



CITY COUNCIL COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, October 21, 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

Ana Zara, Chair of the Library Commission gave an update on the Menlo Park Library and Local Library Comparisons.

B. PRESENTATIONS AND PROCLAMATIONS

1. “Preparing Our Community for a Sustainable Future” by Sustainable San Mateo County

Tina King with Sustainable San Mateo County (SSMC) made a presentation on preparing our community for a sustainable future. She acknowledged that Menlo Park is a leader in sustainable communities.

H. Robinson stated that it is being heard that housing needs to be built near transportation, but what is not being heard is the necessary upgrades and enhancements to public transportation. T. King stated that she understands that there needs to be a discussion that includes CalTrain and Cal Trans. K. Fergusson stated the frustration is the cuts to train service in Menlo Park. Those cities that have the transit hubs will be at an advantage. J. Boyle asked if SSMC has taken a position on High Speed Rail. T. King advised that SSMC does not typically take a position on legislation.

C. Public Comment #1 - None

D. CONSENT CALENDAR

Action: Moved, seconded, (Cline/Fergusson) and carried unanimously to adopt item D2 as submitted. Items D1 and D3 were pulled from consent for discussion.

1. Adoption of a Resolution amending the City’s Conflict of Interest Code and biennial review. ([Staff Report# 08-151](#))

Item pulled by H. Robinson for clarification on the amendments. Robinson asked why the categories were changed. M. Roberts advised that they were changed to correlate with the categories as outlined by the Fair Political Practices Commission.

H. Robinson asked why the Los Pulgas Committee was listed among the staff designated positions required to report. W. McClure advised that they have similar responsibilities in making recommendations to the Community Development Agency as the Planning Commission does to the City Council. The Planning Commission is a statutory reporting party, but Los Pulgas is not although they have similar duties.

Action: Moved, seconded, (Robinson/Fergusson) and carried unanimously adopting Resolution No. 5830 amending the City’s Conflict of Interest Code for designated employees, consultants, boards, and commissions as amended.

2. Award of contract for the 2008-2010 Streetlight Maintenance Project to Cal-West Lighting and Signal Maintenance, Inc. in an amount not to exceed \$65,000 for city-wide streetlight maintenance,

and authorization for the City Manager to extend the contract annually for up to four additional years. ([Staff Report# 08-154](#))

Action: Awarded contract for the 2008-2010 Streetlight Maintenance Project to Cal-West Lighting and Signal Maintenance, Inc. in an amount not to exceed \$65,000 for city-wide streetlight maintenance, and authorization for the City Manager to extend the contract annually for up to four additional years.

3. Authorize the City Manager to enter into an agreement with West Coast Arborists, Inc. to provide annual tree maintenance services for three years with authorization to extend the contract for up to three additional years. ([Staff Report# 08-155](#))

Item pulled for discussion by J. Boyle for clarification that the approval would be for tree maintenance services only. That was confirmed by R. Nino.

Action: Moved, seconded, (Robinson/Fergusson) and carried unanimously authorizing the City Manager to enter into an agreement with West Coast Arborists, Inc. to provide annual tree maintenance services for three years with authorization to extend the contract for up to three additional years.

E. **PUBLIC HEARINGS** - None

F. **REGULAR BUSINESS**

1. Adoption of a resolution electing to become subject to the Uniform Public Construction Cost Accounting Act; introduction of an ordinance establishing procedures for bidding for public projects under the Uniform Public Construction Cost Accounting Act; and adoption of a Resolution increasing the City Manager's purchasing authorization, tort claims and contract approval level from \$25,000 to \$50,000. ([Staff Report# 08-158](#))

R. Nino presented the background information on the existing code for purchasing, which is subject to the State contract code. In 1983, the Uniform Public Contract Cost Account Act (UPCCAA) was adopted which amended state code. He reviewed the benefits of utilizing the UPCCAA. The other change being requested is increasing the City Manager's authority from \$25,000 to \$50,000 for tort claims.

R. Cline asked how this is not worrisome considering bloated government budgets. R. Nino explained that it would streamline projects for completion by staff. It delegates authority less than \$50,000 contracts to the staff. Most of the projects being talked about are routine construction projects. Projects that appear to have conflict would be brought to the City Council. G. Rojas advised that these are for projects approved through the budget process.

R. Cline asked for an explanation on what the formal bidding process is. R. Nino explained that in a formal bidding project, there are specific detailed plans prepared. These plans and bid specifications are sent to the builders exchange and advertised in the newspaper. Bids are received and the most responsible bidder is identified and brought to the City Council for the contract to be awarded. This process could take months.

R. Cline for transparency he is asking if these are public projects and they are advertised and are not mystery projects as they have been approved in the budget. That was confirmed by staff.

J. Boyle asked if the amount of authorization was required to be at \$125,000 or could a different dollar amount be selected. R. Nino advised that is correct; the amount has actually been changed three times. Some cities may not have updated their limits as changes were made. J. Boyle asked what flexibility could be used to determine the amount. W. McClure advised that with Menlo Park being a General Law city, the maximum amount is \$125,000. Once the formal bidding process is very rigid and you cannot negotiate with the bidders for a reduced price.

J. Boyle asked why Menlo Park has not pursued this change since 1983 when the UPCCAA was enacted. R. Nino advised it is one thing that has been on the back burner and has finally come to the forefront. J. Boyle asked what criteria is used to determine when a Request for Proposals (RFP) gets public vetting prior to going to the City Council. Would projects be less visible than if they exceeded the \$125,000? R. Nino advised that a

RFP or Request for Qualifications (RFQ) over \$50,000 would go to the City Council for approval. J. Boyle asked when would an RFP need to be reviewed by the City Council prior to being publicized or advertised for bids. R. Nino advised that projects have received either City Council input or the public is involved, would come to the City Council prior to being issued and any project with controversies. G. Rojas advised that there are no requirements of when they come to the City Council, but staff determines if the project is controversial or there is an interest from the City Council.

A. Cohen stated that San Carlos population is comparable and their limit on City Manager authorization is similar to what is being recommended. What level is staff recommending City Manager approval? R. Nino advised that staff recommendation is at \$125,000. A. Cohen asked how many staff reports were submitted in 2007/08 that would have fallen into the new category. C. Augustine stated that the staff reports were counted to reach the 39% reduction in staff reports. A. Cohen asked how he would decide on how much in staff report and what reduction in staff time would the city save. R. Nino advised that the savings cannot be quantified. A. Cohen asked if the savings could be tracked, at least for the first year. R. Nino advised that staff could attempt if the City Council gave such direction.

K. Fergusson asked if the jobs awarded would require prevailing wage. R. Nino advised that they would. K. Fergusson asked about the pre-qualified bidders list. R. Nino advised that annually the city will send out a questionnaire based on their expertise to determine if they are interested in being pre-qualified for projects that would fall into the dollar amount.

K. Fergusson asked about a contractor coming in and stating that they could save the city money and is that called value engineering. W. McClure advised that it can be.

J. Boyle asked about the 39% increase and one piece is currently anything over \$5,000 has to bid and this would change so that staff could negotiate anything over \$30,000. Can some projects be split? R. Nino advised that is addressed in the ordinance and would not be allowed. J. Boyle asked how many projects fell into this category and could have been split last year. R. Nino advised that it was approximately 15 last year.

J. Boyle asked about the RFP and RFQ process was formal versus non-formal as with construction projects. R. Nino advised that the language is not the same. If there is a large project an RFQ would be sent out that is very detailed to firms that have the knowledge the city is looking for and an interview process could also be utilized. On a smaller project, the interview could be skipped.

A. Cohen asked the City Attorney is he is aware of any city that has limits for Tort Claims. Are they deserving of public exposure? W. McClure advised that he is not aware of any city that has imposed limits and claims are handled in closed session and would be noticed. J. Boyle asked if the City Manager has to hold a closed session if there is a Tort Claim for \$40,000. W. McClure advised if the authorization is increased to \$50,000 he would not be required to bring it to the City Council, but he could if he chose to. All settlements would become a public document once the claim is settled.

H. Robinson is astonished that this has not been done since 1983. Regarding Tort Claims, would the authority be increased tonight for the City Manager? (yes) His concern is that there could be something that staff does not think is controversial but a Councilmember or a member of the public does. Is there a way to periodically report what contracts have been awarded? He would recommend that it be done through a City Manager report.

Moved, seconded, (Robinson/Fergusson) to Adopt Resolution No. 5831 approving the City electing to become subject to the Uniform Public Construction Cost Accounting Act.

Moved, seconded (Robinson/Fergusson) to introduce an ordinance adding Chapter 2.42 (Purchasing System) to Title 2 (Administration and Personnel) of the Menlo Park Municipal Code to Provide for bidding procedures for public projects under the Uniform Public Construction Cost Accounting Act.

Moved, seconded, (Robinson/Fergusson) to Adopt Resolution No. 5832 increasing the City Manager's purchasing authorization, tort claims and contract approval level from \$25,000 to \$50,000 with periodic reporting on projects between \$25,000 and \$50,000.

A. Cohen suggested a friendly amendment to make the reports to be done on a semi-annual or annual report for the next two years.

J. Boyle stated that anything over \$50,000 will come to the City Council and the visibility would be there. He would offer the comment that the City of our size, the City Manager should be entrusted with the \$50,000 authority. He is concerned more with jumping from \$5,000 to \$35,000 and also the up to \$125,000 projects. It does take a little bit of public oversight away.

A. Cohen advised that we have to have some trust and the staff is working hard and he is uneasy imposing the additional reporting so frequently. He knows that when he is faced with the list of the projects between \$25,000 and \$50,000 he will not want to get into that level of detail. H. Robinson advised that currently the Council is in that level of detail and he is happy to get them off the Councils plate. He agrees that staff needs to be trusted, but it is prudent that the Council not only see the projects up to \$25,000 but also see the projects up to \$125,000. It is helpful to put it in a staff report as the public reviews staff reports carefully and if they see something that needs attention they will bring it to the City Council's attention.

K. Fergusson advised that it is the City Council's job to have oversight in the financial stability and it can be contributed to the strict oversight in the past. On the other hand, it is getting tied up in red tape; and the City Council wants the staff to cut through the red tape and get the projects done. She has studied the numbers and staff recommendation does strike a good balance. She is supportive of their recommendation and would prefer quarterly reports for the next 18 months.

R. Cline advised that this will be an increase in work for the finance department and he is sensitive to that. His general feeling is that he likes where he is going and he does not like micromanaging the city staff. As much as the City Council can allow staff to get these projects done would be beneficial. It could be that the reports could be provided but not on the agenda. This is not typically what the public is concerned with. If the reports can be a simple spreadsheet he might support it.

H. Robinson stated that he does not want to direct staff on how the reports are prepared, he would like the information provided and be able to track the projects. He does not want to overburden staff. G. Rojas advised that he would like staff to be allowed to prepare the reports. The most common comment is not about the amount of money spent, but that the project took too long.

J. Boyle asked what these reports would look like. He confirmed that the report would include projects that fall between the \$25,000 and \$50,000. K. Fergusson asked if it would just be the title of the project and not all of the details. H. Robinson advised that is what he has suggested.

A. Cohen stated that what he had in mind with his friendly amendment was to leave it to the discretion of the City Manager to bring the reports and what they would contain. City Council meetings are lengthy and we can improve that greatly with this change. It would then be a step backwards to require the reports to the Council how much ___ are we really giving the City Manager. He would suggest that the item be on consent. H. Robinson stated that he would suggest it be an information item, which does not require a report.

Action: Moved, seconded, (Robinson/Fergusson) and carried unanimously to Adopt Resolution No. 5831 approving the City electing to become subject to the Uniform Public Construction Cost Accounting Act.

Action: Introduced an ordinance adding Chapter 2.42 (Purchasing System) to Title 2 (Administration and Personnel) of the Menlo Park Municipal Code to Provide for bidding procedures for public projects under the Uniform Public Construction Cost Accounting Act.

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G. **CITY MANAGER REPORTS** – None

H. **WRITTEN COMMUNICATION** – None

I. **INFORMATION ITEM**

1. **Financial review of General Fund Operations as of June 30, 2008: Un-audited budgetary comparison schedule.** ([Staff Report# 08-157](#))

C. Augustine advised that when the actuarial were done, it was brought before the City Council numerous times.

J. Boyle asked if the \$9.2 Billion was to fund through 2008. C. Augustine advised it was through June 30, 2006. J. Boyle stated that this is very complicated and this was done for good reason and should save the city money, but there are some offsets, such as interest. The net is a positive is because the city was allowed a higher interest. The actual final outcome is unknown but ultimately this was clearly a joint decision and he would agree that it was a good one. He cautioned people not to get hung up on specific numbers.

A. Cohen asked about the Grand Jury report/investigation/declaration regarding whether the cities in this county have taken the action that Menlo Park has taken. W. McClure advised that Menlo Park is ahead of the curve in meeting their obligation.

R. Cline advised that this is a result of the sub-committee that has worked with C. Augustine. Having a sub-committee to work on this is an advantage to move the city's obligation forward. C. Augustine advised that this number is very different than the audited amount that the auditors are working on and is separate goal of the sub-committee.

J. Boyle expressed his thanks to C. Augustine on the hard work for this item. This is somewhat risky for the finance director to put out an un-audited number forward. There were huge increases in some items and the city is not likely to see these kinds of increases in the future.

H. Robinson is more interested in the variance numbers because that is what the budget numbers are based on. The sales tax and property amounts were up and that is positive. There is no way that Menlo Park would not be effective by the economy. Is Menlo Park still in good fiscal shape? C. Augustine advised that the city is in good fiscal shape because of the proactive position taken. Sales tax numbers are typically reported a quarter behind for reporting, but are based on economic activities. H. Robinson asked about the revenue side jumping south is partly due to interest. C. Augustine advised that part was due to the timing of the OPEB timing but also the way interest earnings are calculated need to be refined. H. Robinson asked what the projected budget was for this year? C. Augustine advised that the budget projected a deficit when it was adopted. In 07/08 there was a surplus showing and at the time it came to the Council the projection was \$600,000.

H. Robinson stated that you cannot just look at one year, but over a period of time it will be a sustainable budget. The City of Menlo Park is in good shape.

J. **COUNCILMEMBER REPORTS**

R. Cline advised that the initial interviews for El Camino Real Downtown – Phase II were done and there was quite a bit of debate over the results and one has been eliminated and so it is down to three.

H. Robinson reported on the Dumbarton Rail Project and some discussion on if Measure B and the associated measures don't pass what happens to the money. There was also discussion about the Measure 2 monies. He was the only person who voted against using the monies for purchasing of right-of-way segments. There was language change regarding using the money in the Oakland Corridor. On the positive side there was a good discussion on transportation. There are three different bus lines running over the Dumbarton. The consultant

that they hired to run the project has left and now Howard Goodie is back. J. Boyle asked if the buses are competing for the money. H. Robinson advised that is the case and he understands that there would be an increase in buses available coming across the Dumbarton. K. Steffens stated that the Regional Measure 2 had different pots of monies and his understanding is that the transfer of monies could take place. The original Measure 2 language would need to be reviewed to see which funds could be transferred versus what is earmarked for transportation.

K. **PUBLIC COMMENT #2** – None

L. **ADJOURNMENT** – Adjourned at 9:06 p.m.

Margaret S. Roberts, MMC
City Clerk

Approved at the Council meeting of November 18, 2008