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ADJOURNMENT: The meeting was adjourned at 9:48 p.m.....		14

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:30 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Morton, Schmid arrived at 6:33 p.m., Yeh

Absent: Kishimoto, Klein

### CLOSED SESSION

#### 1. CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (Frank Benest, Russ Carlsen, Darrell Murray, Sandra Blanch, Lalo Perez, Nick Marinaro)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

**Vice Mayor Drekmeier stated there was no reportable action.**

### STUDY SESSION

#### 2. The City's Response to the Next Generation Challenge.

The City Manager reviewed the "retirement wave" facing local government in general and the City of Palo Alto in particular. In responding to the Next Generation Challenge, Staff from the City's Leadership Development Team identified a three-prong approach: 1) accelerating the development of talent already working for the City; 2) capturing and preserving institutional knowledge; and 3) attracting young people to local government careers. The Study Session concluded with a discussion of the role of the City Council in attracting and retaining talent.

**No action required**

### SPECIAL ORDERS OF THE DAY

#### 3. Selection of Candidates for Interviews for the Architectural Review Board (ARB).

**MOTION:** Council Morton moved, seconded by Council Member Schmid to interview the three candidates for the unexpired term for the ARB ending September 30, 2009, and to place on the agenda for March 17, 2008 the appointment of Robert Peterson for the temporary term ending June 19, 2008 on the ARB.

**MOTION PASSED:** 7-0, Klein, Kishimoto absent

ORAL COMMUNICATIONS

Barbara Slone, 2002 Barbara Drive, spoke regarding Palo Alto Children's Theatre.

Andrew Litt, 2454 West Bayshore Rd., #9, spoke regarding the Palo Alto Children's Theatre investigation.

Dr. Bryna Rifkind spoke regarding the Palo Alto Children's Theatre.

Paula Collins, 110 Ely, spoke regarding the Palo Alto Children's Theatre.

Marie Huang, 2293 Princeton, spoke regarding the Palo Alto Children's Theatre.

Council Member Burt requested Staff provide to the Council and the public on Monday, March 17, 2008 a status report on summer programs for the Children's Theatre.

City Manager Benest replied Staff will provide a brief report at the next meeting.

APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Council Member Morton, to approve the minutes of January 7 and January 14, 2008 as submitted.

**MOTION PASSED:** 7-0, Klein, Kishimoto absent

CONSENT CALENDAR

Council Member Barton advised that he would not participate on Agenda Item Number 4, as he has a client across the street and he felt there may be a conflict due to the physical and temporal proximity of the client.

Jeannie Duisenberg, 1664 Channing Avenue, spoke regarding Consent Calendar Item number 13 regarding the Design Agreement which will be the first step of the development of a public/private partnership that would make possible the expansion and renovation of the Art Center.

**MOTION:** Council Member Morton moved, seconded by Council Member Espinosa to approve Consent Calendar Items 4-13.

4. Ordinance 4971 entitled "Ordinance of the Council of the City of Palo Alto Rezoning Approximately 1.81 Acres of Caltrans-Owned Land, Located at the Southwest Corner of Caltrans Right-of-Way at San Antonio Avenue and U.S. 101 (Bayshore Freeway) North of the Terminus of Transport Road, from Public Facilities District (PF) to General Manufacturing District (GM) for 1001 San Antonio Avenue (Ciardella's)."
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**MOTION PASSED Item 4:** 6-0, Barton not participating, Klein, Kishimoto absent

**MOTION PASSED Items 5-13:** 7-0, Klein, Kishimoto absent

PUBLIC HEARINGS

14. Adoption of an Ordinance Adding Chapter 18.14 (“Below Market Rate Housing Program”) to Title 18 (“Zoning”) of the Palo Alto Municipal Code.

Planning and Community Environment Director Steve Emslie stated the purpose of the Ordinance was to take the current policy and make it part of the Municipal Code. The discussion on the recommendations from the Finance Committee and Planning & Transportation Commission (P&TC) regarding changes to the Below Market Rate (BMR) Program would be heard at the Council Meeting on Monday, April 7, 2008.

Public Hearing opened at 8:47 p.m.

Robert Moss, 4010 Orme Street, requested that when the Council adopts the Ordinance to explicitly state that it meets the requirements of Government Code Section 65915.

Herb Borock, P.O. Box 632, stated details of the BMR program are not in the Comprehensive Plan but, they are implemented in other ways such as passing Ordinances. The Ordinance should be the place for details and hoped the Council would take care of that.

Public Hearing closed at 8:52 p.m.

**MOTION:** Council Member Morton moved, seconded by Council Member Barton to adopt the Ordinance adding Chapter 18.14 (“Below Market Rate Housing Program”) to Title 18 (“Zoning”) of the Palo Alto Municipal Code.

**MOTION PASSED:** 7-0, Klein, Kishimoto absent

15. Approval of Mitigated Negative Declaration, Site and Design and Record of Land Use Action to Allow (1) Architectural and Landscape Architectural Changes to Two Open Space (OS) District Homes at 3220 and 3230 Alexis Drive, (2) Screening Vegetation on Adjacent Foothills Park Land, and (3) Expansion of the Project Site to Include an Adjacent, Vacant OS Parcel at 3208 Alexis Drive to be Graded, Landscaped and Used for Driveway Access, a Spa and a Perimeter Pathway

Planning and Community Environment Director Steve Emslie stated that this was an item that went through the City's Site and Design Review process and that the project before the Council was a request to modify an approval that was granted in 2000. Construction on the home was stopped in the midst of its completion and the site was sold to an owner who has proposed to make some changes primarily to improve the screening of vegetation on Foothills Park land and landscaping on the adjoining vacant parcel.

Planning & Transportation Commissioner Paula Sandas requested that the Council approve the project.

Public Hearing opened at 8:57 p.m.

Ken Alsman, Applicant's representative, 1057 Ramona Street, affirmed that the owner John Chamber's goals are to provide an environment that is a quality addition to the community.

Bill Terry, 925 Laurel Glen Drive, stated his approval of the project and urged the Council to approve the project.

John Chambers, 27800 Via Felix, urged the Council's adoption of the proposal.

Dustin Moore, 1265 Battery Street, San Francisco, stated he was there to answer questions from the Council.

Jean Olmsted, 240 W. Charleston, Friends of the Foothill volunteer, inquired as to the appropriateness of the use of City parkland to mitigate a private owners' fence screening obligation. She asked if the seven foot high rod iron lot line perimeter fence which limits the use of habitat was permissible.

Herb Borock, P.O. Box 632, stated the project is subject to the California Environmental Quality Act (CEQA). He believed there were a number of violations of the procedural processing with the Mitigated Negative Declaration including the absence of a Mitigation Monitoring and Reporting Program. He believed the appropriate and correct thing to do by the Council is to reject the Mitigated Negative Declaration and project approval.

Mr. Alsman responded that the owner desired offsite planting and the elimination of diseased trees in order to avoid any spreading of infection. Also, in regards to the Environmental Review it was his understanding that everything was appropriate.

Public Hearing closed at 9:08 p.m.

City Attorney Gary Baum responded to Herb Borock's letter, stating that six of the pages were based on alleged CEQA violations. The Mitigation Measures are going to occur in the future and currently a Monitoring Plan was not required.

Council Member Morton asked given this was Quasi Judicial do we need to disclose whether they have had discussion with the Applicant.

Mr. Baum replied in the event that any of the Council received information that is not available to the public it should be disclosed or if there had been contact with the Applicant.

Council Member Morton responded that for the record he had met with the Applicants architect and received information that is on the public record.

Council Member Burt disclosed he had a brief conversation with the Applicant's representative Mr. Alsmann and did not receive any information that is not already on public record.

Vice Mayor Drekmeier stated that he too had a brief conversation and did not receive any additional information.

Council Member Morton stated his concern with the fence was that its rod iron and located on property line.

Planning & Transportation Commissioner Paula Sandas replied that there was a lengthy discussion at a recent meeting regarding the fence. The Applicant's having domestic animals on their property required a fence.

Council Member Morton asked how the fencing and creek will interact. He also, inquired if there were normally fence setbacks for screening in the Foothills area.

Planning and Community Environment Director Steve Emslie responded that extra considerations are given to the conditions of the Foothills because of its sensitive nature. Everything is subject to discretionary review and individual circumstances when it comes to the Foothills.

Council Member Morton asked if Staff had any concerns that the covering of the fence was on City property and not on the Applicant's property.

Mr. Emslie responded yes, this is a special circumstance and their primary goal is to help reduce the abrupt change in the physical transition of this structure from the natural structure as it relates to the view from Vista Hill. Staff supported the using of parkland as an addition to the plan because the planting is very compatible with the objectives of maintaining the open space and promoting a better transition.

Council Member Morton asked if future maintenance costs will be the responsibility of the City or Applicant.

Mr. Emslie responded the initial construction and planting costs will be the responsibility of the Applicant.

Planning Manager Amy French added that for the first five years the Applicant would be maintaining, watering, and insuring that the plants and trees are established properly. Also, there is a Condition of Approval that required that kind of ongoing effort by the Applicant. Structures such as a fence did not require a building permit however, the fences would be typically subject to the design review with the site design.

Council Member Morton asked if that was also true for the proximity of the fence to the creek.

Ms. French replied that it was within the 100 foot setback of the creek however, she didn't know if it impinged on the creek.

Council Member Morton asked if Staff was comfortable that the path was not going to be a negative impact in terms of the natural flow of runoff.

Mr. Emslie responded yes, they were comfortable with the location of the path.

Ms. French showed on the map the distance of the 100 foot setback from the creek.

Council Member Morton stated technically it might intrude into the 100 foot setback, but it doesn't at any point cross the creek or interfere with the creeks flow.

Council Member Burt wanted clarification and asked Mr. Emslie if it was correct that a portion of the fence resides within the 100 foot setback.

Mr. Emslie responded yes, Staff confirmed there was a portion within 100 foot setback.

Council Member Burt inquired as to a Comprehensive Plan policy regarding 100 foot setbacks on Riparian Corridors.

Mr. Emslie responded that structures that are regulated by the City in terms of permits are discouraged from the 100 foot setback. However, the fence is not permitted by the City and not regulated in this case. Therefore, it is seen as being compatible with the policy because it's a minor structure that is not subject to permit authority.

Council Member Yeh inquired about fire coverage with regards to any City liabilities in terms of access, response time, and are there any concerns with regards to accessing the property.

Mr. Emslie responded the internal review by the City included the Fire Marshall's review, and he recommended the project in its condition.

Council Member Schmid stated his concerns about what takes place inside Foothill Park in terms of the 35-40 trees that will be put inside the park boundaries.

Ms. French responded that the Planning & Transportation Commission (P&TC) and Architectural Review Board (ARB) had supported the proposal to plant oak trees as a way to replace the number of oak trees that have died.

Council Member Schmid inquired if there was a guaranteed access to Foothills Park after the 5<sup>th</sup> year to assure that the cover is covering.

Ms. French responded that there is a condition of approval in place. Also, access to Foothills Park from the private residence is technically not allowed. There is an establishment of five years, after which time there can be a gate allowing for periodic maintenance if need be.

Planning & Community Environment, Senior Planner Elena Lee explained as part of the process the Applicant will have to obtain a special use permit from the Community Services Department and will be required to apply for a permit annually. It's through that process that Staff will be able to work with the Applicant to insure maintenance.

Council Member Schmid asked if it was possible to have a public presentation in order to look at the photos and see how things had progressed in the five year timeframe.

Mr. Emslie responded yes and recommended a hearing before the P&TC to discuss the advocacy of the planting.

Council Member Morton asked if the oaks don't survive, will there be a requirement to replace them with something that will survive at the Applicant's expense and not at the City's after the five years.

Mr. Emslie replied the condition of approval is that the trees be maintained and should the tree die within that period, then it will have to be replaced as part of the maintenance at the Applicant's expense.

Council Member Morton confirmed that the City will not have any costs to replace the screening because it would be the Applicant's burden.

Mr. Emslie responded after the five years they would know how effective the trees would be.

Council Member Schmid asked if the mitigation for the public through Foothills Park is plantings in the park, would this set a precedent.

Mr. Emslie responded that this is not a precedent, it is based on unique circumstances.

Council Member Schmid inquired as to the precedent not being set so that someone like Stanford couldn't use a similar mitigation process.

Mr. Baum stated this was not a precedent, but based on unique circumstances. This does not represent a policy decision and that is reflected in the City Manager Report (CMR).

Council Member Espinosa stated if members of the public have comments on the growth of oaks, what species, specimens, and obstruction of view they should look at pages 10-15 of the transcript of the P&TC. He expressed frustration about the Applicant's willingness to plant 360 plus trees on a lot and then have the public question his commitment.

Council Member Barton shared Council Member Espinosa's frustration because the whole point of the Open Space District was to create a set of rules that allowed a unique continuous carpet of open space in plantings.

Council Member Burt asked if Staff had the policy information that substantiated the fence not having to be permitted and regulated by the City because it's a minor structure that is not subject to permit authority.

Ms. French responded Programs N7 and N8 from the Comprehensive Plan stated there had to be adopted setbacks along natural creeks that prohibited the siting of buildings and other structures.

Council Member Burt acknowledged the clarification and that the key issues as he saw them were there was not to be a structure or ornamental landscaping and it appears that neither of them exists. He thought we needed to look at plantings of other indigenous tree species that reside here. Ms. Sandas commented that as a point of process she didn't think he would have had as much discussion tonight if he had the full verbatim minutes of the P&TC.

Council Member Schmid asked Mr. Emslie if there is some learning from the process that would be helpful as we think about other open space issues.

Mr. Emslie suggested that photo simulations and vista analysis would have improved the screening and ultimately the architectural elements of this home in terms of being able to soften it and to site it better.

Council Member Burt stated the update to the Open Space Element will be coming to the City Council then it goes back to the P&TC. Embodied in that are a number of modifications that put into the Zoning Code the principles of the Comprehensive Plan.

Council Member Morton apologized to Ms. Sandas about not having the full minutes verbatim for the second meeting. He responded that even if he had them he still would have asked most of the questions that he did. As an elected representative it is incumbent upon him to discuss and address the concerns of the community and he takes that role very seriously.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Barton to adopt the Mitigated Negative Declaration, Site and Design and Record of Land Use Action to Allow (1) Architectural and Landscape Architectural Changes to Two Open Space (OS) District Homes at 3220 and 3230 Alexis Drive, (2) Screening Vegetation on Adjacent Foothills Park Land, and (3) Expansion of the Project Site to Include an Adjacent, Vacant OS Parcel at 3208 Alexis Drive to be Graded, Landscaped and Used for Driveway Access, a Spa and a Perimeter Pathway

**MOTION PASSED:** 7-0, Klein, Kishimoto absent

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Morton spoke regarding the Council packets containing the preliminary release of the Infrastructure Backlog documentation that the Finance Committee had a brief presentation on.

Council Member Espinosa discussed the City's clear plastic drink glasses that have the city's recycling program advertized on it. He suggested that Staff get one for each council member and put their names on it, so we are not using the disposable paper type cups.

Council Member Burt reported on the first meeting of the City/School Liaison Committee, whose preliminary agenda was evaluating the environmental initiatives of the School District and the City, and looking for ways to find cooperative efforts between them. The next meeting will be on March 19, 2008 with the agenda to be identifying and prioritizing the joint efforts of the two entities.

ADJOURNMENT: The meeting was adjourned at 9:48 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.