



**CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, November 14, 2006
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

Closed Sessions
start at 5:00 p.m.
in the
Administration
Building.

5:00 p.m. CLOSED SESSIONS (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 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. 6:30 p.m. - anticipated starting time for the second Closed Session

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2. Closed Session pursuant to Government Code Section §54956.8 regarding the Police Annex/City Service Center agreement. Parties present: William McClure, City Attorney, David Boesch, City Manager, Terri Molakides, Police Commander. 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 - David Boesch, City Manager; William McClure, City Attorney; Silvia Vonderlinden, City Clerk. Other staff was present in the audience.

The Mayor announced that there was nothing to report from the two Closed Sessions.

PLEDGE OF ALLEGIANCE

B. PRESENTATIONS AND PROCLAMATIONS (item taken out of sequence)

1. Presentation of Environmental Awards by the Environmental Quality Commission.

Richard Stevens, Chair of the Environmental Quality Commission, presented the awards to numerous recipients. He also explained the process for the selection of the applicants. Mr. Stevens was helped by Environmental Coordinator, Dianne Dryer.

The recipients present thanked the City Council for the awards.

2. Presentation of the Wireless Silicon Valley by Joint Venture Silicon Valley.

Mayor Jellins made an announcement about an upcoming Dumbarton Railroad meeting and invited the public to attend. He also announced an upcoming Chamber of Commerce mixer.

Mr. Johnson, Business Development Manager, introduced Seth Feary and explained the purpose of the presentation.

Seth Feary explained that the goal is to cover all of Silicon Valley with high speed, wireless, data network providing working professionals, residents and visitors connectivity using a wide variety of devices.

Mr. Fearey said that the City is working with these various groups and it is positive to see the City of Menlo Park involved. He listed all the organizations involved in this project in Santa Clara and San Mateo Counties.

A. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

1. Commission members and Chamber of Commerce reports.

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

Elias Blawie said that election results are in and it is a time for people to work together. He asks that no actions be taken on items on the agenda because of an impending new Council.

Richard Cline said he is one of the newly elected Council Members and he has a lot of respect for many years of study that has surrounded some of the issues before Council. He thanked the outgoing Council Members for their dedication to the community. Mr. Cline said that Minutes from 2002 showed that the previous Councils asked for no action on major items from outgoing Councils.

D. CONSENT CALENDAR

1. Adoption of Resolution No. 5710 approving a Memorandum of Understanding (MOU) between the City of Menlo Park and Teamsters 856 (PMA) representing the Police Sergeants for the period beginning July 1, 2006 through December 31, 2008. (Staff Report #06-196)
2. Approval of a Resolution No. 5711 amending the City's Conflict of Interest Code and Biennial Review. (Staff Report #06-200)
3. Approval of the minutes from the City Council special meeting of June 13, 2006 (attachment); regular City Council meeting of June 13, 2006 (attachment); Special City Council meeting of June 20, 2006 (attachment); the City Council meeting of June 27, 2006 (attachment); the City Council meeting of July 18, 2006 (attachment); and the Special City Council meeting of July 19, 2006 (attachment).

Item D4 was Pulled

4. Approval of the Council of Cities bylaws revision and authorizing the Mayor to vote on the matter at the Council of Cities Meeting on November 17, 2006. (Staff Report #06-201)

M/S Fergusson/Jellins to approve Consent Calendar items D1 through D3. Motion carries 5-0-0.

Council Member Winkler opposes the City acting on this because she questions the value of this body.

Mayor Jellins provided background on the matter. He also shared some of the changes that have been implemented because of Menlo Park Council Members' input.

M/S Fergusson/Cohen to approve of the Council of Cities bylaws revision and authorizing the Mayor to vote on the matter at the Council of Cities Meeting on November 17, 2006. The motion carried 4-1 with Winkler opposed.

E. PUBLIC HEARING

1. Adoption of Resolution No. 5712 accepting the Fiscal Year 2006-07 State Supplemental Local Law Enforcement Grant (COPS Frontline) in the amount of \$100,000 and approval of a request to use the funds in conjunction with \$93,000 in funds from the Fiscal Year 2005-06 COPS Frontline Grant in accordance with State requirements. (Staff Report #06-198)

Terri Molakides, Police Commander, presented the staff report and asked Council to accept the COPS grants.

Mayor Jellins asked for public comment and opened the Public Hearing. There was none and without objection he deemed the Public Hearing closed.

M/S Cohen/Winkler to approve the COPS grant as requested by staff. Motion carries 5-0-0.

2. Consideration of a Request for a General Plan Amendment, Rezoning, Conditional Development Permit, Tentative Map, Below Market Rate Housing Agreement, Heritage Tree Permit, and Environmental Impact Report to Construct 33 Single-Family Residential Units and Associated Private Street and Common Areas on a 4.5-Acre Site Located at 75 Willow Road. (Staff Report #06-199)

Deanna Chow, Senior Planner, presented the staff report and explained details of what action is before Council. Ms. Chow said that staff does not recommend changing the street width as recommended by the Planning Commission. She referred to correspondence received which raised the following issues: loss of privacy, removal of heritage trees and the proposed density. Council asked questions of staff.

Council Member Duboc asked about the number of hearings that had taken place on this project. Ms. Chow said that there were four City Council meetings and many other commission meetings.

The applicant, Elaine Breeze of Summer Hill Homes, presented the project providing details on the style, landscape and floor plans of the models. Ms. Breeze shared many of the inputs provided by the community and city and how these had been assimilated into the project. Elaine Breeze highlighted the existing context for the project.

Ms. Breeze covered all the meetings that took place on the issue, including three neighborhood meetings with residents from the area. She thanked the community and the various bodies who have studied the project and provided creative input which, in her opinion, made the project better.

She said that the central theme is to preserve the green location and enhance it with housing. She covered the pedestrian circulation plan and the bicycle paths. Ms. Breeze provided an extensive inventory of the trees that exist on site (199 trees) and the ones that are going to be preserved (101). Ms. Breeze addressed traffic concerns and condition of approval 5.1.5. Ms. Breeze showed the various models of the homes and how green building is an option for buyers. Ms. Breeze explained what she believes are the benefits of the project.

Public Comment

Vince Bressler said that two and a half years ago there were meetings in the area but to his knowledge the residents were not invited. He said that they live in a planned community and he believes there is poor coordination between the City and the schools.

JoAnne Goldberg asked Council to heed the project and not pursue another General Plan change. She said that Linfield Oaks wants to maintain its current quality of life.

Kim Paris referred to a letter he sent to staff in May of 2006. He does not support this project because he believes it would be a shame to tear down the existing building.

Frank Carney, with time donated by his wife, said that he does not understand why this commercial site needs to be torn down. Mr. Carney does not understand how this would make sense for current residents when 33 houses are being added. He does not think this project addresses the need for affordable housing. He does not find this a transit oriented project. Mr. Carney said that there were over 200 signatures that were submitted as part of a petition against the project and not much focus has been placed on that.

Mary Boughton with Peninsula Habitat for Humanity is looking forward to a collaborative enterprise with Summer Hill Homes.

Don Brawner, with time donated by Patti Fry, finds the project appealing but he believes this proposal is a violation of the General Plan and he outlined why. He opined the building is too large to be removed and he does not believe that the construction is something he can endure. Mr. Brawner does not support this project and he finds it illegal. He believes the impacts on the neighborhood are too large.

Elias Blawie said that this is an attractive project but he cannot support it. He believes the streets are too narrow and he believes the density should be reduced.

Lawrence Hamel, asked Council to not support this project and to think about it carefully.

Stu Soffer believes that the residents' input from Lienfield Oaks residents was ignored. He opined that the petition was forgotten by Council and it is his view that this is piecemeal zoning.

Jesus Monroy said that he is a local volunteer historian and he believes we are victims of our success. He would like housing for various segments of the population. He believes the community has worked long to try and restore its beauty and he thinks it would be best to slow down.

Mayor Jellins reiterated that this is a Public Hearing. Without objection he deemed the Public Hearing closed.

Council Member Cohen asked questions of the applicant regarding property ownership.

Don Brawner said that it is owned by Cashin and multiple owners are involved.

Linda Heineck responded to Council questions about the history of the property.

Mr. McClure answered Council questions about the General Plan. Mayor Jellins shared his views on the matter of the General Plan change.

M/S Jellins/Duboc to approve the project and the actions listed on attachment A and get language from staff on the width of the roadways and the trees issue.

Council discussed the motion and each Council Member expressed their views. Council Member Winkler wanted to instruct staff to work with Peninsula Habitat and Summer Hill Homes so that the money can be transferred for BMR (below market rate) units. City Attorney McClure provided additional information on how Summer Hill Homes might help Peninsula Habitat for Humanity.

Staff answered questions from Council regarding the streetscape and the other traffic items. Chip Taylor, Transportation Manager, spoke to the issue of the width of the roads.

Mayor Pro Tem Fergusson believes that this is a planned community and it is an elegant one. She believes there is too much neighborhood opposition to the project.

Council Member Cohen thanked the speakers for their comments tonight especially Mr. Monroy. His hope is that we can learn to conserve our resources.

Item 5.1.5 was discussed and Council asked for clarification. Chip Taylor, Transportation Manager, specified that staff is asking for a wider road, more specifically 20-foot wide for the road itself.

Council discussed the matter and asked for input from the applicant. Ms. Chow said that the Planning Commission supported the applicant on this matter.

The amended motion includes the Planning staff working with the applicant to find agreement on the roadway width and preservation of the adjacent tree. The maker and second agreed.

The eucalyptus trees were discussed and Ms. Breeze explained that there are two trees that will remain and the applicant will maintain them until the permits are granted. This item is to be added as a condition of approval.

Mayor Pro Tem Fergusson noted that item 5.23 had a word missing. Staff took note.

The \$100,000 donation/condition of approval was discussed and Ms. Breeze said that this would be done with the first close of escrow. Pending building permit issuance the \$100,000 will be given to the School District.

Motion carries 3-2 with Cohen and Fergusson opposed.

Mayor Jellins asked if Council wished to continue the meeting or not, due to the late hour. Council agreed with taking a five minute break.

Council took a break at 10:25 p.m.
Council resumed.

F. REGULAR BUSINESS

1. Consideration of a Revision to a Conditional Development Permit to Reduce the Off-Street Parking Requirement for an Existing 60-Unit, Multiple-Family Residential Building at 1330 University Drive. (Tabled at the October 17, 2006 meeting of the City Council)

Thomas Rogers, Assistant Planner, presented the report and made reference to some correspondence received. He also explained the revised proposal.

Council discussed the matter.

Mayor Pro Tem Fergusson referred to the proposed revisions. City Attorney McClure explained that the new proposal states that the only alternative would be the replacement of lifts. Council Member Winkler believes that the homeowners have provided a fair accommodation. City Attorney McClure explained the conditions being set forth by the association and the city. Council Member Cohen is satisfied with this approach and he toured the site and agrees that the lifts can be cumbersome. Council Member Cohen supports the applicants' approach.

Robert Steele, the applicant, explained the details of the proposal providing information about the cost and replacement schedule.

Barbara Hariton believes this is a small item compared to other items before Council. Her main concern is the hazard of the lifts.

Joseph Ziony supports the revised application.

Marilyn Kazemi said she enjoyed the Council Meeting and she supports the proposal before Council.

M/S Cohen/Jellins to accept the proposal by the applicant and have the matter come back via Consent Calendar at the Council meeting of November 28, 2006. Motion carries 5-0-0.

Council Member Cohen said that if Mayor Pro Tem Fergusson insists in a funding mechanism then he is okay having it as a friendly amendment.

Mayor Pro Tem Fergusson withdrew her interest in the funding mechanism, after the City Attorney explained details on the matter.

2. Direction Regarding Petitions to Repeal Ordinance Nos. 953 and 954 - Derry Lane Project.

City Attorney McClure explained the items before Council and he outlined the options.

Council Member Cohen asked if this matter could be deferred. Mr. McClure said that there was a conference call this afternoon and both parties (Mr. Brown and Mr. Pollard) wanted to entertain and engage in settlement discussions.

Mr. McClure explained that the format of the petition is the first step and he outlined the legal questions around the petition format.

Jesus Monroy believes that the Council should slow down and that there is a great need for affordable housing.

Elias Blawie supports further conversations on the matter and no action being taken at this time.

Jim Pollart and Morris Brown spoke jointly and Mr. Pollart requested that Council seek a declaratory relief action from a judge. Mr. Pollart said that a mutually acceptable solution might be the way to go on this matter. Mr. Brown said that the goal is to have a compromise but defer the decision on the ruling from a judge until November 28, 2006.

Heyward Robinson asked for clarification on how the settlement would work out.

David Speer said that he wants to know what would happen if a settlement was reached.

Mayor Pro Tem Fergusson asked about the declaratory relief action.

City Attorney McClure said the applicant and the referenda proponent can reach an agreement to approve a modified project, contingent upon the city's approval of the project. City Attorney McClure explained the options that are related to the declaratory relief and the tentative negotiations. Mr. McClure further explained the legal process.

Motion by Council Member Cohen to take no action at this point and table the matter until November 28, 2006. The motion did not receive a second so it was lost.

Council Member Cohen believes that postponing this to the November 28 Council Meeting will allow Council the same options that are on the table now.

M/S Jellins/Cohen to table the item to November 28 for a Closed Session before the Council meeting and then address it at the Council meeting and have the developer and referenda proponents report on their progress as far as negotiations and possibly reaching a settlement. Motion carries 5-0-0.

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

I. COUNCIL MEMBER REPORTS

Council Member Cohen asked his colleagues to consider a Town Hall Meeting at 10:00 a.m. on December 2, 2006 to offer input about future Council priorities.

Mr. McClure explained that if this is an emergency matter then Council could discuss it after a 4/5 vote and placing the matter on the agenda.

M/S Fergusson/Cohen to place this on the agenda and discuss it tonight. Motion fails 2-0-3 with Jellins, Duboc and Winkler abstaining.

Mayor Pro Tem Fergusson asked that this be placed on the November 28, 2006 agenda as a Written Communication.

H. INFORMATION ITEM - None

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

K. ADJOURNMENT - the meeting adjourned at 11:48 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of December 19, 2006.