



**MONTE SERENO CITY COUNCIL
MINUTES**

September 15, 2009

REGULAR MEETING CALLED TO ORDER

At 7:34 p.m., Mayor Wright called the meeting to order.

PLEDGE OF ALLIEGIENCE

ROLL CALL

Present: Council Members Anstandig, Garner, Malloy, Perry, and Mayor Wright

Absent: None

Staff Present: City Manager Loventhal, City Attorney Powell, Associate Planner McGranahan and City Clerk Chelemengos

ORDERS OF THE DAY

City Manager Loventhal provided information on the matter of the recently considered legal non-conforming ordinance and stated that the matter would be placed on a future agenda.

ORAL COMMUNICATIONS

Kathleen King, Mike Mielke, and Gary Effren spoke with regard to the Turkey Trot and encouraged participation of the Council Members and Monte Sereno residents and staff.

Ray Davis, Los Gatos, spoke with regard to the cement plant in Cupertino and the plant's upcoming application before the Bay Area Air Quality Management District.

Mark Brodsky, resident, spoke with regard to the recent recall effort.

Len Perham, resident, spoke with regard to on-going litigation, potential conflicts of interest and inquired about information available to the public.

City Attorney Powell clarified that she does not have a conflict of interest with regard to the law firm hired to represent the City since she does not work for nor is she affiliated with the law firm hired to represent the City in the ongoing litigation.

Suzanne Jackson, Cultural Commission, spoke with regard to the Monte Sereno picnic at Daves Ave School and other events planned for the remainder of the year.

Council Member Garner announced that Danville Town Council Member Mike Shimansky had passed away. She also spoke of his community service.

Mayor Wright offered to adjourn the meeting in honor of the late Danville Council Member Shimansky.

WRITTEN COMMUNICATIONS

None

Council Member Anstandig pulled warrant #11687 from the Consent Calendar and stated that he would not be able to vote on the matter due to a potential conflict of interest relative to his employment affiliation with the San Jose Mercury News.

CONSENT CALENDAR

1. Approve Minutes of September 1, 2009 City Council Meeting
2. Approve Warrant List in the amount of \$152,980.66 (\$153,044.29 - \$63.63 (Warrant #11687))
3. Approve Monthly Treasurer's Report of Month of August, 2009
4. Approve Monthly Financial Report for Month of August, 2009
5. Resolution Authorizing Acterra To Apply For The EECBG Funding Allocated To The City Of Monte Sereno

Council Member Perry moved to approve the Consent Calendar with the exception of Warrant #11687. The motion was seconded by Council Member Garner and the motion passed with a 5-0 vote.

Council Member Perry moved to approve Warrant #11687 in the amount of \$63.63. The motion was seconded by Council Member Garner and the motion passed with a 4-0-1 vote. Council Member Anstandig abstained.

PUBLIC HEARINGS

6. SS-09-22 & U-09-05 - 18232 Daves Avenue - Property Owner: Boyle
The applicant requests approval for a Site Development Permit to construct a new accessory structure of 437 sq. ft. The applicant also requests a Use Permit to allow more than one accessory structure. The applications were previously reviewed and recommended for approval by the Site and Architecture Commission.

Associate Planner McGranahan provided a staff report on the application and answered questions from the Council.

Dan Boyle, resident, offered to answer questions from the Council.

At 8:05 p.m. the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Garner commented on the lack of vegetation on the lot.

Mr. Boyle, applicant, explained that when he bought the lot there was no vegetation on it and that he is in the process of trying to landscape the property.

Council Member Garner made the findings and moved that the City Council approve the Use Permit. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

Council Member Garner made the findings and moved to approve the Site Development Permit. The motion was seconded by Council Member Perry and the motion passed with a 5-0 vote.

7. TR-09-05 - 17990 Daves Avenue - Property Owner: Daves Avenue Renovations LLC
Applicant is requesting a Tree Removal Permit to remove one (1) tree. The tree requested to be removed is a Blue Oak.

Associate Planner McGranahan introduced the application and answered questions from the Council.

Ken Linstead, architect, spoke in favor of the tree removal request and stated that one of the residents has an allergy to the tree. Mr. Linstead also answered questions from the Council and stated that he thought the tree had to be replaced with the same type removed. He stated that the applicant would like to replace the tree with some other type of tree.

At 8:13 p.m., the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Malloy stated that she had been on the Site and Architecture Commission when the house was originally reviewed and that her recollection of the denial of the tree removal had to do with the subject tree not impeding the building footprint and that the tree provided screening. She inquired why the applicant was requesting removal of this tree only when there are other oak trees on the property.

Council Member Anstandig inquired about treatment of the reported allergy.

The property owner explained that her son is allergic to this type of tree as well as other types, but that she is requesting removal of this tree because it is located within the child's play area and close to a future pool site.

Council Member Garner stated that in her experience allergens are airborne and removal of the tree may not solve the issue of the allergy. She also inquired if the City can request a second arborist opinion with regard to the health of the tree.

Council Member Malloy inquired about the property owner's mention of a pool.

The Property owner explained that they have plans to build a pool in the future.

Council Member Malloy expressed her concern with the tree removal request being based on allergies when the same type of tree exists on other portions of the lot, yet the applicant requests the removal of one tree only. She stated that the trees around the property are used to mitigate visual impact and preserve privacy.

Following discussion, Council Member Anstandig moved to approve the tree removal request with the condition that the applicant replaces the tree with four (4) native trees.

Council Member Perry stated that he usually is not inclined to grant removal of a tree that was originally denied by the Site and Architecture Commission. However, he stated, that he thinks that the removal can be mitigated and feels that he is not in the position to disagree with applicant's claim that her child is allergic to the tree. Council Member Perry asked Council Member Anstandig if he would consider an amendment to the motion requiring a replacement plan consisting of two native trees instead of four.

Council Member Anstandig agreed to the modification and amended his motion to grant the tree removal request with the condition that the applicant plant two (2) trees native to California and in a location approved by the Planning Department. The motion was seconded by Council Member Perry and the motion passed with a 3-2 vote. Council Members Malloy and Garner voted No.

8. Consider Initiating Annexation of Monte Sereno Urban Pockets #1, #2, and #3 pursuant to Government Code Section 56375.3 See Attachment A for list of all properties located in Monte Sereno Urban Pockets #1, #2, and #3

Mayor Wright provided background information on the matter.

City Manager Loventhal presented the staff report and answered questions from the Council. He spoke with regard to the expenses and revenues the City could expect should the annexation pass.

At 8:45 p.m., Mayor Wright called for a brief recess to allow time for the Council Members to read the written correspondence received pertaining to this matter. At 8:55 p.m., the meeting was reconvened.

Council Member Perry inquired about the area between Monte Sereno and Saratoga.

Staff explained that the area Council Member Perry inquired about was not being considered for annexation.

At 8:58 p.m. the Public Hearing was opened.

Michael Kolitz, county resident, inquired about the annexation process and urged the Council to wait until there is more county resident support.

Mayor Wright asked the City Attorney to explain how the "pockets" are determined. City Attorney Powell explained that LAFCO (Local Agency Formation Commission) determines the pockets.

Wanda Alexander, county resident, spoke with regard to past development in the County and stated that the City's development review process may assist neighbors when faced with development impacts. Ms. Alexander spoke in support of annexation.

City Manager Loventhal discussed the differences between the urban service area and sphere of influence.

Chuck Nunnally, county resident, spoke in opposition to annexation and referred to a past survey that indicated that the residents support annexation only if the annexation is supported by the property owners of the properties to be annexed. He urged the Council to hear the position of the people if they are not allowed to vote on the matter. Mr. Nunnally stated that the process is unfair and that it feels as if the rights of the property owners are being taken away.

Tom Lofgren, county resident, pointed out that the state law does not require a vote on the annexation issue, but that the City Council could allow for a vote of the affected property owners. Mr. Lofgren stated that three years ago when the matter was last considered 70% of the county pocket residents were opposed to annexation. He stated that the matter should be the choice of the property owners.

Thomas DeStefano, county resident, expressed opposition to the annexation and the process.

Deborah Rice, county resident, spoke in support of the annexation for the protection that would be provided by the application of the city development standards and review process.

Barry Blalick, county resident, spoke in opposition to the annexation.

Carl Ferreira, county resident, inquired about the corridor of land between County pockets 1 and 2 and if it were to be a part of the proposed annexation. He inquired about the tax revenue that would be generated should the properties be annexed. Mr. Ferreira spoke of the last repair estimates for Blytheswood Drive and asked about the maintenance of Blytheswood Drive should the annexation pass. He stated that he did not understand why the City Council would want to bring into the City a new block of antagonistic voters.

Chuck Kappen, county resident, spoke in opposition to the annexation.

Mary Speisman, questioned the reason for the City's pursuit of annexation and stated that the division of the subject properties and pockets appears as a manipulation. She stated that she sees no compelling rationale for annexation and urged the Council to discontinue the annexation process.

Jason Farwell, county resident, stated that he does not understand the motivation for the City to annex the properties and he spoke in opposition to the matter. He urged the members of the Council to listen to the property owners' opposition.

Ray Davis, Los Gatos, spoke in favor of annexation for the protection it might bring to residents, especially with regard to development standards and maintaining neighborhood compatibility.

Len Perham, resident, spoke in opposition to the annexation.

Srini Madala, resident, thanked the City for putting together information on the annexation. He stated that he does not feel the City is ready for annexation and needs to work on improving services and relationships and communications with current residents. He stated that the matter should be voted on by the residents and county property owners.

Barry Ford, resident, expressed opposition to the proposed to annexation based on costs and potential assessed value reduction. He expressed skepticism with regard to the estimated costs of maintaining (county) roads and retaining walls.

Mark Brodsky, resident, urged the county residents, should they be annexed into the City, to register to vote and run for City Council to make the changes that they would like to see.

Lon Allan, resident, spoke in opposition to annexation and stated that both the residents of the City and the residents of the targeted county pockets should be allowed to vote on the matter.

Suzanne Jackson, resident spoke in favor of the annexation and stated that the City would better serve the area and provided local emergency responders as well as other essential services. Ms Jackson also answered questions from the Mayor with regard to emergency response times.

Patricia Ladd noted that she had submitted a letter in opposition to the annexation.

Since there was no one else wishing to speak, the Public Hearing was closed at 9:53 p.m.

Council Member Perry expressed appreciation to those who commented. He stated that he does not agree with the opposition, but that he would respect the opinions of the county property owners and will not support continuation of the annexation process. He stated that he hoped that in the future the County residents would want to be come a part of Monte Sereno.

Council Member Garner stated that her vote on the matter would be no. She stated that she does not see a clear benefit to the residents of Monte Sereno and that there is currently no support or very little support from the residents and property owners for annexation.

Council Member Malloy stated that she thinks annexation would be good for the residents of the county and good for the residents of the City, but based on the public opposition she would vote against further pursuit of annexation.

Council Member Anstandig stated that it was reassuring to see such a large turn out. He stated that he thinks it is in the best interest for all to be governed by the same rules and that Mr. Davis made a good point about the City being able to assist property owners through the development review process. Council Member Anstandig stated that he would not support further pursuit of annexation based on the public opposition.

Mayor Wright spoke with regard to benefits annexation would bring to the County residents. He then stated that four Council Members had indicated that they would not support annexation at this time. Mayor Wright stated that the Council would now move on to the next matter on the agenda.

UNFINISHED BUSINESS - None

NEW BUSINESS

9. ABAG Local Hazard Mitigation Plan Slide Show

City Manager Loventhal directed the Council's attention to the ABAG Local Hazard Mitigation Plan provided in the Council packet and stated that any comments should be submitted to Associate Planner McGranahan

10. Discuss Committee/Commission Appointments

Mayor Wright brought up the issue of appointment because he would like Council Member Malloy to switch position on two Commission appointments. Therefore Council Member Malloy would become the City's representative on the League Of California Cities Peninsula Division (LCC) and the Santa Clara Valley Water District Commission and he (Mayor Wright) would serve as the alternate.

Council Member Perry moved that the Council accept the modification to the Commission appointments as described by Mayor Wright. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

UNFINISHED BUSINESS - None

COMMITTEE/COMMISSION REPORTS

At 10:20 p.m., Mayor Wright called for a brief recess. At 10:21 p.m., the meeting was reconvened.

The Council Members reported on their various committees/commissions as assigned.

CITY MANAGER'S REPORT

City Manager reported on various administrative matters.

ADJOURNMENT

At 10:45 p.m., Mayor Wright adjourned the meeting in memory of late Danville Council Member Mike Shimansky to 7:30 p.m., Tuesday, October 6, 2009 to be held in the City Council Chambers located at 18041 Saratoga-Los Gatos Road, Monte Sereno, and California.

A. Curtis Wright, Mayor

ATTEST:

Andrea M. Chelemengos, City Clerk