

Special and Regular Meeting of Tuesday, August 12, 2008
City Council Chambers, One Twin Pines Lane

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation: One case - Claim of Schoening et al.: Marburger Road
- B. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(c) Initiation of Litigation: Two Cases
- C. Conference with Labor Negotiator, Jack Crist, Pursuant to Government Code Section 54957.6: MMCEA and AFSCME

Attended by Councilmembers Feierbach, Wozniak, Braunstein, Dickenson, Lieberman, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Human Resources Director Dino, Human Resources Technician Kirby, Labor Negotiator Kelly Tuffo, Public Works Director Davis. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri Cook
City Clerk

This meeting was not tape recorded or videotaped.

REGULAR MEETING – 8:00 P.M. (RDA meeting held prior)

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Wozniak, Braunstein, Dickenson, Lieberman

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Public Works Director Davis, Police Captain DeSmidt, City Treasurer Violet, City Clerk Cook.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated that direction was given but no action taken during the closed sessions held earlier.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Samantha Shultheis, Belmont resident, expressed concerns regarding the new bus stop installation

on Hiller Street. She requested that the Council reconsider this location. She noted that a number of neighbors were not made aware of this pending relocation of the bus stop, which will have a direct impact on a home for the disabled. Other neighbors, who were unable to attend tonight's meeting, also have concerns. She made suggestions for alternate locations.

Antonio Loza, Belmont resident, stated that the proposed bus stop relocation is at a very busy intersection impacted by school traffic.

Larry Rogers, Belmont resident, stated he was not notified of the proposed bus stop relocation. He is opposed. It will have an impact on the group home located nearby. There are other options. He is concerned regarding traffic and speed on Hiller Street.

Mayor Lieberman responded that there is a miscommunication regarding this issue and he recommended that staff set up a meeting with the residents to discuss this matter.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Wozniak stated that the Council and Planning Commission recently held a joint meeting to discuss the future of Belmont. She noted the two groups worked well together, and much was accomplished.

Mayor Lieberman announced that the Parks and Recreation Department would be sponsoring the second annual Movie Night on August 15. He also announced that the second Council meeting in August would be canceled for a summer recess. He noted that tonight's meeting would be adjourned in memory of former South San Francisco City Councilmember Joe Fernekes, who recently and unexpectedly died.

AGENDA AMENDMENTS

Mayor Lieberman announced that the Agenda Item 9's would be taken up at this time, prior to other items on the agenda.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Encouraging Citizen Participation at Council Meetings (Lieberman)

Mayor Lieberman stated that he would like to explore options on ways that the public could participate in Council meetings from home. People attending his monthly lunches have expressed a desire to be able to participate more in local government. He described the successful virtual town hall meeting procedure utilized by Congresswoman Anna Eshoo.

Councilmember Feierbach stated she does not support this concept. She expressed concerns regarding newspaper blogs, which are often insulting. They are not monitored. She supports outreach to the community, and actively reaches out to people. Implementing such a program would invite a fringe element and extremes in the society. There would be a need for additional staff time to monitor calls or emails. Comments tend to be more contentious because of the level of anonymity

involved. She expressed support for individual Council members to pursue this idea outside of a Council meeting.

Councilmember Dickenson stated he could support an expenditure of 20 hours to explore this idea.

Councilmember Wozniak noted that this issue has been addressed previously and was voted down. A virtual town hall meeting works for a single member of congress, but Council meetings are governed by protocols and time parameters. She expressed concerns regarding identity. There are many other ways to communicate. Some members of the public take the time to attend meetings. She noted she has previously objected to the Mayor's lunches in that it gives people a false sense that the Mayor speaks for the entire Council.

Councilmember Braunstein expressed support for exploring this idea in the spirit of trying to illicit more participation in government. Many seniors are not comfortable going out a night. He shares the concerns expressed by Councilmembers Wozniak and Feierbach.

Council concurred to authorize 20 hours of staff time to prepare a report to Council on this matter.

Consideration of a 4-way controlled intersection on Hiller Street at Wessex Way (Dickenson)

Councilmember Dickenson stated that traffic on Hiller Street has increased over the years. The Parking Traffic Safety Committee (PTSC) addressed this issue a year ago, and one resident objected. He expressed concerns regarding cut-through traffic. He does not desire to override the PTSC, but is requesting a re-review of the matter. He noted that other people have expressed to him the need to control the intersection.

Antonio Loza, Belmont resident, stated that there is a blind spot in the road near this intersection and it is not safe for pedestrians.

Council concurred to have the Parking Traffic Safety Committee review this matter.

Discussion and Direction Regarding Community Development Contracting with Police Department to Facilitate Code Enforcement Program (Dickenson)

Councilmember Dickenson described a previous proactive code enforcement issue that was addressed and abated by the police department. He noted there are a number of enforcement matters still pending. He would like to facilitate code enforcement through the police department. He stated that he has already discussed this with staff, which indicated that it could work out the logistics.

Councilmember Feierbach stated that code enforcement is a high priority, and she expressed support for this proposal.

Councilmember Wozniak noted that the police department has a goal of community-oriented policing, and she also supports this proposal. She added that the department already addresses after-hours code enforcement.

Councilmember Braunstein expressed his support for the proposal.

City Manager Crist noted there are pros and cons to any organizational structure relative to code enforcement.

Council concurred to have staff look into this concept.

CONSENT CALENDAR

Councilmember Dickenson requested the removal of Consent Items 4-B (Written Communication), and 4-C (Resolution Authorizing New Job Classification and Salary Range for Field Supervisor in the Public Works Department) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of July 8, 2008

Approval of Resolution 10046 Approving Work and Authorization to Issue a Notice of Substantial Completion to Ranger Pipelines, Inc. for the Storm Drain Pipelining Project at 2602 Monserat Avenue and 2410 Palmer Avenue, City Contract Number 494

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Written Communication: Received July 30, 2008, from the PUC, Notification of Application by PG&E to Recover Cost to Complete Construction of Tesla Generating Station, and Notification of Application of PG&E for Approval of 2009-2011 Energy Efficiency Program and Budgets

Councilmember Dickenson suggested sending a letter to PG&E and the PUC (Public Utilities Commission) reaffirming a commitment to use renewable sources for energy. He noted that this PUC request is to use a gas-fired generating station, which affects gas rates. He stated that energy generated locally should be used locally. He noted this letter could be considered a soft protest.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, and unanimously approved by a show of hands to accept Written Communication from the PUC received July 30, 2008, and to give direction to write a letter to the PUC and PG&E regarding the use of renewable sources for energy.

Resolution Authorizing New Job Classification and Salary Range for Field Supervisor in the Public Works Department

In response to Councilmember Dickenson's questions regarding sources of funds for this position, Public Works Director Davis clarified that funding is generated from the sewer, storm drain, and gas tax funds. Councilmember Dickenson stated that he wanted to call attention to the impact to the sewer fund.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein,

Resolution 10047 Authorizing New Job Classification and Salary Range for Field Supervisor in the Public Works Department was unanimously approved by a show of hands.

HEARINGS

Public Hearing to Consider a Resolution Vacating a Portion of the 20' Alleyway known as Civic Lane Adjacent to 1300 El Camino Real (APN 045-244-010) and a Resolution Accepting the Dedication of a Public Utility Easement on the Old Belmont Fire Station Property at 875 O'Neill Avenue (APN 045-244-160)

Public Works Director Davis noted that this action will facilitate the development of the subterranean garage for the multi-use project at 1300 El Camino Real. There is also a need to relocate the utilities and to grant an easement for utility access. He clarified that this is a temporary measure, and if a full garage is built in the future, all utilities could be vacated.

In response to Councilmember Dickenson, Public Works Director Davis clarified that the estimated costs for future undergrounding of utilities would be approximately \$200,000.

Mayor Lieberman opened the Public Hearing.

Judy King, Belmont resident, stated that former City Clerk McLaughlin planted the olive tree located near the former City Hall site on this property, and she expressed her desire that the tree be preserved on site, or moved.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, the Public Hearing was unanimously closed.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, Resolution 10048 Vacating a Portion of the 20' Alleyway known as Civic Lane Adjacent to 1300 El Camino Real (APN 045-244-010) was unanimously approved by a show of hands.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, Resolution 10049 Accepting the Dedication of a Public Utility Easement on the Old Belmont Fire Station Property at 875 O' Neill Avenue (APN 045-244-160) was unanimously approved by a show of hands.

Public Hearing to Consider an Ordinance Amending Chapter 14 of The Belmont Municipal Code Relating to Motor Vehicles and Traffic, Specifically Addressing the Removal of Parking Enforcement Markings/Indicators

Police Chief Mattei stated that there is currently no recourse against people who remove tire chalk marks placed by Community Service Officers during parking enforcement. He noted this problem occurs on a daily basis in the 36 areas that are patrolled. He noted that an officer needs to witness the chalk removal, and the ordinance would provide for an administrative citation to be issued.

In response to Mayor Lieberman's comments regarding the City of Palo Alto's use of electronic devices for parking enforcement, Chief Mattei noted that this device is used by larger municipalities, and he would investigate the feasibility for Belmont.

Mayor Lieberman opened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, the Public Hearing was unanimously closed.

City Attorney Zafferano thanked the Police Department for its assistance in preparing this report. He noted that this issue arose subsequent to the Council's prioritization of upcoming ordinances, and it will provide a tool for parking enforcement.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, and unanimously approved by a show of hands to introduce an ordinance Amending Chapter 14 of The Belmont Municipal Code Relating to Motor Vehicles and Traffic, Specifically Addressing the Removal of Parking Enforcement Markings/Indicators, to waive further reading, and to set the second reading and adoption for September 9, 2008.

NEW BUSINESS

Resolution Approving Expenditure of \$10,600 for Renewing Housing Endowment and Regional Trust (HEART) Annual Membership and Authorizing Participation in the Heart Joint Powers Authority

City Manager Crist stated that the City of Belmont had been a member of Housing Endowment and Regional Trust (HEART), which was discontinued during lean budget years. The Council recently discussed rejoining HEART if funds could be paid from the Redevelopment Agency (RDA). Counsel for the RDA has advised that General Fund monies would need to be used for such membership.

City Manager Crist clarified that only one other city is using its RDA monies, and it is likely those funds are borrowed and will need to be repaid. He noted that Belmont is the only city in San Mateo County that is not a member.

In response to Council questions, City Manager Crist clarified that a mid-year budget adjustment could be made, or membership dues could be paid out of the contingency fund. He noted that nothing from contingencies has been spent to date. Dues are calculated based on population and other components. He noted that if RDA funds are used and later challenged in an audit, funds would need to be replaced. Staff has no information regarding any loans that have been made by HEART for first-time homebuyers.

Michele Jackson, Belmont resident, urged the City Council to rejoin HEART. She outlined the new homebuyers program provided through HEART, including eligibility criteria, and clarified that

existing houses, not just new houses, are eligible. Apartment building rehabilitation funds are also available.

Philip Cosby, Belmont resident, expressed support for renewal in this organization. There is a need for regional response to housing needs. There will be a long-term benefit of this relatively new program, which has raised \$10 million so far.

Karyl Edlridge, Peninsula Interfaith Action, stated that not all cities have had eligible projects, but they benefit even if no new housing is constructed. There is more clout if cities work together. Proposition 46 funds have been depleted, and HEART creates other opportunities.

Duane Bay, San Mateo County Housing Department, clarified that HEART's membership fee is based on population. He noted that of the \$10 million that has been raised, \$1.5 million is earmarked for the homebuyers' fund. He explained this is a revolving fund, and up to 200 loans are available during each rotation. He noted that 400 to 500 units have been built in five cities, and HEART is still a new organization. He clarified that existing renters are not excluded from any housing assistance offered by HEART, but Belmont renters will not be able to buy anything in Belmont if the City is not a member.

Councilmember Feierbach stated that HEART was originally dominated by realtors and developers, but has become more inclusive. She supports renewing Belmont's membership, but would like to challenge the legal issue regarding the prohibition of the use of RDA monies.

City Attorney Zafferano noted that the City can request an additional review of this issue.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to renew the City of Belmont's membership in the Housing Endowment and Regional Trust (HEART), with funding to be made from the General Fund if additional review of this matter ascertains that Redevelopment monies cannot be used to pay for membership.

RECESS: 9:25 P.M.

RECONVENE: 9:30 P.M.

Resolution Accepting a Conservation Easement and an Associated Ownership/open space Management Plan for the Sending Parcel to an Approved Floor Area Transfer Between Said Parcel and a Discontiguous Receiving Parcel

Senior Planner DiDonato described the proposed property transfer and reconfigured easement. He noted that this action will reduce five lots to two, and provides for a 3600 square foot conservation easement. The proposal meets all the required findings, and reduces the number of developable lots, which is the intended goal.

In response to Council questions, Senior Planner DiDonato clarified that conservations easements are required of the San Juan Plan in order to reduce the impact of development and to move development to areas better suited for it. The conservation easement provides a buffer, and is located on the steep part of the property. He also noted that the landscape plan is under staff review. He clarified that the new lot will be 10,000 square feet in size. The previous configuration would have permitted five homes of 1200 square feet each.

Councilmember Feierbach stated that this project is a good application of the provisions set forth in the San Juan Plan. She thanked the developer for proposing this.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, Resolution 10050 Accepting a Conservation Easement and an Associated Ownership/open space Management Plan for the Sending Parcel to an Approved Floor Area Transfer Between Said Parcel and a Discontiguous Receiving Parcel was unanimously approved by a show of hands.

Resolution Authorizing the City Manager to Enter into an Agreement with the School Force Education Foundation/Save the Music Festival Planned for October 5, 2008

City Manager Crist stated that the City Council approved a one-year subsidy for last year's Festival, but gave direction to recover costs in subsequent years. He noted that the dollar amount set forth in the resolution represents the amount of lost facility rental income in order to accommodate the one-day Festival.

Alan Sarver, School Force, thanked the City for its prior support of the festival. He noted that this year's event will be contained entirely within the park, and no closure of Sixth Avenue is planned, which will reduce the impact on city services. He expressed appreciation to the Chamber of Commerce for its assistance with this event. Schools need the revenues that will be realized from the Festival.

In response to Councilmember Feierbach, Mr. Sarver clarified that vendors are currently being recruited. Food will be supplied by local restaurants and food vendors.

Councilmember Feierbach suggested a green focus for the Festival.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, Resolution 10051 Authorizing the City Manager to Enter into an Agreement with the School Force Education Foundation/Save the Music Festival Planned for October 5, 2008 was unanimously approved by a show of hands.

Discussion and Direction Regarding a Resolution Approving an Agreement between the SBWMA and the City of San Carlos Related to the Shoreway Recycling and Disposal Center

Public Works Director Davis reported that when the Shoreway Recycling and Disposal Center was built, the conditional use permit required that franchise fees be paid to the City of San Carlos, which is where the facility is located. When the Joint Powers Agreement (JPA) was renewed in 2004, the

exact fee amount was not specified, but it continued to be paid. There is a desire to formalize the franchise fee, which requires a two-thirds majority vote of the member agencies.

Mayor Lieberman stated that Belmont is impacted by traffic, noise, and odors, due to its proximity to the facility.

Public Works Director Davis responded that the City of Belmont has no approval rights over the facility, although the request can be made for some compensation for these impacts.

Mayor Lieberman suggested raising the issue of an additional impact fee.

Councilmember Wozniak asked if the Conditional Use Permit could be rewritten. She suggested making Shoreway Road a toll road.

Councilmember Dickenson stated that when the facility was first proposed years ago, Belmont had the opportunity to house it, but the then-City Council did not want the facility. This agreement is likely to receive a two-thirds vote, but it could raise once again the issue of having elected officials on the JPA board. This matter was a subject of a Grand Jury investigation. Energy has been focused elsewhere. The organization is creating its own bureaucracy.

ACTION: On a motion by Councilmember Braunstein, seconded by Councilmember Wozniak, Resolution 10052 Approving an Agreement between the SBWMA and the City of San Carlos Related to the Shoreway Recycling and Disposal Center was unanimously approved by a show of hands, said motion to include a request for additional franchise fees to be paid to the City of Belmont for impact of the facility.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Discussion and Direction Regarding Vacancy on the Parks and Recreation Commission

City Clerk Cook stated that at the last meeting, the City Council filled one of the vacancies on the Parks and Recreation Commission, but deferred a decision regarding the remaining vacancy until this evening. She reviewed the options to address this vacancy, including leaving it vacant.

Councilmember Dickenson suggested a 30-day recruitment period to increase the pool of candidates.

Councilmember Braunstein noted that it would be prudent for the Council to consider the three viable candidates that remain on the list. There is time sensitivity, and he would not support an additional recruitment period, since there is insufficient time remaining on the term of this vacant position.

Councilmember Feierbach stated that the three remaining candidates had reacted to a commissioner who is no longer on the Commission. These candidates have no breadth, and she suggested waiting until the next open recruitment period.

Councilmember Wozniak expressed her desire for a bigger pool of candidates, and stated she does not support any of the remaining candidates.

Councilmember Dickenson suggested casting ballots now to see if a candidate received three or more votes.

City Clerk Cook stated that any Councilmember is not obligated to cast a ballot. She distributed the ballot.

Following the balloting, City Clerk Cook reported that no candidate received at least three votes, which is required for appointment. She distributed a second set of ballots.

Following the balloting, City Clerk Cook noted that Kevin Sullivan received three affirmative votes.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, Resolution 10053 Appointing Kevin Sullivan to a Vacant Term on the Parks and Recreation Commission, to expire on March 1, 2009, was approved by a roll call vote (3-2, Feierbach, Wozniak no).

Motion to Designate Voting Delegate and Alternate for League of California Cities Annual Conference (Sept 24-27)

City Clerk Cook noted that the League of California Cities requires Council action to name a voting delegate for the annual conference.

City Attorney Zafferano stated that he planned to attend the conference, and could serve as the voting delegate. He noted that this is always an excellent conference, and recommended that City Council members consider attending.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to designate City Attorney Zafferano as the voting delegate for the League of California Cities Annual Conference.

City Clerk Cook noted that at this time, no one else from Belmont plans to attend the conference, but should that change, a new delegate, or an alternate, could be named by the Council prior to the conference.

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Braunstein stated that the Finance Commission would be meeting on August 14, and the Infrastructure Committee will be meeting on August 15.

Councilmember Wozniak reported that the City/School District 2+2 committee recently met and discussed sports fields and the school district's budget. Mayor Lieberman added that the school district indicated it will take on the cost for watering the fields in future years' budgets. It was noted that the City is not receiving sufficient hours of use of the Ralston Middle School gym. City staff has developed a creative proposal to address this issue. He noted that the proposed new school in Redwood Shores is under design review with the State Architect's Office.

Councilmember Wozniak also reported that a new Library Director has been named. She summarized some of the topics discussed at the recent Green Advisory Committee (GAC) meeting.

Councilmember Dickenson stated that several Economic Development Committee items are beginning to come before the City Council.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Dave Warden, Belmont resident, stated the Council is aware of an outstanding issue on which it should have a discussion. He is receiving phone calls regarding this matter.

ADJOURNMENT at this time, being 10:30 p.m., in memory of Joe Fernekes.

**Terri Cook
City Clerk**

Council Meeting Tape Recorded and Videotaped
Audio Recording 705