

Special Meeting  
May 05, 2008

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

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

### STUDY SESSION

1. Presentation on the San Francisquito Creek Joint Powers Authority's Early Implementation Flood Control Project Alternatives.

Director of Public Works Glenn Roberts and Menlo Park Director of Public Works Kent Steffens made a PowerPoint presentation that provided summary information regarding the San Francisquito Creek Joint Powers Authority's (JPA) Early Implementation Project alternatives. Mr. Roberts described the formation of the JPA and the ongoing joint JPA/Army Corps of Engineers Feasibility Study of flood control options for San Francisquito Creek. He explained that, as a result of less than expected levels of federal funding for the Feasibility Study, the JPA Board of Directors has directed staff to explore the possibility of implementing an Early Implementation Project (EIP) that would provide near-term flood damage reduction to the community. He noted that the JPA Management Team (executive staff from each of the JPA member agencies) has performed preliminary analysis, with input from the public, of EIP alternatives to determine their feasibility, eligibility for federal cost reimbursement, and relative costs and benefits. Mr. Roberts described the characteristics of the creek and its watershed, noting that the lower reach of the creek (downstream of Highway 101) has the lowest capacity to convey storm runoff. As a result of this configuration, he explained that the EIP alternatives would need to either remove peak flows from the entire channel (through upstream detention or diversion) or increase the capacity of the creek beginning in the furthest downstream reaches.

Mr. Steffens described the process that the JPA Management Team used to identify and then evaluate potential EIP alternatives. In order to be considered as a feasible EIP alternative, a project must 1) not induce downstream flooding, 2) be eligible for federal cost reimbursement, 3) reduce flood damages as a stand-alone project, and 4) have a construction cost that could be locally funded. Mr. Steffens presented a brief overview of the following feasible EIP alternatives, including preliminary scope, benefits, environmental impacts, and rough cost:

1. Create secondary watercourse through Palo Alto Golf Course
2. Create passive weirs to allow creek overflow to Palo Alto Golf Course or Baylands
3. Widen creek channel downstream of Highway 101

4. Increase levee heights downstream of Highway 101
5. Construct an additional culvert under Highway 101
6. Construct an offline detention basin at former Boething Nursery site on Stanford lands
7. Modify Middlefield and/or Pope-Chaucer bridges

Mr. Roberts concluded the presentation by describing that the JPA Management Team would narrow the potential EIP alternatives list to the two or three most feasible alternatives for further study and refinement by a consultant. He noted that the JPA Management Team will continue to work closely with the JPA Board and members of the public to pursue the implementation of an Early Implementation Project in the next three to five years.

Mayor Klein advised that he would move Agenda Item No. 3 to be heard before Agenda Item No. 2.

#### SPECIAL ORDERS OF THE DAY

3. Proclamation Commending the Outstanding Service of Cynthia D'Agosta in Establishing and Directing the San Francisquito Creek Joint Powers Authority.

Vice Mayor Drekmeier read into the record the Proclamation and presented it to Ms. D'Agosta.

Cynthia D'Agosta expressed her thanks to the Council and spoke about her new job as Executive Director for the Committee for Green Foothills.

#### STUDY SESSION

2. Update on Stanford University Medical Center (SUMC) and Stanford Shopping Center (SSC) Expansion Projects.

Mayor Klein advised he would not participate in the study session as his wife is on staff at Stanford University.

Council Member John Barton advised he would not participate in the study session as he is an employee of Stanford University.

Staff provided status on the review of the Projects, including the status of the Environmental Impact Report (EIR) preparation. Staff described the possible project alternatives that could be contained within the EIR. The City's urban design peer reviewer, Bruce Fukuji described the Village Concept study that staff is preparing. It is likely that the Village Concept would appear as a project alternative. The Council heard brief comments

from the project applicants and a summary of the Planning and Transportation Commission study session on this same topic from Chair Karen Holman. The Council expressed general support for the Village Concept study, but that it needed to be balanced with fiscal decisions that will provide financial benefits to the City. The design of the Village Concept should be compatible with the community. Housing in appropriate areas near the project sites would enhance the Village Concept. Council took a break from 9:02 p.m. returning at 9: 09 p.m.

#### ORAL COMMUNICATIONS

Dr. Byrna Rifkind, 1145 Noe Street, Suite # 2, San Francisco, spoke regarding the Palo Alto Children's Theatre.

Charles Junkerman, 565 Chaucer, spoke regarding the Palo Alto Children's Theatre.

Paul Madsen, 4244 Los Palos Place, spoke regarding the Palo Alto Children's Theatre.

Alpha Crews, 2221 Louis Road, spoke regarding the Palo Alto Children's Theatre.

Judy Andrews, 225B Santa Ana, spoke regarding the Palo Alto Children's Theatre.

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

Rick Saal, 1837 Bryant Street, spoke regarding the Palo Alto Children's Theatre.

John Abraham, 736 Ellsworth Place, spoke regarding Demographic data.

Robert Smith, 2291 Greer Road, spoke regarding the Palo Alto Children's Theatre.

Nancy Ferguson, 721 Forest Avenue, spoke regarding the Palo Alto Children's Theatre.

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

Steve Broadbent, 575 Washington Avenue, spoke regarding the upcoming Green Building Ordinance and basement construction and dewatering of basements.

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

Linda Minor, 4350 Miller Avenue, spoke regarding the Palo Alto Children's Theatre.

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

#### CONSENT CALENDAR

Mayor Klein advised that he would not be participating in Agenda Item No. 6 as his residence is within 500 feet of the proposed street work.

Council Member Yeh advised that he would not be participating in Agenda Item No. 6 as his residence is within 500 feet of the proposed street work.

**MOTION:** Mayor Klein moved, seconded by Council Member Morton to pull Agenda Item Nos. 9 and 10 for further discussion. Agenda Item No. 9 will become 10A and Item number 10 will become 10B.

**MOTION:** Council Member Morton moved, seconded by Council Member Espinosa to approve Consent Calendar Item Nos. 4-8.

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4. Approval of a Utilities Public Benefit Program Contract with Eagle Systems International, Inc. dba Synergy Companies in an Amount Not to Exceed \$570,000 for Continued Administration of a Low-Income Residential Electric and Natural Gas Assistance Program.
  5. Approval of a Utilities Enterprise Fund Contract with Pacific Gas & Electric Company's Learning Services Division in an Amount Not to Exceed \$450,000 for Electric and Gas Construction Training Services for a Term of up to Three Years.
  6. Approval of a Contract with Valley Slurry Seal Company in the Amount of \$739,897 for the 2008 Street Maintenance Program Phase 1, Capital Improvement Program Project PE-86070.
  7. Approval of a Contract with Alaniz Construction, Inc. in the Total Amount of \$291,130 for Concrete Pavement Repair Project – Capital Improvement Program Projects: Street Maintenance PE-86070, Sidewalk Replacement PO-89003, and Storm Drain Rehabilitation SD-06101.

8. Approval of a Conditional Use Permit and a Record of Land Use Action to Allow Beer and Wine Service, and Late Night Business Activities for the "Ramen Club" Restaurant at 3924 El Camino Real.
9. Adoption of a Resolution 8817 stating "Resolution of the Council of the City of Palo Alto Opposing Proposition 98" and a Resolution 8818 stating "Resolution of the Council of the City of Palo Alto Supporting Proposition 99".

~~10. Approval of Ideal Candidate Profile for City Auditor.~~

**MOTION PASSED for Agenda Item Nos. 4-5, 7-8: 9-0**

**MOTION PASSED for Agenda Item No. 6: 7-0** Klein, Yeh not participating

10A. (former No. 9) Adoption of a Resolution 8817 stating "Resolution of the Council of the City of Palo Alto Opposing Proposition 98" and a Resolution 8818 stating "Resolution of the Council of the City of Palo Alto Supporting Proposition 99".

**MOTION:** Mayor Klein moved, seconded by Vice Mayor Drekmeier to adopt the Resolution opposing Proposition 98 and a Resolution supporting Proposition 99 with staff changes.

Mayor Klein stated the language for the benefit of the public that Proposition 98 would be a disaster for the City of Palo Alto and many other cities in California due to its restrictions on land use and zoning decisions made at local levels. The resolution also inhibits the State of California from doing various water projects. He stated that this Proposition is backed by real estate interests.

Vice Mayor Drekmeier stated he agreed with Mayor Klein. He also stated that the League of Cities had introduced Proposition 99.

**MOTION PASSED: 9-0**

10B. (former No. 10) Approval of Ideal Candidate Profile for City Auditor

**MOTION:** Mayor Klein moved, seconded by Council Member Espinosa to approve the ideal candidate profile for the City Auditor to include staff changes.

Council Member Espinosa stated he was concerned that so many changes were required by the City Auditor including some very fundamental changes.

City Clerk Donna Grider stated that the project came in late from the consultant and was forwarded to the City Attorney's Office and Human Resources for quick review.

Council Member Morton stated that this document is very technical and staff should be commended for being able to correct the language to be the most accurate description.

Council Member Yeh stated his concern in seeing this document before it is in final form. He asked if there would be an opportunity for the City Council to see the final product before release to the public.

Ms. Grider stated that it has not been in the timeline to return to the City Council with the final version. She stated that she would take any changes suggested by the City Council to the consultant for updating.

**MOTION PASSED: 9-0**

#### PUBLIC HEARING

11. Adoption of an Ordinance of the City Council of the City of Palo Alto Establishing Underground Utility District Number 45 (Palo Alto Avenue, Alma Street, High Street, Lytton Avenue and Cambridge Avenue) by Amending Section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code".

Council Member Morton advised he would excuse himself from this item as he owns property on the periphery of this district.

Senior Electric Project Engineer Patrick Valath stated that he and his colleagues are in attendance to answer any questions of the City Council or the public.

He stated that the two primary reasons to support the ordinance are first to establish the boundaries and second to allow AT&T to participate in the underground district.

Public hearing opened at 9:56 p.m.

Lad Wilson, Number 3 Victoria Vale, Monterey, spoke in support of the Ordinance and Palo Alto underground utilities.

Mr. Valath stated that any existing fiber on pole lines will be moved underground including an expansion on Cambridge Avenue.

Public hearing closed at 10:01 p.m.

Council Member Kishimoto asked what it would add to the project to add

more fiber.

Mr. Valath stated that the conduit is normally four inches and can hold a lot of fiber.

Council Member Kishimoto asked what it would cost to add additional conduit to the underground utilities.

Mr. Valath stated that the conduit is required to underground the existing fiber so there will be no additional cost to pull in additional fiber at a future date. He stated that the plan is to put in one conduit for the fiber that exists today which leaves room for additional cables to be pulled through that conduit at a future time.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Barton to accept Staff recommendation to adopt the Ordinance to create Underground Utility District No. 45 (UUD 45) and thereby amend Section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code.

Council Member Barton asked what happens when a neighborhood does not currently have fiber.

Mr. Valath stated that within the district boundaries fiber is already in place.

Council Member Yeh asked what has been discussed with AT&T and Comcast with regard to future underground plans.

Mr. Valath stated that districts have been identified to continue the plan for the next two years and negotiation with AT&T to identify future districts is ongoing.

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

12. Finance Committee Recommendation to Adopt Proposed Fiscal Year 2008/09 Community Development Block Grant (CDBG) Funding Allocations and Draft Action Plan.

Council Member Barton advised that he would not participate in this item as funding for one of the projects is within 500 feet of his residence.

Council Member Morton as Chairman of the Finance Committee stated that the Committee unanimously approved recommendation of the staff proposal.

**MOTION:** Council Member Morton moved, seconded by Mayor Klein to accept the Finance Committee and Staff recommendation to: 1) Allocate CDBG funding as recommended by Staff and the Citizens Advisory Committee (CAC) in the 2008/09 Action Plan; 2) Authorize Staff to submit

the 2008/09 Action Plan to the Department of Housing and Urban Development (HUD) by May 15, 2008 deadline; 3) Authorize the City Manager, on behalf of the City, to execute the 2008/09 application and Action Plan for CDBG funds and any other necessary documents concerning the application, and to otherwise bind the City with respect to the application and commitment of funds.

Public hearing opened at 10:08 p.m.

Wanda Hale, 2625 Zanker Road, San Jose, spoke as a member of the Long Term Care Ombudsman Program of Santa Clara County, which advocates for seniors in long-term care and thanked the Council for its support of the CDBG funding.

Public hearing closed at 10:09 p.m.

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

13. Approval of Site and Design and Record of Land Use Action and a Mitigated Negative Declaration for a new 886 square-foot accessory structure at 810 Los Trancos Road Zone District: Open Space (OS)

Assistant Director of Planning and Community Environment Curtis Williams stated this project is to add an accessory structure on the site with a main residence and other accessory uses in place. He stated that the amendments to conditions 11, 12, and 13 of the Record of Land Use Action clarify the suggestions that were made by the Planning and Transportation Commission at their meeting.

City Attorney Gary Baum stated that this item is a quasi-judicial matter.

Mr. Williams stated that the Planning and Transportation Commission vote was five to two. The two dissenting members supported the project but were opposed to the condition related to the paint color of the accessory structure.

Public hearing opened and closed at 10:11 p.m. without comment.

Council Member Morton stated the disturbed area resembled an area for gardening or planting that is now being replaced with a structure.

City Planner Paul Mennega stated the area proposed for the structure has been a garden area with a retaining wall to reinforce that portion of the site.

**MOTION:** Council Member Morton moved, seconded by Council Member Kishimoto to accept Staff and Planning and Transportation Commission

recommendations to approve: 1) A Mitigated Negative Declaration prepared for the property located at 810 Los Trancos Road in accordance with the California Environmental Quality Act; and 2) A Record of Land Use Action approving a Site and Design Review application to allow architectural and site plan revisions to the previously approved project, including the construction of an 886 square foot accessory structure, with associated landscaping and grading changes, subject to findings and conditions of approval contained in the Record of Land Use Action, with staff amendments for conditions 11, 12, and 13.

Council Member Kishimoto stated her thanks to the Planning and Transportation Commission and Staff for their careful work on this project in a sensitive Open Space area.

**AMENDMENT:** Mayor Klein moved, seconded by Council Member Barton to change verbiage in Condition 12 that was handed out this evening, to delete the language "and shall reflect a more subdued tone than the existing home color."

Council Member Morton stated that he was willing to accept that as a friendly amendment.

Council Member Kishimoto did not accept the amendment.

Mayor Klein stated that he read the proceedings and found this to be an unenforceable condition. He further explained that it is a level of detail that is not necessary on a structure of less than 1,000 square feet when larger structures already exist.

Council Member Barton stated he agreed with Mayor Klein's comments. He stated that the painting of a structure did not require Site and Design Review in any zone.

Council Member Kishimoto stated that she disagreed and believes that color is important in Site and Design. She stated that the Architectural Review Board (ARB) did not review this so the Planning and Transportation Commission were the only ones to comment on color. She stated that in sensitive areas such as the Foothills and Baylands Site and Design is required due to the level of sensitivity. She stated that it is enforceable because it returns to staff for review.

Council Member Morton asked for a clarification of the Amendment.

Council Member Burt asked for confirmation that the remaining intent of that condition requires that the color is something compatible and comparable to

the existing color.

Mr. Williams stated that the concern on the Commission was that the existing color of the other structures is not appropriate.

Council Member Burt stated his clarification that the existing color of the home is something that would not currently be permitted.

Mr. Williams stated that was correct.

Council Member Burt asked for clarification of the Open Space Guidelines in regard to the color of structures.

Mr. Williams stated that the guidelines allow that to be included and has typically been done for a new home or something that is very visible. The enforcement mechanism has been requiring the color to be approved through a condition of approval. In this case, the Applicant provided a revised color to comply with this condition.

Council Member Burt stated that he wanted the record to reflect that Council is not supporting a position that color cannot be a condition in Open Space District development.

**AMENDED MOTION PASSED:** 5-4 Drekmeier, Kishimoto, Morton, Yeh no

**MOTION PASSED:** 9-0

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kishimoto advised that next Thursday is Bike to Work day. She spoke regarding her desire for the Finance Committee to ensure there is enough budget to implement the Climate Protection Plan, and to insure sufficient funding for the Bike Master Plan implementation at a meaningful pace.

Council Member Morton stated he shares the communities distress that the Children's Theatre investigation continues and their concern about the damage that it is doing to the long term good will of all those involved with it.

Council Member Espinosa spoke regarding the California Avenue fountain and the proposed art structure.

Mayor Klein spoke regarding the proposed budget and his concern that the Children's Theatre is adequately funded in 2008-09. He announced that he

is appointing former Council Member Bern Beecham to be an advisor to the Mayor on the Broadband Advisory Team, Fiber to the Home (FTTH).

ADJOURNMENT: The meeting was adjourned at 10:26 p.m.

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

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