



**CITY COUNCIL  
and  
COMMUNITY DEVELOPMENT AGENCY  
MINUTES**

**Tuesday, December 13, 2005**

**7:00 p.m.**

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

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**7:00 p.m. REGULAR MEETING** (Menlo Park City Council Chambers)

**ROLL CALL** – Jellins, Fergusson, Cohen, Duboc, Winkler

**STAFF PRESENT** - David Boesch, City Manager; William McClure, City Attorney; and Silvia M. Vonderlinden, City Clerk. Various department heads and other City staff were also present.

**PLEDGE OF ALLEGIANCE**

**A. COMMISSION VACANCIES AND REPORTS**

1. Two vacancies on the Bicycle Commission to fill un-expired terms ending in April 2007 and April 2009. The deadline for receipt of applications is December 14, 2005 and January 4, 2006 at 5:30 p.m., respectively.
2. Recognition of outgoing Bicycle Commissioner. Ms. Christine Griffin was recognized in absentia.
3. Commission Reports.

**B. PRESENTATIONS AND PROCLAMATIONS** - None

**C. PUBLIC COMMENT #1** (*Limited to 30 minutes*) - None

**D. CONSENT CALENDAR**

1. Community Development Agency Board approval of the Menlo Park Community Development Agency Annual Report for Fiscal Year 2004-2005.
2. Approval of the Below Market (BMR) Housing Program Annual Report for Fiscal Year 2004-2005 and the Affordable Housing Action Plan 2005 Annual Report. (*Staff Report #05-197*) (This item is continued to January 24, 2006).
3. Local appointments list (commonly referred to as the Maddy Act).
4. Authorization of the City Manager to enter into a contract with the San Mateo County Probation Department for prevention and early intervention services at Belle Haven School; and authorization of a budget supplement in the amount of \$13,750 from the General Fund Reserve.
5. Adoption of Resolution No. 5641 approving the amended Joint Powers Agreement with the San Mateo County Narcotics Task Force, San Mateo Sheriff's Office and other member San Mateo County cities.
6. Authorization for the City Manager to enter into Master Agreements for professional services with the following companies: Aerotek, Contract Construction Control Management Inc., (CCCM), Consolidated CM, PARS Group Consultants, Inc., Ed Suarez Associates, Testing Engineers, Inc., Fugro West, Inc., Signet Testing Labs, and Bay Area Geotechnical Group.
7. Adoption of Resolution No. 5642 of Intention to abandon a portion of the public utility easement crossing a part of the proposed major subdivision at 966-1002 Willow Road.

**Item pulled D8**

8. Waiver of the second reading and adoption of an Ordinance to amend the current City of Menlo Park Animal Control Ordinance to reflect the amendments made to San Mateo County's Animal Control Ordinance Code regarding animal control and dangerous animal proceedings. (This item is continued to January 10, 2006)

**Item pulled D9**

9. Approval of Resolution No. 5643 amending the employment agreement between the City of Menlo Park and David Boesch.

**Item pulled D10**

10. Approval of the third amendment to the agreement for services of the City Attorney.

**Item pulled D11**

11. Approval of the Annual City Council Calendar for 2006.

**Item pulled D12**

12. Adoption of Resolution No. 5644 approving the City Council subcommittee recommendations regarding the allocation of 2005-06 Community Funding in the amount of \$76,450.

**M/S Duboc/Fergusson to approve Consent Calendar items D1 through D7 inclusive. Motion carries unanimously.**

**Discussion on item pulled D8**

8. Waiver of the second reading and adoption of an Ordinance to amend the current City of Menlo Park Animal Control Ordinance to reflect the amendments made to San Mateo County's Animal Control Ordinance Code regarding animal control and dangerous animal proceedings. (This item is continued to January 10, 2006).

Since this was a continued item, there was no discussion on the matter.

**Discussion on item pulled D9**

9. Approval of Resolution No. 5643 amending the employment agreement between the City of Menlo Park and David Boesch.

*City Manager Boesch stepped out of the Council Chambers.*

Council Member Cohen commented that due to the fact that the budget process proposes staff cuts, he believes this item needs to be postponed. He motioned to table the item. Motion fails for lack of a second. Council Member Duboc said that Council had agreed at a closed session on Mr. Boesch's performance on this modest raise. Ms. Duboc believes this raises Mr. Boesch's salary only a few steps above other staff who work for him. While Ms. Duboc understands the budget constraints, she emphasized that comparative studies show that Menlo Park ranks low on salaries paid. She believes Mr. Boesch has performed well under difficult conditions. Council Member Cohen reiterated that if the City will be letting people go, then that process should be handled first, and subsequently address the salary issue. Mr. Cohen agrees with the comments made about Mr. Boesch's hard work and his position is purely related to the budget.

Council Member Winkler remarked that this matter was reviewed in closed session and unanimously approved, with budgetary constraints already in existence. Mayor Jellins conceded that while the cuts are a reasonable consideration, the City Manager has not been reviewed in one year and a half. Mr. Jellins said this was a unanimous vote under closed session, and the adjustment was well discussed.

**M/S Jellins/Winkler to approve Consent Calendar item D9.**

Council Member Cohen said that it was the goal of the Council to make this unanimous; however, he has received questions about the decision, and he does not feel comfortable joining Council on this.

**Motion carries 4-0-1 with Cohen abstaining.**

*City Manager Boesch returns to the Chambers. City Attorney McClure leaves the Chambers.*

**Item pulled D10**

10. Approval of the third amendment to the agreement for services of the City Attorney.

Council Member Cohen echoed the same concerns as in item D9. Council Member Duboc replied that the City Attorney receives a reasonable salary but his knowledge of City business is priceless. Ms. Duboc said that Mr. McClure has found economies such as no longer attending Planning Commission meetings to save money. Mr. Cohen said that he respects and likes Mr. McClure very much, but this does not change his position.

**M/S Jellins/Winkler to approve Consent Calendar item D10. Motion carries 4-0-1 with Cohen abstaining.**

**Item pulled D11**

11. Approval of the Annual City Council Calendar for 2006.

Council Member Duboc asked Council to consider flipping the June study session with the regular meeting so that the regular meeting occurs on the 6<sup>th</sup>. Ms. Duboc has a commitment in Chicago and she would otherwise probably phone in on the June 13<sup>th</sup> evening. Mayor Pro Tem Fergusson remarked that if there was to be a study session in August she would prefer it take place on the first Tuesday of August.

**M/S Jellins/Duboc to approve Consent Calendar D11 with the change suggested by Council Member Duboc for the early meetings in June 2006. Motion carries unanimously.**

**Item pulled D12**

12. Adoption of Resolution No. 5644 approving the City Council subcommittee recommendations regarding the allocation of 2005-06 Community Funding in the amount of \$76,450.

Mayor Pro Tem Fergusson explained that she served on the subcommittee with Ms. Duboc and they interviewed many of the non-profits to understand their services. Ms. Fergusson disclosed that she was asked to join the Peninsula Volunteers Advisory Committee, but she believes she can be impartial.

**M/S Fergusson/Duboc to approve Consent Calendar item D12.**

Council Member Duboc highlighted that Envision a Way Home did not apply. Finance Director Augustine clarified that staff contacted this organization to verify its lack of interest in applying for the grant.

**Motion carries unanimously.**

Mayor Jellins announced that the City of Menlo Park and Sunset Magazine were the recipients of an award, from the California Integrated Waste Management Board. The award was received for the Hamilton Avenue housing development being built by Clarum Homes for demonstrating that Green Built idea homes are viable and can be successful.

**E. PUBLIC HEARING**

1. Consideration of a Tentative Subdivision Map to subdivide one parcel into seven single-family residential lots in accordance with the R-1-S (Single-Family Suburban Residential) Zoning District, the abandonment of public utility and emergency vehicle access easements, a Below Market Rate Housing In-Lieu Fee Agreement, and a Heritage Tree Removal Permit for property located at 2122 Santa Cruz Avenue.

Deanna Chow, Senior Planner, provided the staff report and further clarifying that there is no requirement for a pedestrian connection. Staff requested that Council concur with the recommendations from the Planning, Housing, and Environmental Quality Commissions. Ms. Chow noted the following corrections to the staff report: 1) attachment A, item 3, should note major subdivision and not minor subdivision; 2) a revised Below Market Rate (BMR) In Lieu Agreement was placed at the dais (Attachment C) and this document reflects the Housing Commission's recommendation.

Council Member Cohen asked about the tree replanting plan, and Ms. Chow clarified that 20 heritage trees of the 38 will remain on site, and 45 new trees will be planted. Mr. Cohen inquired about the 18 trees that are to be removed and if any were oaks. Ms. Chow responded that four were oaks. Council discussed the emergency and public utility easements and Ms. Chow responded that the pedestrian connection was incorporated into the plan because informal access is already in existence. Mr. McClure said that the City cannot impose an agreement on the Oak Hollow Association. Council discussed the in-lieu fee and the elements of the revised agreement. Mr. Jellins inquired about the provision allowing for a percentage of the actual sales price, rather than a fixed maximum percentage. Mr. McClure offered that the revised agreement results in higher revenues to the City.

Mayor Pro Tem Fergusson asked about the emergency easement and its configuration. Ms. Chow provided details about the design i.e. the bollards and chains. Council Member Cohen asked about the recovery of staff time in this project. Mr. Murphy said that staff's costs were approximately \$7,000 and the fees paid by the applicant were around \$3,000; consequently the un-recovered amount is about \$4,000.

The project applicant was invited to address Council.

Tony Gschwend, representing the applicant, said that he concurs with staff's recommendation. Mr. Gschwend explained that these are seven conforming lots and he provided an overview of the process to date. He said that the in-lieu fee agreement was approved unanimously by the Housing Commission. He gave details about the 18 trees that need to be removed, and the replanting plan includes nine oaks, five deodora cedars, 16 london planes and 15 aristocrat pear trees.

Mayor Jellins asked if the applicant would consider other trees besides london planes. Mr. Gschwend responded that the City arborist will also have input.

Edward Pflueger, an Oak Hollow representative, addressed Council and said that the only objection to the project is the pedestrian and bicycle access mentioned in the tentative map. Mr. Pflueger said this is Oak Hollow's private property, and he would rather have this matter resolved by the two parties. He mentioned that overall the association is pleased with the development, with the exception of the pedestrian and bicycle access because it could become a liability for the Oak Hollow Association.

Council discussed the pedestrian and bicycle access that Mr. Pflueger objects to. Mr. Pflueger clarified that he doesn't entirely object to it, he just thinks the two parties should find consensus instead of having a governmental entity impose it. Council Member Cohen said that sometimes he enjoys going through neighborhoods he doesn't live in, and this implies forbidding that. Mr. Pflueger opined that property owners should decide who should be walking on their private property. Mr. Cohen has a concern that this might create two enclaves where the public might not be welcomed. Council Member Duboc said that there are other private streets in the city and this is not uncommon.

Mayor Jellins opened the public hearing.

Aimee Yan, a resident of Oak Hollow Way who lives at the end of the cul-de-sac, enjoys the privacy, seclusion and security of the location. Ms. Yan held that her assumption was that this was a private road only to be accessed by owners. She shared safety concerns with allowing a pedestrian and bicycle access.

Tony Gschwend offered that Mr. Pflueger's points were reasonable and a possible compromise is to place the word "potential" bicycle and pedestrian access on the tentative map.

Mayor Jellins closed the public hearing without Council objections. Mr. McClure suggested some of the wording for the motion.

**M/S Duboc/Fergusson to approve the staff recommendation and:**

- precede the sentence "pedestrian/bicycle access opening between removable bollards" with the words "potential future"
- specify chained bollards
- approve the revised Below Market Rate In Lieu Fee Agreement.

Mr. McClure added that this wording will not create an easement or other rights for the City, since this is private property. Council Member Winkler stated she would like to find a way to convert the \$605,000 into an actual BMR unit, perhaps via an existing project. Mr. McClure said this was the intent. Mayor Jellins suggested staff find trees other than london planes for the replanting program.

**Motion carries unanimously.**

**F. REGULAR BUSINESS**

1. Appointments of Council representatives (and alternates) to various outside agencies and appointment of Council liaisons to advisory bodies.

Mayor Jellins offered the floor for Council to express its preference on which advisory bodies to serve. Mr. Cohen would like to serve as a Liaison to the Parks and Recreation Commission and he likes the Bicycle Commission. Ms. Duboc enjoys the Parks and Recreation Commission because she has a long history with this body. Mr. Jellins traded with Mr. Cohen the seat on the Bicycle Commission for the one on the Environmental Quality Commission.

**The final list of Council Liaisons is:**

- Arts Commission (on hold) – **Duboc**
- Bicycle Commission – **Cohen**

- Environmental Quality Commission – **Jellins**
- Housing Commission – **Cohen**
- Las Pulgas Committee – **Fergusson**
- Library Commission – **Winkler**
- Parks and Recreation Commission – **Duboc**
- Planning Commission – **Fergusson**
- Transportation Commission – **Duboc**

**Council appointments to outside agencies:**

- Airport Community Roundtable – **Duboc**
- City/County Association of Governments of San Mateo – **Jellins, Fergusson** (alternate)
- P3: Peninsula Policy Partnership – **Winkler, Cohen** (alternate)
- Association of Bay Area Governments – **Fergusson, Duboc** (alternate)
- Emergency Services Council - **Winkler, Jellins** (alternate)
- League of California City, Peninsula Division – **Jellins, Winkler** (alternate)
- San Francisquito Creek, Joint Powers Authority – **Duboc, Fergusson** (alternate)
- County of Santa Clara Community Resources Group for Stanford University – **Cohen, Duboc** (alternate)
- Bay Area Water Conservation and Supply Agency and SF Regional Water System Financing Authority- **Fergusson**
- Menlo Park Chamber of Commerce/City Liaison position – **Winkler, Cohen** (alternate)
- Housing Endowment of San Mateo County – **Cohen, Winkler** (alternate)
- Dumbarton Rail Policy Committee - **Winkler**
- 2020 Peninsula Gateway Corridor Study Policy Committee – **Winkler**

Mr. Boesch explained that based on recent information, the Bay Area Water Supply and Conservation Agency committee created for purposes of communicating with the San Francisco Public Utilities Commission on a new Master Water Sales Contract, requires a staff appointment and not Council. Mr. Boesch has appointed Kent Steffens, Public Works Director, to that seat.

2. Approval of Seminary Oaks Park as the preferred site for further study of a new water storage reservoir; and, authorization to proceed with further analysis of the site, including geo-technical evaluations, preliminary design, public outreach, and exploring the use of groundwater for both emergency and irrigation uses.

Kent Steffens, Public Works Director and Yaw Owusu, Supervising Engineer co-presented the report. Mr. Steffens covered regional and local water systems, need for water storage, findings and conclusions of the study. He emphasized water shortage issues in case of a regional calamity, and the need for water to fight fires. Mr. Owusu covered primarily the sites that were reviewed and the pros and cons of each locale. He elaborated on the different types of facilities available and types of storage tanks. Mr. Owusu shared what other communities have done, showing covered underground storage tanks as well as above ground tanks. The potential sites included Seminary Oaks Park, Willow Oaks Park and Sharon Heights. Mr. Owusu illustrated how the water tanks would fit in those contexts covering pluses and minuses of each location. He said that Seminary Oaks Park is the preferred site, given the constraints of other sites, however further investigation is needed. This site also represents the lowest investment.

The feasibility study was covered in detail and Mr. Steffens explained how the recommendations were arrived at. The deep and shallow aquifers that exist in Menlo Park were mentioned, and Mr. Steffens said that the challenge with using wells to extract water is that capacity is unpredictable. So while groundwater is worth considering, its quality needs to be established as well as a separate distribution system. Mr. Steffens outlined the next steps which include completing additional studies, updating the water system hydraulic model, and beginning a public outreach effort.

Council inquired about the capacity level of groundwater and Mr. Steffens said that a preliminary evaluation shows that a 12-inch diameter well could provide up to 2.6 million gallons per day. Mr. Steffens held this to be a viable solution, and part of the next steps. Mayor Pro Tem Fergusson complimented staff on the excellent overview and for emphasizing the need to plan for possible water shortages. Ms. Fergusson said that one of her concerns with the current recommendation is that it limits

negotiations, and Menlo Park Municipal Water District does not cover all water users. She believes that by partnering with one entity only, this limits the City's options. Mr. Steffens responded that this approach does not preclude future negotiations with Cal Water.

Council addressed the period of construction and the disruption time, and Mr. Steffens said it is estimated at 12 to 18 months. Mr. Steffens offered that the estimates show that the yield of the groundwater basin is much greater than the estimates for a single well. Council Member Duboc asked about Saint Patrick's Seminary and staff explained that that entity communicated in writing its lack of interest in selling the land. Ms. Duboc believes that the Willows Oak Park should be kept on the table. Mr. Steffens clarified that this is not staff's recommendation. Ms. Duboc shared her interest in the groundwater approach and exploring wells. Mr. Steffens made it clear that while Willow Oaks Park is the cheapest option the only real way to test capacity of a well is to build it. Ms. Duboc would like to see the Parks and Recreation Commission and the community involved in this process.

Mayor Jellins said that the Council is acting as the Board of Directors of the Menlo Park Municipal Water District and so the funds to pay for this will come from the water fund. Council Member Winkler agreed with Mr. Cohen and would like to find out how much water can be gotten through groundwater instead of delving into more expensive options.

Mayor Jellins asked staff to address item F3 so that the two matters could be reviewed concurrently.

3. Direction to staff regarding proposed water rates and water policy issues, including: capital facilities charges, maintaining minimum operating and capital reserves, increasing water meter and consumption charges and development of a four-year water rate plan.

Ruben Nino, Supervising Engineer, and Tom Gaffney with Bartle Wells and Associates, presented the report. Mr. Gaffney explained that as a water district, the City is in good shape and has strong reserves. Mr. Gaffney clarified that the City Water District would likely need to debt finance a large capital water project. He offered that the City could consider increases in various fees. He proposed a phasing-in of water rate increases with a multi-year rate increase plan.

Mr. Nino said that what staff is recommending is outreaching to the large water users and local homeowners associations to share the proposed plan. Council discussed giving credit for existing meters when owners want to upgrade to a larger meter. Mr. Gaffney explained that usually there are no new capital charges when a residence changes hands; however, if the person remodels and increases the meter capacity with the new meter, there will be a capital surcharge. Some Council Members voiced interest in developing a policy allowing credit for previous meters. Mayor Jellins would like staff to consider alternative approaches to this matter to reflect the possibility of a credit or a buy-in system for capital surcharges. Council Member Winkler would like to know where other cities are in the process of raising fees. Council Member Cohen asked how many residents are in the Cal Water system and Mr. Nino said that approximately 20,000 residents are in the Cal Water system, and 10,000 in the Menlo Park water system. Council asked about Cal Water rate increases and Mr. Steffens said that it is not permitted to plan rate increases in advance, so it has to wait until water supply costs go up to pass those on to customers.

Mayor Jellins offered the floor for the public. There was no public comment.

Mayor Pro Tem Fergusson said one of the aspects she considers is the human cost/impact, and in her opinion public health and public safety are the top responsibilities for elected officials. Ms. Fergusson believes this should move ahead and she likes staff's recommendation because it includes reservoirs and wells. Her sole concern is the City losing the ability to partner with Cal Water, so she'd like staff to keep an open mind on partnering with that entity.

**M/S Fergusson/Duboc to approve the staff recommendation on item F2 as presented, considering Seminary Oaks Park as the preferred site for further study of a new water storage reservoir; and, authorizing staff to proceed with further analysis of the site, including geo-technical evaluations, preliminary design, public outreach, and exploring the use of groundwater for both emergency and irrigation uses.**

Council Member Duboc asked if water storage has been discussed with Cal Water and Mr. Steffens confirmed that this entity is interested in a joint storage facility. Council Member Winkler asked if the next

steps are to be taken in serial or in parallel, because she would like to have the ground water studies take place first and then have staff check back with Council. Mr. Steffens confirmed that the process would be serial. Council Member Cohen supports increasing the connection charge but he likes the well and not the reservoir option. Mayor Jellins said that if it is discovered that there are adequate amounts of groundwater, then before proceeding, staff should bring this back to the Council as requested by Ms. Winkler. The maker of the motion clarified that by agreeing with the check-in step she would not like to overly constrain staff on the update of the water system hydraulic model and that this could happen in parallel. Mr. Steffens explained that the groundwater depth and quality will be studied early on, and staff can return to Council.

**The maker and second of the motion agreed with the item coming back after the groundwater depth and quality studies occur. Motion carries unanimously.**

### **Agenda item F3**

Staff reiterated that it is requesting Council's support for the process, since it intends to come back in March via a Public Hearing, after meeting with the big water users and homeowners associations.

**M/S Winkler/Cohen to move forward and not make a firm determination on water rate increase but instead further study the matter when staff comes back. Motion carries unanimously.**

4. Consideration of state and federal legislative items including decisions to support or oppose any such legislation, and items listed under Written Communication or Information Items.

### **G. WRITTEN COMMUNICATION - None**

### **H. INFORMATION ITEMS - None**

### **I. COUNCIL MEMBER REPORTS**

Council Member Cohen asked for the Mayor selection policy to be placed on a future agenda because he believes it is time to abolish it. Ms. Winkler said that it might be beneficial to bring it back with the Procedures Manual. Mr. Boesch said that item is scheduled to return some time in January 2006. Ms. Fergusson agrees that this should be on the table, but she has concerns with including it with the Procedures Manual, because it might dilute the discussion. Ms. Duboc concurs with bringing it back via the Procedures Manual. Mr. Cohen supports addressing this policy as soon as possible, but he sees no urgency in addressing the Procedures Manual.

**Council agreement was to bring back the Mayor selection policy with the Procedures Manual.**

Council Member Duboc announced an upcoming San Francisquito Creek meeting and one of the items on the agenda is the discussion/modification of current personnel policies.

### **J. PUBLIC COMMENT #2 (Limited to 30 minutes) -**

Schell Reyes updated the Council on a scheduled meeting between the Dog Owner's Group of Menlo Atherton (DOGMA) and the County of San Mateo.

### **K. ADJOURNMENT – the meeting adjourned at 10:40 p.m.**

Respectfully submitted,

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Silvia M. Vonderlinden, CMC

Approved at the Council Meeting of February 14, 2006.