



# CITY COUNCIL SPECIAL AND REGULAR MEETING MINUTES

Tuesday, August 20, 2013  
6:00 P.M.  
701 Laurel Street, Menlo Park, CA 94025  
City Council Chambers

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## 6:00 P.M. CLOSED SESSION (1<sup>st</sup> floor Council Conference Room, Administration Building)

### Public Comment on these items will be taken prior to adjourning to Closed Session

**CL1.** Closed Session pursuant to Government Code section 54957.6 to conference with labor negotiators regarding labor negotiations with the Police Sergeants Association (PSA), Police Officers Association (POA), American Federation of State, County and Municipal Employees (AFSCME), and Service Employees International Union (SEIU)

Attendees: Alex McIntyre, City Manager, Starla Jerome-Robinson, Assistant City Manager, Bill McClure, City Attorney, Gina Donnelly, Human Resources Director

**CL2.** Closed session pursuant to Government Code Section 54956.9(b)(1) to conference with legal counsel regarding potential litigation: 2 potential cases

## 7:00 P.M. REGULAR SESSION

**ROLL CALL** – Mayor Ohtaki called the meeting to order at 7:15 p.m. with all members present.

Mayor Ohtaki led the pledge of allegiance

### REPORT FROM CLOSED SESSION

There are no actions to report from the closed sessions held earlier.

### ANNOUNCEMENTS

Assistant City Manager Starla Jerome-Robinson introduced new Finance Director Drew Corbett.

#### A. PRESENTATIONS AND PROCLAMATIONS

**A1.** Proclamation: National Honey Bee Day (*Attachment*)

Presentation by Gwyn Firth Murray, Menlo Park beekeeper ([Powerpoint](#)), and Chip Taylor, Public Works Director ([Powerpoint](#)).

**A2.** Presentation by the San Mateo County Health Department regarding the new health center in Redwood City

Presentation by Jonathan Mesinger, San Mateo County Medical Center Clinics Manager ([Powerpoint](#))

**A3.** Informational update from Sam Trans regarding the elimination of Bus Route 295

Presentation by Michael Eshelman, Sam Trans Operations Planner ([Powerpoint](#))

Public Comment:

- Patti Penning spoke regarding the need for public transit access along El Camino Real
- Chuck Kinney spoke regarding the need for mobility for the older, active population in Menlo Park

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- Adina Levin inquired whether Sam Trans has reviewed Google transit information to determine connections between buses and Caltrain and the possible impact on ridership data.

Presentation by Rita Haskin, Sam Trans Office of Customer Service and Marketing, ([Powerpoint](#)), regarding the bus shelter program.

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

### **B1. Parks and Recreation Commission quarterly report on the status of their two-year Work Plan**

James Cebrian, Commission Chair, gave the report

### **B2. Consider applicants for appointment to fill two vacancies on the Transportation Commission ([Staff report # 13-138](#))**

Public Comment:

- Barbara Hunter read a letter from Julie Forbes urging the Council to appoint Michael Meyer and not to reappoint Penelope Huang
- Penelope Huang expressed to Council her desire to continue serving on the Commission

**ACTION:** Councilmember Keith nominated Michael Meyer, Councilmember Carlton nominated Camille Gonzalez Kennedy, Mayor Ohtaki nominated Jennifer Pollock, and Councilmember Cline nominated Penelope Huang.

**ACTION:** With a majority of votes, Michael Meyer is appointed (Carlton, Cline, Keith) and Penelope Huang is reappointed (Cline, Mueller, Ohtaki) to 4-year terms expiring April 2017.

Camille Kennedy received 2 votes (Carlton, Keith) and Jennifer Pollock received 2 votes (Ohtaki, Mueller).

## **C. PUBLIC COMMENT #1 (Limited to 30 minutes)**

- Susan Wright and Debbie Kranefuss spoke regarding Consent item D4 and energy efficiency projects through their organization Energy Watch. They thanked Council for their energy saving efforts.
- Elizabeth Houck spoke regarding process and urged the Council to review Specific Plan before moving forward with the Stanford Project (Note: Mayor Pro Tem was recused from hearing public comment on this item and exited the dñas)
- Fran Dehn, Chamber of Commerce, announced that October 19<sup>th</sup> will be the 150<sup>th</sup> anniversary celebration of passenger rail service between San Francisco and Menlo Park. The event will take place from 11am – 3pm at the Menlo Park train station.

## **D. CONSENT CALENDAR**

Councilmember Carlton requested item D1, *Adopt a resolution authorizing the installation of on-street parking restrictions on Hamilton Avenue, adjacent to the new Menlo Park Neighborhood Services Center*, be pulled from the Consent Calendar for further consideration. In the interest of time, Mayor Ohtaki deferred consideration of item D1 until later in the agenda.

- ### **D1. Adopt a resolution authorizing the installation of on-street parking restrictions on Hamilton Avenue, adjacent to the new Menlo Park Neighborhood Services Center**
- ([Staff report #13-130](#))

- D2.** Adopt **Resolution 6163** authorizing the installation of on-street parking restrictions on Olive Street at Santa Cruz Avenue ([Staff Report #13-136](#))
- D3.** Award a construction contract for the 2013 Sidewalk Trip Hazard Removal Project Phase 2 to Precision Emprise, Inc. in the amount of \$80,000, and authorize a total construction contract budget of \$110,000 for construction and contingencies ([Staff report #13-131](#))
- D4.** Adopt **Resolution 6164** appropriating \$462,233 from the General Fund CIP Fund balance for the Facility Energy Retrofit Project for a total budget of \$787,233 and authorize the City Manager to execute an agreement with Ecology Action for project management services ([Staff report #13-133](#))
- D5.** Amend the Bedwell Bayfront Park gas and flare operations and maintenance agreement with Gas Recovery Systems (Fortistar) for an additional three-year period ([Staff report #13-135](#))
- D6.** Accept minutes for the Council meeting of July 16<sup>th</sup> (*Attachment*)

**ACTION:** Motion/second (Cline/Keith) to approve all Consent Calendar items, except item D1, and with the amendment submitted to item D6, *Accept minutes for the Council meeting of July 16<sup>th</sup>*, passed unanimously.

#### **E. PUBLIC HEARINGS – CONTINUED FROM JULY 16, 2013**

- E1.** Consider adopting a resolution to abandon a portion of Louise Street and deny the appeal of staff determination to deny issuance of a revocable encroachment permit to construct a driveway from the end of Louise Street to the rear of the property at 1825 Santa Cruz Avenue; or deny the application to abandon a portion of Louise Street and approve the appeal of staff determination to deny issuance of a revocable encroachment permit to construct a driveway from the end of Louise Street to the rear of the property at 1825 Santa Cruz Avenue and authorize issuance of the encroachment permit ([Staff report #13-123](#))

Mayor Pro Tem Mueller is recused from hearing this item due to proximity of property to the subject location and exited the Council chambers at 8:34 p.m.

Staff presentation by Roger Storz, Senior Engineer ([Presentation](#)) regarding the location and orientation of the property and project, details of the abandonment, details of the encroachment permit and alternative resolutions for the Council to consider.

Mayor Ohtaki opened the Public Hearing.

Presentation by Michael Hubly, applicant for vacation and abandonment, highlighted the following points:

- The abandonment is consistent with the historical creation, intent and use of the land.
- The current encroachment permit request and associated plans are inappropriate. A driveway encroachment permit typically allows extension of a driveway a few feet across a right-of-way to a paved street. The request seeks to extend the driveway more than fifty feet across an unpaved right-of-way. A driveway on Louise Street is not necessary as there already exists one on Santa Cruz Avenue.
- The abandonment has been structured to provide for all constituents. Specific deed restrictions will prevent construction in the abandonment areas, all green space at the end of the street will be preserved, the City and utility company will retain any necessary easements and there will be pedestrian access for 1825 and 1833 Santa Cruz Avenue.

Presentation by Camas Steinmetz, on behalf of applicant for vacation and abandonment, highlighted the following points:

- 1825 Santa Cruz Avenue does not have legal access to Louise Street. There is no case law to support abutters rights.
- If 1825 Santa Cruz did have legal access, vacating the excess right-of-way would not rise to the level of adverse condemnation
- The vacation does not result in a giveaway of public land

Presentation by William Garrett and Sam Sinnott, on behalf of appellant for the denial of the encroachment permit, highlighted the following points:

- The appellant has abutters rights

Public Comment:

- Michael Hickey spoke in support of abandonment
- John CF Brock spoke in support of abandonment and read a statement from Michael Schwartz
- Louise Dederera spoke in support of abandonment
- Maryann Brock read a statement from Kiki Kapany in support of abandonment
- Mark Goldsmith spoke in support of abandonment
- Hilary Sinnott read a statement from Planning Commissioner Katherine Strehl
- John Michael Brock spoke in support of abandonment
- John Earnhart spoke in support of abandonment
- Carolyn Dorsch spoke in support of abandonment
- Robert Scheidtmann spoke in support of abandonment
- John Forsythe James spoke regarding his valuations of 1017 and 1024 Louise Street
- Joseph Carcione Jr. spoke regarding the enjoyment of living in Menlo Park and within each respective neighborhood
- Dick Poe spoke in favor of granting the encroachment permit
- Ron Klaize spoke in support of abandonment
- Jeff Klek expressed his concern regarding indemnification
- Matt Ackerman spoke in support of abandonment
- Katie Ferrick (not as a Planning Commissioner) spoke regarding neighborliness, orderly development and finding a solution that preserves all interests
- Vincent Bressler spoke in support of abandonment
- Elias Blawie spoke in support of abandonment
- Sam Perry spoke in support of abandonment

**ACTION:** Motion/second (Cline/Keith) to close the public hearing passes (4-0-1; Mueller recused)

City Attorney McClure clarified that declarations under penalty of perjury have been submitted by both sides regarding title of property.

In response to Councilmember Keith, City Attorney McClure stated there are no statutory abutters rights to the 1620 Louise Street property. There is no case law that is directly on point for the current circumstances.

Councilmember Keith stated that neighbors need to respect one another. She stated that in her research and analysis of the legal issues she concluded that the appellant, Mr. Sinnott, does not have legal rights to the property. Furthermore, she stated that indemnity is important and if the City is sued, taxpayers should not have to pay.

In response to Councilmember Cline and Councilmember Carlton, City Attorney McClure stated that the abandoned area does not add floor area to the property. Once abandoned, the land

cannot be sold off or developed as an independent parcel. He stated that each vacation and abandonment case is examined separately and he briefly described several cases that have come before the Council in the past. He briefly discussed the encroachment permit process in general. He stated that this situation is unique and granting the driveway encroachment permit in this instance should not set a precedent for future landowners to do the same. Regarding property on the other side, City Attorney McClure stated there is no dispute as to ownership and that the Comers own it.

Furthermore, he stated that indemnity language is a standard provision in use permits, variances and most discretionary permit applications because when the City grants a request where the applicant benefits, the applicant should indemnify, defend and hold the City harmless. Indemnification includes damages. Indemnification will not cost taxpayers. If a lawsuit is filed and the City and other parties are named, one attorney would represent all defendants, the City Attorney's involvement would be minimal.

Council member Carlton thanked staff for a balanced report.

Mayor Ohtaki was hopeful for a settlement and respects the position of both sides. In the absence of a settlement, he does not have a conclusive position regarding abutters rights. From a policy and General Plan standpoint, he wants to see the front of the property from Santa Cruz Avenue, and not backwards. He stated that abandonment makes sense.

Councilmember Keith requested to see the indemnity agreement and was provided a copy. City Attorney McClure summarized the indemnity language. She thanked staff for their work and appreciates staff reports with options.

**ACTION:** Motion/second (Keith/Cline) to adopt **Resolution 6165** to abandon a portion of Louise Street and deny the appeal of staff determination to deny issuance of a revocable encroachment permit to construct a driveway from the end of Louise Street to the rear of the property at 1825 Santa Cruz Avenue subject to completion of conditions outlined on pages 90 and 91 of the staff report as follows:

- (1) The adjacent property owners of 1017 Louise Street and 1024 Louise Street shall each record a Deed Restriction for Open Space against the abandoned portion of Louise Street that reverts to their respective ownership, ensuring that the abandoned area will continue to remain as dedicated open space for the aesthetic benefit of the neighborhood. Furthermore, for the clarity of future property owners, said deed restrictions will document the lot line determinations and restrict the Floor Area Limit (FAL) calculation to the net lot size (excluding the abandoned areas).
- (2) The adjacent property owners of 1017 Louise Street shall record a Pedestrian Access Easement against the abandoned portion of Louise Street, ensuring that the property owners of 1833 Santa Cruz Avenue continue to enjoy pedestrian access to Louise Street from their property. The Pedestrian Access Easement shall be granted for the benefit of the property located at 1833 Santa Cruz Avenue, providing a pathway a minimum of 5 feet in width between the property at 1833 Santa Cruz Avenue and the new right-of-way boundary at the terminus of Louise Street. The owners of 1017 Louise Street will work with the owners of 1833 Santa Cruz Avenue to create an easement acceptable to all parties, with the Public Works Director and City Attorney having final approval of said easement. The approval of said easement shall not be appealable.
- (3) The adjacent property owners of 1024 Louise Street shall record a Pedestrian Access Easement against the abandoned portion of Louise Street, ensuring that the property owners of 1825 Santa Cruz Avenue continue to enjoy pedestrian access to Louise Street from their property. The Pedestrian Access Easement shall be granted for the benefit of the property located at 1825 Santa Cruz Avenue, providing a pathway a minimum of 5 feet in width between the property at 1825 Santa Cruz Avenue and the new right-of-way

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boundary at the terminus of Louise Street. The owners of 1024 Louise Street will work with the owners of 1825 Santa Cruz Avenue to create an easement acceptable to all parties, with the Public Works Director and City Attorney having final approval of said easement. The approval of said easement shall not be appealable.

In addition, recordation of a quitclaim from the Richter heirs and the Barbieri heirs. The motion passed (4-0-1; Mueller recused).

At 11:00 p.m., Mayor Pro Tem Mueller returned to the Council chambers.

## **F. REGULAR BUSINESS**

- F1.** Accept the Belle Haven Neighborhood Action Plan and approve the development of a Request for Proposals for completion of the Action Plan items, allocate and appropriate a budget for the implementation of the Action Plan, and authorize the City Manager to exceed the \$50,000 purchase limit if needed to contract for consultants selected to perform the specified work in the Action Plan ([Staff Report #13-141](#))  
Staff presentation by Derek Schweigart, Assistant Community Services Director ([Presentation](#)).

Public Comment:

- Angelica Tellechea, Community School Supervisor, summarized some activities and accomplishments
- Luis Archundia spoke in favor of the Action Plan and stated that he would like to see more opportunities and access within the Menlo Park City School District
- Ana Adriano thanked those who worked on the Action Plan and urged the Council to accept the Plan. She expressed concern regarding trash and lack of trees.
- David Gross spoke regarding the disparity between Belle Haven and the rest of the City and specifically in the area of education.
- Eva Cuffy stated that there is leadership within the Belle Haven community and consultants are not needed. The community is ready to work, what is needed is resources.
- Carolyn Clarke stated that there are many skilled residents in Belle Haven that are ready to move forward with action.

In response to Councilmember Cline regarding metrics, City McIntyre agreed that metrics are important and actions will be small at first. One of the goals is to galvanize the Belle Haven community and build its sense of pride. Many of the metrics are anecdotal and will be hard to measure.

In response to Councilmember Keith, D. Schweigart discussed the mini grant program and Community Services Director Cherise Brandell clarified proposed services for streamlining processes. Councilmember Keith concurred that some metrics should be established.

Councilmember Mueller discussed district elections.

Councilmember Carlton and Mayor Ohtaki concurred regarding metrics and timelines. Mayor Ohtaki supports more trees and landscaping in Belle Haven, transferring knowledge internally and mobilizing community members to carry out work, and to consider a joint venture between the Menlo Park City School District and Ravenswood School District.

**ACTION:** Motion/second (Cline/Carlton) to accept the Belle Haven Neighborhood Action Plan and approve the development of a Request for Proposals for completion of the Action Plan items, allocate and appropriate a budget for the implementation of the Action Plan, and authorize the City Manager to exceed the \$50,000 purchase limit if needed to contract for

consultants selected to perform the specified work in the Action Plan, with a friendly amendment to provide an update with a Plan in six months passes unanimously.

- F2.** Authorize the City Manager to execute a 5-year agreement not-to-exceed \$335,000 annually with Redflex Traffic Systems, Inc. for a photo red light enforcement program, authorize an additional red light camera at Bayfront Expressway and Chilco Street, and increase the red light camera facilitator position from 0.75 FTE to 1.0 FTE  
([Staff report #13-140](#))

Commander Dave Bertini introduced the item. Staff presentation by Sergeant Sharon Kaufman ([Presentation](#)).

Public Comment:

- Jim Lissner spoke in opposition to red light cameras and discussed data
- Roger Jones spoke in opposition to red light cameras and discussed data
- Benjamin Huang spoke in opposition to renewing the contract with Redflex
- Elias Blawie spoke in opposition to red light cameras and discussed data

In response to Mayor Pro Tem Mueller, Ray Torres, Redflex Account Manager, responded to questions regarding the security of the video data.

**ACTION:** At 12:55 a.m., this item is continued to the August 27, 2013 Council meeting

- F3.** Consider approval of the terms of an agreement between the City of Menlo Park and the Menlo Park Police Sergeants' Association ([Staff report #13-137](#))

Public Comment:

- Elias Blawie stated that budget and contract decisions should be based on total compensation and that this information should be made available on a regular basis

**ACTION:** At 12:55 a.m., in the interest of time, this item is continued to the August 27, 2013 Council meeting

- F4.** Select a voting delegate and alternate to the League of California Cities Annual Conference and provide direction to the voting delegate related to the resolutions to be voted on at the League of California Cities Annual Conference ([Staff Report #13-139](#))

**ACTION:** At 12:55 a.m., in the interest of time, this item is continued to the August 27, 2013 Council meeting

**G. CITY MANAGER'S REPORT – None**

**H. WRITTEN COMMUNICATION – None**

**I. INFORMATIONAL ITEMS**

In the interest of time, all the Informational Items and Consent item D1 are continued to the August 27, 2013 Council meeting.

- I1.** Quarterly Financial Review of General Fund Operations as June 30, 2013  
([Staff report #13-143](#))

- I2.** Review of the City's Investment Portfolio as of June 30, 2013 ([Staff report #13-142](#))

- I3.** Office of Economic Development Quarterly Update ([Staff report #13-144](#))

- I4.** Update on City Council goals ([Staff report #13-145](#))

**J. COUNCILMEMBER REPORTS**

**K. PUBLIC COMMENT #2**

There was no public comment.

**L. ADJOURNMENT** at 12:58 a.m. August 21, 2013.



Pamela Aguilar  
Acting City Clerk

These minutes were accepted at the Council meeting of September 24, 2013.