

Special Meeting  
October 04, 2010

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

Present: Burt, Espinosa, Holman arrived @ 6:10 p.m., Klein, Price arrived at 6:18 p.m., Scharff, Schmid, Shepherd, Yeh arrived @ 6:25 p.m.

Absent:

#### STUDY SESSION

1. Joint Meeting With the Public Art Commission Regarding City Public Arts Issues.

The Public Art Commission (PAC) gave a brief overview of the services and programs it hosts. The PAC displayed recently completed projects, such as the Ceevah Sobel piece at the water pump station and the Mike Szabo piece at Mitchell Park. The relocation of Gene Flores's Filaree sculpture and the installation of James Moore's Memorial to Bill Bliss were discussed. Upcoming projects for the Mitchell Park Library and Community Center were presented. The PAC presented the Municipal Arts Plan, detailed budgeted information, and public art funding on State and National levels. Discussions included Percent for Art in public and private developments, the online database in progress, possible future projects involving functional and interactive art, and ways to bring art to more alleys and underutilized spaces.

#### SPECIAL ORDERS OF THE DAY

2. Proclamation for the Cardiac Therapy Foundation of the Mid-Peninsula 40th Anniversary.

Council Member Schmid read the Proclamation into the record.

Mark Petersen-Perez, Palo Alto, spoke on the importance of exercising to support heart health and lower stress.

10/04/10

## STUDY SESSION

### 3. Status Report on the East Meadow Circle/Fabian Way and California Avenue/Fry's Area Concept Plans.

Director of Planning and Community Environment, Curtis Williams gave a presentation on the status of the East Meadow Circle/Fabian Way and California Avenue/Fry's Site Concept Plans that were currently under preparation. For each area, he described the focus of the study, the process for the study, and specific concepts and issues Staff identified in each area for further Council direction. After the presentation, the City Council asked questions of Staff and took public testimony. For the East Meadow Circle/Fabian Way Study, the City Council's questions were primarily focused on impacts of new developments in the East Meadow Circle, the kind of retail East of San Antonio subarea that might be appropriate or feasible along Charleston Road, and how to encourage retail developments in this area. For the California Avenue/Fry's site study, the City Council's questions focused on the viability of commercial uses in the Fry's subarea, the retention of Fry's Electronics and reconfiguring parcels or combining lots to maximize visibility from El Camino Real and the streetscape plan for California Avenue, and public input received during community meetings with residents and businesses. The City Council requested economic information on the fiscal impacts on the City from any new development, particularly housing in these areas, and the potential for increased revenue from any land use changes under consideration. During the public testimony, five speakers expressed opposition to narrowing California Avenue from its existing four lanes to two lanes, one speaker opposed the concept of placing housing on Park Boulevard due to groundwater contamination in the area, and one speaker expressed concern if development intensified in the East Meadow Circle subarea and heights were increased adjacent to his single-family property. In order to discuss the Concept Plans further and provide comments to Staff, the City Council continued the discussion of both concept plans to October 18, 2010.

## CITY MANAGER COMMENTS

City Manager, James Keene spoke on the following topics: 1) Staff was promoting fire safety and prevention through smoke detector education in recognition of National Fire Prevention Week; 2) Mercury Thermometer Take-Back Program coordinated by the Palo Alto Wastewater Treatment Plant would be held throughout the month of October; and 3) Recap of the Black & White Ball held on October 2, 2010.

Council Member Shepherd thanked the City for work rendered on the Black & White Ball.

## ORAL COMMUNICATIONS

Mark Petersen-Perez, Palo Alto, spoke on the Palo Alto Police Officer arrested and convicted of driving under the influence of alcohol.

Brigid Barton, Palo Alto Art Center Foundation, spoke on the benefits of art education.

Robin Welles, Palo Alto Art Center Foundation, spoke on her support for the Palo Alto Art Center.

Jeannie Duisenbers, Palo Alto Art Center Foundation, spoke on her support for the Palo Alto Art Center.

Wynn Grcich spoke on mercury and chlorine in drinking water, the use of recycled water, and sewage sludge.

Virginia Saldich read a letter from the Palo Alto Weekly regarding High Speed Rail.

Aram James, Palo Alto, spoke on the Palo Alto Police Officer policies.

Herb Borock, Palo Alto, urged the City Council to place an item on the agenda to notify the High Speed Rail Authority on the City's position for a station within the City limits, and use of City funds.

## CONSENT CALENDAR

**MOTION:** Council Member Scharff moved, seconded by Council Member Holman to pull Agenda Item No. 4 to become Agenda Item No. 11c.

Mayor Burt stated Agenda Item No. 11c would be heard if time permitted.

City Manager, James Keene inquired whether the City Council's practice was to place a removed Consent Calendar Item at the end of the agenda, or before the beginning of the Action Items.

Mayor Burt stated a removed Consent Calendar Item could be positioned at either place, or the item may be carried over to a subsequent meeting.

Mr. Keene suggested moving Agenda Item No. 11c forward on the Council agenda if the City Council's questions were brief.

**MOTION:** Council Member Klein moved, seconded by Council Member Shepherd to pull Agenda Item No. 7 to become Agenda Item No. 11a.

**MOTION:** Council Member Scharff moved, seconded by Council Member Holman to pull Agenda Item No. 6 to become Agenda Item No. 11b.

**MOTION:** Council Member Yeh moved, seconded by Council Member Klein to approve Agenda Item Nos. 5, 8-10.

- ~~4. Adoption of Resolution Amending and Restating the Administrative Penalty Schedule and Civil Penalty Schedules for Certain Violations of the Palo Alto Municipal Code and the California Vehicle Code Established by Resolution No. 8963.~~
5. Approval of a Negative Declaration, Site and Design Review, Conditional Use Permit, and Record of Land Use Action for the Installation of a Roof Structure Over an Existing Open Air Sport Court Facility on a Developed Residential Property Located Within the Open Space (OS) Zone District at 610 Los Trancos Road.
- ~~6. Annual Report of Williamson Act Contracts (Open Space Preservation) With the City of Palo Alto.~~
- ~~7. Recommendation From the High Speed Rail Committee Approval of Amendment Two to Contract S10135594 with Capitol Advocates, Inc. to Extend the Term and Add \$48,500 for a Total Not To Exceed Amount of \$93,500 Legislative Advocacy Services Related to High Speed Rail.~~
8. Approval of Revised Composition for Stakeholder Task Force for Palo Alto Rail Corridor Study.
9. Adoption of Six Resolutions Addressing Fall 2010 Ballot Initiatives: (1) Resolution 9099 Supporting Measure E, Foothill-De Anza Community College District Educational Opportunity and Job Training Parcel Tax; (2) Resolution 9100 Supporting Measure A, Parcel Tax for Healthy Kids Program; (3) Resolution 9101 Supporting Measure B, Santa Clara County Valley Transportation Authority Vehicle Registration Fee; (4) Resolution 9102 Supporting Measure C, Term Limits for Santa Clara Valley Water District; (5) Resolution 9103 Supporting Proposition 25 Amending the California Constitution to Change the Legislative Vote Requirement to Pass the State Budget from Two-Thirds to a Simple Majority; and (6) Resolution 9104 Supporting Proposition 21 Establishing \$18 Annual Vehicle License Surcharge to Fund State Parks and Wildlife Programs.

10. Agreement Between the City of Palo Alto and the Palo Alto Art Center Foundation for Mutual Cooperation and Support to Facilitate the Foundation's Financial and Administrative Support of the Art Center.

**MOTION PASSED for Agenda Item Nos. 5, 8-10: 9-0**

ACTION ITEMS

11. Public Hearing: Zoning Ordinance Update: Adoption of an Ordinance Amending Section 18.28.050 (Site Development Standards) to Chapter 18.28 Special Purpose Districts (PF, OS, AC) of Title 18 (Zoning) of the Palo Alto Municipal Code to Add a Maximum House Size Limit to the Open Space Zone District. *(Continued from 6/14/10)*

Director of Planning and Community Environment, Curtis Williams stated on September 21, 2009, the City Council adopted revisions regarding impervious coverage and Floor Area Ratio (FAR) for the Open Space (OS) Zone District, and directed the Planning and Transportation Commission (P&TC) to provide recommendations on the appropriate maximum house size and regulations for basement limitations. If the City Council desired to adopt a maximum house size limit, Staff and the P&TC recommended it be limited to 12,000 square feet. The maximum house size limit of 12,000 square feet may be exceeded up to the allowable FAR of the site in accordance with the follow requirements: 1) for each additional point exceeding the current green building requirements, the maximum house size may be increased by one percent; 2) before the formal Site and Design Review, all projects proposed to exceed 12,000 square foot shall submit for preliminary review by the P&TC; and 3) maximum house size calculation shall include the gross floor area of attached garages and attached second dwelling units. If there is no garage attached to the house, then the square footage of one detached covered parking space shall be included in the calculation. He provided an example of a parcel summary, which included the proposed sliding scale FAR.

Planning and Transportation Commissioner, Daniel Garber stated the structure of the FAR, approved by the City Council in 2009, satisfactorily addressed maximum house size that could be accommodated in the OS Zone District. He spoke on the possibility to achieve additional house size by exceeding the green building requirements; however, it was his belief that exceeding these requirements would be difficult.

Council Member Scharff inquired whether the maximum house size discussed in the Agenda Item was the current allowable maximum house size.

Mr. Williams stated there was currently no maximum house size limit, other than what the FAR allowed on any given site.

Council Member Scharff stated maximum house size and FAR was roughly the same number.

Mr. Williams stated that was correct.

Council Member Scharff inquired whether the City had an impervious surface requirement, or whether it was combined in the FAR.

Mr. Williams stated the City had an impervious surface requirement, plus a FAR requirement. The impervious surface area was the coverage on the ground, and the FAR was the building space. He stated the maximum house size would be layered on top of those two requirements.

Council Member Scharff inquired whether all housing developments of this magnitude would be reviewed by the P&TC.

Mr. Williams stated any new house would be subject to the Site and Design Review process by the P&TC, and brought to the City Council for final design approval.

Mayor Burt inquired on the difficulty to achieve additional Build It Green points.

Mr. Williams stated he had seen a maximum of 180 additional Build It Green points. He stated it was less likely for a larger house to achieve a larger number of additional Build It Green points.

Council Member Price inquired how long the Site and Design Review process and Build It Green requirements have been in place.

Mr. Williams stated the Site and Design Review process had been in place since approximately 1980. The Build It Green requirements were established a few years ago.

Council Member Price inquired whether prior City Council Members, between the late 1970s through 2009, had addressed this issue.

Mr. Williams stated he was unsure how far the debate went back. Part of the Zoning Ordinance update, adopted roughly 10 years ago, discussed maximum house size in the OS Zone District. There had been houses built in the 2000's that were concerning given their size.

Council Member Price stated the application of the proposed Ordinance would apply to approximately 80 separate parcels.

Mr. Williams stated there were approximately 115 total parcels in the OS Zoning District, and approximately 35 existing parcels would be affected by the proposed Ordinance.

Council Member Schmid stated the City Council had received signed petitions from residents of the OS Zone District. The petition stated that in September 2009 the City Council voted to restrict development in the OS Zone District and Council action slashed allowable house size by up to 50 percent. He inquired what this legislation referred to.

Mr. Williams stated he did not agree with the statement. He indicated the petition's statement referred to the imposed FAR, and the requirements were dependent on lot size. There were houses on the upper-end of the scale that had some reductions, but not 50 percent of houses. The FAR had relatively little effect on smaller lots. In addition, a sliding scale was created for impervious coverage so smaller lots were not as likely to require a variance to develop reasonably sized houses.

Council Member Schmid inquired whether there was a relationship between the FAR and the previous ratio used for calculating impervious surfaces.

Mr. Williams stated the percentages were close; however, they measured two different things. In addition, assumptions were taken into account.

Council Member Schmid stated the top three parcels in Attachment C, without maximum house size, would have a FAR of 480,000 square feet, 250,000 square feet, and 212,000 square feet respectively. It was his belief the current restrictions were not very restrictive. He inquired whether these three parcels belonged in the same category as the ones listed in Attachment C.

Mr. Williams stated these three parcels had very different land uses than the others listed in Attachment C. He indicated two of the three parcels were associated with sand and gravel operations, and one parcel was part of Fogarty's Winery and Vineyard property.

Council Member Schmid inquired whether all the parcels could potentially be subdivided.

Mr. Williams stated that was correct. He stated dividing these parcels would require discretion by the P&TC and City Council.

Council Member Schmid inquired whether the current discussion would impact subdividing the OS Zone District parcels.

Mr. Williams stated subdividing OS Zone District parcels would fall under a separate process.

Council Member Schmid inquired whether the City would become more dependent on the Site and Design Review process if the proposed Ordinance was not approved.

Mr. Williams stated that was correct.

Council Member Schmid stated the City Council approved Agenda Item No. 5. He inquired whether this action would set a precedent for other parcels in the OS Zone District.

Mr. Williams stated the parcels in the OS Zone District were all subject to the FAR requirements. Agenda Item No. 5 was not subject to the maximum house size requirements because there was no addition to the house. He spoke on a condition in the provision that the applicant could not develop anything additional on the parcel.

Council Member Schmid stated Agenda Item No. 5 contained a quote of 20,356 square feet as the permitted amount of impervious surface.

Mr. Williams stated the applicant was granted 800 square feet more impervious surface than what they applied for, and they did not use the entire amount of FAR than what the parcel allowed.

Council Member Schmid spoke on the precedent that had been set. He inquired whether Staff would be forced to accept the same proposal from the top 20 parcels listed on Attachment C.

Mr. Williams stated the Site and Design Review findings would be analyzed on all projects in the OS Zone District. The Site and Design Review findings regarding Agenda Item No. 5 were compatible with the existing structure. Staff was able to use discretion on all projects, and projects were not reviewed merely from a square footage standpoint.

Council Member Schmid inquired whether Staff could make a case, without maximum house size, where Staff would have effective control of development in the OS Zone District.

Mr. Williams stated yes. The Site and Design Review process had allowed for a thorough review of housing developments and had the power to make adjustments as necessary.

Council Member Holman asked whether the P&TC's Motion, on March 10, 2010, was approved with a 4-2 vote.

Mr. Williams stated that was correct.

Council Member Holman stated the P&TC vote was not unanimous.

Mr. Williams stated that was correct. He stated that P&TC Commissioners Martinez and Fineberg opposed the Motion.

Council Member Holman believed the two P&TC Commissioners who opposed the Motion felt the square footage should be less than 12,000 square feet.

Mr. Williams stated the P&TC Commissioners opposing the Motion preferred no maximum house size provision in the OS Zone District.

Council Member Holman inquired why the two P&TC Commissioners voted against the Motion to not approve the proposed Ordinance.

Mr. Garber stated P&TC Commissioner Fineberg's intention was to state that the Build it Green requirements may not be the best tool to constrain maximum house size.

Council Member Holman stated P&TC Commissioner Martinez offered an Amendment to reduce the maximum house size to 10,000 square feet.

Mr. Garber stated that was correct. He stated the P&TC Chair asked whether P&TC Commission Martinez would like to turn his Amendment into a Substitute Motion. P&TC Commissioner Martinez declined.

Mayor Burt stated the P&TC minutes were available for the City Council's review.

Council Member Holman stated the changes recently made to the City's Municipal Code were due to the development of permeable pavers. She stated more development was seen in the Foothills due to the advancement of technology. She inquired whether the development of new technology changed the Municipal Code's formula of 3½ percent impervious coverage.

Mr. Williams stated the 3½ percent impervious coverage had not created a large amount of change. The FAR changed development to how it was previous to the advancement in technology.

Council Member Holman inquired whether there had been a case where a proposed house was reduced in size.

Mr. Williams was unaware of a case where the size of a proposed house was reduced in size due to the Site and Design Review process. He stated the

City Council had the discretion to override the Site and Design Review process.

Council Member Shepherd stated there was one housing development that caused a ripple effect in the OS Zone District.

Mr. Garber stated the house that created the ripple effect was the Goldman House. At that time, the 13,400 square foot house was developed by Phillip Goldman who passed away in 2003 before the project was completed. The house sat unfinished for several years until the property was purchased by Mr. Chambers. The house's size, visibility, and location near Foothills Park made it a presiding example of a mega-mansion and there was significant discussion in the community on the process that allowed such a house to occur. He stated part of that discussion had been addressed by the P&TC initiated by the City Council a few years ago.

Mayor Burt stated the Goldman House came before the P&TC right after the Comprehensive Plan was adopted. It was the first project to be judged with the new guidelines in the OS Zone District Comprehensive Plan. Since then, those guidelines had been built into the Site and Design Review process. He inquired whether the adoption of the Build It Green standards caused a reduction in the environmental footprint of the OS Zone District parcels.

Mr. Williams stated the Build It Green 50-point system took a higher criteria standard, and there was an increase in the environmental compliance level. He stated the Energy Code was changed to increase Title 24 requirements and water conservation measures were added.

Mr. Garber stated the properties in the OS Zone District were different than the properties in the R1 district in that they were not on flat land. He stated FAR, slopes, and u-corridors limited house size. They were highly constrained sites, with slopes and setbacks which constrained the amount of area that could be built on. The largest parcels, that generated a largest amount of FAR, were parcels that contained the smallest amount of buildable area.

Public Hearing opened at 10:36 p.m.

Peggy Law, Palo Alto, spoke on the uncertainty for down-zoning house restrictions.

Kathleen Roskos, Palo Alto, spoke on her support for Staff's recommendation to not recommend maximum house size in the OS Zone District.

Tony Tam, Palo Alto, encouraged the City Council to vote against setting house size limits in the OS Zone District.

Cathy Cartmell, Palo Alto, submitted 18 additional petitions to the City Council. She stated this brought the signed petition count to 92. She urged the City Council not to implement a maximum house size, and felt basement and environmental regulations should be regulated City-wide.

Mark Conroe, Palo Alto, stated the current process in place protected the Foothills and allowed land-use flexibility necessary for the diverse topography.

Christine Losq, Palo Alto, spoke on her support for the existing zoning regulations to guide the development of the OS Zone District.

Len Lehmann, Palo Alto, spoke on current OS Zoning District regulations that satisfactorily addressed view impacts and resource requirements of larger houses.

Sharon Lucin, Palo Alto, stated the OS Zoning District restrictions enacted by City Council were more restrictive than the proposed Ordinance.

Brian Schmidt, Legislative Advocate for the Committee for Green Foothills, recommended that the City Council take no final action on this issue, and instead direct Staff to create a range of house size options and provide them to the City Council at a later date.

David Hopkins, Palo Alto, urged the City Council not to place a restriction on maximum house size in the OS Zone District.

Adam Montgomery, Government Affairs Director for the Silicon Valley Association of Realtors, spoke in support for the Staff and P&TC recommendation to not approve the proposed Ordinance.

Herb Borock spoke on his concern for how impervious area would be calculated in the proposed Ordinance, and the uncertainty of the subdivision of land.

Public Hearing closed at 11:02 p.m.

**MOTION:** Council Member Scharff moved, seconded by Council Member Klein to: 1) not approve the proposed Ordinance amending Chapter 18.28 to add a maximum house size limit to the Open Space Zone District, and 2) defer action on basement limitations until comprehensive City-wide basement recommendations have been developed.

Council Member Scharff spoke on the effort and time that was put into the P&TC and Staff recommendation.

Council Member Klein stated he had been involved in preserving the OS Zone District for a number of years. He spoke on the logic and reasoning presented by P&TC, Staff, and the public on why the City did not need a regulation on maximum house size.

Council Member Shepherd stated the 12,000 square feet maximum house size was arbitrary. It was her belief that the P&TC and Staff recommendation was the right thing to do for the City.

Council Member Yeh inquired whether the City Council had ever adopted a policy that impacted a set number of parcels.

Assistant City Attorney, Donald Larkin stated he was unaware of the history of legal exposure for the adaptation of a policy that was targeted to a direct number of parcels. He stated it was within the City Council's power to approve the proposed Ordinance.

Council Member Yeh inquired on the outcome of this type of policy that was adopted in other jurisdictions.

Mr. Larkin stated he was unaware of any legal challenges for the adoption of a maximum house size in other jurisdictions.

Council Member Yeh stated the maximum house size restriction would impact 35 parcels. It was his belief the proposed Ordinance was unfair.

Vice Mayor Espinosa stated the Site and Design Review policy, FAR, and Build It Green policy set up parameters for good-decision making.

Council Member Holman stated the OS Zoning District Ordinance expanded developable areas because permeable space was not counted. She stated larger houses used more resources and had greater impacts than smaller houses.

Council Member Schmid stated there were at least three different topography sites in the OS Zone District creating a unique environment. The City had higher allowances for hillside development than neighboring communities. Without a maximum house size, there would be pressure on the Site and Design Review process.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member XXXX to direct Staff to bring back a Study Session for Council to examine the criteria used for the Site and Design Review process.

**AMENDMENT FAILED FOR LACK OF SECOND**

Council Member Price stated her support for the Motion.

Mayor Burt spoke on his support to evaluate how the current OS Zone District regulations take hold, and whether they effectively address the concerns of the City Council. The implementation of the Site and Design Review process had grown to preserve the character of the OS Zone District.

**MOTION PASSED: 9-0**

Mayor Burt stated there were three Consent Calendar Items, and two Action Items remaining.

Mr. Keene stated Staff was available to answer questions from the City Council on the Consent Calendar Items.

11a. (Former No. 7) Recommendation From the High Speed Rail Committee Approval of Amendment Two to Contract S10135594 with Capitol Advocates, Inc. to Extend the Term and Add \$48,500 for a Total Not To Exceed Amount of \$93,500 Legislative Advocacy Services Related to High Speed Rail.

Council Member Klein spoke on two clerical errors found in the Agenda Item. He stated Amendment No. 2 to the contract with Capitol Advocates, Inc. should add \$38,500 for legislative advocacy services, and should extend the term to include September 1, 2010 through February 2011.

City Manager, James Keene concurred with Council Member Klein.

Assistant City Attorney, Donald Larkin stated these two modifications would be incorporated into Amendment No. 2.

Mayor Burt inquired whether the Motion would revise the contract to add \$38,500.

Council Member Klein stated that was correct.

**MOTION:** Council Member Klein moved, seconded by Council Member Holman to: 1) approve Amendment No. 2 to the contract with Capitol Advocates Inc. to extend the term to include September 1, 2010 through February 28, 2011 and add \$38,500 for legislative advocacy services, and 2) Reimbursement from the City Council Contingency account to the City Manager contingency account in an amount of \$15,000 for legislative advocacy services paid for by the City Manager in July and August of this year.

Council Member Shepherd stated she did not recall discussing the provision in the contract that enabled the City Manager to authorize additional services up to \$8,500 in the High Speed Rail (HSR) meeting.

Mr. Keene stated the provision was not discussed in the HSR meeting.

Council Member Shepherd inquired on the purpose for the additional services.

Mr. Keene stated Staff recommended flexibility for unforeseen expenses. He spoke on factors that had contributed to higher expenses over the summer months of July and August.

Council Member Shepherd stated the contract through February 2011 was for a rate of \$5,000 per month.

Mr. Keene stated that was correct, with the ability for the City Manager to potentially spend an additional amount up to \$8,500 for additional services.

**MOTION PASSED: 9-0**

11b. (Former No. 6) Annual Report of Williamson Act Contracts (Open Space Preservation) with the City of Palo Alto.

Council Member Scharff stated every Williamson Act parcel listed was in the Open Space (OS) Zone District. The Williamson Act provided property tax relief to owners of agricultural land who agreed to limit the use of their property to agricultural or other approved uses. It was his belief that the listed properties on Attachment A were not all used as agricultural lands. He stated the Zoning Code, and other procedures, were used to ensure the integrity of the OS Zoning District. He stated the Williamson Act contracts lowered property taxes that the City could collect on, and saw no advantage on renewing them.

Assistant City Attorney, Donald Larkin stated the Williamson Act was not limited to agricultural lands. The Williamson Act contracts prohibited larger parcels from being subdivided and developed. It required the land to be maintained as open space.

Council Member Scharff stated the Palo Alto Golf and Country Club would not be able to be subdivided and developed for another ten years if the City Council renewed the Williamson Act contract.

Mr. Larkin stated the Palo Alto Golf and Country Club was not eligible for the Williamson Act and did not derive the property tax benefit.

Council Member Scharff inquired why the Palo Alto Golf and Country Club was listed in Attachment A.

Mr. Larkin stated the Palo Alto Golf and Country Club applied, and was granted, a Williamson Act contract. The City was required to comply with the development regulations, but did not receive property tax benefits.

Council Member Scharff inquired whether most of the Williamson Act properties received the property tax benefit.

Mr. Larkin stated the Palo Alto Golf and Country Club was the only property that did not receive the property tax benefit.

Council Member Scharff inquired why these residents received a tax benefit, as their properties were required to be maintained under the OS Zoning District restrictions.

Director of Planning & Community Environment, Curtis Williams stated these properties have historically been included in the Williamson Act contract. He was unsure whether they were in the same zoning situation now as when they first applied. He stated present applicants would encounter more scrutiny. Williamson Act parcels were limited on the build-out of home sites.

City Manager, James Keene stated some Williamson Act parcels had been carried over from a time when there was no 10 acre zoning restriction. A benefit to the Williamson Act contracts was not allowing additional buildings on properties.

Mr. Williams stated these properties would possibly be able to build-out if they were not included in the Williamson Act.

Council Member Scharff inquired how time sensitive this matter was, and how much money the City was losing. He inquired on a recommendation from Staff on taking a comprehensive review of the Williamson Act properties prior to bringing it back next year for renewal.

Mr. Larkin stated a few years ago the City Attorney's Office reviewed the Williamson Act contracts to ensure the properties were valid properties. He stated Staff had not done a comprehensive review on what could be developed on these properties absent the Williamson Act contracts. The Williamson Act contracts were time sensitive, if the City Council chose not to renew them, to allow time to notify property owners and file nonrenewal contracts with the appropriate agencies. He was unclear whether a comprehensive look could be performed within the designated time period for this year.

Mr. Keene recommended that Staff take direction from the City Council to make a comprehensive review of the Williamson Act properties prior to bringing them back next year for renewal.

Legislative Advocate for the Committee for Green Foothills, Brian Schmidt stated he was a member of the Williamson Act Advisory Committee of Santa Clara County. He suggested that Staff contact the California Department of Conservation on whether golf courses were covered under the Williamson Act. He believed the property tax the City was not recovering on these properties was insignificant.

**MOTION:** Council Member Scharff moved, seconded by Council Member Holman to: 1) approve the renewal of 19 contracts, and direct Staff to file the current list of Williamson Act properties with the appropriate agencies, and 2) direct Staff to take a comprehensive review of the Williamson Act properties prior to bringing it back next year for renewal.

Council Member Holman inquired why El Camino Park was included in the Williamson Act contracts because the park was in the flatlands.

Mr. Larkin stated the Williamson Act contracts included agriculture, open space, and recreational lands.

Council Member Holman stated there may be other parcels that the Williamson Act could apply to.

Mr. Larkin stated El Camino Park was a public park that was privately owned by Stanford University. The contract required Stanford University to keep the park as recreational land during the term of the contract.

Council Member Holman requested that Staff's comprehensive review include whether properties were appropriately placed on the Williamson Act contract list.

**MOTION PASSED:** 9-0

11c. (Former No. 4) Resolution 9105 entitled "Resolution of the Council of the City of Palo Alto Amending and Restating the Administrative Penalty Schedule and Civil Penalty Schedules for Certain Violations of the Palo Alto Municipal Code and the California Vehicle Code Established by Resolution No. 8963".

Council Member Scharff stated Staff proposed lowering weed nuisance complaints from \$500 to \$200, because the citation at that level would promote fair and efficient enforcement. Staff believed lowering this citation amount would be more commensurate with the violation, and Staff would be

more likely to use the administrative citation option. He inquired what Staff had done previously, and how code enforcement would be treated after the proposed change took effect.

Assistant City Attorney, Donald Larkin stated the weed abatement program was administered annually. Staff's intention was to provide Fire Department personnel with a gentle option of encouraging property owners to perform the abatement themselves. The current \$500 fine was overly punitive and encouraged the recipient to appeal the fine creating additional Staff time and less cost recovery.

City Manager, James Keene stated analysis had not been performed on whether the proposed \$200 fine would change the amount of lost Staff time or cost recovery.

Council Member Scharff spoke on holding a Study Session where the City Council could take a comprehensive look at the Administrative Penalty Schedule. He stated the penalty for demolishing a historical structure was a smaller fine than what he felt was appropriate.

Mr. Larkin stated the Administrative Penalty Schedule was only one enforcement tool used by Staff, and in many cases, was not the primary enforcement tool. In the event a historical site was demolished, without a permit, Staff could seek civil damages, punitive damages, and criminal enforcement.

Council Member Scharff inquired whether Staff felt it would be wise for the City Attorney's Office to analyze and rationalize the Administrative Penalty Schedule on whether each item was necessary. He provided an example of listing each City park individually for the possession of alcohol, and a separate item for an open container.

Mr. Larkin stated there were City parks that permitted alcohol. He stated there was a section on possessing an open alcohol container while driving in all City parks.

Council Member Scharff requested a comprehensive analysis for all City codes, which was a larger project than simply looking at the Administrative Penalty Schedule.

Council Member Holman supported holding a Study Session because there were broader issues that should be addressed. There was a lack of rationalization in some fees compared to other fees. She stated second violations, within 36 month period, were 150 percent of the listed penalty, and third and subsequent violations, within a 36 month period, were 200

percent of the listed penalty. She felt that was not a rational period of time. She felt some fines should be raised.

Mr. Keene stated almost of the proposed amendments to the Administrative Penalty Schedule derived during the Budget process.

Mayor Burt recommended an in-depth evaluation of the Administrative Penalty Schedule be performed by the Finance Committee.

Mr. Keene concurred with Mayor Burt.

Council Member Price stated she had no interest delving into the details of the Administrative Penalty Schedule, because there were higher priorities that demanded the City Council's time and effort.

Council Member Klein concurred with Council Member Price. He did not feel the Finance Committee was the appropriate Committee to review the Administrative Penalty Schedule.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Scharff to adopt a Resolution amending and restating the Administrative Penalty Schedule and Civil Penalty Schedules for certain violations of the Palo Alto Municipal Code and the California Vehicle Code established by Resolution No. 8963.

Mayor Burt stated the City Council received a public comment regarding the steep fine for parking in a handicapped stall. The letter stated it could take several weeks to communication with the California Department of Motor Vehicles, and with one's physician, to obtain these permits. He inquired how the generated revenue was shifted from going to the State to going to the City's General Fund.

Mr. Larkin stated it was a new citation that could be cited as a parking violation, rather than a criminal citation. By citing the fine as a parking citation, the City was able to keep the revenue. The proposed \$750 fine was for worst-case scenario offenders, such as forgery of a handicapped placard. There was a separate penalty code with a \$43 fine for minor intrusions into the handicapped stall.

Council Member Holman inquired how long had the Administrative Penalty Fee Schedule been in place.

Mr. Larkin stated the Administrative Penalty Fee Schedule had been in place since 1999.

Council Member Holman spoke on Staff's hesitation to impose fines because Staff felt some fines were too excessive.

**AMENDMENT:** Council Member Holman moved, seconded by Council Member XXXX to eliminate the violation time period for second and third violations.

**AMENDMENT FAILED FOR LACK OF A SECOND**

**MOTION PASSED:** 9-0

12. Adoption of Two Resolutions Addressing Fall 2010 Ballot Initiatives: (1) Resolution Opposing Proposition 20, Modifying the Redistricting Process for Congressional Districts; and (2) Resolution 9107 Opposing Proposition 27, Eliminating the State Commission on Redistricting.

Council Member Yeh stated the Policy and Services Committee held a discussion on both Propositions, as directed by the City Council. The Policy and Services Committee unanimously supported the Resolution to oppose Proposition 27. He stated there was no recommendation from the Policy and Services Committee regarding Proposition 20 due to split votes.

Mayor Burt cautioned the City Council when considering positions that may be influenced by partisan perspectives. He was not in favor for taking a position on Proposition 20.

President of the League of Women Voters, Phyllis Cassel urged the City Council to oppose Propositions 20 and 27.

Herb Borock spoke on his opposition for Proposition 20, and support for Proposition 27.

**MOTION:** Council Member Scharff moved, seconded by Council Member Holman to: 1) take no position on Proposition 20- Modifying the Redistricting Process for Congressional Districts, and 2) adopt the Resolution opposing Proposition 27- Eliminating the State Commission on Redistricting.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member XXXX to take a position in favor of Proposition 20.

**AMENDMENT FAILED FOR LACK OF A SECOND**

**MOTION PASSED:** 9-0

13. Direction to Staff on Process for City Council Review of Refuse Agenda Items Scheduled on October 18, 2010.

Emily Renzel, Palo Alto, spoke on her support for the referral of this item to the Finance Committee.

**MOTION:** Council Member Scharff moved, seconded by Council Member Yeh to refer this item to the Finance Committee to be heard at their October 19, 2010 meeting.

**MOTION PASSED:** 9-0

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Scharff reported on attending the Glass Pumpkin Patch and the Gamble Garden Community events.

Mayor Burt reported on two upcoming community events. The Japan Tsuchiura Festival and Bike Palo Alto would both be held on October 10, 2010. He stated there would be a public meeting on the High Speed Rail station on October 7, 2010 at 7:00 p.m. in the Council Chambers.

Council Member Klein spoke on the life of Mary Davey who passed away on October 2, 2010. He stated that she was energetic, warm, had an unfailing abundance of enthusiasm, and many true friends. Her accomplishments included being the co-founder of the Midpeninsula Regional Open Space District and a former Los Altos Hills Mayor.

ADJOURNMENT: The meeting was adjourned in memory of Mary Davey at 12:10 a.m.