick Naclerio opined that while the City has a budget surplus there is a structural imbalance caused by what he thinks are employee expenses being bigger than revenues.

**M/S Jellins/Duboc to have staff return to the Council at the mid-year review and present a range of options to fund the currently unfunded OPEB liabilities and ongoing OPEB costs.**

Mayor Pro Tem Fergusson asked for a point of order and a recess.

Council took a brief recess at 8:15 p.m.  
Council resumed at 8:17 p.m.

**The amended motion includes that staff come back with a range of options to fund the OPEB.**

Council Member Cohen believes the upcoming election is influencing tonight's deliberations. He believes staff is asking to set the money aside and he supports it instead of waiting to take action. Mayor Pro Tem Fergusson clarified that there is an operating surplus which is not a real surplus. She finds the OPEB liabilities to be an appropriate operating expense. Mayor Jellins commented that he prefers with a different approach because he would like to see all the options before Council.

**Motion carries 3-2-0 with Fergusson and Cohen opposed.**

**Consent Calendar D5**

Mayor Pro Tem Fergusson asked Council for a brief reconsideration of Consent Calendar item D5. Mr. McClure said that the Council could discuss if it wanted to reopen or revoke and

Mayor Pro Tem Fergusson would like to have questions and comments. Mayor Jellins suggested having this addressed at the November 14, 2006.

Mayor Pro Tem Fergusson believes it is time to stop buying gasoline powered vehicles and consider alternative fuel options to stop global warming. She is hoping staff can look into this matter when purchasing city vehicles and find alternative fuel vehicles. Council Member Cohen supported reconsidering the matter. Mayor Jellins supports having Mayor Pro Tem Fergusson work as a subcommittee with staff to arrange for this in the future. Mr. McClure said that for this particular contract staff would have to rebid the project. Mr. Boesch commented that for compact trucks this might be a possibility but certainly not for police patrol vehicles or heavy trucks.

Kent Steffens, Public Works Director, explained that staff needs the cars but since this is a replacement of existing vehicles it is not an extremely time sensitive issue. Mr. Steffens offered that staff could look into alternative fuel vehicles and hybrids for the four compact trucks. Council Member Cohen said that next time he will ask more of staff.

**M/S Winkler/Fergusson to reconsider the matter and spend some time discussing it. Motion carries 3-2-0 with Jellins and Duboc opposing.**

Council Member Winkler asked on which category staff could find a more fuel efficient and environmentally safe vehicle. Mr. Steffens said that it would be the compact pick up trucks.

**M/S Winkler/Fergusson to have staff purchase the vehicles suggested on the staff recommendation but have staff investigate the options around fuel efficiency for the compact pick up trucks. Staff to bring this matter back. The motion includes a proportionate amount of the contingency being taken out. Motion carries 5-0-0.**

## **E. PUBLIC HEARING**

1. Consideration of an appeal of the Planning Commission's decision to deny a request for variances to encroach into the required front and corner side yards at 699 Central Avenue for an addition to an existing single-story, single-family residence in the R-1-U (Single Family Urban) Zoning District. (Staff Report #06-193)

Mayor Jellins recused himself from this matter.

Thomas Rogers, Assistant Planner, presented the staff report and explained why staff did not approve this matter and made the finding.

Marcia Bever, the applicant, thanked the Council for the opportunity to present. She provided details on the hardship items and explained that she has zero neighbor opposition.

Council discussion

Chip Taylor, Transportation Manager, answered questions about the matter. Council Member Cohen asked details about the placement of the garage.

The applicant explained the light pattern in the area and its implications.

Public Comment

Sean Curran is the neighbor to the right and he is in agreement with the addition.

Mayor Pro Tem Fergusson closed the public hearing.

**M/S Duboc/Cohen to uphold the appeal and grant the variances making the appropriate findings as requested by staff and the standard recommendations. Motion carries unanimously with Mayor Jellins absent.**

City Attorney McClure said that Mayor Jellins had given him a note saying he was not going to return to the dais.

## **F. REGULAR BUSINESS**

1. Approval of an agreement with Infrastructure Engineering Corporation in the amount of \$499,986 for engineering consultant services for the Supplemental Emergency Water Supply Project, and authorization of a budget of \$570,000 for consultant services, contingency, and staff administration. (Staff Report #06-195)

Kent Steffens, Public Works Director, presented the staff report.

Council discussed the matter asking questions of Mr. Steffens and he provided more details on all the items.

Chuck Bernstein had questions about the possibility needing emergency water. He also asked about the various water companies that service residents.

Jack Morris, former Mayor, said that this project has been in the works ever since he has was on the Council. He believes the City should review the plans for the pump house carefully.

Fran Dehn said that she recalls the Willow option having more capacity. She asks that City staff work with CalWater to make sure that all residents have access to this protection.

Council discussed the matter and asked more questions of staff.

**M/S Winkler/Duboc to approve the staff recommendation.  
Motion carries unanimously with Mayor Jellins absent.**

Mayor Pro Tem Fergusson believes there were some good comments made by the public and her hope is that these will be taken into consideration.

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

## **G. WRITTEN COMMUNICATION**

1. Memorandum from City Attorney Bill McClure regarding the Referendum Process on the Derry Lane Project. (attachment)

City Attorney McClure presented a brief report explaining details about the process.

Mayor Pro Tem Fergusson opened the floor for questions.

Council Member Duboc would like to have a closed session and Council Member Winkler thinks that it might be a good idea is to have a legal expert who knows about election law. Council Member Winkler supports a closed session at the time the petitions with an expert present.

Council Member Cohen would like to take it one step at a time and after the closed session decide what needs to occur. Mayor Pro Tem Fergusson opened the floor for public comment. There was no public comment.

Mayor Pro Tem Fergusson commented that her preference is to wait and hear from the elections office so that the city doesn't spend money prematurely. A compromise offered by Council Member Duboc is to have Mr. McClure identify an attorney in case the need arises.

**Council consensus was to hold off to the closed session and then decide what to do but have someone lined up.**

2. Correspondence from the Pollock Financial Group regarding an appeal with respect to the application of a conditional use permit in connection with a proposed development at 321 Middlefield Road. (attachment)

Mr. Boesch explained that the Pollock Group presented a letter asking for an appeal. It is requested that this come back on November 14, 2006.

Linda Heineck, Community Development Director, said that the application was approved by the Planning Commission on a 4-2 vote. Council Member Cohen does not find this a legitimate appeal because the Planning Commission ruled in favor of this applicant.

Council Member Cohen believes that the Pollock Group is taking away other people's rights and so he cannot support this.

**Public comment**

Chuck Bernstein said that this is about the possible change in the Council.

Elias Blawie believes that is improper and this is an attempt to move this forward.

Hank Lawrence agrees with Elias Blawie but he thinks the same Council will be here after the election.

Council asked questions of staff.

City Attorney McClure said that if this is not acted upon this will come back within 45 days.

Council concurrence was to have this matter follow the normal timelines.

**H. INFORMATION ITEMS - None**

1. Review of the City's Investment Portfolio as of September 30, 2006. (Staff Report #06-192) None

**I. COUNCIL MEMBER REPORTS**

Council Member Duboc commented that Menlo Swimmers is offering discounts to city employees.

Mayor Pro Tem Fergusson shared that she attended the ground breaking ceremony of the new facility at the Stanford Linear accelerator.

Council Member Cohen said that as a point of information he asks on what basis did the Mayor leave.

Mr. McClure said that he had reported on the matter earlier.

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

**K. ADJOURNMENT – the meeting adjourned at 10:50 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of December 19, 2006.