



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
MINUTES
Tuesday, July 31, 2007
7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers**

5:30 p.m. CLOSED SESSIONS (Administration Building - First Floor Conference Room)

1. Closed Session pursuant to Government Code Section §54957 regarding the performance evaluation for the Interim City Manager Kent Steffens. Parties present: Glen Kramer, Personnel and Information Director, and City Council.
2. Closed Session pursuant to Code Section §54957 regarding the performance evaluation for the City Attorney Bill McClure. Parties present: Glen Kramer, Personnel and Information Director, and City Council.

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

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

PLEDGE OF ALLEGIANCE

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

Mayor Fergusson announced that regarding the evaluation of Interim City Manager Steffens, the Council awarded him a \$5,000 bonus for his work plus an additional \$1,000 in other compensation. Mayor Fergusson said there was no reportable action on the evaluation of the City Attorney.

A. COMMISSION VACANCIES AND REPORTS

1. There is one vacancy on the Dumbarton Rail Citizen Advisory Panel, for one of the two seats representing Menlo Park. The deadline for submittal of applications to the City Clerk is August 21, 2007 by 5:30 p.m.

The Mayor encouraged members of the public to apply to the vacancy listed above. Council Member Robinson said the next meeting of the Citizens' Advisory Panel is on August 10, 2007. He said that anyone interested can attend and participate even though the appointment will be made after that date.

2. Commission member and Chamber of Commerce reports.

Fran Dehn, with the Chamber of Commerce, spoke about the inaugural Santa Cruz Avenue block party and she showed a flyer that had gone out. Ms. Dehn provided details on the event. She explained all the activities available to various segments of the population and the many displays and vendors attending the event.

Mayor Fergusson added that the Green Ribbon Citizen's Committee will be hosting a special event at the Council Chambers where the speaker will be Mr. Wilcox, Secretary of the California Environmental Protection Agency (CalEPA). The Mayor said that at the event she will formally sign the U.S. Mayors Climate Protection Agreement at 6:00 p.m. in Fremont Park. Mayor Fergusson announced that Tesla Motors is coming to Menlo Park to open a showroom at 300 El

Camino Real. She sees Tesla as a keystone in creating a "Green Alley" along El Camino Real. She drew people's attention to a CD called Waterways in the Bay Area. She said this is an easy way to learn ways to save water.

Mayor Fergusson also announced the upcoming Relay for Life event that will occur at Burgess Park. She spoke about a very moving luminaria event at sunset. The event will kick off on August 11, 2007. She encouraged businesses to participate in this event.

B. PRESENTATIONS AND PROCLAMATIONS

1. Presentation by City and County Association of Governments (C/CAG) on its primary functions, including a request by C/CAG for the Council to appoint a Council Member to the Energy Task Force.

Richard Napier, Executive Director of C/CAG, explained the role of this entity. He said the organization is a Joint Powers Authority and each of the cities has representation. He said that multiple programs and funds are jointly negotiated giving smaller entities more leverage. Mr. Napier said that C/CAG pleads the case for cities and helps staff make its case. He spoke about specific areas where the City has benefited from C/CAG funding. Mr. Napier said that C/CAG is an investment and Menlo Park has received four times what it paid in fees. Mr. Napier said that he sent a letter to the City requesting Council nomination of a Council Member and a staff person to serve on the Energy Strategy body.

Vice Mayor Cohen expressed concerns about heavy rail and its mitigation. He asked what role C/CAG plays in trying to unify the various cities in increasing safety and quiet zones. Mr. Napier said that C/CAG has had a very limited involvement in that area. Council Member Robinson thanked the presenter for the information. Council Member Robinson asked about transportation and Mr. Napier recognized that more needs to be done in that area. Mayor Fergusson asked details about San Mateo County getting a hydrogen shuttle. Mr. Napier said that C/CAG was successful in receiving a grant and a free hydrogen propelled shuttle will be in place in the near future. Mayor Fergusson asked about the above mentioned appointment and the time frame. Mr. Napier said that addressing it in the next two months would suffice.

2. Presentation by MBIA regarding the City's investments.

Neil Wauld, Primary Portfolio Manager for the MBIA Asset Management Group, provided a brief presentation on the portfolio he maintains for Menlo Park. He explained some of the services MBIA has provided since 2004. He explained that all actions taken by MBIA are approved by the Finance Division.

Mayor Fergusson drew the public's attention to related items that are on the agenda and will be addressed later.

C. PUBLIC COMMENT #1

Elizabeth Lasenky spoke about Route 22 and the Valley Transportation Authority's (VTA) proposal to discontinue it. She read a letter opposing such action because this route is the only route connecting Menlo Park residents to other areas in San Mateo County.

Mayor Fergusson asked Acting City Manager Heineck if a letter specifying the interests of Menlo Park residents would be appropriate. Ms. Heineck indicated that with Council direction, a letter could be prepared. **With Council concurrence, Mayor Fergusson will work with staff to draft a letter.** Mayor Fergusson also asked if there are any ideas on how to notify users about the VTA's action. Ms. Heineck said staff will consider it and bring back any ideas it might have.

Greg Druehl spoke about pollution and how traffic could be reduced on Santa Cruz Avenue. He stated that he likes the green approach and encouraging more people to walk, bicycle or carpool. He stated that he is particularly concerned with the traffic and cyclists on Santa Cruz Avenue.

Mayor Fergusson asked staff to comment. Mr. Taylor, Transportation Manager, said that Council approved a study to review options for Santa Cruz Avenue. He also said that the Bicycle Commission is interested in looking at improving bicycle lanes in various areas of the City.

Tim Goode, with Friends of the Library spoke about the relationship between the Book Fair and the City of Menlo Park. He said the cost is about \$3,000 and he asked Council to support these efforts and cover these expenses. He explained this is 53-year old tradition and is the first and the only one on the Peninsula. He highlighted the benefits to the community of this event.

Mayor Fergusson asked Mr. Goode to send the letter to Acting City Manager Heineck to look at the matter and continue the discussion.

D. CONSENT CALENDAR

1. Authorize the City Manager to execute a one-year extension of the Agreement between the Peninsula Corridor Joint Powers Board and the City of Menlo Park to share the total costs on a 75 percent/25 percent basis for the operation of the Marsh Road and Willow Road shuttle bus services. (Staff Report #07-131)
2. Authorize the City Manager to execute an amendment to the Agreement between the City of Menlo Park and the City and County Association of Governments (C/CAG) to provide funding in the amount of \$81,881 for Fiscal Year 2007-08 and an extension of time for the operation of the midday and shopper's shuttle bus services. (Staff Report #07-132)
3. Re-submittal of the minutes for the City Council meeting of June 5, 2007. (attachment)

M/S Cline/Cohen to adopt the Consent Calendar. Motion carries 5-0-0.

E. PUBLIC HEARINGS - None

F. REGULAR BUSINESS

1. Consideration of Resolution No. 5759 approving the revised Investment Policy for the City and the Community Development Agency of Menlo Park, to become effective immediately. (Staff Report #07-133)

Carol Augustine, Finance Director, presented the report saying this is an opportunity for Council to comment on the policy. Ms. Augustine said that minor changes were made regarding the investment of the bond funds.

Council Member Robinson asked if the Audit Committee (next item on the Agenda) should review this document. Ms. Augustine said that an annual review by Council is part of the policy and so this could be easily incorporated prior to going to the Council. She said that staff could take note of this desire of Council Member Robinson.

The Mayor asked for public comment. There was no public comment.

M/S Cline/Robinson to adopt Resolution No. 5759 approving the revised Investment Policy for the City and the Community Development Agency of Menlo Park, to become effective immediately. Motion carries 5-0-0.

2. Appointment of two City Council Members to serve as an Audit Committee for the City and provide direction in the establishment of a Finance Committee. (Staff Report #07-134)

Mayor Fergusson thanked Council Members Cline and Cohen for bringing this forward to the Council via a letter several months ago.

Carol Augustine, Finance Director, presented the report explaining the various options before Council. She explained that this is a continuation of a discussion that occurred at the meeting of March 27, 2007. Ms. Augustine summarized previous Council guidance on the focus of the audit committee and the primary duties of the finance committee. She provided details on what each of the bodies would achieve. She explained that staff is seeking direction on the responsibilities, size/characteristics and the appointment process for each of the committees.

Council Member Boyle posed questions about the Brown Act. Mr. McClure provided information on a particular exception to the Brown Act and stated concerns related to the exception. He said that rather than formally appointing a body tonight, he would recommend that Council appoint a Council subcommittee to review the Brown Act issue and develop a recommendation for the full Council on the formation of the two committees. Mr. McClure said that the idea is to figure out when the audit committee could meet with the auditor to cover confidential matters without violating provisions of the Brown Act. Vice Mayor Cohen expressed his two concerns: 1) he does not know any Brown Act body that cannot hold a closed session; and 2) he does not support the two-year term length if they are not staggered and instead would prefer one year terms. City Attorney McClure clarified that there are restrictions on the topics that can be addressed at closed sessions.

The Mayor asked for public comment and there was none.

Each Council Member provided opinions on how each committee might best be comprised. Mayor Fergusson asked for each Council Member to weigh in on the various items outlined by staff. Council Member Boyle agreed with staggered terms but he believes that the longer the term the better to allow for continuity. Council Member Boyle said that he would like one of the key roles of the audit committee to be review and exploration of the relationship between staff and the auditor. Council Member Robinson supported one year terms with reappointments each year, but allowing Council to manage that process. He supported attachment A of the staff report and the proposed structure for the audit committee. Regarding the finance committee (attachment B) he supported five residents plus the two audit committee members with the meetings being held quarterly. Vice Mayor Cohen said that expertise, closed sessions, communication with the public and open government seem to be the themes of the discussion. His main focus is open government. Council Member Cline believes this should be renewed every year and the goal is to assist staff and the public. He believes this committee would serve as a liaison between staff, Council and the public. Regarding attachment B he is not ready to take a position until the subcommittee does more analysis. Mayor Fergusson likes the notion of continuity but she believes the Council will keep that in mind and could address it at its annual appointment meeting in January/December. Council Member Boyle would like the audit committee to have meetings with the auditors about the competency of the management team as well as how to roll out information in a more tangible and transparent way. He reiterated his reasons why members should serve longer terms. Council Member Robinson viewed the goal of the committees as one to inform the public better. He also supported the audit committee having confidential meetings with the auditor to add confidence to the process.

Vice Mayor Cohen spoke about the need to be extremely careful with the Brown Act and the creation of these two bodies. He shared concerns with having two subcommittees with different members. Mayor Fergusson said that her reading is that the Council is creating one Council subcommittee until the City Attorney does more research on the Brown Act issue and the Council subcommittee brings back recommendations on the formation of the audit and finance committees. Council Member Boyle agreed with the members of the two committees being the same. Council Member Robinson also supported that the members of the audit committee serve on the finance committee.

M/S Robinson/Cohen nominating Council Members Boyle and Cline to serve on a subcommittee that will bring back recommendations regarding the creation of an audit and finance committee and work with the City Attorney on Brown Act matters. Motion carries 5-0-0.

3. Consideration of a request for a waiver of fees associated with applications for a zoning ordinance amendment, rezoning, and environmental review by the Stanford Gardens Overlay Group, and possible consideration of a request for a moratorium in the area of the proposed zoning overlay district. (Staff Report #07-135)

Council Member Robinson recused himself due to proximity to the property.

Mr. Rogers, Associate Planner, presented the report and the issues surrounding the fee waiver. Mr. Rogers noted that comments had been received regarding a staff oversight resulting in the courtesy notice of building permit submittal for the project at 805 Evergreen being sent late to contiguous parcels. Staff read for the record the list of people who submitted letters since the publication of the staff report. They were: John B. Nash; Robert and Sharon Hasslen; Glenn DeSandre and J. Pierce Gould; Lisa Maley; Joanne Pasotti, Loren and Patty Lyall, Valerie Ambwani, Sharon Hasslen. He said that in addition there is a petition of opposition signed by various residents who disagree with the overlay. Mayor Fergusson asked for public comment.

Vice Mayor Cohen asked about obstacles related to the building permit at 805 Evergreen. Mr. McClure said that this might be a subject for closed session.

Public Comment

Bob Hasslen, with time donated by another speaker, spoke about his own use permit and appeal process at 805 Evergreen and how he purchased a home that needs work. He said that he is not a spec developer and he wants to live in the residence to retirement. He said that in December he made a considerable effort to work with the neighbors to reach a compromise but he had been unsuccessful. He does not support the idea of a moratorium for development in the proposed overlay area. He said that had he and his wife were not considered in this process. He outlined what he found to be some of the flaws of the current proposal, one being that it does not delineate the need for a use permit. In his view this group does not come close to the standard set by the Lorelei Manor overlay process.

Sharon Hasslen read Mr. Hasslen's conclusion and she explained certain challenges during her appeal and application process. She said that when the Stanford Gardens group speaks of community that is not a correct statement because her household was not included. She does not support the waiving of the fees. She asked about the definition of a neighborhood and she does not agree that a super majority should ignore the minority that was not asked to comment.

Philip Friedly, speaking for the Stanford Gardens overlay group, with time donated by Pam Salvatierra and Marcia Friedly, said that he appreciated the recommendation from the Planning staff. He acknowledged that there are different opinions however he said the overlay has 75% support from those in the overlay area. Mr. Friedly said that he shared information with many residents even those who opposed it. He said that staff estimates that the full cost will be around \$10,000 and he does not believe this to be a big investment. He said that he does not agree that the moratorium would not apply to the project at 805 Evergreen. Mr. Friedly said that the building permit for 805 Evergreen is not legal and it should be revoked. He also mentioned that had notice been provided the neighbors would have sought a moratorium. He asked for a moratorium for projects in the overlay that exceed the proposal. Mr. Friedly made comments about what he believes has been the process thus far.

Pierce Gould said that he is one of the owners of a home that is in the overlay area and he cannot support a subsidy because he does not think the residents need it. He referred to a petition that he circulated in Stanford Gardens to deny the fee waiver. He said that everybody else has to pay

fees and so this group should not get preferential treatment. He did not find this an open process. Mr. Gould said that the Stanford Gardens overly group did not accept feedback and in his opinion Council should not reward this kind of approach.

Glen DeSandre said that while he cannot support monster homes he also cannot support ultra restrictive zoning rules. He disagreed with the staff report saying that the Lorelei Manor neighborhood set a precedent. He does not agree with this overlay because in his view this was not an open process and there is substantial opposition to the proposal. He outlined the differences between the Lorelei Manor proposal and the Stanford Gardens overlay. Mr. DeSandre believes this is an affluent area that does not need financial help from the City.

Stefan Heller supported waiving the fees because to the best of his knowledge the proposal is good. He disagreed with comments that people in this area are all rich. He is in favor of a moratorium and he requested an investigation of the circumstances on the failure of notification.

Earl Shelton said that he supported the waiving of the fee, the overlay and the moratorium. He explained the architectural style in the area, which are mostly Eichlers equidistant from each other. He believes that Mr. Friedly and staff have tried to collaborate.

Greg Druehl said that he has been friends with the Hasslens for many years and he said that it is not healthy when neighbors don't get along. He spoke about the community but he does not think it is correct for neighbors to tell each other what to do. He does not think the Council wants to be placed in that position. He does not support a moratorium or the fee waiver.

Mayor Fergusson said that if there was a moratorium it would not be retroactive to the Evergreen project and City Attorney Mr. McClure confirmed. Mr. McClure said that a moratorium would apply to permits that have not been issued. He suggested going into closed session if Council wanted to discuss the matter further. Council Member Boyle asked if a moratorium was passed are there other projects that would be impacted and Mr. Rogers said no. Council asked questions about the petitions and the overlay. Vice Mayor Cohen asked about the number of votes needed to move forward. Mr. McClure said that a majority would be required to approve a fee waiver request and on the moratorium Council could give direction but staff would have to come back and this would require a 4/5ths vote or four affirmative votes to enact a moratorium. Council Member Cline referred to the two previous overlays (Felton Gables and Lorelei Manor) and he said that if we waive these fees we are setting a precedent. Mayor Fergusson said that Menlo Park has struggled with residential zoning and the balance between protecting property rights and neighbors' rights. She believes that overlays are a way of self-determination for certain neighborhoods.

City Attorney McClure explained the fee and process for amendments to the zoning ordinance. Vice Mayor Cohen asked if this will cost the City money and Ms. Heineck said that the estimated cost to process the request is \$10,000 and that the cost would not be recovered if the fee waiver is granted. Mayor Fergusson said that she supported the fee waiver for Lorelei Manor, but that this isn't just about the monetary cost. She wanted to give a fair hearing to these proposals and she believed there are precedents and a public benefit. Mayor Fergusson stated her support for the fee waiver and that she is neutral on the moratorium. Council Member Cline said this is a difficult decision. He appreciated all the time that went into this, and he has concerns about the people whose input was not considered.

Vice Mayor Cohen said that he has brought residents to the table to try and resolve conflicts in four other cases and there is a need for neighbors to be able to resolve conflicts. Council Member Boyle found the discussion difficult and he said that regarding the fee waiver he is not willing to subsidize the proposal and has concerns that there is opposition to the overlay. He said that he is not against the overlay but he is struggling with the spending tax payers' money to subsidize a certain neighborhood in a process that was not opened and subject to the Brown Act. Council Member Boyle said that if a fee waiver is approved then Council is setting a precedent

that any time there is a super majority the fee will be waived. He is not sure he wants spot zoning and he believes this process is not leading to harmony. He reiterated his support for overlays but he does not believe Council should subsidize it. Council Member Cline said that much of the decision is based on the Lorelei Manor process but there is less information in this case. The City Attorney said that Council could continue this matter to another date in order to obtain additional information. Mayor Fergusson said that it does not look like the moratorium has enough votes so that is off the table. She added that the City has spent thousands of dollars trying to resolve residential issues and she believes the City has failed. She finds the overlay project a way to get a better balance and she finds the amount of money small.

M/S Fergusson/Cohen to grant the request for the fee waiver.

Council Member Boyle expressed his views on why he disagrees with this approach. Council Member Cline added that the Lorelei Manor process included more information and so he does not have comparables. Council Member Boyle proposed a friendly amendment to instead of waiving the fees upfront have Council approve the overlay first and then have the City reimburse the fees. Mayor Fergusson said she could not accept the friendly amendment because she sees this as two separate issues. Council Member Boyle asked Mayor Fergusson if she is ready to set the waiver of the fees as a precedent.

Motion carries 2-1-1 with Mayor Fergusson and Vice Mayor Cohen in favor, Council Member Boyle opposing, and Council Member Cline abstaining. Council Member Robinson was recused.

Council took a five-minute break at 10:27 p.m.

Council Member Robinson rejoined the meeting and the Council resumed at 10:31 p.m.

4. Consideration of Fiscal Impact Analysis (FIA) procedure for a proposal for a mixed-use office, Research and Development (R&D), hotel, and health club project at 101 to 155 Constitution Drive and 100 to 190 Independence Drive. (Staff Report #07-136)

Thomas Rogers, Associate Planner, presented the report to Council. He spoke about the options before Council and staff's recommendation. He provided details on a fiscal impact analysis model developed in 2002 but not currently in use. Mr. Rogers referred to a piece of correspondence from a resident, Ms. Patty Fry, and how she advocates for an expansion of the scope of work.

Council discussed the model used in 2002 and Ms. Heineck provided details on what it would take to update it for use now. She said that resources would have to be drawn from Community Development and the Finance Division to resurrect the tool. She explained that it would be essential for the Council to review the assumptions and the model itself prior to its use as an assessment tool. Mayor Fergusson asked staff to clarify the process whereby this tool was used and discontinued and Ms. Heineck provided details. Council discussed the Fiscal Impact Analysis (FIA) and Peer Review (PR) assumptions and methodology with Mr. Rogers providing details. Council asked questions about the FIA and Mr. Rogers explained a standard FIA and what it covers. Council Member Robinson said he read the 2005-06 Analysis and Peer Review and found it illuminating. Council Member Robinson said that the report references the 2002 tool and so he found the methodology useful. Council discussed the timeline and staff said that if option two was selected this would not result in a delay.

Council discussed the two documents that have been released. Mr. Murphy said that the two documents were referenced in the staff report tonight. Vice Mayor Cohen would have liked to have known that these two documents were out earlier. Mr. Murphy provided details and explained that staff had no intention of withholding the documents. Council Member Cline asked about current practices regarding the FIA. Mr. Rogers provided detailed on the process that is commonly followed and the two paths that are available to Council. Option two of preparing a City-controlled fiscal impact analysis was discussed and Mayor Fergusson said she had questions

of the applicant. Council Member Boyle asked for a point of order to have Council decide whether the meeting should go past midnight. Council discussed the matter and was hopeful that this would be over by midnight. Three Council Members supported going beyond midnight.

Mayor Fergusson asked if the application is at a point of benefiting from a Study Session. Ms. Heineck confirmed that was the case. Mr. Murphy explained details of the application. Council Member Cline asked about what has been done in the past regarding fiscal analysis. Mr. Rogers explained that the Rosewood Hotel and Linfield projects followed a similar approach to that being recommended where the applicant prepared its own FIA followed by a peer review.

Public Comment

Paul Collacchi, former Mayor of Menlo Park, and speaking with time donated by Morris Brown, provided a history on the fiscal model used around 2000 and 2002. He explained the direction given to staff by Council. Mr. Collacchi said that the model might have been discontinued between 2002 and 2004 but he suggests reusing it and he explained its benefits.

Elias Blawie, with time donated by Dan Brawner, asked Council to support an independent FIA. He asked that the process be open, transparent and respected. He provided history and he shared his surprise at how much discretion he believes staff has in the process. He believes the public is being left out. Mr. Blawie read from the minutes regarding the model and he supported Ms. Fry's comments. He said he is supportive of reasonable development consistent with the General Plan but when major changes are proposed he wants compelling and clear benefits.

Vincent Bressler requested that housing impacts be evaluated for this project. He thanked Council Member Boyle for talking about public input and its need. He does not support having someone who has a conflict of interest report the impacts because they are not impartial.

Joanne Goldberg said that this might be setting a precedent for M2 and other areas. She is looking for a long-term analysis including review of other items such as direct and indirect impacts. She asked that this be a City controlled process.

Council Member Cline said he had asked staff about the model and he asked Ms. Heineck to expand on the response she had given him about the model. Ms. Heineck said that the model was developed to be used for individual projects and not for a larger area. She said that when Council used it for the M2 study, it required adjustments to the model and the results were criticized based on the model not being used for its original purpose. She said that the model was not used after that based on the criticism and subsequent budget cuts that did not allow for the annual updating of the model. Council Member Cline suggested a hybrid model and Ms. Heineck explained that there would be benefit in reviewing the model independently from a particular project.

Council Member Robinson asked questions about the different methodologies. Mr. Rogers explained the internal review process and the roles played by the Finance and Community Development staff. Ms. Heineck explained that the Finance Division plays a key role in establishing the City cost assumptions. Subsequently, the Community Development Department applies project data to the model. Mr. Rogers and Mr. Murphy, Community Development Services Manager, explained their experience with fiscal impact assessments. Mr. Murphy said that during the review for the Rosewood Hotel, the Council provided direction to staff on the analysis method which included an analysis prepared by the project applicant and an independent peer review controlled by staff. Council Member Boyle was doubtful that the previous model would fit all projects. He provided reasons why he does not think this would be a good approach. He also pointed out that the model does not include housing. A discussion about the zoning designation ensued and staff provided details about the industrial designation. Council Member Robinson said that even when the model is applicable there are impacts that will not be covered. He cautioned Council and himself that the final judgment will be based on the totality of the impacts and not just on one analytical tool. He would consider going with option two but he is not

too committed to the RFP process. He suggested Ms. Connelly as the independent reviewer because she seems to have a good grasp of the issues.

Mayor Fergusson said that the question for her is how to fulfill the goals set out by the General Plan and creating a fiscal impact analysis that is trustworthy. Mayor Fergusson feels that resurrecting the previous model is like creating a new project. She said that as good as it may have been she does not see it as the best option and she witnessed the level of controversy over it so she does not want to fight that battle. She supported option two but she is interested in the RFP process. She wants the City to have full control of the process. She agreed with Council Member Robinson that the final decision will be based on the sum of the parts. Council Member Cline said that a consistent method would be good and one that factors in the various elements. He fully understands the model and why it was created. He supported looking at it again but he is not certain of the timing. He would like to take the subjectivity out of this and he is looking for uniformity in the process. He supported the City being in charge of the process and an RFP process.

Vice Mayor Cohen said he cannot ignore former Mayor Collacchi's input at the cost of expediency. He cannot support option two without looking at the previous model. Council Member Boyle supported option one including a broader scope of work and specifying that the peer review also cover those items. He said that if Council is not ready to accept the current fiscal impact analysis Council could ask for more detail. Ms. Heineck confirmed that Council could do that. Council Member Cline supported looking at the model but maybe making it a long-term project. Vice Mayor Cohen talked about the Derry Project and how \$100,000 was accepted in-lieu of looking at the consultants' work and comments. Mayor Fergusson said she would honor the model by asking the consultant to look at it and she would like to consider resurrecting it with the priorities and goal setting process and allow a full Council discussion around it. Council Member Robinson found a need for this model because there is no baseline. He added that there is a benefit in having a model because there are commonalities in all projects.

M/S Cline/Robinson to conduct City controlled Fiscal Impact Analysis (option two) with a Request for Proposal being issued and reviewed by Council, including having the consultant review the previous model.

City Attorney McClure said that staff could prepare the RFP and bring it back for Council approval. Staff asked questions about the FIA. Vice Mayor Cohen said that if staff were to incorporate Ms. Fry's recommendations he would say that was a good thing. Council Member Boyle suggested that the motion include that the RFP include review of the applicants' FIA. **The maker of the motion and second accepted such suggestion.**

Motion as restated by City Attorney McClure:

Motion to adopt option two (City controlled Fiscal Impact Analysis) prepared by a consultant contracting with City staff, having staff prepare a draft RFP to bring back to Council for approval and the RFP will have a provision that the selected consultant will review the assumptions and other data that was utilized in conjunction with the City developed model to see if any information or material may be incorporated into this analysis. The motion also directs staff to proceed with a Peer Review of the existing Fiscal Impact Analysis subject to the applicants' approval of spending the money.

Council Member Robinson asked that staff come back with a couple of different RFP's for Council's consideration. Staff is to include various options and consider input from the public like Ms. Fry's letter. The Mayor asked the applicant to comment.

Mr. Bohannon thanked the public and Council for its input and discussion.

Motion carries 3-1-1 with Council Member Boyle opposing and Vice Mayor Cohen abstaining.

5. 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

1. Review of the City's Investment Portfolio as of June 30, 2007. (Staff Report #07-137)

I. COUNCIL MEMBER REPORTS

1. Oral report from the Council Subcommittee on the El Camino Real/Downtown Visioning Process.

Council Member Boyle reported that within 24 hours Council will receive a written report that will also be sent to CCIN and if Council wants to place it on a future agenda then that can happen.

Council Member Robinson said that last Tuesday Mayor Fergusson presented a letter to the Dumbarton Policy committee. He said that the discussion was focused around electrification and freight issues.

Council Member Boyle attended a board meeting for the Housing Endowment and Regional Trust body and he shared some statistics.

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

Elias Blawie urged Council to get back to the business of residential zoning through a comprehensive process. He urged Council to get this back on its priority list as soon as possible. He asked the Mayor in particular to keep a focus on this project.

K. ADJOURNMENT – The meeting adjourned at 12:27 a.m.

Respectfully submitted,

Silvia M. Vonderlinden, Certified Municipal Clerk

Approved as submitted at the Council Meeting of September 18, 2007.