



**CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY
MINUTES**

Tuesday, June 17, 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 Manager Steffens, City Attorney McClure and City Clerk Kelly.

PLEDGE OF ALLEGIANCE

A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

1. Commission members and Chamber of Commerce reports.

Action: Fran Dehn, Chamber of Commerce, announced the upcoming Downtown Block Parties, scheduled for June 25, August 6, and August 20 between 6:00 p.m. and 9:30 p.m.

2. The City is accepting applications to fill vacancies on the following advisory bodies:

- **Bicycle Commission (1 seat)**
- **Environmental Quality Commission (2 seats)**
- **Housing Commission (2 seats)**
- **Library Commission (1 seat)**
- **Parks and Recreation Commission (1 seat)**
- **Planning Commission (3 seats)**

B. PRESENTATIONS AND PROCLAMATIONS - None

C. PUBLIC COMMENT #1

Barry Kelem said that his home backs up to the Sand Hill Golf Club and that the golf course often starts maintenance and construction work prior to 7:00 a.m., in violation of the City's noise ordinance. He stated that while the Police have issued citations, based on complaints, the problem continues to persist.

D. CONSENT CALENDAR

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

1. Adoption of a Resolution giving preliminary approval of the Engineer's Report for the Menlo Park Landscaping District for FY 2008-09, which proposes an increase of 2.6% to the Tree portion of the Assessment; and adoption of a Resolution of Intention to Order the Levy and Collection of Assessments for the Menlo Park Landscaping District for FY 2008-2009. ([Staff Report #08-077](#))

This item was removed from the Consent Calendar for discussion by Councilmember Boyle. Councilmember Boyle commented that the general fund is subsidizing the assessment districts and the assessment district fund balances will be depleted if the City doesn't take corrective action. He questioned if expenses could be cut back or the

assessments could be raised. He also noted that some cities require their garbage haulers to provide street sweeping services as part of their contracts, and he suggested that the City explore this option when the garbage contract comes up for renewal.

Lisa Ekers, Engineering Services Manager, responded that increasing the tree assessment would only bring in another \$1,900 and that it would cost as much to prepare a new Engineer's Report, which would be required prior to increasing the assessment. She stated that the sidewalk assessment can not be raised because of how the district was formed, and Prop 218 regulations. Kent Steffens, Assistant City Manager, noted that street sweeping expenses were shifted from the general fund to this fund several years ago as a way of freeing up general fund monies.

Action: Moved, seconded and carried (Fergusson/Robinson: Ayes – Cline, Cohen, Fergusson, Robinson; Noes – Boyle) to adopt Resolution No. 5801 approving the Engineer's Report and to adopt Resolution No. 5802 intending to levy and collect assessments for the Menlo Park Landscaping District for FY 2008-09. The motion also included directing staff to return with alternative funding options for the future.

2. **Award of a Contract to Graniterock Company in the amount of \$3,295,880 for the Street Resurfacing Project for FY 2007-08; and authorization of a Project Budget in the amount of \$4,160,000 for construction, contingencies, material testing, and construction administration. ([Staff Report #08-078](#))**

Action: Awarded contract to Graniterock Company for the Street Resurfacing Project for FY 2007-08 and authorized the project budget for construction.

3. **Authorization for the Director of Public Works to accept the work by Complete Concrete Service, Inc., for the FY 2006-07 Sidewalk Repair Project. ([Staff Report #08-079](#))**

Action: Authorized the Director of Public Works to accept the work by Complete Concrete Services, Inc. for the FY 2006-07 Sidewalk Repair Project.

4. **Authorization for the Director of Public Works to accept the work by AME Contracting Company for the Accessibility Improvements at Willow Oaks Park, Glenwood Avenue, and Encinal Avenue at Felton Drive Project. ([Staff Report #08-080](#))**

Action: Authorized the Director of Public Works to accept the work by AME Contracting Company for the accessibility improvements for the Felton Drive Project.

5. **Authorization for the Public Works Director to accept the work performed by O.C. Jones and Sons, Inc., for the Sand Hill Road from Santa Cruz Avenue to I-280 Highway Entrance Resurfacing Project. ([Staff Report #08-081](#))**

Action: Authorized the Public Works Director to accept the work performed by O.C. Jones and Sons, Inc. for the Sand Hill Road Resurfacing Project.

6. **Approval of City Council minutes for the meetings of a) May 6, 2008 and b) May 13, 2008. ([attachment](#))**

Action: Approved minutes, with revisions to minutes of May 13, 2008.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. **Adoption of four Resolutions: 1) adopting the FY 2008-09 Budget and Capital Improvement Program; 2) establishing the appropriations limit for FY 2008-09; 3) establishing a Consecutive Temporary Tax Percentage Reduction in Utility Tax Rates; and 4) determining the continued need for imposition of the Utility Users Tax per Section 3.14.310 of the Municipal Code. ([Staff Report #08-083](#)) ([Proposed Budget](#))**

The City Manager provided an overview of the revenues and expenditures for the FY 2008-09 proposed budget, which estimates a deficit of \$1,008,049 in the general fund, to be drawn from the general fund reserves estimated at \$24.5 million. He indicated that the budget will be reviewed at mid-year and can be adjusted at that time, if needed. Mr. Rojas informed the Council that the budget does support the Council's goals and the Council's list of project priorities for FY 2008-09 as reviewed at the budget public hearing on June 3, 2008. He indicated that the budget could be balanced by increasing the utility users tax an additional percent, but that he is not recommending that based on the uncertainty of the economy, next year's projections, and the City's healthy reserves. He pointed out that the proposed budget does not include funding for Phase II of the El Camino Real Downtown visioning process.

Mayor Cohen asked the City Manager what the Council's options would be if they decided they wanted to pass a balanced budget. City Manager Rojas responded that the options available to the Council would be: 1) increasing the utility users tax an additional percent; 2) eliminate \$1 million of a \$2 million transfer from the general fund to the project priorities; or 3) do a combination of increasing revenues, reducing the amount being transferred out of the general fund, and cutting operational expenses.

Mayor Cohen asked what measures are being put in place to monitor the budget, projects, and to provide the Council with more frequent financial reporting. The City Manager responded that he will be sitting down with staff on a regular basis to evaluate the budget and to develop tracking and reporting mechanisms for projects. The Finance Director reported that the Finance and Audit Committee is discussing how best to provide the Council and the public with financial data on a regular basis.

In response to questions raised by Councilmember Cline, the Finance Director stated that the City is getting better at budget forecasting and is proposing a budget that is realistic based on the uncertainties of the economic environment, anticipated revenues, and the City's healthy general fund reserves. She said staff did not want to propose increasing taxes or making cuts that might be unnecessary until more information is available at mid-year. Ms. Augustine reported that not many cities have a reserve of 70% of their expenditures and that staff is working on a proposal for a policy on reserves. She reported that the master fee study and recommendations for increases in fees will be coming to Council prior to the mid-year budget review.

Vice Mayor Robinson commented that the Council has the option of: 1) increasing revenues; 2) cutting expenses by not doing some projects or cutting back on programs and staff; 3) dipping into general fund reserves to cover any deficit; or 4) not making transfers between funds. He asked staff if they had looked at all of these options. The Finance Director responded that staff had looked at all options, but felt the staff recommendation allows sufficient flexibility to deal with any negative economic news without the need to make cuts to projects and programs that might prove to be unnecessary.

In response to questions raised by Mayor Cohen, the City Manager stated that funding wasn't included in the budget for Phase II of the El Camino Real Downtown visioning process because there are too many unknowns at this time. Mr. Rojas also explained the importance of filling the Assistant City Manager position and said that the person filling this position will be responsible for overseeing Finance, Personnel, Community Engagement, Business Development, and the City Clerk and will be responsible for special projects. He said that it was clear to him when he first came to the City that there are limited staff resources and as a result, it is difficult for staff to keep up with their workload, even though they are dedicated and motivated. He noted that the demands put on them are not sustainable over a long period of time.

Councilmember Fergusson reviewed many of the City's accomplishments in managing the City's revenues and expenditures including: 1) funding the OPED retirement obligation; 2) several years of staff reductions; 3) fully funding infrastructure maintenance; 4) obtaining state and federal grants to pay for street resurfacing projects; 5) moving forward with a master fee study; 6) creating new internal transfer funds; and 7) forming a Finance and Audit Committee. She noted that the new police contract added to the City's expenses, but is necessary to stabilize staffing in the Police Department. Councilmember Fergusson pointed out that the Library has suffered a lot of cuts over the years and that the Council has heard a compelling appeal by the Library Commission to add funding of approximately \$28,000 to allow the Library to open at 10:00 a.m. on Tuesdays, consistent with other weekday hours.

Mayor Cohen questioned what the City is doing to encourage business development and to deal with the vacant properties on El Camino Real. The City Manager responded that the City has hired a new business development specialist, who has been active in familiarizing himself with the types of businesses in Menlo Park. This person has determined that there are a number of businesses that are either new or are expanding in the City that have been funded by venture capitalist to a tune of approximately \$128 million for the first quarter of 2008 and that many of these include businesses in the technology field. The business development specialist will be contacting these businesses to determine if, and how, the City can assist with any relocation or expansion of their businesses in the City. Mr. Rojas also noted that the Rosewood Hotel, which should be operational by April 2009, is projected to bring in \$1.6 million in transient occupancy tax.

The Mayor asked if there would be a benefit to hiring a grants writer. He also asked the cost of certain studies. Staff responded that the \$90,000 parking study will be paid for out of downtown parking permits and not the general fund and the \$41,000 bike study was funded in FY 2007-08 out of traffic impact fees. Mr. Rojas said that current staff has the expertise to seek grants and has been focusing on grants that are needed to help fund ongoing or proposed projects.

Members of the public commented as follows:

Morris Brown said that his position is for the Council to pass a balanced budget.

Vincent Bressler, Planning Commission, informed the Council that the Commission took a vote in support of the Council moving forward with the visioning process. He said that he did not support raising the utility users tax.

Vice Mayor Robinson announced he will support the staff's recommendations on the budget. He said he is also in favor of increasing the Library's budget either now, or at mid-year, to provide funding so that the library can be opened an additional two hours a week.

Councilmember Cline said he will support staff's budget recommendations, but wanted to make it clear that he is not discounting warnings regarding approving a deficit budget. However, he said he is a big believer in financial trends and that history has shown the City has ended up better financially than predicted in past years. Councilmember Cline said he would like to see the City develop a strategic plan and a policy for reserves, and that he would like to see the utility users tax eliminated in the near future.

The Mayor said he wants to move forward on the visioning process for El Camino Real and that he would like to staff to prepare an investment plan, a business development plan, and to provide the Council with more frequent financial reporting.

Councilmember Boyle stated that expenses are expected to go up by 6.3%, but revenues are only expected to go up by 1.5%, and this is not sustainable. He pointed out that several upcoming major projects aren't even included in the budget for next year. Councilmember Boyle said that the City has not focused enough on: 1) increasing fees to cover costs; 2) finding ways to build the City's business market; and 3) looking at ways to increase productivity and to deliver services more efficiently. He said he would prefer to adopt a more conservative budget and to consider making adjustments in mid-year if the financial picture looks good. Councilmember Boyle offered that the Council could agree to defer some of the project priorities to another year or defer transferring some of the general fund transfers to the CIP to the middle of the year or to next year.

A motion by Mayor Cohen to approve staff's budget recommendations, with the exception of not transferring \$500,000 from the general fund to the CIP, and to direct the City Manager to come back within 60 days with an economic plan, a business development plan, and quarterly financial reports failed for lack of a second.

Councilmember Fergusson announced she would be making a motion to support the staff recommendation for the budget with an increase to the Library's budget to allow the Library to open two hours earlier on Tuesdays, consistent with other weekday hours.

Councilmember Cline said that he would like the proposal to increase funding for the Library discussed separately from this motion.

Councilmember Boyle said he can not support such a motion because he believes it is moving in the wrong direction. He also reminded the Council that the City Manager has already said that if he had an additional \$28,000 in the budget, his first priority would not be to add it to the Library's budget. He expressed appreciation for the Council focusing on more frequent financial reporting and a business development plan, but cautioned that these also take staff resources, which are already strained.

Actions: Moved, seconded and failed (Fergusson/Robinson; Ayes: Fergusson, Robinson; Noes - Boyle, Cline, Cohen) to adopt the FY 2008-09 Budget and Capital Improvement Program and establishing appropriations limit for FY 2008-09 including adding \$28,000 to Library budget to fund two additional hours a week and direction to staff for more frequent financial reporting and to bring back a business development plan

within three months.

Moved, seconded and carried (Robinson/Fergusson; Ayes – Cline, Cohen, Fergusson, Robinson; Noes - Boyle) to adopt Resolution No. 5803 adopting the FY 2008-09 Budget and Capital Improvement Program and Resolution No. 5804 establishing appropriations limit for FY 2008-09. The motion also included to direct staff to prepare more frequent financial reports for the Council, and to return with a business development plan within three months. The motion also included revisiting increasing hours of operation for the Library at the mid-year budget review.

A friendly amendment by Mayor Cohen to reduce the amount of monies transferred to the Capital Improvement Program from the general fund by \$500,000 was not accepted.

Moved, seconded (Robinson/Cohen) and carried unanimously to adopt Resolution No. 5805 establishing a temporary tax percentage reduction in the utility users tax.

Moved, seconded (Robinson/Cohen) and carried unanimously to adopt Resolution No. 5806 determining the utility users tax is necessary for the financial health of City.

2. **a) Community Development Agency adoption of four Resolutions: 1) adopting the FY 2008-09 Agency Budget; 2) approving a loan from the City for the FY 2008-09 Agency Budget and authorizing a Repayment Agreement; 3) determining that planning and administrative expenses are necessary for the production, improvement and preservation of low and moderate income housing; and 4) approving the use of funds for production of such housing outside the Las Pulgas Project area.**

Finance Director Augustine stated that the Community Development Agency Board is being asked to take action on the Agency's budget. She reported that the Agency's budget totals \$12,201,183 for FY 2008-09 with \$650,677 derived from bond proceeds and the remainder derived from Agency revenue, primarily property tax increment. Ms. Augustine informed the Board that in order to allow for any interim financing of Agency expenditures, the entire budget is treated as a loan from the City to the Agency. She identified projects described in the CIP that will draw from Agency funds; current year projects that will extend into FY 2008-09; and projects and programs to be funded as part of the Agency's operating budget.

Councilmember Boyle asked for clarity as to what could be funded from bond proceeds. Ms. Augustine reported that only capital projects can be funded out of bond proceeds.

Councilmember Fergusson asked when the police services center will be completed. The City Manager informed the Council that the contractor has run into problems with a PG&E line running under the building and that construction can not continue until this is resolved.

Action: Moved, seconded (Fergusson/Boyle) and carried unanimously to adopt: 1) Resolution No. 295 adopting the Community Development Agency FY 2008-09 Budget; 2) Resolution No. 296 approving a loan from the City to the Agency in the amount of \$12,201,183 and authorizing a repayment agreement; 3) Resolution No. 297 determining expenses are necessary for low and moderate income housing; and 4) Resolution No. 298 making findings in connection with the utilization of funds for low and moderate income

housing outside the Las Pulgas Project Area.

b) City Council adoption of three Resolutions: 1) determining the Project Area Benefit and need for Agency funded improvements in FY 2008-09; 2) appropriating \$12,201,183 to the Community Development Agency for the FY 2008-09 Agency Budget and authorizing a Repayment Agreement; and 3) approving the use of funds for production of low and moderate income housing outside the Las Pulgas Project area. ([Staff Report #08-084](#))

The Finance Director indicated that the City Council needs to take similar actions to those taken by the Community Development Agency Board.

Action: Moved, seconded (Fergusson/Boyle) and carried unanimously to adopt: 1) Resolution No. 5807 determining the Project Area Benefit and financing need for Community Development Agency funded improvements; 2) Resolution No. 5808 appropriating \$121, 201,183 from the City to the Agency and authorizing a repayment agreement; and 3) Resolution No. 5809 making findings in connection with utilization of the Agency low and moderate income housing funds outside the Las Pulgas Project Area.

3. Adoption of a Resolution authorizing the application for funds available under State Proposition 1B and approving the plan for use of \$500,062 of the Proposition 1B funds for the FY 2007-08 Street Resurfacing Project. ([Staff Report #08-086](#))

Lisa Ekers, Engineering Services Manager, reported that the City is eligible for \$500,962 in Prop 1B funding for FY 2007-08. She stated that in order to obtain the funds, the City must submit a project list, and that for a project to be eligible it must assist in reducing local traffic congestion and further deterioration, improving traffic flows, or increasing traffic safety that may include, but not be limited to, construction and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes. She said all Prop 1B funds received by the City must be spent within a three year time frame, or by June 30, 2011.

Ms. Ekers reported that staff is recommending that \$500,962 in Prop 1B funds be used for the FY 2007-08 Street Resurfacing Project, in lieu of CIP funds, and that the CIP funds originally budgeted for the Street Resurfacing Project be transferred from the CIP to the Storm Drainage Fund to finance the future construction of the Middlefield Road Storm Drain in FY 2009-10. She noted that the storm drainage project is intended to address flooding on Middlefield Road and is currently budgeted for preliminary design only.

Councilmember Boyle applauded staff for pursuing grants, but suggested that the savings be left in the CIP fund or that the general fund contribution to the CIP be cut by \$500,000 and that no decision to earmark the savings for the storm drainage project be made until the Council has an opportunity to discuss this.

In response to questions raised by members of the Council, Assistant City Manager Steffens informed the Council that they could approve funding the Street Resurfacing Project, using Prop 1B funds, without earmarking the resultant savings for the storm drainage project.

Action: Moved, seconded and carried (Boyle/Fergusson; Ayes - Boyle, Cline, Fergusson, Robinson; Noes – Cohen) to adopt Resolution No. 5810 authorizing application of funds available under Proposition 1B for the FY 2007-08 Street Resurfacing Project. The motion included not transferring the savings from the general fund CIP Budget to the Storm Drainage Fund, but to leave the savings in the CIP Fund at this time.

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.**

Action: None

G. WRITTEN COMMUNICATION – None

H. INFORMATION ITEMS - None

I. COUNCIL MEMBER REPORTS - None

J. PUBLIC COMMENT #2 - None

K. ADJOURNMENT – Adjourned at 11:25 p.m.

Respectfully submitted,

Sherry M. Kelly, City Clerk

Approved at the Council meeting of August 5, 2008