

Special and Regular Meeting of May 12, 2009

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 (Marburger)
- B. Conference with Real Property Negotiator Crist pursuant to Government Code Section 54956.8: One Parcel, APN 045-162-020

Attended by Councilmembers Feierbach, Wozniak, Dickenson, Lieberman, Braunstein, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil. City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 6:30 P.M.

Terri Cook
City Clerk

This meeting was not tape recorded or videotaped.

STUDY SESSION - 6:30 P.M.

Community Preservation -- an Enhanced Approach to Code Enforcement -- Informational Report

Community Development Director de Melo explained the purpose of community preservation, and reviewed the City of Belmont's Vision Statement.

Police Chief Mattei stated that the intent is to provide a platform for an ongoing code enforcement program. He noted that addressing behaviors is sometimes difficult, and there is a need to provide balance, consistency, and discretion. All segments of the community look at problems from different perspectives. He outlined the current procedure for when code enforcement calls are received, and he clarified that every complaint is investigated. He provided a three-year history of calls. He stated that the Administrative Community Enforcement Team (ACET) is a blend of five city departments plus the fire department. What is proposed is a proactive systematic schedule of code enforcement delivery by section of the City.

Community Development Director de Melo noted that the current system is reactive. The goal is to educate, and he noted that most people will comply if they are educated.

Police Chief Mattei explained that staff proposes to create a Case Manager position that will provide a bridge between Community Development and the Police Department. He noted that there is a need to educate those at City Hall who receive code enforcement calls.

In response to Council questions, Police Chief Mattei stated that the Police Department has staff dedicated to addressing issues related to businesses and institutions. He stated that conditional use

permits (CUP's) provide documentation for referencing conditions.

City Attorney Zafferano stated that there is a significant difference between properties that have CUP's and those that do not. A separate legal process is used to modify CUP's. The ACET team will be identifying the best method of enforcement, and it is identifying all properties with existing CUP's. CUP's are not subject to the administrative citation process, and their provisions do not provide for much discretion when being enforced. He noted that CUP's provide vested rights for the property owner.

Councilmember Feierbach stated that code enforcement's early years were proactive, which worked well. The philosophy of the City Council changed, and enforcement was changed to being reactive unless the violation represented a health and safety issue. There is a need to know if a property is a rental or owner-occupied. She supports the proposed interdisciplinary approach and educational process. The City has a list of properties with long-standing issues that need to be resolved. Her goal is pretty, clean, green, and the proposed change in code enforcement will help meet that goal. The downtown and El Camino Real are problem areas. There is a need for incremental improvement.

Councilmember Lieberman supports the proposed systematic approach, as it is not heavy-handed. He also supports education. There is a process in place for serious problems. He requested followup after implementing the new system in order to ascertain how well it is working.

Councilmember Wozniak expressed support for the proposed new system, including the education of call-takers at City Hall. She also supports the creation of a Case Manager. Communication and followup are missing elements in the current system. Her goal is for Belmont to be clean, quiet, friendly, walkable and bikable.

Councilmember Dickenson stated that follow-through and customer service is important. Code enforcement case information should be made available on line.

Police Chief Mattei stated that staff intends to create an informational pamphlet that can be made available throughout city facilities and at booths at special events. He described the schedule for implementing the new process. He acknowledged the need for public outreach, as well as outreach to the Chamber of Commerce, the schools, and through the City newsletter. Staff intends to report back to the City Council in approximately 45 days.

Councilmember Dickenson stated that the City needs to clean up areas of the City for which it is responsible as well.

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

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Lieberman Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Interim Public Works Director Borrmann, Finance Director Fil, Police Chief Mattei, City Treasurer Violet, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by Imam Abdurrahman Anwar.

Mayor Braunstein stated that Imam Abdurrahman Anwar was the Belmont recipient of the Mayor's Diversity Award at a recent ceremony.

Imam Anwar stated that he was humbled and honored to receive the award, which he accepted on behalf of the entire Muslim community in the area. He described the mission of the Yaseen Foundation, which was established ten years ago. He noted that it purchased the Belmont property in 2001, and since that time has built bridges with other groups, including non-Muslims.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated that direction was given but no action taken on the Closed Sessions held earlier.

SPECIAL PRESENTATIONS

Proclamation Honoring Don McKenzie, Outgoing Planning Commissioner

Mayor Braunstein read the Proclamation.

Outgoing Commissioner McKenzie stated that it was a pleasure to have served as a Planning Commissioner, and he hopes to find other ways to contribute.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Lenore Griffin, Belmont Chamber of Commerce, commented regarding the code enforcement study session held earlier. She noted that the Chamber would like clean businesses in Belmont, and it would like to be part of the process. Code enforcement should be objective, not subjective. She described examples of acceptable and unacceptable business signage. She stated that the Chamber has a new website, and code enforcement information could be included. She recommended a joint outreach to businesses by both the City and the Chamber of Commerce.

Kathleen Beasley, Belmont Library, described upcoming events for adults, teens and kids to be held at the library.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Wozniak requested a map of the Cal Train right-of-way.

Mayor Braunstein stated that the City would be sponsoring a Mother/Son Bowling event on May

29th. He also noted that he attended Notre Dame de Namur's graduation ceremony over the previous weekend where he presented the Community Service Award to Mien Vu, who was NDNU's Student Body President and was active in the City/NDNU Advisory Group. He also noted that he participated in Alliance for Smiles, which is a fundraiser to help those with cleft palates. He also announced that Forbes.com rated Belmont 11th in the nation's Best Cities to Live Well.

RECESS: 7:53 P.M. (to consider the Redevelopment Agency Agenda)
RECONVENE: 9:02 P.M.

AGENDA AMENDMENTS

City Clerk Cook stated that a member of the public requested the removal of Consent Item 4-B (Ordinance of the City Council of the City of Belmont Adding Section 21.93, Relating to the Sewer Treatment Facility Charge) for separate consideration. Councilmember Dickenson requested the removal of Item 4-E (Resolution Authorizing a New Job Description and Salary Ranges for the Geographic Information Systems GIS Coordinator I/II/III Series). Councilmember Dickenson requested the removal of Item 4-E (Resolution for the Authorization to Apply for Funding Opportunities from the Department of Energy (DOE) Under Clean Cities FY09 Petroleum Reduction Technologies Projects) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of April 14, 2009

Approval of Resolution 10124 Accepting a Public Utility Easement and Fee Title Property at 404-4-6 Wessex Way (APN 040-320-300) for the U.S. 101 Pedestrian Bike Bridge Project - City Contract Number 433

Approval of Resolution 10120 Authorizing Emergency Rental of a Roadsaver II Slurry Seal Machine from Rayner Equipment Systems for an Amount not to Exceed \$42,500

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

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Ordinance Adding Section 21.93, Relating to the Sewer Treatment Facility Charge, to Article 4 of Chapter 21 of the Belmont Municipal Code and Adopting a Schedule for the Sewer Treatment Facility Charge (2nd reading and adoption)

Rocky Barilla, Belmont resident, requested the legal opinion regarding how this charge has been determined to be a fee rather than an assessment or a tax. He questioned whether or not the ordinance included a four percent inflationary factor. He also wanted assurance that the calculation of the proportional cost is consistent with provisions of Proposition 218. He expressed the importance of having complete and accurate information so that the City Council can make appropriate decisions.

City Attorney Zafferano described the communications that transpired between Mr. Barilla and staff,

and he clarified that Mr. Barilla's public records act request will be responded to within the appropriate timeline.

Finance Director Fil responded that there is no inflation factor included in the proposed fee, and he clarified that the allocation was made pursuant to provisions of Proposition 218, and the engineer's study is on file. The City is in full compliance of the law.

Councilmember Feierbach noted this matter was discussed with the Jarvis Gann organization, which confirmed that the ordinance is compliant. She noted that an issue remains regarding the force main, and Belmont should only pay its fair share of that cost. Belmont needs to address the infiltration issue separately, and not from its share of the costs of this project that have been allocated to Belmont. Belmont's total share could be reduced, and the savings could be passed to ratepayers.

City Attorney Zafferano clarified that the proposed ordinance contains language to address the concerns raised by Councilmember Feierbach relative to Belmont paying only for its fair share.

Councilmember Lieberman stated that short of a lawsuit, Belmont cannot be compelled to pay for anything that is not its fair share of costs. Any savings can be passed on to ratepayers. He outlined the ongoing discussions at SBSA regarding the allocation of costs for the force main. He noted that Belmont will soon be receiving invoices related to this project, and the ordinance is required in order to issue bonds to pay those invoices.

Dan Child, SBSA General Manager, stated that all JPA member agencies agree that each agency should pay only for its fair share. There is an issue regarding dry and wet weather flows. In the past, the force main was looked at as a facility that is shared by all, and it is now looked at differently.

Councilmember Feierbach stated that she will not support future bond issuances if there is any room for interpretation on this issue. She recommended including a not-to-exceed figure.

City Attorney Zafferano clarified that language exists in the proposed ordinance to enable a less-expensive project. He concurs with Councilmember Lieberman's assertion that only a lawsuit could force Belmont to pay any more than its fair share.

Lenore Griffin, Belmont resident/business owner, requested clarification as to the cost allocation for properties that change hands.

Councilmember Lieberman responded that fees are based on the current number and use of properties. If revenues decrease, this issue would need to be addressed in a subsequent Proposition 218 process. Fees could be reduced if the revenue is sufficient to meet the obligations.

Finance Director Fil clarified that any change in use of the property would apply annually. He noted there is no significant revenue risk with minor changes.

Ray Moreno, Belmont resident, questioned the need for previous years' raises in sewer rates. He

requested information on who negotiates the costs to run the treatment plant. He expressed concerns regarding those on fixed incomes.

Councilmember Lieberman described the organizational structure of the JPA, and noted that Belmont pays eleven percent of the cost to run the facility.

City Manager Crist clarified that per provisions of Proposition 218, the ordinance already contains a not-to-exceed amount.

Mayor Braunstein stated that the City has no choice but to adopt this ordinance.

Councilmember Lieberman explained that the force main cost allocation was never raised until recently, and it is now a primary issue of the JPA.

ACTION: On a motion by Councilmember Wozniak, seconded by Mayor Braunstein, and approved by a show of hands (4-1, Dickenson no) to adopt an ordinance Adding Section 21.93, Relating to the Sewer Treatment Facility Charge, to Article 4 of Chapter 21 of the Belmont Municipal Code and Adopting a Schedule for the Sewer Treatment Facility Charge.

Resolution Authorizing a New Job Description and Salary Ranges for the Geographic Information Systems GIS Coordinator I/II/III Series in the Information Services Department

Councilmember Dickenson expressed concern regarding the additional cost for this position. He stated that Council has received correspondence regarding the current economic situation and pay raises for employees. He cannot support the resolution.

Human Resources Director Dino stated that the salary range was based on market data. The existing position has been under-funded, and this proposed resolution brings the position to market median. She noted that the current agreement with the bargaining unit provides for bringing all positions to market median. The pay range for several positions was found to be below median. The union's contract has been ratified, which includes provisions for bringing positions to market median. The proposed position series addresses and acknowledges the skills needed for the organization and provides growth opportunities within the department. She clarified that this was not a reclassification, but rather an update in the job description to match the duties already being performed by the employee in this position. She also clarified that Council has discretion regarding whether or not to approve the I/II/III position series, as proposed.

Councilmember Feierbach stated that the position is critical for the needs of the organization. She expressed concern that the position is currently underpaid and has not been evaluated in some time. She does not want to lose the person who currently holds this position. Council has discussed equity many times. She can support the resolution.

Discussion ensued.

Councilmember Wozniak expressed concern regarding placement on the newly-created position series. She also expressed concern regarding the amount of pay increase that will be realized as a result of this action.

Mayor Braunstein recommended tabling this matter if there are additional questions that need to be answered.

Human Resources Director Dino noted that monies have been set aside in the budget for equity adjustments.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, Resolution 10121 Authorizing a New Job Description and Salary Ranges for the Geographic Information Systems GIS Coordinator I/II/III Series in the Information Services Department was approved by a show of hands (3-2, Dickenson/Wozniak no).

Resolution for the Authorization to Apply for Funding Opportunities from the Department of Energy (DOE) Under Clean Cities FY09 Petroleum Reduction Technologies Projects for the Transportation Sector Area Interest #4 and Allow for Possible Additional Funding from the California Energy Commission (AB118) and the Transportation Fund for Clean Air (TFCA) from the Bay Area Air Quality Management District

Interim Public Works Director Borrmann stated that this resolution will enable the purchase of hybrid vehicles. She noted that other funds may become available for future purchases.

Councilmember Lieberman stated that he supports the purchase of hybrids, and acknowledges that sometimes there is additional cost for hybrids. He noted that there is a substantial cost difference on some of the proposed vehicles to be purchased, and he expressed concern regarding the fiscal impact. He suggested that those vehicles with a much higher cost differential be removed from consideration for hybrid purchase.

Councilmember Wozniak noted that there may be cheaper hybrid vehicles available.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, Resolution 10122 Authorizing the Application for Funding Opportunities from the Department of Energy (DOE) Under Clean Cities FY09 Petroleum Reduction Technologies Projects for the Transportation Sector Area Interest #4 and Allow for Possible Additional Funding from the California Energy Commission (AB118) and the Transportation Fund for Clean Air (TFCA) from the Bay Area Air Quality Management District was unanimously approved, as amended, by a show of hands.

HEARINGS

Public Hearing to Review Planning Commission Action from February 3, 2009, Public Hearing Regarding Conditional Use Permit and Design Review (T-Mobile), Pursuant to Municipal Code Section 1-11 (Recommending Continuance to June 23, 2009 Meeting)

Community Development Director de Melo stated that the public hearing was continued in order to obtain a consultant regarding this issue. There is a need for additional time to prepare the consultant's report, and the recommendation is to continue the hearing to June 23, 2009.

Ben Davis, T-Mobile, stated that T-Mobile has authorized payment for the consultant. T-Mobile invited neighbors to a community meeting, and two people attended. He noted that T-Mobile accepts the recommendation for continuance, but does not support it, as it is ready to proceed.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the Public Hearing was unanimously continued to June 23, 2009.

OLD BUSINESS

Resolution of the City Council of the City of Belmont Requesting South Bayside Waste Management Authority (SBWMA) Allow Elected Officials to Represent Member Agencies on the Joint Powers Authority Board of Directors

City Manager Crist stated that after reviewing historical documents related to this joint powers authority (JPA), it is still unclear why elected officials do not serve as board members. This JPA began as a staff-driven effort to negotiate with trash collectors. Solid waste diversion requirements changed the nature of solid waste management. He noted that in 2005, the City of Belmont requested that elected officials be allowed to serve on the JPA board, but not all member agencies supported this concept. The proposed resolution restates that request.

Councilmember Dickenson noted that staff has been dealing with solid waste, and many issues have been addressed behind closed doors. He noted this is not fiscally responsible, and he expressed concerns regarding the increase of solid waste staff. The organization is growing unchecked. He stated that the Grand Jury is investigating one decision that has been made, and there is a concern that there may be other decisions that will be questioned.

Mayor Braunstein noted that some solid waste issues are receiving direction from the City Council. He would like to be proactive in communicating with the other member agencies if this resolution is passed.

Discussion ensued.

Councilmember Wozniak stated that it would be important to include reasons within the resolution as to why elected officials should serve as the JPA board members.

City Manager Crist clarified that 2005 amendments to the JPA outline items that require individual City Council direction.

Councilmember Lieberman stated that there are pros and cons either way. He expressed support for the proposed resolution, but noted that it is not much different from the action taken in 2005, and

will not likely have an impact. He recommended outreach to the other cities in person at their City Council meetings, not just in writing.

MEETING EXTENSION at this time, being 10:30 p.m., on a motion by Councilmember Lieberman, seconded by Councilmember Wozniak, the meeting was unanimously extended by 30 minutes by a show of hands.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, Resolution 10123 was unanimously approved by a show of hands.

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 a recent Library JPA meeting, the budget was discussed, and concerns were expressed regarding budget shortfalls. She outlined upcoming library programs.

Councilmember Lieberman stated that he met with PG&E representatives to discuss green energy options, including solar. He noted that PG&E advised him that in 2003, former Councilmember Bauer proposed the concept of Belmont forming its own municipal utilities district, which was rejected by the then-City Council.

Councilmembers Feierbach and Wozniak, and Mayor Braunstein noted that they had also met with PG&E. Councilmember Dickenson advised that he had not been contacted by PG&E.

Mayor Braunstein summarized the recent Economic Development Subcommittee meeting. Plans for the Shoreway and Firehouse Square sites have stalled due to the economy. Future development plans will require the acquisition of property, and there may be a desire to combine the Village Center site and Firehouse Square. He noted that the City has been acquiring properties along El Camino Real.

Discussion and Direction Regarding the City Council Subcommittee Structure

City Manager Crist reviewed the current subcommittee structure, and noted that this topic was discussed at the Council's January retreat. He outlined the areas that are missing in the current structure, and clarified that one proposed model would be easy to implement, and others reorganize the current structure in order to add new topics. A more comprehensive subcommittee structure could make the City Council and staff more effective. He cited the Alameda de las Pulgas restriping as an example of an issue that was handled well under the subcommittee process.

Councilmember Feierbach stated that City Council members are often pressured into agreeing to items that come forward through the subcommittee structure. She clarified that only one additional vote is needed at that point, which violates the spirit of the Brown Act.

Michael Kazarian, Belmont Chamber of Commerce, recommended that the Chamber be included in the Economic Development subcommittee. He clarified that the Chamber does not currently have a contract with the City.

Councilmember Feierbach responded that all subcommittee meetings are open to the public.

Councilmember Lieberman noted that subcommittees do not always make recommendations. He expressed support for Model 2 as proposed.

Mayor Braunstein concurred regarding Model 2, and expressed support for adding the Chamber of Commerce to the Economic Development committee. He also suggested the inclusion of education, green issues, arts and culture, and seniors to the structure.

Councilmember Wozniak commented regarding the division of responsibility regarding Commission meetings. She noted that other cities do not have ad hoc committees and questioned how things were accomplished in those cities. Belmont City Council members have many responsibilities, and she expressed concern regarding being over-burdened.

Discussion ensued.

Councilmember Lieberman suggested the formation of three standing committees with several areas within each committee. He recommended giving flexibility to the City Manager to bring issues to one of the three committees as needed. He also expressed support for adding the Chamber of Commerce to Economic Development.

Councilmember Dickenson expressed support for moving ahead with this plan.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, and approved by a show of hands (3-1-1, Feierbach no/Wozniak abstain) to approve the proposed Subcommittee Structure Model 2, with modifications as recommended.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of Resolution Supporting Employee Free Choice Legislation (Feierbach) - continued from 4/28/09

Councilmember Feierbach stated that she attended a meeting where this proposed legislation was discussed which would give workers the ability to unionize. She noted that other cities have adopted similar resolutions.

Councilmember Wozniak noted that she could support this legislation, and she clarified that it does not support unions but gives employees the ability to unionize.

Councilmember Dickenson stated that he is aware of other concerns surrounding this proposed legislation.

Council concurred to agendize this topic at a future council meeting.

**Hold a town hall meeting on current use of Federal, State and local funds (Dickenson) -
continued from 4/28/09**

Councilmember Dickenson expressed his desire to hold a meeting to discuss the current fiscal crisis as a means for the public to voice its concerns. He would like to be proactive.

Councilmember Wozniak suggested inviting the public to comment regarding such a meeting, via the City's website.

Councilmember Feierbach suggested that Councilmember Dickenson draft a set of questions to pose to the public.

Council concurred to post something to the website regarding this matter.

ADJOURNMENT at this time, being 11:00 p.m.

**Terri Cook
City Clerk**

Meeting Tape Recorded and Videotaped
Audio Recording 726