

Special and Regular Meeting of January 13, 2009

SPECIAL MEETINGS

CLOSED SESSION - 6:00 P.M.

- A. Public Employee Performance Evaluation, City Attorney, pursuant to Government Code section 54957
- B. Conference with Legal Counsel Pursuant to Government Code Section 54956.9(c) Initiation of Litigation: Two Cases
- C. Conference with Real Property Negotiator Crist pursuant to Government Code Section 54956.8: Three Parcels, APN 106-190-070, 106-270-060, 045-182-260, and a portion of APN 045-182-250, concerning price and terms of payment
- D. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: MMCEA

Attended by Councilmembers Feierbach, Wozniak, Braunstein, Dickenson, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil, Public Works Director Davis, Police Chief Mattei, Human Resources Director Dino, and Labor Negotiator Tuffo. Councilmember Lieberman was absent, and City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:30 P.M.

**Terri Cook
City Clerk**

This meeting was not tape recorded or videotaped.

REGULAR MEETING

CALL TO ORDER 7:40 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Wozniak, Braunstein

COUNCILMEMBERS ABSENT: Lieberman (arr. 9:03 p.m.)

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

REPORT FROM CLOSED SESSION

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

SPECIAL PRESENTATIONS

Introduction of Belmont-San Carlos Fire Department Promotions

Fire Chief Fry stated that retirements in the department in 2008 provided an opportunity to promote from within. He introduced Battalion Chief Dave Gillette and Captains Kent Thrasher, Jeff Thorne and Gary Jacobs.

Mayor Braunstein stated that he had attended the swearing-in ceremony for these firefighters. He is impressed with the background of the firefighting team.

Councilmember Feierbach complimented Captain Jacobs on his computer technology skills.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Kathleen Beesley, Belmont Library Branch Manager, announced an upcoming author series that will be hosted at the Belmont Library.

John Violet, Friends of the Belmont Library, outlined the ways that the Friends is supporting the various offerings of activities at the library, including funding of the Homework Center and tutor. He noted that the grant from the Chamber of Commerce has allowed the Friends to fully fund the tutor.

In response to Mayor Braunstein, Ms. Beesley clarified that the tutor was serving 15 to 20 students per day in grades four through twelve.

Louis Vella, Mid-Peninsula Water District, thanked Mayor Braunstein for attending the District's reorganization meeting in December, when Mark Feldman was selected as President. The Mayor spoke of partnership opportunities with the District, in which the Board is very interested. He outlined potential areas where the City and the water district could partner.

Councilmember Dickenson thanked Mid-Peninsula Water District Manager Paul Regan for his leadership. He is often working out in the field, which sets a good example.

Mayor Braunstein stated that he enjoyed attending the reorganization meeting, and noted that it would be beneficial to schedule a joint meeting with the City Council.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Braunstein announced the Indoor Flea Market to be held on January 24th at Twin Pines Park. He also noted that the City's commission recruitment process had begun, and applications are due on January 30th. The Parks and Recreation Department will be holding a Father/Daughter Sweetheart Dance on February 6th. There will be a meeting regarding the proposed high-speed rail project on January 22nd.

AGENDA AMENDMENTS

Mayor Braunstein noted that Item 6-C (Discussion and Direction Regarding San Juan Hills Area Plan (SJHAP) Floor Area/Density Transfer Policies) would be continued to a date uncertain.

Councilmember Dickenson requested removal of Consent Calendar Item 4-C (Resolution Approving the Application for Grant Funds for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract 433) for separate consideration.

Mayor Braunstein requested the removal of Consent Calendar Item 4-D (Resolution Authorizing the City of Belmont to Apply for a Community Development Block Grant for the Replacement of the Heating, Ventilation and Air Conditioning System in the Twin Pines Senior/Community Center) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of November 25, 2008, Special Meeting of November 24, 2008 (Shoreway Facility Tour), Special Meeting of December 3, 2008 (Closed Session), Special and Regular Meeting of December 9, 2008, and Special Meeting of December 17, 2008 (closed session)

Motion Setting a Public Hearing Date of February 10, 2009 to Act on the Proposed Vacation of a Portion of Semeria Avenue and Casabona Avenue Fronting the Proposed Semeria Park Project

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Consent Agenda was unanimously approved, as amended, by a show of hands (4-0, Lieberman absent).

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Approving the Application for Grant Funds for the Environmental Enhancement and Mitigation Program under Section 164.56 of the Streets and Highways Code for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract 433

Councilmember Dickenson expressed his desire for an update regarding this project.

Public Works Director Davis stated that the City currently has commitments for \$3.5 million of the \$7.5 million needed to complete the bike/pedestrian bridge. This project has been included in President Obama's Stimulus package in hopes of securing additional funding. In addition, the new San Mateo County Measure A gas tax has gone into effect, and the City hopes to secure funding from that source as well. He noted that some of the already-secured grant funding needs to be spent by April, but this may not happen.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10081 Approving the Application for Grant Funds for the Environmental Enhancement and Mitigation Program under Section 164.56 of the Streets and Highways Code for the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract 433 was unanimously approved by a show of hands (4-0, Lieberman absent).

Resolution Authorizing the City of Belmont to Apply for a Community Development Block Grant for the Replacement of the Heating, Ventilation and Air Conditioning System in the Twin Pines Senior/Community Center

Mayor Braunstein requested clarification regarding the disposition of this project should the grant not be funded. He noted that the equipment is a priority.

Project Manager Mittelstadt confirmed the need for the replacement of this equipment. If the grant is not received, this purchase would be funded through the regular budget process in the spring.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10082 Authorizing the City of Belmont to Apply for a Community Development Block Grant for the Replacement of the Heating, Ventilation and Air Conditioning System in the Twin Pines Senior/Community Center was unanimously approved by a show of hands (4-0, Lieberman absent).

OLD BUSINESS

Resolution Requesting PG&E to Fund the Entire Old County Road and Masonic Way Undergrounding Utility District as Originally Formed in 2003

Public Works Director Davis stated that there is a shortfall in funding in order to complete the entire undergrounding project, and Council directed staff to return with the resolution to request that PG&E fund the project.

Nicole Yelich, PG&E, stated that she and others from PG&E met with City staff to discuss this issue. She noted that there was miscommunication regarding Rule 20A funds, and PG&E has a proposed solution.

Sindy Mikkelson, PG&E Rule 20A Senior Project Manager, clarified that funding has not been reprogrammed away from Belmont. PG&E sends a letter each year to each City, outlining the funds available for undergrounding projects. The California Public Utilities Commission (CPUC) enforces the complicated regulations regarding Rule 20A projects. Three hundred dollars per linear foot was used as a placeholder value for Belmont's project, and the true costs are now \$800 per foot. She apologized that prior notice of the increase was not given. The City can appeal to the CPUC, but PG&E ratepayer funds cannot be used to pay for Rule 20A projects. Money can be reallocated from another city. PG&E can work with Belmont to contact other cities to obtain their credits. She clarified that the CPUC previously permitted jurisdictions to exceed five years of borrowing, but they are now directed to take monies from other cities that have available funding.

Councilmember Dickenson stated that PG&E took on the project management, but forecast incorrectly. He suggested that PG&E work with the CPUC on this issue. He expressed concern regarding moving monies from other projects.

In response, Ms. Mikkelson stated PG&E cannot appeal to the CPUC, only cities can.

Councilmember Dickenson stated that residents have been waiting many years for this project. The understanding was that the scope of the project included the entire length of Old County Road. Other PG&E representatives advised him that the City of San Francisco was allocated projects and monies, which accounts for the delays. Belmont's project was ready to go. PG&E went on the record to state that it would make Belmont whole.

Ms. Mikkelson clarified that money was not moved from another city's allocation. Five to seven years is the average wait, and the window of time began with the passage of Belmont's resolution in 2003. Belmont's project was put into a queue. Making the City whole is a matter of interpretation. PG&E cannot violate the tariff on Rule 20A projects, and the solution suggested would violate the regulations.

In response to Councilmember Wozniak, Ms. Mikkelson clarified that the placeholder value was the average cost of projects at the time it was placed, but because of the nature of the project, costs greatly exceeded the placeholder value. She concurs that it would have been better to give accurate figures.

Discussion ensued regarding cost factors in calculating dollars-per-lineal foot calculations.

In response to Councilmember Dickenson, Ms. Mikkelson stated that costs for individual undergrounding projects is much higher than the cost for public projects due to the waiver of the tax for public projects, which results in considerable savings.

Councilmember Dickenson stated that he respects PG&E's position, and his own position has not changed. He supports passage of the resolution. He noted that this is the reason he has suggested that Belmont consider becoming its own utility.

Councilmember Wozniak also expressed support for the resolution. Making someone or something whole has specific meaning, and one should not have to ask for clarity on every word.

In response to Councilmember Feierbach, City Manager Crist stated that Council can give direction to staff regarding seeking funds from another city. Some cities have surplus funds. He concurs he does not want to pit one city against another.

Councilmember Dickenson stated that it is not the will or the choice of the City to pull funds from other cities. PG&E is responsible for these projects. If more time is spent on this, the City should send an invoice to PG&E. It is not Belmont's fault that the project fell short. A resolution was passed to complete the project.

Mayor Braunstein stated that organizations need to stand by comments. He expressed concern regarding the change in PG&E representatives. He wants the project made whole.

In response to Councilmember Feierbach, City Attorney Zafferano clarified that the proposed resolution is not binding on PG&E, but expresses the desire of the City Council. The Council can

modify the resolution to appropriately express its desire. The resolution is not in conflict with a voluntary transfer of funds.

Councilmember Feierbach expressed support if other cities are willing to give up their allocation. Otherwise the resolution is a vacuous plea.

In response to Councilmember Dickenson, Ms. Mikkelson clarified that PG&E started the project to facilitate a paving project for which Belmont had received a grant. PG&E did not want Belmont to lose the grant. She suggests that PG&E work with staff to determine which city may have an allocation of surplus funds. She added that cities could lose those funds if mandated to do so by the CPUC. Exchange of funds has been done successfully in other cities.

Councilmember Dickenson suggested deferring action on the resolution at this time and referring this matter to the Infrastructure Committee. He noted that the Council is just now learning of the shortfall.

Public Works Director Davis clarified that the City Council was notified when staff received notification of the shortfall. City Manager Crist added that this notification was recently received, within the past few months.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, and unanimously approved by a show of hands (4-0, Lieberman absent) to set aside action on the resolution, and to refer the matter to the Infrastructure Committee.

RECESS: 8:45 P.M.

RECONVENE: 9:00 P.M.

Councilmember Dickenson offered apologies to staff regarding his comments on this matter. He noted that tariff notices are regularly received by the City Council, and he will scrutinize them more carefully in the future.

City Manager Crist noted that the project started before the increase in cost was known. The paving project needed to begin so the grant monies were not lost.

(At this time, being 9:03 P.M., Councilmember Lieberman arrived at the meeting.)

Discussion and Direction Regarding the South Bayside System Authority (SBSA) Capital Improvement Program (CIP) Rate Analysis

City Engineer Borrmann stated that tonight's discussion would focus on the rate analysis for the funding of Belmont's portion of the capital improvement project for the new sewer treatment plant. She provided an overview of the project, including costs. She noted that this information has been discussed with the Finance Commission and reviewed by the Infrastructure Committee. The Committee expressed support for the process and rate structure.

Dan Childs, South Bayside System Authority, reviewed the key projects of the capital improvement project, and noted that some components of the project have already begun. He clarified that grants are being sought through the new federal economic stimulus plan. The initial \$10 million of needed funding has already been borrowed in order to begin the work.

John Farnkopf, HFH Consultants, stated that Belmont's current sewer charges were recently modified to provide for a fixed and variable rate. He explained the proposed weighted charges based on low- and high-strength users. Belmont's share of the project is \$45.2, which includes administrative costs. He noted that a fixed rate is best suited for the long-term fixed cost of debt service of the new fee. He reviewed preliminary annual charges, based on the type of ratepayer, and the intent is to fully recover all costs. Any new charge for this project is subject to the provisions of the Proposition 218 hearing process.

Mark Mandel, Consultant, explained the Proposition 218 hearing process, including a subsequent resolution which will officially initiate the procedures. He noted that the proposed charges have been allocated based on a proportional cost to provide service. A 50 percent protest is required to prevent the imposition of charges, and if the protest is not successful, a four-fifths vote of the Council is required to impose the charge.

Tim Schaffer, Consultant, outlined the two options available for securing monies to fund Belmont's share of this project: borrowing money through municipal bonds, or borrowing monies from the State revolving account. Each has advantages and disadvantages. The market is not functioning well, but is improving. Belmont can meet the criteria for the current credit market, and other municipal bonds are being sold. There is a robust demand from high-end investors. The market has been oversold to investors not seeking to shelter monies, which is positive news for Belmont. He outlined some of the issues surrounding the use of the State revolving fund. The recommendation is for Belmont to issue its own bonds in multiple series.

In response to Council questions, the consultants clarified that borrowing the money in differing bond series will not affect the taxpayer rate. Mr. Schaffer also stated that Proposition 218 requires that each ratepayer be charged only for their fair share, and someone would have to fill the gap, should individual rates be adjusted. Other monetary sources would include grants or other city revenues. There is not much flexibility. He also clarified that Council would be asked to approve a maximum rate, and it can always be annually adjusted to a lower amount, but not higher. Once the debt is issued, there is a contractual obligation to bond holders. It is difficult to estimate future bond costs due to interest rate fluctuations.

In response to Councilmember Feierbach, Mr. Childs stated that tours of the facility were available in order to ascertain the need for this project. He clarified that some of the work would be done underground, which would not be visible.

Discussion ensued regarding ways to reduce solid waste production and its affect on the system. Mr. Mandel noted that changes to future rates for operations could be taken into consideration for such reductions, but would not likely affect rates for this capital project.

Mr. Shaffer clarified that lenders want to ensure that future city councils cannot take actions that would diminish return on initial investments.

Councilmember Lieberman stated that the original plant was financed through grants, not by ratepayers. No mechanism was put in place for depreciation or future replacement cost. Ratepayers have not paid their fair share for this component. There is a need to think about charging for future rehabilitation of the new facility, and this charge needs to remain separate from the maintenance and operations. If there are grants available in the future, or the interest rates are substantially reduced in subsequent years, the City Council would then need to determine whether to lower rates or establish a reserve.

In response to Councilmember Feierbach, Mr. Childs noted that it is hard to predict what the needs will be in 30 years time. No other city is processing its solid waste any differently than this facility is.

In response to Mayor Braunstein, Mr. Mandel clarified that State law allows an inflator rate to be built into Proposition 218 rates, but new State law allows its imposition only for five years. The Council could choose to set rates at the maximum in order to compensate for the inability to include an inflator rate beyond five years.

Mr. Farnkoff stated that debt service for Belmont's share of these costs is based on an inflated rate in the model. Debt service does not increase at the same level as construction costs do.

Ray Moreno, Belmont resident, suggested that SBSA apply for funds through the federal stimulus package. He expressed concern that this new fee would double sewer charges for individuals. For those on fixed incomes, pensions do not go up accordingly.

Councilmember Lieberman responded that this project, which is shovel-ready, is the type of project being sought under the federal stimulus plan. Under current regulations, the existing plant was funded with grants and is therefore not eligible for future grants. Regulations in the proposed stimulus package regulations may be different. He noted that this matter was discussed by the Infrastructure Committee. There is a need to outreach to those that will be affected at the high end of the rate structure, and there may be a desire to discuss options regarding payments by ratepayers.

Mayor Braunstein suggested including direction for outreach to ratepayers as part of any motion in this matter.

ACTION: On an action by Councilmember Lieberman, seconded by Councilmember Feierbach and unanimously approved by a show of hands to approve Rate Analysis Report, direct staff to return to the City Council at the February 10, 2009, City Council meeting with an authorizing resolution

stating the City intentions to implement a Sewer Treatment Facility Charge effective tax year 2009-10, and to direct staff to perform outreach to ratepayers regarding the proposed new charge.

Discussion and Direction Regarding San Juan Hills Area Plan (SJHAP) Floor Area/Density Transfer Policies (held over from November 12, 2008)

Community Development Director de Melo noted that staff requested a continuation of this item to a date uncertain in order to perform more policy analysis on this matter.

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

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

Councilmember Wozniak stated that at the recent Green Advisory Committee (GAC) meeting, those in attendance had to wait until a quorum was achieved in order to hold the meeting. Updates were given by members, and subcommittees are working on their reports.

Councilmember Dickenson expressed the ongoing frustration with the lack of attendance at GAC meetings. It is recommended that the Council consider reducing the size of the committee. Some commission appointees have not been attending, and there has been some attrition. Some committees think their work is done, but the larger group work is not. He commented that regular attendees are very devoted.

MEETING EXTENSION: At this time, being 10:30 p.m., on a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the meeting was unanimously extended to 11:00 p.m.

Discussion ensued regarding the timing of the GAC report to Council. Community Development Director de Melo stated that it should be forthcoming in March or April. He noted that committees and task forces often experience a lull, and attrition is normal.

Councilmembers Feierbach and Dickenson reported briefly on Economic Development Subcommittee activity.

Mayor Braunstein stated that at the last Infrastructure Committee meeting, the SBSA bond project and the South Bay Waste Management Authority's milestones and proposed rate increases were discussed. He noted they also discussed the need to develop a long-term strategy for City-owned residential properties, as well as local roads, the potential parks ballot measure, and sidewalks.

Resolution Encouraging Voluntary Annexation by Property Owners in the Harbor Industrial Area into the City of Belmont

Finance Director Fil noted that the Harbor Industrial Area Subcommittee has been meeting for a long period of time to develop a strategy to encourage voluntary annexation. The proposed

resolution provides funding incentives for doing so, and this is a common approach used in other communities.

In response to Mayor Braunstein, Councilmember and subcommittee member Lieberman clarified that the resolution is consistent with the long-term strategy for annexation, and it is hard to speculate as to whether or not any property owners will take advantage of the resolution. Belmont offers good value. He noted that the resolution offers incentives only if annexation proceedings begin before the end of 2010.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, Resolution 10083 Encouraging Voluntary Annexation by Property Owners in the Harbor Industrial Area into the City of Belmont was unanimously approved by a show of hands.

Mayor Braunstein noted that this is a great opportunity for property owners.

ADJOURNMENT at this time, being 10:45 P.M.

**Terri Cook
City Clerk**

Meeting Tape Recorded and Videotaped
Audio Recording 715