

Special Meeting
January 22, 2008

STUDY SESSION 390

1. Opportunity to Replace & Enhance Cubberley Facilities 390

ORAL COMMUNICATIONS 391

APPROVAL OF MINUTES 391

CONSENT CALENDAR..... 391

2. Approval of Request to Initiate a Preliminary Review of a Planned Community (PC) Application for a 3-Story Mixed Use Office/Retail Development at 2180 El Camino Real (College Terrace Center) 391

3. This Item Number Has Been Intentionally Left Blank..... 391

4. Ordinance 4987 entitled “Ordinance of the Council of the City of Palo Alto Authorizing Closing of the Budget for the Fiscal Year 2006-07”, and Approval of Comprehensive Annual Financial Report (CAFR) from Finance Committee Meeting of December 11, 2007..... 391

5. Utilities Advisory Commission Recommendation to Utilize the Electric Supply Rate Stabilization Reserve to Cover Increased Supply Cost In Fiscal Year 2007-08 Instead of a Mid-Year Rate Increase..... 392

6. Resolution 8791 entitled, “Resolution of the Council of the City of Palo Alto Summarily Vacating a Portion of the Abandoned Embarcadero Road Right-of-Way and Reserving an Easement for Utilities Adjacent to the Town & Country Village Shopping Center, 855 El Camino Real.... 392

7. Introduction of an **Ordinance Amending Chapter 2.11 of Title 2 of the Palo Alto Municipal Code to Establish a Fee to Support Public, Education, and Government Access that Will Apply to Comcast as it Provides Service Under its State Video Franchise** 392

UNFINISHED BUSINESS	392
8. Public Hearing: Approval of a Tentative Map and a Record of Land Use Action to Subdivide the Elks Lodge Site into Two Lots for a New Lodge and a Multi-Family Residential Project, Located at 4249 and 4251 El Camino Real.....	392
PUBLIC HEARINGS	401
9. Introduction of an Ordinance Amending Section 9.04.010 (“Streets, Sidewalks, Highways, Alleys – Consumption of Alcoholic Beverages Prohibited”) of Chapter 9.04 (“Alcoholic Beverages”) to Title 9 (“Public Peace, Morals and Safety”) of the Palo Alto Municipal Code to Allow Consumption of Alcohol Within Legally Permitted Eating Establishment Seating Areas Subject to a Conditional Use Permit	401
REPORTS OF OFFICIALS.....	401
10. Municipal Compost Facility Study: Preliminary Results and Approval of Staff Work Plan	401
ADJOURNMENT: The meeting adjourned at 9:33 p.m. to the Redevelopment Agency Meeting	402
FINAL ADJOURNMENT: 9:58 p.m.....	403

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 p.m.

Present: Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh

Absent: Barton, Burt

STUDY SESSION

1. Opportunity to Replace & Enhance Cubberley Facilities

City Manager Frank Benest presented a Foothill De Anza Community College District proposal for an "Opportunity to replace and enhance the Cubberley Facility". The proposal is to replace the dilapidated facilities on the City owned 8 acre portion of the Cubberley site with a 98,000 square feet long-term or permanent state-of-the-art education center. The new 2-story education center would provide education programs geared toward students desiring college skills, career pathways and life-long learning. The center would include public meeting space, dance studios, artist programming and child development program space. Future key issues that will need to be addressed would include public outreach, maintaining community uses, possible phasing and transition planning for existing tenants, parking and circulation, traffic, green building standards and overall appearance. District Chancellor Dr. Martha Kanter, also spoke promoting the proposal.

No action required

Michael Sadoff, 431 Adobe Place, spoke regarding the public outreach of the De Anza project.

Jean Wilcox, 4005 Sutherland, spoke regarding her support for the De Anza project.

Bob Moss, 4010 Orme St., spoke regarding his support for the concept of the project and his concern for the increase in traffic.

Rachel Samoff, 3527 South Court, spoke regarding childcare in the community.

Betsy Allyn, Willmar Drive, stated she did not support the De Anza project.

Lanie Wheeler, 362 Diablo Court, spoke regarding the first phase of the Cubberley Master Plan.

Mike Cobb, 3863 Dixon Place, spoke regarding preserving the Cubberley site for City use.

Herb Borock, P.O. Box 632, spoke regarding public access to view financial proposals on City property dealings.

Council took a break at 7:25 for ten minutes, returning 7:35 p.m.

ORAL COMMUNICATIONS

Carl Thomsen, 1701 Edgewood Drive, spoke regarding the heart health learning fair to be held on February 2, 2008.

APPROVAL OF MINUTES

November 26, 2007

December 03, 2007

MOTION: Council Member Morton moved, seconded by Council Member Kishimoto, to approve the minutes of November 26, 2007 with corrections, and December 3, 2007 as submitted.

MOTION PASSED: 7-0, Barton, Burt absent

CONSENT CALENDAR

MOTION: Council Member Kishimoto moved, seconded by Mayor Klein, to approve Consent Calendar Items 2-7.

Vice Mayor Drekmeier noted his no vote on agenda item number 5.

Council Member Morton abstained from voting on agenda item number 7 due to possible ownership of Comcast stock.

2. Approval of Request to Initiate a Preliminary Review of a Planned Community (PC) Application for a 3-Story Mixed Use Office/Retail Development at 2180 El Camino Real (College Terrace Center)
3. This Item Number Has Been Intentionally Left Blank
4. Ordinance 4987 entitled "Ordinance of the Council of the City of Palo Alto Authorizing Closing of the Budget for the Fiscal Year 2006-07", and Approval of Comprehensive Annual Financial Report (CAFR) from Finance Committee Meeting of December 11, 2007

5. Utilities Advisory Commission Recommendation to Utilize the Electric Supply Rate Stabilization Reserve to Cover Increased Supply Cost In Fiscal Year 2007-08 Instead of a Mid-Year Rate Increase
6. Resolution 8791 entitled, "Resolution of the Council of the City of Palo Alto Summarily Vacating a Portion of the Abandoned Embarcadero Road Right-of-Way and Reserving an Easement for Utilities Adjacent to the Town & Country Village Shopping Center, 855 El Camino Real
7. Introduction of an **Ordinance Amending Chapter 2.11 of Title 2 of the Palo Alto Municipal Code to Establish a Fee to Support Public, Education, and Government Access that Will Apply to Comcast as it Provides Service Under its State Video Franchise**

MOTION PASSED for Items 2, 4, & 6: 7-0, Barton, Burt absent

MOTION PASSED for item 5: 6-1 Drekmeier no, Barton, Burt absent

MOTION PASSED for item 7: 6-0 Morton not participating, Barton, Burt absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

UNFINISHED BUSINESS

8. Public Hearing: Approval of a Tentative Map and a Record of Land Use Action to Subdivide the Elks Lodge Site into Two Lots for a New Lodge and a Multi-Family Residential Project, Located at 4249 and 4251 El Camino Real

Mayor Klein announced public testimony would be heard first.

Public Hearing opened at 7:40 p.m

Elaine Breeze, SummerHill Homes representative stated the staff report had been reviewed and she was in agreement with all items presented.

Florence Lariviere, Tennessee Lane, spoke regarding the need for public access through the project.

Jean Olmsted, 240 W. Charleston, spoke regarding bicycle and pedestrian paths through Charleston Meadows.

Maija McDonald, 4231 Park Blvd., spoke regarding open pathways via bicycles and pedestrians throughout the project.

Herb Borock, P.O. Box 632, spoke regarding the project violating the California Environmental Quality Act (CEQA) and the Below Market Rate (BMR) unit ratio.

Elaine Breeze, SummerHill Homes representative, clarified that the Below Market Rate (BMR) units requirement was less than the required acreage for residential use.

Public Hearing closed at 7:52 p.m.

Vice Mayor Drekmeier asked for clarification on the bicycle and pedestrian access ways to the park. He also inquired on the location of the park inside the project.

Director of Planning and Community Environment Steve Emslie showed a slide which graphically described the areas of access and park location.

Vice Mayor Drekmeier asked whether the access from Wilkie Way could be shortened to the park rather than traveling completely around the single family site.

Mr. Emslie stated the access from Wilkie Way went a distance into the site to get to the park.

Vice Mayor Drekmeier asked the possibility of having a more direct route to the park.

Mr. Emslie stated it was possible to modify the approved plan, however there was a generous bike and pedestrian system inside the property.

City Attorney Gary Baum stated the project had no nexus that required the Applicant to build or dedicate the park or access to it. If the Council wished to require that as an option, staff needed to be directed by Motion to return to a future meeting for Council direction.

Council Member Kishimoto asked to review emergency accesses to SummerHill.

Mr. Emslie stated staff was unable to verify the type of access required by the Fire Department.

Council Member Kishimoto asked for clarification on the access ways being public or private to SummerHill.

Mr. Emslie stated the street and trail systems on SummerHill and Horton projects were not public with the exception of Deodar Street.

Council Member Kishimoto asked what tools would be granted to Council for public access to the park.

Mr. Emslie stated the park had public access from El Camino Real.

Ms. Breeze stated the park had a public access easement over its entirety which connected to Deodar Street.

Council Member Morton clarified there would be a public park at the end of a dead-end street.

Mr. Emslie stated yes, Deodar Street was a publicly dedicated cul-de-sac.

Council Member Morton clarified there were two segregated communities with no cross-ways.

Mr. Emslie stated yes, the lots had been sub-divided and there was no more frontage property associated with the Elks Lodge site.

Council Member Morton clarified the access from Wilkie Way was emergency only and was blocked by a gate.

Mr. Emslie stated yes.

Council Member Morton asked whether the emergency access being blocked was reversible.

Mr. Emslie stated the Homeowners Association would need to be agreeable to grant access.

Council Member Morton clarified the Homeowners Association would need to grant additional access to the general public to go into the park and be able to bike through Deodar Street.

Jim Baer stated the agreement with the neighbors was that there would be absolutely no vehicular, bicycle or pedestrian access from Wilkie Way.

Mr. Emslie stated the Wilkie Way neighborhood was requested to reconsider the access and the request was denied.

Council Member Yeh asked how the reinstated VTA service would affect the neighborhood.

Mr. Emslie stated the 22 service which runs down El Camino Real directly in front of the project had not been reduced. The 88 service reinstatement would continue to serve the Charleston corridor.

Council Member Yeh asked how the calculation occurred for the school aged children of the 45 unit multi-family residential project.

Mr. Emslie stated the Planning Department provided the School District a monthly report on the proposed changes to developments. The School District demographer had also been employed by the City to ensure correct numbering for school aged children.

Council Member Yeh inquired on the Below Market Rate Units.

Mr. Emslie stated there would be an opportunity for further discussion as the project got further along. There would be a condominium map coming to show the BMR units on the site.

Mayor Klein asked the City Attorney to respond to the California Environmental Quality Act (CEQA) process.

Mr. Baum stated the concerns regarding the conditions of the mitigated negative declaration needed to be approved by the Applicant; when the Applicant took out their permit they were accepting the CEQA conditions. The entire situation had been or is currently being properly analyzed.

Vice Mayor Drekmeier asked if the five single family units on Wilkie Way were combined with the 3.97 acre subdivision would that equal more than five acres and was that the concern.

Mr. Baum stated the CEQA issue was not the development on the amount of land; rather the concern was there were multiple developers working at different levels on the same land. That occurrence gave the appearance of the land not being analyzed as a whole.

Assistant Director of Planning and Community Environment Curtis Williams stated adding all five lots of the land together comprised 4.96 acres.

Council Member Morton asked the possibility to preserve the bike paths for future usage on the Elks Lodge side of the project.

Mr. Emslie stated the property was located on the Dinah side of the project.

Council Member Morton asked if there was some way to preserve the eventual bike path.

Mr. Emslie stated the Applicant had proposed that location to be a public access area.

Council Member Morton stated yes, however that would not grant access from Wilkie Way to El Camino Real.

Mr. Emslie stated the public would get to the park and exit through Deodar Street which was a public access street.

Council Member Schmid inquired on the statement made at a Planning & Transportation Commission (P&TC) meeting regarding the proposed public access easement would be discussed further in the review of the next tentative map. He stated it seemed in the P&TC meeting the map discussion was for the easement of Wilkie Way.

Planning & Transportation Commissioner Lee Lippert stated the discussion did not include a housing proposal.

Council Member Schmid stated there was a block of funds for park dedications and asked whether a portion of those funds could be used to purchase an easement on the Dinah side.

Mr. Emslie stated yes, park dedication funds could be used to purchase public right-of-way for recreation and access purposes.

Mr. Baum stated he would research the terms of the fee collection to verify the usage ability.

Council Member Kishimoto clarified during the Architectural Review Board (ARB) meeting that took place in November 2007, it had been mentioned approval was vested but what had not been reviewed yet was the tentative condominium map.

Mr. Emslie stated yes, the current discussion was the first of the two maps coming to the Council.

Council Member Kishimoto asked at what time would there be discussion of the layout of the public streets within each development.

Mr. Emslie stated both of the maps conformed to the design approval of the ARB. There would be very little discretion on the street layout once the map was in conformance.

Council Member Kishimoto asked how the ARB had reviewed and approved the internal circulation when the subdivision map had yet to be reviewed.

Mr. Emslie stated a map was not necessary to develop the project since it was an ownership project. There was not a prerequisite on an ownership or tenancy property to complete internal street maps prior to project approval.

Council Member Kishimoto asked whether there were guidelines in place regarding private and public streets for larger projects.

Mr. Emslie stated there was no formal direction to the ARB in terms of the layout.

Council Member Kishimoto stated the Comprehensive Plan policies T15 and T16 required new developments and when developing in existing neighborhoods the encouragement and creation of bike and pedestrian paths; and policy T32 discussed the provision of a street network to provide a variety of alternate routes through developments.

Mr. Emslie stated the ARB considered all policies and took the opportunities they had with the available land.

Council Member Kishimoto asked whether there was discussion on private versus public streets.

Mr. Emslie stated he was unsure of the extent of that subject.

Council Member Morton stated his support would be based on the approval or eventuality of an easement running west of the apartment and the full length of the property.

Mr. Emslie stated the current proposed path gave access to Deodar Street and allowed the walkers and bikers to exit the project.

MOTION: Council Member Morton, seconded by Council Member Kishimoto to approve the tentative map and the Record of Land Use subject to the condition to have a bike pathway on the south side of the lot.

Mr. Baum stated there was not a nexus for Council to impose the pathway requirement. The Applicant could voluntarily agree to provide the pathway,

however; if they do not agree then the City would need to purchase the land to create the pathway.

Mayor Klein stated it was not Council protocol to negotiate in public.

Mr. Baum stated it would require the opening of public discussion.

Mayor Klein stated we would separate the Motion for the purpose of voting. He stated he would not support the Motion.

Vice Mayor Drekmeier asked for clarification on the Motion questioning if the Applicant worked with the City to follow the Dinah route from Wilkie Way to El Camino Real, would that meet the requirement of the Motion.

Council Member Morton stated yes.

Vice Mayor Drekmeier asked whether the Applicant was in a position where the approval was conditional could the Motion include a shorter connection from the potential right-of-way from behind the houses to the park.

Council Member Morton stated yes, he merely wanted a full connection.

Council Member Yeh asked whether everything could be approved at one time or did this portion need to be approved tonight.

Mr. Emslie asked Council to give staff and the Applicant time to review their options and report back. That would require a Motion to continue.

Council Member Yeh stated without the approval of the map tonight the project could still move forward and return with the second map.

MOTION AMENDED: Council Member Morton moved, seconded by Council Member Kishimoto, to continue to a date uncertain, the Approval of a Tentative Map and a Record of Land Use Action to Subdivide the Elks Lodge Site into Two Lots for a New Lodge and a Multi-Family Residential Project, Located at 4249 and 4251 El Camino Real, with staff to return with clear answers to pedestrian/bicycle access from Wilkie Way.

Council Member Schmid stated his support.

Council Member Kishimoto stated her support.

Mayor Klein stated his support.

INCORPORATED INTO THE AMENDED MOTION WITH THE CONSENT OF THE MAKER AND SECONDER: When this project returns to Council, appropriate notification should be given to neighbors on Wilkie Way and the Charleston neighborhood.

Mayor Klein asked why these options were not approached during the initial discussions of the project.

Mr. Emslie stated it could have been due to the structure of the real estate transaction, the timeframe in acquiring the property, and the phasing of the project. Given the continuance, bringing the subdivision and condominium maps back to Council together would be possible.

Mayor Klein stated when possible, for future projects staff was encouraged to bring them together. He urged staff to return with a more complete history, prior discussions and debates on the project.

Council Member Morton requested that when this returned he would like a definition of what the bicycle and pedestrian pathway would look like.

AMENDED MOTION PASSED: 7-0, Barton, Burt absent

MOTION: Council Member Kishimoto moved, seconded by Council Member Schmid to have staff agendize a discussion on whether we want to request staff to explore options to have the Architectural Review Board report to the City Council, in the case of significant projects which currently only come to Council on appeal.

Mayor Klein stated the Motion appeared to be out of order.

Mr. Baum stated the process would be to have Council direct staff to return for a future consideration.

Mr. Emslie stated the timeframe would be approximately two days for a planner with management oversight to prepare the staff report.

Mr. Baum stated this was a mechanism to bring an item to Council for a first consideration. Staff could not be directed without the item being on the agenda but it could be requested for a future agenda.

Council Member Kishimoto stated the goal was to save staff time by having larger projects reviewed by the ARB put on the Council consent calendar.

Council Member Schmid stated the Motion was to look at the approval process of the ARB.

Council Member Espinosa asked for clarification on the Motion.

Council Member Kishimoto stated the Motion addressed only one scenario. The Council sets policy and what was necessary to change the process of larger projects coming to Council prior to ARB or Planning & Transportation Commission (P&TC) making final decisions.

Council Member Yeh stated he did not support the Motion.

MOTION PASSED: 5-2 Klein, Yeh no, Barton, Burt absent

MOTION: Council Member Kishimoto moved, seconded by Council Member Morton to have staff agendize a discussion on whether we want to request staff to explore the pros and cons of private streets in future developments and to also look at the PASCO clearance on some of these projects.

Mayor Klein stated he did not support either Motion.

MOTION PASSED: 5-2 Klein, Yeh no, Barton, Burt absent

City Manager Frank Benest clarified the vote was to return for discussion with the Council.

Mayor Klein stated there was no staff work to be done on the Motions returning to Council for discussion.

MOTION: Vice Mayor Drekmeier moved, seconded by Council Member Morton to have staff agendize a discussion on whether we want to request staff to explore the possibility of securing a public right-of-way from Wilkie Way to El Camino Real on the Dinah's side of the property.

Vice Mayor Drekmeier stated the issue was independent of the Elks Lodge property. There was a potential for a connection that would serve the park and create a bicycle and pedestrian access from Wilkie Way to El Camino Real. He felt it should be explored in parallel with potential access to the Elks Lodge property.

Council Member Morton removed his second to the Motion.

MOTION AMENDED: Vice Mayor Drekmeier moved, seconded by Council Member Espinosa to have staff agendize a discussion, on whether we want to request staff to explore the possibility of securing a public right-of-way from Wilkie Way to El Camino Real on the Dinah's side of the property for non-motorized vehicles.

Council Member Morton stated he did not support the Motion.

MOTION PASSED: 5-2 Morton, Yeh no, Barton, Burt absent

PUBLIC HEARINGS

9. Introduction of an **Ordinance Amending Section 9.04.010 (“Streets, Sidewalks, Highways, Alleys – Consumption of Alcoholic Beverages Prohibited”) of Chapter 9.04 (“Alcoholic Beverages”) to Title 9 (“Public Peace, Morals and Safety”) of the Palo Alto Municipal Code to Allow Consumption of Alcohol Within Legally Permitted Eating Establishment Seating Areas Subject to a Conditional Use Permit**

Public Hearing opened and closed at 9:25 p.m., with no speakers.

MOTION: Vice Mayor Drekmeier moved, seconded by Council Member Kishimoto to adopt the ordinance amending Section 9.04.010 of the Palo Alto Municipal Code (PAMC) to allow alcoholic beverage service by commercial establishments at permitted eating and drinking areas on public sidewalks subject to a conditional use permit.

Vice Mayor Drekmeier stated this practice was already happening in restaurants where they’re serving alcohol on sidewalks and there has yet to be a major issue.

MOTION PASSED: 7-0, Barton, Burt absent

REPORTS OF OFFICIALS

10. Municipal Compost Facility Study: Preliminary Results and Approval of Staff Work Plan

Assistant Director of Public Works Mike Sartor introduced the work plan requested from the Colleagues Memo of August 2007.

Vice Mayor Drekmeier stated there was a community question regarding whether there was anaerobic in-vessel composting; staff responded yes. He simply wanted to be sure the viewers at home were aware that the question had been answered.

Emily Renzel, 1056 Forest stated the land between the Water Quality Control Plant and Byxbee Park was dedicated park land. She mentioned any use of park land required a vote from the public.

MOTION: Council Member Morton moved, seconded by Vice Mayor Drekmeier to approve the Municipal Compost Facility Study Work Plan.

Council Member Morton stated his excitement to continue composting and having a strong work plan.

Vice Mayor Drekmeier stated locating a composting facility on park land would be a last resort and yes, it would require a vote of the public.

Council Member Kishimoto stated her request for an answer to what the City was doing to reduce green waste. Staff had responded, however she was not satisfied with their response.

Mayor Klein mentioned a letter from Walt Hayes, urging Council to approve the staff report

MOTION PASSED: 7-0. Barton, Burt absent

ADJOURNMENT: The meeting adjourned at 9:33 p.m. to the Redevelopment Agency Meeting

AT THIS POINT IN THE PROCEEDINGS, THE CITY COUNCIL ADJOURNED TO A SPECIAL MEETING AS THE PALO ALTO REDEVELOPMENT AGENCY

Re-convened at 9:38 to Council meeting

COUNCIL COMMENTS, ANNOUNCEMENTS AND REPORTS FROM CONFERENCES

Vice Mayor Drekmeier reported a very successful dedication for King Plaza and discussed his positive experience in adopting a school where the children visit the Council Chambers and role play.

Council Member Espinosa attended the League of California Cities annual training. One of the issues discussed was effective lobbying in Sacramento; there was extensive training materials available.

Council Member Yeh stated he had received constituent concerns regarding the water quality.

Assistant City Manager Emily Harrison stated the Utilities Department had completed a line clearing service resulting in discolored water for a short period.

Council Member Kishimoto noted the Palo Alto Libraries Silicon Valley Reads program just started and continued for a month. She mentioned the AMGEN Tour of California was coming in February 2007.

Mayor Klein attended the inauguration of the Sunnyvale Mayor Tony Spitaleri. He also attended the Bay Area Water Supply and Conservation Agency meeting. He discussed the process of selecting the recruiting firm for hiring the City Manager.

City Attorney Baum stated it was inappropriate for the CAO Committee to receive input from the non-committee members on the City Manager recruitment.

Council Member Schmid clarified all meetings related to the recruiter process were open to the public.

Mayor Klein stated yes, with the exception of the interview of the City Manager candidates.

FINAL ADJOURNMENT: 9:58 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.