



**CITY COUNCIL
COMMUNITY DEVELOPMENT AGENCY
SPECIAL MEETING MINUTES**

Tuesday, September 22, 2009

6:00 p.m.

701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

6:00 p.m. SPECIAL PRESENTATION

1. Presentation of information regarding employee compensation and receipt of public comment relating to upcoming contract negotiations ([Staff report # 09-129](#))
Staff presentation by Glen Kramer, Personnel and Information Services Director

The following members of the public commented on the topic:

- Mickie Winkler encouraged Council to implement an employee cost reduction policy which includes staff reduction, benefits reduction, outsourcing of services, fewer studies.
- Jim Long stated that salaries and benefits in the private sector have declined and that Council should make decisions that will bring the public sector in line with the private sector.
- Henry Riggs stated that employee benefits should be restructured.
- Jennifer Wilkins stated that the City's high-quality and committed work force contribute to the high quality of programs and services that residents enjoy and encouraged Council to show City works that they are valued.
- Rene Morales highlighted the range of services provided by City workers and stated that the current contract should be extended for 2 years with no salary or benefits increases
- Adolfo Riedel asked Council to show leadership in its decision making.
- Danny Daniels outlined many services provided by City workers and stated that fair wages and benefits are key to attracting qualified personnel.
- Janette Lanier spoke about her years of service working for the City and stated that qualified, long-term employees are difficult to replace with new workers.
- Watson Lohmann encouraged more outreach and dialogue with the public on this subject and supports a two-tier system.
- Skip Hilton spoke in favor of making changes to current employee costs and benefits.
- Julie Robinson stated that fair wages and benefits keep public employees healthy, increases longevity and decreases turnover.
- Dave Whorton supports a two-tier system of benefits.

Staff responded to Council questions and issues brought forth during public comment.

7:00 p.m. REGULAR SESSION

All Council Members are present. Also present is City Manager, Glen Rojas; Assistant City Manager, Starla Jerome-Robinson; City Attorney, Bill McClure; Pam Aguilar, Deputy City Clerk

REPORT FROM CLOSED SESSION

Mayor Robinson stated there is no reportable action from this evening's closed session.

PLEDGE OF ALLEGIANCE - Led by Mayor Robinson

ANNOUNCEMENTS

Mayor Robinson made the following announcements:

- Today is a Spare the Air day. If you would like to subscribe to receive Spare the Air email alerts, or for more information regarding Spare the Air days, you may go to sparetheair.org
- Council will host an event on Thursday evening, September 24th from 6-8 pm outside of Council chambers to recognize all Commissioners and to thank them for their service and support to the City.
- High Speed Rail Design Charrette, October 3 & 4 at the Sheraton Palo Alto
- Grand Opening celebration of the Menlo Atherton High School Center for Performing Arts will be Saturday, October 10 from 7 – 8:30pm. Tours of the Center will be given from 6 - 7pm.

A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation: Fall Prevention Awareness Week ([Attachment](#))

Proclamation received by Kathy Janz, Hospital Consortium of San Mateo County.

2. Presentation: El Concilio of San Mateo County ([Attachment](#))

Presentation by Victor Lopez, Program Coordinator, and youth members of El Concilio.

C. PUBLIC COMMENT #1

- **Marilou Serrano** spoke regarding a contract between the Ravenswood School District and the Catholic Church as to field use.
- **Barbara Franklin** requested Council to update the City's ordinance pertaining to secondhand smoke to include a ban on smoking in common areas of multi-unit housing.

D. CONSENT CALENDAR

1. Authorization for the City Manager to execute Master Agreements for Professional Services with CSG Consultants, Inc. and Harris & Associates for Various Project Management, Construction Management, Inspection and Environmental Support Services ([Staff report # 09-124](#))
2. Authorize the City Manager to execute an Agreement with the San Mateo County Transportation Authority for the City of Menlo Park to receive \$59,487 in transportation systems management funding for Fiscal Year 2009-10 to support the City's shuttle program ([Staff report # 09-123](#))

Action: Motion and second (Cline/Fergusson) to approve Consent calendar passes unanimously.

E. PUBLIC HEARINGS

1. Introduction of an Ordinance establishing a Transportation Impact Fee for the City of Menlo Park ([Staff report # 09-130](#))

Staff presentation by Chip Taylor, Transportation Manager

Staff responded to Council questions. Mayor Robinson opened the Public Hearing. No one came forward to speak.

Action: Motion and second (Boyle/Cline) to close the Public Hearing passes unanimously.

Action: Motion and second (Boyle/Cline) to introduce an Ordinance establishing a Transportation Impact Fee for the City of Menlo Park passes unanimously

2. Consideration of an appeal of the Planning Commission's decision to approve a Use Permit for a real estate office on the ground floor of an existing commercial building located at 825 Santa Cruz Avenue in the C-3 (Central Commercial) Zoning District ([Attachment](#))

Mayor Robinson called for public comment on this item. No members of the public came forward to speak.

Action: Motion and second (Fergusson/Robinson) to continue the public hearing, pursuant to the request of the parties, to October 6, 2009 passes unanimously.

REGULAR BUSINESS ITEMS #1 and #2

At this time, Items F-1 and F-2 were taken out of order.

1. Adoption of a Resolution approving the Agreement with South Bay Recycling, LLC, for the Operation of the Shoreway Recycling and Disposal Center in San Carlos ([Staff report # 09-126](#))
2. Adoption of a Resolution authorizing the City Manager to Execute a Franchise Agreement between the City of Menlo Park and Recology San Mateo County for recyclable materials, organic materials and solid waste collection services for the period between January 1, 2011 and December 31, 2020 ([Staff report # 09-127](#))

Staff presentation on both items presented by Lisa Ekers, Engineering Services Manager
Staff responded to Council questions.

Action: Motion and second (Boyle/Fergusson) to approve (1) **Resolution 5887** approving the Agreement with South Bay Recycling, LLC, for the Operation of the Shoreway Recycling and Disposal Center in San Carlos and (2) **Resolution 5888** authorizing the City Manager to Execute a Franchise Agreement between the City of Menlo Park and Recology San Mateo County for recyclable materials, organic materials and solid waste collection services for the period between January 1, 2011 and December 31, 2020 passes unanimously.

PUBLIC HEARING #3

3. Consideration of an appeal of the denial of a Heritage Tree Permit for 1155 Santa Cruz Avenue ([Staff report # 09-125](#))

Lisa Ekers, Engineering Services Manager, presented the staff report which included a brief background of the subject tree and property, considerations for permitting removal of a heritage tree, arborist's reports, considerations of the Environmental Quality Commission (EQC) regarding reasonable and feasible alternatives that would allow preservation of a heritage tree. She noted that staff's recommendation was different from the decision rendered by the EQC.

Staff responded to Council questions.

Ms. Ekers responded to Councilmember Fergusson's question regarding pesticide information that was not available to the EQC at the time it made its decision. Ms. Ekers stated that the pesticide included a nicotine ingredient that is currently being tested by the Environmental Protection Agency (EPA) to determine the level of toxicity that may be present.

Ms. Ekers responded to Councilmember Fergusson's question as to whether an applicant is directed to replace a heritage tree with a native tree. Ms. Ekers stated that the Public Works department has a list of recommended trees. Not all the trees on the list are native, but they are those that would thrive in this region's environment. She stated that a condition can be placed requiring replacement with a native tree.

Councilmember Cline asked for clarification regarding the heritage tree removal permit that was granted to the previous homeowners by Council in 2002. City Attorney McClure stated that the 2002 permit sought by the previous homeowners no longer applies. The current homeowners presented plans that did not encroach into the tree area and so it was not necessary to remove the tree at that time in order to comply with their plans. The current permit was sought for different reasons, not related to building or design, and supersedes the permit previously granted.

Councilmember Boyle asked whether Merit is a newer and different treatment, how effective it is and what is the cost for annual treatments. Mayor Robinson stated that the EQC directed the appellant to treat the tree with Merit in February of 2010 and by spring or summer see whether the tree is cured of disease. If not, then removal would be permitted. Mayor Robinson asked what the City is legally allowed to require of applicants and what the EQC is allowed to require. City Attorney McClure stated that the City cannot order an applicant to try a specific treatment.

Mayor Robinson noted that the EQC stated that the appellants are required to take reasonable steps. He asked when it is determined that reasonable steps have been taken. He suggested the City Attorney review the tree ordinance to see how it can be clarified.

Councilmember Boyle asked whether appellants are required to perform more than one reasonable measure. City Attorney McClure stated that appellants have performed three out of four of the recommended reasonable measures. He stated that the totality of the ordinance must be considered when making the decision.

Mayor Robinson opened the Public Hearing.

Appellant John Martin made an opening statement outlining the reasons he is requesting Council to grant the appeal.

The following members of the public commented on this item:

- **Dan Kocher** clarified the Environmental Quality Commission's process in reaching its decision and explained what Merit is.
- **Penelope Huang** stated the subject tree is a potential safety hazard and supports the removal of the tree.
- **Lawrence Byers** clarified the Environmental Quality Commission's process in reaching its decision.
- **Deborah Ellis**, consulting arborist, spoke about Tulip tree aphid control.
- **Gerry Andeen** spoke in favor of removing the tree and replacing it was something more suitable.
- **Mary Andeen** spoke in favor of removing the tree and stated that most of the neighbors signed a petition also supporting removal of the tree
- **Joy Weintz** stated the tree is an asset to her property and does not want the tree removed
- **Doug Teeter** stated that his family has enjoyed the tree for many years and opposes removal of removing the tree
- **Maureen Teter** summarized the history of the tree removal permit and appeal and objects to the tree removal
- **Augus Teeter** stated he enjoys looking at the tree from his window and does not want the tree removed

Appellant Martin makes a rebuttal statement summarizing the steps that had been taken to preserve the tree, and that removal was the only solution.

Councilmember Boyle commented on samples taken of the two tulips trees and the results. He asked whether studies were available regarding the efficacy of Merit. Assistant Public Works Director Ruben Nino stated that the City uses Merit on City trees with some success. He indicated that the results were hit and miss, approximately a fifty percent success rate, but enough to continue using it.

In response to Councilmember Cline, City Attorney McClure stated that subsequent to the 2002 removal permit, the current homeowner/applicant/appellant submitted plans that were designed in order to avoid having the tree removed. The current removal application states reasons that are different from the 2002 application.

Councilmember Cline asked if there were any cases of aphid or insect infestation that resulted in removal of City trees. Councilmember Boyle asked if any removal applications were granted for the same reason. Ms. Ekers responded that there is no report that tracks the reasons for denials and the tree ordinance is silent on reasons for denial. She added that the City arborist will visit the site of the tree and make a report. In this case, it was reported that the tree was in decline. Councilmember Boyle confirmed that there is no precedent to rely on in making this decision. Mayor Robinson stated the decision should not focus on one factor, but on the body of the evidence.

Motion and second (Boyle/Fergusson) to close the Public Hearing passes unanimously. Council discussion ensued.

Councilmember Fergusson expressed appreciation for the residents who protect heritage trees. She also expressed appreciation for the EQC for its deliberations in making a difficult decision. She stated that Council was presented with a broader range of information to consider. She supports granting the appeal.

Councilmember Cline stated that he created a list of factors to help him come to a decision. He noted that trees bring character to neighborhoods, creating treescapes that are attractive and increase property values. He stated that the subject tree is an icon to many of the neighbors. He stated that the appellants pursued reasonable alternatives and now find themselves stuck. He commended the EQC for doing a good and fair job that was not easy. He stated that the tree ordinance is in place to prevent scraping properties of heritage trees. That is not the case in this instance. He supports granting the appeal.

Councilmember Cohen expressed empathy for those who oppose the tree removal. He stated that the appellant could have built over the tree area, but did not. He stated that at this stage it is too late to bring everyone together to discuss a solution. He supports granting the appeal.

Councilmember Boyle stated that the appellant wanted to keep the tree, but that aphids became a nuisance. He commended the EQC for its decision and for trying to reach a compromise. The arborist's report supports removal of the tree. Due to the preponderance of evidence, he supports granting the appeal.

Mayor Robinson stated he respects the job of the EQC. He noted that removal of the tree will be a loss to neighbors of privacy, shading and aesthetics. He asked the City Attorney to review the tree ordinance. Councilmember Boyle clarified that the tree does not provide screening. The removal permit requires a one-to-one replacement of the tree. Councilmember Fergusson prefers replacement with a native species.

Mayor Robinson suggested that some kind of ceremony be held to honor the tree and all it has provided to the neighbourhood so that the community can move on and continue to have positive relationships.

Action: Motion and second (Fergusson/Cline) to grant the appeal and uphold the removal permit on condition that prior to the final building inspection appellant submits plans for replacement tree species and location to the Director of Community Development or her designee for approval passes unanimously.

At this point, Councilmember Cohen and City Attorney recused themselves from the remaining items on the agenda regarding High Speed Rail and exited the chambers at 10:25 p.m.

F. REGULAR BUSINESS ITEM #3

Approval of the City of Menlo Park Statement of Principles for High Speed Rail

([Staff report # 09-128](#))

Staff presentation by Chip Taylor, Transportation Manager

Staff responded to Council questions and discussion ensued. Council directed staff to make several modifications to the Statement of Principles and bring the item back at a future meeting.

G. CITY MANAGER'S REPORT - None

H. WRITTEN COMMUNICATION - None

I. INFORMATIONAL ITEMS - None

J. COUNCILMEMBER REPORTS

1. Report from the City Council Subcommittee on High Speed Rail

K. PUBLIC COMMENT #2

- **Morris Brown** announced the High Speed Rail board meeting on September 23rd and Open House on September 30th at the SamTrans office in San Carlos. He also stated that a hearing will be held on the High Speed Rail lawsuit on October 8th and a decision will be made on October 9th.

L. ADJOURNED at 10:42 p.m.

Pamela Aguilar
Deputy City Clerk

These minutes were accepted at the Council meeting of October 20, 2009