



CITY COUNCIL COMMUNITY DEVELOPMENT AGENCY SPECIAL AND REGULAR MEETING MINUTES

Tuesday, December 14, 2010 at 5:30 p.m.
701 Laurel Street, Menlo Park, CA 94025
City Council Chambers

Mayor Pro Tempore Keith called the meeting to order at 5:33 p.m. with Council Member Fergusson absent. Council Member Fergusson arrived at approximately 5:50 p.m. due to representing City before the San Francisco Public Utilities Commission.

Public comment

- Edward Moritz urged the Council to have labor negotiations in open session.
- Mary Gilles asked what law prohibits the negotiations from being done in public.
- Barbara Hunter requested that Measure L not be diluted.
- James Salsman recommended the Council write to the senate asking for relief under the Multi-Lateral Tax Haven Treaty.
- Henry Riggs stated that if negotiations could not be done in public that he would like to see the agenda expanded to provide enough information so the public knows what is being discussed.
- Hank Lawrence would like negotiations postponed until significant public comment is allowed, including a 30 day comment period allowing the public to write in their concerns. He urged the Council to have all negotiations in public.

Glen Rojas, City Manager, explained the purpose of the Closed Session tonight is not to secure any specific direction or approval regarding the City's negotiating position, but for staff to provide the Council with information about the impasse, the City's past negotiating authority, legal requirements and implications of the upcoming meetings with SEIU, and to determine what additional information the Council might need. The Council will be asked to consider and provide direction on what public information/process to pursue before providing any specific direction to the negotiating team.

B. McClure, City Attorney, pointed out that Charles Sakai, labor negotiator would be joining the closed session once he gets through traffic. He stated that there will be no member or representative of SEIU present during closed session.

The Council adjourned into closed session at 5:41 p.m.

1. Closed Session pursuant to Government Code section 54957.6 to conference with labor negotiators regarding labor negotiations with the Service Employees International Union Local 521 (SEIU). Attendees: Glen Rojas, City Manager, Bill McClure, City Attorney, Starla Jerome-Robinson, Assistant City Manager, and Glen Kramer, Personnel Director
2. Closed Session pursuant to Government Code section 54956.9 to conference with legal counsel regarding potential litigation: 1 case – Threatened litigation by SEIU and AFSCME challenging approval of Measure L, Pension Reform Initiative, adopted by voters at the November 2010 General Election

The regular session of the City Council was called to order at 7:08 p.m. with all members present.

Pledge of allegiance was led by Mayor Pro Tem Keith.

REPORT FROM CLOSED SESSION

B. McClure, City Attorney stated there were several members of the public present to provide comments prior to Closed Session. Charles Sakai, labor negotiator was present for the closed session items.

Item 1: Labor Negotiations with the Service Employees International Union Local 521 (SEIU):

- The City Council was presented with a lot of information and spent a lot of time being updated regarding the impasse reached last year.
- The Council received information regarding labor terms that were implemented or imposed by the City Council in May of this year.
- The Council received information about some of the terms that were implemented and received information on negotiations and the negotiations process.
- The Council did not make any specific decisions or provide any direction or authorize any specific negotiations for SEIU.
- The Council did decide to appoint a sub-committee of the to-be-elected Mayor and to-be-elected Vice Mayor to work with the City Manager to determine the process, including a public process for ongoing labor negotiations.

Item 2: Threatened litigation by SEIU and AFSCME challenging approval of Measure L, Pension Reform Initiative, adopted by voters at the November 2010 General Election:

- The City Council voted unanimously that if and when the City is sued in connection with the passage of Measure L, the City will vigorously defend the litigation.

ANNOUNCEMENTS – None

B. PRESENTATIONS AND PROCLAMATIONS

1. Proclamation honoring Jan Lanier for her years of service to Menlo Park
Proclamation was read and presented to Jan Lanier by Mayor Pro Tem K. Keith for her years of service to Menlo Park.

2. Presentation of Environmental Quality Awards ([Attachment](#)) ([PowerPoint](#))
Environmental Quality Commission Vice Chair Butch Byers and Commissioner Chair Kristen Kuntz-Duriseti presented the Environmental Quality Awards to the following recipients:

Boy Scout Troop 109: Boy Scout Troop 109 for a permanent orienteering course and signage along the Great Spirit Path at Bedwell Bayfront Park with special recognition to Daniel and Philipp Kopisch.

Sharon Park Homeowners Association: Sharon Park Homeowners Association for the exceptional stewardship, care and preservation of more than 200 heritage trees.

The Dailey Method: The Dailey Method, an exercise studio, for numerous green renovations such as high efficiency fluorescent lighting with motion sensors, low VOC paint and bamboo towels.

Carcione Residence: Bobbie and Joseph Carcione Jr. for sustainable architectural and landscaping improvements which removed hardscape, and returned the property to a natural setting with a community garden.

Van Ingen Residence: Chris and Trudy VanIngen for home improvements which resulted in a preliminary Green Point Rating of 254 points, one of the highest in the State.

Some of the recipients addressed the Council. ([Kocher letter](#))

SPECIAL BUSINESS

S1. Consider rescinding the elections of the Mayor and Mayor Pro Tempore/Vice Mayor and declaring said elections null and void ([Staff report 10-177](#))
Staff presentation by B. McClure, City Attorney

Public Comments (for items S1 and S2)

- Mary Gilles expressed concern with the apparent backroom negotiations and the need for the Council to regain the trust of the citizens.
- Edward Moritz spoke regarding the Brown Act violation and the need to have an outside and independent investigation of the violation. The best person for the position of Mayor should be appointed.
- Heyward Robinson stated his support for Rich Cline as Mayor.
- Roy Thiele-Sardina stated that if the policy had been followed there would have been no backroom negotiations. Kelly Fergusson could resign from City Council to have the Council regain some trust within the community.
- Frank Carney stated that Kelly Fergusson should not resign. He suggested that this policy be addressed and revised in January or February.
- Steve Schmidt expressed support for Kelly Fergusson remaining on Council. Potential violations should be taken to the City Attorney and not an outside party. Mr. Schmidt encourages the Council to inform the public who they talked to regarding any item.
- Michael Francois stated Kelly Fergusson represents the City well when attending other meetings and he supports Rich Cline as Mayor.
- Don Barnby stated his support for Andrew Cohen as Mayor.
- Henry Riggs stated the Council should select a mayor that is best qualified.
- Sandy Carter stated her support for Kirsten Keith as Vice Mayor.
- Paula Maurano stated her support for Rich Cline as Mayor and Kirsten Keith as Vice Mayor.
- Vincent Bressler stated that he would like the Council to disclose who they have talked to regarding any item prior to taking action.
- Deborah Conrad stated her support for Rich Cline as Mayor and Kirsten Keith as Vice Mayor.
- Courtney Troxel stated her support for Kirsten Keith as Vice Mayor.
- Liz Pounders stated her support for Kirsten Keith as Vice Mayor.
- Mark Flegel stated the Council should follow policy.
- Sanjay Saigal stated he would like to know exactly what happened and what is going to be done about it.
- James Salsman hopes that the Council would use a ranked choice method for selecting a Mayor.
- Rick Ciardella stated that a Brown Act violation should be investigated by the District Attorney not the City Attorney. The selection of Mayor should be based on who is best qualified.

Action: Motion and second (Cline/Fergusson) to rescind the elections of the Mayor and Mayor Pro Tempore/Vice Mayor and declaring said election null and void passes unanimously.

S2. Elections for the positions of Mayor and Mayor Pro Tempore/Vice Mayor ([Staff report 10-178](#))
Staff presentation by M. Roberts, City Clerk

Nominations were open for Mayor:

Action: Rich Cline was nominated by Kirsten Keith for Mayor and with no other nominations Rich Cline, by a unanimous vote, was selected as the Mayor for 2011.

The meeting was turned over to Mayor Cline.

Nominations were open for Mayor Pro Tempore.

Action: Kelly Fergusson nominated Kirsten Keith for Mayor Pro Tempore and with no other nominations Kirsten Keith, by a unanimous vote, was selected as the Mayor Pro Tempore for 2011.

A. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS

1. Consider applications for appointment to fill one vacancy on the Environmental Quality Commission ([Staff report #10-168](#))

Staff presentation by M. Roberts, City Clerk

Action: Nomination by K. Fergusson for Christina Smolke and with no other nominations and by acclamation Smolke was appointed to serve a term expiring April 30, 2014 on the Environmental Quality Commission.

C. PUBLIC COMMENT #1

- Mickie Winkler spoke regarding having labor negotiations conducted in public.
- Wynn Greich spoke regarding the hazards of fluorinated water.
- Mike Francois spoke regarding the hazards of fluorinated water.

D. CONSENT CALENDAR

1. Waiver of the reading and approval of **Ordinance 973** adopting the 2010 California Building Standards Code Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 10, 11, and 12 and local amendments to Parts 2 and 2.5 ([Staff report #10-169](#))
2. Award a contract to Mahaffey Fabric Structures in the amount of \$92,350 for temporary relocation of the gymnastics program during construction of the new facility ([Staff report #10-156](#))
3. Review of the annual report on the status of the traffic impact, storm drainage, recreation in lieu and building construction road impact fees collected as of June 30, 2010 according to Government Code Section 66000 et seq. ([Staff report #10-167](#))
4. Community Development Agency Board approval of the Menlo Park Community Development Agency annual report for fiscal year 2009-10 ([Staff report #10-175](#))
5. Approval of the annual report on the Below Market Rate (BMR) Housing Program and the status of the BMR in-lieu fees collected as of June 30, 2010, in accordance with Government Code Section 66000 et.seq. ([Staff report #10-174](#))
6. Authorize the City Manager to enter into a contract with LSA Associates, Inc. for the preparation of a Environmental Impact Report for a proposed project at 389 El Camino Real ([Staff report #10-173](#))

The item pulled by P. Ohtaki; He recused himself from the item due to the proximity of his property and he left the Council Chambers during discussion on the item.

Action: Motion and second (Fergusson/Keith) to authorize the City Manager to enter into a contract with LSA Associates, Inc. for the preparation of a Environmental Impact Report for a proposed project at 389 El Camino Real passes 4-0-1 (Ohtaki recused).

7. Notification to the City Council of the Local Appointment List (The Maddy Act) ([Staff report #10-164](#))

8. Acceptance of Council minutes for October 26 and November 9, 2010 ([Attachment](#))

The item was pulled by K. Keith in order to abstain from the item.

Action: Motion and second (Cohen/Fergusson) to accept the Council minutes of October 26 and November 9, 2010, passes 3-0-2 with Keith and Ohtaki abstaining.

Action: Motion and second (Fergusson/Cohen) to approve the Consent Calendar except for items D6 and D8 passes unanimously.

E. PUBLIC HEARINGS

1. Adoption of a Resolution accepting the fiscal year State Supplemental Local Law Enforcement Grant (COPS Frontline) in the amount of \$100,000; and approval of a request to use the funds in support of communications technology initiatives and other front line law enforcement needs ([Staff report #10-170](#))

Staff presentation by Police Commander Kaufmann

The Public Hearing was opened at 9:09 p.m.

There was no public comment on the item.

Action: Motion and second (Fergusson/Ohtaki) to close the Public Hearing passes unanimously at 9:10 p.m.

Action: Motion and second (Fergusson/Cline) to approve **Resolution No. 5973** accepting the fiscal year State Supplemental Local Law Enforcement Grant (COPS Frontline) in the amount of \$100,000; and approval of a request to use the funds in support of communications technology initiatives and other front line law enforcement needs passes unanimously.

F. REGULAR BUSINESS

1. Discussion regarding the 2010-11 Budget status and implications for the 2011-12 budget process ([Staff report #10-176](#)) ([PowerPoint](#))

Staff presentation by Glen Rojas, City Manager and Carol Augustine, Finance Director

2. Council appointments to Regional Boards, Commissions, and Committees ([Staff report #10-166](#))

Staff presentation by M. Roberts, City Clerk

The following appointments were made:

CITY COUNCIL APPOINTMENTS TO OUTSIDE AGENCIES

NAME OF REGIONAL COMMITTEE	REGULAR	ALTERNATE
Airport Community Roundtable	Richard Cline	Andrew Cohen
Association of Bay Area Governments (ABAG)	Richard Cline	Peter Ohtaki
Bay Area Water Supply & Conservation Agency (BAWSCA) and San Francisco Regional Water System Financing Authority (SFA)	Kelly Ferguson (Term ends 06/2013)	Not Needed
City/County Association of Governments of San Mateo County (C/CAG)	Kirsten Keith	Peter Ohtaki
County of Santa Clara Community Resources Group for Stanford University	Richard Cline	Andrew Cohen
Dumbarton Rail Policy Committee	Kelly Fergusson	Kirsten Keith
Emergency Services Council (San Mateo County JPA)	Peter Ohtaki	Richard Cline
Grand Boulevard Task Force	Peter Ohtaki	Kirsten Keith

Housing Endowment and Trust of San Mateo County (HEART)	Kirsten Keith	Andrew Cohen
League of California Cities (Peninsula Division)	Andrew Cohen	Kelly Fergusson
Menlo Park Chamber of Commerce / City Liaison Position	Richard Cline	Peter Ohtaki
Peninsula Cities Consortium (PCC)	Richard Cline	Kelly Fergusson
2020 Peninsula Gateway Corridor Study Policy Committee	Andrew Cohen	Kirsten Keith
San Francisquito Joint Powers Authority	Kirsten Keith	Peter Ohtaki
San Mateo Council of Cities	Richard Cline	Kirsten Keith

CITY COUNCIL LIAISONS TO THE CITY'S ADVISORY BODIES

NAME OF COMMISSION	REGULAR	REGULAR
Bicycle Commission	Richard Cline	Not Needed
Environmental Quality Commission	Kelly Fergusson	Not Needed
Finance & Audit Committee	Peter Ohtaki (2 YEARS)	Richard Cline (1 YEAR)
Housing Commission	Andrew Cohen	Not Needed
Library Commission	Kirsten Keith	Not Needed
Parks & Recreation Commission	Richard Cline	Not Needed
Planning Commission	Andrew Cohen	Not Needed
Transportation Commission	Peter Ohtaki	Not Needed

COUNCIL SUB-COMMITTEES

NAME OF SUB-COMMITTEE	REGULAR	REGULAR
Business Development	Richard Cline	Kelly Fergusson
Community Grant Funding	Kelly Fergusson	Kirsten Keith
El Camino Real Downtown Visioning & Planning Process	Richard Cline	Kirsten Keith
Emergency Operations	Peter Ohtaki	Richard Cline
High Speed Rail	Richard Cline	Kelly Fergusson
High Speed Rail Policymaker Working Group	Richard Cline	Kelly Fergusson

Housing Subcommittee	Kelly Fergusson	Andrew Cohen
Menlo Park Fire district	Peter Ohtaki	Richard Cline
Menlo Park School Districts (Liaisons)	Richard Cline	Kirsten Keith
Safe Routes to School - Laurel Elementary School	Kelly Fergusson	Not Needed

3. Council discussion and possible recommendation on various seats that will be decided on at the next City Selection Committee meeting scheduled for December 17, 2010
([Staff report #10-172](#))

Staff presentation by M. Roberts, City Clerk

Action: By Council consensus, Menlo Park supports Karyl Matsumoto with South San Francisco for the SamTrans appointment and Dan Tanner with Woodside for the LAFCo appointment.

Action: By Council consensus, the Council supports nominating and voting for Kelly Fergusson for the Association of Bay Area Government appointment for the BCDC south bay seat.

4. Council review and approval of the City Council Calendar for 2011 ([Staff report #10-165](#))

Staff presentation by M. Roberts, City Clerk

Action: The Council approved the January meeting schedule by consensus as follows with the remainder of the year coming back to the Council in January for approval.

January 4 – Cancelled meeting

January 11 – Regular meeting

January 18 – Planning Commission interviews (1:00 – 6:00)

January 25 – Regular meeting

January 27 – Special Meeting (8:30 a.m. – 1:00 p.m.)

5. 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 – None

G. CITY MANAGER’S REPORT – None

H. WRITTEN COMMUNICATION – None

I. INFORMATIONAL ITEMS

1. Acceptance of the draft Comprehensive Annual Financial Report for the fiscal year ended June 30, 2010 ([Staff report #10-171](#))

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 10:56 p.m.

K. PUBLIC COMMENT #2

- Pete Colby spoke about an article in the Post in October regarding a heritage tree appeal and the information in the article was incorrect.

L. ADJOURNMENT – 11:06 p.m.

Margaret S. Roberts, MMC
City Clerk

Minutes accepted at the Council meeting of January 11, 2011