



**CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, March 25, 2008

7:00 p.m.

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

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

Staff present: City Manager Rojas, City Attorney McClure, and City Clerk Kelly.

PLEDGE OF ALLEGIANCE

A. COMMISSION/COMMITTEE VACANCIES AND REPORTS

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

Action: No reports.

B. PRESENTATIONS AND PROCLAMATIONS

1. **Proclamation honoring Peninsula Volunteers** ([attachment](#))

Action: The Mayor presented a proclamation honoring Peninsula Volunteers.

C. PUBLIC COMMENT #1

Jim Lewis spoke in tribute of former City Manager Mike Bedwell and his accomplishments.

Clem Molony informed the Council that he is participating in the El Camino Real Downtown/Vision Process and distributed information on “form-based” codes.

Thomas Forrest spoke in support of recycling and suggested the Council consider a five or ten gallon garbage can as an alternative to the 20 gallon can.

Mark Flegel shared memories in honor of former City Manager Mike Bedwell.

Betty Meissner reviewed several programs and upcoming events associated with Project Read and the Library.

D. CONSENT CALENDAR

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

1. **Consideration of a Resolution accepting the public improvements and authorizing the release of the bonds for the Hamilton Park Subdivision Project, and adoption of a Resolution designating the new streets of the Hamilton Park Subdivision as no parking zones.** ([Staff Report #08-036](#))

Action: Adopted Resolution No. 5786 accepting public improvements and authorizing the release of the bonds for the Hamilton Parks Subdivision project and adopted Resolution No. 5787 designating new streets as no parking zones for the Hamilton Park Subdivision.

2. **Approval of the City Council minutes for the meetings of January 15, 2008; January 29, 2008 (special); January 29, 2008 (regular), February 5, 2008 (special), February 12, 2008 (regular), and February 26, 2008 (regular).** ([attachments](#))
Action: Approved minutes with amendments to February 26, 2008.

E. PUBLIC HEARING

1. **Consideration of a Resolution approving rate increases in solid waste collection rates, effective retroactively to January 1, 2008 of 14% for commercial customers; and for multi-family residential customers rate increases of 5% for services of 20 gallons or less, 10% for services of between 21 and 32 gallons, and 14% for all other service sizes.** ([Staff Report #08-037](#))

John McGirr, Revenues and Claims Manager, presented the staff report. He informed the Council that staff is recommending a rate increase of 14% for all commercial customers and rate increases of 5% for multi-family residential customers with service sizes of 20 gallons or less; increases of 10% for service sizes of between 21 and 32 gallons; and increases of 14% for all other multi-family residential service sizes, with the rate being retroactive to January 1, 2008.

The Mayor opened the public hearing. There was no one wishing to speak to this matter.

Actions: Moved, seconded (Fergusson/Cline) and carried unanimously to close the public hearing.

Moved, seconded (Boyle/Cohen) and carried unanimously to adopt Resolution No. 5788 approving rates for commercial and multi-family residential customers.

2. **Consideration of a Resolution defining the service area for all single-family residences and approving rate increases in solid waste collection rates for single-family residential customers at 5% for 20 gallon single can services, 10% for 32 gallon single-can services, and 14% for all single-can and multiple-can services greater than 32 gallons to be effective July 1, 2008.** ([Staff Report #08-037](#))

Mr. McGirr presented the staff report and stated that staff is recommending rate increases for all single-family residences of 5% for 20 gallon single can services; 10% for 32 gallon single can services; and 14% for all single can and multiple can services greater than 32 gallons effective July 1, 2008.

Council Member Fergusson questioned whether or not there is an option for a five gallon can rate and Council Member Boyle questioned whether there would be a cost savings in having a smaller can.

Mr. Evans, of Allied Waste, responded that, at present, ten gallon containers can not be collected using automated equipment. He did point out that there is the ability to add a

20 gallon insert inside a 32 gallon container so that the container can be picked up using automated equipment. He stated that if the City is interested, Allied Waste could investigate options for a ten gallon insert.

Council Members Cline and Robinson expressed their desire to have the City explore financial hardship or lifeline rates.

Council Member Boyle suggested that the City include, in future contracts, incentives for the service provider to reduce their costs.

In response to a question raised by Council Member Cline, the representative from Allied Waste informed the Council that under state law garbage must be collected at a minimum of once a week.

Mayor Cohen opened the public hearing. Members of the public commented as follows:

Thomas Forrest stated his desire to reduce waste going into the landfill and suggested the Council consider a smaller can size or that neighbors share garbage cans. He informed the Council that his family does not produce enough garbage to fill the 20 gallon container on a weekly basis.

Action: Moved, seconded (Fergusson/Robinson) and carried unanimously to close the public hearing.

Council Member Fergusson questioned other options such as collecting garbage by weight and issuing credits for “recycling banks”. Dianne Dryer, Environmental Programs Coordinator, acknowledged that there are other systems being used in other parts of the country, and that these could be looked into when going forward with a new contract in 2011.

In response to questions raised by Vice Mayor Robinson, Mr. McGirr stated that there are 820 residential customers who use a single 20 gallon can. The Vice Mayor suggested that the Council not raise the rate on this can size.

Council Member Boyle stated his support for the staff recommendation pointing out that the rates are suppose to cover the cost of the service. He offered a compromise that the Council move forward with approval of the staff recommendation and direct staff to come back with a proposal for a ten gallon service.

Mayor Cohen stated his support of staff’s recommendation.

Actions: Moved, seconded, failed (Robinson/Fergusson; Ayes – Fergusson, Robinson; Noes – Boyle, Cline, Cohen) a substitute motion to not increase the 20 gallon single can service and to approve the increase for all other services with an additional proportional increase in those rates to compensate for the loss of revenue for not increasing the 20 gallon single can rate.

Moved, seconded (Boyle/Cohen) and carried unanimously a main motion to adopt Resolution No. 5789 approving an increase of rates for single-family residences of 5% for 20 gallon single can services; 10% for 32 gallon single can services; and 14% for all single can and multiple can services greater than 32 gallons.

F. REGULAR BUSINESS

- 1. Consideration of: a) the Community Development Agency Board adopting a Resolution authorizing the Executive Director to execute an Agreement with State Street Bank to effect a Letter of Credit for the Agency's 2006 Bonds; b) the City Council adopting a Resolution authorizing the execution of an Agreement with State Street Bank to effect a Letter of Credit for the Agency's 2006 bonds; and c) the Community Development Agency Board authorizing an additional appropriation of \$402,500 to fund the Letter of Credit Agreement.**
[*\(Staff Report #08-038\)*](#)

Finance Director Carol Augustine presented the staff report and reviewed the history of the bond refinancing which occurred in May 2006 when the Agency issued \$72,430,000 of Ambac insured variable rate tax allocation bonds as a way of refinancing the outstanding bonds that were issued in 1996 and 2000 at lower interest rates. She stated that this transaction was expected to save the Agency approximately \$5,122,000 in interest costs on a gross basis. She stated that the Agency procured insurance from Ambac, to make the bonds more attractive to investors. Ambac is contractually committed to pay the debt service should the Agency fail to make a scheduled payment. In addition State Street Bank and Trust serves as the bonds "liquidity facility". Ms. Augustine stated that these bonds were further secured through the attachment of a "put" feature, which allows an investor to liquidate a bond holding and put it back to the market at face value at any time and that Piper Jaffray serves as the remarketing agent for the bonds. Ms. Augustine reported that bond market conditions since January 2008 have resulted in the bonds trading at a much higher interest rate, which has resulted in doubling the interest costs to the Agency. She said that staff brought this to the Council and Agency Board's attention at its meetings of February 12, 2008 and March 11, 2008.

Ms. Augustine informed the Council/Agency Board that staff is proposing a number of actions for the purpose executing a letter of credit with State Street Bank for the 2006 bonds. She informed the Council/Agency that staff has been working with Piper Jaffray on restructuring alternatives for the variable rate tax allocation bonds and has also obtained the services of a third party financial advisor, Public Finance Management.

Mark Curran, managing partner of Piper Jaffray and Steven Gortler of Piper Jaffray, presented information on: 1) the causes of the market disruption; 2) an update on the market conditions; 3) options available to the Agency/City; 4) the benefits and risks of pursuing the recommended actions; 5) and the Agency's next steps.

Mr. Curran stated that bond insurers, such as Ambac, play a crucial role in the municipal bond market by guaranteeing the timely payment of bonds. Institutional investors who rely on these guarantees are now concerned about the financial health of the bond insurers because of the insurers' decisions to guarantee sub-prime mortgage-linked bonds, collateralized debt obligations, and other non-municipal securities. Mr. Curran reported that rating agencies have downgraded or have threatened to downgrade the ratings of most "AAA" rated bond insurers, and that, in January 2008, Fitch downgraded the rating of Ambac to "AA" from "AAA" and Moody's and S&P have placed Ambac on a negative credit watch. He informed the Council/Agency Board that the traditional buyers, such as money-market funds, now refuse to buy most insured bonds and the non-traditional investors are only willing to buy insured bonds at a higher interest rate. He said that interest rates jumped from 2.95% on January 21 to as high as 7% and during the month of February the

bonds were traded in the 5.50% to 6.50% range, nearly doubling the interest cost to the Agency.

Mr. Curran said that their goal is to come up with a structure that reduces the interest rate and that the options examined included: 1) remarketing the bonds at elevated interest while Ambac recovers, which assumes gradual market stabilization; 2) refinancing the bonds with a traditional fixed structure; 3) purchasing new bond insurance from an "AAA" rated provider; and 4) converting the liquidity facility, currently State Street, into a direct pay line of credit.

Mr. Curran stated that they are recommending the Agency obtain a temporary letter of credit from State Street Bank and Trust, which would result in having State Street wrap their credit around the debt so as not to disturb Ambac's rights, in the hopes that Ambac will bounce back over the next 18 months, and to immediately get the interest rate under 2%. He pointed out that this option is recommended because it: a) provides the lowest possible financing cost; b) preserves Ambac's insurance; and c) it is the quickest and least costly to implement.

Mr. Curren explained that the downside in doing this is that if Ambac does not rebound within 18 months, the letter of credit would have to be renewed at a cost of about \$350,000 a year or the Agency would need to find a new bond insurer or a less expensive letter of credit.

Mr. Curren responded to questions raised by members of the Council/Agency Board regarding: 1) whether or not the City could be the insurer; 2) what constitutes default and what would happen if the Agency were considered in default; and 3) the worst case scenario.

Peter Schellenberger of Public Finance Management informed the Council/Agency Board that they have been working with City staff and Piper Jaffray and that he believes the recommendation being presented is the best solution. He stated that many other entities and insurers are facing this problem throughout the country. Mr. Schellenberger noted that the approach recommended would result in a debt savings and that there is value in keeping the Ambac policy.

Mayor Cohen requested that both consultants provide the City with a summary of the problems as they have stated them and their positions in writing.

Action: Moved, seconded (Robinson/Fergusson) and carried unanimously to: a) adopt Resolution No. 294 authorizing the Executive Director to negotiate and execute an agreement to effect a Letter of Credit with State Street Bank; b) adopt Resolution No. 5790 authorizing the City Manager to negotiate and execute an Agreement to effect a Letter of Credit; and c) authorizing an additional appropriation from the Community Development Agency to fund the Letter of Credit.

2. **Consideration of purchasing offset credit for Greenhouse Gas Emissions from City operations through the PG&E Climate Smart Program.** ([Staff Report #08-039](#))

Diane Dryer, Environmental Programs Coordinator, presented the staff report. She reminded the Council that in January 2008 Council Member Fergusson suggested the Council consider purchasing emissions offset credits through the PG&E ClimateSmart

Program to neutralize carbon emissions from gas and electricity used in City facilities. She stated that, under this program, each month the City would pay a surcharge based on gas and electricity used and the cost for participating in the program from April through December 2008 is estimated at \$15,000. Ms. Dryer said that funding generated by ClimateSmart would be used by PG&E to buy permanent conservation easements in forests to save them from logging, so that the trees can sequester carbon dioxide and for PG&E to invest in facilities to capture methane from dairy farms. She also informed the Council that if the Council agrees to participate in this program, PG&E has agreed to assist with publicity that would encourage other Menlo Park PG&E customers to participate in the program and would provide them with information on energy efficiency rebates and other ways to reduce greenhouse gas emissions.

Members of the public commented as follows:

Jeanne Durnford, a member of the Environmental Quality Commission, applauded the Council for considering purchasing offsets and said that she believes PG&E has a well thought out program. However, she questioned what the emission reductions would be if the City used best practices in its buildings.

Mitch Slomiak, a member of the Environmental Quality Commission and co-chair of the Green Ribbon Citizens Committee, said that one of the primary recommendations of the GRCC is for the City to adopt a Climate Action Plan which would include carbon offsets. He stated that he has looked into the PG&E program and encourages the Council to participate in the program.

Tom Kabat expressed his belief that the City needs to act now and should participate in this program as well as implement more energy efficient programs.

Gail Slocum spoke in support of the ClimateSmart Program and stressed that if the City joins now, PG&E will assist with community outreach by doing direct mailings to Menlo Park residents and businesses encouraging them to join the City in becoming "climate neutral" for their energy use; informing them of energy efficient rebates and incentives to go solar; and providing other "green" messages as agreed upon by the City.

Robert Parkhurst, Environmental Manager of PG&E, presented details of the ClimateSmart Program.

Roxanne Cruz, Public Affairs Representative of PG&E, stated that PG&E is always available to support the City and energy efficiency programs.

In response to questions raised by Vice Mayor Robinson, Public Works Director Kent Steffens informed the Council that City staff is working with ABAG on their Energy Watch Program. He also informed the Council that the City is performing audits of City buildings and will be changing out light fixtures in some of these buildings in the near future. He reported that there is a fairly substantial upfront cost in doing this, but that the energy savings pay back occurs in a matter of months.

In response to questions raised by Council Member Cline, Mr. Parkhurst stated that urban forestry works well in large areas such as public parks, golf courses and open space areas, but not on tree-lined streets.

Council Member Boyle cautioned spending \$15,000 on this program without first considering the budget and alternative uses for this money such as planting trees in the City. At a minimum, he suggested waiting until the City receives the proposed Climate Action Plan. Council Member Boyle expressed concern that if the Council approves this expenditure, it will be difficult for the Council to not continue to fund the program in the future.

Mayor Cohen stated that he shares Council Member Boyle's concerns, but that after talking with several citizens, he will support approving this program through December 2008.

Council Member Fergusson spoke to several projects that the City has in regard to tree plantings and energy efficiencies. She pointed out that what is attractive about this program is that it will provide immediate results and that the City will be able to work with PG&E in communicating the City's environmental message to the public.

Council Member Cline asked: 1) whether some of the forestry projects could take place in Menlo Park; 2) how the effectiveness of program will be measured; and 3) what input the City would have in the mailings.

Representatives from PG&E responded that projects are selected through an rfp process, and submittal of local projects are encouraged. The representatives informed the Council that the City would receive an annual report on emissions and the participation rate in the program. PG&E representatives also informed the Council that the PG&E would work with the City as to what is included in the direct mailings in addition to information regarding the ClimateSmart program.

Action: Moved, seconded (Robinson/Fergusson; Ayes – Cline, Cohen, Fergusson, Robinson; Noes – Boyle) to approve purchasing offset credits for Greenhouse Gas Emissions from City operations through the PG&E Climate Smart Program for the period April through December 2008.

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.

City Manger Rojas informed the Council that staff will be sending a letter of support for AB 2437, Ruskin, which requires the City and County of San Francisco to adopt a specified program of capital improvement projects designed to restore and improve the Bay Area regional water system.

The City Manager also reported that Mayor Cohen has sent a letter to Senator Simitian supporting C/CAG sponsored SB 348 which will reauthorize the \$4 assessment in motor vehicle fees for purposes of funding programs related to storm water pollution prevention programs and transportation.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS

1. Core Team for drafting the Climate Action Plan. ([Staff Report #08-040](#))

Council Member Boyle questioned why the structure of the Core Team has changed from what was presented to the Council and discussed at length at its meeting of March 4. He pointed out that this team will be generating public policy recommendations and it is important that the composition of the team be one that will be accepted by the public and has a broad view. Council Member Boyle noted that he felt this Core Team should arguably be a Brown Act body.

Council Member Cline stated he doesn't want to hold the work up on this project, but he is concerned about the public process.

Council Member Fergusson stated that given the discussion the Council had on March 4, the revised proposal for the formation of a technical team makes sense. She noted that the process provides plenty of opportunity for public review and input.

Vice Mayor Robinson, as the council member appointed to be part of the Core Team, reviewed his recollection of the discussion and actions taken at the meeting of March 4. He stated that he later sat in on a staff meeting at which the process for drafting the Climate Action Plan was discussed and it became clear to him that the Core Team needed to be a staff body working with the consultant as defined in this report.

Public Works Director Kent Steffens stated that as a result of Council's discussion and concerns raised at the meeting of March 4, staff has reconsidered its recommendation for the formation of the Core Team and is recommending that this team consists of technical staff and the consultant. He reviewed the public process that would follow including review by commissions prior to coming bringing to the Council.

Mayor Cohen stated that he could not support this process.

Council Member Fergusson suggested continuing the matter until the next meeting.

City Manager Glen Rojas suggested that in order to keep this moving the Council consider allowing the Core Team that is proposed in the staff report to start working on the technical pieces of the Climate Action Plan and to direct staff to bring back at a later date the discussion of public input and the formation of a committee to assist with the public process.

Council Member Boyle stated that he could support the City Manager's suggestion. He pointed out that there are models where for some projects there are both a technical advisory committee (TAC) and a public advisory committees (PAC) working together to compliment each other.

Vice Mayor Robinson also agreed with this concept and stated that under this type of process he would have no problem with the Environmental Quality Commission acting as the PAC.

Mayor Cohen also agreed that utilizing the Environmental Quality Commission as the PAC is worthy of consideration.

The City Attorney reiterated Council's direction to allow staff to continue to work with the consultant as the Core Team on the technical pieces of developing a Climate Action Plan and that staff is directed to agendize as soon as possible the discussion of the public process for developing the Climate Action Plan.

I. COUNCIL MEMBER REPORTS

Mayor Cohen paid tribute to former City Manager Mike Bedwell and asked that the meeting be adjourned in his memory.

Mayor Cohen announced a workshop on March 27th at 7:00 p.m. in the Recreation Center Fireside Room on the El Camino Real/Downtown Vision Plan. He also announced that the El Camino Real/Downtown Vision Plan will hold a community workshop on April 3rd at 7:00 in the Recreation Center Ballroom.

J. PUBLIC COMMENT #2 - None

K. ADJOURNMENT – Adjourned at 11:03 p.m. in memory of former City Manager Mike Bedwell.

Respectfully submitted,

Sherry M. Kelly
City Clerk

Approved at Council meeting of April 22, 2008.