



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

Tuesday, September 28, 2010 at 7:00 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

At 7:03 the Mayor called the meeting to order with all members present.

Pledge of allegiance was led by Mayor Cline.

ANNOUNCEMENTS

- The League of Women Voters is having a candidate forum in the Council Chambers on September 29 from 7:00 – 8:30 p.m.
- The Arrillaga Family Gymnasium grand opening celebration and open house is scheduled for Saturday, October 16 from 10am – 1pm at 600 Alma Street. The event will include a ribbon cutting, guided tours, demonstrations, family games and open play and the first 100 people get a free Arrillaga Family Gymnasium water bottle. Please wear tennis shoes if you want to go into the new gym.

A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS –

1. Bicycle Commission report on Bicycle Community Friendly Award

The City was presented with the Bronze Award and Chair Levenson reported on the Commission's activities in the past nine months.

2. Consider applicants for appointments to fill vacancies on the Parks and Recreation Commission (Staff report # 10-133)

Staff presentation by Margaret Roberts, City Clerk

The Council took the following votes:

VOTE #1	Nominated By	KF	HR	RC	JB	AC	Total
1 Vacancy - Terms expire April 30, 2015							
Kelly Blythe	Robinson						0
Catherine Carlton	Fergusson	x	x	x		x	4
John Gregory	Boyle						
Nick Naclerio	Robinson						
Mark Williams	Robinson						

VOTE #2	Nominated By	KF	HR	RC	JB	AC	Total
2 Vacancies - Terms expire April 30, 2014							
Kelly Blythe	Robinson	x	x	x	x	x	5
John Gregory	Boyle						0
Nick Naclerio	Robinson	x	x	x	x	x	5
Mark Williams	Robinson						0

Action: By the above votes the Council appointed Catherine Carlton to serve a term expiring April 30, 2015 and Kelly Blythe and Nick Naclerio to serve terms expiring April 30, 2014 on the Parks and Recreation Commission.

B. PRESENTATIONS AND PROCLAMATIONS – None

C. PUBLIC COMMENT #1

- Allan Bedwell – Commended the Police Department, Council Member Fergusson and staff to their response to the recent burglaries in the Willows area.
- Steve Zanolli – Spoke regarding the Request for Proposal process for operating the Burgess Pool and requested there be equal resources available for all program providers at the Burgess Pool including on-site material and on the web.
- Barbara Franklin – Stated that the Smoking Ordinance on the consent calendar is a good start and hopes the issues related to restricting smoking in multi-unit dwellings will be addressed.
- Kristi Breish – Spoke to the success of the recent fundraiser for Project Read.

D. CONSENT CALENDAR

1. Adoption of a Resolution accepting water main easement, authorizing the City Manager to sign the Certificate of Acceptance; awarding a contract to Fermin Sierra Construction, Inc. in the amount of \$719,470; and authorizing a total budget of \$935,310 for construction, contingencies, testing, inspection, and construction administration (Staff report #10-134)

Item pulled by J. Boyle for discussion

Action: Motion and second (Robinson/Fergusson) to adopt **Resolution No. 5963** accepting a water main easement, authorizing the City Manager to sign the Certificate of Acceptance; awarding a contract to Fermin Sierra Construction, Inc. in the amount of \$719,470; and authorizing a total budget of \$935,310 for construction, contingencies, testing, inspection, and construction administration passes with the following votes: (Ayes: Boyle, Cline, Cohen, Fergusson; Noes: None; Absent: Robinson.)

2. Authorization of the Deputy City Manager to accept the work performed by First Serve Productions, Inc. for the resurfacing project of the tennis courts at Willow Oaks Park, Nealon Park, and Belle Haven School and the basketball court at Jack Lyle Park (Staff report # 10-116)

3. Resolution approving an application for grant funds from the Environmental Enhancement and Mitigation Program for the Highway 84 Widening Carbon Dioxide Mitigation Project (Staff report #10-131)

The item was pulled by Mayor Cline for public comment, taken out of order and heard prior to Item C.

Public Comments:

- Anne Moser – Suggested that the community and staff work together on this application.
- Nancy Borgeson – Urged the Council not to approve the resolution.
- Eileen McLaughlin – Suggested that this grant application be held until the next funding cycle.
- Robin Winslow Smith – Stated the western flyway goes over through and around the park and this project will cause harm. She questioned the disappearance of all of the ground squirrels.
- Chris Macintosh – Suggested the City do additional investigation and wait until the next funding cycle to move forward.
- Allan Bedwell – Stated this project will have impacts to the park and more public input is necessary. He suggested waiting until the next funding cycle, and is concerned with greenhouse gas emissions.

Action: Motion and second (Robinson/Boyle) to adopt **Resolution No. 5962** approval of an application for grant funds from the Environmental Enhancement and Mitigation Program for the Highway 84 Widening Carbon Dioxide Mitigation Project, passes unanimously.

4. Approval of response to Grand Jury Report “Sex Offender Law Enforcement in San Mateo County” (Staff report # 10-132)
5. Waiver of second reading and adoption of an Ordinance amending the City's smoking regulations and prohibitions to the City of Menlo Park Municipal Code (Staff report #10-136)
6. Acceptance of Council minutes for the meetings of September 14, 2010 (Attachment)

Action: Motion and second (Robinson/Fergusson) to approve items D-2, D-4, D-5, and D-6 passes unanimously.

E. PUBLIC HEARINGS – None

F. REGULAR BUSINESS

1. Consideration of Appeal of Public Works Department denial of an encroachment permit for the existing fence in the public right-of-way fronting 900 Cambridge Avenue (Staff report #10-135)

Staff presentation by Charles Taylor, Engineering Services Manager

Appellant:

The appellant, Tom Wandless, gave a PowerPoint presentation which included a timeline of the current fence and city processes, design considerations, the City's reasons for the denial and their reasons for keeping the fence in place. (PowerPoint)

Concerns from the City Council:

- Would allowing the fence to remain set a precedent?
- The possibility of damage to the heritage tree behind the fence should there be a change in property owners.
- Concern with the liability if a tree limb falls and injures another party.
- What are the plans for implementing the sidewalks in that neighborhood relative to the Sidewalk Master Plan?
- Concern with not maintaining the right-of-way and how it could be protected with a change in property owners.

Action: Motion and second (Robinson/Cohen) to grant the appeal of the Public Works Department denial of an encroachment permit for the existing fence in the public right-of-way fronting 900 Cambridge Avenue, with the following conditions:

- A deed restriction/maintenance agreement be recorded against the property, approved by the City Attorney agreeing to:
 - Maintain and trim the City street trees located within the enclosed portion of the right-of-way; and
 - Provide access to any existing utilities within the enclosed portion of the right-of-way and to remove the fence if any future utilities or roadway improvements, including sidewalks, are planned in this area; and
 - Defend, indemnify and hold the City harmless from all liability, claims and lawsuits for any accidents or damage that occurs or arises either within the enclosed portion of the right-of-way or as a result of the location of the fence including damage caused by City street trees enclosed inside the fence.
- The fence on the West side of driveway will be removed.

The motion passes by the following votes: Ayes: Cline, Cohen, Robinson; Noes: Boyle, Fergusson.

2. 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'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

NOTE: Councilmember Cohen and City Attorney McClure are recused from the item due to proximity of their properties and they left the chambers at 10:04 p.m.

K. PUBLIC COMMENT #2 – None

L. ADJOURNMENT – 10:17 p.m.



Margaret S. Roberts, MMC
City Clerk

Minutes accepted at the Council meeting of November 16, 2010

IN THE DISTRICT COURT OF THE STATE OF TEXAS

COUNTY OF DALLAS

Know all men by these presents, that the undersigned, the State of Texas, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the files of the County Clerk of the County of Dallas, State of Texas, and that the same is a true and correct copy of the original as the same appears in the files of the County Clerk of the County of Dallas, State of Texas.

WITNESSED my hand and the seal of said County at Dallas, Texas, this 1st day of January, 1960.

County Clerk

Charles W. ...

Notary Public

Subscribed and sworn to before me this 1st day of January, 1960.

Notary Public