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October 29, 2007

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:33 p.m.

Present: Barton, Cordell arrived at 6:55 p.m., Drekmeier, Kleinberg arrived 7:30 p.m., Kishimoto, Klein, Mossar, Morton

Absent: Beecham

~~1. Interviews of Applicants for the Public Art Commission (Item to be rescheduled)~~

STUDY SESSION

2. Review of Proposed Amendments to Chapters 15 and 16 of the Palo Alto Municipal Code Adopting the 2007 Editions of the California Fire, Building, Mechanical, Electrical, and Plumbing Codes and the 2005 Edition of the California Energy Code

Council Member Kleinberg stated she would not participate in Item 2 due to a conflict as she had been employed by Joint Ventures Silicon Valley Network for two years to create a coalition of cities, including Palo Alto, to dissuade cities from adopting amendments to codes.

Staff presented an overview of the adoption process for the new California Building and Fire Codes and a summary of the proposed local amendments to be adopted into the Palo Alto Municipal Code to become effective January 1, 2008. Staff worked with building, fire and hazardous materials officials in Santa Clara County and other nearby agencies for more than six months to develop regional amendments to promote regional consistency to the extent possible and to maintain the current code requirements. No significant new requirements are proposed.

A public hearing will be held November 13, 2007. A second reading will be heard on November 26, 2007 and the codes and proposed amendments will become effective January 1, 2008.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Barton, to approve the minutes of September 24, 2007, as submitted.

MOTION PASSED: 7-0, Beecham, Kleinberg absent.

CONSENT CALENDAR

Council Member Morton moved, seconded by Klein to pull Item 8 from the Consent Calendar to become 10A.

Council Member Kleinberg stated she had a conflict on Item 10 as she works with Accela, Inc. on disaster planning technology.

MOTION: Council Member Barton moved, seconded by Drekmeier, to approve Consent Calendar Items 3-10.

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MOTION PASSED for items 3-7, and 9: 8-0, Beecham absent.

MOTION PASSED for item 10: 7-0 Kleinberg not participating, Beecham absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 10A. (Old #8.) Recommendation from the Policy and Services Committee to Rename City Hall Plaza to "Dr. Martin Luther King Jr. and Coretta Scott King Plaza"

Council Member Morton stated that the community should be involved in the decision, the name should be unique to Palo Alto and naming the plaza after two people would be too complicated.

Vice Mayor Klein stated he did not agree with the inclusion of Coretta King in the naming of the plaza. He added that it would be more appropriate to name a street after Martin Luther King, Jr.

Council Member Mossar stated there might be other local names, which may be more appropriate. She asked that this return after suggestions were given from the public to select the most appropriate name.

Council Member Barton stated these were people who were very important to our country and these names were relevant to Palo Alto.

MOTION: Council Member Barton moved, seconded by Cordell to rename City Hall Plaza to "Dr. Martin Luther King Jr. and Coretta Scott King Plaza" in honor of their combined contributions. If the Council authorizes the renaming, staff further recommends that the Council authorize staff to begin design work on an appropriate small sign or plaque for the plaza.

Fred Balin, 2385 Columbia Street, stated he did support the renaming of City Hall and if there was a process for renaming something that process should be followed.

Herb Borock, P.O. Box 632, stated he did support the renaming of the plaza and asked that there be more consistency with the renaming policies.

Robert Moss, 4010 Orme Street stated he did support naming the Civic Center after Dr. King. He added that this should have been sent to the

Historical Resources Board (HRB) to have them look at whether this was appropriate or not.

Council Member Cordell stated this was about the City making a statement that we care about issues of civil rights, freedom of speech and recognizing that these individuals brought certain issues to the forefront. The Kings did have connections to Palo Alto through Stanford and through Clay Carson who was a Professor at Stanford. She did support the renaming of the plaza.

Council Member Drekmeier stated that Palo Alto used to be a segregated community and there were a number of neighborhoods where nonwhites could not buy a home. He stated that the King's represented Palo Alto as a tolerant community which was progressive in many ways and he did support the renaming of the plaza.

SUBSTITUTE MOTION: Council Member Mossar moved, seconded by Morton to refer the recommendation of the Policy and Services Commission to the Historic Resources Board for their comments and suggestions specifically the question, should the City Hall plaza be named for the Kings.

Assistant City Manager Emily Harrison stated it had already gone to the HRB.

Council Member Mossar asked whether the HRB was asked what should have been named after the Kings.

Ms. Harrison stated that they had.

Council Member Mossar stated they should be asked what name the Plaza should have.

Council Member Morton stated that the citizens had expressed to him that the Council takes action without regard for the community. He stated there was a very thin connection between the Kings and Palo Alto and he agreed with the Substitute Motion.

Vice Mayor Klein stated he did not support the Motion or the Substitute Motion.

Mayor Kishimoto stated this has been before a number of committees since January and she did not support the Substitute Motion.

SUBSTITUTE MOTION FAILED: 3-5 Kleinberg, Morton, Mossar yes, Beecham absent.

Council Member Kleinberg stated she voted to send it to the HRB for the review of whether the particular spot was right for the King's commemoration.

MOTION PASSED: 5-3, Klein, Morton, Mossar no, Beecham absent.

REPORTS OF COMMITTEES AND COMMISSIONS

11. Recommendation from the CAO Committee to Approve Scope of Services for Consultant to Facilitate Annual Evaluation of Council Appointed Officials and Authorize Staff to Prepare and Issue a Request for Proposals

Vice Mayor Klein stated the Council Appointed Officials (CAO) Committee voted three to one to recommend to the Council to continue the process they had with John Shannon who has retired. He stated due to financial reasons he opposed the Motion and added that the City could save \$25-\$30 thousand dollars a year by doing the process ourselves.

MOTION: Vice Mayor Klein moved, seconded by Mossar to approve the CAO Committee recommendation to approve the summary of the scope of services for a consultant to facilitate the annual evaluation/review of the City's four Council Appointed Officials (CAOs) and authorize staff to prepare a Request for Proposals (RFP) and to solicit proposals from consultants.

Council Member Mossar stated the evaluation process had been effective in the past and before the consultant, the performance evaluations were not effective. She stated she did support the proposal.

Council Member Kleinberg stated she did not support this for financial reasons.

Herb Borock, P.O. Box 632 stated this was a responsibility that the Council should take on rather than hire someone to do it for the Council. He added that there would be new members of the Council and they should be voting on this issue.

Council Member Barton stated the consultant would be hired to facilitate the process and give advice. The Council would do the evaluations and meet with the CAOs and the resulting process and evaluations would be better with the consultant.

Council Member Morton stated the outside facilitator managed the nine Council Members in terms of the support, information and opinions. This was not something that could be completed by unskilled Council Members in

terms of HR functions and there was a need for opinions or perspective that was more realistic. He stated he did support the Motion.

Council Member Cordell stated she did support the continuation of the consultant and the CAOs were supportive of the consultant to conduct the evaluations.

Mayor Kishimoto stated the CAO evaluations were one of the most important things that the Council did and she supported the Motion.

Vice Mayor Klein stated the primary job that the consultant did was to organize the Council and that was something the Council should be doing themselves.

Council Member Mossar stated they were paying for professional assistance for only a short period of time.

MOTION PASSED: 6-2, Klein, Kleinberg no, Beecham absent.

REPORTS OF OFFICIALS

12. Approval of Staff Recommendations for the Development of the Request for Proposals for Solid Waste and Recycling Collection and Processing Services

Director of Public Works Glenn Roberts stated the key objective was to have a new refuse collection contract begin in July of 2009. The Request For Proposal (RFP) component recommendations had three primary groupings. Four of them involve services, four of them involve facilities and four of them involve key composed agreements.

Emily Renzel, 1056 Forest Avenue stated the existing PASCO staff should not be applying for the hauling part of the contract as it puts them at an advantage over other bidders. Recommendation number five stated that the parkland was considered parkland; but in fact it was dedicated parkland. The SMaRT Station processed their construction and demolition (C&D) differently than their garbage line. Their C&D had about a 55 percent recovery operation and if that was the case, there should be a trade off between transportation to Guadalupe Parkway versus the SMaRT Station. She added that she supported all of the criteria and recommendations.

Shannon O'Keefe, 1722 Walnut Street, Berkeley stated she supported recommendation number four regarding the minimizing of labor issues. She thanked the staff for seeking to avoid this happening in Palo Alto. She asked the staff to include a labor pace provision to the RFP which would add a requirement to avoid having labor troubles through the life of the contract.

Mayor Kishimoto stated she wanted to thank the staff for developing the options for consideration.

Council Member Kleinberg asked about recommendation number two regarding backyard and side yard collection whether there was any information about hillside residents, seniors and disabled residents.

Mr. Roberts stated that hillside residents would require curbside collection. The disabled or seniors could have services, and staff could propose a program.

Council Member Kleinberg stated the City Manager's Report (CMR) would have a continuation of the backyard/side yard collection for residents who were medically unable to bring their carts to the curb. She asked whether the residents would have to have a doctor's note for this.

Mr. Roberts stated there would need to be a process developed to document that need and there would be a database of those people.

Council Member Kleinberg asked whether that would be a different process from those who are seniors or who need a permanent arrangement.

Mr. Roberts stated there would be one process with multiple sub elements included.

Council Member Kleinberg asked regarding recommendation number five whether the portion that was suggested to be a staging area on Geng Road was considered dedicated parkland.

Mr. Roberts stated they were recommending the portion that was not dedicated parkland.

Council Member Kleinberg asked whether it was contiguous to the acre that was dedicated parkland.

Mr. Roberts stated she was correct.

Council Member Kleinberg asked whether the properties could be combined for a playing field type of situation.

Mr. Roberts replied there was no review for the potential uses of the site.

Council Member Kleinberg asked what other options there were for that staging area.

Mr. Roberts stated they had not looked at the other potential recreational use of the site.

Council Member Kleinberg asked whether we were trying to resolve the Los Altos Water Treatment Plant property.

Mr. Roberts stated she was correct.

Council Member Kleinberg asked that since that property was less than an acre potentially could that provide a staging area.

Mr. Roberts stated it was possible for the long range. It was not possible for the timeline to complete by January 2009.

Council Member Kleinberg asked whether a compromise could be made to make it a limited recommendation in terms of a timeframe and to return to Council when there were more options available.

Mr. Roberts stated it was possible with an incremental cost of relocation.

Council Member Drekmeier asked regarding recommendation number three which was related to private streets and alleys what the additional surcharge rate of \$846.76 annually was for.

Mr. Roberts stated it was the cost per household to pay for the smaller truck and driver to come around to have access to the houses.

Council Member Drekmeier asked whether the garbage people were paid by the job versus by the hour.

Mr. Roberts stated they were paid on an hourly rate based on an eight-hour day. If they completed their jobs ahead of schedule, they were released when they were completed.

Council Member Drekmeier asked whether it would remain the same with the hourly rate.

Mr. Roberts stated the current PASCO work force was paid more than the prevailing rate for the hourly pay.

Council Member Drekmeier asked about recommendation number six stating the commercial composting would start in 2009 to be processed at a regional facility. If the Council decided not to compost in Palo Alto then yard waste would move offsite.

Mr. Roberts stated he was correct.

Council Member Morton asked regarding recommendation number four, which encouraged the new service provider to retain the PASCO employees and current pay levels. He asked whether that would become a condition of the contract.

Mr. Roberts stated he was correct.

Council Member Morton stated that he supported local recycling and composting and the issues regarding timing would need to be worked out with long term possibilities and the location. There would be short-term issues when the current site was moved closer to the wastewater site.

Mr. Roberts stated that was an issue that staff was working on and alternatives for the location of the recycling center and it will return to the Council.

Council Member Morton stated he would be interested in exploring extending the recreation uses of the Geng Road site. He added that with recommendation number nine the option for separate processing and collection was reserved. He asked whether processing would be hauling.

Mr. Roberts stated processing was not the same as hauling.

Council Member Morton asked whether that was local processing or an alternative to the SMaRT Station.

Mr. Roberts stated processing was the offsite use of regional facilities to process and ship recycling, and where the food waste went to be processed.

Council Member Morton asked whether hauling was considered pickup verses what happens after it was picked up.

Mr. Roberts stated he was correct.

Council Member Morton asked why there was a reserve option for recommendation number nine and not on recommendation ten.

Mr. Roberts stated it was strongly urged to have one contractor to be able to manage their schedule, routes, pickup time and have no competition to provide that service.

Council Member Morton asked regarding recommendation number eight for the C&D processing whether we could encourage the SMaRT Station to increase the 25 percent recovery rate.

Mr. Roberts stated the current facility and process did not allow them to get beyond the 25 percent. To get a higher percent there would need to be a processing line where the materials went through machines that sorted and recovered the materials.

Council Member Morton asked whether the C&D refuse counted toward the minimum required volume at the SMaRT Station.

Mr. Roberts stated he was correct.

Council Member Morton asked whether there was a separate contract that we could add a notification of termination if the SMaRT Station could do as well as the short term provider.

Mr. Roberts stated he was correct.

MOTION: Vice Mayor Klein moved, seconded by Morton to approve staff recommendation to approve the twelve recommendations in the development of the Request for Proposals (RFP) for the new solid waste and recycling collection and processing services with one exception to *Recommendation #5* to add wording "with the City having the option to replace the Geng Road site with a site of comparable size with an appropriate adjustment in the service provider's compensation if the new site increases its cost".

1. In order to allow Council to evaluate cost with the zero waste operational plan recommendations, structure the RFP to include baseline services with itemized zero waste services and other service innovations as proposal options.
2. To minimize future garbage collection cost, make curbside garbage collection the standard, with an option for backyard/side yard collection with additional fee.
3. To minimize future collection cost on private streets and alleys, require that the base service be defined as collecting all solid waste items on public street frontages (curbside), and that proposers submit a separate bid price to service homes on private streets or alleys.
4. To minimize labor issues relating to retention of existing PASCO employees and avoidance of wage disputes, encourage new service provider to retain qualified, productive existing PASCO employees and to pay wages at levels equivalent to existing wages.
5. Require service provider to find operation yard within the region. Allow service provider to utilize a portion of the Geng Road site as a staging area with the City having the option to replace the Geng Road site with a site of comparable size with an appropriate

- adjustment in the service provider's compensation if the new site increases its cost.
6. Utilize the existing City composting operation for yard trimmings as long as feasible (estimated to be 2011). The expanded organics program for the commercial sector (including food waste) will be processed at a regional facility starting in July 2009 with the new agreement.
 7. Direct future service providers to collect and process single stream materials, rather than allowing proposers to bid other methods.
 8. Require proposers to utilize C&D processors other than the SMaRT Station, which at a minimum recover 70% of the materials for reuse and/or recycling.
 9. Strive to create one contract for both collection and processing. Reserve option for separate processing contracts.
 10. Continue with existing practice of exclusive agreement for solid waste and residential recyclables.
 11. Create a 12-year maximum term for the collection and hauling agreement such as an 8-year base term with the potential of up to four 1-year extensions, to be granted either singularly or cumulatively depending on circumstances at the time.
 12. Negotiate a fixed price compensation agreement with specific annual index adjustments and financial incentives for diversion.

Council Member Mossar stated she agreed with the twelve recommendations with the one modification added. She asked how many customers there were for the refuse service.

Solid Waste Program Manager, Russ Reiser stated there were about 15 thousand residents and four thousand commercial businesses.

Council Member Mossar stated on recommendation number three that it stated there were less than 10 percent of Palo Alto customers and asked whether that included residential and commercial customers.

Mr. Roberts stated this was intended for residential customers because commercial customers have larger bins that are picked up on a regular basis.

Council Member Mossar stated the Council had asked for a map to show the ten percent of Palo Alto customers and asked for more information when this item returned to the Council.

Council Member Cordell stated she supported the Motion and thanked staff for their work on this. She asked to change the language on recommendation number four to remove the word "encourage" and add the word "require".

Mr. Roberts stated they could establish an evaluation and are awaiting a criteria process that would give significant preference in the evaluation, scoring and recommendation to those proposers who did.

Council Member Cordell asked whether we could use the wording, "preference will be given to".

Senior Assistant City Attorney, Cara Silver stated it could be required as part of the proposal or make it a factor in the evaluative criteria.

Council Member Cordell asked whether the Maker of the Motion had a problem with using the word "require".

Vice Mayor Klein stated the winning contractor might have employees which could start a conflict for their existing employees.

Council Member Cordell asked whether there was a problem with "a preference will be given to".

Vice Mayor Klein stated there was no problem.

INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER that the word "encourage" in *Recommendation #4* be replaced with the incorporation of the wording "a preference will be given to".

Mr. Roberts stated when this returned to the Council there would be an evaluation of criteria that would incorporate that.

Mayor Kishimoto stated she agreed with the zero waste goals incorporated into this and she supported the Motion. She asked if recommendation number one needed more than one request for a bundled proposal.

Mr. Roberts stated the intent was to be bundled into the base contract itself. He added that it would be an incentive to the proposer.

Bob Hilton stated the way this was structured was to get proposals from companies for the current service levels to compare in terms of costs. We are asking the companies to propose in each and all of the six services out of the zero waste service areas and show us what the net costs of those programs were.

Mayor Kishimoto stated if we were asking for a bundled service to contract with all of the zero waste services there could be a price break offered.

Mr. Hilton stated they would have the information to do that.

Mayor Kishimoto asked regarding recommendation number six the wording change because we do want to open the park someday and not keep the composting forever.

Mr. Roberts stated there was a fine line on how to structure this issue. This was an attempt to find a balance and not violate any current policy direction or take away an option to comply with future changes in direction.

Mayor Kishimoto asked whether there would be a difference if "until further Council direction" was added.

Mr. Roberts stated there needed to be some direction to the proposers on what they would be doing their first few years that was why the dates were added.

Mayor Kishimoto asked if for the purpose of the RFP that this be left a composing operation until 2011.

Mr. Roberts stated that was correct and if the future Council wanted to change that, it could be renegotiated.

Mayor Kishimoto asked regarding recommendation number four if it should state "compensation" as opposed to "wages".

Mr. Roberts stated the employees were not unionized so their compensation was not based upon union scale of benefits.

Mayor Kishimoto stated she always thought total compensation was more general than specifying wages. She asked why we wanted to specify a very high wage that we know that they are getting.

Mr. Roberts asked why we would want to specify a situation that may cause them to take a cut in their hourly rate and pay in the future.

Ms. Silver stated the existing baseline compensation amount in the RFP would take into account both wages and benefits and would get breakdowns of all of the elements.

Mayor Kishimoto asked what the contingency would be if the SMaRT Station handled the C&D and committed to a 90 percent diversion.

Mr. Roberts stated they were recommending separate contracts and terms for the processing services, so we could reevaluate where we were.

Mayor Kishimoto asked whether we could make the quality of the education, Public Outreach part of the criteria when we judge the RFP.

Mr. Roberts stated that would have to be a partnership between the City staff and the contract hauler to implement those programs.

Mayor Kishimoto stated that was an important element for her.

Council Member Kleinberg asked when this discussion on public outreach returned to Council could they also find a service provider could have staff expertise and the City could use our own marketing.

Mr. Roberts stated that was possible.

MOTION PASSED: 8-0, Beecham absent.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

MOTION: Council Member Mossar moved, seconded by Morton for the Council to refer to Policy and Services for consideration, appropriate council rules for divulging individual opinions before a vote is taken to the press.

Council Member Morton asked whether that would include any Council Member talking about any issue.

Assistant City Manager Emily Harrison stated that would be discussed at the P&S meeting.

Council Member Morton stated he did agree that the discussion was important.

Council Member Kleinberg stated she did not support this. This was a freedom of speech right of elected officials who feel like speaking to the public through the media.

Mayor Kishimoto stated she did not support this.

Council Member Mossar stated this was a public concern because the people who contacted her did not come to the meeting because they felt there was already a decision made.

MOTION FAILED: 2-6, Morton, Mossar yes, Beecham absent.

Council Member Drekmeier said the previous week he and Council Member Mossar attended the San Francisquito Creek JPA meeting. Council Member Mossar handled the Closed Session portion of the meeting and he had handled the Regular portion of the meeting. The City did not receive the

\$700,000 requested from the Federal Government for the feasibility study. Another option would be researched. He attended the Haunted Lake at Foothills Park on October 26, 2007 and noted staff had done a great job. The Junior Museum and Zoo had a Halloween event scheduled for November 2, 2007 from 6-8pm.

Council Member Barton said he was the liaison for the Palo Alto Community Child Care; they were having their annual Dine for Kids fundraiser on November 8, 2007. Participating restaurants donate a portion of their proceeds from the evening to the Palo Alto Community Child Care.

Council Member Morton reported that the County Airport Land Use Commission adopted the prototype Comprehensive Land Use Plan (CLUP), for airports in Santa Clara County; Palo Alto was next on the list of adaptations of the prototype.

Council Member Kleinberg encouraged the public to use the month of October, Preparedness Month, to check their supplies; water, batteries, radios that work on a transistor and that KZSU, Channel 90.1 is the emergency radio system.

Mayor Kishimoto reminded the public that there would be a Study Session on November 7, 2007, at 4:00 p.m. Virginia Warheit would be presenting an overview of the Baylands Master Plan. The Mayor complimented the City Clerk's Office for getting more attachments online and noted a tentative agenda would be online soon.

ADJOURNMENT: The meeting adjourned at 9:45 p.m.