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November 19, 2007

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ADJOURNMENT: The meeting adjourned at 9:15 p.m. 13

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:03 p.m.

Present: Barton, Beecham, Cordell (arrived at 6:45 p.m.), Drekmeier (arrived at 8:25 p.m.), Kishimoto, Klein, Kleinberg (arrived at 6:15 p.m.), Morton, Mossar

COUNCIL CONFERENCE ROOM – 6:00 p.m.

SPECIAL MEETING

1. Annual Meeting with Assemblyman Ira Ruskin Regarding State and Local Issues

No required action.

Council took a break at 6:40 pm

COUNCIL CHAMBERS – 6:45 p.m.

ORAL COMMUNICATIONS

Mark Petersen-Perez, spoke regarding his concerns on police misconduct.

SPECIAL ORDERS OF THE DAY

2. Resolution 8768 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Randy Reeb for His 32 Years of Service at the Water Quality Control Plant"

MOTION: Council Member Morton moved, seconded by Beecham, to approve the resolution.

MOTION PASSED: 8-0, Drekmeier absent.

Director of Public Works Glenn Roberts spoke regarding the retirement of Randy Reeb.

3. Presentation of the Voice of the People Awards

City Auditor Sharon Erickson stated the awarded parties must be among the top three of all eligible jurisdictions and the top ten percent of over four hundred jurisdictions in the National Research Center database. She stated the first award went to the Palo Alto City Council, the fire and emergency medical services, the recreation division, and the garbage collection services.

City Manager Frank Benest stated the awards were presented at the annual Conference of the International City/County Management Association. He acknowledged his fortune to have such an outstanding staff.

CONSENT CALENDAR

Council Member Beecham moved, seconded by Barton to pull Item 5 from the Consent Calendar to become item 6A.

MOTION: Council Member Morton moved, seconded by Klein, to approve Consent Calendar Items 4 and 6.

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4. Approval of an Agreement Between the City of Palo Alto and the Purissima Hills Water District for a Limited Emergency Water Supply Intertie
 - ~~5. Confirmation of Appointment of Everardo (Lalo) Perez as Director of Administrative Services~~
 6. Approval of a Contract with California Land Management for a Total Not to Exceed \$367, 266 Plus Cost of Living Adjustment for Park Ranger Patrol Services in Palo Alto's Urban Parks, Refuse Area, Byxbee Park and Baylands Nature Preserve

MOTION PASSED: 8-0, Drekmeier absent.

- 6A. (Old Item 5) Confirmation of Appointment of Everardo (Lalo) Perez as Director of Administrative Services

City Manager Frank Benest spoke of Lalo's experiences in many functions throughout his tenure with the City and congratulated him on the completion of his Masters Degree.

Council Member Beecham expressed his confidence in Lalo in taking over the Director of Administrative Services position.

MOTION: Council Member Morton, seconded by Mossar to confirm the appointment of Everardo (Lalo) Perez as Director of Administrative Services, and to direct that the contract should reflect transportation allowance in lieu of car allowance.

Council Member Mossar asked that the language in the contract be altered from automobile allowance to transportation allowance.

Mr. Benest stated yes, this and all future contracts are to use transportation in lieu of automobile.

MOTION PASSED: 8-0, Drekmeier absent.

PUBLIC HEARINGS

7. Resolution 8769 entitled "Resolution of the Council of the City of Palo Alto Certifying the Adequacy of the Final Environmental Impact Report (FEIR) for the Palo Alto Public Safety Building Project Pursuant to the California Environmental Quality Act and Adopting Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations" and Ordinance 4974 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal Year 2007-08 to Provide an Addition Appropriation of \$436,000 to Capital Improvement Program (CIP) Project PE-98020, Public Safety Building"

Assistant Director of Public Works Mike Sartor stated the Public Safety Building was to be the new facility for the Police Department, Emergency Operations Center, and the 911 Communications and Dispatch functions.

Mike Ross of RossDrulisCusenbery (RDC), reviewed the slide presentation of the plans for the proposed Public Safety Building.

Mr. Sartor stated the final EIR consists of two volumes; the draft which was distributed July 12, 2007 and the final included in the packet. He stated the purchase option property acquisition summary for the 1.7 acre site for \$10.9 million dollars which was good for thirty months from the date of execution of the Option Agreement.

Planning & Transportation Commissioner Dan Garber stated the P&TC unanimously voted the certification of the FEIR.

Sergeant Sandra Brown spoke regarding the inadequacy of the processing area of the existing Police Department.

Council Member Cordell asked whether having funding designated was a prerequisite for voting on the items.

Ms. Harrison stated no.

Director of Administrative Service Carl Yeats stated the Purchase Agreement and Budget Amendment Ordinance had financial implications which required approval to move forward.

Council Member Cordell asked when the discussion was to occur regarding financing of the project.

Mr. Yeats stated more staff work was required to have a concrete answer on funding.

Council Member Cordell asked whether some of the options could be discussed prior to approving the Purchase Agreement and Budget Amendment Ordinance.

Mr. Benest stated staff did not feel the funding options were a prerequisite to moving forward with the recommendations before Council tonight.

Council Member Morton stated the advertising of the item to the public was on an approval of an EIR and asked whether discussion of funding impacted the public.

City Attorney Gary Baum stated the Council did need to approve the EIR. The discussion of options for funding would be fine, however funding the project was not an agenda item and therefore could not be discussed.

Council Member Mossar stated her concern for discussing the funding of the project since the Council had not been prepared for such a discussion.

Vice Mayor Klein asked whether the project had enough merit to warrant additional staff time to bring forth the discussions of funding for the project.

Mr. Benest stated staff had been reviewing the issues brought forward tonight.

Mr. Yeats stated there were several types of debt to be considered; General Obligation Bonds, Certificates of Participation, and revenue stream. The question that arises would be when issuing the debt would you want to acquire the property with one time monies through several options or include the acquisition within the debt issuance.

Mr. Benest stated in using incremental growth in revenue to obligate to the Police Building there would not be the growth in revenue to pay for the growth in the cost of existing services.

Vice Mayor Klein said the answers received by both the City Manager and the Director of Administrative Services showed the project was worth continuing. He asked the timeframe for returning to the Council with the report.

Mr. Yeats stated shortly after the beginning of 2008.

Mayor Kishimoto asked why Enterprise Funds would be used.

Mr. Yeats stated Enterprise Funds would be used through the process of selling City or General Fund owned property to the Enterprise Fund which would then become a permanent transaction.

Mayor Kishimoto asked about toxic monitoring.

Director of Community Environment Steve Emslie stated the EIR was an informational document but staff could be directed to include analysis of higher levels of protection.

Mayor Kishimoto asked when the site design was to return to Council.

Mr. Emslie stated it went through the Architectural Review Board, the Planning Commission, and then City Council.

Public Hearing opened at 7:26 p.m.

Robert Moss, 4010 Orme Street spoke in support of the Public Safety Building.

George Browning, 4005 Sutherland Drive, spoke in support of the Public Safety Building.

Scott Wong, 407 James Road, spoke in support of the Public Safety Building.

Ray Bacchetti, 850 Webster St. #700, spoke in support of the Public Safety Building.

Former Mayor Lanie Wheeler, 362 Diablo Court, requested the Council approve the three staff recommendations.

Public Hearing closed at 7:43 p.m.

MOTION: Council Member Morton moved, seconded by Mossar, to approve staff recommendation to 1) adopt the Resolution certifying the Final Environmental Impact Report (FEIR) for the Palo Alto Public Safety Building Project, Adopting Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations; 2) authorize the City Manager or his or her designee to execute, in substantially the same form, the Purchase Option Agreement with Essex Park Boulevard, LLC, to purchase the property located at 2785 Park Boulevard; and 3) adopt the Budget Amendment Ordinance in the amount of \$436,000 for the first payment under the Option Agreement.

Mayor Kishimoto asked whether the oak tree was taken care of since it was on a separate lot.

City Attorney Gary Baum stated it was mentioned in the statement of overriding considerations.

Mayor Kishimoto asked for an explanation.

Mr. Baum stated the reason for the statement was environmental impact for safety reasons. They will try and preserve the tree however; in the event it becomes a safety issue having an unhealthy tree adjacent to the building the statement was in place to remove the tree.

Mayor Kishimoto asked whether the tree was un-healthy.

Mr. Baum stated he was unaware of the health of the tree and said the Police may have more knowledge as to the reason for removal.

Police Chief Lynne Johnson stated there were safety concerns of having a large tree granting access and visibility directly into the building.

MOTION PASSED: 8-0, Drekmeier absent.

MOTION: Vice Mayor Klein moved, seconded by Cordell to direct staff to study the implications of financing the public safety building through Certificates of Participation (COPS).

MOTION PASSED: 7-0, Drekmeier, Morton absent.

ORDINANCES AND RESOLUTIONS

8. 1st Reading - Adoption of an Ordinance Adding Section 9.04.040 ("Certain Social Gatherings Unlawful") to Chapter 9.04 ("Alcoholic Beverages") to Title 9 ("Public Peace Morals and Safety") to the Palo Alto Municipal Code to Prohibit Consumption of Alcohol by Minors at Gatherings of Four or More Persons

Assistant Police Chief Dennis Burns stated the proposal was one of a number of broad based strategies to reduce underage drinking.

MOTION: Council Member Kleinberg moved, seconded by Mossar, to approve staff recommendation to approve the first reading of the Ordinance Adding Section 9.04.040 ("Certain Social Gatherings Unlawful") to Chapter 9.04 ("alcoholic Beverages") to Title 9 ("Public Peace Morals and Safety") to

the Palo Alto Municipal Code (PAMC) prohibiting the possession and consumption of alcohol by minors at gatherings with four or more persons.

Council Member Kleinberg stated her support for the Ordinance.

Council Member Mossar stated her support for the Ordinance.

Council Member Morton asked why the incident was able to remain open for a term of one year.

Mr. Burns stated the one year statute was based in the law, it was not placed in the Ordinance by the Department.

Council Member Morton asked had there been cases where the parents were out of the house for the evening and the child had a group of friends over where alcohol was involved.

Mr. Burns stated in that type of situation, no.

Deputy City Attorney Don Larkin stated the one year referred to the statute of limitations, however the decision whether to take action would be done much more quickly. The level of awareness of the parent, would play into whether or not to proceed under an administrative or criminal citation.

Council Member Cordell asked for clarification on the age determination in the Ordinance from a juvenile and a minor. Did the Ordinance hold the parent liable for a child over the age of eighteen.

Mr. Larkin stated in the event the parent was aware of the party the liability would be with them. When the child is over the age of eighteen and the parents were unaware of the party, the child would be responsible.

Council Member Cordell asked for clarification that the parent would be liable for the conduct of an eighteen and older child if they were aware of the event or somehow supplying the alcohol.

Mr. Larkin stated yes.

Council Member Cordell asked for clarification between the law on record being unlawful to provide alcohol to a minor under the age of twenty-one, whereas in the ordinance it was acceptable as long as the minor was supervised by the parent.

Mr. Larkin stated the provision of furnishing the alcohol was difficult to prove, however knowledge of consumption could be proven more readily.

Council Member Cordell stated passing this Ordinance permits a child under the age of twenty-one to consume alcohol as long as a parent is present.

Mr. Larkin stated the Ordinance was meant to be consistent with the state law.

Council Member Cordell asked how the Ordinance would be imposed.

Mr. Larkin stated most incidents would be administrative citations; the criminal penalties would be reserved for more egregious cases.

Council Member Kleinberg stated reading the attachments in reverse made the Ordinance clearer. Attachment C was the controlling provision, B was the exception and A were the definitions.

Council Member Cordell stated to clarify if there were more than four persons in the house under the age of twenty-one, and the parent provided alcohol, would they be in violation of the statute.

Mr. Larkin stated in the event the only person under the age of twenty-one was the parents child, it would be permissible. If one of the other three were under the age of twenty-one were consuming alcohol it would be a violation.

Council Member Morton asked whether there were four minors' at the affair consuming alcohol and each of their parents were present that would not be a violation.

Mr. Larkin stated yes.

Council Member Barton stated his support for the Motion.

Karin Bloom, Project Director of Palo Alto Drug Alcohol Collaborative, stated the organizations support for the Ordinance.

Norman Carroll, 3061 Emerson Street, supported the Ordinance.

Robert Moss, 4010 Orme Street, supported the Ordinance.

Deborah Kurland, 4213 Los Palos, supported the Ordinance.

Carolyn Williams, 3955 El Cerrito Road, supported the Ordinance.

Becky Beacom, Hawthorne Avenue, supported the Ordinance.

Council Member Kleinberg asked for clarification on drinking in the home connected to a religious observance.

Mr. Baum stated there was no intent to prosecute an event of religious or holiday nature.

Council Member Morton suggested including an insert in the utility bills just before summer break making people aware of the illegal aspects of contributing alcohol to a minor.

MOTION PASSED: 8-0, Drekmeier abstaining.

COUNCIL MATTERS

9. Colleague's Memo from Mayor Kishimoto, Council Members Drekmeier and Mossar regarding the Request for Analysis of Impacts on Staff Work Program to Produce a Work Product to Support an Integrated Policy Discussion on Landfill Closure and Byxbee Park-Phase II

Council Member Mossar stated the memo was intended to ask staff to let the Council know what it would take to come to Council prepared to have an integrated discussion related to the Baylands, since it was currently not in their work program.

MOTION: Council Member Mossar moved, seconded by Drekmeier, to direct staff to return to the December 3, 2007 Council Meeting with a proposed work plan, including a timeline and information on how current projects would be re-prioritized in order to accommodate this new assignment.

Council Member Drekmeier said the goal was to take a comprehensive look at all of the different projects going on involving the Baylands as a unit.

Mayor Kishimoto stated the purpose of the two step process was to give enough time to explain the resources and costs.

Council Member Morton asked whether December 3, 2007 was enough time for staff to return to Council.

Assistant City Manager Emily Harrison stated the return date was sufficient to return with staff resources, reviewing revenue and financial implications.

Ann Pianetta, 3815 La Donna, spoke regarding the need for a dog park.

Former Mayor Emily Renzel, 1056 Forest, spoke regarding a comprehensive look at how the Baylands will appear years from now.

MOTION PASSED: 9-0.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Mossar stated the Association of Bay Area Government (ABAG) appointed Council Member Drekmeier as the alternate commissioner on the Bay Conservation and Development Commission. She attended the National League of Cities Conference of Cities held in New Orleans and was honored to serve as the Sergeant at Arms at the Annual Business Meeting representing the State of California.

Council Member Drekmeier noted he did not feel comfortable voting on Item 8 as he had arrived after the discussion. He requested his colleagues to join him in requesting staff to, in the future, return with a report on the implementation of the Park Dedication Ordinance and to evaluate increasing the dedication ratio from 3 to 4 acres per thousand people.

Assistant City Manager Emily Harrison stated she wished to speak with staff and would respond to Council Member Drekmeier's request at the November 26, 2007 Council Meeting.

Vice Mayor Klein stated he attended a Bay Area Water Supply and Conservation Agency (BAWSCA) meeting. He reported the 2007-2008 water supply was far below average, the portion of the Bay Area served by BAWSCA continued to do a good job of conservation, the Hetch Hetchy project was approximately 10 percent complete and the expenses were on track. He noted work was continuing on the water contract with San Francisco and should be completed before the contract expires in 2009.

Council Member Morton noted the increase of articles written about the erosion and the threat to the phone tax. He asked whether staff was concerned about the sensibility of the City's Ordinance regarding the equality between how cellular users are treated versus land line users.

City Attorney Baum stated it was a significant issue of ongoing concern for the City.

CLOSED SESSION

Council adjourned into the closed session at 9:07 p.m.

10. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Annan v. Stanford University, et al., Santa Clara County Superior Court Case no. 1-05-CV-052741
Authority: Government Code section 54956.9(a)

Mayor Kishimoto stated no reportable action was taken.

ADJOURNMENT: The meeting adjourned at 9:15 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.