



**MONTE SERENO CITY COUNCIL
MINUTES**

October 20, 2009

REGULAR MEETING CALLED TO ORDER

At 7:31 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, and City Clerk Chelemengos

ORDERS OF THE DAY

Council member Perry reported that the principal from Daves Avenue School could not be in attendance to speak on Agenda Item #1 and moved that the matter be continued to a future date to allow for the school principal to be in attendance. The motion was seconded by Council Member Garner and the motion passed with a 5-0 vote.

ORAL COMMUNICATIONS

Linda Perham, spoke about restricting parking on Viewfiled Road near highway 9.

Ray Davis, Los Gatos, spoke with regard to a cement plant in Cupertino and the ongoing review of the operation of the plant by the Bay Area Air Quality Management District Board.

WRITTEN COMMUNICATIONS

1. Letter from Daves Avenue Elementary School.

Continued to a future date (see motion above).

CONSENT CALENDAR

2. Approve Minutes of October 6, 2009 City Council Meeting
3. Approve Warrant List in the amount of \$93,559.07
4. Approve Monthly Treasurer's Report of Month of September, 2009
5. Approve Monthly Financial Report for Month of September, 2009

Council Member Perry moved to approve the Consent Calendar. The motion was seconded by Council Member Malloy and the motion passed with a 5-0 vote, with the exception of the minutes, which were approved by a 4-0 vote. Council Member Anstandig abstained due to his absence from the October 6, 2009 meeting.

PUBLIC HEARINGS

Council Members Malloy and Anstandig recused themselves due to the location of their property within 300 feet of the subject property. The Council Members left the Council Chambers.

6. SS-09-36 - Address: 18020 Saratoga-Los Gatos Road - Property Owner: Goetz
Applicant requests a Site Development Permit to allow a 52-inch, rail horse fence within the required front yard setback and along the Saratoga-Los Gatos Scenic Highway Corridor.

City Manager Loventhal provided a staff report on the application and answered questions from the Council.

Alicia Goetz, applicant, spoke in favor of the application and offered to answer questions from the Council.

At 7:50 p.m. the Public Hearing was opened. Since there was no one wishing to speak, the Public Hearing was closed.

Council Member Perry made the findings and moved that the City Council approve the Site Development Permit. The motion was seconded by Council Member Garner and the motion passed with a 3-0 vote.

UNFINISHED BUSINESS

7. Consider Youth Commission Appointment

City Clerk Chelemengos provided a staff report and answered questions from the Council.

Isabelle Monahan introduced herself and asked to be reappointed to the Youth Commission.

Council Member Perry moved to appoint Isabelle Monahan to the 2009/2010 Youth Commission. The motion was seconded by Council Member Anstandig and the motion passed with a 5-0 vote.

8. Hold Second Reading And Adopt An Ordinance Of The City Council Of The City Of Monte Sereno Amending Title 6, Chapter 6.09, Section 6.09.050 Of The Monte Sereno Municipal Code By Amending The Requirements For The Removal Of Rubbish Receptacles

City Manager Loventhal provided a brief report on the matter.

Mayor Wright invited members from the public to comment.

Linda Perham, resident, spoke in favor of the proposed ordinance and thanked the City Council for bringing forth the proposed ordinance.

Council Member Perry moved to waive second reading and adopt by title only, An Ordinance Of The City Council Of The City Of Monte Sereno Amending Title 6, Chapter 6.09, Section 6.09.050 Of The Monte Sereno Municipal Code By Amending The Requirements For The Removal Of Rubbish Receptacles. The motion was seconded by Council Member Malloy and the motion passed 4-1. Council Member Garner voted No.

NEW BUSINESS

9. Discuss Site Development Permit Approval and Tree Removal Process Ordinance

City Manager Loventhal noted the inclusion of the Site Development Permit findings relative to tree removals and the Tree Removal Permit findings. He discussed language in both code sections relative to tree removals.

Council Member Garner spoke with regard to the removal of a significant tree that was approved by the Site and Architecture Commission and inquired of the process and necessary findings. Council Member Garner pointed out that the City tree protection regulations require placement of protective fencing five feet out from the tree. She stated that the Council may want to consider more aggressive protection of trees in Monte Sereno and require tree protection fencing be extended to encompass the area under the drip line of the tree. She also inquired about the City's enforcement powers when a tree designated to be saved or protected is damaged as a result of construction and piling of fill and/or construction materials.

Council Member Malloy wondered if there is a question as to whether the Site and Architecture Commission should have the authority to allow removal of trees in conjunction with development projects.

Council Member Garner stated that the tree about which she spoke was not in the footprint of a proposed structure. She was confused as to why the tree would be removed and why the tree removal request had not been reviewed by the City Council, since the tree was not within the footprint of the proposed construction. She wondered if trees of a certain size should be reviewed by City Council.

City Manager Loventhal spoke with regard to the required findings for tree removals when associated with development applications. He stated that the language in the code associated with tree removals could be modified in order to tighten up the regulations.

Discussion commenced with regard to tree protection measures.

Council Member Garner spoke in favor of looking at bond requirements and tree protection and removal regulations used by other jurisdictions so that the Council could evaluate the effectiveness of the City's tree protection measures.

Council Member Malloy stated that in the past the Site and Architecture Commission had been prudent about tree removals. She stated that she thought that the Commission is doing a good job and that the process does not need to be changed. However, she did indicate support for consideration of increasing the tree protection fencing to encompass the area under the drip line of tree to be preserved.

Council Member Garner stated that she was confused with Site and Architectural Commission's authority to grant a tree removal when the tree was not within footprint of the proposed structure.

City Manger Loventhal clarified that the particular tree Council Member Garner spoke of was removed after meeting the findings of Municipal Code Section 10.15.080, which regulates tree removal that are not associated with construction and trees within a proposed footprint.

Council Member Anstandig stated that he finds the Site and Architecture Commission to be vigilant about tree removals and replacements. He stated that it would be helpful if significant trees were clearly identified /marked for the Commission and as a regular part of the Site Development Permit Process. He stated that the tree in question may possibly have been identified as a safety concern and that may have been the rationale of why the tree was allowed to be removed.

Council Member Perry recalled the subject tree being located on the Los Gatos/Monte Sereno border. He noted the presence of Barbara Allen, chairperson of the Site and Architecture Commission and asked her to provide some clarification on the matter.

Chairperson Allen stated that there was quite a discussion regarding the tree. She stated that based on the significant size of the tree, how it restricted use of the property as well as posing safety concerns with the tree's natural tendency to drop branches (self prune), the tree was allowed to be removed. With regard to expanding the tree protection fencing to reach the outward edge of the drip line, Ms. Allen cautioned the Council that this may limit buildable area of certain property.

Discussion commenced. There was consensus to direct staff to place an item on an upcoming Site and Architecture Commission agenda for discussion of how the Commission is interpreting the necessary findings relative to tree removals associated with development.

Ray Davis, Los Gatos, spoke with regard to the dangers of eucalyptus trees and the toxicity of the leaves and the fire hazards associated with this type of tree.

Following additional discussion, there was Council consensus to look at how other cities regulate tree removal and protection and to bring the information back to the City Council.

Council Member Garner stated that she feels the City needs to incorporate strong enforcement measures in the tree ordinance to address the cases where preserved trees are damaged or killed as a result of construction activity.

Council Member Perry stated that enforcements measures are already in place and that there is no need to change the ordinance. He stated that he feels that the Site and Architecture Commission is doing good job and is cautious with tree removals, based on Ms. Allen's testimony.

10. Discuss Commission/Committee Assignments

Council Member Perry requested that the City Council consider appointing a City Council Member as a liaison between the City and the County Sheriff. (He stated that there may certain circumstances where it would be beneficial for such a relationship and would also provide for a means of awareness of activities at the County level and also be beneficial during times of emergency.)

Mayor Wright inquired what the job description of the suggested liaison would be. He stated that he did not feel a liaison was necessary and could not support it at this time.

Council Member Perry stated that the liaison would be the same as the liaison to the Santa Clara County Fire Department or Los Gatos/Monte Sereno Police Department and would involve no management authority.

Discussion commenced.

Council Member Malloy stated that she could support the addition of a Liaison that would keep contact with County departments and facilitate good relations between the City and the County Sheriff office.

Council Member Anstandig agreed with Council Member Malloy's comments and supported the idea.

Council Member Garner suggested that the idea be explored to see if such a position would be beneficial before making a formal position. She also noted that the position would require additional time from a Council Member.

Council Member Perry stated that he thinks the time commitment would be minimal.

Mayor Wright stated that he would like to keep the liaison title general such as law enforcement liaison.

Following discussion, Council Member Perry moved that the Council establish a County Sheriff Liaison position and that the Liaison position be assigned to the same Council Member that serves as the Police and Fire Liaison.

City Attorney Powell clarified that the liaison would have the authority to act or speak on matters on behalf of the Council only if a majority of the Council has formally acted on or expressed a position thereon.

The motion was seconded by Council Member Malloy and the motion passed with a 4-1 vote. Mayor Wright voted No.

COMMITTEE/COMMISSION REPORTS

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

COUNCIL MEMBER COMMENTS

Council Member Perry reported on the recent Police Recognition Event and commended Mayor Wright on the speech he delivered at the event.

CITY MANAGER'S REPORT

City Manager reported on various administrative matters.

CLOSED SESSION

At 9:10 p.m. Mayor Wright announced the subject of the Closed Session and adjourned the meeting into Closed Session.

CONFERENCE WITH LEGAL COUNSEL – POTENTIAL LITIGATION

- Pursuant to Government Code Section 54956.9 (c) the Council Will Meet In Closed Session to Discuss Potential Litigation
- Pursuant to Government Code Section 54954.5 Public Employee Performance Evaluation of City Manager

RECONVENE TO OPEN SESSION

At 11:04 p.m. the meeting was reconvened to open session.

REPORT ON ACTION TAKEN DURING CLOSED SESSION

It was reported that no action was taken.

ADJOURNMENT

At 11:07 p.m., Mayor Wright adjourned the meeting in memory of Alana Williams to 7:30 p.m., Tuesday, November 3, 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