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FINAL ADJOURNMENT: The meeting adjourned at 10:00 p.m.16

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

PRESENT: Beecham, Burch, Freeman (arrived at 6:17 p.m.), Kishimoto, Morton, Mossar

ABSENT: Kleinberg, Lytle, Ojakian

STUDY SESSION

1. Municipal Contracting Overview

Administrative Services Director Carl Yeats, City Attorney Ariel Calonne, Deputy ASD Director Lalo Perez and Public Works Director Glenn Roberts presented an overview of the City's work to date on contract streamlining. ASD Director Yeats emphasized the large volume of low value business transactions processed by the City and the need to reduce the overhead associated with those contracts. Deputy Director Perez reported on the work done by the staff contract streamlining committee. City Attorney Calonne presented an overview of the law of municipal contracts. Director Roberts presented an overview of the Council approval process for a typical major construction project.

No action required.

ADJOURNMENT: The meeting adjourned at 7:04 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:05 p.m.

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle, Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Herb Borock, P.O. Box 632, spoke regarding setting up a new reserve fund for employee termination payments.

George Vizvary, 753 Alma Street, spoke regarding the grand opening of the Mental Health Center.

Greg Kerber, Birch Street, spoke regarding a letter he received from the Palo Alto Police Department regarding a noise complaint.

Bunny Good, P.O. Box 824, Menlo Park, spoke regarding Homer Tunnel now to be nearly fully funded by City General Fund and Utilities.

Sophia Dhrymes spoke regarding Norra's Apartments and obstruction of her income property.

John K. Abraham, 736 Ellsworth Place, spoke regarding public records on noise.

Martin Stone, 260 El Verano Avenue, spoke regarding Alma Plaza construction moratorium.

Sassan Golafshan, 203 Forest Avenue, thanked the City for Agenda Item No. 14.

SPECIAL ORDERS OF THE DAY

1. Selection of Candidates to be interviewed for the Parks and Recreation Commission

MOTION: Vice Mayor Beecham moved, seconded by Burch, to interview all of the applicants.

MOTION PASSED 9-0.

UNFINISHED BUSINESS

2. Policy and Services Committee Recommendation to Review and Approve Council Protocols *(Continued from March 31, 2003 - Public Testimony Closed)*

Mayor Mossar said the item was continued from March 31, 2003, and announced that public testimony was closed. She had one speaker card but would not call on the speaker.

Council Member Burch commented on Council Protocols as being the news of the day and he was amazed at the large number of cameras and media present at the meeting.

Council Member Morton requested that Council Protocols be referred back to the Policy and Services (P&S) Committee and to delete the following sentences: Under "Practice Civility", delete the sentence, "Do not use body language or other non-verbal methods of expressing disagreements or disgust. Other forms of non-civil disagreement could include personal, abusive, disparaging or anger comments, name calling or labeling." Under "Be Respectful of other People's Time", delete the sentence, "but refrain from public criticisms of colleagues who are less so." On page 4, delete the sentences where the above sentences occurred. He felt protocols should not include limitations on expression nor require positive form of expressions.

MOTION: Council Member Morton moved, seconded by Burch, to refer the Proposed Council Protocols to the Policy and Services Committee with revisions to the language.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER, as stated in the memo from Council Member Lytle dated May 1, 2003, to also include the Code of Ethics for referral to the Policy and Services Committee.

Council Member Kleinberg said the initial motion was to develop a code of procedural rules and not a code of ethics. With the inclusion of the code of ethics, it would be necessary to clarify exactly what the P&S Committee was being asked to do.

Mayor Mossar said the referral asked that the item go back to the P&S Committee to reconsider some of the language and to also consider adoption of the Code of Ethics.

Council Member Morton said the document should be simplified and he would agree to have Council decide on adopting Robert's Rule of Orders and the City Charter. He agreed the document should go back to the P&S Committee along with a Colleagues' Memo and for the P&S Committee to return to Council with their recommendation.

Council Member Kleinberg said the initial intent of the item was to ask Council to voluntarily accept the procedural rules and follow them in spirit. In addition, one of the rules was to respect committee procedures if the item was going back to the P&S Committee one more time. She wanted to know how much time it would take to go through the process again.

Vice Mayor Beecham said he would not support motion.

Council Member Freeman agreed there needed to be a time limitation on the item. She felt the Code of Ethics should be either a stand-alone document or perhaps incorporated into the Protocols.

Council Member Morton felt the Code of Ethics and Protocols were duplicative.

Mayor Mossar said adopted protocols could be amended. Should the P&S Committee decide that Council Member Lytle's Code of Ethics' memorandum needed revisions that move forward as revisions of the adopted document.

MOTION WITHDRAWN BY MAKER AND SECONDER

Council Member Freeman asked if Council agreed to the Protocols, how would the following items in Council Member Lytle's memo be addressed: 1) clarification of the one hour limit; and 2) removal of any impression that public policy development and formation is an administrative function or sole responsibility of the City Manager.

Mayor Mossar said protocols would be adopted with the three proposed language modifications by Council Members Morton and Lytle and referred to P&S for modifications.

Council Member Lytle had concerns regarding the area in her memo whereby Council Members were asked to stay out of administrative functions that were solely administrative. She referred to page 4, third bullet of the Protocols under "Do not get involved in administrative functions—Avoid any staff interactions that may be construed as trying to shape staff recommendations or policy development" and she recommended deletion of the words "or policy development."

Mayor Mossar requested a second.

Council Member Morton said the heading of this section "Council Conduct with City Staff" could be misinterpreted to suggest that Council Members avoid giving direction to staff in any regard.

Mayor Mossar said the P&S Committee would be requested to reevaluate and make the language clear.

MOTION: Council Member Morton moved, seconded by Burch, to adopt the Proposed Council Protocols with the following revisions, and to forward the League of California Cities Code of Ethics to the Policy and Services Committee for evaluation in conjunction with the Protocols:

- Page 2, Council Conduct with One Another, In Public Meetings, Bullet No. 2, delete last two sentences, which read: "Do not use body language or other non-verbal methods of expressing disagreement or disgust. Other forms of non-civil disagreement could include personal, abusive, disparaging or angry comments, name-calling or labeling."
- Page 2, bullet No. 5, change sentence to read: "Stay focused and act efficiently during public meetings. ~~but refrain from public criticism of colleagues who are less so.~~"
- Page 4, Council Conduct with City Staff, Never publicly criticize an individual employee, including Council-Appointed Officers. Criticism is differentiated from questioning facts or the opinion of staff. Delete last two sentences, which read: "At Council meetings, do not use body language or other non-verbal methods of expressing disagreement or disgust. Other forms of non-civil disagreement could include personal, abusive, disparaging or angry comments, name-calling or labeling."
- Page 4, Council Conduct with City Staff, Do not get involved in administrative functions. Revise first sentence to read: "Avoid any staff interactions that may be construed as trying to shape staff recommendations ~~or policy development.~~"

MOTION PASSED 9-0.

CLOSED SESSION

The meeting adjourned to a Closed Session at 7:55 p.m.

3. Conference with City Attorney--Potential/Anticipated Litigation
Subject: Significant Exposure to Litigation
Authority: Government Code section 54956.9(b)(1) & (b)(3)(A)

The City Council met in Closed Session to discuss matters involving potential/anticipated litigation as described in Agenda Item No. 3.

Mayor Mossar announced that no reportable action was taken on Agenda Item No. 3.

The City Council reconvened to the Council meeting at 8:15 p.m.

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Burch, to approve Consent Calendar Item Nos. 4 – 11B.

Council Member Freeman stated she would not participate in Item No. 11A due to a conflict of interest because she owned property within 500 feet of 2701 El Camino Real.

Council Member Kleinberg registered a “no” vote on Item No. 6.

Council Member Kishimoto registered a “no” vote on Item No. 6.

Mayor Mossar registered a “no” vote on Item No. 6.

Council Member Freeman registered “no” votes on Item Nos. 9 and 10.

Joy Ogawa, 2305 Yale Street, spoke regarding Item No. 6. The Comprehensive Plan (Comp Plan) amendment and rezone allowed the applicant to merge the parcel with the neighboring parcel and build a 74,000-square foot office building that the applicant had intended to do. She was not clear on why the change was made.

Martin Stone, 260 El Verano Avenue, spoke regarding Item 11B, noting he opposed the request for a preliminary review and urged Council to decline the request at the present time. A construction moratorium had been imposed on a one-quarter mile band along the Charleston corridor that included the Jewish Community Center (JCC). To permit a preliminary review to go forward at the present time would eviscerate the construction moratorium. A preliminary review would be appropriate if a traffic management and safety study for which the moratorium was imposed was significantly complete or if there was significant preliminary data regarding traffic impacts. Council had neither context within which to conduct the preliminary review nor any facts from which to make policy. Everything the applicant was seeking guidance on would have a traffic impact or would be impacted by traffic. He recommended that the request for a preliminary review be revived partway through a traffic study if relevant data was generated. To approve the review at that meeting would make a mockery of the construction moratorium.

LEGISLATIVE



4. Approval and Adoption of a Park Improvement Ordinance Associated with the Improvement of the Lucy Evans Baylands Nature Interpretive Center Parking Lot, Improvement of the 2500 Block of Embarcadero (Harbor) Road, and Underground of Utilities in the 2500 Block of Embarcadero (Harbor) Road in Byxbee Park and City-Owned Baylands
(Item to be removed at the request of staff)
5. Ordinance 4786 entitled “Ordinance of the Council of the City of Palo Alto Amending Title 18 of the Municipal Code to Add Section 18.41.037 Preserving and Supporting Ground-Floor Neighborhood-Serving Uses in

the Neighborhood Commercial (CN) District at Midtown Shopping District (Portions of the 2600, 2700 and 2800 Blocks of Middlefield Road, 700 Blocks of Colorado Avenue, Moreno Avenue, and San Carlos Court)" (1st Reading April 14, 2003, Passed 9-0)

Ordinance 4787 entitled "Ordinance of the Council of the City of Palo Alto Amending Title 18 of the Municipal Code to Add Section 18.41.035 Preserving and Supporting Neighborhood-Serving Uses in the Neighborhood Commercial (CN) District at Charleston Center (Portions of the 3900 Block of Middlefield Road)" (1st Reading April 14, 2003, Passed 9-0)

6. Ordinance 4788 entitled "Ordinance of the Council of the City of Palo Alto Amending the Zoning Map of the City of Palo Alto to Change the Designation of a 1.84 Acre Parcel at 2300 East Bayshore Road from 'Planned Community' to LM(D)(3) 'Limited Industrial with Combining Districts'" (1st Reading April 21, 2003, Passed 6-3, Kishimoto, Kleinberg, Mossar "no.")

ADMINISTRATIVE



7. Contract Between the City of Palo Alto and O'Grady Paving, Inc. in the Amount of \$1,792,445 for the 2003 Street Maintenance Capital Improvement Program Project 18670



8. Contract Between the City of Palo Alto and Valentine Corporation in the Amount of \$1,021,209 for the Embarcadero Road Pedestrian/Bicycle Bridge and Bike Path Extension

Ordinance 4789 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget For The Fiscal Year 2002-03 to Accept and Expend Grant and Street Improvement Funds in the Total Amount of \$497,785 into Capital Improvement Program (CIP) Project 19310, Embarcadero Road Pedestrian/Bicycle Bridge and Bike Path Extension Project"

Approval of Santa Clara Valley Transportation Authority 1996 Measure B Bicycle Program Fund Transfer Agreement

Amendment No. 3 to Contract No. C4044185 Between the City of Palo Alto and HMH Engineers, Incorporated in the Amount of \$33,000 for Construction Support Services

Reimbursement Agreement Between the City of Palo Alto and Sprint Communications for Construction Monitoring Services

9. Amendment to Existing Contract Between the City of Palo Alto and Foothill/DeAnza in the Amount of \$23,000 for Employee Training with Foothill DeAnza Business and Industry Institute, Changing Contract Amount from \$85,000 to \$108,000 for the Third Contract Year
10. Amendment to Contract No. C2133010 Between the City of Palo Alto and the City of Inglewood to Increase Compensation Authority for Parking Citation Processing for the Second Year by \$32,000 and to Set the Amount of the Contract for Each Subsequent Year of the Agreement in an Amount Not To Exceed \$95,000
11. Renewal of an Agreement Between the City of Palo Alto and the Santa Clara County Weed Management Area for the Control of Invasive Weeds in City Open Space Lands
- 11A. Request by Sunrise Development, Inc for Approval of City Council to Conduct a Preliminary Review of An Assisted Living Development Project Planned Community Proposed at 2701 El Camino Real
- 11B. Request By Campus for Jewish Life (CJL) and Bridge Urban Infill Land Development (BUILD) for City Council Approval to Conduct a Preliminary Review of a Planned Community Project with Affordable/Attainable Housing Units, A Community Center and Senior Housing at 901 San Antonio Road

MOTION PASSED 9-0 for Item Nos. 4, 5, 7, 8, 11 and 11B.

MOTION PASSED 6-3 for Item No. 6, Kishimoto, Kleinberg, Mossar "no."

MOTION PASSED 8-1 for Item Nos. 9 and 10, Freeman "no."

MOTION PASSED 8-0 for Item No. 11A, Freeman "not participating."

UNFINISHED BUSINESS

12. Possible Further Directions to Staff Regarding Retention or Demolition of Roth Building Spine and Related Matters *(Item continued from April 21, 2003 - Item to be continued at the request of staff to May 12, 2003)*

MOTION: Council Member Morton moved, seconded by Burch, to continue this item to the regular May 12, 2003, City Council meeting.

MOTION PASSED 9-0.

13. Public Hearing: The City Council will consider a request by Clare Malone Prichard of Stoecker & Northway Architects, Inc. on behalf of Mr. & Mrs. Irving Grousbeck for consideration of Site and Design

Review and Variances for improvements to an existing single-family residence located at 706 and 708 Los Trancos Road. The Site and Design Review includes the following: a room addition, a new pad for relocation of existing mechanical equipment, removal of a masonry fireplace, the upper portion of the driveway to remain as concrete, two existing free-standing fences, and a lot line adjustment to increase site area. The Variance requests are for the following: the transference of allowable impervious surface area from Lot 5 (708 Los Trancos Road) to Lot 4 (706 Los Trancos Road) and an existing 8-foot high fence to remain as constructed. Further, the City Council will consider a request by Clare Malone Prichard of Stoecker & Northway Architects, Inc. on behalf of Mr. & Mrs. Irving Grousbeck for consideration of Site and Design Review of an existing freestanding fence that lies within a portion of the property located at 690 Los Trancos Road *(Item continued from April 21, 2003)*

Mayor Mossar declared the Public Hearing open. The item was quasi-judicial and Council was required to follow formal procedures to assure the level of fairness and due process guaranteed by the State and Federal Constitutions. She asked Council Members to disclose meetings or contacts they might have had that influenced their thinking on the matter. She announced there were none.

Council Member Kleinberg excused herself due to illness at 8:30 p.m.

Planning Manager Lisa Grote summarized the Site and Design Review applications, as outlined in staff report (CMR:224:03), and said staff and the Planning and Transportation Commission (PTC) recommended that the Site and Design Review and variance requests be approved by Council. They were for minor improvements and would not have detrimental impacts on the surrounding property.

Bob Stoecker, Stoecker & Northway, Architects, supported the recommendations and would answer questions.

Council Member Freeman asked if 1,700 square feet was being taken from Lot 5 and given to Lot 4.

Mr. Stoecker said that was correct and it would be done by adjusting the common property line.

Council Member Freeman clarified that all three lots were owned by the same person and questioned whether the adjustment would have any affect on the property value.

Mr. Stoecker said the rationale was if the lot were bigger, it would be allocated more impervious surface coverage. The total for the two lots did

not change and no net increase in the impervious surface was allowed anywhere. It was just an adjustment from one lot to another.

Council Member Freeman said she was confused because area was being taken from Lot 5 and transferred to Lot 4 and the picture showed that Lot 5 was larger than Lot 4.

Mr. Stoecker said Exhibit A, Impervious Surface Area Calculations, gave information on overall lot areas rather than adjustments. It showed the beginning size of a lot and the proposed size and the amount of impervious surface coverage transferred as a result of the adjustment.

Herb Borock, P.O. Box 632, said the 10-lot, subdivision had three different sets of house numbers over a period of time. He asked if there was a way to link the history of the entire site development to current house numbers for each lot. He said staff mentioned how views would be affected from Los Trancos Road and neighboring lots of the subdivision, but nothing on views from the open space. Since the subdivision was located between Arastradero Preserve and Foothills Park, he asked if the height of an addition would be seen from the public land or trails and whether an analysis had been done.

Mr. Stoecker said he did not know if staff had done an analysis. The original house was designed so it would not be seen from the open space area to the northwest. The addition was placed where it was less visible and there would be no impact on the open space.

Mayor Mossar declared the Public Hearing closed.

Council Member Lytle suggested that the recommendations on Site and Design from the Planning Division be placed on the Consent Calendar.

MOTION: Vice Mayor Beecham moved, seconded by Lytle, to approve the staff and Planning and Transportation Commission (PTC) recommendation to approve the Site and Design Review applications, to include a room addition, a new pad for relocation of existing mechanical equipment, removal of a masonry fireplace, the upper portion of the driveway to remain as concrete, two existing freestanding fences, and a lot line adjustment to increase site area, and approve the Variance applications, to include the transference of allowable impervious surface area from Lot 5 (708 Los Trancos Road) to Lot 4 (706 Los Trancos Road) and an existing eight-foot high fence to remain as constructed, based upon the findings and subject to the conditions in the Record of Land Use Approval (Attachment A of CMR:224:03).

MOTION PASSED 8-0, Kleinberg absent.

PUBLIC HEARINGS

05/05/03

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14. Public Hearing: The City Council will consider the appeal by Neal Aronson of the Director of Planning and Community Environment's approval of a Conditional Use Permit (CUP) to allow the establishment of a Commercial Recreation (Fitness) Facility at 203 Forest Avenue
(Appeal to be withdrawn by Applicant)

Appeal withdrawn at the request of the applicant.

COUNCIL MATTERS

15. Council Members Burch and Ojakian regarding Endorsement of a Resolution in Support for the Clean Vehicle Resolution

Council Member Ojakian referred to the Clean Vehicle Resolution from the American Lung Association of California. He and Council Member Burch directed staff to prepare a Resolution similar to the Clean Vehicle Resolution in support of the American Lung Association of California.

David Dias, American Lung Association, 1930 Barrymore Common, Fremont, encouraged adoption of the Resolution. The American Lung Association asked that cities make a commitment to replace one of their fleet vehicles with a clean vehicle.

Mayor Mossar said she supported the Resolution.

MOTION: Council Member Ojakian moved, seconded by Burch, to direct staff to prepare a resolution of support for the American Lung Association of California (ALAC) Clean Vehicle Resolution.

MOTION PASSED 8-0, Kleinberg absent.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Ojakian said he appreciated the memo from Mayor Mossar regarding the San Francisquito Creek Joint Powers Authority (JPA), CAP205 Project Planning status and the presentation to be made to Council on May 19, 2003. He questioned if the meeting was a study session and/or a special meeting and would Council be able to take action.

Mayor Mossar stated the JPA cities were each having study sessions with their respective councils and then the JPA Board would go on record supporting CAP205. The process would culminate with the JPA submitting a letter to the Army Corps of Engineers (ACE) regarding the project. The ACE would determine if it were a project they would want to do and, if so, would fund the project within one year. There were no projects being endorsed by the JPA.

Council Member Ojakian thanked the JPA for including residents, Steve Monismith and Tom Rindfleisch, in the technical group meetings.

Council Member Ojakian referred to a staff report from April 14, 1993, dealing with working cooperatively with East Palo Alto, and recommended a joint meeting with East Palo Alto and Menlo Park in the near future to keep communications open.

Mayor Mossar agreed and advised that the Mayors of the three cities were meeting in May and she would suggest that idea.

Council Member Ojakian requested that staff analyze the impact of office "hoteling" through tenant improvement permit applications due to the Internet, fax machines, etc. and the culture of telecommuting. He noted at Hewlett Packard, in an area of 100 cubicles, there might be only 25 employees working at the same time.

Council Member Freeman said "hoteling" had been extremely common in many organizations and had been cost efficient. She praised staff for the Earth Day presentation in the Chambers. She also questioned what the City Manager intended to do regarding Mr. Kerber's complaints concerning the Police Department's letter.

Council Member Morton thanked Mayor Mossar for the memo on the CAP205 project and questioned if the study session would allow public input. He also commended staff for the May Fete Parade and coordination with the Palo Alto Unified School District for the Addison Fair.

Council Member Kishimoto said there were not parameters regarding expectations for Planned Communities (PCs), such as noted in Agenda Items 11A and 11B.

City Attorney Ariel Calonne advised the Council to be careful about a discussion during Council Comments on the agenda. He advised that prescreening (preliminary review) allowed the public an early opportunity to screen test for projects. Council might change its decision, as the preliminary review was not binding.

Council Member Freeman said she was concerned that developers were at a disadvantage because they did not have guidelines from traffic studies, etc.

City Attorney Calonne said the ordinance was clear and it was less costly for the developer to have access to Council at this early stage.

MOTION: Council Member Lytle moved, seconded by Freeman, that the study session for the San Francisquito Creek JPA be a meeting for citizen

input and an explanation of CAP205, as well as a meeting where Council can take action.

City Attorney Calonne stated the Brown Act allowed Council to schedule the item for a future discussion.

MOTION FAILED 6-2, Freeman, Lytle "yes", Kleinberg absent.

Council Member Lytle asked staff to prepare a response to Sophia Dhrymes regarding the downtown traffic-calming project.

Vice-Mayor Beecham suggested those who wanted to support CAP 205 to give Greg Solotky a call and discuss it with him.

CLOSED SESSION

The meeting adjourned to a Closed Session at 9:30 p.m.

- 16. Conference with City Attorney--Potential/Anticipated Litigation
Subject: Significant Exposure to Litigation
Authority: Government Code section 54956.9(b)(1) & (b)(3)(A)

The City Council met in Closed Session to discuss matters involving potential/anticipated litigation as described in Agenda Item No. 16.

Mayor Mossar announced that no reportable action was taken on Agenda Item No. 16.

FINAL ADJOURNMENT: The meeting adjourned at 10:00 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.