



## CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, November 27, 2007

5:30 p.m.

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

**ROLL CALL** – Fergusson, Boyle, Cline, Robinson; Absent – Cohen

Mayor Fergusson announced that Vice Mayor Cohen and the City Attorney have a potential conflict of interest and have been recused from participating during this discussion.

**Staff present** - City Manager Rojas, City Clerk Vonderlinden, Public Works Director Steffens. Other staff was present in the audience.

### **STUDY SESSION**

- 1. Review of the Caltrain Grade Separation Footprint Study and prior City studies of possible grade separations with Caltrain tracks and the roadways of Ravenswood Avenue, Oak Grove Avenue, Glenwood Avenue, and Encinal Avenue. ([Staff Report #07-200](#))**

Mayor Fergusson stated that the purpose of this study session is to provide information to the Council on the Grade Separation Footprint Study performed by Caltrain and the previous Gade Separation Study performed by the City in 2003. She pointed out that several members of the Council were not on the Council when this matter was presented to Council several years ago and that this is an opportunity to educate and inform the Council and the public on this issue.

Public Works Director Kent Steffens presented background related this issue. He informed the Council that in July 2002 the City obtained funding for a Grade Separation Feasibility Study from the San Mateo County Transportation Authority and retained BKF Engineers to conduct the study. The study assumed tracks would be expanded from two to four sets; evaluated all four crossings; and evaluated four basic grade separation alternatives: 1) a trench; 2) an overpass; 3) an underpass; and 4) a split. At the meeting of September 9, 2003 the Council directed staff to continue further studies of the “split” and “underpass” alternatives and to consider the practicality of closing Encinal Avenue and Glenwood Avenue at the railroad tracks rather than pursuing grade separations. On October 19, 2004, the Council gave direction to staff to convene meetings of neighboring cities to determine if there were common interests. Several meetings were held with elected officials of Atherton, Palo Alto, Mountain View and Redwood City. Each city had different issues with grade separations depending on the configuration of roadways and existing parcels around potential grade separation locations. Mr. Steffens reported that no formal actions were taken as a result of these group meetings.

Mr. Steffens reviewed the findings of the City’s 2003-2004 Grade Separation Feasibility Study. He displayed diagrams related to right-of-way issues at all four crossings. He reviewed the four alternatives and issues related to each alternative. Mr. Steffens reported that the general findings from Phase I of the Study were: 1) using a partial trench alternative results in difficult road connections and construction is required throughout the length of the tracks; 2) using the overpass alternative results in the largest footprint and major visual impacts and was the least desirable of alternatives studied; 3) using the underpass alternative results in road connection

changes and long approaches are required to meet elevations; and 4) using a split alternative allows for all road connections to be maintained and requires a raised track embankment.

Mr. Steffens stated that as a result of Phase I findings, the Council directed staff to continue to evaluate the underpass and split alternatives; to consider closing rather than grade separating Encinal and Glenwood Avenues; and to develop graphics for public review. He reported that Phase II of the Study looked at closing Encinal and Glenwood Avenues and determined that: 1) rerouting traffic would be a major concern, with over 11,000 vehicles per day needing to be rerouted to other streets; 2) there would be delays in emergency response routes; and 3) some businesses could be negatively impacted. The Public Works Director reviewed diagrams of different station plan designs based on the split and underpass alternatives.

In response to questions previously raised by members of the Council, the Public Works Director reviewed several other issues related to grade separation that were not in the initial study. He pointed out that grade separations should not have a negative impact on the City's plans to construct a bike/pedestrian tunnel. Mr. Steffens also reviewed issues related to questions raised about top down construction techniques stating that: 1) it only applies to the underpass alternative; 2) it avoids use of temporary tracks (shoofly); 3) it requires night construction, when trains are not running; and 4) the costs and train service disruption impacts are unknown and would need further study. Mr. Steffens noted that questions have been raised about quiet zones and reported that while quiet zones have the potential to eliminate train horn noise, they require Caltrain and UPRR approval and are expensive to implement. He said that quiet zones will also become obsolete if grade separations are installed.

Ian McAvoy, Chief Development Officer, San Mateo County Transit District, reviewed the Grade Separations Footprint Planning Study being funded by the San Mateo County Transportation Authority (TA). He informed the Council that the TA is the lead agency for planning. He stated the goal of the TA is to identify options that improve safety and local traffic flow at grade crossings and to define the preliminary associated impacts and costs. He stated they studied 24 alternatives and reviewed the preliminary potential impacts assessment and cost estimates. Mr. McAvoy reviewed next steps which include: 1) complete the footprint studies in 2008; 2) the TA will prioritize grade separations in San Mateo County working with Caltrain and the cities in late 2008; 3) commence project study reports in 2009 including further evaluation of alternatives to determine viable improvements; 4) environmental clearance and design and adoption of locally preferred alternatives; and 5) begin construction in 2011 if projects do not impact railroad or 2014 if projects do impact the railroad. He concluded that the TA and Caltrain are looking forward to working with the cities as they move forward on this process.

Staff responded to questions raised by members of the Council. They informed the Council that the issue of high speed rail is being considered as part of the planning process and that whether or not high speed rail is approved, Caltrain plans on increasing rail traffic on all of its lines, possibly going to four tracks, and the TA's goal would be to have grade separation at all crossings throughout San Mateo County.

Members of the public commented as follows:

Judy Font asked what assumptions are being made to plan for increased train traffic.

Jim Bigelow, representing the Chamber of Commerce, said their interest is that Menlo Park stakeholders have the opportunity to have input into this process. He expressed concern for the disruption that will occur to businesses during construction of grade separations. He also

suggested that the half cent sales tax that the community is already paying should go toward this effort.

Milton Borg, a business owner, expressed concern that any of the proposed plans would eliminate his business and require eminent domain. He questioned how many businesses would be impacted and what benefit high speed rail or grade separations would have for Menlo Park and the cost to the City.

James Janz, Atherton Vice Mayor, said he is looking forward to a joint meeting between the two cities on this issue. He raised questions regarding the timing of the Footprint Study and the funding for this and future studies.

Morris Brown stated he is opposed to both grade separation and high speed rail for Menlo Park. He expressed the belief that if the high speed rail bond measure passes, the State will have eminent domain rights, but that Caltrain does not have eminent domain rights to construct grade separations without cooperation from the local agencies.

Councilmember Boyle questioned whether Caltrain could take property through eminent domain and questioned the funding authority for either grade separations or quiet zones. Mr. McAvoy responded that Caltrain does not, but that the Joint Powers Authority, consisting of all the cities in San Mateo County, has the authority to take property through eminent domain. He stated there are two funding pots under the TA at this time, one is the existing 1998 measure that has money set aside for grade separations and there is new funding in 2009 that has money included for grade separations. He said that in the past and in the future these monies have been, and will continue to be, leveraged with state and federal monies and possibly private partnership monies as well. He stated that Caltrain has monies available for quiet zones, but funding requests for this should be channeled through the TA.

Councilmember Robinson asked if Measure A funds, the half cent sales tax, is being used to fund some of these studies. Mr. McAvoy responded that these revenues are being used to fund these studies.

Mayor Fergusson stated that raising or lowering the train would be very disruptive to the Menlo Park during construction, but agreed that it is important to keep all options on the table. She expressed a desire to keep the top down option as part of the mix. She thanked everyone for participating in this study session and announced that there will be joint study session with the Town of Atherton in January to further review this matter.

## **REGULAR MEETING**

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

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

## **PLEDGE OF ALLEGIANCE**

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

- 1. There are three vacancies on the Finance/Audit Committee, a newly formed advisory body. The vacancies are for two two-year terms and one three-year term to allow for staggered seats. The deadline for submittal of applications to the City Clerk's Office is Tuesday, November 27, 2007.**

**2. Commission members and Chamber of Commerce reports.**

**Action:** None

**B. PRESENTATIONS AND PROCLAMATIONS**

**1. Presentation of the Environmental Quality Awards by the Environmental Quality Commission.**

Doug Scott, chair of the EQC, presented the environmental quality awards to Laurel and Encinal Elementary Schools, the Saint Claire Gallery, and Kepler's Books.

**C. PUBLIC COMMENT #1**

Ian Overton, Scott Gardner, and Diana Wong, with the LaRouche Political Action Committee, warned about the global banking collapse that will affect homeowners and banks and asked the Council to endorse and support the Homeowners and Bank Protection Act of 2007.

**D. CONSENT CALENDAR**

**Action:** Moved, seconded (Boyle/Cline) and carried unanimously to approve the Consent Calendar as noted below.

**1. Adoption of a resolution authorizing the installation of an approximately 60-foot-long No Parking Zone on Monte Rosa Drive between the driveway at 600 Sharon Park Drive (Seven Oaks Apartments) and the driveway at 675 Monte Rosa Drive (Sharon Ridge Condominiums). ([Staff Report #07-199](#))**

**Action:** Adopted Resolution No. 5774 authorizing installation of No Parking Zone.

**2. Adoption of a resolution approving the City Council Subcommittee recommendations regarding the allocation of 2007-08 Community Funding in the amount of \$76,500. ([Staff Report #07-204](#))**

**Action:** Adopted Resolution No. 5775 approving allocation of FY 2007-08 Community Funding.

**E. PUBLIC HEARING**

**1. Adoption of a resolution accepting the Fiscal Year 2007-08 State Supplemental Local Law Enforcement Grant (COPS Frontline) in the amount of \$100,000 and approval of a request to use the funds in conjunction with \$90,000 in funds from the Fiscal Year 2006-07 COPS Frontline Grant in accordance with State requirements and authorize the City Manager to enter into an agreement with Duncan Solutions in the amount of \$125,450 to upgrade the current automated citation system (AutoCITE). ([Staff Report #07-196](#))**

Diel Hutchins, Management Analyst, presented the staff report. She reported that under the requirements of the grant, funds must be used for frontline police services and must supplement and not supplant existing funding. She reported that staff is recommending that the Council accept the COPS grant in the amount of \$100,000 and use it in conjunction with \$90,000 in grant funds from the prior fiscal year to upgrade the automated citation system (AutoCITE). Staff also recommends entering into an agreement with Duncan Solutions to upgrade the current automated citation system, including the purchase of equipment.

Chief Goitia reported that this sole source contract is required because of the specialized integration with the City's records management system and it is the only system that meets the requirements set forth by San Mateo County Courts.

The Mayor opened the public hearing. As no members of the public desired to speak, the Mayor closed the public hearing.

**Action:** Moved, seconded (Cline/Boyle) and carried unanimously to adopt Resolution No. 5776 accepting the FY 2007-08 COPS grant in the amount of \$100,000; approving the use of funds in conjunction with FY 2006-07 COPS grant funds in the amount of \$90,000; and authorizing the City Manager to enter into an agreement with Duncan Solutions to upgrade the current automated Citation System (AutoCITE).

## F. REGULAR BUSINESS

1. **Authorization of the City Manager to enter into an agreement in the amount of \$42,917 with Callandar Associates to conduct a citywide Sport Fields Study and a Playing Fields Study. ([Staff Report #07-202](#))**

Larry Johmann, Senior Civil Engineer, presented the staff report. He stated that the purpose of the Citywide Sport Fields Study is to evaluate and recommend the suitability of potential sites throughout the City for new and/or enhanced sports fields and the purpose of the Playing Fields Study is to evaluate and recommend various means of increasing the availability and use of the playing fields at Burgess Park and Kelly Park. He reported that both studies have similar tasks and therefore staff is recommending that contracting with one consulting firm and proceeding with both studies simultaneously to provide greater efficiency. The combined total budget for both studies is \$85,000, of which \$50,400 has been allocated for consultant services and \$34,600 for staff time. He stated the results of each study are expected to yield recommendations and cost estimates for the consideration of future capital improvement projects. Mr. Johmann reviewed the request for proposal process, why staff is recommending Callander Associates, and the scope of work.

Councilmember Cline questioned what involvement Callendar Associates had with the design of Kelly Park. Ruben Nino, Deputy Public Works Director, responded that Callendar did not design the park, but did implement part of the 1999 Recreation Master Plan.

Vice Mayor Cohen wondered if the 1999 Recreation Master Plan might be sufficient to work from and if a new study is necessary.

Councilmember Boyle questioned what process is used when investigating options to purchase land for playing fields. Ruben Nino, Deputy Public Works Director, responded that staff would make the initial contact with outside entities, such as the VA, Stanford, and the Seminary, as well as looking at land that appeared to not be in use throughout the City.

Mayor Fergusson suggested that they look at more than five alternatives and consider joint use with the schools. She noted that since the development of the Recreation Master Plan, there has been an increase of young people in the community and this has put a greater demand on the need for playing fields.

Councilmember Robinson reminded the Council that this is one of the Council priorities and there is recognized need for sports fields. He noted that a lot of people in the City have thought a lot about this, such as past and present members of the Parks and Recreation Commission, and that it is important to get input from people who have an interest in this.

Members of the public commented as follows:

Paula Maurano, chair of the Parks and Recreation Commission, stated that the Commission is supportive of both of these studies and said that the shortage of playing fields is well documented. She said that the Commission would like to ask: 1) for an expansion of time to several months for site investigation as part of the Citywide Study; reconfiguring of Burgess Park Playing Fields be coordinated with the Burgess Gym project; and 3) there be some staff and consultant support assigned to the investigation portion of the study.

Councilmember Cline said he did not want to slow down the process and questioned whether the Playing Fields Study could go forward if the Citywide Sports Field Study were delayed. Transportation Manager Chip Taylor responded that there might be some additional cost since the scope of work and cost were based on efficiencies of doing these at the same time.

Councilmember Boyle felt that the emphasis should first be put on identifying four or five locations that could be used for playing fields and the next step would then be to hire the consultant to do the analysis. He referred to the scope of work which suggested looking at artificial turf and lights for the playing fields and suggested that this topic should be considered by Council before a consultant spends time researching these issues.

Vice Mayor Cohen agreed with comments made by the Parks and Recreation Commission chair. He agreed with moving forward on the Kelly Playing Field Study, including lights and artificial turf, but did not agree with moving on the other recommendations at this time.

Councilmember Robinson agreed that the City should move forward with Kelly Field and the Council should discuss whether or not they are in support of artificial turf and lights. He said he is less certain as to what should be done with Burgess Field, as the site isn't big enough. He suggested one way to proceed is to go ahead with the contract as written; have a meeting with the Parks and Recreation Commission and see what comes out of that; and at that time if it is determined more time is needed, the process could be slowed down.

Mayor Fergusson felt that the scope of the Playing Fields Study is pretty good and questioned if there is some way to modify the scope of work on the Citywide Sport Fields Study to include a broader investigation phase. Transportation Manager Chip Taylor responded that there is about \$7,000 left in the budget for this project. He said staff could review with the consultant whether that would be sufficient to modify the scope of work on the Citywide Sport Fields Study to broaden the investigation phase and if necessary come back to Council if there needs to be modification to contract.

Councilmember Cline agreed with this approach. He indicated he supports lights and artificial turf for Kelly Field, but only turf and not lights for Burgess Field as the neighbors have already expressed opposition to this.

Councilmember Robinson said he would consider lights and artificial turf for both Kelly and Burgess Fields. He suggested one way to approach this project might be to have a subcommittee of the Parks and Recreation Commission work with staff to expedite this process and/or to have a Council Subcommittee work with staff.

Mr. Taylor stated that it was staff's intent to first determine what sites might work for sports fields before making contact with owners of the sites. The City Manager suggested that the Council approve moving forward and the process could be adjusted, if need be, throughout the process.

Councilmember Boyle indicated he could support the City Manager's proposal if there is a checking in point with the Council after potential sites are identified. He agreed with forming a subcommittee of the Parks and Recreation Commission to work on this, especially related to the investigation of potential sites for playing fields.

Councilmember Cline suggested that there also be a Council Subcommittee or the Council Liaison to provide history and to work with staff and the consultant.

The City Attorney reviewed the regulations regarding formation of subcommittees and independent bodies as it applies to the Brown Act.

Mayor Fergusson agreed with Councilmember Boyle that it would be helpful to have a check-in with the Council on potential sites and support for a Council Subcommittee.

Vice Mayor Cohen suggested that the Council liaison to the Parks and Recreation Commission work with the Commission on this matter.

Councilmember Boyle agreed with the Vice Mayor's suggestion that the Council liaison work with the Parks and Recreation Commission and to not form another Brown Act body.

**Action:** Moved, seconded (Robinson/Cohen) and carried unanimously to authorize the City Manager to enter into an agreement with Callander Associates to conduct a Citywide Sport Fields Study and a Playing Fields Study in the amount of \$50,400 and that the Council recommend that the Parks and Recreation Commission consider forming a subcommittee that would work with staff and the consultant on all aspects of this project and in particular in identifying new sites for the sport fields projects and that there be a check-in with Council when potential sport fields sites are identified.

2. **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.**

**Action:** None

#### **G. WRITTEN COMMUNICATION - None**

#### **H. INFORMATION ITEMS**

1. **Update on the settlement agreement and review process for the revised Derry Mixed-Use Project located at 550-580 Oak Grove Avenue and 540-570 Derry Lane. ([Staff Report #07-205](#))**

Megan Fisher, Associate Planner, reviewed the process and timing on this project, stating that staff is reviewing the proposal and the EIR, and that the project must go before the Housing Commission and the Planning Commission prior to coming to the City Council for a public hearing.

Councilmember Boyle raised concerns that this process has resulted in the Council being asked to consider a development agreement that will have been negotiated by two private parties behind closed doors. He suggested the Council consider forming a Council Subcommittee to review the proposed development agreement with staff before it comes before the full Council. Councilmember Boyle also stated his discomfort that a large portion of the settlement agreement on this project is confidential from the City and the public.

The City Attorney stated that the settlement agreement is between two private parties and only the two parties can agree to waive confidentiality of any portion of the agreement. He informed the Council that he was consulted by both sides regarding some of the terms of the settlement agreement and was invited to attend some of their meetings. He reviewed the history of this project, the referendum, and litigation.

Councilmember Cline raised issues related to the number of units and if and how density will be resolved. He expressed his desire to have the Council have a study session on the issue of public benefit in the near future. He commented that he thinks the revised project is designed well.

Vice Mayor Cohen reviewed the history of this project under a different Council and pointed out that as part of this settlement agreement the City will receive a public benefit of \$2 million.

Councilmember Robinson said he is pretty happy with the process and would like to see the project move forward with as much public process and transparency as possible.

Councilmember Boyle stated his problem is not necessarily with the design of the revised project, but rather the process, and that as a result of the process the City is losing a number of below market rate units and either losing or delaying City fees as a result of the settlement agreement.

Mayor Fergusson stated the City has complete discretion on approval of this project and always has the option of placing the referendum on the ballot.

Members of the public commented as follows:

Jim Pollart, representing O'Brien Homes, informed the Council that the settlement agreement did not provide payment of any kind between the parties, nor did it include any reimbursement of cost related to the referendum. He also reported the City Attorney is familiar with the terms of the settlement agreement.

Morris Brown, representing Menlo Park Tomorrow, as the other party in the settlement agreement confirmed statements made by Jim Pollart.

Peter Colby spoke about need for more land for sport fields and working with Stanford to lease land.



Elias Blawie said that he was part of the negotiating team with Menlo Park Tomorrow and urged the Council to move forward with this project and to focus on the positives of this project and to not focus on what was lost.

Patti Fry said she was also part of the negotiating team with Menlo Park Tomorrow. She said the alternative was to have a project caught up in litigation. She said the negotiations attempted to address the public concerns as expressed in the successful referendum. She noted that the Council still has the option of approving the revised, negotiated project or placing the referendum on the ballot.

Members of the Council reiterated their prior comments. Mayor Fergusson noted that no action is required of Council at this time.

#### **I. COUNCIL MEMBER REPORTS**

Councilmember Robinson announced the next meeting of the San Francisquito Creek JPA will be held on December 6 at 4:00 p.m. in the Council Chambers.

Councilmember Boyle and Mayor Fergusson announced holiday events sponsored by the Chamber of Commerce.

#### **J. PUBLIC COMMENT #2 - None**

#### **K. ADJOURNMENT – Adjourned at 10:15 p.m.**

Margaret S. Roberts, MMC – City Clerk for  
Sherry Kelly, Interim City Clerk