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| ADJOURNMENT: The meeting adjourned at 9:40 p.m.   | 214 |

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:05 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh arrived at 6:10 p.m.

- A. Interview of Four Applicants for the Public Arts Commission.
- B. Interview of Two Applicants for the Human Relations Commission.

#### ORAL COMMUNICATIONS

Michael C. Kushlan, 769 Garland Drive, spoke regarding the Palo Alto Children's Theatre.

Jay Jeffries, 2569 Webster Street, spoke regarding the Palo Alto Children's Theatre.

Elizabeth Moon, 3351 Alma Street, Apartment 201, spoke regarding the Palo Alto Children's Theatre.

John Abraham, 736 Ellsworth Place, spoke regarding police demographics.

Diane Williams, 111 Morse Avenue, Apartment 166, spoke regarding the Palo Alto Children's Theatre.

Kirke Comstock, 9 Coalmine View, Portola Valley, spoke regarding the Palo Alto Children's Theatre.

Tony Ciampi, Lincoln Avenue, spoke regarding evidence.

Keaton Smith, 4085 Laguna Way, spoke regarding the Palo Alto Children's Theatre.

Alison Lee, 1241 Harker Avenue, spoke regarding the Palo Alto Children's Theatre.

Leni Silberman, 1290 Cedar Street, spoke regarding the Palo Alto Children's Theatre.

Amy Moskowitz, 1941 Tasso Street, spoke regarding the Palo Alto Children's Theatre.

Stephanie Munoz, 101 Alma Street, spoke regarding the Palo Alto Children's Theatre.

Donald Freiberg, 5235 Sullivan Drive, spoke regarding the Palo Alto Children's Theatre.

Dylan Reinhart, Portland, OR, spoke regarding the Palo Alto Children's Theatre.

Margaret Govea, 2771 South Court, spoke regarding the Palo Alto Children's Theatre.

Trudi Reinhart, 3440 Kenneth Drive, spoke regarding the Palo Alto Children's Theatre.

Phyllis Smith, 920 Boyce, spoke regarding the Palo Alto Children's Theatre.

Jane Marcus, 1820 Channing Avenue, spoke regarding the Palo Alto Children's Theatre.

Sonya Raymakers, 768 Stone Lane, spoke regarding the Palo Alto Children's Theatre.

Lucy Erman, spoke regarding the Palo Alto Children's Theatre.

Jonathan Erman, spoke regarding the Palo Alto Children's Theatre.

Justine Franklin, 2473 Greer Road, spoke regarding the Palo Alto Children's Theatre.

Ourry Schwartzford, 572 Seahorse Lane, Redwood City, spoke regarding the Palo Alto Children's Theatre.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Council Member Morton to approve the minutes of April 07 and 14, 2008.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

Vice Mayor Drekmeier advised he would not be participating in Agenda Item Number 2 per Government Code Section 1090 due to his being on the Acterra Board of Directors.

Council Member Barton advised he would not be participating in Agenda Item Number 3 per Government Code Section 1090 due to his being on the faculty at Stanford University. He would not be participating in Agenda Item Number 6 due to a conflict with his business. He also registered a no vote on Agenda Item Number 5.

Mayor Klein advised that he would not be participating in Agenda Item Number 3 per Government Code Section 1090 due to his wife being on the faculty at Stanford University.

Council Member Morton advised he would not be participating in Agenda Item Number 9 per Government Code Section 1090 as he owns stock in Shell Oil.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Schmid to approve Consent Calendar Item Numbers 2-9.

- 4** 2. Approval of Four Utilities Public Benefit Contracts for: (1) Residential Energy Audits with Acterra, (2) Residential Energy Display Devices with Blue Line Innovations, Inc., (3) Commercial Energy Efficiency Programs with Ecology Action, and (4) Electric Efficiency Program Measurement and Evaluation with Summit Blue Consulting in the Combined Amount Not to Exceed \$2,176,986 for a Term of Up to Three Years.
3. Approval of a Sublease Agreement Between the Santa Clara Valley Transportation Authority and Caffè Del Doge, Venezia, Inc. for a Portion of the University Avenue Depot, 95 University Avenue for a Five Year Term with Two Five Year Options to Extend.
- 4** 4. Ordinance 5004 stating "Ordinance of the Council of the City of Palo Alto adopting Budget Amendment Ordinance in the Amount of \$30,000 and Approval of an Amendment to Contract C07120333 with RMC Water & Environment, Inc., to Add \$25,000 for Completion of a Recycled Water Facility Plan and Preparation of Environmental Documents for Capital Improvement Program Project WS-07001, (Recycled Water Distribution System Extension) for a Total Not to Exceed Amount of \$267,700.
5. Ordinance 5005 stating "Ordinance of the Council of the City of Palo Alto Amending Chapter 21.50 (Park Land Dedication or Fees In-Lieu Thereof) of Title 21 (Subdivisions and Other Divisions of Land) of the Palo Alto Municipal Code to Set the Park Land Dedication Requirement to Five Acres Per Thousand Residents.

6. Ordinance 5006 stating "Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Add a New Chapter 18.44 (Green Building Regulations)".
7. Resolution 8823 stating "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Biff Schaefer Upon His Retirement".
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9. Ordinance 5008 stating "Ordinance of the Council of the City of Palo Alto adopting Budget Amendment Ordinance Increasing: (1) Budget for Electric Supply Cost by \$6,350,000, (2) Revenue for Electric Surplus Energy by \$800,000, (3) Budget for Gas Supply Costs by \$1,500,000, (4) Revenue for Gas Supply Sales by \$900,000, (5) Revenue for Gas Distribution Sales by \$1,000,000, (6) Budget for Water Supply Costs by \$700,000, and (7) Revenues for Water Sales by \$2,000,000".

**MOTION PASSED for Item 2:** 8-0 Drekmeier not participating

**MOTION PASSED for Item 3:** 7-0 Barton, Klein not participating

**MOTION PASSED for Items 4, 7, & 8:** 9-0

**MOTION PASSED for Item 5:** 8-1 Barton voting no

**MOTION PASSED for Item 6:** 8-0 Barton not participating

**MOTION PASSED for Item 9:** 8-0 Morton not participating

#### PUBLIC HEARINGS

10. TEFRA Hearing Regarding Conduit Financing for the Fabian Way Senior Apartments Project Located at 901 San Antonio Road, Palo Alto, and Adoption of Resolution 8825 stating "Resolution of the Council of the City of Palo Alto Approving the Issuance of Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$14,000,000 for the Purpose of Financing the Construction of Fabian Way Senior Apartments".

Council Member Barton advised he would not be participating in Agenda Item Number 10 as it is a project that his wife is working on through Bridge Housing Corporation.

Deputy Director of Administrative Services Department Joe Saccio stated this TEFRA Hearing is sponsored by the Bridge Housing Corporation. This public hearing and approval of a local jurisdiction are required by federal regulations. He stated the City has no financial obligation due to the Council's actions at this hearing.

City Attorney Gary Baum stated Federal Law allows private projects to be financed through tax-exempt revenue bonds if certain requirements are met. One requirement is that an elected public agency conduct a public hearing (TEFRA hearing) to allow the community to object to the issuance of the bonds. The City's only role in this process is to provide a forum for the public hearing. The City Attorney's office has confirmed with specialized bond counsel that the City will have no financial responsibility or obligation related to the issuance or repayment of these bonds. The bonds are issued through the California Municipal Finance Authority (CMFA) and will not affect the City's bond rating. The financing documents will contain disclaimers that the City of Palo Alto has no financial obligations related to the bonds.

Council Member Kishimoto asked for an example of why someone might object to this issuance of bond.

Mr. Baum stated that due to utilizing tax-free bonds, the public must have an opportunity to voice concerns if they disagree with the use of the funds.

Public Hearing opened and closed at 8:39 p.m. without comment.

Council Member Schmid asked that the statements from Staff be represented in the minutes of the meeting.

**MOTION:** Council Member Schmid moved, seconded by Vice Mayor Drekmeier to accept Staff recommendation to 1) Conduct a public hearing under the requirements of the Tax Equity and Fiscal Responsibility Act of 1983 (TEFRA) and the Internal Revenue Code of 1986, as amended (Code); and 2) Adopt a resolution approving the issuance of the bonds in an aggregate principal amount not to exceed \$14,000,000 by the California Municipal Finance Authority (CMFA) for the benefit of Fabian Way Associations, L.P. (Borrower) in financing Fabian Way Senior Apartments.

Council Member Yeh asked if the Fee for Service item under Resource Impact paid for Staff time or something else.

Ben Barker, CMFA, stated that a portion of the issuance fee is returned to the local municipality without consideration for how it may be used.

Mr. Baum stated the City would use these funds to cover the internal costs.

**MOTION PASSED:** 8-0 Barton not participating

#### COUNCIL MATTERS

11. Discussion of City Manager Selection Process.

Mayor Klein confirmed with the City Clerk that a memo from Council Member Barton and him had been distributed to Council and the public. The memo requested authorization for the Mayor and the Chair of the CAO Committee to; 1) disclose certain information to the media, and 2) the approval of senior Staff and nine citizens to be appointed by the Council to participate in the interviewing process of the finalists for the City Manager position.

City Clerk Donna Grider noted that the memo was distributed prior to the Council meeting.

Mr. Baum stated the Colleague's Memo is not really on the agenda it is only the discussion that is agendized.

Mayor Klein stated that given the focus is process oriented the Council can proceed with a discussion to get a sense of the matter. He stated questions were received regarding the status of the search; how many applications had been received, and how many semi-finalists are being considered. He stated due to State Law that information could not be disclosed without consent of the full Council. He asked for consent from the balance of the Council to provide answers to these two questions.

Council Member Morton stated the press has the right to ask these questions but wondered about the value of making the information public. He stated his view was that the Council should refuse the request and cite the Brown Act.

Mayor Klein stated that eight Council Members had consented to the two items by the nodding of their heads.

Council Member Barton stated this would allow many people to interview the final candidates. He stated that senior Staff preferred to conduct interviews separate from community leaders. He stated the value of this is in bringing additional input to the process, including an opportunity for the candidate to hear concerns directly from senior Staff and the community. He stated that the community would appreciate their opinions being valued.

Sandra Lonquist, 122 Hamilton Avenue, stated the March 17, 2008 memo expressed the business community's appreciation for the opportunity to participate in selection of a recruiter and requested further participation in the interview process.

Herb Borock, P.O. Box 632, stated that as it is part of the public record to disclose which Council Members appointed particular positions. This practice should be extended to participation in the recruiting process.

Mayor Klein stated that there is an error in the memorandum regarding the dates shown in the last paragraph, where it reads June 7 and/or 8 it should be June 14 and/or 15.

Council Member Kishimoto asked for verification that the interviews would be done June 14 or 15 and done in Closed Session. She asked for clarification regarding a Motion on this discussion.

Mr. Baum stated that this was not appropriately noticed to take action. He stated it was listed as a discussion where no Motion would be in order.

City Manager Frank Benest stated that should the Council appoint community members confidentiality of candidates would be an issue.

Council Member Barton stated that he discussed that challenge with Mr. Murray who produced forms that would alert the community members to the need for confidentiality.

Mr. Baum stated that Mayor had the power to appoint any committee at any time without any action from the Council.

Mayor Klein stated he was aware of that provision and was interested in an informal vote of the Council for guidance.

Mr. Baum stated that no vote can be taken.

Mayor Klein stated that he was looking for a more informal indication of the preference of the Council Members.

Council Member Morton stated his concern regarding protecting the confidentiality of the applicant's at this point in the process. He also stated that this may be shifting responsibility to the public that should remain with the Council.

Council Member Espinosa stated that the public participants would not be making the decision. He stated that previously he was not in favor of an open process but at this point he is in favor of including community participation.

Council Member Barton stated that Bob Murray assured him that this would not adversely affect any of the applications.

Council Member Kishimoto stated the main concern has been confidentiality and if that can be assured she would support this. She noted that the list of senior Staff includes six members but leaves out several other department heads and would prefer to include all department heads.

Council Member Yeh stated his concern is also confidentiality and expressed the opinion that signing a form may not be sufficient. He stated that even though public input is very important, the risk of breaching confidentiality is too high. He stated that he would not support appointing nine citizens to participate in process. He asked if confidentiality would be an issue in regard to the involvement of the department heads.

Mr. Benest stated that the department heads could also sign forms but he felt they would be less likely to breach confidentiality. He stated that the benefit of professional Staff involvement outweighed the risk of breaching confidentiality.

Council Member Yeh stated there is value in the candidates meeting with the department heads and supported the notion that all department heads be included in the process.

Council Member Schmid stated his view that it would be beneficial for the candidates to meet with both professional Staff and the public representatives. He stated that if the consultant could assure there would be nothing detrimental to the candidates, he would support including the public. He stated that mixing Staff and public members in these meetings might prove beneficial.

Council Member Barton stated that he found Mr. Murray adamant about the two groups meet separately with the candidates. He stated the reason being questions from one group about the other may become awkward with everyone present resulting in more limited conversations.

Council Member Morton stated he agrees that including senior Staff is important even though he disagrees with including the general public.

Council Member Burt asked for further information regarding disclosing information publicly.

Mayor Klein stated his preference to disclose the information regarding who would participate publicly.

Mr. Baum stated that it will be listed on the agenda or attached to the agenda. He stated that there would be no intention of concealing the identities of the participants.

Council Member Burt stated that he agreed that all department heads and the senior-most member of the Auditor's Department should be included.

Mayor Klein stated he will go ahead with the process as described with the addition of all department heads. He stated he will appoint the nine people proposed by the Council Members as each member may select one appointee.

Mr. Baum stated that if anything is submitted in writing it would need to be made part of the public record.

Mayor Klein asked the Council Members to verbally propose their choice so as not to embarrass any citizen who may decline to participate.

### **No Action Taken by the Council**

12. Colleagues Memo from Council Members Barton, Burt, and Kishimoto Regarding Tour of California 2009 Proposal.

Council Member Kishimoto stated the event was an unqualified success in terms of community participation, partnership with Stanford, Palo Alto's image as a cycling center and green city, and international coverage of the event. She stated enthusiasm for future events and described the changes for holding the event again in 2009.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Barton to authorize the City Manager to negotiate a mutually beneficial agreement between AEG and the City of Palo Alto to host the February 16<sup>th</sup> stage finish in the 2009 Tour of California cycling race.

Council Member Barton stated he seconded the Motion due to the huge public support and enthusiasm for the event.

Council Member Burt stated he supported the Motion adding the overwhelming amount of highly favorable publicity generated by this event was invaluable to Palo Alto.

Council Member Yeh stated his appreciation to colleagues for bringing this forward and his enthusiasm for the event. He asked for clarification of the date that personnel would be hired to manage these programs.

Mr. Benest stated the Request For Proposal responses are due in a couple of weeks, there would be a review period, and Staff should bring this back to Council prior to the summer break.

Council Member Morton asked if Staff would continue the same level of commitment to this program going forward.

Mr. Benest stated that Staff will ensure the same level of commitment was continued with the benefit of the experience gained from the first event.

Council Member Morton asked if the route would come through the heart of community.

Deputy City Manager Steve Emslie stated the tentative route is from Sausalito to Palo Alto using either Page Mill Road, Woodside Road, or Tanitas Creek with laps through Stanford and finish at Prolog.

Council Member Morton stated that this level of involvement in the route was exciting and he was happy to support it.

Council Member Espinosa stated his support for the Motion. He stated that people may be interested in the Tour de Cure race hosted by the American Diabetes Association that starts and finishes at the Hewlett Packard campus.

Mayor Klein stated that although he is very enthusiastic about the event he had some concerns about expenses. He stated that foremost concern was that the numbers were soft regarding exactly what could be attributed to this event. He stated going forward the City Manager should negotiate a cap on expenses and Staff strenuously request the Chamber to work with hoteliers and restaurants to get accurate data to be held confidentially.

Council Member Kishimoto stated that she is comfortable with that additional direction.

Mr. Benest stated Staff would be very aggressive in that regard and expressed concern about data from the restaurants.

Mayor Klein stated that he was disappointed in the data provided from the first two years.

Council Member Kishimoto accepted the direction as a friendly amendment.

**INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER** for the City Manager to negotiate a cap on the City's expenses, request the Chamber of Commerce work with the hoteliers and restaurants to get accurate data to be held confidentially.

Mr. Benest stated that in addition to the partnership with AEG it is critical to have the commitment from the LOC and would include that as part of the condition.

Council Member Schmid stated his view that these conditions should not overshadow the excitement created by the event. He stated that possibly the World Music Festival could be rescheduled to President's Day to expand this event for Palo Alto.

Council Member Morton stated his agreement with defining, if not capping the risk. He asked if the cap would be predetermined in advance of negotiating the details of the event and identifying the costs.

Council Member Burt stated his suggestion for an amendment to include a request to the Visitor's Bureau to provide their best judgment on the range of benefits from publicity.

Mr. Benest stated that to get the hard dollar and other benefits, Staff would work with the Destination Palo Alto provider. He stated they are the appropriate organization to provide information on both issues.

**INCORPORATED INTO MOTION WITH THE CONSENT OF MAKER AND SECONDER** that the Destination Palo Alto Visitor's Bureau provide their best judgment on the range of economic benefit derived from the publicity for the City.

**MOTION PASSED: 9-0**

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

City Clerk Donna Grider announced that the public can bring their mail-in ballots to the lobby of City Hall, where there is a secure box and that the ballots will be picked up and counted by the County.

Council Member Yeh spoke regarding the soap box derby that occurred this past weekend in Mountain View and there was a request that Palo Alto participate in future soap box derby events.

Mayor Klein spoke regarding his attendance at the National League of Cities (NLC) Energy, Environment and Natural Resources Committee meeting in Cleveland, Ohio this past week. He also stated that the NLC has scheduled an event for next year, the week of Earth Day, solely devoted to environmental issues.

Council Member Kishimoto reminded all that there is a Study Session this Thursday at 1:00 p.m. in the Chambers led by Bill Burton Wright. She also spoke regarding the update from Staff on the use of tasers.

ADJOURNMENT: The meeting adjourned at 9:40 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.