

Special Meeting
March 15, 2004

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FINAL ADJOURNMENT: The meeting adjourned at 9:05 p.m.15

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:46 p.m.

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

SPECIAL ORDERS OF THE DAY

1. Resolution 8408 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Tony Angiletta for his Outstanding Public Service as a Member of the Library Advisory Commission"
2. Resolution 8409 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to John Kagel for his Outstanding Public Service as a Member of the Library Advisory Commission "
3. Resolution 8410 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Tina Kass for her Outstanding Public Service as a Member of the Library Advisory Commission"

MOTION: Vice Mayor Burch moved, seconded by Morton, to adopt the Resolutions.

MOTION PASSED 9-0.

John Kagel expressed his appreciation for the privilege to serve on the Library Advisory Commission. He said the libraries were a resource the community valued.

Tina Kass expressed her thanks to the Council for their support.

Mayor Beecham said the Boards and Commission members had put in many hours of their time because they loved what they did and wanted to make a contribution to the community. The Council enjoyed this opportunity to express their appreciation.

4. Appointment of Candidate to Planning and Transportation Commission

FIRST ROUND OF VOTING FOR THE PLANNING AND TRANSPORTATION COMMISSION

VOTING FOR ADAM ATITO:

VOTING FOR BRET KERRINS:

VOTING FOR LEE I. LIPPERT:

Beecham, Burch, Cordell,
Freeman, Kishimoto, Kleinberg,
Morton, Mossar, Ojakian

VOTING FOR MARTIN STONE:

City Clerk Donna Rogers announced that Lee Lippert (with 9 votes) was appointed on the first ballot to an unexpired term ending July 31, 2007.

5. Appointment of Candidate to Utilities Advisory Commission

FIRST ROUND OF VOTING FOR THE UTILITIES ADVISORY COMMISSION

VOTING FOR RONNY BAR-GADDA:

VOTING FOR RAMARAO DEGUMARTHI:

VOTING FOR CLAUDE EZRAN:

VOTING FOR ANJALI JOSHI:

Cordell, Kishimoto

VOTING FOR WALTER LOEWENSTEIN:

VOTING FOR JOHN MELTON:

Beecham, Burch, Kleinberg,
Morton, Mossar, Ojakian

VOTING FOR STEVE MULLEN:

VOTING FOR JON RICHARDS:

VOTING FOR SALLY TOMLINSON:

Freeman

VOTING FOR WALTER WALLIS:

City Clerk Donna Rogers announced that John Melton (with 6 votes) was appointed on the first ballot to an unexpired term ending June 30, 2005.

ADJOURNMENT: The meeting adjourned at 6:58 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:02 p.m.

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

ORAL COMMUNICATIONS

Victor Frost, Page Mill Road, spoke regarding a new way in Palo Alto.

John Guislin, 225 Middlefield Road, spoke regarding the Middlefield Road Association.

Kathleen Rotow, 789 University Avenue, spoke regarding Palo Alto Arterial Traffic Association (PAATA).

Karen White, 146 Walter Hays Drive, spoke regarding a public forum on March 20, 2004 at the Palo Alto YMCA.

Steve Kutner, 275 Hawthorne Avenue, spoke regarding the Downtown North Traffic Program.

Michael Gagliasso, spoke regarding Downtown North.

Tom Wyman, 546 Washington Avenue, spoke regarding the Palo Alto Historical Association and access to photographs online.

Beth Bunnenberg, 2351 Ramona, spoke regarding the Palo Alto Historical Association and thanked the Council for their assistance.

John K. Abraham, 736 Ellsworth Place, spoke regarding a Director's Hearing on Antonio's Nut House and The Edge.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Freeman, to approve the minutes of February 9 and 17, 2004, as submitted.

MOTION PASSED 8-0-1 for February 9, 2004, Ojakian "abstaining."

MOTION PASSED 9-0 for February 17, 2004.

CONSENT CALENDAR

Council Member Mossar stated she would not participate in Item No. 4 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Cordell stated she would not participate in Item No. 4 due to a conflict of interest because she was employed by Stanford University.

MOTION: Council Member Morton moved, seconded by Kishimoto, to approve Consent Calendar Item Nos. 1-7.

LEGISLATIVE

1. Ordinance 4820 entitled Ordinance of the Council of the City of Palo Alto Amending Sections 16.09.106, 16.09.110, 16.09.112, 16.09.113, and 16.09.116 of the Palo Alto Municipal Code Relating to Sewer Use (*1st Reading 03/01/2004, Passed 9-0*).
2. Resolution Approving Participation in Certain Northern California Power Agency Member Agreements (Second Phase and Third Phase) for Financing of Planning and Development Activities for Agreements to Purchase Power and Purchasing Power from NCPA Generated by Landfill Gas Electricity Projects and Wind Electric Generating Projects

Resolution 8411 entitled "Resolution of the Council of the City of Palo Alto Approving Participation in Certain Northern California Power Agency Member Agreements (Second Phase and Third Phase) for Financing of Planning and Development Activities for Agreements to Purchase Power and Purchasing Power from NCPA Generated by Landfill Gas Electricity Projects and Wind Electric Generating Projects Respectively"

ADMINISTRATIVE

3. Cancellation of April 5, 2004 City Council Meeting
4. Amendment No. 1 (Revised) to the Contract with Carollo Engineers Phase I Water Distribution System Improvements (Cmr:248:02) to Include All Environmental Review Services for the 8-Hour Emergency Water Supply Project; Add Boronda and Park Booster Station Improvements; Add Field Services; and Delete the Final Design and Construction Services for a New Reservoir, Pump Station and Well
5. The Finance Committee recommends to the City Council acceptance of the Auditor's Office Quarterly Report as of January 31, 2004, with the modification to defer the Organizational Review of the Community

Services Department (CSD) for six months and that the Auditor return to the Finance Committee with a recommendation as to when the audit could begin. Also, that the Auditor move forward on the Audit of Contract Contingency Fees.

6. Amendment No. 2 to Contract No. C1131960 with Des Architects and Engineers in an Amount of \$13,460 for Services Associated with Additional Design Development, Construction Documentation, Bid Assistance and Construction Administration For Improvements to Three Baylands Parking Lots and Harbor Road (CIP OS-00003)
7. Recommendation to Execute Final Settlement Agreement Between City and County of San Francisco and the Suburban Purchasers

MOTION PASSED 9-0 for Item Nos. 1-3 and 5-7.

MOTION PASSED 7-0 for Item No. 4, Cordell, Mossar "not participating."

PUBLIC HEARINGS

8. Public Hearing: The City Council will hold a Public Hearing to consider mid-year changes to the 2003-04 Municipal Fee Schedule, including the adoption of new fees, increasing existing fees, rates or assessments.

2003-04 Adjusted Budget--Second Quarter (Q2) Financial Results, Mid-year Amendments and Capital Improvement Program Status

Mayor Beecham declared the Public Hearing open at 7:30 p.m. and receiving no requests to speak declared the Public Hearing closed.

MOTION: Council Member Kleinberg, seconded by Morton to approve the Finance Committee recommendations to the City Council to adopt the Budget Amendment Ordinance (BAO) (Attachment 1 of CMR:183:04), which includes:

- a. Proposed mid-year adjustments to the 2003-04 Budget for the General Fund, Enterprise Funds, Special Revenue Funds, Internal Service Funds, Debt Service Fund, and Capital Improvement Fund (Exhibit A).
- b. New or amended 2003-04 CIP Project Descriptions (Exhibit B).
- c. Amendments to the 2003-04 Adopted Municipal Fee Schedule (Exhibit C).
- d. Amendments to the 2003-04 Table of Organization (Exhibit D).

Ordinance 4821 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal-Year 2003-04 to Adjust Budgeted Revenues and Expenditures in Accordance with the Recommendations in the Midyear Report"

The 2003-04 mid-year Capital Improvement Program Projects Status Report is an information item (Attachment 2). A list of continuous projects follows the summary (Attachment 3). No action is required on those two items.

Council Member Kleinberg said the Finance Committee had thoroughly examined and analyzed the City's financial matters, and voted unanimously to accept staff's recommendations. The Mid-Year Report showed the General Fund was projected to remain balanced through June 2004. She complemented the previous Finance Committee for their wisdom in handling the two-year budget because it anticipated the State's economic situation and Palo Alto was far better off than other similarly situated cities in the Bay Area.

Council Member Morton expressed his thanks to the Chair of the Finance Committee for recognizing the hard work put in by the previous Finance Committee. He urged his colleagues to support the recommended changes.

Council Member Freeman said the Finance Department staff was still working on refining the Mid-Year Report so various degrees of detail could be looked at in the future.

MOTION PASSED 9-0.

9. Public Hearing: The City Council will consider an ordinance streamlining planning procedures by modifying and consolidating regulations from Palo Alto Municipal Code, including Chapters 16.48 (Architectural Review), 18.90 (Variances, Home Improvement Exceptions, and Conditional Use Permits), 18.91 (Design Enhancement Exceptions), 18.92 and 18.93 (Appeals), and 18.99 (Administrative Approval of Minor Changes in Projects). New Chapters 18.76 (Permits and Approvals), 18.77 (Procedures for Permits and Approvals) and 18.78 (Appeals) will also be added. *(Item to be continued at the request of staff to a date uncertain)*

Assistant City Manager Emily Harrison said the Planning and Transportation Commission was scheduled to discuss the matter on March 24, 2004.

MOTION: Council Member Morton moved, seconded by Ojakian, to continue the item to a date uncertain.

MOTION PASSED 9-0.

- *10. Public Hearing: The City Council will consider a request by BKF Engineers on behalf of Palo Alto High Street Partners for a Tentative Map for Property Located at 800 High Street for the Development of a 60 Unit Condominium Project; the Property Consists of a 41,993 Square-Foot Parcel, Which was Created by the Merger of Three Parcels. Environmental Assessment: An Environmental Impact Report Was Certified By The City Council on February 3, 2003. Zone District: Planned Community (PC) 4779. **This item was quasi-judicial and subject to Council's Disclosure Policy*

Planner Steven Turner said the application before the Council was a request for a Tentative Map on the site known as 800 High Street. The Tentative Map was a necessary step of the mapping process that would result in the creation of 60 condominium units as part of the Council's approved plans for establishing the Planned Community (PC) zoning. The project site originally contained three lots totally 41,997 square feet in area. The applicant received a Certificate of Compliance to merge the three lots into a single parcel. Upon Council's approval of the Tentative Map, the applicant would submit plans for the Final Map, which would incorporate all pertinent conditions of the Tentative Map. The recommended Conditions of Approval, as outlined in Attachment A of CMR:188:04, related directly to the mapping process and the pre-construction activities that were required prior to the issuance of the various building permits.

Mayor Beecham declared the Public Hearing open at 7:37 p.m. and receiving no requests to speak declared the Public Hearing closed.

MOTION: Vice Mayor Burch moved, seconded by Kleinberg, to approve the staff and Planning and Transportation Commission recommendations to approve the Tentative Map for the project at 800 High Street, subject to the Conditions of Approval (Attachment A of CMR:188:04).

Vice Mayor Burch expressed support for the project.

MOTION PASSED 9-0.

UNFINISHED BUSINESS

11. 2957 Waverley Avenue: Application by Chuck Bradley for a Partial Refund of Development Impact Fees Paid in November 2002 on a Second Residential Unit Constructed in Conjunction with a Replacement Home *(Item continued from 03/01/04)*

Senior Assistant City Attorney Bill Mayfield said the application before the Council was a request to approve an ordinance relating to the imposition and collection of certain development impact fees on residential dwelling units

smaller than or equal to 900 square feet. The application would effectuate a partial refund to all applicable developments approved on or after the date the original fee was established (January 29, 2002).

Chuck Bradley, 2957 Waverley Street, said the situation of the refund could have been avoided had he been properly informed as to how the law actually worked. At the Council meeting of March 1, 2004, the Director of Planning and Community Environment attested he would have allowed a three-week delay in order to take advantage of the lower fee. He urged the Council to treat him the same as anyone else who had been approved for a Conditional Use Permit (CUP) after September 17, 2002.

Mayor Beecham asked whether the ordinance being introduced that evening was for a first reading with a second reading coming at a later date.

Mr. Mayfield said no. Staff's recommendation was for Council to consider the protest and make a decision on whether or not to honor the protest. If the Council voted to accept the spirit of the protest, the mechanism provided to Council would entail an ordinance, which needed to be introduced and adopted at a later time.

Council Member Freeman asked for an explanation on how the reduced fees would be applied retroactively.

Mr. Mayfield the City Council had the power to make retroactive decisions and could alter the fees retroactively.

MOTION: Vice Mayor Burch moved, seconded by Cordell, to approve the staff recommendation to consider the request for partial refund and direct staff to introduce an ordinance clarifying the Council's intent to make the reduced fees for multi-family residential dwelling units smaller than or equal to 900 square feet apply retroactively to all applicable developments approved on or after the date the original fee was established (January 29, 2002).

Vice Mayor Burch said he believed it was the fair thing to do for all the projects similarly affected by the fee change.

Council Member Cordell complemented Special Counsel Dan Sodergren for responding to Council's many questions on the issue. She also believed it was the fair and just thing to do.

Council Member Mossar thanked staff for coming up with the mechanism to address the concern.

Council Member Kleinberg thanked her colleagues for their persistence in the matter and for looking to see whether other property owners were affected. She did not believe a mistake had been made, but that staff was unaware an ordinance had been passed that was not retroactive.

MOTION PASSED 9-0.

COUNCIL MATTERS

12. Colleagues Memo from Mayor Beecham and Council Member Kishimoto regarding a request to staff to forward letter to the Valley Transportation Authority

Council Member Kishimoto said in 2000, voters throughout the County supported Measure A, which promised to pay for a wide variety of transit projects, including Bay Area Rapid Transit (BART) to San Jose, Caltrain expansion and electrification, and Bus Rapid Transit to name a few. The Santa Clara Valley Transportation Authority (VTA) was presently in a financial and organizational crisis, and could fund only two projects besides operating assistance, BART to San Jose and Downtown East Valley Light Rail. A number of Council Members from North County cities met to discuss the issue and agreed to ask their respective city councils to approve and send a letter, which was attached to the Colleagues Memo. Projects which are not recommended for the Regional Transportation Plan (RTP) that were otherwise omitted would not be eligible to receive state or federal funding.

Council Member Mossar said in 2003, the Council sent two letters to the VTA Board. One focused on transportation projects that Palo Altans would benefit from in the approval of Measure A, and the second letter addressed the composition of the VTA Board and asked for better representation for every city in the County. VTA was formed by a state legislative act to bring both Congestion Management Planning and Transportation Planning under one roof. She believed it was time the cities of North County came together with the understanding of making the necessary structural changes. Palo Alto, through VTA had been successful in attracting both state and federal transportation funding. However, some of that funding was earmarked for the highly popular project, BART to San Jose. It was poor policy to assume popular projects were all the public cared about. The composition of the VTA Board changed considerably in January 2004, in that Palo Alto no longer had a seat on the Board. It would now share a seat with a representative from Los Altos. That meant Palo Alto would now have to work regionally on the issue.

Robert Moss, 4010 Orme Street, said he had previously expressed opposition to Council's support of Measure A because he felt the Measure would only

fund BART to San Jose and when funds ran out for anything else, the people in North County would lose out. He believed light rail and BART were losers in terms of being fair to everyone. North County should be looking at projects, which could be used to operate existing transit and bus lines effectively to get people out of their cars now, not in 2030.

Council Member Kleinberg asked whether matching funds from Measure A were being jeopardized because North County was not getting its transportation projects. She would like the letter to include a re-examination of the transit and Measure A priorities.

Council Member Mossar said if North County was not on the region's priority list it could not get state and federal funding. It was not, however, a matching funds issue. She clarified Palo Alto contributed proportionately more sales tax revenues to Measure A than other communities, and argued that although regional priorities were important, Palo Alto should be able to get something back in return. At that time, extra dollars were needed for Palo Alto's local shuttle system; however, the VTA would only provide funding for existing VTA transit service to Palo Alto.

Council Member Ojakian said the VTA was made up of a 12-member Board. Seven of the voting members were from South County and had the majority vote. Eighty percent of the money that came from Measure A would be spent by 2025. The remaining 20 percent, or approximately \$1 billion would be spent between the years 2025 through 2030, and was spread out among the remaining projects. The issue before the Council dealt with both the funding distribution and the criteria used to determine on how the funds were distributed. The key point was although the City did not have the leverage to get anything done, it could take a strong stand on how to vote on taxation down the road.

Council Member Kishimoto said in response to Council Member Kleinberg, the strong support of the recently passed Measure 2, bridge toll increase, strengthened the funding for the Dumbarton Rail. However, it was also predicated on VTA paying its share, which was \$44 million out of \$278 million. Under the present scenario it was not slated to happen.

Council Member Kleinberg asked what would happen to the Measure 2 monies.

Council Member Mossar said other projects would use it up. There was no shortage of ways to spend transportation dollars in the Bay Area.

Council Member Kishimoto said she was not sending a message to the VTA of just wanting money for Palo Alto or North County. The City wanted to buy

into the countywide visionary approach to transportation. When the Valley Transportation Project (VTP) 2020 came out a few years prior, it forecasted the greatest increase in travel demand would come from North County.

MOTION: Council Member Kishimoto moved, seconded by Beecham, to approve a letter to Valley Transportation Authority (VTA) to join other North County cities in asking the VTA Board and staff to re-examine the transit and Measure A priorities for the next 25 years.

Mayor Beecham said voters approved Measure A and the money had been set forth. The monies that were committed in good faith to North County would not be seen for a long time, if ever.

MOTION PASSED 9-0.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Kishimoto clarified to the Council that the Policy and Services Committee item entitled "First Meeting of the Year" was regarding the nomination and election process of Mayor and Vice Mayor.

Council Member Freeman said with regard to Item No. 4, she appreciates understanding that the contract with Carollo Engineers would include potential sites for reservoirs in addition to a comprehensive analysis of alternatives. She requested staff answer the letter from Joy Ogawa regarding BMR units at 800 High Street.

Assistant City Manager Emily Harrison noted that Ms. Ogawa was sent information on the BMR units.

Council Member Freeman noted children from Niihari Village, Japan were presently visiting Palo Alto.

CLOSED SESSION

The meeting adjourned at 8:17 p.m. to a Closed Session.

13. Conference with City Attorney – Existing Litigation
Subject: 2900 Washington Street Association v. City of Palo Alto, et al.; SMC # 411549
Subject: Authority: Government Code section 54956.9(a)
14. Conference with City Attorney -- Existing Litigation
Subject: CSAA v. City of Palo Alto; SCC # CV 813502
Subject: Authority: Government Code section 54956.9(a)

The City Council met in Closed Session to discuss matters involving existing litigation as described in Agenda Item Nos. 13 and 14.

Mayor Beecham announced there was no reportable action.

FINAL ADJOURNMENT: The meeting adjourned at 9:05 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.