

Regular Meeting  
September 19, 2005

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

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

SPECIAL ORDERS OF THE DAY

1. Resolution 8556 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Police Captain Brad Zook Upon His Retirement"

**MOTION:** Mayor Burch moved, seconded by Beecham, to approve the Resolution expressing appreciation to Police Captain Brad Zook upon his retirement.

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

Police Chief Lynne Johnson said Captain Zook had been involved in all aspects of the Police Department. He was well respected in the department and in the community.

Norman Carroll, 425 High Street, thanked Captain Zook for his involvement with the homeless community.

Council Member Freeman said she was honored to have had the opportunity to work with Captain Zook.

Palo Alto Police Captain Brad Zook said he was proud of his accomplishments, the Palo Alto Police Department, and the City employees.

2. Resolution 8557 entitled "Resolution of the Council of the City of Palo Alto Reaffirming the Establishment and Continuation of the Sister City Relationship Between the City of Palo Alto, California and Enschede The Netherlands"

**MOTION:** Council Member Ojakian moved, seconded by Freeman, to approve the Resolution Reaffirming the Establishment and Continuation of the Sister City Relationship with Enschede, The Netherlands.

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

Joanie Reid, President of Neighbors Abroad, said it was the 25<sup>th</sup> Anniversary of the Sister City relationship between Enschede and Palo Alto and thanked Mayor Burch for the resolution.

Paul Bijleveld said Enschede felt privileged to have a relationship with Palo Alto  
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Alto and looked forward to continuing the relationship for the next 25 years.

3. Resolution 8558 entitled "Resolution of the Council of the City of Palo Alto Adopting the City of Kenner, Louisiana and Authorizing the Provision of Hurricane Relief"

Council Member Cordell asked for information regarding the City of Kenner, Louisiana and the reason it had been adopted by Palo Alto.

Senior Auditor Renata Falk said Kenner had been selected because it was similar in size to Palo Alto. More than two-thirds of Kenner suffered severe flooding or wind damage and approximately half of the city was under water from flooding caused by Hurricane Katrina.

Fire Chief Nick Marinaro said two Palo Alto Fire Department staff members were deployed to Louisiana for search and rescue efforts.

Council Member Cordell said she was pleased the Mayor adopted the City of Kenner and inquired where the funds would be sent.

Ms. Falk said the funds would help 1,800 people in a Kenner apartment complex that housed mostly Latino families. Funds would also be distributed to other devastated families.

**MOTION:** Council Member Morton moved, seconded by Kleinberg, to approve the Resolution adopting the City of Kenner, Louisiana and authorizing the provision of Hurricane Relief.

**MOTION PASSED 9-0.**

#### ORAL COMMUNICATIONS

Victor Frost, 283 El Camino Real, spoke regarding disaster preparedness.

Jack Barrie, 657 Bryson Avenue, spoke regarding Electrical Underground District 41.

Herb Borock, P.O. Box 632, spoke regarding illegally posted election campaign signs.

Bill Ross, 2103 Amherst Street, spoke regarding a local hazard mitigation plan.

Elaine Breeze, SummerHill Homes, presented the 42<sup>nd</sup> Gold Nugget Awards of Merit received from The Premier Building Show and BUILDER Magazine to SummerHill Homes in recognition of excellence and value for several University Park Projects (Weatherly, Woodmark, Channing Collection, and University.)

Marlene Prendergast, Palo Alto Housing Corporation, 725 Alma Street, spoke regarding the Gold Nugget awards received by the Channing Collection for the Best Single Family Detached Home and Best Renovated or Restored Project or Single House.

Council Member Freeman said from their hard work, SummerHill Homes and Palo Alto Housing Corporation (PAHC) had wonderful results.

Council Member Morton said PAHC was the model for affordable housing and their projects became premium elements of the community.

Mayor Burch expressed appreciation to Ms. Breeze and SummerHill Homes for the contribution of playground equipment for Heritage Park.

Council Member Kishimoto said Ms. Prendergast had successfully worked with the neighborhood to design the complex.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Ojakian moved, seconded by Morton, to adopt the minutes of July 11, August 1 and August 8, 2005.

**MOTION PASSED** 9-0.

#### CONSENT CALENDAR

City Attorney Gary Baum stated the Council had the ability to reject all bids regarding Item No. 5, RFP for Sale of Certified Development Rights from the Children's Library, if they were dissatisfied with them.

Council Member Mossar stated she would not participate in Item Nos. 6 and 9 due to a conflict of interest since her husband is employed by Stanford University.

Council Member Freeman stated she would not participate in Item No. 9 due to a conflict of interest since she owns property within 500 feet of the Mayfield site.

Council Member Cordell stated she would not participate in Item Nos. 6 and 9 due to a conflict of interest because she was employed by Stanford University.

**MOTION:** Council Member Freeman moved, seconded by Kishimoto, to remove Item No. 10 to become Item No. 17a.

**MOTION:** Council Member Kishimoto moved, seconded by Freeman, to remove Item No. 5 to become Item No. 17b.

Council Member Freeman registered a no vote on Item Nos. 4, 6 and 7.

**MOTION:** Council Member Morton moved, seconded by Beecham, to adopt Consent Calendar Items Nos. 4, 7, 8, 11 and 12.

ADMINISTRATIVE

4. Approval of a One Year Contract in the Amount of \$100,000 with Delta Dental for Claims Administration Services for the City of Palo Alto's Self-Funded Dental Plan and Authorization for Contract Extensions for Two Additional Years
7. Amendment No. 3 to the City's Lease Agreement with McCandless Limited for Space at 1003 and 1007 Elwell Court to Extend Term for One Additional Year
8. Request for Authorization to Increase Amount of Existing Contract with Flynn and Associates by an Additional \$7,000 for a Total Not to Exceed the Amount of \$172,000

COUNCIL COMMITTEE RECOMMENDATION

11. Finance Committee Recommendation to Accept the Auditor's Office Quarterly Report
12. Finance Committee Recommendation to Declare as Surplus Property a Parcel on High Street near Oregon Expressway from Finance Committee Meetings of February 15, 2005, and July 19, 2005

Council Member Freeman spoke regarding her "no" vote on Item Nos. 4, 6 and 7. On Item No. 4 she commented Delta Dental was not the lowest bid. On Item No. 6, she said the City should have a lease with Stanford University prior to approval of funds, and on Item No. 7 she suggested not leasing the space at Elwell Court, but reallocate it instead.

Mayor Burch commented on Item No. 4 that there had been repeated lack of service from Met Life to the City's employees.

**MOTION PASSED** 8-1 for Item Nos. 4 and 7, Freeman voting no.

**MOTION PASSED** 9-0 for Item Nos. 8, 11 and 12.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve Item No. 6.

6. Approval of a Utilities Enterprise Fund Contract with MTH Engineers Incorporated in the Amount of \$161,945 for Engineering and Design of the Alma Substation Relocation to Quarry Substation

**MOTION PASSED** 6-1, Freeman no, Cordell and Mossar not participating.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve Item No. 9.

9. Agreement with the County of Santa Clara for the Maintenance of Landscape on the Page Mill-Oregon Expressway near the El Camino Real Intersection

**MOTION PASSED** 6-0, Cordell, Freeman, Mossar not participating.

#### UNFINISHED BUSINESS

13. Public Hearing: Notice of Intent to Award License to Place Telecommunications Equipment on Property Located on the South Side of Colorado Avenue Near the Intersection of Colorado Avenue and Simkins Court (*Continued at staff's request from July 25, 2005*) and Update on Zoning Ordinance Update (ZOU) re Telecommunications

Council Member Mossar asked City Attorney Gary Baum whether she could participate on the item due to holdings with another telecommunications company.

City Attorney Gary Baum said research showed that Metro-PCS was not a subsidiary or affiliated with any of Council Member Mossar's holdings. He stated Council Members Mossar, Morton and Ojakian did not have conflicts.

**MOTION:** Council Member Ojakian moved, seconded by Mossar, to approve and authorize the City Manager to execute the license agreement between the City of Palo Alto and Metro-PCS, for the development and operation of telecommunications facilities to be located 20 feet from a Pacific Gas & Electric (PG&E) tower on city-owned property on the south side of Colorado Avenue near the intersection of Colorado Avenue and Simkins Court.

**MOTION PASSED** 9-0.

#### PUBLIC HEARINGS

Mayor Burch announced that the Public Hearings for Item Nos. 14 and 15 would be heard together.

City Attorney Gary Baum said applicants would be provided the usual time for presentation as well as a rebuttal.

**MOTION:** Vice Mayor Kleinberg moved, seconded by Cordell, to combine both public hearings into one hearing, but to have separate approval motions for each one.

**MOTION PASSED 9-0.**

14. 1795 El Camino Real [05PLN-00106]: Request by Hayes Group on Behalf of James Newman for a Site and Design Review Application to Construct a 9,510 Square Foot Mixed-Use Building on a 12,282 Square Foot Parcel. Design enhancement Exceptions are Requested to Exceed the Maximum Allowable Building Height, Reduce the Required Side Yard, Front Yard, and Street Side Yard Setbacks, Exceed the Allowable Encroachment into the Side Yard and Street Side Yard Daylight Plane. A Variance is Requested to Reduce the Amount of Usable Common Open Space

**MOTION:** Council Member Mossar moved, seconded by Kleinberg, to: (1) approve the Mitigated Negative Declaration (Attachment L) for the project at 1795 El Camino Real, with a finding that the project would not result in significant environmental impacts; and (2) approve the Site and Design Review application to allow the construction of a new office building and related site improvements in the CN Neighborhood Commercial District, based on the findings in the draft Record of Land Use Action

**MOTION PASSED 9-0.**

15. 1805 El Camino Real [05PLN-00105]: Request for a Site and Design Review Application to Construct a 10,156 Square Foot Mixed-Use Building on a 12,456 Square Foot Parcel. Design Enhancement Exceptions are Requested to Reduce the Required Side Yard, Front Yard, and Street Side Yard Setbacks, Exceed the Allowable Encroachment into the Side Yard and Street Side Yard Daylight Plane and Reduce the Amount of Parking Lot Landscaping. A Variance is Requested to Reduce the Amount of Usable Common Open Space

City Planner Chris Riordan said the projects at 1795 and 1805 El Camino Real were three-story mixed-use projects. Both projects requested a reduction in the required number of parking spaces by 20 percent.

Mayor Burch declared the Public Hearing open at 8:00 p.m.

Jim Baer, 172 University Avenue, spoke regarding the management of height limits on both projects and the responsibility of managing available parking.

Planning and Transportation Commissioner Lee Lippert said the projects were uniquely tied together and covered for each other's deficit.

Mayor Burch declared the Public Hearing closed at 8:25 p.m.

Council Member Mossar said the Planning and Transportation Commission (P&TC) and the Architectural Review Board (ARB) were thoughtful and thorough with the projects.

Council Member Morton asked whether there was the danger of the height increasing to 40 feet.

Director of Planning and Community Environment Steve Emslie said variances were based on individual site characteristics and circumstances. The urban objective was to have more presence and buildings on El Camino Real.

Council Member Kishimoto noted the photometric map numbers increased at the back of the lot and decreased closer to the front of the building.

Mr. Lippert said the lighting should be shielded so it did not spill onto the neighboring properties.

Council Member Kishimoto asked about the lighting at the rear of the lot and its impact on the neighborhood.

Ken Hayes said trees at the back of the property and adjustment of the height of the light standards would bring the light levels off the neighboring properties.

Council Member Kishimoto said the projects were well designed and within the City's 50-foot height limits.

Council Member Beecham said staff and the P&TC had taken a reasonable approach to the projects.

Mayor Burch said he was looking forward to seeing the projects along El Camino Real.

**MOTION:** Council Member Mossar moved, seconded by Kleinberg, to (1) approve the Mitigated Negative Declaration (Attachment L) for the project at 1805 El Camino Real, with a finding that the project would not result in significant environmental impacts; and (2) approve the Site and Design Review application to allow the construction of a new office building and related site improvements in the CN Neighborhood Commercial District, based on the findings in the draft Record of Land Use Action

**MOTION PASSED 9-0.**

#### REPORTS OF OFFICIALS

16. Financing Alternatives to Fund Service Conversion Cost for Property Owners in Underground Districts

Herb Borock, P.O. Box 632, said residents should pay the same as if the lines had remained in the backyard easement.

Mary Howland, 547 Bryson Avenue, said she had concerns about financing and asked about the interest rates.

Litsie Indergand, 336 Ely Place, said the Council should have considered the financial impacts on its residents with limited and fixed incomes.

Robert Moss, 4010 Orme Street, said he supported staff's recommendation of additional funding options to help finance individuals who had financial difficulties.

Council Member Morton said staff had presented a method for residents who had difficult financial situations.

**MOTION:** Council Member Morton moved, seconded by Beecham, to direct staff to return with amendments to the Municipal Code to allow the repayment of Underground Utility District loans and release of lien, with interest, as follows: Repay with current 10-year loan program, or repay at the time the home is sold or transferred to a person or persons other than the present owner, the loan amount is repaid, or the ownership is changed.

Further, to provide an additional service to property owners in underground districts the management of all or part of the service conversation work and direct staff to establish a fee for managing and administering the contract, which would be included in the Utilities Rates and Regulations.

Further, to set the Council meeting of October 17, 2005 as the date for the adoption of the Ordinance Establishing Underground District No. 41.

Council Member Beecham said it was a good solution and he looked forward to its implementation.

Council Member Kishimoto asked on what the 5 percent interest rate was based.

Electric Engineering Manager Tomm Marshall said the interest rate was fixed and based on when the district was formed.

Mayor Burch asked whether the interest rate was cumulative.

Mr. Marshall said it was a compounded interest rate.

Mayor Burch asked whether it could be a simple interest rate.

Mr. Marshall said staff proposed a compound interest rate, but would acquire whatever type of interest rate the Council directed.

Council Member Kishimoto asked whether another neighborhood survey should be made based on the new information provided.

Mr. Marshall said it would take considerable staff effort to complete another survey.

City Manager Benest felt another survey was unnecessary; there had been majority support.

Council Member Freeman asked whether it was possible to create a fund out of the City's budget to support the undergrounding.

Council Member Ojakian said there were issues regarding liens on certain homes.

City Attorney Baum said liens could not be placed on homes with reverse mortgages.

Council Member Ojakian clarified there were issues and options that should be reviewed.

Council Member Morton said reverse mortgages were seldom 100 percent of the value of the home.

Mr. Baum said under the terms of a reverse mortgage, taking additional lending against it could be prohibited.

Council Member Ojakian said staff would review the issues.

Mr. Benest said all the issues related to the items would be reviewed; he requested any ideas or questions to be sent to staff.

Council Member Ojakian said the cost of undergrounding had escalated, and Council requested staff to look at other creative ideas for repayment of Underground Utility District loans.

Vice Mayor Kleinberg asked whether a rate adjustment would be made for administering the contract.

Mr. Marshall said a specific fee could be incorporated in the Utility Rate Schedule for undergrounding customers as part of the Municipal Code change.

Vice Mayor Kleinberg said it was not a shared rate adjustment.

Mr. Marshall confirmed.

Vice Mayor Kleinberg said the staff report (CMR:377:05) stated residents would pay the contractors for work performed and then request financing from the City. She asked what guaranteed the residents' loan options.

Mr. Marshall said a list of participating residents would be provided to the Council for approval.

Vice Mayor Kleinberg asked what authority the Council had.

Mr. Marshall said Council was enabling staff to handle the special assessments against the properties.

Vice Mayor Kleinberg said the Council would not have the authority to approve or reject loan financing.

Mr. Marshall said once a resident was on the list they would receive the financing.

Vice Mayor Kleinberg clarified the residents had a choice of financing.

Mr. Marshall confirmed.

Vice Mayor Kleinberg asked whether there was written assurance.

Mr. Marshall said loans would be provided as long as there was documentation on what was spent on the undergrounding.

Vice Mayor Kleinberg asked whether there was information explaining the process to customers.

Mr. Marshall said he would verify the information. He was not aware of anyone being denied a loan.

Vice Mayor Kleinberg was concerned if the County would charge the City to carry the loan and then repay it.

Mr. Marshall said the program had been ongoing for years, and he was unaware of any cost to the City from the County.

Vice Mayor Kleinberg said it was cost neutral as far as the County collection and reimbursement of the monies was concerned.

Mr. Marshall said the City had not paid the County for that service.

Council Member Cordell asked Council Member Freeman to restate her issue.

Council Member Freeman said she recommended a source of funding designed specifically for undergrounding.

Mr. Benest said there were two issues: 1) could ratepayer dollars be used to benefit specific properties and; 2) the impact on the overall rate.

Vice Mayor Kleinberg said consideration should be provided to impacted individuals who did not fall within the blind, disabled, and poverty level guidelines.

Council Member Morton said staff stated it would be a choice of the homeowner that did not require a disability, age, or income testing.

Mayor Burch said the intent was to upgrade the City as a whole as the City could afford it. Solutions provided the individual homeowners to the cost outright, take out a loan, or put a lien on their property. He had concerns with compounded interest rates and suggested a simple rate.

**SUBSTITUTE MOTION:** Council Member Freeman moved, seconded by Cordell, to move forward with the staff recommendation and also to direct staff to look at the creation of a separate fund for various underground districts and return to Council with information.

Vice Mayor Kleinberg suggested a fund be created for the individuals who entered the affordable housing purchase program with no protection for increased costs of maintaining the homes and of condominium ownership fee increases. Increased financial burdens on residents should be more comprehensive.

**SUBSTITUTE MOTION FAILED** 2-7, Cordell, Freeman yes.

**MOTION PASSED** 9-0.

**MOTION:** Mayor Burch moved, seconded by Kleinberg, to request that staff consider the value of simple interest versus compound interest on loans when the issue returns to Council.

**MOTION PASSED** 6-3, Beecham, Kishimoto, Morton no.

Council Member Morton asked Mr. Baum whether there was a transfer of benefit rule that enriched a subset of the population that did not apply to the general population. He had a concern with the difference of the type of interests.

Mr. Baum said there could be an issue with a gift of public funds.

## COUNCIL MATTERS

17. Colleagues Memo from Council Members Freeman and Cordell re Gift from the Friends of the Palo Alto Libraries (FOPAL) for a Modular Building at the Children's Library During Remodeling

Mayor Burch said there was a question of whether the item should be agendized.

City Attorney Baum said the intent of Colleagues Memos was to provide the opportunity to discuss whether an item should be placed on the agenda. Comments should be limited to that issue and not to the merits of the item.

Council Member Freeman felt the Council had the responsibility to respond to a letter from the Friends of the Palo Alto Library (FOPAL) addressed to the City Council.

Council Member Cordell said the offer from FOPAL was worthy of discussion after feedback was received from all concerned entities.

Herb Borock, P.O. Box 632, said the item should be agendized to discuss FOPAL's proposal.

Jeff Levinsky, 1682 Hamilton Avenue, asked the Council to review the options to resolve the problems of the current reorganization but also to preserve the neighborhood libraries.

James Schmidt, 244 Forest Avenue, said the item should be agendized so complete and accurate cost estimates could be provided.

Lenore Jones, 3465 Kenneth Drive, said the proposed solution involved a problem that did not exist.

Elaine Meyer, 609 Kingsley Avenue, said FOPAL's ideas should not be dismissed.

Karen Holman, 725 Homer Avenue, believed the issue should be agendized. It could be a policy decision, which the Council could discuss and vote on.

Robert Moss, 4010 Orme Street, said it was a policy issue that should be agendized.

Sanford Forte, 280 College Avenue, said a portable building being interjected into the current situation would cause delays in the process.

Valerie H. Stinger, 721 Christine Drive, said the staff, the Library Advisory Commission (LAC), and the Council should stay on task and continue focusing on long term planning.

Sandra Hirsh, 226 Creekside Drive, said it was important to stay focused. The potential delays and costs that could result from the issue were concerns.

Betsy Allyn, 4186 Willmar Drive, said a group of citizens wanted to discuss the potential of a modular building with the Council.

**MOTION:** Council Member Cordell moved, seconded by Freeman, to agendaize for discussion the matter of the proposed Friends of the Palo Alto Library gift of \$100,000 for a modular building to provide additional library space for the Children's Library during the remodeling. The item should include input from the Library Advisory Commission.

Council Member Mossar said a public process had been completed and the Council had supported staff's recommendation. The staff and the LAC should be allowed to complete the planning process assigned to them by the Council.

Council Member Morton said he did not want to discourage the generosity of the FOPAL or agendaize a "turf war".

Council Member Kishimoto said the item was a public/private partnership issue, which should be discussed by the Council.

Council Member Ojakian said the Council had made policy decisions to continue the branch libraries, reconfigure the Downtown Library, and improve the Main Library layout and services.

Council Member Beecham believed FOPAL wished to preserve the services at the Downtown Library. The Council had voted to maintain the services at the current level.

Vice Mayor Kleinberg asked staff whether changing the contract would constitute an anticipatory breach.

Mr. Baum said there were agreements, purchase orders and invoices. There would be damages or payments in the amount of work completed to date.

Vice Mayor Kleinberg asked at what point damages would be paid if contracts were terminated.

Mr. Baum said there were liabilities based upon services performed; there were figures from \$31,000 up to \$38,000.

Director of Public Works Glenn Roberts said it would not affect any design work currently being performed at Children's Library. The redesign work and modifications proposed at the Main and Downtown libraries would be impacted.

Vice Mayor Kleinberg said there would not be potential litigation.

Mr. Baum said services incurred to date would need to be paid. There could be litigation incurred if the services were not paid.

Vice Mayor Kleinberg asked whether the only termination liability was services.

Mr. Baum said he believed so.

Mr. Roberts said if the work performed was paid; he did not believe there would be other claims.

Vice Mayor Kleinberg said if the item were agendaized, were there other City procedures or reviews that would impact the timeline for completing the library renovations.

Mr. Roberts said it could take up to 10 months for the modular proposal to go through the City process.

Vice Mayor Kleinberg asked about the quickest timeframe.

Mr. Roberts said that was a question for the Planning Director.

Council Member Freeman asked what the timeline was for the portable building to be placed at the Cubberley site.

Assistant City Manager Emily Harrison said she believed it would take several months.

Council Member Freeman said the exact information could be accessed should the issue be agendaized.

Vice Mayor Kleinberg said there were timeline and unknown monetary problems with the FOPAL offer.

Council Member Morton said members of the community had contributed significantly and support efforts should not be discouraged.

Council Member Beecham said the costs of a project did not always include all facets.

Council Member Freeman said the Colleague's Memo was a means to get the item agendaized so decisions could be based on actual numbers.

**MOTION FAILED** 4-5, Cordell, Freeman, Kishimoto, Morton yes.

17A. (Old Item No. 10) Policy and Services Committee Revised Recommendations for Changes to City Council Protocols and Procedures As Part of Annual Review

Council Member Freeman felt the wording of the policy constricted the Council Members.

**MOTION:** Council Member Freeman moved to approve the Policy & Services Committee recommendations for the following revisions:

- In the City Council procedures, require that a majority of the Council approve assignments made to staff during the Council comments section of the agenda. (In certain instances, the Brown Act may preclude action on certain items until they are subsequently agendaized.)
- In the City Council e-mail policy reflect that in the response to Council questions posed by e-mail, the Council member posing the questions will be identified in the title of the staff response. ~~In addition, amend the policy to indicate that staff will only respond prior to the Council meeting to items on the Council Consent Calendar.~~
- Confirm that protocols apply to board and commission members.

**MOTION FAILED FOR LACK OF SECOND**

**MOTION:** Council Member Kishimoto moved, seconded by Freeman, to approve the Policy and Services Committee recommendations for the following revisions with some modifications as follows:

- In the City Council procedures, require that a majority of the Council approve assignments made to staff during the Council comments section of the agenda. (In certain instances, the Brown Act may preclude action on certain items until they are subsequently agendaized.)
- In the City Council e-mail policy reflect that in the response to Council questions posed by e-mail, the Council member posing the questions will be identified in the title of the staff response. In addition, amend the policy to indicate that staff will **give priority to responding** ~~only respond~~ prior to the Council meeting via e-mail to items on the Council Consent Calendar. **Technical and clarifying questions on non-consent items will be responded to as time allows.**
- Confirm that protocols apply to board and commission members.

Ms. Harrison said the purpose of the emails was to enable the meetings to be more efficient.

Council Member Mossar said she preferred the recommendation from the Policy and Services Committee.

**MOTION PASSED** 8-1, Mossar no.

17B. (Old Item No. 5) Authorization to Circulate Request for Proposals for Sale of Certified Development Rights from the Palo Alto Children's Library, 1276 Harriet Street

Council Member Kishimoto said she had concerns regarding the low threshold setting.

**MOTION:** Council Member Kishimoto moved, seconded by Cordell, to approve the attached Request for Proposals (RFP) for the sale of Certified Development Rights from the Palo Alto Children's Library, 1276 Harriet Street, and, furthermore, the threshold would be set at \$72,000 instead of \$42,000 for each 500 square foot increment of the total 2,500 square foot floor area bonus.

Mayor Burch asked how the dollar amount was determined when a RFP was sent out.

Manager of Real Property Bill Fellman said an appraiser would provide an estimate of the minimum price.

Council Member Kishimoto asked whether the RFP specified \$42,000.

Council Member Morton said an unacceptable bid could be rejected. The danger of increasing the bid amount would be no interest in the RFP.

**SUBSTITUTE MOTION:** Council Member Morton moved, seconded by Mossar, to accept staff's recommendation to approve the Request for Proposals (RFP) for the sale of Certified Development Rights from the Palo Alto Children's Library.

Council Member Cordell asked staff whether \$72,000 was too high. If bids were received for \$42,000 and rejected, would it matter how much time would be lost.

Mr. Fellman said he believed \$72,000 was too high. If bids at the \$42,000 level were received and then rejected by the City, the bidders would be given 30 or 60 days to re-bid.

Council Member Cordell said there would be a delay of a month or two. She asked how critical delays would be.

Project Engineer Debra Jacobs said when bids were rejected; the process could be delayed approximately three months. She said Prices were going up and there was the chance that acceptable bids would not be received.

Council Member Cordell asked Ms. Jacob's preference on the bid threshold amount.

Ms. Jacobs said her preference was the \$42,000 option as the choice could be made to accept the bid; with the \$72,000 option, it could be possible that bidders would not meet that amount and the City would have to go out for bids again.

Council Member Beecham said the parking assessment was \$53,000 per space; \$21,000 per space would be the minimum bid. The parking assessment the Downtown merchants had paid for would lose \$30,000 per space if they came in at the minimum bid.

Director of Planning and Community Environment Steve Emslie said the authorization was in addition to the existing program. It was not changing the rules to the existing Transfer Development Rights (TDR) program. The purpose was to make the City and its public buildings that are historically qualified eligible.

Council Member Kishimoto said there was a danger in setting the threshold too low. The goal was to obtain more money for the Children's Library.

Council Member Freeman asked about the legality of the rejection of bids. She asked if someone bid the lowest acceptable bid of \$42,000, would the City have the legal ability to reject.

City Attorney Gary Baum said the agreement was written so the City had the ability to reject any and all bids.

Council Member Freeman asked how many 500 square foot lots there were at \$42,000.

Mr. Fellman said there were five lots.

Council Member Freeman said the difference between the \$42,000 and \$72,000 threshold was \$150,000. She asked how someone would get on the surplus property mailing list.

Mr. Fellman said the TDRs could be purchased and later sold to a receiver site.

Council Member Freeman said anyone in the City could buy the lots.

Mr. Fellman said individuals who had interest in purchasing a piece of property in the City of Palo Alto, had placed their names on a list; the property was advertised in the newspaper. Everyone who had a receiver site had been notified. Contractors and architects had also been notified.

Council Member Freeman said if she were interested in purchasing property, she would need to get onto the mailing list.

Council Member Beecham said he would think about whether it was the right policy.

Director of Administrative Services Carl Yeats said the timeline would be impacted if it were the only funding source available. Council could direct staff to use the infrastructure reserve to pay if the process was extended. The project would not stop if the TDR process were not completed.

**SUBSTITUTE MOTION PASSED** 7-2, Freeman, Kishimoto no.

ADJOURNMENT: The meeting adjourned at 10:57 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.