

Special Meeting  
November 10, 2008

STUDY SESSION ..... 3

- 1. Review Housing Needs Analysis for the [Stanford University Medical Center and Stanford Shopping Center] Projects..... 3
- 2. Annual Joint Meeting with the Historic Resources Board Regarding Issues Relating to Historic Preservation..... 4

SPECIAL ORDERS OF THE DAY ..... 5

- 3. Report on Semi-Final Results on Measure N..... 5

CITY MANAGERS COMMENTS ..... 5

- 4. Resolution 8884 entitled "Resolution of the Council of the City of Palo Alto Expressing Condemnation of Racial Profiling and Affirming a Policy of Zero Tolerance for Racial Profiling"..... 6

ORAL COMMUNICATIONS ..... 11

APPROVAL OF MINUTES ..... 12

CONSENT CALENDAR..... 12

- 5. Resolution 8885 entitled "Resolution of the Council of the City of Palo Alto Approving the Ameresco Butte County Renewable Energy Power Purchase Agreement for the Acquisition of Up to Four Average Megawatts of Energy Over Twenty Years at an Estimated Cost Not to Exceed \$71 Million" ..... 12
- 6. Approval of a Utilities Enterprise Fund Contract for Citywide Water and Wastewater Operations Services With EPS, Inc. (dba Express Plumbing) for Up to Three Years in an Amount Not to Exceed \$350,000 Per Year ..... 12
- 7. Adoption of a Water Fund Budget Amendment Ordinance 5021 in the Amount of \$35,000 and Approval of an Amendment No. 2 to Contract

C07120333 With RMC Water & Environment, Inc. in the Amount of \$35,000 for a Total Not to Exceed Amount of \$302,700 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 .....	12
8. Approval of a Contract With IMR Contractor Corporation in the Amount of \$234,500 for the Animal Placement Center (Animal Services Center) Maintenance and Accessibility Renovations General Construction Services – Capital Improvement Program Project PE-04014 .....	12
9. Approval of Amendment No. 1 to Purchase Order C08124799 with Western States Oil for an Additional Amount of \$250,000 Per Year for a Three Year Term in a Total Not to Exceed \$3,582,000 for Provision of Automotive Fuel .....	13
REPORTS OF OFFICIALS.....	13
10. Approval of Contracts with: 1) Artist Bruce Beasley in the Amount of \$190,000, and 2) Aaron Garfunkel Landscapes, Inc. in the Amount of \$35,500, for the Creation and Installation of a New Fountain Replacing the Damaged Fountain on California Avenue .....	13
COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES .....	19
ADJOURNMENT: The meeting adjourned at 12:37 a.m.....	20

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

Present: Barton arrived at 7:40 p.m., Burt, Drekmeier, Espinosa, Kishimoto, Klein arrived at 7:40 p.m., Morton, Schmid, Yeh arrived at 6:22 p.m.

Absent:

### STUDY SESSION

Vice Mayor Drekmeier announced that Mayor Klein would not be participating in the Study Session due to his wife being on staff at Stanford University.

Vice Mayor Drekmeier announced that Council Member Barton would not be participating in the Study Session due to his being on staff at Stanford University.

1. Review Housing Needs Analysis for the [Stanford University Medical Center and Stanford Shopping Center] Projects

Staff provided status on the review of the [Stanford University Medical Center and Stanford Shopping Center] Projects (Projects), including the status of the Environmental Impact Report (EIR) the fiscal analysis, hotel study and Development Agreement preparation. Staff stated that housing was not specifically included in the request by the applicants. The EIR would contain an analysis of the housing impacts generated. The Village Concept alternative in the EIR would contain housing in order to reduce automobile trips. The City's employment and housing sub-consultant, Keyser Marston Associates (KMA), informed the Council of the possible employment generation and housing impacts from the Projects. KMA described the various rates of worker households that could be housed within Palo Alto.

Jean McCown, Stanford University, cited key policy areas that should be considered which affected the hospital financially with the additional housing plan.

Elaine Meyer, 609 Kingsley Avenue, spoke of the many Palo Alto neighborhoods that remained against further residential developments.

Janna Scott, 20 California Street, Suite 500, San Francisco, spoke on the fee ordinance for housing impacts. She stated the fees will address concerns and not cause a burden.

Linda Cornell, 920 Evelyn Street #8, Menlo Park, a Stanford hospital employee spoke on hospital employment and the need for a stable workforce at the Medical Center in their new contract considerations.

**MOTION:** Council Member Burt moved, seconded by Council Member Espinosa to continue the Council comments to December 15, 2008.

**SUBSTITUTE MOTION:** Council Member Schmid moved, seconded by Council Member Morton to proceed with the discussion tonight.

Council Member Morton stated it would be a mistake not to continue the discussion.

Council Member Kishimoto agreed to continue the discussion. She suggested a third session on December 15, 2008, or a Saturday Study Session to integrate further issues.

Council Member Burt stated there were a number of issues which deserved further discussion at the later date.

Council Member Espinosa stressed Council's need for additional discussion time on the issues beyond the current meeting.

**SUBSTITUTE MOTION FAILED:** 3-4 Kishimoto, Morton, Schmid yes, Barton, Klein not participating

**INCORPORATED INTO MOTION WITH CONSENT OF THE MAKER AND SECONDER** to change the Motion from December 15, 2008 to a date uncertain.

**MOTION PASSED:** 6-1 Morton no, Barton, Klein not participating

2. Annual Joint Meeting with the Historic Resources Board Regarding Issues Relating to Historic Preservation

Historic Resources Board Chair Martin Bernstein began the meeting with a brief overview of the City's Historic Preservation Program and Ordinance as follows:

1) Historic Project Success Stories: Board Members described examples of recent historic preservation successes that were illustrated with large color photographic prints mounted on the walls. The properties described were: 1061 Bryant Street, 650 Waverley Street and 520 Ramona Street.

2) Overview of Historic Categories: Large photos also provided examples of Category 1, 2, 3 and 4 buildings of the City Inventory of 461 buildings.

3) Expansion of Preservation Incentives: Discussion of expansion of incentives for historic preservation that would exempt attics and basements from floor area calculations to Category 3 and 4 buildings instead of only Category 1 and 2 buildings.

4) Evaluating Environmental Benefits of Historic Buildings: The benefits of rehabilitation and reuse of historic structures were summarized as an effective energy conservation tool.

### SPECIAL ORDERS OF THE DAY

#### 3. Report on Semi-Final Results on Measure N

City Clerk Donna Grider announced that as of November 10, 2008 at 11:00 a.m. the Registrar of Voters tentative results for Measure N show yes votes with 69.39 percent, with 21,213 votes, and no votes with 30.61 percent, with 9,359 votes.

Mayor Klein asked if there was an estimate of further vote counts.

Ms. Grider stated an estimate was not available.

Mayor Klein stated this was a victory for those in support of Measure N.

Susie Thom, 753 Maplewood Place, thanked Council and the community for their support and endorsement of Measure N.

Mayor Klein introduced Alison Cormack. Prior to her speaking he commended her on her work, and the work of the Committee on Measure N.

Alison Cormack, 3487 Ross Road, spoke on the hard work and the relay race nature of keeping the Measure alive and its ultimate passage. She thanked and commended those involved.

### CITY MANAGERS COMMENTS

City Manager, James Keene, gave updates on the 310 University Avenue and 278 University Avenue construction projects. He cited employee recognitions for Larry Perlin, Chief Building Official, who received the Certified Green Building Professional Award from the Build it Green

Organization. He stated Rhonda Parkhurst, Electrical Inspector Specialist, was appointed to a taskforce for solar voltaic systems. In the sustainability realm, he stated the City of Palo Alto was recognized with a Green Power Leadership Award and the Small Residential Commercial Green Program Supplier of the Year designation. A new program was being soft launched by Parks & Recreation to encourage health and wellness, "Let's Go Palo Alto."

4. Resolution 8884 entitled "Resolution of the Council of the City of Palo Alto Expressing Condemnation of Racial Profiling and Affirming a Policy of Zero Tolerance for Racial Profiling"

City Manager, James Keene, restated the issue was brought back by Council's request in order to affirm their position on Resolution 8884.

Council Member Morton asked that the title be changed to reflect the interior of the resolution. He suggested it state that it was an affirmation of a policy that has been in place for many years.

Council Member Burt asked staff to make it clear that there was no competing interest in crime protection and prohibition of racial profiling.

Mr. Keene agreed this was a good point. He stated it was obvious that addressing crime was important to all community members. He stressed the importance of keeping the City safe while also preventing racial profiling.

Council Member Yeh asked how the Police Department was doing on compliance with the existing policy on education and training.

Police Agent, Dan Ryan, stated the Department conducts training on this issue every two years, with the policy discussed each year.

Council Member Yeh asked if there was a connection between the data collected and what was seen in practice. He asked how this affected training.

Mr. Ryan asked which data he was referring to.

Council Member Yeh stated it was the documentation and data collection in several police stop categories. He asked how this information was analyzed for training potentiality.

Mr. Ryan stated the data was collected and reported to the Human Relations Commission and Council every quarter, or every six months. He stated it

was reviewed daily by the Sergeants. Supervisors were made aware of the day-to-day trends within specific squad units.

Mr. Keene stated the City collected data and has historical and ongoing data, including video, available for analysis. He stated the Independent Police Auditor will be looking at the data trends and past data collection for informational patterns for future training.

Aram James, spoke in reference to the Hopkin's case of September 2004. He quoted from a newspaper article he wrote regarding this case and racial profiling. He stated this was an ongoing issue.

Mark Petersen-Perez, Palo Alto spoke regarding racial profiling as an insidious and pandemic issue. He cited a SWAT team incident he witnessed during the recent peaceful march. He spoke to the need for reform, change and the resignation of the Police Chief.

Betty Ann Bryant, 4270 Terman Drive #205, spoke on racial profiling. She gave an example of her son being stopped for a burnt out license plate light in prior years. She stated profiling existed in the community.

Jay Boyarsky spoke on his experience in reviewing police records. In his experience, the department dealt with concerns gracefully. He spoke positively about the Police Chief's record.

Ron Wormley stated the racial profiling was occurring in certain neighborhoods. He suggested community involvement in reporting any instances.

John K. Abraham, 736 Ellsworth Place, spoke to the need for data besides monitoring stops.

Vanual Hayes, Jr., 2145 Edgewood Drive, stated the problem was not racial profiling in the way the Police Chief made her comments. He supported her and asked Council and Community do the same.

William Byron Webster, 480 East O'Keefe #307, East Palo Alto, stated racial profiling had existed in Palo Alto for many years.

Ronna Devincenzi, 2600 El Camino #100, stated she was at the meeting where the controversy began. She stated the Police Chief had not spoken about racial profiling, and the community should keep it in perspective.

Joseph Ciampi, 1116 Bryant Street, cited his own personal experiences being stopped by the police on numerous occasions, based on his appearance. He stated audio, video and other data files regarding this have been altered.

Eric Stuart, East Palo Alto, stated he was a living example of racial profiling. He stated the Police Chief's remarks were racist. He stated policy changes were necessary, but that people needed to change too.

Michael Frankus, 224 Gardenia Way, East Palo Alto, spoke on the peaceful march that had occurred recently. He stated it was Council's decision on what to do regarding the Police Chief's remarks.

Gail Noble, 3424 Thumberhall Lane, San Jose, spoke on racial profiling with regard to her son. She stated she fought for her son on all levels. She stated the profiling should stop.

Kayla Cundiff, 122 Hamilton Avenue, Vice Chair of the Palo Alto Chamber of Commerce, stated they supported the condemnation of racial profiling. She spoke of keeping Palo Alto safe for all citizens.

Maya Perkins, 400 County Center #104, Redwood City, read a letter into the record from Supervisor Rose Jacob-Gibson's office in San Mateo County.

Brandon Evershed, 757 Stern Avenue, spoke on culture, religion and heritage. He stated racial profiling was demoralizing for communities.

Herb Borock, P.O. Box 632, spoke on racial profiling and the police auditor's duties in this arena. He also spoke about the police data reports.

Jeff Moore, 722 Calero Avenue, San Jose, spoke on the number of law enforcement members present during the recent peaceful march. He spoke on the history of racial profiling and the need for change at all levels.

Mr. Keene made clarifying comments about the Resolution. He stated it was a necessary first step.

Jamila N. Wright, 2503 Hazelwood Way, East Palo Alto, expressed concerns over effectiveness of the data collection for police stops.

Glenda Savage, 2201 University Avenue, East Palo Alto, stated she was at the recent march. She cited seven recommendations to be considered in affecting change in regard to the racial profiling issue.

Shauna Mora, a member of the Historic Resources Board, spoke on the police stop data received by the Human Relations Commission. She gave information on what was included in the data.

Stephanie Munoz, 101 Alma, spoke on racial profiling and stated Council should look at discretionary stops.

**MOTION:** Council Member Morton moved, seconded by Mayor Klein to adopt the Resolution Condemning Racial Profiling and Reaffirming a Policy of Zero Tolerance for Racial Profiling.

Council Member Morton stated the Resolution reaffirmed what most in the community believe regarding respect of community individuals. He cited many organized efforts in the Palo Alto area which have ensured the enrichment in the lives and future of its citizens. He stressed the difficulties of speaking in public where words can be misconstrued, and apologies are necessary. He stressed the community must go on from there.

Council Member Kishimoto asked staff to clarify what the specific instructions were for Police Officers and traffic stops.

Mr. Keene asked her to further clarify the question.

Council Member Kishimoto stated it regarded the specific instructions given to the Police Officers with regard to traffic stops.

Mr. Ryan stated with a minor equipment violation, the Police Officer may issue a warning or citation. If it was a legitimate violation of the vehicle and/or other criminal code, the Police Officer has the right and ability to make contact and detention based on the technical violation.

Council Member Kishimoto asked if a license plate light was a technical violation.

Mr. Ryan stated it was and up to the Police Officer's discretion on whether to issue a fix-it ticket or verbal warning.

Council Member Kishimoto asked what percentage of total arrests derive from traffic stops.

Mr. Ryan stated it was more than 50%.

Council Member Kishimoto commented further on the racial profiling issue. She attended the rally and thanked the community for their

communications. She acknowledged the difficult job of being a Police Officer as well. She spoke on the effects of the recent crime wave on residents and the challenge of dealing with all of these issues simultaneously. She spoke on parolees and crime in the East Palo Alto area. She gave information on the Tri-City Youth and Business Summit.

Council Member Barton stated disappointment in not having done more in the past in this arena. He was in support of the Resolution. He spoke on further actions being taken to heal the community.

Council Member Yeh asked what the timeframe was regarding the Police Auditor's work.

Mr. Keene stated a meeting would occur in the coming week to discuss the timeframe. He stated it will return to Council.

City Attorney, Gary Baum, stated a small subcommittee could be appointed to write the scope of the Police Auditor.

Mr. Keene clarified the question as being when specifically the audit results would return to Council. He stated staff could return by the next Council meeting on December 1, 2008. He stated information on progress could be provided publicly along the way.

Council Member Yeh acknowledged that there were quarterly data presented to the Human Relations Committee.

Council Member Schmid stated the current Motion gave opportunity to reaffirm the City's policies.

Vice Mayor Drekmeier stated this was an ongoing problem but there was also the opportunity to move forward positively. He spoke on the positive effects of the rally and an open dialogue in this situation.

Council Member Espinosa shared the feeling that it was important to move forward. He stressed there was a crime problem and there needed to be police support. He also acknowledged the obligations and check system that must be in place for this power. He stated it was Council's responsibility to address any ongoing concerns. He stressed the Resolution was an important first step. He stressed working with bordering communities on this issue as well as other community issues.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** (changes to paragraph 3) to add to the sentence:

will review the Police Department's policy, training, practices, and profile data regarding racial profiling.

Council Member Burt commented and shared his thoughts and concerns over his shared responsibility for not having taken strong initiative steps in this area. He stressed the need to continue working on the racial gaps in the community and the need for ongoing dialogue and understanding. He expressed concern over the Police Chief's initial comments, the retraction and the inconsistency in both comments. He cited a specific incident brought to his attention by the community, of a man who did not meet the profile police sketch, but who was followed through the area to his final destination. He stressed the need for reconciliation of these inconsistencies. He spoke to sharing the task of overcoming these issues with the area communities.

Mayor Klein stated he was often the spokesperson on community matters. He spoke to the damage discrimination causes. He spoke to the unacceptable nature of the Police Chief's comments. He stated the unfortunate incident has placed emphasis on the continued need to work on these issues. The Resolution was the first step in the ongoing process and he was in full support.

**MOTION PASSED:** 9-0

**MOTION:** Council Member Yeh moved, seconded by Council Member Burt to require quarterly reports be provided to City Council using all demographic data from the Police Department.

Council Member Yeh stated the uptake in crime made this necessary to keep checks and balances on the Police Department and the ability to report this information back to the community. He also encouraged community members and others who are concerned to consider the Police Department's Ride Along program in order to be aware of what goes on with the Police Officers and their work. He stressed the immediate effects of participation at a local community level.

Council Member Burt stressed the outstanding work of the Police Department and their attempts to do the right thing.

**MOTION PASSED:** 9-0

#### ORAL COMMUNICATIONS

Aram James spoke regarding Police matters.

Stephanie Munoz, 101 Alma, spoke regarding the proposed new police station.

Gail Noble, 3424 Thimblehall Lane, San Jose, spoke regarding zero-tolerance for racial profiling due to the effects it had on area youth.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Barton moved, seconded by Council Member Morton to approve the minutes of October 6, 2008.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

**MOTION:** Council Member Morton moved, seconded by Mayor Klein to approve Consent Calendar Item Nos. 5-9.

5. Resolution 8885 entitled "Resolution of the Council of the City of Palo Alto Approving the Ameresco Butte County Renewable Energy Power Purchase Agreement for the Acquisition of Up to Four Average Megawatts of Energy Over Twenty Years at an Estimated Cost Not to Exceed \$71 Million
6. Approval of a Utilities Enterprise Fund Contract for Citywide Water and Wastewater Operations Services With EPS, Inc. (dba Express Plumbing) for Up to Three Years in an Amount Not to Exceed \$350,000 Per Year
7. Adoption of a Water Fund Budget Amendment Ordinance 5021 in the Amount of \$35,000 and Approval of an Amendment No. 2 to Contract C07120333 With RMC Water & Environment, Inc. in the Amount of \$35,000 for a Total Not to Exceed Amount of \$302,700 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
8. Approval of a Contract With IMR Contractor Corporation in the Amount of \$234,500 for the Animal Placement Center (Animal Services Center) Maintenance and Accessibility Renovations General Construction Services – Capital Improvement Program Project PE-04014
9. Approval of Amendment No. 1 to Purchase Order C08124799 with Western States Oil for an Additional Amount of \$250,000 Per Year for

a Three Year Term in a Total Not to Exceed \$3,582,000 for Provision of Automotive Fuel

**MOTION PASSED:** 9-0

REPORTS OF OFFICIALS

10. Approval of Contracts with: 1) Artist Bruce Beasley in the Amount of \$190,000, and 2) Aaron Garfunkel Landscapes, Inc. in the Amount of \$35,500, for the Creation and Installation of a New Fountain Replacing the Damaged Fountain on California Avenue

Council Member Morton advised that he would not be participating in this item as his new office was located within 500 feet of the California Avenue fountain area. He left the meeting at 11:00 p.m.

Linda Craighead, Division Manager for Arts & Sciences, Public Art Commission Liaison, gave an overview of the fountain project.

Council Member Barton asked what prevention measure would keep the new fountain area from being backed into by trucks.

Ms. Craighead stated the proposed fountain would sit in the original footprint and also have setbacks to prevent damage by trucks.

Council Member Espinosa asked if that was the only solution to the truck problem.

Ms. Craighead stated they could not guarantee this and would have to look at logistics or other barriers.

Council Member Espinosa acknowledged the hard work that went into this project proposal. He asked if staff was surprised by the outpouring of concern by the community regarding the project.

Ms. Craighead stated she was not surprised by public input and comment. She stated that the three-year ongoing process also kept it in the public eye and open for remarks. The process was followed through the Public Art Commission meetings and the public was made aware of the process. She stated a main concern was whether or not the water feature would remain and the intention was to keep that in place.

Council Member Espinosa asked if the Public Art Commission saw this as fountain and not just a piece of art with a water feature.

Ms. Craighead stated the original commission of the fountain was for artists who would propose a fountain creation within their work of art.

Council Member Espinosa stated this was an issue of process and noted that public art was controversial. He asked why staff did not approach this with several pieces showcased, with a public vote on the ultimate piece.

Ms. Craighead indicated that in past years other processes have been utilized in selecting public art; however, a sole-source process was used by the Public Art Commission in determining and selecting the artist for this project.

Council Member Schmid stated the existing fountain area was a site where the community was hesitant about change. He asked why another area of the City could not be considered as the open avenue area for the Beasley project.

Ms. Craighead stated this was an opportunity to do both in reworking the current area.

Council Member Schmid stated that numbers added up with more outcry against the project in signatures, petitions and letters. He stressed what already existed was very special and merited consideration. He suggested the Beasley sculpture be considered at another location.

Ms. Craighead stated the question was whether or not a fountain remained, or would the community like to see a sculpture in its place.

Council Member Burt stated it was important to accurately acknowledge the sequence of events in the project process. He stated initially the fountain or water element of the project was eliminated due to financial concerns which then drew responses from the neighborhood. Subsequent to this, initiatives made it possible to return the water element to the original design.

Ms. Craighead stated he was correct in the timeline and process.

Mayor Klein asked what would happen to the monetary difference if the Council decided to choose a lower cost alternative.

Ms. Craighead cited the two funding sources and stated with a low-cost alternative, this would go back to the Public Art Commission for consideration.

Mayor Klein asked if a balance in the Public Art Commission's budget would make it possible for the Beasley project to continue at another location.

Ms. Craighead stated this was possible and those dollars were committed to the arts.

City Manager, James Keene, reiterated that the existing amount in the Art and Public Places Programs is \$135,000. It is anticipated another appropriation of \$50,000 is anticipated for a potential total project cost of \$185,000.

Mr. Keene stated that Mayor Klein's inquiry on where the additional \$45,000 for the repair work on the fountain was correct, further stating that the funds would be allocated from the Department of Public Works.

Mayor Klein indicated that the Beasley Project's potential total cost is roughly \$225,000.

Mr. Keene stated that an additional \$50,000 was allocated from the California Avenue Improvements Fund; further stating that this brings the grand total project cost to approximately \$225,000.

Council Member Espinosa took issue with the idea that the general populous did not want California Avenue to have this project as an Avenue to the Arts. He stated that while residents may not like particular pieces, they added to the culture and vibrancy in the area.

Vic Befera, 2180 High Street, spoke of the frivolous nature of a public art sculpture expenditure in consideration of current economic times.

Stephanie Munoz, 101 Alma, spoke on improving the existing fountain rather than the expenditure of building an entirely new piece of art and water.

Ellen Wyman, 546 Washington Avenue, stressed the importance of considering keeping the original fountain when considering the cost.

Jan Murphy, 460 Martinsen Court, spoke on keeping the existing fountain and looking for ways to protect it from trucks.

Charlotte Epstein, 3192 Waverley Street supported looking into an improvement in the area that would include a fountain feature and not just be a piece of art with water. She stated community members liked the fountain feature.

Cecilia Horn, 3470 Janice Way, stated in her petition-gathering experience, the majority of the community wanted to keep the fountain feature.

Mae Kenrick, 2255 Ramona, trusted that Council would vote with wisdom and economy, and throw in a little appreciation for fountains.

Tom Wyman, 546 Washington Avenue, stated a basic consideration was the fact that the outcome was paid for in tax dollars. He stated the public weighed in and wished to retain the current fountain.

Ronna Devenci, stated money would be spent and her hope was that the money be spent on California Avenue and the Avenue of Art aspects. She stated the Beasley Fountain was a generous proposed addition to the area.

Tammy Gravelle, 2315 Ramona Street, spoke on the decision-making process for the fountain project. She wanted the fountain to remain.

Jan St. Peter, 2139 High Street, spoke to a more open process in what was being considered in the existing fountain area. She voiced concern over the Beasley piece on the fountain site.

Elise DeMarzo, Art Commissioner, 350 Sharon Park Drive #1-5, Menlo Park, spoke on her experiences in the art and stated the Beasley piece was a good opportunity for the area.

Ron Cooper, 13500 Graton Road, Sebastopol, stated people had their rights exercised in this project and was in support of the Beasley piece.

Sanford Forte, 280 College Avenue, spoke in favor of the Beasley piece.

**MOTION:** Council Member Barton moved, seconded by Council Member XXXX to approve staff recommendations to authorize the City Manager or his designee to execute the contract in the amount of \$190,000 with Bruce Beasley for the creation of a fountain for California Avenue located at California Avenue and Park Boulevard and the contract in the amount of \$35,500 with Aaron Garfunkel Landscapes, Inc. for the installation of the fountain.

**MOTION FAILED FOR LACK OF A SECOND.**

**MOTION:** Council Member Burt moved, seconded by Vice Mayor Drekmeier to have staff evaluate placement of the Beasley piece at the Mitchell Park Library as the centerpiece and use funds that are allocated as part of the art funds included in the bond measure to fund the Beasley piece, retain funding

from Public Works and the Public Art Commission to have an improved fountain at the present location on California Avenue with a committee of California Avenue District Association (CADA), Public Art Commission (PAC), and neighborhood associations.

Council Member Espinosa spoke to giving Mr. Beasley consideration in whether or not the piece he designed for California Avenue would be what he would also have designed for an area such as Mitchell Park.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to have Mr. Beasley evaluate a piece for the Mitchell Park Library.

Council Member Espinosa voiced concerns over a generic fountain in this area or something that does not make a statement. He asked that the process be continued with additional public process and community voting.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to have the Public Art Commission create a fountain design with input from the public through a process similar to Mitchell Park.

Council Member Kishimoto thanked members of the Public Art Commission for their hard work.

Mr. Keene stated it was the evaluation of the placement of a Beasley sculpture at Mitchell Park Library and the funding aspects.

Council Member Kishimoto asked if the final decision remained with the PAC.

Mr. Keene stated it was Council's decision if it was returned to the PAC.

City Attorney Baum stated, by Ordinance, the PAC makes the final decision unless otherwise directed by Council.

Council Member Burt stated the design recommendation made by the PAC would come back to Council if so directed for final approval.

Council Member Kishimoto stated the PAC's job was to do art and not design fountains, so this would be an off-the-shelf product or replacement.

Council Member Burt indicated that there was \$50,000 allocated to this project from the Public Work's budget; further stating that this money was at the discretion of the PAC's recommendations.

Council Member Kishimoto asked for specific wording on fund usage.

Mr. Keene stated the typical process engaged artists in some way in the project design. He stated CAADA could ask the community to weigh in on the multiple options.

Mayor Klein stated this was not quite clear and asked for further clarification on the definition of neighborhood representatives.

Council Member Burt stated his understanding was it was a process similar to the Mitchell Park process. He deferred to staff on how to best elicit the public input on the recommendations from the PAC.

Mayor Klein stated there was a real distinction in the difference of public process and neighborhood representation.

Council Member Espinosa went over the steps the current process would take in keeping with the process that was done at Mitchell Park. This included consideration by the PAC, public presentation of the ideas, public dialogue and process.

Council Member Burt stated the description was acceptable and also allowed staff to come up with appropriate community participation measures.

Council Member Schmid asked for clarification of where they were in the process.

Council Member Espinosa stated the artist would be asked to consider creation of a piece for Mitchell Park with dollars already designated for public art. He stated it would return to the PAC and then undergo a public vote.

Council Member Schmid stated he supported the Motion. He supported the decision to leave the fountain where it was on California Avenue. He reiterated the importance of Mr. Beasley and his artistic flare which was a welcome addition to Mitchell Park.

Council Member Barton stated he was against the Motion. He stated choices and processes to this point were fair and clear.

Mayor Klein agreed on the major points made on choices and processes. He did not support any of these considerations regarding Mr. Beasley and/or art being brought back to Council with regard to Mitchell Park. He felt this was

better handled by the PAC. He understood the basic principle that people like and support fountains as a rule.

Council Member Burt was not interested in this returning to Council.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to not to bring the issue back to Council for approval.

Council Member Espinosa hoped for quick response to all that was discussed. He asked if staff was concerned about where this ended.

Ms. Craighead stated with regard to Mitchell Park, she had a conversation with Mr. Beasley, and that he was frustrated by the public art process. However, she stated he would likely remain on board for the creation of a piece for consideration at Mitchell Park.

Mayor Klein stated the PAC should not be constrained in their efforts, and that the fountain issue was an exception.

**SUBSTITUTE MOTION:** Mayor Klein moved, seconded by Council Member XXXX to adopt the replacement option.

**SUBSTITUTE MOTION FAILED FOR LACK OF A SECOND.**

Council Member Espinosa stated this was an unprecedented case where the community mobilized on their thoughts and feelings on what was best for that location.

Council Member Barton cited his concerns over the actual wording of the petition and what community members were voicing decision upon. He did not believe that the end decision was a true representation of the will of the people.

Mayor Klein stated the art at Mitchell Park would be funded in part by the One Percent For Art, and it would be referred back to the PAC in process and would involve the public in the end.

**MOTION PASSED:** 7-1 Barton no, Morton abstaining

#### COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kishimoto reported that on Saturday, November 8, 2008 she attended the dedication of the Michael Zabo piece at Mitchell Park and gave thanks to staff for their work.

ADJOURNMENT: The meeting adjourned at 12:37 a.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.