

Town of Los Altos Hills

City Council Regular Meeting Minutes

October 23, 2008
Council Chambers, 26379 Fremont Road

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Mordo called the City Council Regular Meeting to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Jean Mordo, Mayor Pro Tem Dean Warshawsky, Councilmember Breene Kerr and Councilmember Mike O'Malley
Absent: Councilmember Craig A. T. Jones
Staff: City Manager Carl Cahill, City Engineer/Public Works Director Richard Chiu, Finance Director Nick Pegueros, Planning Director Debbie Pedro, Public Safety Officer Steven Garcia, City Attorney Steve Mattas, City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to limit comments from the floor to two minutes.

1. APPOINTMENTS AND PRESENTATIONS

A. Appointment(s) to the Standing Education Committee

Mayor Mordo introduced the two applicants to the Standing Education Committee, residents Irena Halsey and Susan Stark. Applicants Halsey and Stark addressed Council and expressed their reasons for seeking appointment to the Education Committee.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to appoint Irena Halsey to the Standing Education Committee for a term of four years.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O'Malley and passed unanimously to appoint Susan Stark to the Standing Education Committee for a term of four years.

Special Presentation:

Carl Guardino, President & CEO Silicon Valley Leadership Group thanked the Council for the opportunity to extend an invitation to Council, Town staff and Los Altos Hills residents to participate in the 4th Annual Applied Materials Silicon Valley Turkey Trot on Thanksgiving Day, November 27, 2008. The event's proceeds benefit three charities-

Second Harvest Food Bank, the Housing Trust of Santa Clara County and the Santa Clara Family Health Foundation's Children's Health Initiative. Last year, the event raised approximately \$225,000 and Guardino was hopeful that this year would surpass that amount.

Council thanked Guardino for the personal invitation and noted that they were looking forward to the event.

B. Presentation by Public Safety Officer Steven Garcia: Los Altos Hills
Dangerous Dog Abatement Process

Public Safety Officer Seven Garcia introduced the item to Council. Garcia explained that the item had been brought forward to address questions from concerned residents regarding the Los Altos Hills' process for dealing with dangerous animals. He explained the Town's Municipal Code Title 6 Section 6-1.601 defines a dangerous animal as "any dog or animal which demonstrates a propensity to assault, bite, scratch or harass people or other animals without provocation." Garcia proceeded with a PowerPoint presentation that provided an overview of what to do if the public should encounter a dangerous dog; the process followed for a dangerous animal hearing; and, possible determination procedures as a result of the hearing process.

Council discussion ensued. Council questioned if they had any authority to restrict certain breeds from the Town that had a propensity for being aggressive. City Attorney Steve Mattas offered to research the inquiry if Council should have any interest in pursuing the issue.

Council thanked Garcia for his informative presentation.

CONSENT CALENDAR

Item Removed: Warshawsky (recused himself from consideration of Consent Calendar Item #4 due to a potential conflict and requested information on Consent Calendar Item #7)

MOTIONED SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to approve the remainder of the consent calendar, specifically:

2. Approval of Meeting Minutes: City Council Meeting – October 9, 2008
3. Review of Disbursement: September 1, 2008 – September 30, 2008 \$909,701.57
4. Notification of Fast Track Approval: Lands of Salah, 27361 Altamont Road, #72-08-ZP-SD-GD: A Request for a Site Development Permit for a new 5,507 square foot two-story residence with an 870 square foot partial basement (Maximum Height 27') CEQA Review: Categorical Exemption per Section 15303(a).
5. Acceptance of Grant of Open Space Easement; Lands of Surdey;

6. Proclamation In Recognition of the 50th Anniversary of the Los Altos Hills Club

Item Removed:

7. Acceptance of the Rule 20A Utility Undergrounding Project at Purissima Road, Viscaino Road and Altamont Road; Lewis & Tibbitts, Inc. (Staff: R. Chiu)

Mayor Pro Tem Warshawsky requested an update on the Town's Undergrounding Project. City Engineer Richard Chiu informed Council that Lewis & Tibbitts, Inc. the Town's contractor for the Rule 20A Utility Undergrounding Project, had completed their work as stipulated in the project contract. Additionally, Comcast and PG&E had completed their portion of the project and the expectation was that AT&T would be pulling their lines within the next 2 weeks. Upon completion of AT&T's work, the splicing operation would begin and the power poles would be removed. Chiu expected the project to be completed by year's end.

MOTIONED SECONDED AND CARRIED: Moved by Warshawsky, seconded by O'Malley and passed unanimously to Resolution No. 72-08-Accepting as Completed the Work of the "Rule 20A Underground Utility Project" Authorizing Final Payment Concerning Such Work, Directing the City Clerk to File Notice of Completion.

PRESENTATIONS FROM THE FLOOR

Amy Weissman, resident, addressed Council and stated that for the last year and a half she had been unsuccessful in her efforts to board her horse at Westwind Barn. To her knowledge, two non-residents had precedence over her request of boarding her horse within this time period, which is contrary to Westwind Barn's policy of giving residents first priority, in the event of vacancies.

PUBLIC HEARINGS

8. Consideration of a Conditional Use Permit Renewal for an Existing/Previously Approved Wireless Communications Facility: Lands of California Department of Transportation (Applicant: T-Mobile) 2350 Page Mill Road, File #87-08-CUP; CEQA review: exempt per 15301(a) (Staff: D. Pedro)

Planning Director Debbie Pedro introduced the item. Council had before them an application by T-Mobile for renewal of their Conditional Use Permit at 2350 Old Page Mill Road. As part of the renewal, T-Mobile was also requesting approval to upgrade the antennas and equipment cabinets. At the October 2, 2008 Planning Commission meeting, the Commission had unanimously voted to recommend extension of the Conditional Use Permit subject to continued compliance with the Conditions of Approval. Pedro explained that consistent with State law, the term of the permit had been extended to ten years. The applicant was also proposing to install six, fifteen gallon oleanders to mitigate the site.

Pedro proceeded with a PowerPoint Presentation that included: a vicinity map; photo of the monopole and identification of the five carriers located on the wireless facility; a photo of the existing T-Mobile antennas that were to be removed and replaced; and a schematic of the proposed landscape mitigation.

OPENED PUBLIC HEARING

No comments.

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to approve the request for a Conditional Use Permit for an existing/previously approved wireless communications facility subject to the Conditions of Approval identified in the staff report. (T-Mobile Applicant).

9. Consideration of Resolution Adopting Engineer's Report, Confirming the Assessment and Ordering the Work and Acquisitions, and Directing Actions with Respect thereto: West Loyola Sewer Assessment District No. 1
(Staff: R. Chiu)

Mayor Mordo reviewed the process that had been recommended for the public hearing and the count of the assessment ballots by the project's Bond Counsel from Jones Hall. Once the hearing was formally closed, no additional ballots were to be accepted. The assessment ballots were scheduled for tabulation by the Clerk after the hearing was closed. Mordo noted that the assessment ballots required by Proposition 218 were disclosable public records and would be open for inspection during and after tabulation. If there was not a majority affirmative approval from those submitting ballots, the assessment process was ended and no further action would be taken by Council. If there was a majority approval, the Council would have the authority to approve the assessments. It was noted that the approval by the ballot process did not automatically levy the assessments, and for that reason, Council would consider oral and written remarks about the assessment district. However, they would not count as part of the formal, Proposition 218 ballot approval process.

City Engineer/ Public Works Director Richard Chiu explained that staff and consultants had been working with the West Loyola neighborhood residents to form the West Loyola Assessment District for several months. The Bond Counsel, Project Engineer and Financial Underwriter were in attendance to answer any questions that Council might have on the assessment process or district. Chiu offered that the project would extend the Town's sewer system to the W. Loyola area and would provide sewer to fifty-two properties. Following the tabulation of the ballots, and in the event that a majority of the ballots approve the formation of the district, Council would consider the resolution before them that would adopt the Engineer's Report, confirm and levy the assessment and direct the actions for the West Loyola Sewer Assessment District No. 1. If Council should adopt the resolution, the City Clerk would record, mail and publish the required documents for the assessment and the 30-day pre-payment period would begin.

OPENED PUBLIC HEARING

Rich Larsen, resident, addressed Council and acknowledged that he was representing 14 families residing in the West Loyola neighborhood that supported the formation of the assessment district. Larsen offered that the process to bring sewers to the area had taken approximately eight years and included annexation of the properties to the Town. He was looking forward to the ballot count and moving forward with the process.

Councilmember Kerr requested clarification on the issuance of the bond and the amount. Bond Counsel, Scott Ferguson from Jones Hall, explained that the Town would be issuing the bond for the Sewer Assessment District because given its location within the Town's boundaries. He estimated the bond amount to be \$3.2 million, but noted that the amount could be lower when and if cash prepayments were made.

Kerr questioned if the Town would be responsible for the bond in anyway, apart from the tax-free status it accorded to the bond. Ferguson offered that the payment would be from the assessments of the 52 parcels within the Sewer Assessment District and the Town would not be liable. In the event of non-payment, the County would impose liens on the property. The projected date for marketing the bond was mid to late January, 2009.

Mayor Mordo announced the final call for ballots before the close of the public hearing. No ballots were submitted.

CLOSED PUBLIC HEARING

COUNCIL MEETING RECESSED AT 7:45 P.M.:

The council meeting was recessed to permit the City Clerk to tabulate the ballots.

COUNCIL MEETING RECONVENED AT 8:00 P.M.

The City Clerk announced the results of the ballot tabulation. 48 valid ballots had been received with 41 yes and 7 noes resulting in an 85% affirmative vote in favor of the West Loyola Sewer Assessment District No. 1. The Clerk advised that the assessment would be equally weighted for all properties within the district with an estimated amount of \$62,600.00.

MOTION SECONDED AND CARRIED: Moved by Mordo, seconded by Warshawsky and passed unanimously to adopt Resolution No. 73-08 adopting the Engineer's report, confirming the assessment and ordering the work and acquisitions, and directed actions with respect thereto.

UNFINISHED BUSINESS

10. Maintenance Responsibility for Chaparral Way (Staff: R. Chiu)
(Item continued from September 11, 2008)

City Engineer/Public Works Director Richard Chiu introduced the item to Council. In March, 2008, the City Council had directed staff to survey the limits of Chaparral Way for the purpose of determining the portion of the road within the public use easement. The survey results indicated that approximately 78% of the roadway was within the

public use easement with the remainder located on private property. Chiu reviewed a slide of the easement survey with Council. Chiu noted that the Town had accepted the dedicated public use easement in 1978 and therefore had an obligation for minimal maintenance of the roadway to ensure safe use of the easement. The road had not been accepted into the Town's roadway system. The estimated cost for annual maintenance was \$15,000.

Chiu explained that the Town had several options relative to Chaparral Way public use easement. They included: 1) The town could abandon the public use easement which would eliminate the Town's obligation to perform any maintenance; or 2) reduce the width of public use easement to 5-7 feet which would be reserved for pedestrian/equestrian pathway purposes only (non-vehicular use). Chiu expected the maintenance costs to be significantly less with the reduced easement at an estimated cost of \$5,000 annually.

Councilmember O'Malley questioned the number of homes affected by the easement. Chiu noted that 6-8 homes were impacted. The number varied depending on whether the properties in the Blue Oaks subdivision were counted.

Mayor Mordo requested clarification on the different widths of the easement that were under discussion. Chiu offered that 5 feet would be sufficient for a pathway but that 7-10 feet was the preferred width for a pathway.

OPENED PUBLIC COMMENT

Tom McReynolds, resident, Chaparral Way questioned how the private section of the roadway would be treated. Chiu explained that if and when the property became developed, the Town would have an opportunity to request a dedication.

McReynolds explained that the main issue the residents have relative to Chaparral was safety. He described the road as narrow and hazardous and suggested that it was not appropriate for mixed traffic use. McReynolds offered that the neighbors had been maintaining the road for approximately 50 years. He supported the ban of public vehicular traffic on the road with the appropriate signage and gate and abandonment of the easement that did not connect to anything. McReynolds suggested that pathway route be clarified by signage.

City Manager Cahill suggested that if the Council could reach a conceptual consensus on the item; staff could work with the residents to reach an amenable plan for the road.

Nick Dunckel, resident and Pathways Committee Chair, commented that he felt very safe when he walked on Chaparral. The gravel road allowed the walkers to hear on coming traffic. Dunckel suggested that there were numerous other roads and trails that had more significant safety issues that should be addressed before Chaparral. He opposed abandoning the easement noting that it could be used in the future as a connector and offered that the option of reducing the easement was an amenable solution.

CLOSED PUBLIC COMMENT

Council discussion ensued. Mayor Mordo re-stated the options before Council. Council consensus was that Chaparral Way provided a good equestrian/pedestrian route. They did not support abandoning the easement and expressed their concerns with using Town funds to maintain a private road on an annual basis. They did concur that the Town could investigate ways to resolve safety issues on a one-time basis and supported private road signage. A gate was acceptable to limit vehicular traffic if the road was accessible to equestrians and pedestrians.

City Manager Cahill requested further clarification on the direction to staff. Council requested that the staff: 1) return to Council with an estimate, funding request and plan that was amenable to the neighbors for one-time safety improvements to the road; 2) there was no approval for annual maintenance to the road; 3) a gate to limit vehicular access that would be left open was acceptable if pedestrian and equestrians would have access to the road (gate sign should clarify that the road is open for pedestrian and equestrians); 4) no modifications to the easement were to be made; 5) there was no direction to build a new path on the road; 6) signage was to be placed at the beginning of the road to show the path and end of the road notifying users that the path ended and to re-direct them to Julietta Lane.

11. Update on Town Goals:

Emergency Preparedness

No report.

Environmental Initiatives

Mayor Mordo advised Council that the Environmental Initiatives Committee was scheduled to report out their findings on Town's "Green House Gas Emissions Inventory" at the next regularly scheduled Council meeting.

Parks and Recreation Assets and Programs

11A. Award of Contract, El Monte Road Project Segment 3 (Staff: R. Chiu)

City Engineer/Public Works Director Richard Chiu introduced the item to Council. Chiu reported that the bid opening for the project had been held on October 7, 2008. The Town had received seven bids ranging from \$350,000 to \$642,000. Staff recommended that the Council award the contract to the second lowest bidder, Joseph J. Albanese in the amount of \$416,246. Chiu noted that the low bidder had notified the Town that they had made a clerical error in their bid and requested that it be withdrawn. Additionally, staff recommended funding be approved for inspection services (approximately \$30,000), construction staking services (approximately \$20,000), and engineering construction support (approximately \$5,500).

Chiu proceeded with a presentation that included the proposed landscaping for Segment 2 and Segment 3 of the El Monte Road pathway project. Councilmember Kerr explained that the project had several significant components: 1) landscaping along Adobe Creek; 2) signal improvements to provide safe pedestrian passage in the area; 3) a path in the center of El Monte to connect to the path along the middle of El Monte under I-280; and 4) improvements on the north side of El Monte to the sidewalk located on the side of the road. Kerr suggested that several additional minor items had been identified since the

staff report was prepared. He proposed that the staff be given the appropriate discretion to ensure that the project included any minor changes that needed to be addressed.

Kerr explained that to act on the \$440,000 grant monies that had been awarded to the project, the Town had to provide matching funds of approximately 11-12%. This was a much lower amount than initially projected and budgeted.

OPENED PUBLIC COMMENT

Carol Gottlieb, resident, suggested that the proposed landscaping be placed far enough away from the path that annual maintenance would not be required. Gottlieb offered that a circular route using the signal that would loop to Stonebrook from the south side of El Monte was a preferred route for equestrians rather than down the median.

Kerr suggested that staff consider the route for part of the project.

CLOSED PUBLIC COMMENT

Kerr suggested that Council consider increasing the contingency for the project to \$90,000 to address the fencing (\$15,000) and additional items that had come up since the staff report. It was noted that the Council had approved \$740,000 for the project in the Capital Improvements budget and the amount under discussion was significantly less.

City Attorney Steve Mattas advised Council that the increases under discussion were within the range of permissible contract modifications and would not require the project to be re-bid.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O'Malley and passed unanimously to award the contract for the El Monte Road Pathway Project (Segment 3) to Joseph J. Albanese and to approve a project contingency fund of \$90,000 and authorize the City Engineer to approve potential contract change orders within said fund. Resolution #74-08.

Sewers and Infrastructure

Considered as Agenda Item #9.

NEW BUSINESS

12. Consideration of Advanced Award of Contract for Preparation of Construction Documents for West Loyola Sewer Assessment District No. 1 (Staff: R. Chiu)

Item was withdrawn from consideration by the applicant.

13. 1st Quarter Investment Report and Presentation for the Period Ending September 30, 2008 (Staff: N. Pegueros)

Item was continued to the next regularly scheduled City Council meeting.

PLANNING COMMISSION REPORT

No report. The Planning Commission has not met since the last City Council meeting.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND
COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember O'Malley reported that he had attended his final Santa Clara Valley Water District meeting as the City Council/Town's representative. The District had expressed the possibility of imposing water rationing of approximately 20% if we experience another "dry" year.

STAFF REPORTS

City Manager
City Attorney
City Clerk

- No staff reports were given.

ADJOURNMENT

There being no further business, the meeting was adjourned by consensus of the City Council at 9:00 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the October 23, 2008 regularly scheduled City Council meeting were approved as presented at the December 11, 2008 regularly scheduled City Council meeting.