



SPECIAL CITY COUNCIL
and
COMMUNITY DEVELOPMENT AGENCY
MINUTES

Tuesday, April 24, 2007

6:00 p.m.

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

6:00 p.m. SPECIAL MEETING (Menlo Park City Council Chambers)

ROLL CALL- Fergusson, Cohen, Boyle, Cline and Robinson

Staff present- Interim City Manager Steffens, City Attorney McClure, Acting Assistant City Manager Heineck and City Clerk Vonderlinden. Other City staff was present in the audience.

REGULAR BUSINESS (Continued Item from the City Council Meeting of April 17, 2007)

- I. Discussion and possible direction on revisions to the City Council Procedures Manual regarding meeting procedures. (Staff Report #07-063)

Interim City Manager Steffens reintroduced the item stating that if there were consensus for changes, staff would incorporate the changes and return for formal approval of the revised document.

Regarding the meeting schedule in Belle Haven, the Mayor commented that a variety of opinions were expressed at the previous meeting that ranged from having a structured meeting schedule to continuing the current practice of scheduling meetings as subjects come up that are of interest to the Belle Haven community. Council Member Cline said that although at the last meeting he said that he believed there needed to be more structure around the scheduling of the meetings, he could support the current practice if there was a way to ensure that meetings in the area would be held on a regular basis. Council Member Robinson referred to the success of a January meeting that took place at the Menlo Park Senior Center, especially the social part of the meeting. He suggested a more informal approach for meetings in Belle Haven that includes more listening and opportunities for dialogue, and possibly holding a Council retreat at the Menlo Park Senior Center. Mayor Fergusson summarized that there did not seem to be an interest in changing the current practice but acknowledged that the meetings in Belle Haven are important.

Mayor Fergusson invited public comment. There was none.

Council discussed the agenda packet release day and making staff reports available earlier. Council Member Boyle commented that an earlier release date would be of marginal benefit to him but would have some negative aspects and so was supportive of retaining the current practice. He suggested splitting certain Council decisions and agenda items into a two-step meeting process: 1) discussion; and 2) decision. Mayor Fergusson agreed with the comments from Council Member Boyle but she thought it would be important to not delay taking action. Council Member Robinson commented that many items can be decided in one meeting and suggested that the Mayor should have the discretion to try such approach on an ad hoc basis. He commented that this process should not slow the Council down and that an item could always be continued to another meeting. Council Member Boyle believed it would be useful to know in advance if something would be discussed and voted on the same night or in two steps because it could change the tone of the meeting and the preparation for the meeting. Mayor Fergusson asked Council Members to bring the items that could benefit from a two-step process to the attention of the City Manager through the individual meetings that are held between the City Manager and the Council Members. Council Member Boyle commented that it could be difficult to discern if an item should be considered in two meetings by reading the agenda titles and that it could still be helpful to have early reports on controversial items. Council Member Cline stated his belief that reports on controversial or big issues needed to be released earlier. Council Member Robinson

commented that he supported the current Thursday release of reports, noting the added costs to staff and possible loss of quality in moving to an earlier release date, but stated that the early release of reports on controversial subjects would be helpful. In response to a question, City Attorney McClure commented that if reports continued to be released on Thursday that in a two-step process, the Council and public would have the report for 10-11 days before the second meeting.

Vice Mayor Cohen commented about the local newspaper's "town forum" and wondered if the city's website could produce a similar virtual environment. He stated that he would like a way for people to have a dialogue via the website and he suggested that staff could be responsive to emails that would be received regarding certain agenda items. Council Member Boyle pointed out that while this would be a good idea the Council Members could not get involved in this communication venue and might be perceived as being unresponsive unless there was an explanation that Council Members could not respond. He stated that his preference was to continue to release packets on Thursdays to avoid possible confusion and use the two-meeting approach, but noted that a slight negative was that it would require people to attend two meetings.

Council Member Robinson proposed releasing draft staff reports early to Commissions. Mr. Steffens stated that the current practice and his recommendation is to not release draft Council reports to Commissions, in part because this would not allow for Commission comments to be incorporated into the reports. He further stated that when there is an item of significance, separate Commission reports are prepared. Council Member Robinson said that staff reports were not common in the Parks and Recreation Commission and he expressed frustration with that situation. Mr. Steffens said that limits on staff time would make this challenging and that producing reports for every Commission would not be possible without changes in staffing. Council Member Robinson requested that commission reports be prepared when items are coming before council. Council Member Boyle commented that the problem is when changes are made after the Commission review and that the two-step meeting process could help by providing more time for Commission input.

Mayor Fergusson asked the Council to vote on whether to change the release date of reports from Thursday to Wednesday. The Council unanimously supported the continuation of the Thursday release of reports. She then asked if complex or controversial reports should be released early. The Mayor indicated her support and Council Members Robinson and Cline agreed. Council Member Boyle was opposed to the early release and Council Member Cohen abstained. Interim City Manager Steffens stated that a motion and vote was only necessary if the Council wanted to change the written procedures, otherwise the Council could provide direction on implementing the existing policy. He indicated that it appeared that the sense of the Council was for commission reports to be prepared to the extent it is feasible with current staff resources and that the City Manager would work with staff on this issue.

Regarding Council Members placing items on the agenda, Mayor Fergusson stated that at the previous meeting there appeared to be agreement that the informal method works well. Council Member Robinson stated that he believed the use of the Colleague's Memorandum should be formalized into the procedures manual. **M/S Robinson/Boyle to modify the manual to include language specifying the use of a Council Colleague's Memorandum to request that items be agendized. Motion carries, 4-0-1 with Council Member Cohen abstaining.**

Council Member Robinson asked if the Council should consider a policy about deviating from the written procedures. City Attorney McClure explained that the only way to make the procedures binding was to include them in the Municipal Code so the Council could adopt the manual by ordinance and provide for waivers of the policy by a four-fifths vote. Council Member Robinson noted that this was a larger subject that the Council may want to consider in the future. Council Member Boyle asked if the Council would be more liable to appeals or lawsuits if it did not follow the written procedures as adopted by ordinance. City Attorney McClure indicated that it would depend on the wording.

Concerning the Public Comment portion of the meetings there was consensus to continue the current practice.

Council Member Cline spoke on the topic of listing commission reports on the agenda, stating that he would like the Commissions to be invited to give quarterly reports on activities at the Council meetings. He said that the invitations could be done through the staff liaisons. Council Member Boyle expressed concern that by requiring the quarterly reports, it may lengthen the Council meetings and that it might be better to continue the current practice of allowing Commissions to report when they felt it appropriate. Mayor Fergusson and Council Member Cline indicated that it would be an invitation to encourage participation, but would not be a requirement. Interim City Manager Steffens said that staff could encourage commissions to report on a quarterly basis. Council Member Cline suggested a letter from the Mayor encouraging them to report on their accomplishments for the quarter. Mayor Fergusson agreed with the idea of a letter. Council Member Boyle also noted that Council Liaisons could encourage the Commissions.

Council Member Robinson said that he would like the ability for Council to ask questions of members of the public to help focus the Council's discussions. The Mayor agreed with the suggestion but she was concerned with the time and asked if the subject could be discussed later.

Council addressed the issue of study sessions and, at the request of the Mayor, staff read the current language in the written procedures. Mayor Fergusson stated that there are different types of study sessions and that the wording on the agenda could help clarify the action for the meeting. Council Member Robinson agreed with the current written procedure stating that the sessions need to be about more than just receiving information and that the sessions should be used to work through issues, but that formal action should not be taken. He suggested the use of a facilitator at some meetings. Council Member Cline commented on the difficulty of not sliding from discussion into action. Mayor Fergusson liked the idea of using a facilitator and commented on the importance of maintaining neutrality in the discussions. The Council indicated that for some subjects, staff reports should frame the issues but not provide a recommendation.

M/S Cline/Robinson to continue the item to the regular meeting under Regular Business. Motion carries 5-0-0.

The Special meeting was adjourned and the regular session started. Council took a brief break.

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

Mayor Fergusson spoke about the tragic loss of two individuals and she extended her condolences to their families. The individuals were David Halberstam, Nobel Prize winner/author, who was the victim of a car accident on Willow Road, and a Menlo Park young resident, Daniel Barclay, who was studying at MIT.

PLEDGE OF ALLEGIANCE

A. COMMISSION REPORTS

1. Swearing in of three Bicycle Commissioners and one Planning Commissioner.

City Clerk Vonderlinden swore in the incoming commissioners.

2. Commission members and Chamber of Commerce reports.

Ron Shephard, Chair of the Board of Directors to the Chamber of Commerce, reported on a meeting with the Downtown group where they discussed parking. He mentioned a notice that the Chamber of Commerce sent out and received a 41% response rate. Mr. Shepherd requested that Council consider increasing the downtown parking time to three hours and asked that this be placed on a future agenda. In his opinion inconsistent parking regulations make it hard for residents and visitors to park and shop.

Council Member Boyle suggested that this be referred to the Transportation Commission for a recommendation to Council. Interim City Manager said that if there is a consensus on Council to forward this to the Transportation Commission staff can follow-up. **Council consensus was to refer the matter to the Transportation Commission.**

B. PRESENTATIONS AND PROCLAMATIONS

1. Presentation on the Belle Haven Child Development Center Program.

Mayor Fergusson announced that Kite Day was postponed to Sunday April 29, 2007 at noon at Bayfront Park.

Norman Lorenz, Education Consultant for the California Department of Education, presented the summarized findings from his study on the center. He introduced Teresa Dias a parent who, with the help of a translator, addressed Council on her challenges raising four children. Ms. Dias spoke highly about the program and provided examples of the professionalism and commitment of staff. Mr. Lorenz acknowledged the center for its commitment to families and children. He complimented the innovation and partnerships that have developed at the center.

2. Proclamation celebrating Week of the Young Child April 22-28, 2007. (attachment)

Jose Lopez, the Director of the Belle Haven Child Development Center, was presented with a proclamation celebrating the Week of the Young Child April 22-28, 2007.

3. Proclamation celebrating National Arbor Day April 27, 2007. (attachment)

Mayor Fergusson presented the proclamation to former Mayor Chuck Kinney and other representatives from the Trees for Menlo Inc. organization. John Arnold, President of Trees for Menlo, thanked the Council for the honor.

4. Presentation by Trees for Menlo.

John Arnold, President of the Trees for Menlo Inc., organization presented a report on the focus of the project, i.e. beautifying the El Camino Real. Since the year 2000, over 250 trees have been planted. He said that this was a project approved by the 2000-01 Council. He hopes the Council continues its commitment and makes the completion of this project part of the capital improvement projects.

Dick Poe spoke about the economic value of trees. He mentioned the benefits of this green belt and referred to some research he had done via the internet that emphasized that point.

The landscape architect also addressed Council and said that two-thirds of the project has been completed.

Former Mayor Kinney provided an overview of the project. He thanked the many people and entities that have helped this project move forward. He invited Council for the Arbor Day tree-planting event this Friday at 3:00 p.m.

Council Member Robinson asked about tree watering requirements and the landscape architect provided some answers. Staff stated that the City handles pruning, maintenance and other items. Council Member Robinson and Mayor Fergusson agreed with placing this on a future agenda.

Council Member Boyle agreed with the previous comments and suggested placing this in the context of the El Camino Real plan. Council Member Cline agreed with placing this matter on a future agenda and Interim City Manager Steffens said this would be for consideration with the 2008-09 project priorities.

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

Browte Abraham said that Menlo Park is home to the National Autism Association of America, and provided statistics on the condition. She commended the Police Department for taking leadership on the first responders training.

D. CONSENT CALENDAR

1. Authorize the City Manager to transfer \$4,000 from the City Manager's Operating Budget to provide an increase in the 2006-07 Travel, Meeting and Conference Budget for the City Council. (Staff Report #07-078)

M/S Robinson/Cline to approve the Consent Calendar as presented. Motion carries 5-0-0.

E. PUBLIC HEARINGS - None

F. REGULAR BUSINESS

1. Introduction of an ordinance adding Section 5.68.080 and Chapter 5.69 (Video Service Providers) to the Menlo Park Municipal Code to regulate video service providers that hold video service franchises issued by the California Public Utilities Commission. (Staff Report #07-073)

Silvia Vonderlinden, City Clerk, presented the report explaining that Assembly Bill 2987, the Digital Infrastructure and Video Competition Act of 2006 ("DIVCA"), was signed into law and it changes the franchising and regulatory process for providing cable television and other video services in the State of California. The proposed ordinance is necessary because through DIVCA the City acquired certain rights and responsibilities that may only become enforceable after being set by local ordinance. While the City's current franchise ordinance will remain in effect, amendments and an additional chapter are needed to bring current local regulations into conformance with changes implemented by DIVCA. DIVCA leaves the City's authority to enforce its current cable franchise agreements largely unchanged. The City is authorized to administer the Matrix franchise and the City of Palo Alto is authorized by the JPA to administer the Comcast franchise on behalf of all the member jurisdictions. Ms. Vonderlinden said the Town of Atherton and the City of Palo Alto have adopted similar versions of this ordinance.

Mayor Fergusson invited public comment. There was no public comment.

M/S Robinson/Boyle to introduce the ordinance as presented. Motion carries 5-0-0.

2. Introduction of an ordinance adding Chapter 13.18 (Use of Public Rights-of-Way) to the Menlo Park Municipal Code. (Staff Report #07-074)

Ruben Nino, Acting Public Works Director, presented the staff report. Mr. Nino explained the language in the ordinance and the implications for the encroachment permit process. The codification of this procedure is consistent with the current requirements but additional enforcement language and appeal procedures have been added to address the Digital Infrastructure Video Competition Act of 2006. Council Member Cline asked about notification methods on the arrival of the boxes. Mr. Nino said that the goal is to place the boxes in the least visible place and require the permittee to notify the residents. Council Member Robinson asked about under grounding utility lines and while he understands the cost limitations, he finds that as Menlo Park moves to be a greener City it is good to consider the benefits of such approach.

Mayor Fergusson asked for public comment. There was none.

M/S Robinson/Cline to introduce the ordinance. Motion carries 5-0-0.

3. Council consideration of a State of the City Address for the City of Menlo Park and a Commission Recognition event. (Memorandum) (Staff Report #07-070)

Mayor Fergusson provided context on this issue and spoke about the idea of combining a recognition event and a State of the City address. Council Members Cline and Robinson supported the idea. Council Member Boyle said that in general he agrees with the concept and he likes the concept of an outdoor informal setting. He shared some hesitation about the State of the City speech because of a fairness issue. He also asked if this is setting a precedent and how this would be handled long term. Vice Mayor Cohen supported the event but thought it would be good to get agreement on the speech. He suggested that it might not just be one person's delivery or thinking that goes into the speech.

Interim City Manager Steffens said that in other cities it is a statement from the Mayor and her or his views. Mr. Steffens explained that there is no process for staff to coordinate with the Council what the topics are to be covered in the address. Council Member Robinson sees this event as the Mayor's event. Various tentative dates were discussed and Wednesday May 23 was suggested. Council Member Robinson would like to see this be in lieu of a regular meeting and Council Member Boyle and the Mayor concurred and June 5, 2007 was mentioned as a tentative date. The other suggestion made was to hold it on one of the dates when the interviews of the City Manager will take place.

4. Consideration of state and federal legislative items, including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Item.

Interim City Manager Steffens spoke about Senate Bill 964 and how it would amend the Brown Act. He provided details on how this bill might impact the communications between staff and Council. He asked Council to allow staff to prepare a letter of opposition for the Mayor's signature. Council Member Robinson asked the history around this bill and Mr. McClure said that the legislation stems from a court decision on a case involving reaching a consensus outside of the Brown Act. He said the proposed bill severely restricts the communication between staff and the Council. **Council consensus was to have the Interim City Manager prepare a letter of opposition to SB 964 for the Mayor's signature.**

The item from the Special Meeting was continued.

SPECIAL REGULAR BUSINESS (Continued Item from the City Council Meeting of April 17, 2007)

- I. Discussion and possible direction on revisions to the City Council Procedures Manual regarding meeting procedures. (Staff Report #07-063)

Council continued its discussion of study sessions. Council Member Cline expressed his interest in better defining study sessions. The City Attorney described the difference between presentations for which there is no discussion or feedback as opposed to a study session where there is an opportunity for discussion. The Interim City Manager provided the session on the El Camino Real Study as an example where direction on the process was sought. He explained that in the past study sessions had been used to consider land use proposals and, in some cases, general direction had been given. More recently, staff has scheduled presentations for project sponsors to provide information on land use proposals and then followed those with regular business items where there could be discussion of the proposal. He further commented that study sessions could be used to provide information and give the Council an opportunity to discuss what additional information might be needed to make a decision in the future. He noted that a study session could be part of the two-step process. The Council discussed issues related to the purpose of study sessions, specifically noting that defining the goal of a study session and providing for discussion while avoiding giving informal or formal direction was important. Mayor Fergusson stated that there was no motion to change the written procedures related to study sessions.

Regarding the ending time of Council Meetings, Council Member Cline stated that deadlines need to be firm and that if there are provisions to be able to move deadlines they are likely to be moved. Council Member Robinson stated his preference for the current system of having a deadline. Council Member Boyle stated that he found it awkward to vote on extending the meeting too far before the actual deadline and suggested moving the time of the vote closer to the deadline. He also commented that he believed the meetings should end at 11:00 p.m. Mayor Fergusson noted her effort to end meetings on time and stated her support of the procedure as written. Council Member Robinson stated his support of the current policy but wanted to be respectful of the public's time and the Council's time and believed that business should not be conducted after 11:00 p.m., but that there was a need to get business completed. He commented that management of the meeting was important.

Council Member Robinson asked about Council interactions with members of the public during public comment. City Attorney McClure said that through the Mayor the Council can ask questions of the public, however, if it is a quasi-adjudicatory action there is due process that needs to be followed and if additional information is taken in, then the public hearing might need to be reopened, and both sides might need to be heard. Mayor Fergusson said that it would be helpful to be explicit about the reason for asking a question in order to manage the meeting. City Attorney McClure noted that if Council Members had questions or needed additional information, it could also consider continuation of an item. Council Member Boyle shared concerns about a debate developing with the public and how to manage the meeting process under those circumstances. He asked about the difference between a presentation and discussion and how presentations are scheduled. The City Attorney explained that presentations are usually one-way with some opportunity for Council to ask questions and that usually there is a request that comes to the City Manager and is reviewed by the Mayor and Vice Mayor and if

there is concurrence then the item gets placed on the agenda. Council Member Boyle referred to the Cool Cities item and how one speaker addressed Council for 20 minutes. Mayor Fergusson said that this was during a meeting when there was extended public comment.

Council Member Robinson spoke about the colleague's memoranda and asked how it would work. Interim City Manager Steffens said that to place a written communication on the agenda it would require two Council Members. At that time the Council would decide if this would be on a future agenda and whether there would be staff resources to analyze the issue.

At the request of the Mayor, Interim City Manager Steffens summarized that there was one motion and vote to amend the procedures manual to include the use of a Council Colleague's Memorandum to place items on an agenda. He commented that there had been a good discussion on implementation of the procedures manual and that staff would return with the one revision for ratification.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEM

1. Review of the City's Investment Portfolio for the period as of March 31, 2007. (Staff Report #07-076)
2. Menlo Park Fire Protection District review of single-family residential building permit submittals. (Staff Report #07-077)

I. COUNCIL MEMBER REPORTS

1. Oral report from the Council Subcommittee on El Camino Real and Downtown Visioning Process. (Continued from the City Council Meeting of April 17, 2007)

Council Member Cline shared a mock flyer and outlined what he believes are key messages including that the process should be home grown and adaptive and will require a collaborative leadership effort as well as trust and inclusion from participants. Council Member Boyle outlined a process for a series of symposiums to which residents would be invited. The subcommittee members explained that rushing through this would not be a good solution, so the thought was to include many people and not pre-select the members of the committee. Mayor Fergusson thanked the Council Members for their work. The subcommittee will come back in two weeks with a delineated process, list of subject areas, speakers and a means to allow for the public to submit ideas.

Council Member Robinson referred to the San Mateo Board of Supervisors meeting he attended with the Mayor and the subject was the County's continued participation in the San Francisquito Creek JPA. The outcome was positive since that body approved a contribution of \$98,000. He also reported on the Dumbarton Rail Committee meeting in Union City and said that no options were taken off the table. He would like to know how to go forward with this and he announced that the next meeting would be in June.

Council Member Robinson announced that the San Francisquito Creek JPA would host a full day study session.

Mayor Fergusson attended the Progress Seminar and stated that she found it informative. She also announced that she would be going to Sacramento with the Silicon Valley Group to address State legislators. Mayor Fergusson further announced the next Green Ribbon Citizens' Committee and that she would attend a CETS meeting. Mayor Fergusson announced that the City of Menlo Park is hosting this Friday the Council of Cities dinner at the Quadrus Conference Center.

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

K. ADJOURNMENT – The meeting adjourned at 10:12 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of May 22, 2007.