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December 8, 2003

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:45 p.m.

PRESENT: Beecham, Burch, Freeman (arrived at 6:49 p.m.), Kishimoto, Kleinberg (arrived at 6:48 p.m.), Lytle, Morton, Mossar, Ojakian

### SPECIAL MEETING

#### 1. Selection of Candidates to Parks and Recreation Commission

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

**MOTION PASSED** 7-0, Freeman, Kleinberg "absent".

#### 2. Recognition of Firefighters Who Assisted with Fighting the Southern California Wildfires

Fire Chief Ruben Grijalva acknowledged the numerous firefighters who traveled to Southern California to assist with the fires that occurred in October 2003. The wildfires consumed more than 600,000 acres including 2,136 residences and out-structures, countless numbers of vehicles and homes, and 14 fatalities including one Novato firefighter. There were almost 5,500 resources of individual personnel, including civilians and firefighters, and mutual-aid local government fire engines. From Santa Clara County, four strike teams or 20 fire engines were deployed to Southern California for approximately one week assisting with the local conditions. Palo Alto Battalion Chief Bruce Martin, Captain Roger Bloom, and Captain Patrick Morris were sent to lead and assist on two strike teams.

Mayor Mossar acknowledged the performance and contribution of the Palo Alto Fire Department to the State of California.

Council Member Ojakian said he owned a home in San Diego and the fire had come within a mile-and-a-half of his residence. He extended his personal thanks to the Palo Alto firefighters for their assistance in battling the fire.

Council Member Lytle expressed her thanks to the Palo Alto firefighters for putting themselves in harm's way to protect others.

Council Member Morton acknowledged the professional skills, which firefighters gave for the community benefit.

Council Member Kleinberg acknowledged the Palo Alto firefighters for their phenomenal example of mutual-aid.

Council Member Freeman said she was in Southern California and saw the fire devastation and the support for the firefighters. She expressed her thanks to the Palo Alto firefighters.

Council Member Kishimoto acknowledged the Council was grateful to have the firefighters return home safely.

**No action required.**

ADJOURNMENT: The meeting adjourned at 6:55 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, Ojakian

ORAL COMMUNICATIONS

Joe Durand spoke regarding Downtown North street closures.

M. Christine Kloeti, P.O. Box 754, spoke regarding the park restroom closure during the holidays and lights for the dog park.

Bunny Good, P.O. Box 824, Menlo Park, spoke regarding a City Attorney error regarding a due process violation, not a procedural error, and a citation for referendum on Opportunity Center.

Norman Carroll spoke regarding road signs and Christmas giving.

Edmund Power, 2254 Dartmouth Street, spoke regarding good government.

APPROVAL OF MINUTES

**MOTION:** Council Member Burch moved, seconded by Morton, to approve the minutes of October 27, 2003, as submitted.

**MOTION PASSED** 9-0.

ORDINANCES AND RESOLUTIONS



3. Ordinance Dedicating 2.01 Acres of the Land Formerly Known as the Palo Alto Medical Clinic Site for Park Land

Deputy Director Community Services Richard James said the Council was being asked to approve an ordinance, which would dedicate 2.01 acres of land, formerly known as the Palo Alto Medication Foundation (PAMF) site, as parkland. The dedication of the parkland was in agreement with the Development Agreement with PAMF, and the South of Forest Avenue (SOFA) Coordinated Area Plan (CAP). The parkland was already zoned as a public facility and complied with the Comprehensive (Comp) Plan. Staff had recommended that the .41-acre Roth Building site not be dedicated until its future use and funding were determined. Included as part of the ordinance was the potential for an emergency water storage project. Staff wanted to  
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include the project in the ordinance in order for limitations to be incorporated, if the project went forward. Those limitations included: 1) the project must support the park use and be incorporated into the park design; 2) it would not interfere or limit park design alternatives; 3) it would not result in a net loss of trees or park acreage; and 4) it would be at a sufficient depth so as to preclude turf, landscape or tree planting. Should the project go forward sometime in the future, it had the potential to pay for a fully developed park site and the continued maintenance of that site. Additionally, staff requested that the naming of the park be delayed until March 2004, when the Historical Association had ample time to collect and prioritize names submitted. If Council chose to approve the dedication of the park that evening, staff was prepared to begin the design of an "interim" park. The park construction project was described as "interim" because funding for a fully developed park (estimated at \$1.2 million in 2002 dollars) had not been identified. Staff had a \$200,000 Capital Improvement Project (CIP) Program in place to provide an "interim" park. The interim park would consist only of grading the park site, installing an irrigation system, providing natural turf across the entire area, and providing minor landscaping. Trees and appropriate landscaping on the site would be preserved if they were in healthy condition. Staff's goal was that there would not be a net loss in the number of trees: should trees be removed or destroyed, new trees would be planted somewhere on the site. The design of the interim park would commence immediately, with the objective of completing the park by fall 2004, utilizing staff resources to design it.

Betsy Allyn, 4186 Willmar Drive, said it would be more appropriate to pull out and separate the area to be used as underground utilities to prevent any future confusion of what was parkland and what was not.

Karen Holman, Palo Alto History Museum Project Coordinator, 725 Homer Avenue, thanked staff for being inclusive in their discussions of the reservoir and water well, and to celebrate the dedication of the surrounding parkland. She noted access was not discussed in the staff report (CMR:545:03), and suggested when doing the planning, staff consider a comprehensive design to include the park, the Roth Building, the Summerhill development, and any access required to service the reservoir and pump.

Jeff Traum expressed his thanks to the staff and the various citizens groups that came together for the project.

Council Member Freeman said one of her visions, in addition to the dedication of the SOFA Park, was to completely close the gap of the deficit four acres of parkland per one thousand people, as stated in the Comp Plan policy. She referred to the language in Article VIII of the City Charter regarding park ordinances, which stated inclusively that all land owned or

controlled by the City, which was used for park, playground, recreation or conservation purposes should be dedicated for such purposes by the ordinance. It did not include reservoirs, pump stations or wells, which fell under the category of utility rather than conservation. In addition, the Comp Plan Policy N-19 stated, a secure and reliable long-term water supply for Palo Alto was imperative to meet the basic health and safety requirements. New reservoirs, aqueducts, and treatment plants were more costly than wastewater recycling and water conservation.

**MOTION:** Council Member Freeman moved, seconded by Lytle, that upon the second reading of the ordinance, staff present an alternative ordinance that removes any reference or guidance regarding underground utilities at SOFA Park, by modifying Section 1 of the ordinance, by removing items (d) and (e), and under Section 2 remove the last clause in the first paragraph of 22.08.380 and item nos. 1 through 5.

Council Member Lytle said she believed there was a better way of simplifying the motion and agreed with the intent of it.

Interim City Attorney Wynne Furth said if the intent of the motion was to adopt an ordinance that did not make reference to SOFA Park as being a possible future site for utility improvements, she urged the Council to make the necessary corrections to the ordinance that evening and move forward on that basis.

Mayor Mossar expressed to Council Member Freeman the verbiage contained in Article VIII of the City Charter was not very clear, and referred her to the comments of the City Attorney to alter the motion.

Council Member Freeman agreed with the City Attorney as long as what was drafted matched the City Charter for Park Ordinances.

Ms. Furth said staff believed the ordinance as proposed was consistent with the City Charter. However, if the Council wanted to eliminate any reference to the possibility of future utility locations on the site, staff could accommodate that.

Council Member Freeman said she would entertain the utilities portion as a separate directive to the staff.

Council Member Lytle expressed concern about the idea of mixing uses in Palo Alto's parkland. She understood the reason for adding the language contained in Article VIII of the City Charter was to limit the list of purposes. The City, at one time, had combined municipal utilities and services on the City's parks. She did not believe the language or the notion of putting

municipal utilities on parkland was consistent with past practice or the intent of the City Charter. In the past, when the City expanded the sewage treatment plant, the item was placed on the ballot to allow the voters an opportunity to voice their opinion as to whether they wanted to expand municipal utilities in parkland. She expressed support for the motion; however, she did not support the notion of dedicating municipal utility property.

Ms. Furth said there had been extensive public discussion about the circumstances that made it possible to place 24-hour Emergency Water Supply (EWS) facilities in the area without interfering with park use. The circumstances were pretty limited; it would have to be located deep down, any above ground structures would have to be incorporated into the park design, it might require access under the sidewalk or street, and it would require a Park Improvement Ordinance. The City Council made a commitment to dedicate the land for park purposes at the completion of the PAMF Development Agreement, and accepted at least a portion of the value of the property as part of that agreement. While the Council reserved the right not to dedicate the Roth Building site, both because of financial uncertainty and because of the range of desirable uses, it did not make sense to try to reduce the area to be dedicated. Staff believed it was important not to make any reduction in size, but instead inform the Utilities Department they needed to figure out how to do it without reducing the area. There was a question of whether the language would interfere with the public's right to have a referendum, and the answer was no. First of all, the Council did not have the power to take away the right of the people. Secondly, it would require a Park Improvement Ordinance, which could also be referended.

City Manager Frank Benest said the City did not have the funds to develop new infrastructure. As part of the proposed ordinance or as a separate policy direction, staff needed direction so it would not preclude them from coming back with a creative solution that met the policy direction of the Council.

**SUBSTITUTE MOTION:** Council Member Kleinberg moved, seconded by Beecham, to approve the staff recommendation to:

1. Approve the ordinance (Attachment to CMR:545:03) reserving 2.01 acres of that certain parcel of land formerly a portion of the Palo Alto Medical foundation site for park, playground, recreation and/or conservation lands and uses. The ordinance also acknowledges the possible construction of an underground reservoir, well and pump station, subject to the conditions outlined in the ordinance.
2. Council waive its policy on naming a park prior to dedication; and

direct staff to return in March 2004 for Council selection from a list of prioritized park names submitted by the Palo Alto Historical Association.

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Adding Section 22.08.390 to Chapter 22.08 (Park Dedications) of the Palo Alto Municipal Code to Dedicate a 2.01 Acre Portion of the Land Formerly Known as the Palo Alto Medical Foundation Site"

Council Member Kleinberg praised the neighbors for hanging tough on the issue of a park, and to the staff for listening to the ideas of those neighbors. She felt the inclusion of the possibility of underground EWS facilities to be quite benign. It was a clear statement on the record of the Council's commitment to the public about the use of the SOFA Park, and any utility use would need to be consistent with all of the criteria that had previously been laid out. She said the proposal met the City's sustainability and fiscal principles. By approving the placing of the underground EWS facility in the SOFA Park, payments from the Enterprise Fund for use of the land could be used to substantially fund the construction of a fully developed park and provide funding for on-going maintenance.

Vice Mayor Beecham expressed support for the substitute motion. It would be short sighted of the Council not to find ways in which to use the underground space without impacting the park use. The City was obligated to also provide for the safety of the residents in terms of an EWS facility. Joint use of the land, both above and below ground, was likely to work to the benefit of those who wished to use it.

Council Member Morton said the Council had the unique opportunity to possibility have an EWS facility in the heart of the community, while providing the community a long sought-after park that almost had guaranteed permanent funding. He supported the substitute motion.

Council Member Kishimoto said she would have preferred having a clean Park Dedication Ordinance. She asked the maker of the motion whether she would accept a modification to break the ordinance into two ordinances: 1) a park dedication ordinance, and 2) an expression of Council's support for keeping open the option of placing utility facilities under the park and attaching the conditions as written.

Council Member Kleinberg asked the City Attorney whether it would dilute the Council's resolution and commitment on those principles since they were no longer part of the ordinance.

Ms. Furth said if the Council wished to alter the ordinance while making clear that they considered it an appropriate possibility for the site, she suggested the Council put the "remove language" in a resolution.

Council Member Kleinberg asked what legal authority would the EWS facility have if put into a resolution rather than being contained in the ordinance.

Ms. Furth said if the EWS facility was left in the ordinance it would become part of the City's official code, was on the record, and easily accessible.

Council Member Kleinberg asked whether it would carry the same force.

Ms. Furth said that was an issue for the Council rather than a technical legal analysis.

Council Member Kleinberg was opposed to a modification to her motion.

**AMENDMENT TO SUBSTITUTE MOTION:** Council Member Kishimoto moved, seconded by Freeman, to delete Sections (d) and (e) of the proposed ordinance and the final clause in Section 2, as well as item Nos. 1 through 5, and to direct staff to return with a resolution at the time of the ordinance's second reading including the text, which was removed from the ordinance.

Mayor Mossar asked the Interim City Attorney on the best way to handle the amendment.

Ms. Furth said the motion on the floor the staff recommendation. There was now a proposed amendment to that motion, and she understood the amendment to be that the ordinance be modified by deleting Section (d) and (e) and the final clause in Section 2, to then bring back to the Council at the ordinance's second reading a resolution with the removed text that could be adopted by Council.

Council Member Freeman said she believed her colleagues were all in agreement, except whether the two items should be joined or separated.

**AMENDMENT TO SUBSTITUTE MOTION FAILED** 3-6, Freeman, Kishimoto, Lytle "yes."

**CALL FOR THE QUESTION:** Council Member Morton moved, seconded by Burch to call for the question.

**CALL FOR THE QUESTION PASSED** 6-3, Freeman, Kishimoto, Lytle "no."

**SUBSTITUTE MOTION PASSED** 7-2, Freeman, Lytle "no."

CONSENT CALENDAR

Interim City Attorney Wynne Furth stated she would not participate in Item No. 4 due to a conflict of interest because of investment interest in BP Amoco stock. Senior Assistant City Attorney Grant Kolling would take over as Attorney for the evening.

Council Member Morton stated he would not participate in Item No. 4 due to a conflict of interest because of family stock ownership in BP Energy and Sempra Energy Trading Corporation.

Director of Human Services Kathy Espinoza-Howard spoke on behalf of the Management and Professional Employees and thanked the Council for the opportunity given to them on October 20, 2003 to institute a voluntary furlough program. There had been 85-percent participation from all the professionals and managers, which generated \$287,000 in savings in just five weeks. The gap was presently at \$35,000. She believed if the Management and Professional Employees were part of an association, similar to the Service Employees International Union (SEIU), there would have been the opportunity of targeting efforts to the 15 percent who did not participate.

Council Member Freeman said the motion that was made and seconded on October 20, 2003, offered the three-day voluntary unpaid furlough to note the targeted goal of 822 days or \$322,000 in savings and to report back to the Council in January 2004.

City Manager Frank Benest said that was correct. He believed the Council's intent was to assume the Management and Professional group would pledge the requisite number of days and the Council was interested, after the first of the year, to see whether the savings had been made, and the voluntary program had paid off. After several meetings with the Management and Professional group, the Executive Staff felt it was a good idea to return to the Council now because the Administrative Offices would be closed during the holiday week, which was an ideal time for the group to take some or all of those days as unpaid time off. Staff, had therefore recommended to enact the three-day unpaid furlough.

Council Member Freeman moved, seconded by Lytle, to remove Item No. 7 to become Item No. 9A at the end of the Consent Calendar.

**MOTION:** Council Member Burch moved, seconded by Beecham, to approve Consent Calendar Items 4-6, 8, 9.

## LEGISLATIVE

4. Ordinance 4809 entitled "Ordinance of the Council of the City of Palo Alto Approving Natural Gas Master Agreements with BP Energy Company, Conocophillips Inc., Coral Energy Resources L.P., Duke Energy Marketing America LLC, and Sempra Energy Trading Corporation for Procurement of Natural Gas and Authorizing the City Manager to Transact Up To \$50 Million with Each Supplier Under These Agreements" (*1<sup>st</sup> Reading 11/10/03, Passed 8-0 Kleinberg absent*).



5. Adoption of a Resolution Authorizing the City Manager to Apply for a Grant and Execute an Agreement with the State of California for a Roberti-Z'berg-Harris Urban Open Space and Recreation Grant in the Amount of \$163,825 for Construction of a Gateway Facility at the Arastradero Preserve

Resolution 8374 entitled "Resolution of the Council of the City of Palo Alto Approving the Application of the City of Palo Alto for Grant Funds for the Roberti-Z'berg-Harris Block Grant Program Under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002"

6. Resolution Declaring Results of the Consolidated General Municipal Election

Resolution 8375 entitled "Resolution of the Council of the City of Palo Alto Declaring the Results of the Consolidated General Municipal Election Held on Tuesday, November 4, 2003"

Resolution 8376 entitled "Resolution of the Council of the City Of Palo Alto Declaring the Results of the Consolidated Special Election for Measure "B" Held on Tuesday, November 4, 2003"

Resolution 8377 entitled "Resolution Of The Council Of The City Of Palo Alto Declaring the Results of the Consolidated Special Election for Measure "C" Held on Tuesday, November 4, 2003"

## ADMINISTRATIVE

8. Approval of an Agreement in the Amount of \$200,000 with Clara-Mateo Alliance, Inc. for Funds Allocated During Fiscal Year 2003/04 Under the Community Development Block Grant (CDBG) Program

Agreement Between the City of Palo Alto and Clara-Mateo Alliance, Inc. for Funds Allocated During Fiscal Year 2003/04 Under the Community Development Block Grant Program

## COUNCIL COMMITTEE RECOMMENDATION

9. The Policy and Services Committee Recommends to the City Council Approval of the Protocols and Ethics Addendum as Modified

**MOTION PASSED** 8-0 for Item No. 4 Morton "not participating."

**MOTION PASSED** 9-0 for item nos. 5, 6, 8, and 9.

- 9A. (Formerly No. 7.) Approval of Resolution Amending Compensation Plan for Management and Professional Employees to Include a Mandatory Furlough for Fiscal Year 2003-04

Resolution 8378 entitled "Resolution of the Council of the City of Palo Alto Amending the Compensation Plan for Management and Professional Personnel and Council Appointed Officers Adopted by Resolution No. 8353, to Include a Mandatory Furlough"

**MOTION:** Council Member Burch moved, seconded by Morton, to approve the staff recommendation to Amend the Compensation Plan for Management and Professional Employees to Include a Mandatory Furlough for Fiscal Year 2003-2004.

Council Member Burch said the Management and Professional group was given the opportunity to voluntarily reach the targeted goal of 822 days or \$322,000 in savings. He appreciated the City Manager's sensitivity in saying it looked as if they would not be able to reach the targeted goal, and offer them the opportunity to take the time-off during the holiday season. He supported the motion as constructed.

Council Member Morton complemented the staff for their cooperation. He said the holiday season seemed the most appropriate time in which the savings could be achieved.

**SUBSTITUTE MOTION:** Council Member Freeman moved to allow Management and Professionals to be offered the remaining days in December as per the previous motion to come up with the remaining balance of \$35,000.

**SUBSTITUTE MOTION DIED FOR LACK OF A SECOND**

**MOTION PASSED** 8-1, Freeman "no."

PUBLIC HEARINGS

10. Public Hearing: The City Council shall consider establishing Underground Utility District Number 39. The Council shall hear all protests and receive evidence for and against the action herein proposed, and when and where the Council shall consider and finally determine whether the public necessity, health and safety require the establishment of the District and the removal of poles, overhead wires, and associated overhead structures, and the underground installation of wires and facilities for supplying electric, communication and similar or associated services in the District. All of the area in the County of Santa Clara, City of Palo Alto, encompassing the areas contiguous with portions of El Camino Real, Sherman Avenue, Grant Avenue and Sheridan Avenue, Page Mill Road and Park Boulevard, all as more particularly described on that certain map entitled "Sherman/El Camino Real/ Page Mill/ Park Blvd. Underground Utility District Number 39," on file in the Office of the City Clerk.

Council Member Freeman stated she could not participate in the item due to a conflict of interest because of her ownership in property in the area.

Council Member Morton stated he could not participate in the item due to a conflict of interest because he rented space in that area.

Mayor Mossar declared the Public Hearing open and hearing no requests to speak declared the Public Hearing closed.

**MOTION:** Council Member Burch moved, seconded by Beecham to approve the staff recommendation to introduce the Ordinance to create Underground Utility District No. 39 and thereby amend section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code.

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Amending Section 12.16.020 of Chapter 12.16 Of Title 12 of the Palo Alto Municipal Code by Establishing Underground Utility District No. 39"

Council Member Kishimoto said there had been a previous vote on the issue, in which 60 percent voted in favor the project, 36 percent voted against the project, and 4 percent were undecided. She asked whether staff could benchmark those figures, and what was the greatest amount a person would potentially have to pay.

Director of Utilities John Ulrich said the 60 percent figure was a little on the high side. He believed the figure was closer to 50 percent. There were 124 commercial and residential properties within the confines of the proposed district. An informational meeting was held where only seven property

owners attended. Out of the 124 property owners, 70 responded. Of those 70 people, 42 (60 percent) voted yes, 25 (36 percent) voted no, and 3 (4 percent) were undecided. Out of the entire district, there were only 18 services that had to be converted from overhead to underground. It was estimated that all 18 services would be \$65,000, which equated to \$3,500 each.

Council Member Kishimoto asked why was there only 18 services that would need to be converted.

Mr. Ulrich said the majority was already serviced by underground off of the overhead facilities that were in place.

Council Member Kishimoto said it was therefore up to the Council to interpret the vote. She clarified it was not unusual for the votes to come in at a high 50 percent approval rate.

Mr. Ulrich said he had used the anecdotal feedback he received earlier that day.

**MOTION PASSED** 7-0, Freeman, Morton "not participating."

#### REPORTS OF COMMITTEES AND COMMISSIONS

11. Finance Committee Recommendation for Approval of the Water Integrated Resource Plan Guidelines and Resolution of the Council of the City Of Palo Alto Approving the Water Integrated Resource Plan Guidelines

Council Member Morton, Chair of the Finance Committee said future water would be one of the most cherished of commodities. The item before the Council was a set of guidelines that outlined a coherent and Water Integrated Resource Plan (WIRP). A lot of thought had gone into the plan and gave a structure for the City's future water development.

Director of Utilities John Ulrich said the staff report (CMR:547:03) included staff's communication with the Utilities Advisory Commission (UAC) and with the Finance Committee. After a lot of analysis and work based on the details outlined in the report, staff came up with seven guidelines: 1) preserve and enhance the San Francisco Public Utilities Commission (SFPUC) supply; 2) advocate for interconnection between SFPUC and the Santa Clara Valley Water District (SCVWD); 3) actively participate in development of cost-effective regional recycled water plans; 4) focus water Demand Side Management (DSM) programs to comply with Best Management Practices (BMP); 5) maintain emergency water conservation measures to be activated

in case of droughts; 6) retain groundwater supply options in case of change future conditions; and 7) survey community to determine its preferences regarding the best water resource portfolio. The Council was being asked to approve the item, which would give staff clear guidelines and direction for obtaining future long-term water supply.

**MOTION:** Council Member Morton moved, seconded by Beecham, that the Finance Committee recommends to the City Council approval of the Water Integrated Resource Plan (WIRP) Guidelines with the provision that when determining the economic feasibility of alternative water sources relative to San Francisco Public Utilities Commission (SFPUC) water, consideration be given to the possibility that SFPUC water may have a fixed-cost component independent of usage, which may be unavoidable when SFPUC water use is reduced, incorporate fixed costs possibly incurred when the Hetch Hetchy System was upgraded, as noted by the Utilities Advisory Commission (UAC), and adopt a Resolution approving the Water Integrated Resource Plan Guidelines.

Resolution 8379 entitled "Resolution of the Council of the City of Palo Alto Approving the Water Integrated Resource Plan Guidelines"

Mayor Mossar declared the Public Hearing open and hearing no requests to speak declared the Public Hearing closed.

Council Member Lytle said when Guideline 6, retaining groundwater supply options, came to the Finance Committee the previous year, the Committee had asked for an explanation and environmental assessment of the reversal in policy about the groundwater options. In the 1980s there was quite a bit of scientific evidence that withdrawing groundwater was damaging to the environment, which caused land subsidence in the research park, creek entrenchment, and de-stabilization of San Francisquito Creek. Questions were asked about jointly managing the groundwater basin and association with the SCVWD. When the well system came up as part of the budget, the Finance Committee had asked for environmental assessments that would provide answers to questions about Palo Alto's geology and explain the reversal in policy in terms of the environmental consequences. The Finance Committee had also asked about the growth inducing impacts of having the additional water supply due to Stanford's growth being limited by their Hetch-Hetchy capacity and their emergency response abilities. She asked what was the status of the California Environmental Quality Act (CEQA) analysis and why should the Council want to proceed down a policy path when they had not adopted such an analysis that explained what the environmental and growth inducing effects of the policy would be.

Mr. Ulrich said staff had listened to the feedback of the previous Finance Committee and took their comments into consideration. The proposed project had asked for the retention of groundwater supply options in case of change in future conditions. Staff had done some CEQA analysis as well as groundwater analysis, which would be factored in and provided for any recommendation made for use of groundwater.

Council Member Lytle clarified in adopting the guidelines, the Council had not directed staff to proceed in advance of CEQA analysis, but rather retained the option until the full CEQA disclosure.

Mr. Ulrich said that was correct. He referred to page 2 of the Finance Committee report (CMR:404:03), which stated, "Environmental impacts of alternatives have been considered in conceptual planning and will continue to be considered during environmental review that would occur at the time Council is requested to approve any elements of a Water Integrated Resource Plan, including the possible use of groundwater as supplemental supply during droughts." He believed staff had covered all areas of concern.

Council Member Lytle asked when was the environmental analysis available to the Council.

Mr. Ulrich said the environmental work would have to be done before staff could return with the request to fund the emergency water supply. He hoped it would move quickly because it was a vital necessity in Palo Alto to have the emergency water supply in place.

**SUBSTITUTE MOTION:** Council Member Freeman moved, seconded by Lytle, to accept the seven Water Integrated Resource Plan (WIRP) guidelines and to add an eighth guideline that ensures solutions are environmentally friendly.

Council Member Freeman said her colleagues on the Finance Committee believed the guidelines implicitly stated environmental concerns. She wanted the guidelines to explicitly state those concerns.

Council Member Lytle said the idea of explicitly stating the solutions were environmentally friendly was consistent with the City's policies for sustainability and Comp Plan policies for conservation and growth management.

Council Member Kishimoto said she was not opposed to adding an eighth guideline; however, she supported the guidelines going forward as originally written.

Council Member Kleinberg asked when state law and local ordinances related to the City's sustainability principles were explicit in certain rules and resolutions, but not all, did that suggest in any way, if not included, it somehow did not apply.

Assistant City Manager Emily Harrison said staff would still have to follow all the environmental requirements that were in CEQA, and were bound by both the City's policies and sustainability commitments. Both would remain in full force and effect whether or not the eighth guideline was added.

Council Member Kleinberg asked if the Council chose to make the guideline explicit sometimes, did that open the door to the legal interpretation that if it were not included every time, it was not applicable. It seemed redundant.

Senior Assistant City Attorney Kolling agreed it was a redundant act.

Council Member Kleinberg said overstatement of the matter could dilute it further down the line. She did not believe another guideline was necessary.

Council Member Morton said adding Guideline No. 8, which stated the City was environmentally responsible was not the same as the other seven guidelines, which were meant to provide a structure for integrating the water resources. It was more of a principle that needed to be followed, which seemed to be vague and was not related to the set of relatively specific guidelines to utilize in the development of a water resource management plan.

Mr. Kolling said by adding something that was reflective of existing law, one may unintentionally create an implication where none was intended.

Council Member Lytle said she understood CEQA was a disclosure document and not a policy directive document. She was unclear where the force of law tied to the Utilities Department directive to come up with environmentally sensitive solutions as it applied to the WIRP. She questioned where it was needed because the City's sustainability policy functioned to control the WIRP Guidelines.

Ms. Harrison said the sustainability guidelines were a separate set of guidelines that staff followed.

Council Member Lytle said the WIRP was controlled by those sustainability guidelines as much as its own guidelines. It had equal weight.

Ms. Harrison said she was in no position to make that statement. She clarified the sustainability guidelines were projects the staff took seriously.

Council Member Lytle said she did not understand the answer about legal redundancy. She asked where was the legal redundancy on adding a guideline about being environmentally sensitive as staff implemented the WIRP.

Council Member Kleinberg said she did not believe CEQA was merely a document requiring revelation. It was also a document that required mitigation of environmental problems. Therefore, it was more of a regulatory act. When you chose to state a matter that was already the law in some cases and not in other cases it became a potential problem. At those times when it was not stated, it could be said then it did not apply.

Council Member Burch said that although he understood what was being asked, he did not believe there was a need for it. He was opposed to the substitute motion.

Vice Mayor Beecham opposed the substitute motion.

Mayor Mossar opposed the substitute motion.

**SUBSTITUTE MOTION FAILED** 2-7, Freeman, Lytle "yes."

**MOTION PASSED** 8-1, Freeman "no."

ADJOURNMENT: The meeting adjourned at 8:52 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.