

Special and Regular Meeting of Tuesday, October 28, 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 Real Property Negotiator Crist pursuant to Government Code Section 54956.8: Two Parcels, APN 044-222-170 and 045-162-180, concerning price and terms of payment
- 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, Finance Director Fil, Public Works Director Davis, Human Resources Director Dino, and Labor Negotiator Tuffo. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:20 P.M.

**Terri Cook
City Clerk**

This meeting was not tape recorded or videotaped.

**REGULAR MEETING
CALL TO ORDER 7:30 P.M.**

ROLL CALL

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

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, Community Development Director de Melo, Public Works Director Davis, Police Captain DeSmidt, Finance Director Fil, Human Resources Director Dino, City Treasurer Violet, City Clerk Cook.

REPORT FROM CLOSED SESSION

City Attorney Zafferano noted that direction was given but no action taken during the Closed Sessions held earlier in the evening.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Denny Lawhern, Belmont resident, thanked staff for its response to his previous comments

expressing concerns about the effect that high-speed rail would have on Belmont. He noted that the existing grade separations along the Cal Train corridor will not accommodate the additional rails required for high-speed trains. Extensive new right-of-way would need to be acquired.

City Manager Crist noted that the existing right-of-way owned by Cal Train is extensive.

Councilmember Wozniak requested information regarding properties currently owned by Cal Train.

Roxanne Cruz, PG&E, commented regarding the current Rule 20A project along Old County Road. She extended apologies on behalf of PG&E if issues related to this project were not clear to the City of Belmont. She noted that she has scheduled a meeting with City staff, and it is PG&E's intent to make the City whole.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Lieberman made the following announcements: 1) reminded voters that election day is November 4th; 2) outlined the Halloween activities scheduled at the Senior and Community Center; 3) an adult softball league was commencing; 4) October 27th to the 31st is Red Ribbon Week; 5) next City Council meeting is on Wednesday the 12th due to the Veteran's Day holiday; 6) City Council will meet jointly with the Parks and Recreation Commission on November 5th; 7) he thanked the Manor House Centennial Committee for its efforts on the recent celebration; 8) wished a Happy 82nd Birthday to the City of Belmont.

Mayor Lieberman also noted that the City of Belmont has not been affected by the bankruptcy of Lehman Brothers, although other jurisdictions, including school districts, have been negatively impacted. He requested additional information from City Treasurer John Violet.

City Treasurer Violet reported on his attendance at the Local Area Investment Fund (LAIF) annual conference. He stated that LAIF's pool totals \$64 billion, and the State Treasurer's office has much experience with managing funds. LAIF communicates well with its partner investors. Its goal is safety of return, not necessarily level of earnings. He noted that this often produces a lower return, but monies are safe. He clarified that for schools, the County pool is the only place it can invest monies, so the loss for them was unavoidable.

Mayor Lieberman noted that six percent of the County's pool was invested in Lehman Brothers.

AGENDA AMENDMENTS

Councilmember Wozniak requested removal of Consent Items 4-B (Update on the Performance of Chapter 15, Article VIII of the Municipal Code Regarding Noise Control), and Mayor Lieberman requested the removal of Item 4-G (Resolution Honoring Police Officer Michael Speak for his 25 Years of Service) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of September 23, 2008 and October 14, 2008

Approval of Resolution 10066 Approving the Purchase of an Emergency Standby Generator for the North Road Pump Station for an Amount not to Exceed \$79,747.50

Approval of Resolution 10067 Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$60,000, Approving a Construction Contingency not to Exceed \$6,000 and Authorizing the City Manager to Execute a Contract for the North Road Pump Station Generator Installation Project, City Contract Number 497

Approval of Resolution 10068 Approving Plans and Specifications, Approving Award of the Contract to Trinet Construction Inc. for an Amount not to Exceed \$62,725, Approving a Construction Contingency not to Exceed \$6,272 and Authorizing the City Manager to Execute a Contract for the Mountain View Emergency Sewer Rehabilitation Project, City Contract Number 496

Approval of Resolution 10069 Approving the Purchase of Two 2009 Dodge Chargers from McPeck's Dodge of Anaheim for the Belmont Police Department for an Amount not to Exceed \$54,825.08

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Honoring Police Officer Michael Speak for his 25 Years of Service

Mayor Lieberman stated that he wished to publicly acknowledge Officer Speak for his 25 years of service. He outlined Officer Speak's many accomplishments during his tenure with the Belmont Police Department.

Councilmember Dickenson stated that Officer Speak was professional, and a good representative for the department.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Braunstein, Resolution 10070 Honoring Police Officer Michael Speak for his 25 Years of Service was unanimously approved by a show of hands.

Update on the Performance of Chapter 15, Article VIII of the Municipal Code Regarding Noise Control

Community Development Director de Melo stated that this report is intended to provide an update regarding the performance of this ordinance, which was enacted in 2006. The report highlights the major areas of the ordinance regarding noise. He noted the ordinance is performing well, and there is always room for improvement.

Police Sergeant Daley stated there have been 683 complaints received since the ordinance went into effect. He reported that in 36 percent of the calls, the source of the noise could not be located. Sixty percent of the calls have resulted in voluntary compliance through education, and only four percent

of the calls resulted in the issuance of a citation.

Community Development Director de Melo noted that the level of voluntary compliance is a good measure of success.

In response to Councilmember Wozniak, Sergeant Daley clarified how sunset-to-sunrise hours are enforced. He noted these are the same hours as City parks. He also stated that the results of noise meter readings related to Conditional Use Permit (CUP) complaints did not exceed allowable limits.

Councilmember Wozniak recommended restricting further the hours for certain operations such as parking lot cleaning and trash pickup for institutions and stores which are adjacent to residences. She also requested that special event permits be available on line. She noted that the issue of amplified sound at special events needs to be addressed. She commented that although noise levels may not have exceeded allowable limits, CUP violations have occurred. She expressed support for the ordinance.

Councilmember Feierbach recommended reconvening the noise ordinance task force to address future modifications.

Mayor Lieberman expressed concern regarding the staff suggestion that the permitted hours for use of power equipment by residents be amended to be the same as those for contractors. He noted that homeowners need to be able to work on their homes on weekends.

Gladwyn D'Souza, Belmont resident, stated that nighttime freight trains use their horn, which can disturb sleep. He also noted that many people work from home and are disturbed by the use of leaf blowers. He suggested that the amount of time the noise meter is used to monitor noise should be longer.

Council concurred to reconvene the noise ordinance task force, and to have staff bring this matter back for further direction should there be a desire to expand the makeup of the committee.

HEARINGS

Public Hearing to Consider an Ordinance Amending the Los Costanos Redevelopment Plan Pursuant to Health and Safety Code Section 33333.6(e)(2)(B) and (D), and Amending Related Ordinances in Connection Therewith (two-year extension of RDA)

Finance Director Fil noted that this ordinance amendment would extend the life of the Redevelopment Agency (RDA). He clarified that the State of California is allowing RDA's to take this action as mitigation for previous years' redistribution of RDA monies to schools.

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

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to introduce an ordinance Amending the Los Costanos Redevelopment Plan Pursuant to Health and Safety Code Section 33333.6(e)(2)(B) and (D), and Amending Related Ordinances in Connection Therewith, to waive further reading, and to set the second reading and adoption for November 12, 2008.

NEW BUSINESS

Discussion and Direction Regarding Narrowing Fifth and Sixth Avenues between O’Neill Avenue and Harbor Boulevard to provide Wider Sidewalks and Increased Landscaping

Public Works Director Davis noted that this issue was a Priority Calendar item that had been recommended by the Planning Commission. He provided traffic volumes for Fifth and Sixth Avenues, and described best practices that could be implemented as if these streets were designed using current standards. He also described traffic calming measures that could be installed, and the associated costs. He clarified that \$425,000 of discretionary money is available on an annual basis for such programs.

Public Works Director Davis stated that grant monies are not available for traffic calming, as it is not warranted for these streets. He noted that on some segments of the two streets, speed sometimes exceeds 32 miles per hour. He suggested that traffic calming should be initiated by residents rather than by staff. Traffic calming could be incorporated into the proposed Firehouse Square economic development project on Fifth Avenue.

In response to Councilmember Wozniak, Public Works Director Davis stated that since bike lanes narrow the traffic lanes, this will calm traffic. Segments of Fifth Avenue are wide enough for the installation of bike lanes.

In response to Councilmember Feierbach’s questions regarding the use of redevelopment monies, Finance Director Fil clarified that the use of those monies would need to meet the goals of the redevelopment agency. He commented that a strong case for this could be made with the Firehouse Square development plan. He noted that since a portion of these two streets are just outside the RDA boundary, a nexus could potentially be made to use RDA funds.

In response to Councilmember Dickenson, Public Works Director Davis stated that this issue could be referred to the Infrastructure Committee for additional review.

Judy King, Belmont resident, stated that this project is not needed as it would make the streets more dangerous and less convenient for residents. She noted that some residents do not have garages and need to park on the street. She has never had trouble exiting her driveway, and has observed wheelchairs successfully navigate the sidewalk. There is room for fire trucks. She noted that there is

not enough staff to take care of existing landscaping. She chose to move to this neighborhood because of its wide streets. The money earmarked for traffic calming could be used to pave the street instead. The neighborhood should be notified of these discussions. This is a solution looking for a problem.

Scott Church, Belmont resident, stated that he looks forward to ongoing discussion about this issue. He expressed concerns regarding the lack of off-street parking for the church at the corner of Fifth and O'Neill. The potential development of Firehouse Square will need parking.

Gladwyn D'Souza, Belmont resident, stated that the streets can be dangerous. Installation of traffic calming would give residents a chance to re-create the neighborhood. There is a need for solutions for Firehouse Square. He would like to initiate a green vision for the area.

Ray Moreno, Belmont resident, expressed a concern regarding the expenditure of funds for this project. He expressed support for the use of dips, speed humps, and additional patrol officers.

Scott Davis, Belmont resident, stated that speeding occurs at the southern end of Sixth Avenue, which is not addressed in this proposal. He supports traffic controls. He cited three recent accidents in the area.

Michyle LaPedis, Belmont resident, stated that the Downtown Neighborhood Association met with staff to discuss this issue over a year ago. The idea was initiated by residents. She requested information as to the involvement of the Planning Commission in this matter. She noted that the association is not in favor of narrowing the street, but in making the sidewalks wider, and other traffic calming measures. She supports the installation of speed humps.

Community Development Director de Melo clarified that this issue has not been discussed by the Planning Commission, but was prioritized during the Priority Calendar process

Councilmember Feierbach stated that Cal Trans is proposing to divert traffic from Highway 101, which could impact this neighborhood. Downtown redevelopment will also have an impact. She supports looking into traffic calming, and recommended working with the neighbors.

Councilmember Dickenson concurred with comments expressed by Ms. King, and suggested this be referred to the Infrastructure Committee.

Councilmember Wozniak noted that there is a process in place for requesting speed humps.

Councilmember Braunstein suggested that traffic calming be a grass roots effort by the neighborhood. He expressed concern regarding the Planning Commission's involvement in this matter, or lack thereof. He supports vetting this issue with the Infrastructure Committee and the neighbors.

Mayor Lieberman stated that he has heard nothing to warrant a large expenditure of money on this proposal. There may be an interest by the neighbors in traffic calming, and there appears to be an active neighborhood association to initiate the process. He noted that it may be premature to do anything in advance of the proposed development of the area.

Judy King, Belmont resident, suggested involving the entire neighborhood, not just the neighborhood association. She noted that much emphasis has been made on a small number of miles per hour driven over the speed limit.

Public Works Director Davis clarified that notification would be made to the entire neighborhood of any future discussions.

Discussion and Direction Regarding Citizen Participation at Council Meetings

Information Services Director Harnish described the various ways that the public is able to communicate with the City Council regarding items on upcoming agendas. She noted that in compiling data from other cities, one city initiated a program that allowed remote participation during meetings, but it was discontinued due to lack of participation. She outlined options that could be initiated. She noted that logistical issues would need to be addressed if there was a desire to permit phone calls during meetings.

Councilmember Feierbach expressed concern regarding abusive or profane language. She also expressed concern regarding anonymous mail or someone pretending to be someone else.

City Attorney Zafferano clarified that the public does not have a right to use profanity. Someone would need to screen the emails. He noted that emails are already received now, and are sometimes summarized by individual council members at meetings. People are entitled to anonymous speech, and Council could give it the weight it desires.

In response to Councilmember Wozniak, City Clerk Cook explained that emails received regarding upcoming agenda items are treated as correspondence, and are kept in the file. They are not included in the minutes.

City Attorney Zafferano clarified that on certain matters before the Council that involve entitlements, such as development applications or variances, written communications, including emails, become part of the official record if the case is submitted to the courts on appeal.

Mayor Lieberman suggested that whoever is mayor could summarize the content of emails, without identifying who sent it. He noted this would resolve the identification issue. City Attorney Zafferano clarified that this could be done, but this could affect a Councilmember's ability to determine which comments to give weight.

Gladwyn D'Souza, Belmont resident, stated that he participates in live webstreaming offered by the Environmental Protection Agency (EPA), which provides email addresses on its webstream. He noted that comments provided are either read or summarized.

Councilmember Feierbach stated that she checks her emails until just prior to meetings, and she answers all. She hosts a webpage that contains information for people. She noted that people have freedom to say whatever they want on a blog, even if untrue. These communications are not always productive. She noted she would support homogenization of the communications. She is concerned with the length of the meetings. People have many ways to communicate with the Council now.

Councilmember Braunstein stated that people should take ownership of what they write. He expressed concern regarding anonymity.

Councilmember Wozniak suggested that emails be published without revealing the email address. People who attend the meeting in person care about the issues. Others can communicate with the City Council outside of the meeting, and many do. It is difficult to evaluate written versus oral testimony. She does not support the ability to phone in during meetings due to the cost and logistical issues. The meetings are already too long. She could support this if people would identify themselves. The procedure would be too complicated. She would support publishing comments in the minutes.

Councilmember Dickenson stated that City Council members respond quickly to emails. He suggested communicating existing policies regarding contacting City Council.

Councilmember Feierbach stated that the existing listserv procedure needs to be advertised more.

In response to Councilmember Dickenson, City Attorney Zafferano clarified that there are legal issues regarding public hearings and reliance on information received. It is important that all Council members receive the same information.

Mayor Lieberman stated that he believes in facilitating public involvement, and understands the concerns raised by Council. It could be valuable to consider the options outlined by staff. He could support setting aside 15 minutes of meeting time to present communications, once protocols had been established.

Discussion ensued.

Mayor Lieberman stated that many times people watching meetings from home may have questions in the middle of an issue. Most input will likely be from responsible people. The mayor could summarize the comments.

Councilmember Wozniak stated that there is already a procedure in place for communicating with the City Council. She expressed concern that phone calls would get more air time than other

communications on any given topic. Issues are rarely decided at one meeting. Her primary consideration is feedback from the public regarding issues, and communicating during a meeting is only one way to communicate.

Councilmember Feierbach stated that more thought is needed regarding this matter.

Mayor Lieberman supported a continuation of this matter, and he invited the public to provide input.

Public Speaker (person not identified), suggested finding another a city that does this well and look for ways to improve upon their procedure.

Councilmember Wozniak responded that there are no cities that currently offer this communication option.

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

Informational Report and Recommendation from Finance Commission Regarding Implementing Sewer Fee Economic Hardship Programs

Finance Director Fil stated that the Finance Commission has recommended that the City not pursue a program to address economic hardship for sewer fees. He noted that the State's Teeter program already exists, wherein property owners may postpone the payment of property taxes, including sewer fees, until they have vacated the property. He noted that the options considered by the Finance Commission included the implementation of a special tax, which requires a vote, the use of General Fund monies, donations, and the use of non-operating income.

Finance Director Fil clarified that the Teeter Program is limited only by the qualifications of the individual, which includes seniors and those who are blind or otherwise disabled. He also clarified that its use does not reduce the amount of money received by the City for sewer taxes.

Councilmember Braunstein stated that the State program is a good option for some, and is not detrimental to the City.

Finance Director Fil stated that information regarding this program could be made available to residents.

Councilmember Wozniak stated she was unaware of the existence of the State program which fulfills the goal of providing options for those with an economic hardship.

Mayor Lieberman thanked the Finance Commission for their efforts regarding this matter.

Council concurred to follow the recommendation of the Finance Commission.

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

Councilmember Wozniak reported on the Traffic Congestion Relief Alliance's special visioning meeting. Sam Trans made a presentation at this session, and shuttle programs were discussed at the Alliance's regular meeting. She also attended a recent City/School District 2+2 meeting.

Councilmember Braunstein noted that the two items discussed at the recent Infrastructure Committee Meeting included a review of solid waste contracts, and the Hiller Street bus stops. He noted a recommendation would be coming to deny moving the bus stops.

Mayor Lieberman noted that at the 2+2 committee meeting, the following items were discussed: 1) bids will soon be sought for the new school in Redwood Shores; 2) the \$1.63 million loss to the district due to the economic situation; 3) the increase in cost for utility hookups for the new school; 4) crossing guards at Central School; 5) pursuit of Safe Routes to Schools grants; 6) use of Ralston School gym on weekends; 7) watering of fields. He noted that the school district is holding to its commitment to take over the cost of watering of fields in subsequent years.

Mayor Lieberman also noted that topics discussed at his October monthly lunch with citizens included sewer fees, Davey Glen park, infrastructure, and a handmade street sign on Belburn Drive. He noted that those in attendance noted that the lunches were a good idea.

Mayor Lieberman reported that he met with representatives from AT&T regarding Project Lightspeed.

Verbal Report from City Manager

City Manager Crist noted that the next Infrastructure Committee meeting, to be held on November 10th, would be devoted to the solid waste contract discussion. He reported that he has been invited to participate on a County task force to review its investment policies. He noted that a garbage oversight committee was not approved by SBWMA. Five cities have now approved the franchise agreement with Nor Cal Waste.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Discussion and direction regarding elimination of the part of the zoning ordinance that prohibits circular driveways, replacing it with allowing circular driveways on properties that have ample street frontage (Feierbach)

Councilmember Feierbach noted that in the late 1990's, the City Council enacted an ordinance which prohibits circular driveways. Some circular driveways are nicely designed, and she would like to reconsider the ordinance to allow circular driveways on properties with large frontage. She noted that no one would be able to meet the findings for a variance to allow a circular driveway.

Community Development Director de Melo noted that existing circular driveways were grandfathered in at the time of the passage of this ordinance, and they can be maintained to allow

them to exist. There is a concern regarding the establishment of a new circular driveway, or to permit re-establishment thereof if it was removed. He concurs that this section of the ordinance was part of a larger amendment to a city-wide parking ordinance in which there were concerns regarding parking in front yards, which does not provide for good aesthetics. He also concurs that it is difficult to make the findings for a variance.

Councilmember Wozniak noted that the establishment of circular driveways involves more curb cuts, which provides less street parking. There is a need to landscape to mitigate the driveway. The Planning Commission is concerned regarding the amount of hardscape present on a site.

Mr. Rinaldi, Belmont resident, stated that the variance process is difficult and expensive. He has discussed this issue with his neighbors, and 21 out of 22 of them have approved his request for a circular driveway. He supports the Council addressing this situation. All the parking on his street is on-site, which is an aesthetic consideration.

Council concurred to look into this situation.

ADJOURNMENT at this time, being 10:27 P.M.

Terri Cook
City Clerk

Council Meeting Tape Recorded and Videotaped
Audio Recording 709