



**CITY COUNCIL
CITY OF MENLO PARK
STUDY SESSION MINUTES**
Tuesday, October 27, 2009 at 7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

The meeting was called to order at 7:00 pm. and all Council Members were present. Also present: City Manager, Glen Rojas; Assistant City Manager, Starla Jerome-Robinson; City Attorney, Bill McClure; City Clerk, Margaret Roberts

A. PUBLIC COMMENT #1

- Marilu Serrano (time donated by Halle Hewitt) spoke on school board issues

B. STUDY SESSION

1. Follow-up on the supplemental emergency water supply “wells only” analysis and direction on proceeding with a wells siting study for a supplemental emergency water supply for the eastern service area of the Menlo Park Municipal Water District
([Staff report # 09-141](#))

Staff presentation by Kent Steffens, Director of Public Works

Public input on the item:

- Craig D. Cohen is supportive of staff recommendation for wells only and the possibility of looking at private property. He hopes the study will look at the total cost of the project holistically and also the environmental impact of the site and does the site offer synergy with other Public Works project.
- Marilu Serrano thought there should be another session on the item and that future earthquakes be taken into consideration.
- Mark McBirney stated that the pump house is larger than his home. He did not hear about subsidence to adjacent land for water pumping and is there a possibility of utilizing bay water for fire fighting, what is the effect on existing wells, is there a potential for salt water intrusion on existing wells, and he did not see a do nothing option.

Council direction was to proceed with staff recommendation for wells only and to keep options open for a reservoir and to explore the possibility of needing more than 3 wells.

2. Consideration and direction regarding updating the City of Menlo Park smoking ordinance and adopting a tobacco retailer permit ordinance ([Staff report #09-150](#))

Presentation by Leigh Prince, City Attorney’s Office.

Public input on the item:

- Lianne Avila with the American Cancer Society – Gave statistics for “passive” smoking or second hand smoke
- Barbara Franklin (time donated by Bernie Loth) – Talked to second hand smoke in multi-home units

- Halle Hewitt (time donated by Marilu Serrano) – Talked to second hand smoke in multi-unit dwellings
- Neil Klepeis, PhD (time donated by Wayne Ott, PhD) – Spoke to the research in multi-unit buildings, devices used for monitoring air quality, (he did a PowerPoint presentation)
- Dennis Acha – Spoke to the effects of second hand smoke in multi-unit dwellings; supports the tobacco retail ordinance
- Derek Smith, County tobacco control – offered their assistance and they are supporting cities; they have a help line; they assist cities in rolling out new regulations in this area, including signage; they have worked with the local police department with sting operations
- Julie Kaufmann, American Heart Association – Second hand smoke regulations help with heart disease
- Joshua Howard, California Housing Association – the best way to regulate is through housing; Enforcement is difficult for landlords unless you catch them with a lit cigarette; offered service to do outreach to landlords to implement a voluntary program
- Emily Lehr-Anning, Youth Leadership Institute – supportive of the tobacco retail licensing ordinance and they are helping with campaigns in Belmont and Burlingame; also in full support of the second hand smoke

Council direction:

- Does the City's smoking ordinance need to be updated?
 - Consensus of the Council was to update the ordinance.
- Should the City's ordinance ban all smoking within the City?
 - Consensus of the Council was not to ban all smoking within the City.
- Where should the City prohibit/allow smoking?
 - Council was supportive of prohibiting smoking where second hand smoke affects other people who have no choice to be where they are, such as prohibiting smoking in queue lines, City parks, special events, etc.
- Should the City prohibit smoking in individual units of multi-family housing?
 - Consensus of the Council was to discuss this issue further as there are a lot of unanswered questions.
- Should the City prohibit smoking in exclusive use common areas of multi-family housing, such as patios and balconies?
 - Consensus of the Council was to bring back more information; at this time there is not a consensus to make this part of the ordinance other than possibly addressing through nuisance language.
- Should the City prohibit smoking in the non-exclusive common use areas of multi-unit housing?
 - Consensus of the Council was to prohibit smoking in the common areas of multi-unit housing.
- Should the City set a distance away from an area where smoking is prohibited to allow smoking?
 - Consensus of the Council was to set a reasonable distance.

- Should the City provide that a violation of the smoking ordinance constitutes a nuisance and can be enforced by private citizens?
 - Consensus of the Council was supportive of this approach.
 - The liability should not fall on the property owner, landlord, or City.
 - Look at the City of Dublin's ordinance on the nuisance issue to allow a private citizen to take action to the extent second hand smoke adversely affects a third party
 - Urged to use caution in defining "nuisance" to avoid unintended breadth of the definition

- What kind of public outreach should be conducted?
 - Consensus of the Council was to do extensive outreach and for staff to bring back an outreach plan.

- Should the City adopt the County tobacco retailer permit ordinance?
 - Consensus of the Council was to support the County tobacco retailer ordinance.
 - There was concern regarding the fee not being adequate to cover enforcement.

C. PUBLIC COMMENT #2

D. ADJOURNMENT – 11:02 p.m.

Margaret S. Roberts, MMC
City Clerk

The minutes were accepted at the Council meeting of November 10, 2009