



Special Meeting  
September 8, 2003

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	ADJOURNMENT: The meeting adjourned at 10:15 p.m. ....	20

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:48 p.m.

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

ABSENT: Mossar

SPECIAL ORDERS OF THE DAY

Deputy Fire Chief Nick Marinaro, on behalf of the Fire Chief Reuben Grijalva and the Palo Alto Fire Department, said the four recent retirees were being honored with resolutions of appreciation: Ronald Adler, Ken Gonzales, Mick McDonald and Gary Moore. Their years of service had accumulated to 120 years of service, averaging out to 30 years each of commitment to both the Palo Alto and Stanford communities. Their endeavors had spanned a wide spectrum of fire services, including fire suppression, emergency medical services, paramedics, training and personal development, disaster and emergency preparedness, fire prevention, and public education.

1. Resolution 8331 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to George "Mick" Duncan McDonald Upon His Retirement"

**MOTION:** Council Member Ojakian moved, seconded by Kleinberg, to adopt the resolution.

**MOTION PASSED** 8-0, Mossar absent.

2. Resolution 8332 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Ronald Adler Upon His Retirement".

**MOTION:** Council Member Ojakian moved, seconded by Kleinberg, to adopt the resolution.

**MOTION PASSED** 8-0, Mossar absent.

3. Resolution 8333 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Kenneth Gonzales Upon His Retirement"

**MOTION:** Council Member Ojakian moved, seconded by Kleinberg, to adopt the resolution.

**MOTION PASSED** 8-0, Mossar absent.

4. Resolution 8334 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Gary Moore Upon His Retirement"

**MOTION:** Council Member Ojakian moved, seconded by Kleinberg, to adopt the resolution.

**MOTION PASSED** 8-0, Mossar absent.

Council Member Kleinberg honored the retirees stating it was a pleasure to honor four outstanding leaders and heroes.

Council Member Ojakian said it was a pleasure to honor four heroes and leaders of the community, and thanked them for their years of service.

Mr. Marinaro introduced the four firefighters: 1) Ronald Adler with 29 years of service, who also served at Stanford, for a total of 36 years in fire service; 2) Ken Gonzales with 29 years of service; 3) Nick Mc Donald with 33 years of service; and 4) Gary Moore with 29 years of service.

Mr. Moore thanked the citizens of Palo Alto and expressed his gratitude for the opportunity to serve in the fire service.

Council Member Morton thanked the retiring firefighters for their service.

Council Member Freeman expressed her gratitude to the retiring firefighters encouraging them to enjoy their retirement.

Council Member Burch expressed his gratitude to the retiring firefighters and their families, noting it was difficult to express thanks with only words and a plaque.

Council Member Lytle expressed her thanks to the retiring firefighters, noting all of the positive comments about firefighters she had heard when interacting with the public. She expressed personal gratitude for the firefighters response to a family member who had a medical emergency and needed aid.

Vice Mayor Beecham expressed his thanks to the retiring firefighters, along with the community's appreciation.

ADJOURNMENT: The meeting adjourned at 7:00 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:00 p.m.

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle, Morton, Mossar arrived at 7:20 p.m., Ojakian

ORAL COMMUNICATIONS

Joe Durand, 275 Hawthorne Ave. #114, spoke regarding traffic barrier voting.

Pat Markevitch, spoke regarding the traffic calming trial.

Alice Smith, 4284 Los Palos Circle, spoke regarding Arastradero and Charleston Roads.

Chris Machala spoke regarding the concerns of the road closures and the negative effect on his business.

Dana DeNault, 311 Middlefield Road, spoke regarding traffic calming.

Norman Carroll, spoke regarding broadcasts of meetings.

Kate Hill, 884 Los Robles, spoke regarding the Palo Alto Council of PTA's meeting with Police Chief Johnson.

SPECIAL ORDERS OF THE DAY

1. Selection of Candidates for the Architectural Review Board

**MOTION:** Council Member Morton moved, seconded by Kishimoto, to interview all the candidates.

**SUBSTITUTE MOTION:** Council Member Kleinberg moved, seconded by Ojakian to reopen the application period for candidates for the Architectural Review Board (ARB).

Council Member Ojakian said the action was not precedent setting and had been done several times prior, encouraging a wide pool of people to apply.

Council Member Lytle asked staff when the filing period was.

City Clerk Donna Rogers said she did not have specific information, but noted there was an in-depth application process.

Vice Mayor Beecham said his understanding of the Palo Alto Municipal Code (PAMC) was the current board member, Lee Lippert, who was retiring and not reapplied) would continue serving until replaced.

Interim City Attorney Wynne Furth outlined the procedure in the architectural review chapter of the PAMC.

Vice Mayor Beecham asked there was anything in the PAMC that would prevent reopening of nominations.

Ms. Furth replied she was not sure how closely procedures had been followed in the past. She offered to review the PAMC to get more specific information.

Vice Mayor Beecham asked if the other Council Members would carry the item over to the end of the meeting in order to give staff time to review the PAMC.

**MOTION TO TABLE DISCUSSION:** Council Member Kleinberg moved, seconded by Ojakian, to continue the item until the end of the meeting for discussion.

**MOTION TO TABLE DISCUSSION PASSED 9-0.**

#### APPROVAL OF MINUTES

City Clerk Donna Rogers requested that the June 16, 2003, City Council Minutes be removed from the agenda.

**MOTION:** Council Member Ojakian moved, seconded by Burch, to approve the minutes of June 23, 2003, as submitted.

**MOTION PASSED 9-0.**

#### CONSENT CALENDAR

Council Member Morton requested that Item No. 8 be removed.

Mayor Mossar stated Item No. 8 would move to the end of the agenda to become Item No. 11A.

**MOTION:** Council Member Ojakian moved, seconded by Burch, to approve Consent Calendar Item Nos. 2-5, 7, 9, with Item No. 6 being removed at the request of staff and Item No. 8 being removed to be heard at the end of the meeting.

#### LEGISLATIVE

2. Ordinance 4801 entitled "Ordinance of the Council of the City of Palo 09/08/03

Alto Authorizing the City Manager to Purchase a Portion of the City's Energy Requirements During the 2005 - 2007 Period [Block 1 Purchases], the 2005 - 2006 Period [Block 2 Purchases], and the 2005 Period [Block 3 Purchases] Under Specified Terms and Conditions" (1<sup>st</sup> Reading August 4, 2003, Passed 9-0)

3. Human Relations Commission Recommendation to City Council to Adopt a Resolution Opposing State Proposition 54 ("Classification by Race, Ethnicity, Color or National Origin Initiative")

Resolution 8335 entitled "Resolution of the Council of the City Of Palo Alto Opposing Proposition 54 on the October 7, 2003 Ballot"

#### ADMINISTRATIVE

4. Indemnity Agreement Between the City of Palo Alto and the Santa Clara Valley Water District for the Baylands Bicycle/Pedestrian Trail along San Francisquito Creek
5. Contract Between the City of Palo Alto and the City of Sunnyvale for Provision of Training Services by the City of Palo Alto in an Amount Not To Exceed \$50,000 in Services for the First Year, And Including an Option to renew for up to Two Additional One-Year Terms
6. ~~Contract Between the City of Palo Alto and Davey Tree Surgery in the Amount of \$742,500 for Contracting Out the Power Line Tree Clearing Project (2003) (Item to be removed at the request of staff)~~
7. 3280 Clifton Court [02-IR-82]: Recommendation of Staff to Deny the Request for Hearing of an Appeal by Julian Gomez and Cheryl Tompkins of the Director of Planning and Community Environment's Approval of the Individual Review Application (02-IR-82) for a New Two-Story Single Family Residence, Owned by Ronni and Bret Kerrins

#### COUNCIL COMMITTEE RECOMMENDATION

9. Policy and Services Committee Recommendation to the City Council to Accept the Proposed Policy in the Staff Report (CMR:163:03) Regarding Requests for Continuances of Development Application Hearings and Recommend its Adoption by the City Council

**MOTION PASSED** 9-0 for Item Nos. 2-5, 7, and 9.

#### REPORTS OF COMMITTEES AND COMMISSIONS

10. Parks and Recreation Commission Recommendation Regarding Palo Alto Unified School District (PAUSD) Request for Sitting Additional

## Basketball Courts/Tennis Courts at Terman Park

Assistant City Manager Emily Harrison said she preferred to have the presentation come from the chairperson of the Parks and Recreation Commission (PARC).

Parks and Recreation Commissioner Bill Garvey, Chair, said the decision process for the recommendation was very thorough. He outlined the decision and review process conducted for the plan to build the basketball courts, the needs of the PAUSD, and the concerns of the public.

Ms. Harrison said that the concerns of the PAUSD had been taken into consideration in making the Terman recommendation. She noted that if the Council were to approve the revised plan, it would be routed through the Planning and Transportation (P&TC).

Mayor Mossar asked Ms. Harrison why approval of the recommendation would require a change to the Terman Specific Plan.

Ms. Harrison replied the Terman Specific Plan required four tennis courts, but the Parks and Recreation Commission recommendation was for two courts.

Council Member Morton asked if the Council alone could approve the Terman Specific Plan or if it would require a public vote.

Interim City Attorney Furth replied to approve the plan, a P&TC hearing would be required, followed by a Council vote.

Council Member Freeman asked if the four alternatives listed in the P&TC report were checked and discussed by the P&TC.

Commissioner Garvey outlined the process the P&TC used in making their recommendation.

Council Member Freeman asked whether there were other planning options that could be considered instead of the existing options.

Council Member Lytle asked if there was an athletic performance difference between the two proposed plans.

Bob Golton, Deputy Superintendent, Palo Alto Unified School District (PAUSD), 25 Churchill Avenue, conducted a slideshow presentation of the plan that was approved by the PARC. The initial plan consisted of two tennis courts and four purpose-built basketball courts along with the fifth court, which was already in place. The subsequent plan being proposed that evening involved changing two of the purpose-built basketball courts into

multi-striped tennis/basketball courts. It was a win-win for the community and the school. It would offer two championship tennis courts for tournament play as well as two courts for recreational use. It also would accommodate a class of students for tennis lessons.

Mandy Lowell, President, Board of Education, Palo Alto Unified School District, (PAUSD), 1423 Hamilton Avenue, replied it was her understanding the softball field was not optimal anyway, and it would be primarily used for soccer.

Council Member Kleinberg asked how much additional open space would be used in the recommended plan.

Ms. Lowell said there was not an estimate available, but she had a source that could provide an answer. She reiterated the real issue was the timing of getting the basketball courts built in order to allow league play for the City's after school programs.

Council Member Freeman asked whether the plan specified if there was fencing around the softball diamond.

Nicholas Morisco, CSS Architecture, 163 Juanita Avenue, Burlingame, said there was currently fencing installed, and it would be kept in roughly the same configuration.

Council Member Freeman referred to the drawing and asked Mr. Morisco what the distance from the edge of the soccer field was.

Mr. Morisco replied that it was 15 to 20 feet. The new plans were better for playing sports than what was currently in place at Terman.

Council Member Freeman asked about a specific corner of the soccer field and expressed concern there was not enough room for corner kicks.

Mr. Marisco said his earlier statement was incorrect and revised the distance estimate to 25-30 feet.

Council Member Kishimoto asked if the plans were to keep the high exterior courts in place.

Ms. Lowell replied in the PAUSD plan, the fences would stay in place. She noted if the tennis courts were reconfigured for basketball, they could still be used for tennis practice.

Council Member Kishimoto said her concern was that the sidelines for the soccer field were too close to the exterior fence.

Ms. Lowell replied Mr. Morisco had said the soccer field could be reconfigured. She reiterated the primary use for the field was for soccer.

Ernie Lieberman, 444 San Antonio Road, #7B, said had been an amateur tennis player for 52 years, and tennis was an important lifelong activity, both for the community and those who played. Terman School could develop a tennis program with many benefits. He suggested school parking lots be used for basketball.

Phil Smaller, 4155 Wilkie Way, said the Park and Recreation Committee was violation of the Terman Specific Plan. The tennis community at Terman wanted at least three good courts. He then outlined a plan to compromise both the basketball and tennis needs.

Jack Birnbaum, 3520 Greer Road, said a minimum of three courts must remain at Terman. Other cities offer tennis programs, while Palo Alto did not. The tennis courts should be converted as planned, but one additional court should be constructed.

Chesley Douglas, 931 Elsinore Drive, said the Terman Courts were the best in Palo Alto and outlined his reasons why. Two other courts had been destroyed at Jordan Middle School, and the Terman Courts needed to be saved for future generations.

Debbie Clark, resident of the Green Acres neighborhood, 4218 Pomona Avenue, said she supported the PARC proposal. She encouraged the Council not to support a proposal that would allow basketball courts be built behind her home or next to the Glenbrook entrance. She expressed concern of a possible noise problem if the basketball courts were constructed as planned.

David Clark, 4218 Pomona Avenue, said the Green Acres Neighborhood Association supported both plans recommended by the Terman School and the PARC. The homes adjacent to the park were not listed on the proposal plans and should be included. He urged the Council to accept the plan and have the courts constructed.

Michael Maurier, resident of the Green Acres neighborhood, said he supported both plans recommended by the Terman School and the PARC. Building courts next to the Glenbrook gate would be unacceptable.

Teri Blackburn, PTA President, 408 Grant Avenue, #308, said her son was a student at Terman School, and she urged the Council to have the permanent courts built by November 1, 2003. She had heard from a planner who said it could be done in six to eight weeks.

Zach Bering, 408 Grant Avenue, #308, urged the Council to approve the PAUSD plan for the tennis/basketball courts.

Mike Heeger agreed with the other tennis players and would be disappointed if he were not able to play at Terman. The courts would need to be left as they were.

Richard Neeley, 4256 Pomona Avenue, said he lived in the Green Acres neighborhood. He displayed a map showing the Glenbrook gate area and surrounding homes. The building in that area would be unacceptable.

Council Member Ojakian asked about the baseball diamond on the map.

Martha Bowden, co-President of the Terman Middle School PTA, 27833 Saddle Court, Los Altos Hills, said she has a son who is a Terman student. She is. She noted the state recommended eight basketball courts for a school the size of Terman. The Council had a moral obligation to have the basketball courts built and said there were no alternatives. She listed several negative scenarios that would happen if the courts were not to be built.

Michael Steinberg, 628 Marisia Avenue, supported the PAUSD's plan and said expediency would be greatly desired.

Larry Thomas, Principal, Terman Middle School, said he was excited to be part of the project. He thanked staff for coming to an agreement so far. Terman School had concentrated on having sufficient facilities for safe sports play, physical education, and competitive sports. He felt basketball courts needed to be built.

Robert G. Moss, 4010 Orme Street, said he had a plan for retention of all four tennis courts, which would require an amendment to the Terman Specific Plan. It was necessary to retain all four courts, and his plan would cost less than the other plans presented to date.

Alice Smith, 4284 Los Palos Circle, representing the Green Acres Neighborhood Association, summarized the association's full support of the PAUSD's proposed plan. She emphasized the school children were the most important concern of the issue.

Council Member Kleinberg said in the City Staff Alternative, she wanted a fuller discussion of the cons. She expressed appreciation for the way the pros and cons had been outlined in the document. She asked for more specific cost details and listed examples of some of her concerns.

Director of Community Services Paul Thiltgen replied said the agreement with the PAUSD shared maintenance costs of a 50/50 split that applied to all facilities. Work done for increased drainage requirements would be covered by construction costs, paid for by the PAUSD, and would be a one-time cost. He did not have cost estimates immediately available. He then outlined some of the drainage needs.

Council Member Kleinberg asked whether the installation of the drainage requirements were a one-time cost.

Mr. Thiltgen replied that it was.

Council Member Kleinberg asked about the maintenance costs, and whether the cost estimates were based on current data.

Director of Parks and Golf Diaz said the maintenance would include cleaning of the tennis court and field maintenance renovation. The final maintenance costs had not been figured as yet and several variables had to be taken into consideration.

Council Member Kleinberg asked if either of the plans could meet the November 1, 2003 deadline.

Assistant City Manager Emily Harrison said if the deadline was to have the courts built by November, neither plan could meet the deadline. A Park Improvement Ordinance was required, which would take 30 days to go into effective.

Council Member Kleinberg asked whether the Council had done the best to push it along.

Ms. Harrison said the process would normally take a year.

Council Member Kleinberg said it was subject to the City's laws.

Council Member Morton said Attachment C of CMR:428:03 stated it would not require an ordinance variation.

Ms. Furth said the park was subject to a specific plan, which was an agreement to a land use. The provision in the plan was the City would maintain four tennis courts, which did not require an amended plan. Also, she said adding basketball courts did not require an amendment.

Council Member Morton said if the Council decided on Attachment C, the Council could cut a few months out of the process. Attachment C was found on pages 7-9, scheme 2B. He asked if two basketball courts were built first, as opposed to four. The City might meet the November 1, 2003 after school program deadline.

Ms. Harrison said the City would need an adopted Park Improvement Ordinance. They still needed to consult the PAUSD and get a recommendation from the PARC.

Council Member Morton asked in Attachment C, if the softball area was

moved further South, would softball playing be impacted.

Mr. Harrison said the problems with moving the softball area South were four basketball courts would occupy a large amount of green space, four basketball poles would run parallel to the soccer field that would potentially be dangerous, and relocating the ball diamond might not be usable.

Council Member Morton said the loss of green space might be regrettable, but it did not occur where there were mature trees and or in front of the Glenbrook path. It would provide a third and fourth court.

Commissioner Garvey said staff did not recommend the proposal and neither did the PARC.

Council Member Morton said softball was a preferred sport. It was used for the practice of Little League Program.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve the Palo Alto Unified School District (PAUSD) "Plan 6R" proposal from Robert Golton, dated September 3, 2003.

Council Member Morton said time would allow the PARC to explore the possibilities of doing something else and other places could be found for basketball courts, adding two more and reclaiming the tennis courts. Tithe PAUSD had made a good argument for dual usage for the middle two courts

Council Member Ojakian the Terman Specific Plan designated tennis courts but did not designate restriped courts.

Ms. Furth said the language did not refer to tennis courts but referred to tennis courts maintained by City Park standards.

Council Member Ojakian asked Mr. Garvey as to whether he saw the District's new plan.

Mr. Garvey said he saw the PAUSD's new plan to pave over more parkland than was recommended. He outlined the pros and cons with regard to safety, shrinkage of the fields, and the expense of the actual move.

Mayor Mossar said she did not see what the memorandum and the scale were different for the soccer field.

Council Member Ojakian said the memorandum was different than former Attachment C of CMR: 418:03, where there was less configuration of the soccer field. The soccer field got moved over.

Mr. Thiltgen said the difference between the two plans was about 50 feet.  
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He outlined the PARC's plan and the PAUSD's plan.

Mr. Garvey said he was not convinced the dual use of the tennis courts would be attractive to tennis players.

Council Member Ojakian said he would like to resolve the issues; soccer field needs were important to most. He wanted to see minimal impact on the additional recreational activities. Also, it was important to get the basketball courts back to eight.

**SUBSTITUTE MOTION:** Council Member Kishimoto moved, seconded by Burch, to approve the staff and Parks and Recreation Commission recommendation to approve in concept the preferred plan (Attachment A) of CMR:418:03, without additional tennis courts, for permanent basketball courts at Terman Park and direct staff to proceed with an amendment to the Terman Specific Plan.

Council Member Kishimoto said the City had an obligation to make the park multi-use. She would be willing to go along with the PARC alternatives. The tennis community had opposed the plan, and it seemed impossible for the basketball courts to be in place by November 1, 2003.

Council Member Burch thought the PAUSD's plan to push the softball diamond further down rendered it unusable for softball. He suggested some accommodation should be allowed until it could be done correctly.

Council Member Lytle said she was disappointed there was not a solution that accommodated all the recreational needs. In that situation, the Council had the right to a Park Improvement Ordinance and to amend the Terman Specific Plan. She asked whether the tennis courts could have joint striping.

Mr. Thiltgen said the tennis courts expanded beyond the basketball courts. They were trying to accommodate the PAUSD's needs.

Council Member Lytle suggested the Council move the tennis courts to another location at a future time.

Council Member Freeman said it was a prime example of how Palo Alto was built-out. Palo Alto had only a few feet between a tennis court and a soccer field. Out of all of the alternatives considered, all of them required the removal of top-notch tennis courts swapping out one form of recreation for another. She had also evaluated the needs of the seniors in the community, and she would rather see dual striping of a parking lot than dual striping of a tennis court. She asked whether the tennis courts were smaller in length than a regulation basketball court.

Mr. Thiltgen said they were.

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Council Member Freeman asked whether the surface would need to be removed for a new surface for basketball courts.

Mr. Thiltgen said no. The asphalt could be expanded and made larger and kept at the same level.

Council Member Freeman said the PARC could look at the driveway for options for basketball courts in the future. If the basketball courts were left in a state where it could be transferred back to a tennis courts, she would prefer that option.

Mayor Mossar noted there was a motion on the floor.

Council Member Freeman said she wanted to explore options and then add an amendment to the motion.

Mr. Thiltgen said he proposed to the PAUSD to use part of the Amphitheater in addition to the parking lot, but the PAUSD did not agree.

Council Member Freeman asked if the surface could be kept maybe the tennis courts could be changed back at a later date.

Mayor Mossar said the Council should return to the discussion that was now on the floor.

**AMENDMENT:** Council Member Freeman moved, seconded by Morton, to retain the tennis court base when courts are changed into basketball courts; the Parks and Recreation Commission (PARC) would be asked to look at placing basketball courts on the landscape driveway and then the City could rebuild the tennis courts, which were originally converted to basketball courts.

Council Member Freeman said the solution would help the tennis players and the basketball courts and keep the other playing surfaces as they are.

Council Member Morton said a good solution would get the PAUSD basketball courts in the short-term and eventually get a second set of courts (3 and 4) at a later date.

Mayor Mossar noted the amendment was an action that affected PAUSD land, not City land.

Council Member Kleinberg asked whether the driveway area was 100 percent legal property. She also asked whether it was subject to the Terman Plan as a driveway.

Mr. Thiltgen said no. The Terman Specific Plan specifically addressed the

athletic facilities and not the driveway. The school facility ran behind the pool and the back of the gym.

Council Member Kleinberg asked whether the use for their driveway was through a Use Permit.

Mr. Thiltgen said yes.

Council Member Morton said the amendment would be to request the adoption of Attachment A of CMR:418:03. The existing courts (3 and 4) to be maintained with a request to staff to explore the possibility of relocating the basketball courts (3 and 4) elsewhere on the site with an additional two basketball courts located somewhere else.

Mayor Mossar reiterated the Amendment to the Substitute Motion to have the tennis court base remain in place so when changed into basketball courts, they could be converted back to tennis courts. The PARC would be asked to look at placing basketball courts on the hard scape driveway and, if it found that could be done, the basketball courts could be reconverted back to tennis courts.

Council Member Kishimoto asked whether the PARC would look into the issue immediately.

Council Member Freeman said the urgent issue was to get the basketball courts placed. Her goal was to try and save the tennis courts over the long term.

Council Member Kishimoto agreed it should be kept reversible. She said other options should be explored within a year.

Mayor Mossar asked staff whether it is possible to convert tennis courts to basketball courts and then be reversed.

Mr. Thiltgen said that yes. It could be converted, but it would take a major regrading. It could be changed if there were a Park Improvement Ordinance.

Vice Mayor Beecham supported the reversible intent but did not support the Amendment to the Substitute Motion.

Council Member Lytle said an amendment would not be necessary in order to have the reversibility.

Council Member Ojakian said the alternative was discussed by the PARC on August 26, 2003 and lost in a 6 to 1 vote.

Council Member Freeman asked whether tennis court asphalt was exactly  
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the same as basketball court asphalt, and were they both different than driveway asphalt.

Mr. Thiltgen said yes. The coating on the surface was different.

**AMENDMENT FAILED** 7-2, Freeman, Morton "yes."

Council Member Kleinberg supported the substitute motion. The "best for the community" had outlined.

Vice Mayor Beecham said he supported the Substitute Motion.

Council Member Morton said the opportunity to have two additional tennis courts for school and weekend use was lost. He would support the Substitute Motion reluctantly because he believed it would prolong the rebuilding of the basketball courts.

**SUBSTITUTE MOTION PASSED** 9-0.

#### PUBLIC HEARINGS

11. Public Hearing: The City Council will consider the Request by Stephen Player on Behalf of Paula Kirkeby for a Zone Change to allow an Extension of an Existing Nonconforming Use for 15 Years in the R-1 Single Family Residential District, located at 440 Pepper Avenue [03-ZC-04]

Director of Planning and Community Development Steve Emslie said the item was recommended by the Planning and Transportation Commission (P&TC), and an extension of an existing non-conforming use for an additional ten-year period to end on July 20, 2018. He outlined the benefits the P&TC found for its use and how those benefits contributed to the community.

Mayor Mossar declared the Public Hearing open at 9:47 p.m.

Duncan King, Oak Creek Apartments, said to be able to go into the printing press in the Cubberly Art Center and make art was a special feeling. He urged the Council to vote in favor of the extension.

Steve Player, speaking on behalf of Paula Kirkeby, 1874 Guinda Street, said there was a lot of history behind this Art Center. Ms. Kirkeby had given back to the community with donations to the Palo Alto Art Center, was a good neighbor, and always cooperated with the City.

David Foster, 451 Pepper Avenue, on behalf of several neighbors, said that they did have some traffic problems but had not had a problem with the  
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Gallery. They were all proud to have the Gallery as their neighbor.

Bayard Colyear, 441 Pepper Avenue, said he lived across from the Gallery. They were good people doing the right thing and needed to be supported.

Mayor Mossar declared the Public Hearing closed at 9:55 p.m.

**MOTION:** Vice Mayor Beecham moved, seconded by Ojakian, to approve the staff and Planning and Transportation Commission recommendation to introduce an ordinance (Attachment A of CMR:414:03) the extension of a nonconforming use (art studio) in the R-1 Single Family Residential zone district for 15 years to terminate on July 20, 2018.

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.54.070 [Nonconforming Use – Required Termination] to Change the Required Termination Date for the Monotype Print Art Studio Use at 440 Pepper Street"

Vice Mayor Beecham said the speakers and the staff report spoke for themselves, and he was happy to support it.

Council Member Ojakian said he and Vice Mayor Beecham had supported it ten years prior and were happy to support it again.

Council Member Lytle said she supports the motion.

Council Member Morton asked staff whether the Use Permit remained the same.

Mr. Emslie said it could be transferred from one owner to another, provided the use remained the same.

Council Member Morton asked whether it would be specific to that use.

Mr. Emslie said yes.

**MOTION PASSED** 9-0.

### **Continued Discussion of Item No. 1- Selection of Candidates for the Architectural Review Board**

Mayor Mossar said, in the past, when the number of applicants for the board or commission was inadequate, the Council recruitment with the understanding that anyone who had applied could reapply.

Interim City Attorney Wynne Furth said it was a legal process.

Mayor Mossar said that sometimes tradition worked.

Council Member Freeman asked for clarification of a recruitment process for the Architectural Review Board (ARB) at the same time each year.

City Clerk Donna Rogers said the recruitment for the ARB was done at the same time each year.

Council Member Freeman said historically it had been the same time frame. She was concerned the group of candidates that followed the procedures was expecting to be interviewed, and now the procedure had changed. There was a viable option of candidates to choose from presently.

Mayor Mossar said her comments were a clarification of how the Council had handled that situation in the past. The Council would choose in its discussion what it would do.

Vice Mayor Beecham noted the original motion was on the table to continue the item.

Council Member Morton asked the City Attorney whether the applicants could be included in the pool automatically unless they chose to withdraw.

Ms. Furth said the process of starting over was an appropriate one. She suggested the candidate applications be resubmitted.

Council Member Kleinberg restated her substitute motion to reopen the recruitment for the ARB candidacy.

Council Member Beecham asked whether the applications could be carried over.

Council Member Lytle said the applications should be carried over if it is legal.

Ms. Furth gave a recommendation for the process of reopening the application process.

Council Member Kleinberg said that she would add the recommended process to her motion.

**SUBSTITUTE TO SUBSTITUTE MOTION:** Council Member Kleinberg moved, seconded by Ojakian, to reject the applications, reopen the filing period, and notify the four remaining applicants that their applications would be deemed reinstated for the new filing period unless the Clerk's Office is instructed otherwise.

**MOTION PASSED:** 9-0.

Council Member Kleinberg asked the City Attorney what to do about Mr. Lippert's term, as he had indicated he wished to continue.

Ms. Furth said the PAMC provided that, in all cases, people carried over until a successor was appointed or until they resigned.

11A. (Old Item No. 8) Policy and Services Committee Recommendation to the City Council Regarding Approval of Protocols for Council Meeting Consent Calendar in Memorandum Dated July 15, 2003, as Modified

**MOTION:** Council Member Burch moved, seconded by Morton, to continue Item No. 8.

**MOTION PASSED** 6-3, Kleinberg, Lytle, Ojakian "no."

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman asked who was eligible for voting on the Downtown North traffic calming. She also asked if trucks were included in the review of the Arastradero Corridor Traffic Study.

Assistant City Manager Harrison replied staff would look into those issues.

Council Member Morton noted his concern that traffic calming seemed to have a negative effect on businesses and asked what procedure could be taken to look into the impact of the trial period on the businesses.

Ms. Harrison said she would take his comments into consideration.

Council Member Kleinberg had concerns that the voters for the traffic calming would be utility payers.

Council Member Lytle was concerned with the Individual Review (IR) process.

Council Member Burch noted there were dump trucks along Alma Street that were traffic hazards when they drove in the left lanes.

Mayor Mossar said she viewed the new desalinization plant in Tampa Bay, Florida.

ADJOURNMENT: The meeting adjourned at 10:15 p.m.

ATTEST:

APPROVED:

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City Clerk

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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.