



CITY COUNCIL COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, October 7, 2008 at 7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
Menlo Park City Council Chambers

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

PLEDGE OF ALLEGIANCE

A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

1. Commission members and Chamber of Commerce reports.

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation honoring the Menlo Park Library Foundation. ([attachment](#))

C. PUBLIC COMMENT #1

Betty Meissur discussed the Menlo Park Library Foundation and the activities they are doing and thanked the Council for honoring the Foundation.

Marilu Serrano discussed misuse of cell phones by school district personnel.

D. CONSENT CALENDAR

Action: Moved, seconded (Cline/Boyle) and carried unanimously to adopt the Consent Calendar, items D1 and D3 as noted below. See separate action on D2 below.

1. Adoption of a Resolution accepting a Public Access Easement dedication at the Southwest corner of Cambridge Avenue and Alto Lane and a two-foot wide street easement dedication along Cambridge Avenue between El Camino Real and Alto Lane for the 145 El Camino Real Project, and authorizing the City Manager to sign the Certificates of Acceptance. ([Staff Report# 08-136](#))

Action: Adopted Resolution No. 5827 accepting a Public Access Easement dedication at the Southwest corner of Cambridge Avenue and Alto Lane and a two-foot wide street easement dedication along Cambridge Avenue between El Camino Real and Alto Lane for the 145 El Camino Real Project, and authorizing the City Manager to sign the Certificates of Acceptance.

2. Authorize the City Manager to amend the agreement with BSA Architects to increase the "not to exceed amount" from \$24,900 to \$75,000 for the design of the main Library Circulation Area redesign, Children's Room remodeling and Young Adult area project. ([Staff Report# 08-140](#))

This item was removed from the Consent Calendar by Councilmember Boyle for discussion.

Action: Moved, seconded (Cline/Boyle) and carried unanimously to amend the agreement with BSA Architects to increase the "not to exceed amount" from \$24,900 to \$75,000 for the design of the main Library Circulation Area redesign, Children's Room remodeling and Young Adult area project.

3. Approval of response to the County Grand Jury Report, "Awareness of San Mateo County Government Agencies of Reporting Requirements for Non-Pension Post-Employment Benefits Report". ([Staff Report# 08-149](#))

Action: Approved the response to the County Grand Jury Report, “Awareness of San Mateo County Government Agencies of Reporting Requirements for Non-Pension Post-Employment Benefits Report”.

E. PUBLIC HEARINGS – None

F. REGULAR BUSINESS

1. Review and comment on conditions of approval for the Encroachment Permit for the Oak Knoll Elementary School modernization, renovation and new facilities project.
([Staff Report# 08-143](#))
Staff presentation done by Chip Taylor and Lisa Ekers.

The school district and the city staff are amenable to all of the conditions. The current timeline for the encroachment permit would be November/December.

What if the school district decided they want to revisit a left turn from the site? L. Ekers stated that the School District could apply at a later date for modifications and it will go back through the process.

Bruce Ives, representing the school district went through the process to get to this point. The school district has gone through a 25% growth and the demographics have been looked at extensively. The campuses were very restrained since they are small. They had to get all of the non-teaching activities out of the classrooms, the facilities had to be upgraded in order to house the students. They received overwhelming input to keep the Hillview Middle School open and functioning as a middle school. They adjusted boundaries to get a balance at the school sites. A substantial school facility planning has taken place. The plans are better from the city’s input and the collaboration that has taken place. The plans were revised with input received from the community and the city. Under state law, the City Council and its commissions do not sit as appeal boards for this project. The city staff has been very professional and provided valuable input. The School District stands before the Council in full support in what staff has presented to the Council. They anticipate final approval from the state by the end of the month and will begin construction as soon as possible thereafter. Delays in construction will impact costs and final construction. They appreciate the collaboration in the Safe Routes to School. He thanked the Council for their time, support of the schools, appreciation of the respective roles and the collaboration.

Catherine Jaeger agrees with Ives comments.

Charlie Bourne has process and traffic issues. This should go through a full public hearing in front of the Transportation Commission. The city staff by policy makes the decision themselves without the TC having input. The traffic at Oak Knoll School has been an issue for years. Residents have serious concerns regarding significant traffic flow problems. Urge serious consideration for the application for the permit. There is no need to make a decision tonight.

Kurt Hafer thanked all involved in reviewing the project. He respects the City’s work and presentation tonight. He lives on Oak right next to the school. He respects the deferment of the approval until after the Division of the State Architects of the plans. There are concerns over the impacts of the project. He sees parents lifting their kids over the fence. Who is going to make sure that these unsafe procedures don’t happen? The Fire District Chief has not signed off on the project. Once the final plans are submitted to the city, then and only then should the city approve the permit.

Rich Rollins provided the application summary that has been printed from the Department of General Services.

Don Brawner spoke why this issue came forward four weeks before the election. He served on the Transportation Commission for a many years – With all of the hoops that have to be finished before the building can be completed, it should come back to the Council at that time.

H. Robinson asked for clarification on what is before the Council tonight. L. Ekers advised that the review process and information is before the Council. The school district is currently in review with the state architects and Fire Marshall. Once the plans are approved and the contractor chosen, the contractor will

come to the City for the permit. The process is to help the school district that the school district plans will meet city requirements. It is typical for plans to come to staff prior to applications for permits with larger projects.

B. McClure advised that the school district needs all of the approvals to be able to go out to bid with an entire package. Staff will give comments to the school district with the city's restrictions with language similar to approval is guaranteed if there are no changes from the submitted plans. K. Steffens advised that there are some outstanding conditions that have to be met prior to a letter being issued to the school district. Comments made tonight are being taken into consideration.

H. Robinson asked how the city will know if there are additional impacts. B. McClure advised that issue is not within the City's purview.

K. Ferguson asked if the City Council can take action tonight. B. McClure advised that the Council does not have the authority to issue or not to issue the encroachment permit. The Council can comment about certain aspects for the encroachment for the consideration of the Public Works Director. The Council also does not have to comment.

J. Boyle confirmed what the process for the city is going through tonight. Council can give their comments to the staff to take into consideration. The current situation on Oak Avenue is right turn only during school hours; will this continue to be the case? C. Taylor advised that it is during school hours and it is possible to modify to state during school ours.

R. Cline advised that there has been a fair amount of conjecture during the meetings at the school. It is very difficult to commingle the roles of the school district board and the Council. There will be some negative impacts on some homeowners. He hears regarding his concerns being addressed by staff. He feels that if there are any fire safety issues that staff will not allow this to move forward until those are met. Staff should move ahead, they have the appropriate information. The collaboration on this issue between the district and city staff has taken place in this process. Staff has made the appropriate recommendation.

H. Robinson concurred with R. Cline. He supports the district's plans to modernize the schools. He understands the time and cost pressures the district is facing. He is a part of the Council sub-committee that met with the school on this issue. The roles of the Council were made very clear by the City Attorney. There are a couple of areas of concern; work with the Fire Marshall in making sure the curb cuts are appropriate and he supports the restrictions in the SR on the access on the Oak entrance and exit – make sure proper signage is put in place and supports the right turn only on Oak Knoll. He encouraged all parties to try to do some healing as there has been quite a bit of – over this project. The project did get better from comments from the community. The people who took the time to dig into the EIR and challenge the school district's plans have benefited the project. The Safe Routes to School plan were put into place with the plans and this should be revisited. He encouraged the district, in future projects to try to expand the openness of the process.

J. Boyle thanked the school board to attend and congratulated them on an open process. He supports this item moving forward but for staff to look into signage stating "Right turn only during school hours".

K. Fergusson stated that there was a related item in April on the Negative Declaration. During that process the city asked the district to consider looking at an alternative to save the 300-year-old tree and to consider busing and both of those suggestions were taken into account. Many other details have been addressed because people got involved. It is because people got involved that this is a better project. There is a much better project when collaboration is utilized. It is a prime goal of the Council to make MP a more bikable and walkable community that is healthier for our children. Her key concern is safety of bikes and pedestrians. The process as it goes forward is that the PW Director's decision could be challenged to the City Council. Make sure that the public is properly informed.

A. Cohen stated that he went out of his way during this process, that the residents in the area had somebody to talk to when they felt they had nobody. When change comes it can be painful for those who are closest to where the change is taking place. It is important to move ahead. He encouraged the neighbors to be strong and persevere.

Action: The City Council provided comments to the staff.

2. a) Adoption of a Resolution approving the South Bayside Waste Management Authority's (SBWMA) recommendation to select Norcal Waste Systems of San Mateo County for future recyclable and organic materials and solid waste collection services, and authorization to commence negotiations on the City's Franchise Agreement for these services in consultation with the SBWMA. ([Staff Report# 08-144](#))

Dianne Dryer introduced the item. Service enhancements will bring MP into the 21st century with wheeled carts to single-family homes for yard trimmings, recycling, and a separate cart for garbage. There will be a weekly pick up of these materials. There will be a much higher diversion rate of up to 15-20% increase. She introduced Cliff Feldman the recycling Program Manager for SBMWA and Ric Hutchinson the consultant from the SBWMA RFP process for the collection contractor.

R. Hutchinson advised the process has been going on since 2005 and there has been substantial input. The proposers were included in the process prior to the RFP being issued and their comments and suggestions were included in the RFP. All proposers were given a specific set of circumstances to bring forward. The selection committee selected Norcal to be the top choice because their responses provided more detail and the evaluation team had a better level of comfort that Norcal could provide the services and the diversion at a reasonable price. The haulers were given the scoring sheet prior to the RFP and therefore had a clear picture of what the evaluation would be based upon. The evaluation team consisted of five members with extensive knowledge in solid waste management. The selection committee was made up of six members of the twelve-agency board. He explained how the criteria evaluation worked. One that has gotten the most play was the references provided. In order to keep everything fair and equal neither committee contacted the references. One of the key changes in the new contract will be going from a cost plus to a fixed cost. This should result in rates that are more predictable and stable from the current system. The rates for MP with a standard 32-gallon can, the impact would be an increase of \$1.25. Once all of the member agency have made a decision, each agency can negotiate with Norcal. If there are agencies that do not approve Norcal, the prices could change since the proposals were made on all agencies.

R Cline asked how many RFPs have you done and how often have you not taken the lowest bidder. R. Hutchinson advised that it depends on many factors but they are not always based on price.

R Cline asked how many agencies on board? Foster City, San Mateo, Hillsborough, Redwood City with no agencies rejecting.

J. Boyle asked if any members of either committee have any history or ties with any of the companies. C. Feldman advised that is correct.

J. Boyle asked for a response to a comment from BEST regarding credit given to Norcal for rolling out a new service in San Francisco. C. Feldman advised that the rollout in San Francisco was relevant because they had to deliver carts to each customer. The contract with the holder expires on one date and the new contractor takes over the next day or sooner if an agreement is reached.

J. Boyle stated that there is some non-intuitive scoring; the current hauler did not get a lot of credit for experience. How will the transition take place? C. Feldman advised that when a new company comes in and takes over, it is known that at times, the new hauler will try to work with the current hauler to purchase equipment etc. If the current hauler chose not to work with the new hauler the delivery would have to deliver carts earlier so that they were in place prior to service beginning.

H. Robinson stated that BEST was the second place and they came in second due to their cost proposal. Is Norcal really giving the city accurate costs? R. Hutchinson advised that BEST had the most trucks, customer service representatives, and interest rates were higher. In going through the BEST proposal there were items where there would be an increase in diversion of 50%. During the interview, BEST was asked if they would guarantee the 50% diversion and they withdrew that assertion, in writing. BEST had two acceptations; lawsuits and manpower rates.

J. Boyle asked that given this is a fixed rate system; why do we care how reasonable the provider's assumptions are? What happens if the costs are higher than they project? What if they cannot provide the

service level in the contract? R. Feldman advised it was taken into account during the process. All four companies could provide the service with the information provided in the proposals. The risk for what is in the cost proposal is borne by the hauler, not the jurisdiction. There is a difference between everyone can deliver versus delivery at the right service levels. There was a minimum criterion that had to be submitted and some were not met.

R. Lanser, district controller for Allied Waste and he has been in the business for over twenty years. Typically the award goes to the lowest bidder. He has provided a copy of a letter and a CD with information included. He urged the Council to reconsider and delay making a decision on the issue.

E. Boyd, general manager of Allied Waste in San Mateo County three cities have voted; Hillsborough has not. The Council will also have a revenue bond to act on in the future. There have been contracts that they have lost and won during their years in business. There are multiple issues to be considered. The cost for the shoreway center has increased numerous times in the last six months. The County Board of Supervisors is considering separate action. /should the other communities withdraw, it would mean considerable increase in costs to those agencies that opt in. Why was a consistent approach not used with the two contacts? He urged the Council to review the costs prior to making a decision. Allied Waste will continue to provide excellent service to this community throughout the duration of their contract.

S. Jones stated that a single day rollout means that everything be ready for pick up on the first day of the contract. Why was San Jose not contacted as it is a similar service? Norcal had the contract in 2002, with not enough trucks (33% short). They will work their employees ten hours every day, not a 4-10 schedule, but five days a week. The system is flawed. The process was good up to a certain point. He urged the Council not to take action tonight.

D. Button, President of South San Francisco – and BEST. This has been a major undertaking and was a thorough process up until three weeks ago. Some of the report was odd. There was no justification for the points awarded and no proof or back-up. They asked for the information under a PRA request from Foster City and received them six days ago. They were supposed to be able to compare apples to apples. The commercial bins, roll out bins and other measures were not the same. The scoring is not being done right. The Council needs to get the facts and don't rush the process.

D. Day with Norcal Waste Systems stated that he started working BFI in March 1983 until 2000 when Allied took over. The other two on the Norcal management team have a combined 75 years in this community. They understand what the undertaking is that they are working on. The cart system when rolled out will increase the recycle 15-20%. They did a roll-out in San Jose in 2002 from tubs to carts. It will take a two-month transition to get the carts out to the community. He thanked the Council for their consideration in the matter.

K. Fergusson stated that she read the documentation on this and of all the documentation, D13-16 in the SR has the board's findings and it is compelling and back-ups staff's recommendations. Price is only one of the considerations that need to be looked at; environmental consequences should be considered. She is supportive of staff recommendation.

J. Boyle asked about the fuel costs at the end of the contract. R. Hutchinson stated that Norcal was higher than one other bidder but less than others. J. Boyle stated that he voted against the RFP because it did not allow the providers to drive the cost down. Based on what he has heard tonight he had some questions, but he has a lot of value in Kent Steffens and staff's recommendation. This is a difficult situation and his concern moving forward is that it is unknown what is happening with the facility. He has a significant concern with the fact that not all agencies may not agree to this and if that is the case the price will go up. If the Council does endorse moving forward that there be a cap and that assumptions be put in place as to how much will be acceptable. K. Steffens advised that the item on bond issue will come back to Council because SBWMA has found a more advantageous way to finance the facility. The information was received the day the staff report went out and in consultation with the City Manager the item was pulled. He does not believe that is a reason to not move ahead tonight. A lot of information has been in the past few days and tonight. He has not seen anything that would make him make a different recommendation and he does not see a delay in the bonding having an effect on the selection of the contractor. He recommends moving forward on the item.

H. Robinson stated that there has been an escalation in the cost of the shoreway facility. The difference in the criteria being used is of concern. C. Feldman stated that the numbers were not based on bid responses they were estimates to move the project forward. R. Hutchinson stated that each proposal was comparing apples to apples.

R. Cline stated that these are four quality companies that provided proposals. Did Norcal get fired from San Jose? R. Hutchinson advised that with the contracts if the diversion rates were not met, the contracts would not automatically be renewed. This was done, Norcal was rated high and staff all the way up to the City Manager recommended Norcal; however the City Council overturned that recommendation. There were 57 references for the four haulers and the reference check was done separate. The calls took place over several months and San Jose was unable to be contacted along with 31 others. R. Cline asked if the RFP process was flawed. K. Steffens stated that it was a fair and transparent process. R. Hutchinson stated that he does not feel that it could have done much better. You have to be able to compare apples to apples. It was very complex and it was done in a way that was fair.

J. Boyle stated that it was designed to be fair. In an effort to be fair it was a process that compared apples to apples but did not necessarily give the best.

A. Cohen stated he has had a lot of messages from a lot of people. From his discussions with K. Steffens, this has been a long process. K. Steffens stated that he was on a committee that talked in detail regarding insurance requirements, and the assumptions that had to be requested in the RFP (everybody assuming they have to buy all new trucks for example). That was between 2-4 years ago. SBWMA goes back 25 years to bring some economy of scale. For Menlo Park to go out and run its own service would cost the residents and businesses more than spreading overhead costs amongst the twelve agencies. When the cost proposals came in and they had the choice of bidding for all or half of the areas. All four proposals came in bidding all areas and the cost savings were apparent when comparing. A. Cohen stated that the City is under no time pressure so why should the Council act tonight. K. Steffens advised that there has been enough information for the Council to make a decision. There has been a lengthy process and staff is confident moving forward. It is important to discuss the agencies taking action; if for some reason not all members do agree, the sooner SBWMA can take a look at how to proceed. A. Cohen stated that the Council was alerted that the County Board of Supervisors has voiced concerns and that San Jose was not contacted.

H. Robinson stated that he appreciates what the professional staff has done.

Action: Moved/Second (Fergusson/Cline) and carried with a 4-1 vote (Boyle dissenting) for adoption of Resolution No. 5828 approving the South Bayside Waste Management Authority's (SBWMA) recommendation to select Norcal Waste Systems of San Mateo County for future recyclable and organic materials and solid waste collection services, and authorization to commence negotiations on the City's Franchise Agreement for these services in consultation with the SBWMA.

J. Boyle offered a friendly amendment, stating that the city is moving forward contingent on the collection costs not increasing more than ten percent (10%) and the operation costs not increasing more than five percent (5%). The amendment was not accepted by the maker and there was no second.

K. Steffens advised that the City decides to move forward to tonight, it is to negotiate a contract with Norcal. The Council will have the opportunity to make the final determination on entering into the contract. J. Boyle stated that if it comes back to the City Council for a final vote it would be so far into the process, that it would be too late unless the city starts all over. C. Feldman stated that negotiations are based on the rates quoted and those costs would be used as the base for negotiations. There are a lot of factors that go into the rate more than how many agencies agree. At the time the contract comes back to the Council the numbers will be firm for Menlo Park.

- b) Approval of an agreement between the South Bayside Waste Management Authority (SBWMA) and the City of San Carlos related to a Local Impact Fee from the Shoreway Recycling and Disposal Center. ([Staff Report# 08-146](#))

Dianne Dryer gave the staff presentation on the item.

J. Boyle asked for data on the gate fees and how they would affect rate payers. The public user rates will see more than a three to four percent rate. The tipping fees pass through via the tipping rates.

Action: Moved/seconded (Robinson/Fergusson) and carried unanimously approval of an agreement between the South Bayside Waste Management Authority (SBWMA) and the City of San Carlos related to a Local Impact Fee from the Shoreway Recycling and Disposal Center.

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.

G. CITY MANAGER REPORTS – None

H. WRITTEN COMMUNICATION – None

I. INFORMATION ITEM

1. Biannual update of schedules for Priority Projects. ([Staff Report# 08-150](#))
K. Steffens reviewed the schedule for priority projects and answered questions of the Council.
2. Update on the State Budget for Fiscal Year 2008-09 and anticipated impacts on the City. ([Staff Report# 08-148](#))
C. Augustine answered questions of the Council.

J. COUNCIL MEMBER REPORTS

K. PUBLIC COMMENT #2

M. Serrano stated that there is an item on the school board agenda to dismantle the Tinsley Program is being led by John Bostic.

L. ADJOURNMENT – at 11:57 p.m.

Margaret S. Roberts, MMC
City Clerk

Approved at the Council meeting of December 9, 2008.