



CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, April 22, 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, Assistant City Attorney Siegel and City Clerk Kelly. Other staff present in the audience.

PLEDGE OF ALLEGIANCE

A. COMMISSION/COMMITTEE VACANCIES AND REPORTS

1. Commission members and Chamber of Commerce reports.

Jean Durnford, chair of the Environmental Quality Commission, asked the Council to fund the Green at Home Program in this year's budget.

Fran Dehn, Chamber of Commerce, announced that the Third Annual Mayor's City Youth Summit will be held April 30 at the Senior Center at 6:30 p.m. She stated that this forum connects young people with business owners for the purpose of summer employment and that attendees will also be given assistance with resume writing and interview techniques.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation to honor Project Read Menlo Park Volunteers. ([attachment](#))

Action: The Mayor presented a proclamation honoring Project Read Menlo Park Volunteers.

C. PUBLIC COMMENT #1

Elizabeth Lasensky invited members of the community to Bayfront Park on Sunday for Kite Day, from 12:00 p.m. to 3:00 p.m.

Pat White questioned Council's support of a County sales tax measure to fund park and recreation programs.

Frank Carney asked the Council to consider closing Santa Cruz Avenue one Sunday of each month this summer to vehicle traffic and turning it into a pedestrian mall.

Betty Meissner honored and thanked Thelma Gonzales and Lucia Soto who have been involved with Project Read as learners.

Lucia Soto spoke about the benefits of Project Read.

Thelma Gonzales thanked the volunteers at Project Read for their help in teaching others how to read.

D. CONSENT CALENDAR

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

1. **Authorize the City Manager to enter into a contract with Bay Area Economics (BAE) for a Fiscal and Economic Impact Analysis of 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 #08-052](#))**

Vice Mayor Robinson removed this item from the Consent Calendar for purposes of discussion. He questioned if the staff would be able to provide the consultant with the City's sales tax data.

Finance Director Carol Augustine responded that the City would be able to provide this information. Development Services Manager Justin Murphy stated that while this information will be useful for this project, it may not be applicable to the whole M-2 area.

Action: Moved, seconded (Robinson/Cline) and carried unanimously to authorize the City Manager to enter into a contract with Bay Area Economics for a Fiscal and Economic Impact Analysis for the proposed project at 101 to 155 Constitution Drive and 100 to 190 Independence Drive.

2. **Adoption of a Resolution approving the agreement with California Public Employees' Retirement System (CalPERS) to pre-fund retiree medical benefits through participation in the California Employer's Retiree Benefit Trust Program (CERBT); adoption of a Resolution delegating authority to request disbursements from the Trust; approval of the certification of the program funding policy; and approval of a transfer of \$10.4 million to CalPERS to establish the Trust. ([Staff Report #08-053](#))**

Action: Adopted Resolution No. 5794 approving the agreement with CalPERS to pre-fund retiree medical benefits through participation in the CERBT; adoption of Resolution No. 5795 delegating authority to request disbursements from the Trust; approval of the certification of the program funding policy; and approval of a transfer of \$10.4 million to CalPERS to establish the Trust.

3. **Community Development Agency award of contract for the Terminal Avenue Site Remediation Project to Zaccor Companies, Inc. in the amount of \$812,000; and authorization of a budget of \$975,000 for construction, contingencies, testing, engineering, inspection and administration. ([Staff Report #08-054](#))**

Action: Approved award of a contract with Zaccor Companies, Inc. for the Terminal Avenue Site Remediation project and authorization of a budget of \$975,000 for construction related expenses.

4. **Approval of the City Council minutes for the meetings of March 25, 2008, April 1, 2008, and April 8, 2008. ([attachment](#))**

Action: Approved the minutes with revisions to March 24, 2008 and April 1, 2008.

E. PUBLIC HEARING

1. **Consideration of a request for a two-year extension of a Planned Development Permit and vesting tentative map approval for the construction of a new 26,800 square-foot, commercial building and 16 townhomes, and a Planned Development Permit amendment to modify a condition of approval regarding the installation of a temporary eight-foot high plywood noise barrier around the perimeter of the project site located at 1460 El Camino Real.**
[*\(Staff Report #08-047\)*](#)

Mayor Cohen announced that he has a potential conflict of interest under the Political Reform Act since his residence is within 500 feet of this project. He recused himself and left the dais.

Deanna Chow, Senior Planner, presented the staff report. She stated that staff is recommending approval of the Planned Development Permit (PDP) and Vesting Tentative Map extensions for a period of two years and an amendment to the PDP that would modify the location of a temporary eight-foot high plywood noise barrier around the perimeter of the project site during construction. She stated that the Planning Commission also recommended approval with the exception that the Commission only recommended a one year extension.

Ms. Chow stated that the project was approved in August 2006, but that when the applicant began the process to decommission three dry wells on the property to evaluate ground water quality as required in the EIR, contaminants were discovered in the soil. She said that the County of San Mateo Health Department is requiring additional testing and review, which has resulted in the applicant requesting the two year extension.

Vice Mayor Robinson opened the public hearing.

Nate McKitterick, attorney representing the applicant, Beltramo Investment Company, informed the Council that they had just received a letter from the County Health Department requiring them to perform additional testing to determine where the hazardous materials, which appear to be dry cleaning fluids and motor oil, came from and to possibly perform remediation. He stated that there are no fatal flaws with this project and that the issue is one of timing. Mr. McKitterick stated that the applicant does not believe a one year extension is sufficient to address these outstanding issues.

Actions: Moved, seconded (Boyle/Fergusson; Ayes – Boyle, Cline, Fergusson, Robinson; Noes – None; Absent – Cohen) to close the public hearing.

Moved, seconded (Fergusson/Cline; Ayes – Boyle, Cline, Fergusson, Robinson; Noes – None; Absent – Cohen) and carried to approve the Planned Development Permit (PDP) and Vesting Tentative Map extensions for a period of two years and an amendment to the PDP that would modify the location of a temporary eight-foot high plywood noise barrier around the perimeter of the project site during construction including the findings and actions as recommended in Attachment A of the staff report.

F. REGULAR BUSINESS

1. Consideration and implementation of a process for selecting a consultant for the Fiscal Impact Analysis (FIA) for the proposed development project located at 1300 El Camino Real. ([Staff Report #08-055](#))

Megan Fisher, Associate Planner, presented the staff report, which recommends that the Council approve a staff-conducted review process for selecting a consultant for the fiscal impact analysis for the proposed development project. She stated that the City received three responses to the RFP and that two of the consulting firms have already been interviewed by the City as part of the fiscal impact analysis on another project. Ms. Fisher informed the Council that the process being recommended is for the staff to: 1) interview MuniFinancial and Seifel Consulting, Inc., the one firm that has yet to be interviewed by the City; 2) review the proposals and qualifications of all three firms and develop a recommendation regarding the most qualified consultant for this project; and 3) present the recommended consultant proposal for Council consideration and award of a contract on May 6, 2008.

Council Member Boyle questioned what the current policy or practice is on which projects require a fiscal impact analysis and how the scope of the study is determined for each project.

City Manager Rojas stated that while there is no formal Council policy, staff has generally recommended to Council that fiscal impact analysis reports be prepared on projects that require EIRs and that he made the call that one should be prepared for this project. Justin Murphy, Development Services Manager, informed the Council that the scope of this analysis would be similar, but less extensive, than the one required on the Bohannon project.

Council Member Boyle said that he is uncomfortable with the City's current informal process for determining which projects are required to have a fiscal impact analysis prepared and suggested that the Council take up this discussion in a study session at a future date.

Ms. Fisher responded to Council Member Fergusson's inquiries regarding the EIR schedule by stating that the draft EIR would be out sometime this summer with the final EIR being completed within three months after the draft.

Mayor Cohen asked that the interview of the consultant be open to the public.

Members of the public commented as follows:

Elizabeth Lasensky, Chair of the Housing Commission, expressed her appreciation for including information on the housing element as part of the fiscal impact analysis.

Ms. Fisher clarified that a housing element is not being proposed by the applicant, but that this information will be included in the EIR as an alternative.

Action: Moved, seconded (Robinson/Cline) and carried unanimously to approve a staff-conducted review process as defined in the staff report for selecting a consultant for the Fiscal Impact Analysis for the proposed project at 1300 El Camino Real.

2. **Approval of the process for preparing the preliminary draft Climate Action Plan and comments on the outline for preparing the plan.** ([Staff Report #08-048](#))

Kent Steffens, Public Works Director, reviewed the history for this project including a discussion at both the Council meetings of March 4, 2008 and March 25, 2008 regarding the formation and makeup of a Core Team to assist with preparation of the draft Climate Action Plan. Based on these discussions and concerns raised by members of the Council, Mr. Steffens reported that staff believes it will be most effective and efficient if staff and consultants from ICLEI research and write the preliminary draft plan, which will include strategies, cost/benefit analyses, funding sources, responsibilities, methods of public involvement, procedures for monitoring progress, and a tentative schedule for implementation. Mr. Steffens reported that in the coming weeks staff is planning on seeking comments on the outline for the preliminary draft plan from the Environmental Quality Commission, the Transportation Commission, the Planning Commission, the Chamber of Commerce, and the Green Ribbon Citizens Committee.

The Public Works Director also proposed that when the preliminary draft plan is finished in the fall of 2008, ICLEI and staff conduct extensive public outreach to encourage broad community discussion and comments on the draft before revising it and bringing it to Council for final consideration. He noted some of the methods of outreach proposed include: 1) posting the draft plan on the City website; 2) publicizing the draft plan through the newspaper, flyers, email lists, commissions, homeowners associations, and the Chamber of Commerce; 3) hosting community meetings; and 4) presentations before the commissions. Mr. Steffens stated that at the end of the public comment period, ICLEI and staff will present the draft plan and a summary of community feedback to the City Council, with a proposed timeline for final review and adoption by the Council in January 2009.

Council Member Cline pointed out the difficulty of doing public outreach and getting community input. He suggested that in addition to what is already being proposed by staff, an on-line survey be included on the City website. He also suggested that the staff find ways of leveraging other things the City and others are doing as a means of public outreach and getting community input.

No one from the public spoke on this matter.

Council Member Boyle suggested that staff also include outreach to anyone that might be negatively impacted by any element of the plan. He stated that he is bothered by not having an overall budget for this project. Council Member Boyle said he would also like to: 1) have the plan include indirect costs and any negative benefits of implementation; 2) have staff track expenses related to all the City already does and will do in the future as it relates to environmental stewardship; and 3) have staff track actual results and any savings.

In response to questions raised by members of the Council, Public Works Director Steffens stated that the City does not have a project specific budget, but that staff estimates it will cost the City approximately \$60,000 to complete the process of preparing a Climate Action Plan and that the City has received grants totally \$38,000 for this project. Mr. Steffens agreed that staff: 1) should prepare a budget; 2) should be able to identify indirect costs and any negative impacts; and 3) would attempt to track actual results to the extent possible. He did express concern that it would be difficult to track and put a dollar figure

on everything the City does that promotes sustainability and reduction of green house gases as the City is already doing a lot and working toward the goal of including this in all aspects of City business.

Council Member Fergusson pointed out that the Climate Action Plan is meant to be a living document that will be revisited over time and that this is a 50 year project to reduce green house gases to sustainable levels. She suggested that if the plan is to include indirect consequences, it also be balanced by putting more emphasis on the direct cost to the City of Menlo Park by not implementing the plan.

Action: Moved, seconded (Fergusson/Cline) and carried unanimously to approve the process for preparing the preliminary draft Climate Action Plan as proposed in the staff report with the addition of including an on-line survey. A friendly amendment proposed by Council Member Boyle was approved as part of the motion. The amendment directed staff to: 1) prepare a budget for this project; 2) add analysis of any indirect costs or potential negative impacts; 3) add more emphasis on the impact of global climate change on Menlo Park, not just the Bay Area; and 4) measure and track actual results including costs and cost savings.

Council Member Boyle withdrew a friendly amendment to require staff to track overall expenses and actions of the City's environmental stewardship efforts and actions and to keep a running tab of what the City is doing and how much money it is spending on this.

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.

Action: None.

G. WRITTEN COMMUNICATION - None

H. INFORMATION ITEMS

1. Update regarding the implementation of a study session schedule. ([Staff Report #08-051](#))

City Manager Glen Rojas informed the Council that he has been in the process of organizing the criteria for determining how the Council decides what topics should be part of a study session and how best to prioritize the topics. He stated that he will continue to work on this and will be using the agenda process to provide the Council with this information.

Mayor Cohen stated that he will be working with the City Manager to further develop the information contained in the attachment to this staff report.

Council Member Fergusson said that a few months ago the Council had a study session on water issues and questioned whether or not the follow up would come back to the Council as a regular business item or as a study session item. The City Manager said he would have to check on this.

Council Member Boyle expressed a desire to have future study sessions on the following:
1) have experts come and speak about the status of the Peninsula 2020 Gateway Corridor

Study and its impact on the City; 2) a discussion on developing a Council policy on when to require fiscal impact analysis reports, on what type of projects, and to discuss the scope of these reports; and 3) to discuss how to track all the things the City does related to sustainability and environmental stewardship.

Council Member Fergusson questioned whether or not the Peninsula 2020 Gateway Corridor Study should be done in the form of a study session or in the form of a presentation. She expressed the belief that the practice for bringing forward topics for future study sessions by members of the Council is to have the member present the request on the agenda under “written communications”.

City Manager Glen Rojas stated that it is important for the Council to develop criteria for determining how a topic is evaluated as to whether or not it should be included as a topic for a study session. He stated that many study sessions are initiated by staff as a result of a need to provide the Council with sufficient information before the Council is asked to take action on a matter. He stated that council members have brought forth topics for study sessions as well by listing these under “written communications” but that criteria should be established so that the Council can evaluate if the topic meets the criteria set by the Council.

Vice Mayor Robinson commented that some matters are more appropriate for a presentation and others for a study session. He stated that each study session should have a purpose and usually there is a need to have a study session so that council members can get information or answers to questions or to give staff a sense of direction.

Mayor Cohen said he would work with the City Manager and the Vice Mayor in an attempt to meet the desires of all of the council members in the scheduling of study sessions. He stated that there is a Council policy that allows for one member of the Council to initiate a written communication on the agenda but that generally when two members of the Council sponsor a written communication, it may be more likely to get Council agreement.

Action: Upon completion of the discussion, the report was received and filed.

2. **Notice regarding modifications to the Nealon Park Softball Field to provide separate access for dog park users as recommended by the Parks and Recreation Commission.** ([Staff Report #08-050](#))

Action: The report was received and filed.

I. COUNCIL MEMBER REPORTS

Council Member Fergusson announced that Downtown Block Parties are being planned for three Wednesday nights during the summer in conjunction with the Menlo Park Concert Series.

Vice Mayor Robinson announced that the executive director for the San Francisquito Creek JPA has resigned and will be sorely missed. He also announced that he attended a Santa Clara Valley Water District meeting at which their executive director was authorized to negotiate with the San Francisquito Creek JPA and Army Corps of Engineers to release \$3.5 million from Measure B (2000) bond monies toward completion of the feasibility study. He noted that San Mateo County will need to find some way of contributing to this project.

J. PUBLIC COMMENT #2

Matt Henry questioned if there has been a policy change in that when one or more council members recuse themselves, they usually leave the Chambers. Assistant City Attorney Dan Siegel explained there has been a change in the law under the Political Reform Act which does allow a member of the Council to remain in the Chambers.

K. ADJOURNMENT – Adjourned at 9:35 p.m.

Respectfully submitted,

Sherry M. Kelly
City Clerk

Approved at the Council meeting of May 20, 2008.