



**CITY COUNCIL  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

**Tuesday, September 11, 2007**

**7:00 p.m.**

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

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**5:00 p.m. CLOSED SESSION (First Floor Conference Room – Administration Building)**

1. Closed Session pursuant to Government Code Section §54956.9 regarding existing litigation entitled Butler, et al. v. City of Menlo Park, et al., San Mateo County Superior Court Case No. CIV 458119. Present: Bill McClure, City Attorney, Glen Rojas, City Manager and Bruce Goitia, Police Chief.

Reconvene in open session and report on abovementioned Closed Session. City Attorney McClure reported that a tentative settlement has been presented to the Council. The council voted unanimously to approve the settlement agreement.

**5:30 p.m. STUDY SESSION (Menlo Park City Council Chambers)**

1. Request by the Menlo Park Fire Protection District for the City's support of revisions to the District's Fire Prevention Code that would establish new requirements for automatic fire sprinklers, including new requirements for single-family residences. (Staff Report #07-152)

The Mayor called the meeting to order.

Director John Osmer with the Fire District Board addressed Council and shared statistics on the number of deaths caused by fires each year. He spoke about the value of residential fire sprinklers in the first seven minutes of the occurrence of a fire. Geoff Aus, Division Chief, explained the recommendations of the Menlo Park Fire District which include fire sprinklers on new buildings and structures as well as on existing buildings or structures. Mr. Aus provided details on other neighboring cities and their fire sprinkler ordinances. He reiterated that smoke detectors and fire sprinklers reduce deaths in case of fire. Mr. Aus also believes this is a property saving measure.

Chief Shapelhouman said that he was glad to be asked back to address the Council on this topic. He provided some history on when this was first before Council and he offered to answer questions instead of providing statistics. The Chief explained that the Fire District is not interested in promoting fire sprinkler providers nor does he have plans to hire plumbers. His goal is to have firefighters be more on the prevention mode than on the responsive mode. He said his motivation is two-fold to protect residents and firefighters. His first priority is basements, because of the one-way in and the one-way out situation. He said that basement fires are harder to control due to access. Secondly, he believes that new construction should be a priority. The third items are alterations and remodel and he said these are the most controversial. He said that it has been 23 years since this ordinance has been updated.

Justin Murphy, Community Services Manager and Ron La France, Building Official, were available to answer questions.

**Public Comment**

Dick Poe thanked Council for holding this Study Session and he would like the focus to be on objective data and not on emotional issues. Mr. Poe said that basements have windows and usually multiple doors and that the rate of fire related deaths have been declining steadily because of such exits. Mr. Poe commented that if Federal and State regulations have not made residential fire sprinklers mandatory, he asked why Menlo Park should be different.

Richard Li commented that from the homeowner's perspective this is not a cost effective approach. He opined the Fire District has a history of imposing high cost features to residences. He spoke about having to install a fire hydrant directly across his home when there is already one not too far.

Michael Lambert referenced a document he submitted to Council Members and he offered to answer questions. He provided data from a Michigan resident explaining that this is not a cost effective way to protect homes.

#### Council Discussion

Council asked about the findings that would be sent to the State. The City Attorney added that the City would also have to adopt the same findings. Mr. McClure said that in order to modify the state code the findings need to be made by the Fire or the City. Basements were discussed and Mr. La France said that usually basements are as large as can be because of its high cost. He confirmed that per the current Building Code basements have to include two exits, one being directly to grade. Council discussed the square footage triggers for fire sprinklers. The definition of "substantially new" was discussed and Mr. La France explained the history behind this concept.

Vice Mayor Cohen asked if this would require increased staffing resources. Mr. La France said that there would be no requirement to add staff because the project review would be done by the Fire District. Council discussed the issue of errors with fire sprinkler heads and Chief Shapelhouman said that the majority of residential water damage is not related to fire sprinklers. Chief Aus added that in 97% of residential fires, the fire is halted by no more than two fire heads going off. He also spoke about an audible bell that goes off when the fire begins.

Council Member Cline thanked the Fire District for its work and service. Chief Shapelhouman made other comments about the danger of fires and his focus being on safety. He added that the Fire District will not add staff for inspections or plan reviews. Mayor Fergusson asked various Council Members to voice their positions. Council Member Boyle asked if the State says no, why the City should say yes. Council Member Boyle said he failed to see valid findings that made him believe that Menlo Park is special and unique to justify an ordinance revision. He is sympathetic to the basement option but he believes all three items should be analyzed. Division Chief Aus said that in the next revision of the Fire District Code fire sprinklers will be part of the code amendment.

Council Member Robinson thanked everyone for their comments and stated his support for a fire sprinkler ordinance applicable to new construction and basements. He does not think California is uniform so he might consider that some unique findings can be made. He shared concerns with the cost for remodels and he suggested providing some kind of assistance. Council Member Cline shared concerns with the economics and he believes this will discourage redevelopment because it will cost too much. He would like more information regarding fire sprinklers on basements. Vice Mayor Cohen said that he might agree on basements but even there he has questions. He is troubled with the threshold of 1,000 sq. foot on new construction.

Mayor Fergusson said that she believes that there is the technology to save lives and so she would like the City to turn this community into a very safe community. She believes Menlo Park is unique and so she finds it justifiable. She added that this region is at a higher risk because of the geological faults and so she supported moving forward with this. The Mayor's main concerns are children and the elderly. She supported the fire sprinkler ordinance for new homes, basements but regarding remodels she wanted the trigger to be looked at carefully. She requested that the matter come back on a formal manner and she said she heard Council consensus for basements, new construction and a question mark on remodels. There was consensus for a follow-up Study Session on the issue. Council Member Boyle does not find this to be an efficient use of Council's time, especially because it will go through the State. However, he would like staff to look beyond the information provided by the Fire District.

Mayor Fergusson adjourned the Study Session at 7:03 p.m. and the Council took a five-minute break.

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

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

**Staff present** - Glen Rojas, City Manager, William McClure City Attorney, Bruce Goitia Chief of Police and City Clerk Vonderlinden. Other City staff was present in the audience.

## **PLEDGE OF ALLEGIANCE**

The Mayor announced a moment of silent for those who passed away on 9/11.

## **A. VACANCIES, APPOINTMENTS AND COMMISSION REPORTS**

1. The following Advisory Bodies will have vacancies for seats that expire September 2007. The new terms will serve until September 2011. The application deadline for submittal of applications to the City Clerk's Office is Wednesday, September 26, 2007 by 5:30 p.m.

- The Environmental Quality Commission (three seats - one term expires August 2008 and two terms expire September 2011)
- The Library Commission (one seat)
- The Housing Commission (two seats)
- The Parks and Recreation Commission (one seat)
- The Transportation Commission (two seats)

2. Commission members and Chamber of Commerce reports.

- Housing Commission report.

Patti Boyle, Chair of the Housing Commission, presented a report to Council on the Hamilton Park Development and how the Below Market Rate units will benefit a number of families.

Mayor Fergusson gave praise to the vision of prior Councils that made this possible.

## **B. PRESENTATIONS AND PROCLAMATIONS - None**

## **C. PUBLIC COMMENT #1**

Betty Meissner spoke about a recent community event titled "Just Desserts! For Literacy". She explained this was a successful event with many donations from local businesses. She thanked the merchants and the Project Read for organizing the event. She also spoke about other community events such as the Menlo Park Book Fair.

Elias Blawie spoke about public participation and how in his opinion the agenda should have been more transparent. He thanked Council for the change in schedule of the Green Ribbon Citizens' Committee. He spoke about housing on 1300 El Camino Real and how he found the agenda wording unclear. He supports exceptions but with clearly delineated guidelines. He opined that administrative guidelines need revision.

## **D. CONSENT CALENDAR**

1. Adoption of Resolution No. 5764 of the City of Menlo Park accepting grant deed of easements from the Board of Trustees of the Leland Stanford Junior University. (Staff Report #07-153)

2. Approval of the minutes for the Special City Council meeting of June 12, 2007 (attachment); and the City Council Meeting of July 17, 2007. (attachment)

**M/S Cohen/Boyle to approve item D2. Motion carries 5-0-0.**

**M/S Boyle/Cohen to approve Consent Calendar item D1. Motion carries 3-0-0 with Mayor Fergusson, and Council Member Robinson recused.**

**E. PUBLIC HEARING - None**

**F. REGULAR BUSINESS**

1. Adoption of Resolution No. 5765 approving the services and contract terms in the draft requests for proposals and agreements for recycling and solid waste services to be used by South Bayside Waste Management Authority to solicit proposals from contractors. (Staff Report #07-154) (Request for Proposal) (RFP Shoreway Recycling & Disposal Center)

Dianne Dryer, Environmental Coordinator, presented the report. She explained that the selected contractor would begin providing services in 2010. She referred residents to [www.rethinkwaste.org](http://www.rethinkwaste.org) as the site where people can get additional information about the process including the Request for Proposal (RFP). Kevin McCarthy, Executive Director for South Bayside Waste Management Authority, spoke about the RFP process and how the respondents provided close to 60 pages of comments which were integrated into the process. Mr. McCarthy presented a full explanation of the RFP process.

Council Member Cline asked about ways to dismiss the contractor, should the Authority be dissatisfied. Mr. McCarthy said that the agreement has the strongest possible language regarding this issue. The rates were discussed as well as the reserves of SBWMA. Vice Mayor Cohen asked about the estimated percentage increase and Mr. McCarthy said that the cost will be negotiated once the bids come in. He said that the City could start to build up reserves in advance to cover these increases by progressively increasing rates. Vice Mayor Cohen commented that the Council will have limited choices when the decision comes before Council. Council Member Robinson said that he would like to see a provision about the noise garbage trucks make in residential neighborhoods.

Mayor Fergusson inquired about the non-recoverable refuse. Mr. McCarthy said that there is a contract in place with Ox Mountain Landfill where garbage is disposed through 2014. Ms. Dryer said that at this time the City is in compliance with the level of 50% reduction in solid waste. She added that what the City is buying is more ways to recycle, saving landfill space and resources which play a role in moderating climate change. Mr. McCarthy said that AB 939 will require additional recycling and waste reduction efforts and jurisdictions will have to move in that direction.

The Mayor invited public comment.

Shelly Kessler spoke about a recent strike of garbage collectors in the East Bay. She advocated for retaining workers that have been doing the work for years. She explained that these workers have institutional and geographical knowledge that will be helpful to customers.

**M/S Robinson/Cline to accept item F1.**

Council Member Boyle expressed concerns with the cost in the long run. He predicts this will be much more expensive and he anticipated a lack of creativity with such a large contract. He would prefer a system whereby the people would make the decisions. He did not support the RFP process because he felt too "locked" in place without enough flexibility for bidders. He said he is not pleased with the way this process is going and his preference would be for a more open-ended competitive process.

Mr. McCarthy said that he has 12 jurisdictions to consider and in that context he believes there is a lot of flexibility. He reiterated SBWMA's goal, which is to get the best operator that can do the routes, be efficient, cost effective and customer service oriented. He added that SBWMA bring the matter back to the jurisdictions and it will merely make a recommendation on what firm to go with.

Mayor Fergusson said that it is her belief that the City can drop out of the SBWMA. Mr. McCarthy said that there will be three options before Council: 1) agree with the recommendation 2) negotiate with the operator 3) go out and get its own operator. Council Member Boyle said he is not advocating leaving the

JPA but he does not agree with an RFP that is too prescriptive. Vice Mayor Cohen said there is a need for more education and the burden falls on SBWMA. He was not certain this is a win/win situation. Vice Mayor Cohen would like to hear more about what the other communities are doing. Mr. McCarthy said that he is willing to incorporate suggestions and needs specific to Menlo Park.

**Motion carries 4-1-0 with Council Member Boyle opposing.**

2. Authorization to overfill three police officer positions and discussion of the City Manager's plan to address the retention and recruitment issues facing the Menlo Park Police Department. (Staff Report# 07-155)

City Manager Rojas presented the report and explained the critical situation that the Police Department is experiencing. Since 2004, the Police Department has lost 30 positions. He explained that it takes about 11 months to get a new recruit on the road. He also commented that this is not unique to Menlo Park but a statewide issue. Mr. Rojas said he has created an internal taskforce to work on this plan.

Council Member Robinson asked why it takes four months for a lateral officer to get up to speed. Chief Goitia said that there is a comprehensive training program and it takes time. Council Member Robinson said he is willing to approve an incentive program for any position. The Chief of Police said the Police Department is 30% over its overtime budget and this is a critical situation.

**Public Comment**

Yvonne Gulley, a Police Department Dispatcher, thanked the Council for being concerned. She said since 2006 the dispatchers have been at least one person down and crisis mode was reached in August of this year. She said that unlike other cities dispatchers here have to multi-task. Ms. Gulley added that staff is burned out and help is needed now.

Ken Gardner said he heard shots in his neighborhood which prompted him to found the West Menlo Community Group. He opined that the Police Department needs help now and there is also a need to retain Police Commanders. He made comments about a particular gang and how he expects a more comprehensive plan to address the situation.

Jeff Keegan, representing the Menlo Park POA-Sergeant Association, asked Council to give due respect to the staff report. Mr. Keegan said that at present the City cannot afford to lose a single officer because of the concern of having no replacements. He said that officers are not easily replaceable because it takes a lot of time to get people up to speed on the needs and character of the community.

Mary Gilles thanked all the officers for being present and doing their best. She believes that the role of the Council is public safety first. She said that whatever solutions are on the table, the Police Department needs help; she disagreed with spending \$500,000 for the park theater when the Police Department needs help. She believes the Council should focus on taking meaningful action tonight.

Linda Gregory, with AFSCME local 829 and the local dispatchers, said she has observed that when there are cyclical crisis something needs to be done quickly. Ms. Gregory believes there is a great deal of anxiety when people come to work tired and worried about doing a good job. She pointed out that this is probably one of the most experienced dispatchers' staff in San Mateo County.

Council Member Cline said he supports the Police Department and this proposal. Council Member Robinson spoke about the "Your City/Your Decision" process remembering that none of the groups that met recommended reduction of Police services. He said there was a general consensus to increase these services. He thanked the voters for passing the UUT measure because funds will be needed. He shared support for the staff recommendation and an increase in the incentives giving the City Manager authority to identify critical areas of vacancies and provide incentives for those areas.

**M/S Boyle/Cline to support the two recommendations from the City Manager.**

Mayor Fergusson said she sees this as a constructive first step. She said that the goal should be to make Menlo Park's Police Department a destination department. Vice Mayor Cohen opined this is not enough and the incentive is not sufficient. Council Member Boyle commented that he wants this to be a manager driven process where the City Manager provides recommendations to the Council. He said that he wants to know what kind of incentives staff can come up with so that people don't leave when they reach age 50. Council Member Boyle asked if the task force should be expanded and Mr. Rojas said that it might be in the future but for now it should be a more internal group. Council Member Robinson would like the City Manager to have authority to identify critical vacancies and use a pool of money with a cap of \$1,000 to reward employees who make referrals.

M/S Robinson/Fergusson giving the City Manager authority to identify critical vacancies in the organization and use a pool of money with a cap of \$1,000 to reward employees who make referrals.

Vice Mayor Cohen objected to expanding the scope of the Council action tonight because it goes beyond what was on the recommendation. City Attorney McClure said that staff could return with a recommendation on the bonus discussion.

**Substitute motion:**

**M/S Fergusson/Cohen to have staff bring back a proposal that would include the City Manager having the ability to identify critical staffing vacancies across the organization and using a pool of money with a cap of \$1,000 as a referral bonus up to the City Manager's approval limit of \$25K.**

Council Member Robinson withdrew his original motion and the second agreed. Vice Mayor Cohen said that he is not disagreeing with Council Member Robinson but he wanted the process to be more transparent for the public benefit. City Attorney McClure said that this one item could come back as a Consent Calendar item next week, and Vice Mayor Cohen asked for a summary of tonight's discussion. Council Member Cline pointed out that the real issue is salary levels and he requested more information on salary and benefits. Mayor Fergusson said that she supported the items discussed and recommended an immediate and long term plan of action. She would also like to look at another city as an example.

**Vote on the substitute motion (only motion on the floor): motion carries 5-0-0.**

Council Member Robinson pointed out that while there is a problem, the City Manager and other staff are committed to resolving it. He thanked Council for the consensus reached tonight.

3. Authorization of the City Manager to execute a five-year contract with NTI Group, Inc. for a community alerting and notification system, in the amount of \$137,500 over the life of the contract, and approval of a budget amendment via Resolution No. 5766 in the amount of \$25,000 for the first year of the contract. (Staff Report #07-156)

*Council took a break at 9:50 p.m. Council resumed at 9:56 p.m.*

Lacey Burt, Police Commander, said that it was an honor to asking for Council approval for this product on the night of September 11. The commander spoke about the four phases of emergency preparedness and how staff has been trained in this area. Ms. Burt asked Council to approve the contract allowing the Police Department to communicate with residents through multiple media in case of an emergency. Ms. Burt explained that she evaluated current market systems and after a thorough analysis came to the conclusion that this product is the best.

Council Member Boyle asked about who gets to notify who. Ms. Burt explained that the Police Department will make that judgment call but a policy will be developed by staff. Council discussed why this money was not in the budget and an appropriation is needed. Ms. Burt explained that initially it had been anticipated that this amount could be absorbed in the Police Department budget but with other cost overruns that is no longer the case. Consequently, a budget appropriation is needed. Council Member Robinson asked if staff is going to be in charge of the policy and Ms. Burt said staff will draft it and could bring it back if this was Council's desire. Council Member Boyle would like this to get more public

exposure. He believes a public information campaign is needed as well as providing residents the option of opting out of the system. Council Member Robinson asked about the accuracy of the database. Ms. Burt explained that the database pulls from 210 data sources to make sure the information is correct. Judy Bloom, sales representative with NPI, explained how the database gets updated and how it gets to be 96% accuracy rate. She explained various report features and the implementation timeline.

Council Member Cline asked about the termination clause and the City Attorney said that his office reviewed the contract extensively. Vice Mayor Cohen asked when this will be live. Staff said that while NTI could be ready in 14 days such timeline is not realistic for the Police Department. Ms. Burt said that guidelines will need to be drafted and staff will move as fast as it can. Council Member Cline asked about who owns the data and the City Attorney said that the City does. The notification process was discussed and Ms. Burt provided details on the issue.

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

**M/S Robinson/Boyle to authorize the City Manager to execute a five-year contract with NTI Group, Inc. for a community alerting and notification system, in the amount of \$137,500 over the life of the contract, and approval of a budget amendment Resolution No. 5766 in the amount of \$25,000 for the first year of the contract. Motion carries 5-0-0.**

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.

## **G. WRITTEN COMMUNICATION**

1. Correspondence from Sand Hill Property Company regarding 1300 El Camino Real. (attachment)

Mr. Warmoth, Development Partner, addressed Council explaining he did not want to have a non-conforming plan. He added that the process in Menlo Park is lengthy and based on comments from residents it would be best to provide options for Council consideration. On that note a tandem proposal will be to include some housing along Garwood Way. Mr. Warmoth explained this would include 36 units and this would be part of his alternative project.

Mayor Fergusson said that the thought of 36 units is a positive surprise. Council Member Boyle concurred that this is an exciting alternative but he is uncertain if the process by which this came about is positive. City Attorney McClure explained that the notices that will be mailed out will clearly outline the alternatives.

### Public Comment

Patti Boyle said that the Housing Commission just revised their waiting list and half of the 200 people on such list are waiting for one and two bedrooms.

Vice Mayor Cohen asked if adding an alternative extends the timeline and Mr. Warmoth said that it does not have a big impact time wise.

## **H. INFORMATION ITEMS - None**

## **I. COUNCIL MEMBER REPORTS**

Council Member Boyle reported that the audit subcommittee will meet this Friday and discuss a way to proceed. He also said that the El Camino Real visioning subcommittee is working on a mailer and there is progress on the Request for Qualifications and Request for Proposal.

Council Member Robinson said that he attend the RHENA meeting and approved the revised housing numbers. He said that Monday night there was the first Willows Traffic Task Force Meeting took place and he thanked everybody. He said there were a lot of good comments on how to address traffic and crime problems. Council Member Boyle commented that the Fire District should be included in these discussions.

Mayor Fergusson reported on attending the League of CA cities conference and she found it useful. She appreciated the opportunity to network with neighboring cities. She announced a community meeting tomorrow night of the Park Theater and the project proponent is hosting a community meeting in the fire side room. She invited the public to attend this informational meeting and the architect for the project will be present.

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

**K. ADJOURNMENT** – The meeting adjourned in the memory of Environmental Quality Commissioner Bob Swezey who passed away recently. The meeting adjourned at 10:51 p.m.

Respectfully submitted,

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Silvia M. Vonderlinden, Certified Municipal Clerk

Approved at the Council Meeting of October 16, 2007.