



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, July 17, 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, Robinson

PLEDGE OF ALLEGIANCE

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

A. COMMISSION REPORTS

1. Commission member and Chamber of Commerce reports.

The Mayor announced the upcoming Connoisseur's Marketplace event in Menlo Park.

Fran Dehn invited the community to the Connoisseur's Marketplace and the concert at Fremont Park. She also announced two Santa Cruz Avenue Block Party events on August 1 and 15. She invited the public to provide nominations for businesses or individuals that have made a contribution to the community and will be recognized through the Golden Acorn Awards.

Mayor Fergusson announced the upcoming 50th anniversary of Tyco/Raychem Corporation.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation recognizing Daniel Serafine. (Attachment)

Mayor Fergusson read and presented a proclamation to Mr. Serafine for his service to the Globetrotters. Mr. Serafine thanked the Council for the recognition.

2. Presentation by PG & E representative regarding recent outages in Menlo Park.

Mayor Fergusson announced that PG & E was present due to a series of recent outages in Menlo Park.

Mitchell Kirk, Superintendent for the Maintenance and Distribution of PG&E, apologized for the inconvenience and explained that PG&E is taking steps to mitigate the problem.

Council Member Cline asked about possible projects that influenced the outages. Mr. Kirk said the outages are not related to a specific project. He said that a failed underground cable was the cause of the outages.

3. Proclamation declaring July as Parks and Recreation Month. (Attachment)

Barbara Santos-George, Community Services Director, and Paula Maurano, Chair of the Parks and Recreation Commission, were present to receive the proclamation.

C. PUBLIC COMMENT #1

Kristi Breisch spoke about Project Read and its events and a new organization called Hometown Peninsula, focused on local businesses.

Anne Moser addressed Council on a recent accident at Spruce Avenue. She was hopeful that the Transportation Commission would get involved.

Mayor Fergusson asked Interim City Manager Steffens to provide information. Mr. Steffens explained that staff began looking at the issue but it takes time to get Caltrans attention. The Mayor asked Mr. Steffens to reiterate previous Council direction. Mr. Steffens explained that Council consensus was to eliminate parking on El Camino Real and study ways to enhance safety at the intersection. Ms. Moser interjected saying this was brought up in June of 2006 and it is still unresolved.

Steve Peckster spoke about construction working hours. He believes there needs to be better enforcement of the requirements. He also asked about what portions of El Camino Real Menlo Park Police enforce.

Mr. Steffens stated that Menlo Park Police do not routinely patrol Atherton's roads but they do perform routine traffic enforcement on El Camino Real. Ms. Heineck, Acting Assistant City Manager, said that there are requirements for signs to be posted on construction sites regarding noise regulations. She said that residents can contact the Building Division during working hours and the Police Department during non-working hours regarding violations.

D. CONSENT CALENDAR

1. Award of contract to Chrisp Company for Citywide Street Striping for the proposed bid amount of \$57,450 and authorization of staff to exercise options to renew the contract annually for an additional three years in amounts not to exceed the amount budgeted each year for the program. (Staff Report #07-127)
2. Adoption of Resolution No. 5756 authorizing the City Manager to execute a contract with the State of California Department of Education to reimburse the City \$717,183 for Child Care Services at the Belle Haven Child Development Center. (Staff Report #07-129)
3. Authorize the City Manager to enter into an agreement with the County of San Mateo to reimburse the City \$49,423 for Congregate Nutrition and Transportation Programs for Fiscal Year 2007-08. (Staff Report 07-131)
4. Approval of the minutes for the City Council meeting of June 5, 2007 (attachment) and Special Meeting of June 12, 2007. (attachment)

M/S Cline/Robinson to approve the Consent Calendar with the exception of D4 which is to be continued to the next Council Meeting. Motion carries 5-0-0.

E. PUBLIC HEARINGS

1. Consideration of a revision to a Conditional Development Permit, Below Market Rate agreement, and Tentative Subdivision Map for modifications associated with the construction of 32 instead of 33 single-family residences located at 75 Willow Road, as outlined in the San Mateo County Superior Court stipulated judgment, and minor modifications associated with the architectural style of two residences and the dimensions of several lots while maintaining substantially the same overall character and design as the project previously approved by the City Council. (Staff Report #07-125)

Deanna Chow, Senior Planner, presented the staff report and explained the history of the project. Ms. Chow explained that a settlement agreement between the parties had been reached. She outlined the modifications in the application based on the agreement set up by court stipulation.

Council Member Boyle asked what the action was before Council tonight. City Attorney McClure explained that Council is approving the project as modified by the parties' contractual agreement.

Mayor Fergusson opened the Public Hearing.

Elaine Breeze, with SummerHill Homes, said that the applicant is asking for Council approval of the modified project and as stipulated in the settlement.

M/S Robinson/Boyle to close the Public Hearing. Motion carries unanimously.

M/S Robinson/Cohen to approve a revision to a Conditional Development Permit, Below Market Rate Agreement, and Tentative Subdivision Map for modifications associated with the construction of 32 instead of 33 single-family residences located at 75 Willow Road, as outlined in the San Mateo County Superior Court stipulated judgment, and minor modifications associated with the architectural style of two residences and the dimensions of several lots while maintaining substantially the same overall character and design as the project previously approved by the City Council. Motion carries 5-0-0.

2. Consideration of an appeal of the Planning Commission's decision to approve a Use Permit, Architectural Control, and Tentative Parcel Map for construction of a new 9,825 square foot office building for Medical/Dental Use and related site improvements at 1906 El Camino Real in the C-4 (General Commercial - Applicable to El Camino Real) Zoning District. (Staff Report #07-126)

Lorraine Weiss, Planning Consultant, presented the staff report and highlighted the project modifications and redesign. She said the Planning Commission voted 4-2 to approve the modified project. Chip Taylor, Transportation Manager, provided an update on accidents at the intersection. He said that there were two accidents that were not included in the State database and were omitted from a previous staff report but these were non-injury related. Ms. Weiss provided an overview of the difference between what the Planning Commission recommends and what staff supports.

Council asked questions about the accident that occurred recently in the area. The shrubbery and the line of sight were discussed and Mr. Taylor explained how staff ensures that the line of sight is clear. Council asked questions about close call accidents not being reported and staff confirmed that was the case. Council discussed a possible Traffic Study to address El Camino Real safety issues. Mr. Taylor explained what such study would cover, including the volume of traffic and the increased safety risk in the area. Vice Mayor Cohen spoke about the reduction of lanes on El Camino Real from six to four. He referred to a contract between the City of Menlo Park and Caltrans and a requirement for a traffic study six-months after the agreement was implemented. Mayor Fergusson spoke about the two additional accidents and found that this constituted material new information. Staff clarified that this is new data but they are non-injury related accidents. The City Attorney said that the Council needs to decide if this information is material or not. Vice Mayor Cohen asked if there is another traffic study going on in the area, and Ms. Weiss confirmed that the project proposed at 1706 El Camino Real is conducting a study. The time it takes to prepare a traffic study was discussed. Council Member Boyle suggested expanding the 1706 El Camino Real traffic study. City Attorney McClure clarified that Menlo Park does not have the authority to require Caltrans or Atherton to implement measures such as a traffic signal. Various possible outcomes were discussed. Council Member Robinson asked about the cost of the current 1706 El Camino Real traffic study and Ms. Weiss said it is approximately \$22,000.

Mike Brady, the appellant, said that the two accidents raise additional concerns. He also spoke about a particular accident on Saturday, providing photographs. Mr. Brady supports a traffic study because he finds the intersection dangerous. He believes the developer should independently perform a traffic study and he encouraged Council to visit the intersection. Mr. Brady said that if Council approves a project that aggravates current danger, the City could be liable. He explained how the danger will increase in that intersection if this project is approved. He provided details about the history of this project. Mr. Brady said that the Planning Commission conceded that 1,860 square feet were not included in the square footage calculation. He opined that while the parking areas should be excluded, not all the areas excluded by the Planning Commission fall under this category. He gave details about these areas and in his opinion 59 parking spaces should have been provided. He explained how this project would increase the danger of this intersection. He finds this to be one of the most dangerous intersections in all of San Mateo County.

Ben Hamburg, the Attorney for the owner of the property, said that the issue is about the Council affirming, repealing or reconsidering the action of the Planning Commission. Mr. Hamburg said that the items brought forth by Mr. Brady have been seriously considered by the Council and the Planning Commission. He referred to Council action from February 2007 and that it has been found that this plan is consistent with the General Plan and City ordinances and that this project has not been given any special exemptions. Mr. Hamburg does not believe this project will create any dangerous conditions and the applicant is in strict conformity with the City's regulations. Regarding the insufficient parking statements, he said that this project satisfies the City's consistently applied guidelines and it provides for more parking than currently exists at the site. He believes the proposed project will create less traffic than the current use and he also opined that there is evidence that the project will correct certain problems in the area. Mr. Hamburg said that the developer cannot be held accountable for people's driving and he does not find that this project will create a dangerous condition. He said that this project is categorically exempt from the CEQA requirement and does not require a traffic study. Mr. Hamburg outlined the advantages of approving this project.

Mayor Fergusson opened the Public Hearing.

Public Comment

Martin Mezner said that the project does not have enough parking. He stated that even if the intersection has a low accident rate it can become dangerous because patience and common sense don't always prevail. He supports rejecting this project until Atherton and Caltrans make this intersection safer.

Former Mayor Steve Schmidt said he was on the Council ten years ago and he was asked to approve a large project. He said that at the time there were people in Menlo Park who did not want the development but in the end the project became a good neighbor and the traffic fears had been unfounded. He supported denying the appeal and approving the project as it is proposed.

Morris Brown said that he was in possession of an email from the Atherton Town Manager stating that there were four accidents in that intersection. He opined that the Council changed the rules regarding gross floor area calculations in February and this project is being grandfathered in under the old interpretation. He believes more parking is needed for this project and he objected to the project as is. He asked Council to uphold the appeal.

Martin Engel said that the issue here is not the size of the building but the traffic. He said that the size does not matter but the fact that there is a traffic problem does matter. He supports conducting a traffic study.

Ken Hoyt, resident of Watkins Avenue, found this a hard intersection to get through. He said he shops and does his banking in Menlo Park and he finds this a difficult corner to get across. He said the restaurant has been closed for two years but a traffic study is needed because it is a difficult intersection to get through.

Steve Peckster said he supports the building but he wants a safer way for drivers to get around the area. He believes that traffic will be an issue and so he hopes that the issue is resolved.

Mayor Fergusson asked about the architecture of the project. Mr. Hamburg said that this is not a matter on the appeal and that, as such, the applicant was not prepared to discuss the subject. Mr. McClure said that Council could address the entire project and has the legal authority to review the full matter tonight. He said that it has always been the City's practice to have the entirety of the project before Council. The applicant, Mr. Colonna, provided a handout to Council and said that the revised architecture included some of the comments made by the Council. He outlined these as: 1) the front entrance (façade) was redesigned to be an entry point; 2) the new design includes a sidewalk on Watkins and its width is four-feet; 3) creation of a bus stop design that was moved 80-feet to the south so that it corresponds with the entry plaza and includes a bench and a cover for users; and 4) that the location of the existing power pole is in the landscaped area, not the roadway.

M/S Robinson/Cline to close the Public Hearing. Motion carries unanimously.

Council took a break at 9:27 p.m. The meeting resumed after a 7-minute break.

Mayor Fergusson stated that new material information has been presented including the previously unreported accidents and the recent additional accident. She favored an action based on the municipal code which is that if new material information comes to light then the Council should send it back to the Planning Commission. Her main concerns are safety and the elimination of parking on El Camino Real. She mentioned that moving the curb cut further away from El Camino Real is a significant safety improvement; however, she believes that a traffic study focusing on safety of the intersection and evaluating the potential mitigations based on the impact of the project is a good approach. Mayor Fergusson is confident that there is sufficient parking but she would like to see the garbage enclosure moved one space over to have the sidewalk continued so that it is clear that this is a pedestrian friendly town. She reiterated that this project was grandfathered in and that now there is a stricter interpretation of the rules regarding gross floor area calculations. Regarding the architectural design, she is still concerned.

Vice Mayor Cohen said that his concerns go beyond safety and include the concept of a gateway structure. He said that the narrowing of El Camino Real to four lanes is an important aspect of the problem faced at Spruce and Watkins because when the third lane opens up, drivers feel free to go into the curb lane and make an unsafe move. He said he is not impressed with all the arguments that say that square footage has been addressed because he does not agree that the project should be grandfathered under the previous interpretation. He finds that the intersection is dangerous and he believes it will continue to be that way. In his opinion, he would grant the appeal and send it back to the Planning Commission. Furthermore, the Vice Mayor would support direction to augment the current 1706 El Camino Real Traffic Study to include this project, expediting it to get results as soon as possible. Council Member Cline said that his concern is the traffic and the left turn. He reviewed the meeting video of February meeting and he agrees this was grandfathered in but he said there was a general FAR (Floor Area Ratio) decision. He finds this a dangerous intersection and he stated that it will get worse if we put a facility in. Regarding the other areas, he believes the safety and looking at traffic should be areas to be sent back to the Planning Commission because he does not believe this has been properly addressed.

Council Member Robinson said he agrees this is a dangerous intersection and it will continue to be regardless of this project. He supports requiring a traffic study to include elements of safety at that intersection even though the City does not control the intersection. Council Member Robinson said his goal is to improve safety. He asked what would be the process for a traffic study and if it needs to go to Planning Commission. City Attorney McClure said that this could come back to Council directly if there is a finding that the additional traffic (added by this project) raises traffic concerns. The City Attorney said that the Municipal Code states that if there is material new information it needs to go back to the Planning Commission and the Council can't act until that body has considered it. Council Member Robinson suggested making the property boundary issue a project priority. He would like to move the boundary of Menlo Park to the center of El Camino Real. He commented that he was surprised that two more accidents were not in the State Database. He asked that staff look at the methodology used and figure out how this happened.

Council Member Boyle said he was concerned with the way "dangerous" intersection was being used. In fact, he said that even with the incremental accidents, the accident rate is .08 per million vehicles which is 1/25th of the average. Mr. Taylor was asked to clarify what is the average rate of accidents for a dangerous intersection and he said that this intersection is significantly below the average so improvements would not be sought based on the average of approximately two accidents per million vehicles. Council Member Boyle would like to make that intersection safer but he does not want to declare this a dangerous intersection because it does not meet the current State criteria. Council Member Boyle stated that dangerous and unsafe is being used without a scientific basis and he disagrees with such wording. Furthermore, he believes that the concern is that this is a difficult intersection no matter what and so the question should be, is this project going to impact the traffic. He said the issue should be whether the project is going to create a substantial amount of new traffic and the use seems to be lower according to staff. He believes this is the core essence of what a traffic analysis should look at. In addition, Council Member Boyle believes Council should be working with Atherton and

Caltrans on what could be done to improve the area and he suggested this become a Council priority project. Regarding the sidewalk, he stated that he agrees with it ending at the trash container. Council Member Boyle does not want to redesign from the dais.

The Mayor asked other Council Members to state if they found there to be new material information. Council Member Boyle did not think that was the case. The City Attorney clarified that the question is if the new information about the accidents was material to warrant a safety study or a traffic study of that intersection and if so, should the matter go back to the Planning Commission. Council Member Robinson said his main concern is safe movement. Vice Mayor Cohen said that in his opinion this is material new information. Council Member Cline said that either way he wants to see something done to fix the intersection. He supported a traffic study with a limited scope so this is not too restrictive on the applicant. His only concern is traffic and he is passionate about getting it solved. Interim City Manager Steffens said that Council could limit the scope of the traffic study to the safety of the Watkins and El Camino Real intersection and include the study of volumes of increased trips that the project would generate. He said these were the two discreet elements that Council could give direction on. Mayor Fergusson asked if this could be combined with the 1706 El Camino Real project and Mr. McClure said that these are two discreet projects and this application has been in the works for over a year so the two should remain separate. **Council Members Fergusson, Cohen and Robinson believe this constitutes material new information.**

M/S Fergusson/Cohen to make a finding that material new information has come forward and that this be returned to the Planning Commission with direction that: 1) a traffic study be prepared that looks at safety, volume, delay and stacking for the intersection of Watkins and El Camino Real, including possible project-specific and general mitigations; 2) the corner element of the building be reconsidered architecturally; and 3) that the building be set back from Watkins Avenue to allow for street trees and the extension of the sidewalk to the City boundary with a curve at the very end onto Watkins Avenue.

Council Member Robinson shared his views on the garbage enclosure and he concurs with the Mayor. He reiterated that his focus is on safety. Council Member Boyle said that he is frustrated by the fact that nothing has changed and that this project is being held up indefinitely. In his opinion, Council's concerns about the intersection are holding up the project, while his preferred approach would be to have a dialogue with Atherton and Caltrans. Mayor Fergusson concurred with some of these comments and she believes this is part of the process outlined in her motion. Council Member Robinson believes that Council is trying to get resolution and this is one way of doing it. Mayor Fergusson clarified that what she asked for was a menu of mitigations to address the concerns. **Mr. McClure clarified that Council is not granting the appeal but making a finding that new material information has arisen which was not previously presented or made available to the Planning Commission.** Council Member Cline said that the design is not something he is comfortable including in the motion.

M/S Cline/Boyle to amend the original motion and remove the portion of the motion that includes the reference to the architectural design. Motion fails 2-3 with Council Members Fergusson, Cohen, and Robinson opposing.

Vote on the original motion - Motion carries 4-1 with Council Member Boyle opposing. The City Attorney asked about the scope and Council said that the focus is Watkins and El Camino Real and all four Council Members agreed with the exception of Council Member Boyle.

3. Consideration of Resolution No. 5757 approving the final report of the City Manager regarding unpaid garbage collection fees for Fiscal Year 2007-08 and approving the placement of unpaid single-family garbage service fees on the 2007-08 property tax roll. (Staff Report #07-124)

John McGirr, Revenue and Claims Manager, presented a brief report to Council. Mayor Fergusson opened the public hearing. There was no public comment.

M/S Robinson/Cohen to close the Public Hearing. Motion carries unanimously.

M/S Robinson/Boyle to approve Resolution No. 5757 approving the final report of the City Manager regarding unpaid garbage collection fees for Fiscal Year 2007-08 and approving the placement of unpaid single-family garbage service fees on the 2007-08 property tax roll. Motion carried 5-0-0.

F. REGULAR BUSINESS

1. Consideration of a transfer from the General Fund of \$32,578 to reimburse the Bayfront Park Maintenance Fund for certain prior year expenses. (Staff Report #07-128)

Geoffrey Buccheim, Acting Finance Director, presented the report and explained why this is before Council. He said this report is to reimburse the Bayfront Park Maintenance Fund for the costs incurred with Measure J and a Sports Field Study.

Elizabeth Lasensky, with Friends of Bayfront Park, supported moving the funds back into the Bayfront Park Maintenance Fund. She would like to see Bayfront Park studied as part of a larger issue of preserving the area for future generations. She invited everyone for a walk on the Park on August 11, 2007. She announced that the Friends of Bayfront Park are becoming a non-profit organization under the umbrella of AcTerra. She would like to work with City staff to enhance the Park through these donations.

Council Member Boyle asked for some background on the matter. Interim City Manager Steffens said the approximately \$32,000 was charged to this fund because there was a specific project through the annual priorities that was set up for this and so staff charged these two items to that account. Council Member Boyle said that a project was set up to look at the development of the park and he finds this fund appropriate to be charged for the exploratory study and the advisory measure. He said that Council can place money into that fund anytime so he does not understand why this is being reimbursed now. Council Member Robinson said that he disagrees with these comments because prior expenses charged to this fund were purely physical in nature. He also opined that this was an election year and there might have been reasons why it was convenient to not impact the General Fund reserve. He would like to have good accounting and clarity on where things are charged to. Council Member Cline concurred that \$8,000 for the election was not money that should have been charged to this account. He said that this should not have been funded out of this fund and it should be reimbursed. He agrees with moving this money back into the fund.

M/S Cline/Robinson to authorize a transfer from the General Fund of \$32,578 to reimburse the Bayfront Park Maintenance Fund for certain prior year expenses.

Council Member Boyle opined that the ballot measure was advisory in order to get the public's input and so he does not agree with comments about political motives. He believes this was about open process. Vice Mayor Cohen said that this is an opportunity to put the past behind us and move forward in the spirit of consensus. Mayor Fergusson said that with her vote she is not impugning the prior Council; she is just more comfortable with the money being spent out of the General Fund.

Motion carried 4-1-0 with Council Member Boyle opposing.

2. Consideration of Resolution No. 5758 designating the Mayor as the voting delegate, and selecting a voting alternate and a second voting alternate to the 2007 League of California Cities Annual Conference. (Staff Report #07-123)

City Clerk Vonderlinden said that Council could nominate a voting delegate, a voting alternate and forego nominating a second voting alternate. Mayor Fergusson spoke about the benefits of attending this conference. Mr. McClure said the Council should list the names of those who can serve.

M/S Boyle/Cline to have the Mayor be the voting representative, the Vice Mayor as the voting alternate and follow in alphabetical order if need be. Motion carried unanimously.

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 Item. None.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS

Council Member Robinson reported on attending the Ravenswood Working Group meeting. He said there was a good presentation and the birds have come in and are nesting in the salt ponds. He said this has created the need to keep certain salt ponds available. He added that an observer platform is planned for Bayfront Park. Mr. Steffens was asked to provide details about the Environmental Impact Report phase and the next steps.

Council Member Boyle reported on the Downtown El Camino Real Visioning process. He shared that it looks like there are four categories of consultants whose expertise will be sought: 1) facilitation of meetings; 2) community outreach; 3) design of the Precise or Specific Plan; and 4) overall process consultant. He said that the subcommittee is thinking that it will need to identify the requirements for all four and possibly issue Requests for Proposals. He said the kick off event is being scheduled for the fall, sometime after the concert series ends. At this event the goal is going to be to get to what the public wants and how to communicate with the public.

Vice Mayor Cohen reported on a local newspaper having a cover story about Allied Arts. He said that he was the first Council Member to respond to the problems it is facing. He said that he has had a meeting with Allied Arts, the City Attorney, JZ cool, Candace Hathaway and a representative of Allied Arts. He said that the neighbors were not represented because they had a family emergency. He welcomed input from anyone who can help bring together a success story for Menlo Park and this entity. He referred to an email and a blog on the matter.

Mayor Fergusson announced that she spent three days on a tour of the Hetch Hetchy water system. She found it an informative tour.

Council Member Robinson said that there will be a Dumbarton Rail Policy Committee meeting next week at the Redwood City Council Chambers. Mr. Steffens said that a draft letter will be ready tomorrow for the Mayor's review and follow-up.

Mayor Fergusson acknowledged Kent Steffens for his many contributions as Interim City Manager during the last six months. She said this is his last meeting and she expressed the gratitude of the Council for his leadership during this time of transition.

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

K. ADJOURNMENT - The meeting adjourned at 11:22 p.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the City Council Meeting of September 11, 2007.