

Meeting of Special and Regular Meeting of June 9, 2009

SPECIAL MEETINGS

CLOSED SESSION - 5:30 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(b), Anticipated Litigation, Significant Exposure to Litigation: Two Cases
- B. Conference with Legal Counsel pursuant to Government Code Section 54956.9(c), Initiation of Litigation: Two Cases

Attended by Councilmembers Feierbach, Wozniak (arr. 6:00 p.m.), Dickenson, Lieberman, Braunstein, City Manager Crist, City Attorney Zafferano, Finance Director Fil. 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.

STUDY SESSION - 6:30 P.M.

Introduce Fiscal Year 2010 Budget

Finance Director Fil noted that the proposed 2009-10 Budget is balanced without the five percent correction strategy, and it meets the target reserve of 20 percent. Fees are designed to cover the cost of services except in areas that are subsidized. He noted that the current fiscal year has been a difficult one, and some improvement is hoped. Some corrections made in previous years are still being carried. Flat or minimal growth is anticipated, and the stock market is beginning to improve. He noted that staff recommends that Council implement the budget correction to protect reserves.

Finance Director Fil reviewed budget assumptions, including demographics, revenues, operations, and the capital improvement plan. He outlined revenue sources and expenditure categories. He provided a comparison of general fund balance transfers from the past few years, and he gave an overview of the citywide priorities and department initiatives.

Finance Director Fil noted that revenues have increased in the Recreation Fund due to new class offerings and changes in the day care program. He stated that the subsidy for this fund is still higher than what Council's policy provides. Development Services is experiencing losses, and a subsidy is needed. Fee increases are proposed.

Finance Director Fil reviewed other considerations in the development of next year's budget, including State-driven issues. He provided a forecast with and without the budget correction. He

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outlined details of the budget correction strategy and its impact on various funds. He described the State's ability to borrow monies from cities. These funds are required to be repaid with interest, with the exception of the gas tax, which is proposed to be a takeaway with no repayment. He compared personnel head count with that of other cities. He noted that the Finance Commission reviewed the budget, and individual members have submitted questions which will be provided to the City Council. The Budget will be presented for adoption on June 23rd.

Discussion ensued.

In response to Council questions, Finance Director Fil noted that the correction strategy will result in service cuts to the Police and Parks and Recreation Departments. Property foreclosures do not have a large impact in Belmont. He noted that any proposed increase in the National Pollutant Discharge Elimination System (NPDES) would require a Proposition 218 hearing. Norcal Waste's new franchise agreement includes a program to keep trash out of storm drains.

City Manager Crist noted that the City took care of payment for watering of school fields for the current year only, and the school district has agreed to take care of this matter in subsequent years.

Councilmember Lieberman commended City Clerk Cook for declining an equity adjustment in her salary as a means of helping with the budget issue. He recommended not addressing the revenue proposals at this time, but to revisit them in the future, if necessary.

Councilmember Dickenson expressed support for considering the proposed increase in the transit occupancy tax (TOT), as this does not directly affect residents. He noted that the proposed increase would still make rates competitive with surrounding cities.

Councilmember Feierbach concurred to look at TOT, but expressed concern regarding the proposed utility user tax.

Tom Snider, Belmont United Soccer Club, stated that athletic facilities are important. He recommended selecting cuts that will affect the fewest number of residents. He requested that no cuts be made in Parks and Recreation.

Greg Snow, AYSO, Cub Scouts, and Little League, commented regarding the Parks and Recreation budget. He recommended taking into consideration the number of residents affected when considering budget cuts. The fields are better and safer due to the player use fee.

Rich Bortoli, Parks and Recreation Commissioner, concurred with the previous speakers' comments. He recommended not cutting Parks and Recreation any more than any other department. Many kids are using the programs.

Councilmember Lieberman noted that there are no proposed cuts to Parks and Recreation that will

have a material affect.

Councilmember Wozniak concurred that Parks and Recreation programs are important, especially now that more people are staying closer to home. She would like to improve the facilities.

Finance Director Fil thanked Assistant Finance Director Lazzari and the departments for their assistance with the budget process.

**REGULAR MEETING
CALL TO ORDER 7:50 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, Chief Building Official Nolfi, City Treasurer Violet, City Clerk Cook.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated there are no reportable actions from the Closed Session held earlier.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Lieberman stated that since the City Council is a strong advocate for green issues, he recommended that Council members arrive at City Hall for the special meeting on June 30th without using a car.

Councilmember Dickenson expressed support for this idea.

Mayor Braunstein stated that 90 people participated in the recent Mother/Son Bowling event. He also stated that the Planning Commission and the City Council would be holding study sessions regarding the Housing Element. On June 19th, the Parks and Recreation Department will host a Magic Night. He also announced that the recent issue of the Belmont Newsletter focuses on public safety.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Judy King, Belmont Park Boosters, announced that the Summer Concert Series would begin on June 14th.

Kathleen Beasley, Belmont Library Manager, outlined the summer programs at the library. She thanked the Friends of the Belmont Library for its support of these programs.

Louis Vella, Belmont Civic Heights Improvement Association, thanked the Belmont Police

Department and the Belmont-San Carlos Fire Department for its response to the home invasion robbery in his neighborhood. He expressed concern for the victim, and he noted that the Association is working on safety issues in the neighborhood.

Captain DeSmidt provided an update on the home invasion robbery. He noted that a suspect has been identified and is in custody in another county for a similar crime. He commended the neighborhood for providing good information which has helped in this matter.

AGENDA AMENDMENTS

Councilmember Wozniak requested removal of Consent Item 4-B (Motion Appointing Councilmember Wozniak to the High-Speed Rail Cities Consortium) from the Consent Agenda for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of May 12, 2009

Adoption of Ordinance 1043 Amending Municipal Code Chapter 8.5 Governing Campaign Contributions (2nd reading and adoption)

Approval of Resolution 10133 Requesting County to Render Services for Municipal Election, November 3, 2009 (City Council, 3 seats)

Approval of Resolution 10134 Approving Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Purchase to the Lowest Responsible Bidder for the Replacement of Police Vehicle C1, Public Works Vehicle S5 and One Additional Police Vehicle for an Amount not to Exceed \$79,250

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

Motion Appointing Councilmember Wozniak to the High-Speed Rail Cities Consortium

Councilmember Wozniak noted that there is a need to appoint an alternate but recognizes that Council cannot take action on this tonight since it is not on the agenda.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Lieberman, and unanimously approved by a show of hands to appoint Councilmember Wozniak as the City of Belmont's delegate to the High-Speed Rail Cities Consortium.

City Clerk Cook noted that she will add an item to the next agenda regarding the alternate.

HEARINGS

Public Hearing to Consider an Ordinance Revising and Increasing the City's Sewer Charges and Adopting a Schedule for the Sewer Charge

Interim Public Works Director Borrmann reviewed the City Council's previous discussions regarding this issue. She outlined the average increases in sewer charges that will result should Council adopt the ordinance. She clarified that there is a fixed and flow rate component to the annual charge. She described the public outreach that was undertaken. She noted that few calls were received.

Councilmember Feierbach noted that concerns have been expressed by residents of the Hallmark neighborhood that no repairs are planned for that area, and residents do not feel they should be assessed.

John Farnkopf, Consultant, stated that the issue is the costs for storm drain improvements. He noted that it is common for initial storm drain installation to be paid for as part of the initial development of a subdivision. There are many ways to fund storm drain improvements, and what is proposed is consistent with best practices. A principle of uniformity is being utilized in that it makes rates reasonable and does not discriminate.

Councilmember Feierbach stated the entire City will benefit from areas that will be improved, since sewage has to pass through other areas. She noted that there are projects proposed for the Hallmark neighborhood.

Interim Public Works Director Borrmann noted that zones have been established throughout the City as an efficient way to identify project needs. Other areas needing repairs outside of the scope of this process have been identified, including some in the Hallmark neighborhood. Projects have been completed throughout Belmont. The sewage system in the Hallmark area was built during the 1960's and 1970's and is aging. She clarified that there is no perfect sewage transport system.

Mayor Braunstein opened the Public Hearing.

Louis Vella, Belmont Civic Heights Improvement Area (BHClA), stated that many questions have been posed by residents in the Hallmark neighborhood. He noted that it is likely that not many people will be protesting the rate increase. He questioned whether funds are being allocated from the sewer fund for storm drain repairs, and requested clarification as to where the capital projects will take place. He suggested that any existing substandard systems be brought up to code first. He noted that other cities are seeking federal stimulus monies to assist with these types of projects.

William Sangervasi, Belmont resident, questioned the need to increase fees by seven percent in the current down economy. He was under the impression that the charges would be delayed by one year. He questioned the cost for the sewage treatment plant given the fact that home values have decreased. He questioned how to measure overflow during the rainy season.

Mary Morrissey-Parden, Belmont Chamber of Commerce, questioned how the seven percent increase was determined when nine percent was recommended. She also inquired as to what other options were considered. She noted that the map of the sewer system indicates that not many miles

travel through commercial zones, and she questioned why commercial properties are paying an equal amount as residential properties. She expressed concern regarding the Proposition 218 hearing process and the test of mutual benefit. She stated that charges are disproportionately distributed. She noted that the City Council supports green initiatives, and there is a need for future rewards for new business who implement green technology. She recommended that Belmont provide rate comparisons with other cities.

Gladwyn D'Souza, Belmont resident, stated that the City should be encouraging conservation, and he recommended the implementation of tiered rates.

Adele Della Santina, Belmont resident, stated that she agreed with Mr. Vella and Ms. Morrissey-Parden. She described the protest that arose during a previous storm drain assessment process, at which time the City Council scaled back the project. She questioned what work has been performed on the storm drain system since that time. She expressed concerns regarding road needs. She stated that if this is an assessment, only critical needs will be addressed.

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

Special Counsel Mandell explained that this is a property-related fee, not an assessment. It is not based on benefit but rather on shared cost for services. He described how the costs have been allocated throughout the City. Costs for emergency repairs would also be spread across the City. He noted that the City Council can opt to allocate the costs in any manner it wishes, but this could lead to random rate increases, which may not address the question of fairness.

In response to Council questions, Special Counsel Mandell stated that road construction or improvement is not addressed in Proposition 218, and the costs for roads can only be done through an assessment or a tax. It is not a property-related fee, because roads are not considered a service.

Discussion ensued regarding depreciation expenses and enterprise fund functions.

City Manager Crist noted that from the \$6 million allocation, one-third is set aside for capital expenditures, one-third for operations, and one-third for debt service. He added that the capital improvement program is very aggressive to make up for the years when no capital projects were undertaken.

John Farnkopf, Consultant, stated that capital projects can be modified, depreciation lessened, and bond issuances delayed to future years. He noted that if water consumption decreases, revenues will be reduced. He explained that the City Council discussed various rate increase options and chose seven percent.

Special Council Mandell noted that the issue is how detailed to get regarding allocation of costs. It is difficult to draw a line and it is never exact. Commercial customers have a higher flow which costs more to treat, since it is higher strength. He clarified that it is not the transmission that determines the cost, but the treatment at the plant. He noted that some pipes and systems will always be out of code, even in newer neighborhoods. Ultimately everyone will benefit by any upgrades in the system.

In response to Mayor Braunstein, Special Council Mandell clarified that the annual charge is different from the capital project to rebuild the sewage treatment plant. The two cannot be combined, and the annual charge cannot be deferred as was done for the treatment plant costs. Ongoing maintenance projects cannot be deferred. He clarified that water is priced by tier, but sewage treatment cannot be. The amount of flow does not affect the rate structure. Provisions of Proposition 218 prohibit a conservation factor. It is difficult to conserve on the use of the sewer system, as it is not a commodity.

Discussion ensued regarding conservation options.

Special Council Mandell noted that as a practical matter, it would be difficult to ensure compliance if customers were to sign on to conservation efforts, as there is no way to meter. Mr. Farnkopf added that Mid-Peninsula Water tiers its water rates, and the City can give credits for other conservation efforts.

City Clerk Cook noted that the unofficial count of protest letters is 52.

Councilmember Dickenson stated that a seven percent increase is excessive.

Councilmember Feierbach noted that nine percent was originally proposed. If the sewers are not fixed, wet weather flows will continue to be a problem and will result in higher costs to the City. She noted that there is also a need to address sewer laterals as well.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Feierbach, and approved by a show of hands (4-1, Dickenson no) to introduce an ordinance by title Revising and Increasing the City's Sewer Charges and Adopting a Schedule for the Sewer Charge, to waive further reading, and to set the second reading and adoption for June 23, 2009.

RECESS: 9:20 P.M.

RECONVENE: 9:25 P.M.

OLD BUSINESS

One Year Review of the Time Limits for Completion of Construction Ordinance

Chief Building Official Nolfi stated that this ordinance was adopted in May of 2008 and outlines time limits for the completion of projects based on valuation. It provides for extensions, with fees. He described the implementation of the ordinance, including notification of those with outstanding

building permits. He noted that the majority of those permit holders completed their projects within nine months, and three received extensions. One permit was declared a public nuisance for which daily fines are incurring. He noted that fewer reminders to permit holders have been required since the enactment of the ordinance. He commended Permit Center staff member Kelsey Mathias for her assistance in tracking these permits, which have enabled enforcement.

Chief Building Official Nolfi noted that most permit holders find the deadline generous. Fees for extensions are intended to cover additional inspection costs. Staff is spending less time on compliance. Only eight permits have expired since the ordinance went into effect, which is very low compared to other cities.

Chief Building Official Nolfi recommended that no changes be made to the existing ordinance.

Broderick Page, Belmont resident, acknowledged that the ordinance provides a public benefit. He recommended not giving discretion to staff to choose which permits will be granted an extension. He stated that he has a unique situation and hardship, and wants the opportunity to request an exemption.

Councilmember Lieberman noted that the ordinance does not provide for an appeal process, which he would support. He expressed concern that there is no provision for extenuating circumstances.

City Attorney Zafferano clarified that the ordinance provides for extensions, but not for appeals, for which fees are paid. The ordinance would need to be amended to allow for exceptions.

Councilmember Lieberman expressed a desire for exceptions under certain conditions.

Chief Building Official Nolfi noted that staff assists applicants in getting their projects completed. Staff's only concern is regarding health and safety issues, not aesthetics.

Councilmember Wozniak expressed support for leaving the ordinance as it is. She noted that an appeal process could be problematic and she does not support it.

Councilmember Feierbach stated that many cities have similar ordinances. Belmont's final ordinance was changed from what was originally proposed, but it is working. Many long-standing projects have now been completed. She expressed support for leaving the ordinance as it is.

Council concurred to review this matter again in another year.

Further Consideration of a Resolution Placing a Measure on the Ballot for the November 3, 2009 Municipal Election Requiring Voter Approval for: 1) Conversion of Certain City-Owned Parks and Open Space to Other Uses; and for 2) Certain Sales and Encumbrances of Such

Lands; and Directing City Attorney to Prepare an Impartial Analysis of Said Measure (continued from May 26th)

Mayor Braunstein and Councilmember Wozniak stated that because they live within 500 feet of property that could be subject to this proposed ballot measure, they need to continue to recuse themselves on this item. Mayor Braunstein passed the gavel to Councilmember Feierbach to run the meeting. They both stepped off the dais and out of the room.

City Attorney Zafferano noted that this is the fourth meeting at which this topic has been discussed. He reviewed what is being proposed in the ordinance, and outlined the areas to be addressed. He discussed alternatives to consider, including a prohibition of all exchanges, sales, or encumbrances of park properties.

ACTION: Councilmember Feierbach made a motion, seconded by Councilmember Dickenson, to approve the placing of an ordinance on the November 3rd ballot, with the removal of verbiage regarding exchange, sale or encumbrance of properties.

Judy King, Belmont resident, questioned why there would be any fear of placing this matter on the ballot. There is no cost associated with this matter, and it would be best to let people vote on this issue.

Dianne Keogh, Belmont resident, stated that parks belong to the taxpayers and they deserve the right to vote on this issue. A decision is being made for 15,000 voters. She has not heard anyone speak out against this issue.

Mary Morrissey-Parden, Belmont Chamber of Commerce, stated that the Chamber values parks and fields, and their users. The Chamber does not advocate reducing the amount of park or field space. She expressed concern regarding the encumbrance of park properties in the Redevelopment Agency. She also expressed concern that future land exchanges may not be possible with the proposed ordinance, which could have unintended consequences. Highest and best use of the land is important.

Councilmember Feierbach noted that Oracle Corporation is not interested in any land exchanges.

Gladwyn D'Souza, Belmont resident, expressed support for the ballot measure. He also expressed support for removal of language addressing future property sale or encumbrance.

Councilmember Dickenson expressed support for the motion. He cited a bad land acquisition decision made years ago when Belmont chose not to incorporate Redwood Shores into the City, and he does not wish to make the same mistake again. He noted there is no tax component included in the proposed ordinance. He stated there has been enough discussion on this issue.

Councilmember Lieberman stated he will be placing a future Item 9 on the agenda to discuss the use of Redevelopment Agency funds to improve the Sports Complex property. He expressed concern regarding unintended consequences of this proposed ordinance. He noted it could weaken protection already afforded park properties via the Government Code, as park protection is already a component of that Code. He stated that the proposed ordinance does not give additional protection. He recommended putting this matter on hold until such time as a threat is imminent.

City Attorney Zafferano clarified that the Government Code section described by Councilmember Lieberman was addressed by the Council during an earlier discussion on this matter. Councilmember Feierbach noted that the Government Code could be changed at any time.

Councilmember Dickenson stated that green space is a quality of life issue, and putting this on the ballot gives power to the people.

ACTION: Councilmember Lieberman made a substitute motion to place the proposed ordinance on the November 3rd ballot with no changes, and to include a revenue generation component. Motion died for lack of a second.

ACTION: On the original motion (to approve the placing of an ordinance on the November 3rd ballot, with the removal of verbiage regarding exchange, sale or encumbrance of properties), Councilmembers Feierbach and Dickenson voted yes, and Councilmember Lieberman did not cast a vote. Motion failed for lack of the three affirmative votes required to approve.

Councilmember Lieberman commented that people are getting used to getting something for nothing. He would like to enhance the properties, and desires to continue this matter for further discussion.

Councilmember Dickenson noted that residents are already paying taxes for these sites.

City Attorney Zafferano noted that an elected official cannot be compelled to cast a vote. He clarified that the motion fails in that it only received two affirmative votes where three are required.

Councilmember Wozniak and Mayor Braunstein returned to the dais.

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

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

Councilmember Wozniak stated that the San Mateo County Library Authority confirmed its fiscal year budget. Donor funds for the Atherton Library were rescinded. She also noted that an alternate is needed for the High Speed Rail Authority. She stated that other cities have adopted rules on the

authority of their delegate. A consultant has been hired to address the option of undergrounding. She outlined other issues addressed by the Coalition.

Councilmember Lieberman stated that the following topics were addressed by the Infrastructure Committee: the Bike/Pedestrian Bridge, slurry seal program, South Bayside Systems Authority (SBSA) project, force main, Alameda restriping, Emmett House, Capital Improvement Program, and sidewalks on Old County Road.

Councilmember Feierbach stated that at a recent San Francisco Airport Roundtable meeting, awards were given for making certain model airplanes quieter.

Councilmember Dickenson inquired regarding the airplane noise monitoring equipment. City Manager Crist clarified that this has been budgeted.

Mayor Braunstein reported on the recent Economic Development Committee discussion. He noted there are frustrations due to the economy, but the City is continuing in its planning efforts on various target sites. There was also discussion regarding retention and recruitment for businesses.

Verbal Report from City Manager

City Manager Crist stated that he met with Mike Garvey regarding the High Speed Rail project.

ADJOURNMENT at this time, being 10:30 p.m.

**Terri Cook
City Clerk**

Meeting Tape Recorded and Videotaped
Audio Recording 728