



# CITY COUNCIL COMMUNITY DEVELOPMENT AGENCY MINUTES

Tuesday, November 25, 2008 at 5:30 p.m.  
701 Laurel Street, Menlo Park, CA 94025  
Menlo Park City Council Chambers

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

Closed Session pursuant to Government Code Section §54957.6 to conference with labor negotiators regarding labor negotiations with Teamsters 856 (PMA) representing Police Sergeants.

**Action:** There was no reportable action.

## **PLEDGE OF ALLEGIANCE**

## **ANNOUNCEMENTS:**

- There is a Community Survey available on-line and citizens were encouraged to participate.
- Menlo Park is the lead agency and will prepare a focused Environmental Impact Report for the Burgess Gymnasium and Gymnastics Center projects.

## **A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS**

J. Child with the Finance & Budget Committee gave a report on their meeting held on November 24, 2008. They discussed sales tax, licenses and permits, only four unfilled positions (which is usually higher causing a cost savings), and the potential to larger contributions to CalPERS. They suggested that the Finance Director run some scenarios prior to the mid-year budget in an attempt to locate savings and make adjustments. G. Rojas advised that staff is watching these items closely.

The holiday calendar was provided by F. Dehn with the Chamber of Commerce, which will be available in City Hall in the atrium. They have also asked the Police Department to extend the holiday parking and a slight variation to the configuration.

## **B. PRESENTATIONS AND PROCLAMATIONS – None**

## **C. PUBLIC COMMENT #1**

H. Lawrence spoke regarding an article in the Post today regarding unfair negotiations with refuse and recycling services. G. Rojas pointed out that the staff has not evaluated the fees and the Council has not had the opportunity to see the information.

R. Li spoke regarding the proposed fee increases to the business community. The small businesses deserve the same treatment as the larger businesses.

## **D. CONSENT CALENDAR**

**Approval of City Council minutes for the meetings of November 18, 2008 ([attachment](#))**

**Action:** Moved, seconded, (Robinson/Cline) and carried unanimously to approve the minutes of the November 18, 2008 City Council minutes.

## **E. PUBLIC HEARINGS**

**Discussion of City fees and results of 2008 User Fee Study and consideration of a Resolution amending the City's Master Fee Schedule to incorporate proposed changes in fees to become effective immediately**

**or February 1, 2009 or as required by statute for the following departments: Administrative Services, Community Services, Police, Public Works and, Community Development ([Staff Report# 08-174](#))**

C. Augustine provided the background on the item including the process to date, the fee categories and departments with proposed changes. Cost recovery is based only on services for which a fee is charged. Revenue impacts are estimated on an annual basis. The effective dates differ by fee category and there were many factors considered in establishing the fees.

There was an error in the staff report on page 34 of 35 and the over all estimated net increase in the General Fund revenue from the revisions is \$1,019,000. User fees provide a significant source of cost recovery for the City. The recommended revisions to the Master Fee Schedule will be built into the 2008-09 mid year budget adjustments and will help in maintaining service levels in the current fiscal year.

K. Fergusson clarified that the planning fees would go into effect as stated in the staff report but the building fees would come back at a later date. This was confirmed. Regarding the water rates; there have been discussions regarding water conservation and tiered pricing is used for incentives. Where are we today versus where we might be? K. Steffens advised the increase will be 11.9% and there is a tiered rate structure in place. This was approved by the Council for a four year rate plan in 2006. If it is a dry winter, there may be other measures that would have to take place and conservation put in place. The possibility of water rationing could be a reality. Currently there is scheduled for another full rate analysis in 2010 however if conditions change it could be revisited sooner. Menlo Park tends to have lower fees than most other jurisdictions in the Peninsula however the usage is the third highest.

R. Cline asked why the cost recovery policy is not being done prior to these fee adjustments going forward and asked if there was enough analysis to determine if the market would be able to bear these fees. C. Augustine advised this is meant to be informative and to assist to guide the process got the policy discussion and the Council could choose to defer the increases until the policy is in place. The departments were asked to take a hard look their fees in relation to the current market.

J. Boyle asked for clarification on the last time a major change was done. (March 2007) What percentage are the city's costs up since that time and what salary increases have taken place? C. Augustine stated that it is hard to say exactly how much labor costs have risen; however, health care and energy continue to rise. The salary increases have gone up approximately 4-5% each year including retirement costs. The labor costs for 2008/2009 were assumed in the report.

H. Robinson stated that this should have come last spring and essentially this is the 2008 version with current numbers. There are many ways for the city to approach these types of fees. What is the impact on local businesses? Were any efficiency savings found? C. Augustine advised that the building fees will be coming to the Council in March 2009 with any other changes staff believes are necessary. A number of cities are going to a time and material system for planning type projects. The city did identify how restructuring some processes could keep costs down. G. Rojas explained that the big cost for businesses is with the land owner and not the business owner.

K. Fergusson stated that the objective when this process began, it was to look for a way to charge fairly. C. Augustine stated that in terms of revenue increases, 2/3 would be for planning with 1/3 in the other areas.

A. Cohen asked what the word elective or discretionary mean with fees. C. Augustine stated that the participation in the service or program is not mandatory. Most of the fees for non mandatory programs falls into recreation and community services. Childcare programs, senior center programs and facility use for non-profit organizations were specifically looked at. Childcare programs are all subsidized, but to different degrees. The Menlo Children Center (MCC) programs are approximately 80% cost recovery and the childcare programs at Belle Haven have a 50% cost recovery, through state and county grants.

The public hearing was opened.

K. Eggert stated that in order for him to do his job, he needs to take his children to an affordable childcare center. The fair thing to do is a problem based structure. If it is east or west should not matter; it should be how much people earn that matters.

Sandra Rodrigues read the letter she wrote to the Council this afternoon. She believes the Council is receiving inaccurate information and does not feel that proper notice was provided to the public, especially the MCC community. The parents of the MCC community were provided a Fact Sheet that has incorrect information regarding fee increases.

R. Vengosh has three children in the MCC program and has been with the school for five years. He is opposed to the fee increase due to the current economy. The fee increase would force his family to decide if one needs to stay home with the children.

Susie Danzig read a letter from Marla Bischoff which was sent to the Council via email. What kind of community does the city want to have; a community that supports families? MCC offers those families access to an exceptional program. Speaking for herself, she put her career on hold to stay at home but she sends her child two mornings a week for the experience. At this time, people are cutting back and it is not the time to increase this fee. The city will lose money by increasing the fees.

J. in Shi stated that his daughter is a participant at MCC. He has an international family and he is the only one that can work in the United States; he wife cannot. The program is important for his daughter's future in making friends. A seven percent increase is substantial. He stated that with these economic times, there should be a decrease not an increase. He is not convinced the fee should be increased.

A. Brooks stated that he just began sending his child and is extremely pleased with the program. The increases are coming at the wrong time. He asked the Council to question why the cost recovery for childcare is at such an accelerated rate for such a needed program. Take a look at accelerating the rates for other programs.

O. Loewenthal spoke to what she feels as inaccuracies in the information they received at an informational meeting last night regarding rate increases. She read the fees for 2006 and 2007. She stated that the premise that the fees were calculated at is incorrect making the new fees invalid. MCC fees are comparable to market rate. Care of children should be at the top of the list for subsidy. Look at the City's priorities and what they need. Parents for MCC are easy targets as it is difficult for them to be present to talk to the Council. She brought many letters with her who are also against the fee increase.

C. Chu stated that the bottom line impacts for fee increases is huge as it comes from a small group of people and not shared by the entire community. He suggested increasing other fees to offset keeping these fees at the current level.

L. Koonce, Chair of the Chamber of Commerce, spoke to the planning fee increases. He would strike the idea of civic development. Prices are up and sometimes this is a very timely process and the businesses in town need assistance. He encouraged the Council to look closely at the jumps of over 100%. He encourages good business development. He would be curious to find out how the newer fees stack up next to neighboring cities. He is concerned that with the huge rate increase. He would suggest that there may be some type of subsidy given to the business community.

F. Dehn stated that she understands the cost recovery for some items, but for others having an increase of 500% is . She encouraged the fee structure be enhanced with staff support. Suggestions could be to include a checklist to lead a person through the processes with complete and concise instructions. It would be helpful to have a Q&A line as well as a walk-in clinic to ask for assistance with the process. Sometimes there could be a boiler plate project.

D. Pejakovic was reading economic news at the time he heard about the increase to the MCC fees. The subsidized program is beneficial to the community and the level of subsidy should increase in the upcoming years.

H. Lawrence read a letter from a former Mayor of Menlo Park regarding the fee increases being proposed for garbage. Should the city be in the business of childcare? The request was made to have a private company run the program. The costs are too high because it is run publicly rather than privately.

N. Prouty spoke against the fee increase and asked if there would be any additional services for the children or additional training for the teachers.

S. Lohmann stated that people seem to have more questions than answers. The curriculum is not very good at MCC and it is possible to have a better program if ran privately.

T. Grafendorfer stated that he pays an additional amount for childcare for when the facilities are closed but businesses are not and the parents have to work. This adds up to about \$100 per month.

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

C. Augustine advised that there are only two proposed fee increases for Administrative Services.

K. Fergusson stated that there was some criticism of the study and asked staff to review the methodology. C. Augustine stated that the criticism was not so much to do with the methodology done by the consultant. There was some inaccurate information provided last night to the MCC families. J. Boyle asked the City Attorney explain the mandatory/elective nature of the fees. W. McClure stated from the perspective is that the City is not mandated to offer childcare; however they are mandated to provided other services. From the user side, mandatory services are services provided only by the city and elective services you could obtain elsewhere.

**Police Fees:**

S. Tsai and Chief Goitia reviewed the proposed fee increases for the Police Department. The department considered adjusting the false alarm fee, but they are still reviewing these fees.

H. Robinson asked about other fees that the department charges, such as for infractions and red light camera violations. Chief Goitia stated that the fee structure is set by the court system and the California Vehicle Code.

J. Boyle asked why the false alarm fee is not ready and how does the downtown parking fee compare to neighboring cities? Chief Goitia stated that he would like to create a tiered system for false alarms which require an ordinance change which could not get prepared in time. The City did not set the fee for downtown parking, they only collect it.

**Community Services fees:**

B. Santos-George and N. Nuckells discussed the proposed fee increases, new services and discounts for the Community Services department.

K. Fergusson asked how many children are served any given time and then over a ten year period. Is the department pursuing accreditation? Is there any thought on using a sliding scale concept. Currently at MCC there are 58 slots with 50 currently filled with a waiting list for the preschool slots and there are 101 afterschool slots are available. Due to the turnover in the past 18 months and accreditation has not been pursued; however it can be looked at again. The accreditation is not without a cost. Using a sliding scale would be up to the Council. Notice was provided on November 17, 2008 and typically until the Council receives a staff report, the information is not provided to the public.

H. Robinson asked about the afterschool and preschool being under the same heading. The current cost recovery for preschool is 63% and the afterschool is at 100%. B. Santos-George stated that they are captured as one program due to one director. She advised that the indirect costs could not be separated out, which would impact the fees. C. Augustine advised that they have one common facility and it typically costs more to provide services for toddlers. The afterschool program in essence does subsidize the preschool program. H. Robinson asked if there is a non-resident rate for the programs at the Belle Haven programs. (35% higher)

They are trying to discourage some of the part-time use because it causes vacancies that cannot be filled. H. Robinson suggested have a Monday/Wednesday/Friday program and a Tuesday/Thursday program.

J. Boyle asked about only 90% recovery for the Burgess Pool. He asked about the sliding scales for services or to use some type of scholarship program. Do other cities charge 100% recovery and then provide assistance on an as-needed basis? Is liability insurance factored into the cost? (Yes) C. Augustine stated that the contractor is paying 100% for what they do but the per hour labor rate is being increased to accommodate those costs. B. Santos-George stated that it could be done, but there would also be a cost to having staff process those applications for assistance. To her knowledge she does not know if any other cities handle subsidy in that manner.

R. Cline stated that he finds it hard to come up with a rationale for making these decisions without a policy in place. Is staff aware of any city that outsources or privatizes their senior services? Cities across the nation subsidize services. Is the city trying to get to a high enough cost recovery until the maximum recovery is reached? B. Santos-George stated that she is not aware of any city outsourcing senior services. C. Augustine stated that the cost has been tied to the programs and the cost recovery is the same as it has been in recent history. Facilities are being included in the fees for these programs, but not for a field as there is no building. The amount of cost in the picnic area and the maintenance involved.

A. Cohen stated that he is trying to get a handle on the impacts for the east side versus the west side and there is a problem in doing that. There are levels set on the east side by San Mateo County however on the west side that is not the case. How would staff compare that to the changes on the west side in terms of who is being impacted more? He pointed out that there is no way to compare east versus west. On the east side there is grant money that pays a portion of the fees. B. Santos-George stated that some fees have not been increased for several years and they are trying to bring fees to a more equitable fee. Some programs are run by grants, but some have leveraging from other programs in order to provide more programs to the east side. Is there any way to set or of giving people a set price based on need regardless if they are on the east side or west side? With a sliding scale it could be done. The criterion used is based on the San Mateo Housing and Income. Part of the participants that you may want to help could find themselves not reaching the criteria. Is there a way to have standards that are applied community wide? With such variances in incomes for the community it would be very difficult.

K. Fergusson stated that she has, in the past, voted for increases to childcare. She feels that the city has reached a point in cost-recovery for today's fees. She would feel that 75% cost recovery for childcare is adequate.

H. Robinson stated that this process comes from the "Your City Your Decision" process. One program should not be subsidizing another even within the same facility. As fees are raised, the idea of providing some type of assistance (scholarships) to family in need should be evaluated.

J. Boyle stated the real role for city government is to provide safety and infrastructure. There are non-discretionary services that the city must do. As the city looks at the budget during these difficult times, he needs to make sure those services have adequate funding. The amount of subsidy of other programs needs to be determined if they are best served by a public entity or through private. The more childcare is subsidized the fewer private childcare facilities will come in to compete with the publically run program. Unless the rates are increased, the amount of subsidy will increase since the costs to run the program have gone up. The city should set the fees at full recovery and then provide a mechanism for those who need some type of subsidy.

R. Cline stated that a general direction of the budget advisory committee stated to head towards full cost recovery. This needs to have some clarity. He would like to have some agreed upon principles to be able to determine what the cost recovery rate should be set to. A facility is set up but there are not adequate programs to drive the public to use it. There are 2-3 different areas that will affect the budget and one is childcare. Is there a way to broaden programs, such as gymnastics?

A. Cohen stated that he finds it illusive to understand how this can be an objective project and it looks subjective. The study was done and is comprehensive, but it did not deal with the fundamental policy issue.

He would like sliding scales in all of these areas and he does not want to impose increased fees in the middle of the year.

Moved and seconded (Fergusson/Cohen) to adopt staff recommendation on CS fee changes with the exception of the MCC programs until after the policy discussion on subsidy.

J. Boyle stated he will not be in favor of deferring MCC; a decision needs to be made. If the cost goes up there has to be a way to recover that. There were also emails that came in to support the fee increase to the program. There are citizens that are supportive of full cost recovery.

Substitute motion and seconded (Boyle/Cline) to approve staff recommendations as submitted.

**Action:** Vote to consider the substitute motion failed (Ayes: Boyle/Cline – Noes: Cohen, Fergusson, Robinson) voting for taking action on this motion.

**Action:** Vote on the main motion - (Fergusson/Cohen) to adopt staff recommendation on Community Services fee changes with the exception of the MCC programs until after the policy discussion on subsidy failed. (Ayes: Fergusson – Noes: Boyle, Cline, Robinson – Abstain: Cohen)

**Action:** Motion and second (Robinson/Cohen) approve a 5% increase on MCC preschool program effective at staff discretion, no increase on the afterschool program, partial week fees would follow staff recommendation and ask staff to revisit these fees in March and at that time there would have been a discussion as to the appropriate rate of cost recovery.

C. Augustine asked that the part-time rates be prorated to coincide with the 5% increase.

H. Robinson modified his motion to 5% to MCC preschool fees across the board for full time and part time and no increase in the fees for afterschool programs.

J. Boyle stated as a compromise he can support that. He is not saying that they do not want to do the part-time rates, but tonight is not the night to determine that.

**Action:** Moved, seconded (Robinson/Cohen) and passed (Ayes: Boyle, Cline, Robinson, Cohen – Noes: Fergusson) to increase the MCC preschool programs by 5% across the board (full time and part-time) and to implement no increase in the fees for the afterschool program, to implement all other Community Services fees as submitted by staff, a policy discussion in early January and to have staff return in March with further recommendations.

**Action:** Moved, seconded (Boyle/Cline) and passed unanimously to approve staff recommendations for the Administrative Services and Police proposed fees.

**Community Development (Planning) fees:**

The proposed fees for planning including clarification to some of the fees was discussed.

H. Robinson asked what a fee would be for a two hour study session. (Approximately five times the length of the time in the meeting.) The fees charged for staff time is a fully loaded labor cost for the individual expending time.

R. Cline asked for clarification on the deposit. It was explained that currently a deposit is taken, staff time is tracked and invoices are sent periodically with amount of time spent against their deposit. Most of the time, the applicant will have a better expectation as to what is expected of them.

K. Fergusson asked if there would be a case when a study session is requested by the Council but the applicant is not interested. Staff explained that if the applicant did not want a study session, they applicant would be taking their chances. K. Fergusson asked what the fee under the appeals actually covers. The appeal of a staff

decision fee would allow it to be heard by the Planning Commission. Appeals of the Planning Commission are deposits where time is tracked in order to prepare the work in order to take that appeal to the City Council.

J. Boyle asked if the City Council asks for a study session is requested on a project; are there fees. It was explained that the time and materials get folded into other deposits made by the applicant. J. Boyle asked if an applicant could request a study session. How would a developer get feedback on a potential project if they cannot request a City Council study session? It was explained that it could be done via a Planning Commission study session. How much effort does the applicant have to go through to get the remainder money back. It was explained that it is the goal of the city to get the refund off the books and return the applicant's money. J. Boyle asked how many of these fees will impact the homeowner or small business owner for smaller projects. Variance and use permits will impact homeowners and small business owners. When coming back for the policy discussion, he would like staff to address what other cities do in relation to smaller projects possibly being an investment. Most of the feedback from developers that he heard was in favor of the fees, but they would like an efficient process. Having a better idea of how the process is not working as efficiently as possible should be explored.

**Action:** Moved, seconded (Fergusson/Robinson) and passed unanimously to approve the concept of deferring the building division fees to a later date and to approve the proposed Community Development planning division fees with the modification proposed by staff to #80 and to change the fee from \$1,000 to time and materials and to reduce the use permit deposit to \$1,500.

A. Cohen asked if there is an instance where an invoice is sent out and not paid. A. Heineck stated that it is becoming rare and if an invoice is not paid staff looks to finance to assist in collection of the payment. When payment for planning processes is not made a building permit is not issued.

**Public Works fees:**

K. Steffens reviewed the proposed changes to fees before the Council.

J. Boyle stated that the city is moving to a fixed percentage and he asked for the impact on a large project. L. Ekers stated that on page 24 of the staff report there is an illustration on existing rates and the recommended rates. On the large projects as being discussed there will be additional staff that will need to be utilized.

H. Robinson stated will there be an opportunity to modify these. (Yes) We want to hear from the customers on the fees. Regarding the heritage trees, the fees were not increased much. What is the fine if they cut down a heritage tree without a permit? K. Steffens advised that it is established on a case by case basis based on the value of the tree with a maximum fine of \$5,000.

K. Fergusson stated that banners are for fundraisers and things that there is a benefit for the residents. She asked questions about the water rates. K. Steffens advised that the four year plan is through 2010. The Council could adjust the rate prior to then, but there is a Prop 218 notice process that would need to be adhered to. She is concerned with our rates being out of balance with the other agencies.

**Action:** Moved, seconded (Cline/Robinson) and passed unanimously to approve staff recommendations for Public Work fees as outlined in the staff report with the exception of raising the banner fees by only \$50.

**Action:** Moved, seconded (Fergusson/Robinson) and passed (Boyle Dissenting) to direct staff to have the water rate question return to the City Council sometime in the next six months to discuss adjustments to the rates with the city's ranking in consumption and price.

**Action:** Moved, seconded (Fergusson/Robinson) and passed unanimously to approve the resolution amending the Master Fee Schedule with all of the changes previously made tonight.

F. **REGULAR BUSINESS** – None

G. **CITY MANAGER REPORTS** – None

H. **WRITTEN COMMUNICATION** – None

I. **INFORMATION ITEM** – None

J. **COUNCILMEMBER REPORTS**

J. Boyle:

- AB1234 – Council and cities meeting in Portola Valley (K. Fergusson and A. Cohen also attended)

K. Fergusson

- Attended BAWSCA meeting

H. Robinson

- Attended San Francisquito meeting

A. Cohen

- Attended two meetings on foreclosures.

K. **PUBLIC COMMENT #2**

L. **ADJOURNMENT** – Adjourned at 12:40 a.m.

Margaret S. Roberts, MMC  
City Clerk

Approved at the Council meeting of December 16, 2008