



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

**Tuesday, July 10, 2007
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 – Fergusson, Cohen, Boyle, Cline (absent), Robinson

PLEDGE OF ALLEGIANCE

Staff present – Interim City Manager Steffens, City Attorney McClure, Acting Assistant City Manager Heineck, City Clerk Vonderlinden. Other City staff was present.

A. COMMISSION REPORTS

1. Commission member and Chamber of Commerce reports.

The Mayor announced that a PG&E representative will attend the next Council Meeting to address recent power outages in Menlo Park.

Bob Steele, Chair of the Bicycle Commission, presented a quarterly report on the priorities of that body. He spoke about the CalTrain lockers, the need for Safe Routes to School at Laurel and Encinal Schools and the fact that many issues broached by that body are outside Menlo Park's jurisdiction. He invited Council to visit the main Library's foyer and enjoy the current display the Bicycle Commission has put together for the benefit of the public.

Mayor Fergusson asked Interim City Manager Steffens about the issue of the CalTrain lockers. Mr. Steffens said that some funding has been put aside for this matter and he will consult further with the Transportation Manager and report back. Mr. Steele suggested communicating with Palo Alto on the matter. Bike racks were discussed and Mr. Steffens provided details. Council Member Robinson spoke about the project priority that includes studying a bike tunnel. Mr. Steffens explained that there is a plan line that is being studied and he provided details on the project. Council Member Robinson would like close coordination with the Bicycle Commission on this matter.

B. PRESENTATIONS AND PROCLAMATIONS

1. Presentation of the Cost Allocation Plan by Wohlford Consulting. (Memorandum)

Carol Augustine, Finance Director, introduced the item explaining that the Study (Full Cost Allocation Plan) was initiated in October, and finalized in May 2007. She provided biographical data on Mr. Wohlford. Mr. Wohlford thanked Ms. Augustine and John McGirr, Revenue Services Manager, for the collection of information. He covered the methodology used and provided examples of how he collected the data. He also outlined next steps but was unable to commit to a timeline. Mr. Wohlford explained how the Study took Departments and broke them into functions. He said that there are many functions and each one was allocated separately to make it as comprehensive and detailed as possible. Subsequently, he took each function and allocated it to the receiving Department. Mr. Wohlford explained that spreading the costs accurately to recipients is an important step in creating ratios. He explained the quality control measures used and said that there were 223 pages of results.

Council Member Robinson asked when the City last did a similar study and Ms. Augustine said this was done in 1997. Mr. Wohlford suggested that this be done every four to five years. Council Member Robinson shared his concern with keeping this plan up to date and Mr. Wohlford explained the options. Mayor Fergusson commented that not all the costs were recovered particularly in the

Community Development Department. Mr. Wohlford said the User Fee Allocation Study will address that matter.

C. PUBLIC COMMENT #1

Elizabeth Lasensky spoke about a new group in town Hometown Peninsula and how it promotes independent businesses alliances and she encouraged the Council to get involved and visit its website at: www.hometownpeninsula.org.

D. CONSENT CALENDAR

1. Re-appointment of Betty Meissner to the Peninsula Library System Advisory Board. (Staff Report #07-116)
2. Authorization to purchase crack-sealing equipment from Tri-American, Inc., in the amount of \$38,516.92; and authorization of a budget of \$40,516.92 for the crack-sealing equipment and contingency. (Staff Report #07-118)
3. Adoption of Resolution No. 5753 recommending that the San Mateo County Flood Control District impose basic and additional charges for funding the Fiscal Year 2007-08 Countywide National Pollutant Discharge Elimination System (NPDES) General Program. (Staff Report #07-120)
4. Approval of the minutes for the City Council meetings of May 15, 2007 (attachment) and May 22, 2007 (attachment).

M/S Robinson/Cohen to approve the Consent Calendar items. Motion carries 4-0-0 with Council Member Cline absent.

E. PUBLIC HEARINGS

1. Consideration of Resolution No. 5754 overruling protests, ordering the improvements, confirming the diagram, and ordering the levy and collection of assessments at the existing fee rates for the Sidewalk Assessment and at a two percent increase for the Tree Assessment for the City of Menlo Park Landscaping Assessment District for Fiscal Year 2007-08. (Staff Report #07-111)

Art Morimoto, Engineering Services Manager, presented the report saying that no protests were received. The Mayor opened the Public Hearing. There was no public comment.

M/S Boyle/Robinson to close the public hearing. Motion carries 4-0-0 with Council Member Cline absent. M/S Boyle/Cohen to adopt the item as recommended by staff. Motion carries 4-0-0 with Council Member Cline absent.

2. Consideration of Resolution No. 5755 authorizing collection of a regulatory fee at existing rates to implement the local City of Menlo Park Storm Water Management Program for Fiscal Year 2007-08. (Staff Report #07-112)

Art Morimoto, Engineering Services Manager, presented the staff report explaining what the fee would cover.

Council Member Boyle asked about the fee for the San Francisquito Joint Powers Authority (JPA) and why it had gone up by 50 percent. Mr. Morimoto said that last year's Corps of Engineers project required additional staff time and that the five member agencies agreed to have a new rate to support this project. Council Member Boyle said that he is struggling with the fact that this is going up 50 percent and even though he believes this might be a fair allocation he is not sure when to push back. Mr. Morimoto explained that the JPA staff provided several options and City management took a close look at those options. Council Member Boyle asked what would happen if some of the other agencies disapproved the contribution increase. Mr. Morimoto said that Menlo Park has already voted at the Board to approve this. Council Member Robinson said that he sits on that board and

originally San Mateo County did not agree with the 50 percent increase but it eventually voted to fund it at this level. He said that one of the requirements is that all the agencies fund at the same level. He said that the reason why this is increasing is because the Army Corps of Engineers funding has not kicked in yet. Council Member Robinson is hopeful that this will allow the JPA to apply for grants and expand its services.

Mayor Fergusson opened the public hearing. There was no public comment.

M/S Robinson/Cohen to close the public hearing. Motion carries 4-0-0 with Council Member Cline absent.

Council Member Boyle asked about next year's budget and his concerns that the budget will continue to increase. Council Member Robinson said that his hope is that this will be a sustainable amount and that this group went through their strategic plan and he does not envision future increases. Mr. Morimoto explained that the hope is that this will not increase much the next year but there may be a cost of living increase. He said that there had been a proposal to add a staff member but instead the funds are being used for a consultant. Council Member Boyle explained that it looks like the assessment collected is short by \$140,000 and he said that long term he is concerned with not having adequate reserves. Mr. Morimoto said that the way the assessment is set up there is a 3 percent annual increase cap. Mr. Morimoto said that Council has approved a study that may provide some options for addressing the levels of fees collected.

M/S Robinson/Cohen to approve the item. Motion carries 4-0-0 with Council Member Cline absent.

F. REGULAR BUSINESS

1. Approval of a letter to the Dumbarton Rail Corridor Project Policy Advisory Committee requesting further information and clarification on the Project. (This item is continued from the City Council Meeting of June 5, 2007. Staff report did not change.) (Staff Report #07-101)

The Mayor explained that there is no new staff report because this item was continued from a previous meeting. Council Member Robinson explained the issue around the Dumbarton Rail Corridor and how this would impact the quality of life of residents and businesses in the area. He referred to the sample letters that staff drafted.

Henry Riggs said he was speaking for those who do not want to block transit but want it done right. He believes this is a good opportunity but he opposes heavy rail and the fact that this does not include electrification. He believes that fossil fuel efficiency has evolved and while he wants transit it has to be ecologically reasonable since it is available on the market.

Mayor Fergusson asked Chip Taylor, Transportation Manager, to speak about the state of the discussions. He explained that CalTrain is trying to use lighter vehicles but that federal guidelines do not allow light rail to be utilized on the heavy rail lines. He added that this process looks like it will take approximately 18 months for approval from the Federal Rail Board. Council Member Robinson said that Mr. Riggs had conversations with CalTrain and that apparently the light rail will not happen. Mr. Taylor said what he has heard from CalTrain staff is that at this point they are not planning light rail because of the cost but this does not preclude it from being added in the future. Council Member Boyle is wondering what the objective of the letter is. Council Member Robinson explained that he would like to see this presented at the next Dumbarton Rail Committee - Policy Advisory Committee (DRC-PAC) meeting by the Mayor or Vice Mayor as an official letter from Council and that it will be part of the record. He believes this letter is a communication from an elected body to a policy making body, and he would like the letter to request a response on the issues that were raised. Mayor Fergusson said she would like to get a dialogue going with the DRC-PAC and so she would like to attempt to influence this policy decision. Council Member Robinson said that as a tax payer he has concerns with this project because, in his opinion Menlo Park will take a disproportionate amount of the impact and he questioned if this is the wisest use of transit dollars.

Council Member Boyle commented that traffic, noise, vibration and mitigation should be added as point six of the letter. Council Member Boyle said that his concern is that this letter is mostly generating a list of obstacles and no positives were included. He voiced concerns that the current tone is not conducive to dialogue. Council Member Robinson agreed with these comments and he thought the tone was critical. He suggested having the Mayor present it in person at the July 24, 2007 meeting. Mayor Fergusson proposed four specific changes to the letter: 1) second paragraph and concluding paragraph to exude more enthusiasm; 2) mention traffic mitigation; 3) add this as a separate or seventh point; and 4) mention grade separations or other mitigations under alternatives. Under other alternatives Mayor Fergusson would like the response to include the possibility of loosening of regulations and specifically request a response from the Board. Council Member Robinson agreed and he thanked the senders of emails regarding this topic. He does not think that at this point, and in the interest of dialogue, stricter language should be incorporated. Mayor Fergusson said she will try her best to attend the meeting but she cannot guarantee because of family obligations. Vice Mayor Cohen said that it is difficult for him to be enthusiastic about this.

Mr. Steffens said that staff can prepare a revised draft letter and consult with the Mayor on final language prior to sending it out. Council Member Boyle suggested that the letter mention that this was a unanimous vote, if that is the case. Vice Mayor Cohen said that in the spirit of consensus he will go along with this approach but he feels strongly about this matter and how rail impacts the City. Council Member Robinson acknowledged those concerns and he wanted the letter to refer to previous correspondence from former Mayor Mary Jo Borak and then Public Works Director Steffens. He said that these letters show that this has been an ongoing concern.

M/S Fergusson/Robinson to provide direction to staff to modify the draft letter as discussed giving the Mayor authority to sign and present it. Motion carries 4-0-0 with Council Member Cline absent.

2. Consideration of the Notice of Preparation (NOP) and initial study for the Environmental Impact Report (EIR) associated with a mixed-use office, Research and Development (R&D), Hotel, and Health Club Project and possible direction on scope of EIR, project description, and project review process. (This item is continued from the City Council Meeting of June 19, 2007.) (Staff Report #07-113)

Thomas Rogers, Associate Planner, provided a brief recap of what occurred at the meeting of June 19, 2007. He said that the scoping session began on that date but because of the late hour Council decided to continue the matter to another date. He said that staff recommends that Council provide an opportunity for additional public comment and that Council provide direction on the project.

Council Member Boyle asked for confirmation that while the fiscal impact analysis is being prepared by the applicant, subsequently the City will prepare an independent peer review of the analysis that will be paid for by the applicant. Mr. Rogers confirmed that this was the process staff recommended.

Mayor Fergusson reopened the public comment period.

Public Comment

Vincent Bressler provided a spreadsheet to the Council which he said was a fiscal analysis of the project and referred specifically to the Housing Element. He focused on the Housing Element impact of this project and what it means to the City. He asked Council to address the housing and parking issues.

Elias Blawie suggested that the Council evaluate the two project sites separately. He did not find the hotel a public benefit and he wants it to stand on its own merit. He opined that Council should consider the bigger picture issues such as the housing, school, and traffic impacts, etc. He opined that there were impacts that are were not mentioned in the staff report.

Morris Brown echoed some of the comments from the previous speaker. He thinks the project is out of scale and it has increased considerably. He said that it is too big and he shared concerns with the impact on the land in between the sites. He did not find this is a transit friendly project because it will

add traffic to the area. Mr. Brown found the project out of scale and he asked Council to ponder if it should even consider it.

Patti Fry said that this is a big project and she suggested Council consider having the scope of the study done in a granular manner. Ms. Fry would like the project sites studied separately and she believes this will have a ripple effect. She believes this is project-driven planning because there is no overall plan for the area. She asked Council to get all the information now and look at the uses and the financial impacts in order to make sound decisions.

David Speer spoke about the need for an independent fiscal impact analysis. He also spoke about the housing needs in Menlo Park. He asked Council to provide guidance to the developer at this point and before a lot of money is spent. He asked Council to be fair and clear about the scope and possibly lowering the scale of the project because of its total impacts.

Mayor Fergusson asked about the Council's role tonight. City Attorney McClure said that the purpose is to give direction to staff on the scope of the EIR as part of the preparation of that document. He said that it is theoretically possible that if the Council had reservations or concerns with the project it would be appropriate to share that message now. He added that if Council has concerns, the matter could be scheduled for further consideration and further information could be requested from the applicant. Otherwise, the City Attorney said, in the absence of any other specific direction, the EIR will move forward based on all the comments made. Vice Mayor Cohen asked if Council could provide direction to staff on obtaining an independent fiscal impact analysis for the project. City Attorney McClure confirmed that Council could give direction to staff to put out an RFP (Request for Proposal) for an independent fiscal impact analysis either parallel or following completion of the other analysis. Mr. McClure said that in commercial projects of this nature costs are borne by the applicant.

Council Member Boyle thanked the public for its comments and he pondered if the EIR should address the ripple effects and repercussions for housing. Interim City Manager Steffens said that the housing needs could be looked at in the EIR using current formulas for determining housing needs. Mr. Steffens did not find it reasonable to add the school impact because it would not be easy to pinpoint the specific number of students and which schools would be impacted. Council Member Robinson explained that a reasonable approach would be to assume that the housing is built where it is now. Ms. Heineck, Acting Assistant City Manager, explained that housing projections are based on what is in the General Plan and a formula from the Association of Bay Area Government (ABAG). She said that the formula for computing housing growth uses different factors and it could change in the future. Ms. Heineck said that a portion of this project might already be accounted for in the current estimated housing needs but staff would need to do further research to make this determination. She said staff could do an assessment based on the current formula.

Council Member Boyle spoke about the fact that these are two non-contiguous parcels and asked about options. Mr. McClure, City Attorney, explained that since there is one application for both sites the City is required to evaluate the total impacts of the project, but nothing precludes Council from requesting two different EIRs. Council Member Boyle would like to see the overall impacts as well as the break down to get clarity on which use is causing which impact. Mr. McClure said that it is the City's EIR report and its contents are fully within the control of the City. Council Member Boyle believes that the cumulative impacts have value and so he would like to keep the two projects together. City Attorney McClure explained that the EIR has to look at the cumulative impacts of this project (both sites) as well as surrounding communities' projects and it needs to look at the "growth inducing" aspects of the project. Staff reiterated that tonight is the best time to look at the alternatives and Mr. Rogers explained the options before Council. He clarified that Council could consider alternatives that might lessen the overall impacts of the project. Ms. Heineck explained that attachment A lists some of the possible alternatives submitted by Vice Mayor Cohen. Vice Mayor Cohen said that he needs more factual independent input to even take a look at this proposal.

Council Member Robinson said that the question was raised about an independent analysis of financial impacts. Mr. Rogers explained staff's position that the peer review has been an accepted approach. Regarding the option of the project having underground parking, staff said that a large

portion of the project is within the Federal Emergency Management Agency (FEMA) boundaries and so it could not be done. Mayor Fergusson asked that the option of studying underground parking not be included, but Vice Mayor Cohen commented that he does not know why this would be infeasible and if that is the case then let it be said in the EIR. Council Member Robinson agreed with that comment. Ms. Heineck said that EIRs look at reductions in density by percentages and that might be a good suggestion for the developer and it is another way to think about alternatives.

There was consensus around the five alternatives listed on page A1 of the staff report. The options referred to were: 1) No project; 2) Conforming build-out under existing regulations; 3) Initially-proposed (2005) project; 4) Hotel-only, no office; and 5) Project with underground parking. Council Member Boyle asked if a different project count be included. Mr. Rogers said that the option of an auto mall would be different from the original application and that it would not be appropriate to make these kinds of wholesale substitutions. The City Attorney said that if the auto mall did not interest the applicant it would be a non-starter. Council Member Robinson referred to comments made by Mr. Blawie and possible impacts on schools, parks, and facilities. Mayor Fergusson said that the users of the project will use Bayfront Park and she would like that to be part of the EIR as well as climate changes. Council Member Boyle asked if the combined effect of the auto mall and this project are going to be evaluated cumulatively and City Attorney McClure confirmed that it would. Mr. Rogers explained that the primary objective of a scoping session is to collect comments for consideration in the preparation of the EIR. Interim City Manager Steffens said that the items mentioned on page A1 to the staff report (the five alternatives) would be included in the EIR. All of the other comments through the public hearing process will also be looked at in detail and discussed with the EIR consultant.

Vice Mayor Cohen commented that his request for an independent fiscal analysis had been ignored. Council Member Boyle said that per the staff recommendation an independent peer review is included where the City picks the person and the applicant covers the cost. Vice Mayor Cohen explained that based on the increased size of this project from over 2½ years ago, and the potential change in the nature of the entire geographical area (from light industrial to knowledge-based workers), it makes him question whether Council is authorizing a complete transformation without an in-depth analysis of such shift. Vice Mayor Cohen would have a consultant selected through an RFP process to do the initial fiscal analysis. Mr. Steffens said that this is feasible but it is different from the staff recommendation, but in any event staff will rely on the applicant for the data and there will be an involvement with the applicant and it will never be completely independent. Council Member Boyle would support the staff recommendation but enlarge the peer review and broaden the fiscal impact analysis. Vice Mayor Cohen reiterated that he believes in the objectivity of an RFP and the fact that it is the best option for the proponent. He wanted to make it clear that that there was no distrust in the applicant but he found this to be in the best interest of the proponent as well as the City. **Mayor Fergusson, Vice Mayor Cohen and Council Member Robinson verbalized their support for an RFP process for the full fiscal impact analysis.**

Mayor Fergusson allowed the applicant to comment and Jennifer Rank, representing the Bohannon Group as its Land Use Counsel, pointed out that the peer review has been started and the consultant has been paid. Ms. Rank spoke about the integrity of the consultant and how the RFP, in her opinion, would just add another layer of work when time is of the essence. Interim City Manager Steffens explained that the peer review agreement has not been signed but the applicant has completed its fiscal analysis and the City has selected a peer reviewer and agreed upon a scope of work. Mr. Steffens reiterated that the contract has not been signed by the City because he awaited Council's direction tonight. Vice Mayor Cohen said he is not going to budge from his suggested approach because of the size of the project and he believes there is too much at stake. He confirmed that he does not distrust the current peer review process but he is certain that an RFP process will lend greater objectivity to the process. Council Member Boyle suggested that the peer review outline be brought back and addressed at a future Council Meeting. Council Member Robinson asked if there were items that staff did not consider and how broad this peer review could be. Staff provided details on the peer review and the fiscal impact analysis. Mayor Fergusson spoke about process credibility and she believes Vice Mayor Cohen sees the RFP process as a way to enhance it.

Council direction was to have staff come back with more information on the Fiscal Impact Analysis process. Mr. Steffens said that staff could bring back the current scope of work and the tentative agreement for Council review, approval and/or revision. Mayor Fergusson asked about requirements for fiscal impact analysis in the M2 zoning district. Ms. Heineck said that there is a General Plan policy and she offered to provide those goal policy statements when this item returns to Council. Council Member Boyle requested that different uses be included in the EIR including exploration of lab use.

Council Member Robinson commented that while he values the potential benefits of the project he has concerns with the project the way it is currently presented.

Council took a break at 10:10 p.m. The Mayor resumed the meeting at 10:18 p.m.

3. Consideration of the installation of the Traffic Management Plan for Monte Rosa Drive between Sand Hill Road and Sharon Park Drive on a six-month trial period for an estimated cost of \$44,000. (Staff Report #07-114)

Mr. Rene Baile, Transportation Engineer, presented the staff report and shared details on the Neighborhood Traffic Management Program (NTMP) that was previously adopted by Council in 2004. Council Member Robinson asked if these would be permanent or temporary speed tables and staff said that they are temporary but could become permanent. He also asked why there were two surveys mailed. Staff explained that this is in accordance with the NTMP process to cover those who did not respond to the first survey. Vice Mayor Cohen thanked staff for the thorough report and he asked how a study area is defined. He asked if there was any opportunity for the neighbors to have input on how this study area is established. Mr. Taylor, Transportation Manager, provided details on how the NTMP defines a study area and typically staff does take other impacts into consideration. He added that normally the study area is at a minimum within one block of the project. Vice Mayor Cohen spoke about Woodland Avenue and he asked about impacts from traffic deriving from adjacent jurisdictions. Mr. Taylor said that in the case of Woodland Avenue staff would have to do some measuring of traffic patterns. Council Member Boyle reiterated that residents, Transportation Commission and interested neighbors have a chance to comment on the study area of the NTMP. Mayor Fergusson asked for public comment.

Mark Waissar reported that residents in the area are in favor of this plan.

Council Member Robinson asked why the plan changed from its original form. Mr. Taylor explained that there were changes such as speed humps to speed tables, and a crosswalk and signs were added. Staff mentioned that these were inputs from the Transportation Commission and the residents concurred. Staff responded to questions about the NTMP and said the document is available online and currently there are four projects in the pipeline.

M/S Boyle/Cohen to approve the installation of the Traffic Management Plan for Monte Rosa Drive between Sand Hill Road and Sharon Park Drive on a six-month trial period for an estimated cost of \$44,000. Motion carries 4-0-0 with Council Member Cline absent.

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. None.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS

Council Member Boyle reported on attending a San Mateo County Council of Cities meeting.

Council Member Robinson reported on reading a booklet titled "State of the System Bay Area Transportation" put out by the Metropolitan Transportation Commission and he recommends it. He reported that he will be at the VTA office to get a demonstration on a transportation model.

Council Member Boyle reported that the Council subcommittee addressing the El Camino Real visioning process has met twice. While there is no concrete progress to report, plans are under way for a fun, social, and stimulating kick-off event.

Mayor Fergusson attended the U.S. Mayors Conference in Los Angeles and she recommends it because of the valuable ideas that were shared. Mayor Fergusson said that starting tomorrow and for three days she will be touring the Hetch Hetchy water system. She seconded Council Member Robinson's comments on the booklet he referred to since she too read it and found value in it. She expressed thanks to Council Member Boyle and Vice Mayor Cohen for serving on the Menlo-Atherton Performing Arts Center subcommittee as well as their work in hiring a new City Manager. Council Member Robinson echoed those comments.

Council Member Robinson said that tomorrow at 2:00 p.m. at the Onetta Harris Center the first meeting of the Ravenswood Working Group will take place.

Council Member Boyle commented that the new City Manager Glen Rojas will be in town and will attend the concert in the park series. He will use this opportunity to meet residents.

J. PUBLIC COMMENT #2 (Limited to 30 minutes)

Elias Blawie opined that Council had a good discussion and worked well together on the Bohannon project. He then mentioned that while the fiscal impact analysis was discussed what he heard was that the applicant had jumped the gun on the economic analysis. He felt similarly about the EIR. He believes the Council should be providing direction at this point since it is the front end of the process.

Morris Brown supported Vice Mayor Cohen's approach of an RFP process.

David Speer spoke about public process and how he believes previous Councils were challenged on open process. He requested that the City have control of the scope of work. Otherwise he feels that the public will question the process.

K. ADJOURNMENT - The meeting adjourned at 10:51 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of August 28, 2007.