

CITY OF BELMONT

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July 23, 1979

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TO: MAYOR AND CITY COUNCIL

FROM: KENNETH M. DICKERSON, CITY ATTORNEY

SUBJECT: REZONING OF TWIN PINES PROPERTY NOT PURCHASED
BY THE CITY AS AFFECTED BY PURCHASE AGREEMENTS

Q. DOES THE CITY HAVE THE RIGHT TO REZONE THE PROPERTY?

Conclusion: Yes

None of the agreements to purchase the Twin Pines Property specifically provides that the property would not be rezoned. Although it might be contended that it was the intent of the parties to the agreement that the properties not be rezoned from the higher use and that the agreement not to rezone should be implied, such a provision would be illegal and unenforceable. The police power to zone property may not be limited by agreement. Such an agreement would be illegal and against public policy. Griffin v. Marin, (1958) 157 C.A.2d 507; Acker v. Baldwin, (1940) 18 C.2d 341.

Q. SHOULD THE CITY REZONE THE PROPERTY, IS IT POSSIBLE FOR THE SELLERS OF PORTIONS OF THE TWIN PINES PROPERTY TO THE CITY TO SEEK AND OBTAIN REDRESS FROM THE CITY?

Conclusion: Yes

In 1972 a written agreement was executed between the City of Belmont and Three Acres Inc. for the purchase of 17.12 acres of the Twin Pines property. The agreement recited that Three Acres was willing to sell the property "provided contiguous property owned by it is rezoned". The agreement further provided "nothing contained in this agreement shall be interpreted as an agreement by City to rezone said properties, it being understood that City shall rezone said property only if it is required to achieve the objectives of the zoning plan and the General Plan of City. However, it is agreed by Three Acres and City that in the event said property is not rezoned to commercial and/or R-4 uses or some other zoning classification agreed to by Three Acres (as defined in Ordinance No. 360 on the date of this agreement) on or before April 30, 1973, this agreement shall be null, void and of no effect". Three Acres, Inc. applied for rezoning according to the agreement and the property (Parcels 2 and 3 of Twin Pines) was rezoned to R-4 and C-2. A short time later, a major down zoning of all multi-family zoning districts in the City occurred. In order to retain the R-4 density contemplated in the 1972 agreement, the property

was rezoned by the City to R-5 District. The zoning designations of R-5 and C-2 have remained in effect since that time.

In 1974, the City executed a written contract to purchase an additional 2.5 acres of the Twin Pines Property. The agreement provides for the sale by a number of individual parties and business entities. Apparently, at the time of the contract, the property was no longer owned by Three Acres, Inc. Whether the rights of Three Acres, Inc. was assigned to the parties described as "owners" is unknown.

A third agreement was executed between the City and the then owners of the remaining Twin Pines Property on January 6, 1977. The agreement provided for the purchase by the City of Parcels 2 and 3 of the Twin Pines Property for the sum of \$470,000.00, conditioned upon the passage by the City of a bond issue to raise the funds required for the purchase. The bond issue did not pass. However, the agreement by its terms granted to the City options to purchase portions of the property as follows:

- (a) Option No. One to purchase that portion of owners' property consisting of approximately 1,875 square feet and shown on Exhibit "A" attached hereto for the sum of \$7,012.00.
- (b) Option No. Two, to purchase approximately 7,796 square feet of owners' property as shown on Exhibit "A" attached hereto for the sum of \$29,157.00.
- (c) Option No. Three, to purchase approximately 9,455 square feet of owners' property as shown on Exhibit "A" attached hereto for the sum of \$35,362.00.
- (d) Option No. Four to purchase approximately 3,374 square feet of owners' property as shown on Exhibit "A" attached hereto for the sum of \$12,619.00.

The agreement further provided:

"City's right to exercise any or all of said options is subject to the condition precedent that owners shall have first obtained all of the permits required to be obtained from City to allow the construction of a senior care and residence facility as provided in the Use Permit issued by the Planning Commission of the City of Belmont by its Resolution No. 1976-61 and amended by the City Council of the City of Belmont; provided, however, that if owners fail to apply for such permits by January 15, 1980, such condition shall be automatically waived."

Mayor and City Council
re: Twin Pines Property

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Said options shall terminate at 5:00 o'clock P.M. on the date which is 180 calendar days after the date owners apply for issuance of the last of all permits required to be obtained from City to construct said senior care and residence facility, but in no event later than July, 1980."

Paragraph 5 of the agreement provided:

"In the event that the ballot measure is not approved by a sufficient majority of registered voters of the City of Belmont, owners may proceed to develop said property pursuant to the limitations and conditions of the Use Permit granted by the Planning Commission of the City of Belmont and amended by the City Council of the City of Belmont at its meeting of November 29, 1976, applicable laws and regulations and the follows:" (setting forth various conditions)

Finally, paragraph 6 of the agreement provides:

"Owners hereby grant to City a nonrevocable license for the nonexclusive use of the private sewer main on the property which serves the Manor Building and the wing addition of said Manor Building purchased by City from Owners in 1974."

It is clear that Three Acres, Inc., and later the parties designated as Owners, bargained with and agreed to sell their property to the City on condition first that their remaining property be rezoned and later that they be allowed to develop their remaining property as a senior care and residence facility if the City did not buy it.

The fact that the City cannot contract away its police power and right to govern does not necessarily mean that the property owners are without redress. A government contract is interpreted in the same manner and under the same rules as a private contract. There is in every contract an implied covenant that neither party will do anything to destroy or injury the right of the other to receive the benefits of the contract. This means that in every contract there exists an implied covenant of good faith and fair dealing. Restitution or quasi-contractual recovery is based on unjust enrichment. Where one obtains a benefit which he may not justly retain, he is unjustly enriched. The quasi-contract, or contract implied in law, is an obligation created by the law without regard to the intention of the parties, and is designed to restore the aggrieved party to his former position by return of the thing or its equivalent in money. It has been held that recovery may be had for mistake of law as well as mistake of fact. Further, restitution may be had under a contract void, voidable or otherwise ineffective.

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RACEMISE BOUND

It is not the purpose of this opinion to convey the impression that an action brought by the property owners against the City would necessarily be successful. It is impossible to make such a determination without knowing what the testimony and evidence would be in such a proceeding. It is the general rule, subject to exceptions and qualifications that an illegal contract cannot be enforced. It has been held that a contract against public policy cannot be made the foundation of any action either in law or in equity. It has also been held that the rule is not applied to secure justice between the parties but from regard for a higher interest--that of the public whose welfare demands that certain transactions be discouraged. However, the general rule denying relief to a party to an illegal contract is subject to a wide range of exceptions. In each case the extent of enforceability and the kind of remedy granted depend upon a variety of factors including the policy of the transgressed law, the kind of illegality and the particular facts involved. Accordingly, the courts have ruled that where the public cannot be protected because the transaction has been completed, where no serious moral turpitude is involved, or the defendant is the one guilty of the greater moral fault and where to apply the rule would be to permit the defendant to be unjustly enriched at the expense of the plaintiff, the rule denying enforcement of illegal contracts should not be applied.

Thus, while it is not clear that the property owners would prevail in an action brought against the City, it is clear that the possibility does exist.


KENNETH M. DICKERSON

KMD:c

A boost for recreation plan in Belmont

By Terry Robertson
Times Tribune Staff

BELMONT — A developer, who has hopes of building a hotel, restaurant and specialty shopping center on vacant land east of the Bayshore Freeway, has agreed to pay for an environmental impact report for the site of the city's proposed marina ballfields.

Developer Gary Castro and Associates agreed that, since the proposed site of the ballfields is adjacent to his property, the EIR for both sites should be done in one package.

In return, the city has agreed to

wave a \$3,000 administrative fee normally charged to developers for review of environmental documents. The EIR will cost nearly \$40,000.

The 80-acre proposed project could result in something of a coup for the city. Castro and Associates also have been discussing with the city staff the possibility of a land swap involving his site and the marina ballfield if the EIR shows that his land, which is closer to the bay, is not stable enough for development.

In that case, the developer has indicated he may be willing to construct the ballfields, too.

But the developer has made clear that the possibility exists only if a land swap occurred.

"It's just speculation now," said Vice Mayor Margaret Buckley. "It's really premature to talk about, because it has to go through I don't know how many state agencies and how many years down the line before the EIR is complete."

Development of the 20-acre marina site near Marineworld Parkway into a baseball and soccer fields has been a top priority for the city and its recreation supporters for years.

A year-old study by John Sue Associates of Oakland estimated that

development of the site for such recreational use would cost about \$2.3 million.

Tentative plans have been made to build the sports fields on a piecemeal basis as the city can find the funds.

In addition to all this, the developer has agreed to pay \$10,000 to contract with the Association of Bay Area Governments for a computerized system of analyzing the environmental impact of his project.

The city would then be able to continue to use the system for other projects.

Belmont
Hotel, Restaurant, & Shopping Center,
of Times Trib. 11/15/79

Suit filed in battle to split merged lots

By Terry Robertson
Times Tribune Staff

BELMONT — Five property owners, including a reluctant City Councilman Frank Gonsalves and his wife, filed suit in San Mateo County Superior Court this week challenging a law which took away their rights to build on or sell their land.

If their challenge is upheld in court, it will overturn a two-year-old interpretation by City Attorney Kenneth Dickerson of a state law which merged more than 435 lots in Belmont.

"It would require looking through the (county-filed property tax) rolls," said attorney Donald Costello of San Francisco, who filed the suit of behalf of the property owners. "To my knowledge it would unmerge most of them."

The lawsuit is an apparent last ditch effort to regain the lots they lost when a state law merged them in January 1977. Many of them, including Councilman Gonsalves, have fought unsuccessfully with the City Council over the past six months trying find a solution to the problem.

"We've been trying to work this thing out, mostly negotiating, to make everybody happy," Costello said. "We have had no success."

Costello has been solely Gonsalves's attorney throughout the controversial council proceedings and, because of his public exposure, was approached by the other property owners to represent them in the suit.

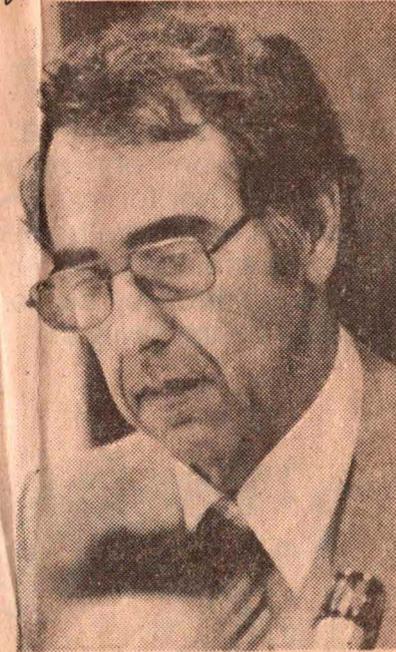
They are Olga and Albert Cortopassi, Marsha and Angelo Fogliani, Denise and Paul Romeo, Virginia

and Elmer Talbert and Violet and William Wacker.

They all own merged lots that the City Council decided would be separated in September only if an impending environmental impact report by the city planner determines that development would have an insignificant impact.

Gonsalves's situation is a little different. His merged lot on Lyndhurst Court was considered a "hardship lot" because he, unlike the others, had begun building a home on it without the knowledge that it had been merged. After a long, bitter council fight, the council decided that he would have to post a promissory note as a lien against environmental impacts before it could be separated.

See **SUIT**, Page B-3



Staff Photo by Reg McGovern
Frank Gonsalves

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SUIT

Continued from Page B-1

Ironically, when contacted by a reporter about the suit, Gonsalves immediate reaction was that he would not be involved in a lawsuit against the city. But when told he was named as a plaintiff on the suit he exclaimed, "Oh, Christ. Am I really? I didn't know that. Don Costello!"

Costello insisted, though, that Gonsalves

knew he was a plaintiff in the suit.

"Perhaps he didn't know it had been filed," he said.

Later, after some thought, Gonsalves recanted.

"I really don't mind being a plaintiff in this thing," he said. "But I'll be very concerned if I have to deprive myself from taking part in some of the council discussions on this issue. I'll have to talk to the city attorney."

Many believe that Gonsalves already is prohibited from being involved in

any land use issues that come before the council because of his involvement in the merger issue.

Essentially, the law merged two or more adjacent lots under one ownership if they involved undeveloped parcels that were less than the minimum zoning size for building construction.

This meant that anyone owning two or more lots under those conditions suddenly found themselves owning technically just one larger lot effectively prohibiting more than one structure from being built there.

Handwritten: Times Tribune
June 28, 1979

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Tribune
Dec 12, 1978

Tribune 12-12-78

Gonsalves' housing woes

Terry Robertson
Tribune Staff Writer

Belmont City Councilman Frank Gonsalves pleaded last night that he was unaware he was building a home illegally on a substandard parcel of land and placed the blame on the city administration for issuing a building permit allowing him to build on it.

"Since I was given the permit, I assumed the application (for a permit to build the home) was proper," he told the council in a statement. "Because this permit presumably confirmed the lot's conformance, why then should I question its validity?"

He later scolded the building administration for putting him in an embarrassing situation.

Gonsalves was responding to charges by some Belmont residents that he was building a second home on a parcel that already was occupied by a home — something that is illegal.

At least one Belmont resident has requested Gonsalves' resignation.

The controversy came to light last week after inquiries by two Belmont residents concerning two adjacent lots on Lynhurst Court in Belmont, owned by Gonsalves, aroused the interest of the city's building official.

After some checking, the official,

Richard Shaw, found Gonsalves may be caught in a land use tangle that has plagued other unknowing residents.

The tangle stems from a state law which took effect in January of 1977 merging all adjacent lots which do not conform with zoning requirements, are owned by one person and have not been developed.

These criteria apparently apply to Gonsalves' lots.

However, there is another twist to the Gonsalves issue. Gonsalves was granted the permit in June to build on his undeveloped lot, which is 8,043 square feet in size — a size which has not met the minimum zoning standards since a year after he bought the lots in 1966.

Both problems went unnoticed by the building department when Gonsalves was granted his building permit. In the meantime, the structure has reached framing stages.

Just as has been the policy in other lot merger cases, Shaw requested the issue be put on the City Council's agenda for discussion.

A public hearing to determine whether the city should record the merger or unmerge the lots was set last night for Jan. 22. Gonsalves abstained from voting.



Frank Gonsalves

see over

San Mateo Times -
Dec 6, 1979



Margaret Buckley

Belmont's Margaret Buckley loses two and wins one

BELMONT — Councilwoman Margaret Buckley Tuesday night failed again in her third effort to appeal two actions taken by the Planning Commission, but succeeded in getting her major concern — downtown parking — placed before the council.

In compliance with Buckley's arguments that solutions needed to be sought to ease a serious parking shortage in the city's compact downtown area, the council set a special meeting for Jan. 15 to study the problem.

However, that was about all Buckley and a majority of the council agreed on.

On Oct. 24, Buckley appealed two Oct. 15 commission approvals of a parking variance at 901 Waltermire St. and a use permit for a restaurant

at 390 El Camino Real. Both the variance and permit would further crowd downtown parking, she said.

City Attorney Kenneth Dickerson said the appeals failed on technicalities, so Mayor William Hardwick had them removed from the agenda. Hardwick admitted Tuesday he should have removed the appeals during the public hearing, rather than before.

Buckley tried to appeal a second time and was "ignored," she said.

Buckley maintained Tuesday night that she had the legal right to appeal, and at least get a public hearing on the matters. City Attorney Kenneth Dickerson said her amended appeals were filed Nov. 5, after expiration of the 10-day appeals period.

Creating a Belmont seal

By Terry Robertson
Times Tribune Staff

BELMONT — The city's official and unofficial seals, which detractors say are undistinguished and unrepresentative of Belmont, may soon be replaced.

The official city seal, which was adopted in 1929 and includes only the name Belmont and the year the city was incorporated, is simply bland, they say. It appears on all official city stationery.

The unofficial gold and blue oblong seal, which appears on all police and city staff cars, doesn't clearly characterize Belmont.

Both are the subject of a recall by City Clerk James McLaughlin.

McLaughlin would like to see them replaced with something depicting Belmont's natural hilly and wooded geography or its history, so he has initiated a contest to come up with something new. He hopes it will produce a logo that can be used for both the stationery and city cars.

"The (unofficial) seal gives the impression that Belmont is just a dot in the middle of the Peninsula," explained Deputy City Clerk Jean O'Dea. "It should be a logo representing the city."

Belmont
(Building Ordinance)
S.M. Times 7/25/79

Belmont building rush fails to occur

S.M. Times
7-25-79

An anticipated last-minute flood of building applications failed to materialize late Tuesday in Belmont so the City Council quietly adopted an urgency ordinance Tuesday night that shut the flood gates until a growth-control measure takes effect.

In the wake of the passage of Measure A — which placed a ceiling on construction of 56 new dwelling units per year — the council established its first ordinance to curtail distribution of building permits for the remainder of the year.

The council learned earlier this week that the city building department had already granted 57 permits this year.

However, there was speculation that the expected adoption of the urgency ordinance would cause other potential builders to rush to the building department Tuesday to gain final approval on their permit applications.

According to City Manager James DeChaine, only three of some 34 pending applications for units were approved Tuesday as of 3 p.m. No new applications were filed.

Measure A, approved by voters July 17, stipulated that in 1979 the maximum number of permits would be 56 or the number already granted by the time the measure became effective, whichever is greater.

The council met Tuesday night to certify the final election tally as required by law.

According to City Clerk James McLaughlin, the final revised tally in favor of Measure A was 2,546 to 1,113, and against Measure B, 1,024 to 2,301.

Measure B, placed on the ballot by the council, was a less restrictive attempt at growth control, allowing the council to determine the maximum number of new dwelling units each year.

According to McLaughlin, 3,803 voters, 29.6 percent of the Belmont electorate, cast their ballots in the election.

The council voted 4-0 to approve the final election tally. Councilwoman Pam Ketcham was absent. Measure A, by law, takes effect 10 days from certification of the election results, which will be Aug. 3.

On Monday, the council asked City Attorney Ken Dickerson to write an urgency ordinance allowing the council to close the doors on building applications until Measure A's effective date.

Of particular concern to the council, however, were applications for 34 dwelling units pending in the building department.

Those applications were being held up only for the payment of certain fees.

Councilman Walt Worthge, the author of the defeated Measure B, Tuesday night suggested an addition to Dickerson's proposed urgency ordinance allowing the 34 pending permits to be approved if they are processed by Aug. 3.

"It is my feeling a lot of these have been in the hopper a long time," Worthge said. A great deal of money has been expended by these would-be developers to finance their permits, Worthge said.

"To blatantly deny them is not proper," he said.

The ordinance, with Worthge's addition, was approved on a 4-0 vote.

San Mateo Times
August 9, 1979

Belmont's new general fund

Times 8/9/79

A slightly decreased general fund budget of \$2,726,686 was approved by the Belmont City Council Wednesday night, one month into the new fiscal year.

The budget, according to Assistant City Manager John Bramble, is an .8 percent decrease from the 1978-79 general fund budget.

Only Councilwoman Pam Ketcham voted against the budget adoption, saying that she wasn't in agreement with many of the items in the final budget document.

The council has been meeting in study sessions for several months to consider and revise the preliminary budget and to finally adopt the official document this week.

Bramble noted that there were no personnel additions to the new budget.

There was, he said, a minor reorganization in the public works department, eliminating two vacated positions — a civil engineer and a construction supervisor — and creating a director of public works

in their place at a total savings of some \$14,000 per year.

The council also allocated some \$70,000 in gas tax funds for its portion of the cost of several projects including resurfacing throughout the city, and new traffic signalization at the intersections of Ralston Avenue and Alameda de las Pulgas and at El Camino Real and Davey Glen Road.

Also allocated was some \$115,000 for sewer improvements in three different locations.

budget shows a slight decrease

A list of revenue sharing projects — a federally funded account — totalling \$161,016 also was unanimously adopted.

Included were the library expansion project, \$25,000; Criminal Justice Planning Council, \$950; Center for Independent Living, \$1,000; Whole Earth Juvenile Diversion program, \$5,000; police department security wall, \$960; marina park

environmental impact report, \$15,000; marina park development, \$35,500; Human Services Coordinating Council, \$500; and Kainos project for the developmentally disabled, \$1,000.

A proposal to allocated \$5,000 for Alexander Park completion was reduced to \$1,000 for the cost of materials only for a park fence. It is hoped that volunteer labor will be

provided for the project.

Eliminated from the revenue sharing list were \$20,000 for the Twin Pines Park entrance improvement and \$10,000 for the animal control subsidy.

The council also met in closed-door executive session — at the request of Councilwoman Meg Buckley — for about 30 minutes to discuss "personnel matters."

Belmont
(Council)

5M Times 8/29/79

Belmont councilwomen savor rare victory *8/29/79*

Two Belmont councilwomen succeeded Tuesday night in preventing the city building official from attending an international conference in Alaska, a trip they viewed as a waste of time and money.

After debating the city's commitment to send Building Official Richard Shaw to the International Conference of Building Officials in Anchorage Sept. 16 to 21, the council rejected the trip 2-2, with Mayor William Hardwick and Councilman Walt Worthge favoring the trip.

Councilman Frank Gonsalves was absent. Realizing, however, that Gonsalves' vote might be cast in favor of the trip, City Manager James DeChaine — who had argued the case for sending Shaw to Alaska — suggested placing the item on the next council agenda for another vote.

Councilwoman Pam Ketcham strongly objected to DeChaine telling the council what it will place on its agenda.

Consequently, Worthge took the reins, asking to place the item on the Sept. 11 agenda, five days before the scheduled trip, apparently so that all three councilmen could be present to cast votes in approval.

"But, I won't be here," Mayor Hardwick admitted, indicating that another 2-2, split, defeating the expenditure, would occur.

The audience cheered and Mrs. Ketcham raised her hands over her head, signifying victory.

"The women win one — and we don't win very many," she said.

DeChaine had explained that there are several conferences that city building officials across the country attend and it has been a "long-stand-

ing" council policy to send Shaw to at least one per year.

Shaw, the city manager said, was told he could count on one conference when he was hired.

The council this year budgeted \$1,300 in the building department for conferences, \$600 of that for Shaw to attend the international gathering, Assistant City Manager John Bramble related.

Resident Fern Bianchi, however, claimed that Shaw has not always been familiar with the city's building ordinances in recent months, citing the time problems of a two-man department.

She said Shaw should stay home and spend that week studying Belmont's ordinances.

The two councilwomen agreed. Mrs. Buckley said she assumed the \$1,300 in the budget was for both employees in the department and that \$600 for one conference for one person was "way out of line."

However, Worthge contended that the time to discuss this matter was during the budget review this past summer.

Belmont council erupts in flurry of

SAN

MATEO
TIMES

AUGUST
29, 1977

By JANET PARKER
Times Staff Writer

Accusations of "back-room politics" and "stonewalling" in a controversy over the formation of the new Belmont General Plan Review Committee were aired Tuesday night at a testy City Council meeting.

While the committee was attempting to hold its first meeting a few blocks away with some 70 persons in attendance, the council was bickering over the way that committee was formed.

The major concern, issued primarily by two councilwomen and a segment of the public that has closely followed the general plan update process, was that the committee — set up by the Planning

Commission — was loaded with persons who do not reside in Belmont.

They also profoundly objected to the manner in which the planners met and discussed the formation of that committee on Aug. 7.

However, Planning Commission Chairman Alex Fletcher, arriving after the general plan committee meeting adjourned, reacted angrily to the charges, claiming that the commission's actions were legal and its intent commendable.

"I think you're making a mountain out of a molehill," commented Floyd Sampson, a member of the general plan committee. He reminded the council that it had instructed the Planning Commission to create its own committee if it

needs one, without involving the council.

"If you are going to have a committee subsidiary to another body, let them do it. Don't meddle in it," Sampson advised.

"I don't know why there's so much energy being expended here rather than in trying to make this committee work," Mayor Bill Hardwick contended.

By the end of a very long evening, those concerned about the committee appeared satisfied that only residents of Belmont will be voting members of the general plan committee and that anyone who wants to participate in the committee will be permitted to do so.

However, a motion to adopt the Aug. 7 council meeting minutes —

criticism

TIMES

8/29/79

including a paragraph on the Planning Commission meeting at which the committee was apparently discussed — failed 2-2, with the two councilwomen objecting. Councilman Frank Gonsalves was absent.

And, a motion by Councilwoman Pam Ketcham to establish a firm policy concerning the voting status of non-residents on the committee also failed, 2-2, with Hardwick and Councilman Walt Worthge objecting.

"If we don't butt out of this particular thing we are going to kill it up front," Worthge said.

"I'm not willing to give specific directions to the Planning Commission," Hardwick said.

When Measure A, a growth-control initiative, was approved by Belmont voters in July, the council decided to disband the 2-year-old General Plan Review Committee and, instead, asked the Planning Commission to establish its own committees as needed.

The general plan — the long-range format for construction and development of the city — is the focal point

of a complicated and often controversial review, required by state law.

The planners met Aug. 7, following a joint meeting with the council, to set the framework for that committee. A list of some 40 names was created and each was sent an invitation to join the committee.

The leaders of Measure A, Citizens for Orderly Growth, claimed this week that the planners' meeting was illegal because it was a study session at which action apparently was taken, contrary to provisions of the state's public meeting laws.

Councilwoman Meg Buckley claimed the minutes of that Aug. 7 gathering, held in the back room of the council chamber, were "ex-post facto," written by City Planner Neal Martin well after the meeting occurred and not truly reflecting what had occurred.

Minutes written by City Clerk James McLaughlin of the joint meeting included a statement that the Planning Commission, after its own session, reported "no motions were made and no votes taken."

McLaughlin said his report was based on a telephone discussion with Fletcher but Fletcher denied that conversation ever existed.

Meanwhile, Councilman Worthge attempted to change McLaughlin's minutes to include actions taken by the Planning Commission regarding the general plan committee.

Mrs. Ketcham contended that Worthge was trying to assist the Planning Commission in cleaning up a "political problem."

A major point of the debate was whether the commissioners had adjourned to a regular meeting — at which a vote would have been legal — or a study session — at which a vote would have been illegal.

Mrs. Buckley said tapes of the joint session clearly revealed Fletcher referring to a "study session." Fletcher, in return, denied it was a study meeting.

Hardwick eventually suggested eliminating the entire paragraph from the minutes, which Mrs. Ketcham called an attempt to "sweep the issue under the rug."

Meanwhile, the meeting room of Manor Building at Twin Pines Park was filled with persons concerned about the general plan committee debating the same issue. No solid conclusions were reached but there reportedly seemed to be agreement that non-residents — such as representatives of Belmont businesses and public utilities — wouldn't be able to vote on general plan matters.

City Attorney Ken Dickerson also reported in a letter to Planning Commission Chairman Fletcher — in response to the COG complaint — that laws do not prohibit non-residents from participating in the general plan review.

By Councilman Jones

\$4 Million Civic Center Proposed for Belmont

By KEN ROWE
Tribune Staff Writer

Construction of a comprehensive civic and recreational center in Belmont, at a cost of "slightly over \$4-million," was proposed last night by Councilman Robert A. (Bob) Jones.

Jones suggested such a venture during his campaign for office earlier this year, but the

estimated price has gone up about a million dollars.

Jones introduced the civic center topic under an agenda item concerning the city's relationship with its finance consultant and bond counsel. He explained these relationships might have to be altered in relation to his proposal.

The civic center, according to Jones, might be located on

a 30-acre site at Ralston Avenue and South Road.

In an interview with the Tribune, prior to his election April 14, Jones indicated the site under consideration consists of several parcels of land owned and occupied by two sanitariums.

At that time, he indicated the estimated cost of the civic center at roughly \$3 million, and suggested the creation of

a municipal corporation to set up a "sale-lease back" arrangement with the city.

Jones said the city would back revenue bonds with which the corporation would buy (build) the civic center. Then, the corporation would lease the civic center to the city for 50 to 70 years. This, Jones said, would avoid tying up the city's bonding capacity.

Before the election Jones told the Tribune a federal open space grant might be secured to cover about half the cost of the project. Additional funds, he said, could be derived from the sale of the city facilities located on Fifth Avenue, with the city paying a net balance of \$300,000 to \$400,000.

Jones announced last night that the desired site "could be available," and that a preliminary feasibility study of the civic center project had been undertaken and that its results had been "encouraging." There had been no previous indication that such a study had been authorized or undertaken, indicating Jones had taken the initiative for the project's groundwork.

Jones reasserted last night his belief that federal funds would be made available for the project. Jones is an investment securities economist with Bank of America in San Francisco.

Prior to the election Jones said his proposal would include new city hall, recreation, athletic and police facilities. He said, "Police clearly have the first priority." Belmont's cramped police headquarters is located in the cellar below the council chambers.

The proposal was scheduled to undergo further discussion in a council executive session last night.