

Regular Meeting  
September 08, 2008

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 7:05 p.m.

Present: Barton arrived at 9:00 p.m., Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh

Absent:

### STUDY SESSION

Mayor Klein advised that Council Member Barton would not be participating in the Study Session due to the project being within 500 feet of his residence.

1. Study Session on a 35-Unit Affordable Housing Project Located at 488 W. Charleston Road.

Interim Director of Planning and Community Environment, Curtis Williams, presented a summary of the City's affordable housing needs and the project's benefits. The project architect, Mike Pyatok, presented the site conditions, development opportunities, and development proposal, as well as a summary of the project's challenges and financing. City Council Members expressed support for affordable housing at that location and interest in further information on the design, public outreach, and potential exceptions. Members of the public who spoke at the meeting expressed positive and negative comments on numerous items including the proposed height, parking, and selection of eligible residents. Staff indicated that the next steps included an Architectural Review Board preliminary review on September 18, 2008 and a Planning & Transportation Commission review on October 29, 2008.

No action required.

Becky Epstein, 256 Edlee Avenue, spoke on the proposed development, overflow parking and safety of the school corridor.

George Thompson, 4173 El Camino Real, requested restarting the process with further documentation and did not support low-income housing.

Ellen Hartog, 330 Victoria Place, spoke against the project's destruction of current buildings, transportation, parking and the neighborhood's future.

Ilana Gordon, 4173 El Camino Real #33, spoke regarding the low-income housing screening processes and property value concerns.

Kuki Patel, 4173 El Camino Real #6, spoke on proposed housing overshadowing the current single-family housing units.

Jeff Rensch, 741 Chimalus Drive, spoke in support of the project, on trees and solar panels, the need for less parking spaces and more public transit usage.

Mojdeh Marashi, 4173 El Camino Real #41, spoke on the project, the need for more information on parking, traffic, and housing occupancy numbers.

Herb Borock, P.O. Box 632, spoke on the Zoning Ordinance and preliminary review of projects and the lack of prior notice for meetings on the project.

Roger Kohler, 4291 Wilkie Way, spoke on the project and was against more housing near the single-family homes.

Jean Olmsted, 240 W. Charleston, stated her support for the project.

Robert Moss, 4010 Orme Street, spoke on the project and the Zoning Ordinances. He noted concessions to codes, parking problems, and traffic.

Aaron Nichols, 4173 El Camino Real #5, stated concerns over not receiving adequate information, traffic issues, and the number of children in the new units.

#### SPECIAL ORDERS OF THE DAY

2. Proclamation in Celebration of the 50<sup>th</sup> Anniversary of the Eichler Swim and Tennis Club.

#### ORAL COMMUNICATIONS

Alison Cormack, 3487 Ross Road, spoke and endorsed the library campaign.  
Arthur Keller, 3881 Corina Way, spoke on high school bus transportation for Gunn High School and the reduction of cars in transit.

Robert Moss, 4010 Orme Street, spoke on Hangar 1 and suggested coating the building's toxins in an effort to reuse the building versus tearing it down.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Council Member Kishimoto to approve the minutes of June 9 as corrected, June 16, 23 and July 7, 2008.

**MOTION PASSED:** 9-0

CONSENT CALENDAR

**MOTION:** Council Member Morton moved, seconded by Council Member Espinosa to approve Consent Calendar Item Nos. 3-9.

3. Approval of a Storm Drain Enterprise Fund Contract With Casey Construction Inc. in the Amount Not to Exceed \$320,895 for Storm Drain Rehabilitation and Replacement Project – Phase II, Capital Improvement Program Project SD-06101.
4. Approval of an Amendment to Contract No. S05110315 With Toter Incorporated for One Additional Year and to Increase the Compensation Amount by \$75,000 for the Purchase of Additional Carts for a Total Amount of \$2,098,300.
5. Approval of a Three-Year Contract With All City Management Services Inc. in the Amount Not to Exceed \$319,366 Per Year for Crossing Guard Services and Authorization for Additional Services Not to Exceed \$31,936 Per Year.
6. Finance Committee Recommendation to Preliminarily Approve 2007-08 Re-Appropriation Requests.
7. Ordinance 5013 for the Fiscal Year 2008-09 to Provide an Additional Appropriation of \$751,325 to Capital Improvement Program (CIP) VR-01001, Municipal Service Center Fuel Storage Tank Replacement and Approval of a Contract With American Construction and Environmental Services, Inc. in the Amount of \$702,076 for Construction of the Integrated Fueling Facility Compressed Natural Gas Fueling Area With a Public Dispenser.
8. Approval of Amendment No. 1 to Refuse Enterprise Fund Contract No. C06115396 with SCS Field Services in the Amount of \$32,500 for a total amount of \$432,192 for Services Related to the Repair of Fire-Damaged Landfill Gas and Leachate Collection System Components and for Preventive Measures of Burying Landfill Gas Wellheads to Prevent Fire Related Damage in the Case of Future Fires.

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**MOTION PASSED:** 9-0

#### PUBLIC HEARINGS

10. TEFRA Hearing Regarding Conduit Financing for the Keys Family Day School Project Located at 3981 El Camino Real and 2890 Middlefield Road, Palo Alto, and Adoption of a Resolution Approving the Issuance of Revenue Bonds by the California Municipal Finance Authority in an Aggregate Principal Amount Not to Exceed \$20,000,000 for the Purpose of Financing and/or Refinancing the Acquisition, Construction, Improvement and Equipping of Educational Facilities for the Keys Family Day School.

Deputy Director of Administrative Services, Joe Saccio stated this was the 4<sup>th</sup> TEFRA hearing for the City. This hearing was for the Keys Family Day School for issuance of bonds for financing.

Council Member Morton reiterated the bonds were done as a courtesy with the City in no way taking financial responsibility.

Public Hearing opened and closed at 9:17 p.m. without public comment.

**MOTION:** Mayor Klein moved, seconded by Council Member Barton to adopt a Resolution approving the issuance of the bonds by the California Municipal Finance Authority (CMFA) for the benefit of Keys Family Day School in financing Keys Family Day School.

**MOTION PASSED:** 9-0

#### REPORTS OF OFFICIALS

11. Adoption of an Ordinance stating "Ordinance of the Council of the City of Palo Alto Adding Chapter 16.18 of Title 16 of the Palo Alto Municipal Code Establishing Local Energy Efficiency Standards for Certain Buildings and Improvements Covered by the 2005 California Energy Code".

Chief Building Official, Larry Perlin stated the Ordinance would enact local amendments to the State's 2005 Energy Efficiency Standards (California Energy Code) adopted November 2007 consistent with Green Building Regulations. He discussed the two rating systems (the US Green Building Council for Commercial Projects and the Green Point Rating System). He stated both systems required energy efficiency for new construction which exceeded requirements for the California Energy Code, with the Ordinance proposing local amendments, increased energy efficiency, and requiring new construction to be 14 percent and residential at 15 percent more efficient than State standards. These amendments were supported by a cost effectiveness study included in the report. He listed the steps for Ordinance approval which included a return to Council for final adoption before it was filed with the California Building Standards Commission with findings of fact.

City Attorney Gary Baum stated the City's approval of the Ordinance would provide additional legal basis for what was currently in place. He stated changes would be made to the California Energy Code that allowed for a second level of authority for the amendments to the Energy Code. Passage of the changes would assist in compliance with Council's current policies.

Council Member Kishimoto asked if the 2008 California Energy Code would be out on time and how close it would match the City's standards.

Mr. Perlin stated the Code was updated every three years, with the 2008 Code having been released to go into effect on July 1, 2009. He stated there had been a ramping up of efficiency requirements far beyond the 2005 Code.

Council Member Schmid asked if different climate areas within the city, those with lower temperatures for instance, would qualify for further incentives in their unique circumstances.

Mr. Perlin stated the Code was applied statewide, to the 16 climate zones, with the City being Zone 4. He stated there were no sub-climate segregations.

Council Member Schmid asked about realistic alternatives to air conditioning.

Mr. Perlin stated it was greener to forgo air conditioning by building a home with more open elements.

Mike Gabel, Gabel Associates, LLC, stated Energy Codes were structured to address the need for cooling with building designs put through a computer simulation. He stated a reduction in cooling loads below what they would be in a standard design would result in credits within the structure. He further stated all building proposals were put through the simulation with the State's rules, and then given incentives for cooling load reductions. The monitoring of the effectiveness of designs with passive solar cooling and innovative methods was built into the system they had used for years.

Council Member Schmid asked for reports of examples after the first year.

Mr. Gabel stated that if the Building Department received permit submittals with enough interest there could be further discussions on what to look at specifically, and this would all be on the second pass, in compliance with the 2009 implementation.

Council Member Burt asked about returns on investments cash. He stated the staff had not prepared an official return on investments.

Mr. Gabel stated they did not look at the cost of borrowing money, specifically, due to mitigating factors in being optimistic about return on investments. He cited global warming predictions to be one fluctuating factor that affects cooling loads, which may not be exact to the computer models. He stated he had a spreadsheet, but felt it was cleaner to look at the payback aspects without incorporating financial borrowing criteria.

Council Member Burt stated this was consistent with differentiating between payback calculations and returns on investment, and asked if cash flow analysis and paybacks were a return of cash investments.

Mr. Gabel stated it was the first incremental cost for the Ordinance to go beyond State code, divided by the annual utility savings, without any additional cost being added and was a cash investment.

Council Member Burt stated there was a strong case for a neutral or positive cash flow impact on a homeowner and this should be stressed.

Mr. Gabel stated single family and nonresidential buildings would have very fast paybacks.

Council Member Burt asked if they were conservative in terms of the cost of utilities with no change of utility rates in constant dollars over time.

Mr. Gabel stated that was correct.

Council Member Burt asked if the Utilities Department had projected costs going forward. He stated there was value in looking at what the return would be based upon the projected cost rather than the current. He noted merit in being conservative in projections, but that a wider range in the stated paybacks would present a more compelling case.

Mr. Gabel stated conservative numbers were used due to pushbacks in some areas.

Council Member Yeh asked how the City's 15 percent threshold of greater efficiency lined up with the other 11 jurisdictions.

Mr. Gabel stated everyone was following the 15 percent threshold, excluding Santa Barbara at 20 percent due to their heating needs, with the City ramping up in their climate zone which could result in a bump in efficiency. He stated he had consulted Build It Green in deciding on the 15 percent.

Council Member Yeh asked how submission of the Gabel Report would be implemented and whether or not it would take three months.

Mr. Gabel stated three months was conservative and Council might expect approval in two months.

City Manager James Keene stated this was more about the impact on how to support everything concurrent with working through the process.

Council Member Yeh stated he understood the timeframes and processes, and stressed the importance of making sure there was sufficient time for the City to be in position with sufficient resources.

Mayor Klein stated he understood the approval of the Ordinance as legal backup. He stated the items were already in effect, and when this returns to Council, nothing will have changed.

Mr. Perlin stated concurrent to the Ordinance's review process, staff would proceed with training and outreach for implementation of the Green Building Ordinance. He reiterated this as not being a change in requirements of the Ordinance or the Energy Code, but that it was bringing the Code in synch with the Green Building Ordinance.

**MOTION:** Vice Mayor Drekmeier moved, seconded by Council Member Morton to accept Staff's recommendation to adopt the Ordinance adding a new Chapter 16.18 (Local Energy Efficiency Standards for Certain Buildings and Improvement Covered by the 2005 California Energy Code) to the Palo Alto Municipal Code.

**MOTION PASSED:** 9-0

COUNCIL MATTERS

12. Approval of a City Auditor Employment Agreement with Lynda Flores Brouchoud.

Council Member Barton specified this as an employment agreement consistent with the approved term sheet discussed prior to Council's break, that it contained the contract changes of July 2008.

**MOTION:** Council Member Barton moved, seconded by Mayor Klein to approve the City Auditor Employment Agreement with Council Appointed Officer (CAO) Lynda Flores Brouchoud.

Vice Mayor Drekmeier thanked Council Member Barton for his efforts on this recruitment.

Council Member Kishimoto asked if the wording of car allowances could be changed to transportation allowances.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** change Clause 5.2 to read "Auditor shall receive a City transportation allowance as allowed in the Management and Professional Personnel and Council Appointees Compensation Plan because her duties require exclusive and unrestricted use of an automobile. The Auditor may also use the transportation expense allowance for alternate means of transportation necessary and useful for the exercise of her duties".

Mayor Klein asked whether the same language could be used as in the City Manager's agreement.

City Attorney Gary Baum stated the City Manager's agreement included multiple and specific clauses.

Mayor Klein suggested using just the one sentence referring to transportation.

Mr. Baum stated he would re-execute the City Auditor agreement for re-signing.

**MOTION PASSED:** 9-0

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Morton asked if a previously Tabled Motion from the Human Relations Commission on Immigration and Customs Enforcement (ICE) and Homeland Security measures could be re-agendized for discussion.

**MOTION:** Council Member Morton moved, seconded by Vice Mayor Drekmeier to agendize the discussion of the Human Relations Commission recommendation with respect to Homeland Security ICE Raids with implementing measures of immigration and national security.

Council Member Kishimoto asked for clarification.

Council Member Morton stated the Human Relations Commission asked the Council to consider the City's position on implementing measures of Homeland Security and illegal aliens and what the City would do in response to the raids.

Council Member Barton stated the item was not related to Homeland Security but to immigration and naturalization services.

Vice Mayor Drekmeier stated it came via the Human Relations Commission, passed through the Policy & Services Committee, came to the full Council, and was Tabled prior to the new Council Members coming on.

City Attorney Gary Baum asked for clarification and stated he would bring back the City Manager's report with the exact Resolution from that time.

**MOTION PASSED:** 6-3 Barton, Kishimoto, Klein no

Council Member Yeh reported that the Northern California Power Agency (NCPA) appointed the Palo Alto NCPA Commissioner to the NCPA Finance Committee.

Council Member Espinosa advised that every two years Palo Alto hosted the community fundraiser for the Palo Alto Recreation Foundation and Partners in Education. He acknowledged Belle Griffiths, David Goldman, and Hazel Watson for their hard work on the upcoming Black and White Ball fundraiser. He encouraged everyone to visit [www.thepaloaltoblackandwhiteball.org](http://www.thepaloaltoblackandwhiteball.org) website.

Council Member Kishimoto advised that she would be attending the Metropolitan Transportation Commission meeting on Wednesday, September 10, 2008, to ask them not to divert 91 million dollars from the BART Rail project. She also spoke about Santa Clara County Measure B coming up on the November Election.

ADJOURNMENT: The meeting adjourned at 9:50 p.m.

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Mayor

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