

Special Meeting
October 17, 2011

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:35 P.M.

Present: Burt, Espinosa, Holman, Klein, Schmid, Shepherd, Yeh

Absent: Price, Scharff

Commissioners: Acebo-Davis, Collins, Richter, Ross, Smit, Usich

Herb Borock stated it was his understanding that Harold Hohbach's case was going to be heard during the Closed Session and would require additional information if the case was going to be heard at a later date.

CLOSED SESSION

1. Closed Session: Mitchell Park
Conference with Legal Counsel – Government Code Section
54956.9(b), (c)
Potential Litigation Relating to the Mitchell Park Library and Community
Center Construction
Significant Exposure to Litigation Pursuant to Subdivision (b) of Section
54956.9: 1 Potential Case
Potential Initiation of Litigation Pursuant to Subdivision © of Section
54956.9: 1 Potential Case

The City Council returned from the Closed Session at 7:35 P.M. and Mayor Espinosa advised no reportable action.

Council Member Price advised she did not participate in the Closed Session because she had a preexisting business partnership with Turner Construction.

STUDY SESSION

2. Study Session with the Public Art Commission.

The Commission gave a brief overview of the Art Commission and the variety of programs it hosted. The Commission showed recently completed projects, such as *Bliss in the Moment* sculpture by James Moore, the relocation of Gene Flores' *Filaree*, and the selection of Michael Szabo for the California Avenue Fountain. Present endeavors, such as the Mitchell Park artworks by Bruce Beasley, Brad Oldham, Mark Verlander, and Roger Stoller were discussed along with temporary art installations and maintenance projects. Upcoming projects such as the Main Library and Art Center artwork were also presented. Discussions after the presentation included percent for art in public and private developments, expansion of the mural program, engaging youth, and functional art.

SPECIAL ORDERS OF THE DAY

3. Community Partnership Presentation by the Garden Club of Palo Alto.

Council Member Shepherd read the Proclamation into the record.

Nancy Wong, Garden Club of Palo Alto President, spoke of the organization's goals: members and community education, promoting aesthetic appreciation for plants and flowers, encouraging gardening, Palo Alto beautification, and conservation of nature. She said the Club had donated over \$300,000 to various organizations in Palo Alto. She thanked the City for joining in on the Garden Club's 90th Anniversary celebration.

Mayor Espinosa acknowledged and thanked all of the Garden Club members for the enrichments, beautification, and partnership they had with the City.

4. Community Partnership Presentation Philharmonic Orchestra.

Matt Collins, President of Palo Alto Philharmonic Orchestra, said that the Orchestra was a non-profit community music group that gave musicians the opportunity to play large symphonic and small chamber size works. He presented the Mayor with a conductor's baton and a t-shirt.

Deborah Rockey, Palo Alto Philharmonic Orchestra Board Member and violinist stated it was the Orchestra's 24th season. She spoke of the various concerts performed throughout the year, which included the full orchestra, well-known musicians, small string orchestras, chamber and baroque music. The Board encouraged youths to get involved in their activities.

Mayor Espinosa thanked the Palo Alto Philharmonic Orchestra members for their presentation and for their musical contribution to the community.

5. United Nations Association Film Festival (UNAFF) Proclamation.

Vice Mayor Yeh read the Proclamation into the record.

Jasmina Bojic, Founder and Executive Director of UNAFF, stated that her intent when she started the United Nations Association Film Festival (UNAFF) 14 years ago was to be connected with events and issues around the world. She said 42 filmmakers from all over the world would be in attendance at the Film Festival this year. She presented the Mayor with a pencil, a symbol of education, which was a human right.

6. Presentation by the League of California Cities Helen Putnam Award for Project Safety Net.

Jessica Stanfill, Peninsula Division of the League of California Cities, Public Affairs Manager presented the City with the League's Helen Putnam Award of Excellence in the category of Health and Wellness Program. The Helen Putnam Award was established in 1982 to recognize outstanding projects and programs in California cities that delivered the highest quality level of service in the most affective manner. This year, the organization honored 12 out of 117 cities that were nominated. The purpose of the Helen Putnam Award was to recognize and promote outstanding and innovative solutions by city governments to improve life in local communities, implement efficiencies in service deliver and operations, and provided services responsive to a local community. Palo Alto's Safety Net Coalition surpassed the three goals. She congratulated the City and the citizens of Palo Alto for receiving the award and thanked the Council for their work to enhance the quality of life in Palo Alto.

Recreation Division Manager, Rob De Geus, spoke on behalf of the Project Safety Net team. He extended their appreciation to the Council and the City Manager for their leadership and commitment to help sustain their efforts and thanked the League of California Cities for the award and their continued support.

CITY MANAGER COMMENTS

City Manager, James Keene stated that Staff would be attending the Midtown Neighborhood Association Meeting on October 18th to discuss the proposed tree removal and replanting project at Greer Park. A ribbon cutting ceremony was scheduled for October 18th to celebrate the installation of electric vehicle charging stations. Five new chargers were installed at three City parking

garages for public use. Project Cornerstone's Asset-a-Month Program for October was Positive Family Communication. For more information, visit www.projectcornerstone.org.

City Clerk, Donna Grider announced that the Revised Rail Committee Guiding Principles should not have been placed on the Consent Calendar. The item received a 3-1 vote and per Council Procedures should have been placed on the Agenda as an Action Item. Staff recommended that Agenda Item No. 16 be moved to a date uncertain.

ORAL COMMUNICATIONS

Truett Clifton, spoke regarding the proposed Hyatt Hilton Inn project at the corner of Arastradero Road and El Camino Real. She spoke of the traffic congestion at that intersection and the impact it had on the neighborhood and children riding their bicycles to school. Additionally, she asked that the project process be transparent.

Annette Glanckoph spoke regarding emergency preparedness and earthquakes. She invited everyone to participate in the Great Shake Out emergency drill scheduled for Thursday, October 20, 2011.

Herb Borock, spoke regarding Santa Clara County Court Case #107-CV-078386 pertaining to Citizens Upholding Zoning Regulations case.

David Bubenick, spoke regarding the disrepair of the sidewalks near his home caused by tree roots that had uplifted the sidewalks. He said the area was hazardous and urged the Council to see about getting the sidewalks repaired for safety reasons.

CONSENT CALENDAR

Staff requests that Agenda Item No. 16 be moved to a date uncertain.

MOTION: Council Member Holman moved, seconded by Council Member Schmid to pull Agenda Item No. 9 to become Agenda Item No. 16a.

City Manager, James Keene stated that Agenda Item No. 9 was not time sensitive and given the length of this evening's agenda, he recommended that the item be moved to a date uncertain.

Mayor Espinosa stated that Staff recommended that Agenda Item No. 9 be agendaized to a date uncertain.

Council Member Holman asked if the item would be going back to the Finance Committee or to the full Council.

Mr. Keene stated the item had been to the Utilities Advisory Commission (UAC) and placed on the Consent Calendar. Staff pulled the Agenda Item and recommended that it be brought back to the Council.

Mayor Espinosa stated Agenda Item No. 9 became Agenda Item No. 16a.

Tim Lynch spoke regarding Agenda Item No. 7. He stated a contractor was accepting dirt at the landfill site and that dirt less than 500 cubic yards did not have to be analyzed prior to its disposal. He said 90 percent of the dirt he needed to get rid of came from small residential jobs in Palo Alto. He raised concerns that private contractors would take control of the type of dirt being accepted and asked the Council to allow the landfill to accept the alluvial soil he needed to get rid of.

MOTION: Council Member Klein moved, seconded by Council Member Scharff to approve Agenda Item Nos. 7-8, 10-15.

Mayor Espinosa restated that Agenda Item No. 9 would become Agenda Item No. 16a. Agenda Item No. 16 has been moved to a date uncertain.

7. Council Approval that Allows the Director of Public Works or His Designee to Waive Landfill Fees for Acceptance of Clean Soils Received at the Landfill.
8. Approval of Amendment No. 1 to Contract No. C10132135 with CAD Masters, Inc. for the Development, Enhancement, and Ongoing Support and Maintenance of the Utilities Asset Management System in an Amount of \$300,000 Per Year for a Total Amount Not To Exceed \$1,500,000 for Up To Five Years.
9. ~~Approval of Two Amendments to City of Palo Alto Utilities Energy Efficiency Program Agreements and Adoption of One Budget Amendment Ordinance: 1) Amendment No. 1 to Contract No. C11140925 with Ecology Action for up to \$300,000 in Additional Funds for Additional Business Energy Efficiency Rebates for a Total Not to Exceed Amount of \$1,817,397 through FY 2014; 2) Amendment No. 1 to Contract No. C10134341 with OPOWER, Inc. for up to \$250,000 in Additional Funds for Additional Home Energy Reports For a Total Not to Exceed Amount of \$843,083 through FY 2013; and 3) Ordinance Amending the Budget for FY 2012 to Provide an Additional Appropriation of \$425,000 Within the Electric Fund for Two Demand-Side Management Programs.~~

10. Approval of Amendment No. 1 to Contract with Ghirardelli and Associates, to Extend the Term and Add \$29,000 for a Total Not to Exceed \$179,000 for Construction Management on the Stanford Avenue/ El Camino Real Intersection Improvements Project (CIP PL-07002).
11. Approval of Sub Lease Agreements with Palo Alto Community Child Care and Community Creative Learning Center for Extended Child Care Services at 12 Palo Alto Unified School District Sites.
12. Approval of Contract for Hewlett-Packard Software Maintenance Support Services for the City of Palo Alto Hewlett Packard Computer Systems.
13. Approval of Agreement with PAHC Housing Services, LLC for Administration and Consulting Services for Up to Two Years in an Amount Not to Exceed \$165,000 Per Year for the Below Market Rate Housing Program.
14. Appointments of Stepheny McGraw and Susan Rosenberg to the Storm Drain Oversight Commission for two terms ending on December 31, 2015.
15. Request for Council Approval of Draft City of Palo Alto Response Letters to the Bay Area Council to the Metropolitan Transportation Commission Letter.
16. ~~Revised Rail Committee Guiding Principles for Council Approval.~~

MOTION PASSED for Agenda Item Nos. 7-8, 10-15: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 16a. (Former No. 9) Approval of Two Amendments to City of Palo Alto Utilities Energy Efficiency Program Agreements and Adoption of One Budget Amendment Ordinance: 1) Amendment No. 1 to Contract No. C11140925 with Ecology Action for up to \$300,000 in Additional Funds for Additional Business Energy Efficiency Rebates for a Total Not to Exceed Amount of \$1,817,397 through FY 2014; 2) Amendment No. 1 to Contract No. C10134341 with OPOWER, Inc. for up to \$250,000 in Additional Funds for Additional Home Energy Reports For a Total Not to Exceed Amount of \$843,083 through FY 2013; and 3) Ordinance Amending the Budget for FY 2012 to Provide an Additional Appropriation of \$425,000 Within the Electric Fund for Two Demand-Side Management Programs.

Council Member Holman stated she asked to pull the Item because the values of the Home Energy Reports contained in the Staff Report were not clear.

MOTION: Council Member Scharff moved, seconded by Council Member Holman to refer this item to the Finance Committee.

Council Member Schmid stated the program was entering its third year and felt more data was needed to determine its effectiveness and expectations and agreed that the item should be referred to the Finance Committee for discussion.

Council Member Scharff said the item involved large sums of money and felt the need to take a closer look at the program prior to moving forward.

City Manager, James Keene stated Staff had identified substantial savings in kilowatt hours, terms, and other usages and found the program to be cost-effective.

MOTION PASSED: 9-0

ACTION ITEMS

17. Adoption of Two Resolutions: (1) Resolution 9204 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1501 of the Merit System Rules and Regulations to Adopt a New Memorandum of Agreement (MOA) with International Association of Firefighters (IAFF), Local 1319", and (2) Resolution 9205 entitled "Resolution of the Council of the City of Palo Alto Fixing the Employer's Contribution Under the Public Employees' Medical and Hospital Care Act (PEMHCA) for Local 1319, International Association of Fire Fighters."

Acting Assistant Human Resources Director, Marcie Scott stated the two Resolutions would update the City's Merit Rules with a new Memorandum of Agreement (MOA) for the Firefighter's Union and would authorize the California Public Employees Retirement System (CalPERS) and the City to administer a medical cost-share arrangement for retirees, effective December 1, 2011. She said the City and International Association of Firefighters (IAFF) Union began negotiations in May 2010. The City sought economic concessions similar to those made by non-sworn employees with changes to minimize staffing and reductions in overtime cost. The City declared impasse after eight months of negotiations, which was based on the lack of economic concessions and the elimination of minimum staffing provisions. The issue triggered an interest in binding arbitrations, pursuant to Article V of the City's Charter. After 15 months of discussions both parties reached a tentative agreement on deal

points that equated to approximately \$1 million in savings for the current fiscal year and \$1.4 million annualized for the following fiscal years. The savings were similar to concessions made by Service Employees International Union (SEIU) members and unrepresented management units that started in FY 2009-2010 with ongoing structural changes. The economic concession came from a 2nd tier pension formula of 3 percent @ 55 with a change to the final year salary calculations to the average of the three highest consecutive years for new hires. Upon adoption of the MOA, a 9 percent base wage reduction would be put in place and concurrent employees would begin to pay 6.5 percent of the 9 percent pension contribution. Effective July 2012, employees would pay the remaining 2.5 percent to bring the employee contribution to the full 9 percent level. A 10 percent employee contribution was included for medical premiums for actives and retirees who retired on or after December 1, 2011. Furthermore, the firefighters gave up the professional development tuition reimbursement funds that had not been used in the past. The department would continue to fund the training and development funds through the department's budget. The staffing requirement of 29 sworn-personnel, on-duty at all times, would be eliminated. Apparatus staffing would be maintained. Staff had presented an agreement ratified by the IAFF Local 1319 that instituted structural changes to provide immediate and long-term budget savings and allowed the City to sustain the Fire Department while maintaining a high-standard of public and firefighter safety.

City Manager, James Keene stated after 16 months of negotiations an agreement was reached to have firefighters begin contributing to the City's financial challenges.

Herb Borock spoke regarding the elimination of minimum staffing requirements that provided the ability to take an engine out-of-service, brown-out services of a station, and allowed cross-staffing to handle different fire apparatuses. The contract between Stanford and the City prohibited such reductions. Stanford required staffing of 20 firefighters and raised concerns regarding the need for more firefighters in the event of a major fire call.

Council Member Klein stated he needed clarification on a statement in the Staff Report, "City management was in the process of working with fire personnel to determine which recommendation and efficiencies can be achieve while maintaining high public and firefighters' safety." He asked when the minimum staffing requirement would be implemented.

Ms. Scott stated that Acting Fire Chief Dennis Burns had discussions with the Fire Department's Management Staff on how the adopted changes would affect the department and its operations. An extensive review needed to be made on

major scenarios and adjustments. Procedures and protocols would need to be established prior to moving forward.

Council Member Klein asked if a timetable had been determined for implementing some of the procedures.

Mr. Keene stated that the current contract had limitations that left Management in the realm of conjecture and a timetable still needed to be determined. A timetable would be established once changes were adopted.

Council Member Klein said he wanted to move forward quickly on the process and asked if the Policy & Services Committee (P&S) would be able to provide a report on the elimination of the minimum staffing.

Mr. Keene said one could be provided by the end of November.

MOTION: Council Member Klein moved, seconded by Council Member Schmid to accept Staff recommendation to approve: 1) Resolution amending Section 1501 of the Merit System Rules and Regulations to adopt a new Memorandum of Agreement (MOA) between the City of Palo Alto and IAFF Local 1319 for the period of July 1, 2010 through June 30, 2014, 2) Resolution to implement the new employee and future retiree health care contributions provision by fixing the Employer's Contribution under the Public Employees Medical and Hospital Care Act (PEMHCA) for Fire employees represented by IAFF, Local 1319, and 3) Direct Staff to return to the Policy & Services Committee November meeting with a report as to implementation and timing of changes as a result of the elimination of minimum staffing.

Council Member Klein stated the adoption of the Resolutions would set the right tone for efficiency and help with the budget saving factor.

Council Member Schmid commended all sides for going through arduous negotiations that resulted in a flexible and fair solution and also prepared a structure to help balance the budget.

Council Member Shepherd stated that the Palo Alto Weekly noted that the City had received \$1.8 million in concessions but did not capture the meaning of "to eliminate staffing." She said the Staff Report indicated it could go as high as \$1.38 million. She asked how the concessions would contribute to the City's deficit of \$4.3 million.

Mr. Keene stated \$1.8 million was the yield for the remainder of the current fiscal year. The cost savings could yield a minimum of \$1.1 million during the

first year and could go as high as \$1.6 million on an annualized savings based on structural savings from the concessions.

Council Member Shepherd stated that she wanted the community to understand that the issue was being reviewed by P&S. New policies and directions would be made with the understanding that safety was the primary interest in Palo Alto. The new MOA would provide the flexibility for the City to not reduce services but to work smarter.

Council Member Burt stated that the actuarial study would be discussed at the Finance Committee Meeting on October 18th would reflect the City's liability for medical costs and the \$3.8 million increase for retirees in the upcoming fiscal year.

Mr. Keene confirmed the increase would be across all City funds.

Council Member Burt stated the increase was not included in the savings that resulted from this contract agreement.

Mr. Keene stated that was correct. The City did not have complete control or a cap on the changes in structural funding obligations, such as healthcare and the cost increase would be absorbed Citywide.

Council Member Burt stated the Governor signed Assembly Bill 646 (AB646) that contained changes in the labor negotiation requirements for cities that did not have binding arbitration. He wanted to know when the bill would go into effective and the impacts it would have on the City.

City Attorney, Molly Stump stated the agreement occurred during the current impasse resolution procedure that applied to Palo Alto Safety and the City. The City was interested in binding arbitration that could be retained or deleted by the voters in November. If the issue fails, all City departments will be under the newly adopted procedures effective January 1, 2012. The changes would require non-binding fact-finding for all impasses for all units unless an agency had binding arbitration for a given unit. The fact-finding procedure was equivalent to non-binding arbitration. The structure consisted of a three-person panel. Each side appointed their own partisan member. A neutral party would either be agreed upon by both parties or appointed. The panel could hold hearings, subpoena witnesses and documents, consider all issues, make recommendations on fractural matters, and recommend a settlement on all issues and disputes. The local agency would have the ability to impose its last, best, and final offer after going through the fact-finding process and have received the panel's final report. She stated that at least one public hearing would need to take place 10 days after receiving the fact-finding report. The

local agency would be free to make a decision based on the issues and disputes.

Council Member Burt asked the City Attorney if she characterized the impact of AB646 as going beyond what the Council had considered in the ordinance that was discussed regarding mediation to replace binding arbitration.

Ms. Stump answered yes. The Council had discussed the issue but it was not resolved because of labor issues. A decision needed to be made whether to continue with a mediation program since a new state process had been put in place that applied to Palo Alto.

Mr. Keene stated the legislation was new and still unclear. The bill almost inferred that mediation would take place even before the fact-finding process took place. The new legislation was a backup process that changed the labor laws and improved labor's position in the collective bargaining process.

Ms. Stump stated that the bill initially had a mandatory mediation component and a mandatory fact-finding process. The mandatory mediation component was removed by the sponsor and left the component that allowed parties to agree on mediation. Labor could demand the fact-finding process 30-days after mediation failed. She anticipated labor and local agencies to have conversations on how rules would apply with respect to mediation.

Council Member Burt stated the contract extended through June 2014. He asked if the voters voted against Measure D at that time and the City retained binding arbitration, could minimum staffing and pension reforms be reversed if the Union took the negotiations to an arbiter.

Ms. Stump stated that was the City's position in this arbitration proceeding. She recommended to maintain the position and in any further proceedings that minimum staffing would not be an appropriate subject for a contract provision or an arbitrator. It was out of the arbitrator's jurisdiction and would not be submitted. Pension reform was different and the City would need to go through the bargaining process and would be submitted to an arbitrator.

Council Member Burt stated that the current arbiter had taken the opposition position.

Ms. Stump said that was correct. The arbitrator believed the question submitted by the City was something she could rule on.

Council Member Burt asked if the arbitrator reversed the pension reform that applied to new employees, would the reversal apply retroactively to any

employee that was hired under the new pension system, as it did 10 years ago when the Council increased the pension from 2 percent @ 60 to 3 percent at 60 and was applied retroactively to Fire Safety employees at the time.

Ms. Stump said Council Member Burt's question had 2 pieces. 1) What could the City potentially agree to or what could an arbitrator award, and 2) what would the California Public Employee Retirement System (PERS) allow, assuming benefits would still be under CalPERS system. She said when improvements were made; pensions would be given to a class of employees for all the years of their service even for those that already had been rendered.

Council Member Price asked what the status was on the legislation.

Ms. Stump said the Governor had signed the legislation on October 8, 2011 to become effective as of January 1, 2012.

Council Member Price asked if there was the possibility of the legislation being challenged.

Ms. Stump stated she was not aware of any challenges at this time

Council Member Price asked if the legislation was non-binding fact-finding.

Ms. Stump said that it was and would give local agencies the ability to make the final decision.

Council Member Price stated that it was a significant change to collective bargaining and binding arbitration as it related to communities in California.

Ms. Stump clarified that the bill would repeal the current Meyers-Milias-Brown rule that would allow the local agency to implement its last, best, and final offer upon reaching an impasse and replaced with a rule that would authorize labor to demand non-binding fact-finding. She said an exception to the fact-finding bill for a unit with binding arbitration was that a unit would remain with binding arbitration. If a unit did not have binding arbitration, the unit would be required to use the fact-finding procedure before making a final decision

Council Member Price asked if the bill would enhance the City's ability to impose a contract.

Ms. Stump said it did not and would require added procedural steps before a city could impose a contract. It preserved the city's ability to do that but would be required to go through added steps that could take months and associated costs.

Mr. Keene stated that the timeframe would be long and questionable and could add to the resolution of an impasse through imposition.

Council Member Price needed clarification regarding the uncertainties of time and resolutions.

Ms. Stump stated that a firm timeframe for labor to demand fact-finding was unclear and there could be a process to determine a reasonable time in the event there was no mediation.

Council Member Price asked how the cost process would be administered.

Ms. Stump said the bill required that parties split the cost of the neutral and would bear the cost of hearing preparations.

Council Member Scharff said he was pleased an agreement was reached and the tuition reimbursement issue was resolved. He needed clarification on the new CalPERS tier pension plan.

Ms. Stump clarified that if the City was in a binding arbitration proceeding in the future, under the current rules it would be possible for an arbitrator to order an improvement to the retirement formula that would be applied to all employees.

Vice Mayor Yeh acknowledged and thanked everyone for their efforts in reaching an agreement. Minimum staffing was a significant agreement made by IAFF members, which was not in place in other jurisdictions. He said the reform to compensation updated the reality the City faced and the 2-tier pension plan positioned the City in a more sustainable way for healthcare.

Council Member Holman thanked everyone for their efforts in reaching this point. She said the economics were changing and the City would not be able to go back to the types of revenues it had in the past. She extended a special thanks to Ms. Scott for all her hard work on this issue.

Mayor Espinosa thanked everyone for their efforts and recognized Staff's months of negotiations in reaching the agreement. He said it was a difficult path for both sides but needed for the long-term health of the City.

MOTION PASSED: 9-0

18. PUBLIC HEARING: Approval of a Mitigated Negative Declaration, Tentative Map and Record of Land Use Action to Subdivide a 2.64 Acre Site Into 10 Single Family Lots Located at 525 San Antonio Avenue.

Planner, Jason Nortz stated that SummerHill Homes had submitted a Tentative Map Application to the City to subdivide an existing 2.64-acre parcel into 10 single-family lots. Each lot would include a single family home and two covered parking spaces. Access to the lots would be from San Antonio Road by way of a new public right-of-way constructed on the project site. The project site would consist of two parcels, zoned R-1 (8,000) (Single Family Residential) that required a minimum residential lot size of 8,000 square feet. The property was previously used by a non-profit childcare center and preschool called Peninsula Day Care Center that closed in June 2011. Staff completed the Initial Study and Mitigated Negative Declaration for the Tentative Map. The document was made available for the public review from August 23 to September 12, 2011. No comments were received on the documents.

Public Hearing opened at 10:38 P.M.

Katia Kamangar, Senior Vice President of SummerHill Homes was requesting the Council's approval of the 10-lot subdivision in conformance with the R-1 zoning and the comprehensive plan for the property. She said that in May 2011, the Council asked that the subdivision lots remain similar to the surroundings of the property, to remain with the current density and the current comprehensive plan. SummerHill Homes entered into a contract to sell the site to the Palo Alto Unified School District (PAUSD) and was in the planning stages. The site was previously owned by the Shaw and Martindale family who looked forward to seeing something productive happen to the site. She looked forward for the Council's approval of the project.

Public Hearing closed at 10:40 P.M.

MOTION: Council Member Scharff moved, seconded by Council Member Shepherd to accept Staff and the Planning and Transportation Commission (P&TC) recommendation to approve the Mitigated Negative Declaration and a Tentative Map application to subdivide the 2.64 acre site consisting of two parcels zoned R-1 (8,000) into 10 single family lots, subject to the findings and conditions of approval contained in the Record of Land Use Action.

Council Member Scharff thanked Ms. Kamangar for returning with a favorable plan.

Council Member Shepherd said she understood Ms. Kamangar's reasons for moving forward with the map and appreciated her working with PAUSD.

Council Member Schmid asked Director of Planning & Community Environment Williams to clarify a statement he made during a Planning and Transportation Commission (P&TC) meeting regarding impacts if SummerHill Homes made a deal prior to the item going to the Council. He asked Mr. Williams if he was implying that a Council's vote could make a change to the deal.

Director of Planning & Community Environment, Curtis Williams stated it was the opposite. He clarified that if a deal was finalized between the time it was heard by the P&TC and tonight's Council vote, and the property changed hands, that it would be a different situation because of a new property owner. The implication was not that the Council's approval would alter the deal in any form.

Council Member Schmid asked if the PAUSD would be required to go through a process to change the map or the zoning if the deal went through after the approval of the map.

Mr. Williams stated there would be an issue if it was the final map. Approval of the tentative map would not have an affect until there was a final map, which was ministerial. He said PAUSD operated under state jurisdiction and would not be required to alter an un-subdivided site or merge the lots together.

MOTION PASSED: 9-0

19. Council Direction Regarding California Avenue Transit Hub Corridor Streetscape Improvements Project Sidewalk Widening Options.

Director of Planning & Community Environment, Curtis Williams stated that the intent of the project was to create a more pedestrian/bicycle friendly street, to aesthetically enhance the street, to provide multi-use on city streets consistent with the comprehensive plan and the Pedestrian Transient Oriented Development (PTOD) zoning. The Council had approved the Capital Improvement Program (CIP) and the Negative Declaration for the project on February 14th. Council had requested Staff to return with options regarding widening the sidewalks and cost to help determine further direction in moving forward with a design. A contract was approved in July to retain a consulting team to help with the design. Meetings had been held with the California Avenue merchants and the community. The feedback was favorable but merchants still had concerns regarding the narrowing of the streets from 4-lanes to 2-lanes. There were discussions to evaluate limited trial efforts to help with the merchant's concerns. Staff presented several alternatives to the

Council regarding streetscape improvements and sidewalk widening options for guidance in moving forward prior to returning with recommendations. Merchants and the community favored the option to retain most of the parking spaces and to focus on areas with high level activities.

Kandee Bahmani, Project Manager, RBF Consulting, stated her firm was the lead consultant for the California Avenue project and she would be in charge of the design team, sub-consultants, and the civil design elements of the project. Gates and Associates Consultants would be in charge of leading the community outreach programs and the landscape and streetscape designs. She said the group would be presenting the sidewalk widening options and project schedule during this evening's discussion. Estimated time of complete for the design was spring/early summer of 2012. Several meetings would take place between now and the date of completion to review the options with the community and the various City Boards and Commissions. The group would focus on one specific design element during community meetings. A community meeting was held in September and feedback from that meeting would be discussed during this evening's Council meeting.

David Gates, RBF Consulting, Gates & Associates gave an overhead presentation that covered various sidewalk widening options. He present diagrams that focused on lane reductions, bicycle lanes, and options to make sidewalks and streets more useable. The consultants had held two community meetings and found that the public wanted enhancements in the following categories: way-finding, more seating in shaded areas, bicycle safety, traffic flow, better gateway to the El Camino Real, and nearby parking. The public also indicated they wanted to keep public art. The design team modified Concept B after hearing the community's input. The preferred option design was to combine the parallel parking and angled parking. The concept would provided one, 15-foot wide travel lane per either direction and to widened the sidewalk with an additional 7-foot at select locations, provide raised crosswalks at mid-block crossings, add sidewalk widening opportunities and capacity improvements at El Camino Real, and to gain 10 additional parking spaces. He stated that the more cars that were removed the more costly the project would be because more money would be needed for pedestrian amenities. He said they were still in the early stages of discussions and their main goal this evening was to have a discussion and to leave with some direction. He said additional images were available on sidewalk treatments, bicycle parking, tree plantings, solar control and other elements, upon request.

Mr. Williams stated the premise was to begin the project by leaving the trees where they currently were and most of the alternatives gave options to plant more trees. The community agreed that if the trees needed to be moved

around that it would be best to reposition them while the trees were still young.

Bob Hayes, California Avenue Business Association (CABA), stated merchants had varying opinions. There was the feeling of the lack of trust of the project and the need for more transparency. Others felt their concerns were not heard and not represented well. Most of the merchants were in favor of beautifying California Avenue. Lane reduction was the biggest concern and the negative impact it would have on traffic flow. Many asked if there was an option to move forward without having to narrow the lanes. Other areas of concerns were the status of the trial period, if a traffic study would be done to support some of the proposals, and what economic impacts would the merchants face during construction. He said his intent was to help find a common ground to bring the parties together and to move forward in way they wanted the project to go.

Council Member Klein stated the 2-lane scheme worked well for the downtown University Avenue and Castro Street in Mountain View, two streets with more traffic and a longer corridor than California Avenue. He asked Mr. Hayes why the merchants were opposed to the 2-lane reduction option.

Mr. Hayes stated he was new to the project and the issue was also unclear to him. He asked if a study or a traffic-flow analysis had been done on the 2-lane option.

Bob Moss stated he was not in favor of a 2-lane option. He raised concerns regarding the cost and that Staff had expressed concerns of not having enough funds to complete the project. He stated that the Council had proposed widening the sidewalks. He urged the Council to do a preliminary trial and to resolve any problems that came about from the trial, prior to having discussions on widening options. He said widening the sidewalks could influence the need of a 2-lane street.

Jessica Roth was in favor of a 3-lane street. She said two lanes in to California Avenue and one lane out would ease the traffic-flow from the El Camino Real. She asked the Council to have the Planning Department move the project forward in a smooth and expeditious manner and to not schedule the project during winter season that could cause delays.

Council Member Holman asked what was the status of the plaza's redesign and how would it be incorporated into the entire project.

Chief Transportation Official, Jaime Rodriguez stated the redesign of the plaza was part of the project and the next phase would begin at the end of the

month. The plaza redesign would work parallel with the treescape design and merged with the sidewalk option. That phase would begin in November.

Council Member Holman asked why the item was brought to the Council prior to the Planning and Transportation Commission (P&TC). She said this was a total package and not separate from the roadway and sidewalk element.

Mr. Williams stated that in February the Council had directed Staff to develop options and to return to the Council for initial guidance of cost and parameters prior to moving forward with a design. The issue would go to the P&TC once the focus was established. Staff's thought was to narrow the alternatives down and to begin incorporating the placemaking improvements.

Council Member Holman asked Staff what was the driving factor to determine which sidewalk areas should be widened.

Mr. Williams stated that areas for consideration were restaurant and pedestrian activities and to not widen where parking would be lost.

Mr. Rodriguez stated that the merchants and community members had asked that improvements be made first at the entrance from the El Camino Real. The parking scheme had changed from diagonal to parallel parking to help address the traffic flow. Sidewalks would be widened at that location.

Council Member Holman asked if consideration had been given in those areas for certain uses and amenities to help attract business.

Mr. Williams stated those were reflected in some of the alternatives. Staff did not dictate certain usage but considered widening the sidewalk to the plaza to help stimulate activity and to make the area more attractive from the train station to California Avenue.

Council Member Holman stated that Staff indicated that the plaza's redesign was a parallel project and asked if the plaza redesign could be tracked along with the other designs to avoid abrupt edges.

Mr. Rodriguez clarified the project would be designed as one and each design would be married with the other. The fountain was another factor that would be incorporated into the plaza design. The goal was to keep the plaza project moving forward while working on the sidewalk widening scenario.

Council Member Price asked if reverse-angled parking was considered to help improvement pedestrian/bicycle safety.

Mr. Rodriguez stated the option was considered but received a negative response from the community. Reverse-angled parking in Fremont did not get positive results and was removed. He expressed that the project needed to be done correctly right from the beginning and that replacement would be costly in the event reverse-angled parking did not work.

Council Member Price asked what type of capacity improvement would be made at the El Camino entrance in the Modified Hybrid option.

Mr. Rodriguez stated that the consultant's recommendation in the preliminary traffic study would be to have a 200-foot storage capacity for vehicles exiting California Avenue. The median island at the El Camino Real entrance would be modified and the seating wall located in front of the Quiznos Restaurant area would be removed to regain the capacity at the El Camino Real entrance.

Council Member Price asked if there were any plans along the California Avenue corridor for potential structured parking to help reduce on-street parking.

Mr. Williams stated that a parking analysis was in process for structured parking at the Fry's Electronics vicinity off of California Avenue.

Council Member Price asked what the timing was on the parking study. A concept to develop added or structured parking could impact the ultimate design of the corridor.

Mr. Williams stated that the plan to develop structured parking was a long process. He said structured parking would not be in place by the time the project was built.

Mr. Rodriguez stated the California Avenue parking management strategy was moving forward slower than the University Avenue plans. The merchants had many positive inputs and Staff wanted to collect all the data to bring back to all merchants regarding issues and impacts.

Council Member Klein asked the City Attorney what the status was on the present litigation regarding California Avenue.

City Attorney, Molly Stump stated that the litigation was active. The case was argued in Court a week ago and waiting for a decision. No court order was in place to prevent the City from moving forward and the Council could move forward with the item during this evening's meeting.

Council Member Klein asked Ms. Stump if she had an opinion regarding the desire to move forward that could go against the City.

Ms. Stump stated that the decision would be coming forward in the near future and noted that Staff was ready to move forward. Her recommendation was to not hold off.

Council Member Shepherd stated that the community had raised concerns regarding the lack of trust regarding the project and asked that the process be kept as transparent as possible. She asked what impacts would there be during the construction phase of the project.

Mr. Williams stated he looked forward to having conversations with the business group and the community with a phasing approach for the project to meet their needs while California Avenue was under construction.

Ms. Bahmani stated that a community meeting was scheduled to discuss construction and traffic management and to get the community's feedback on their concerns. The bidding process would include stringent contract and specification requirements and the phasing approach would apply to complete the project.

Council Member Shepherd stated she was intrigued with the Seasonal concept and wanted to ensure that its options were well articulated to the community in getting feedback. She wanted the project to work well for the community as an indoor/outdoor type living. She raised concerns regarding the cost of losing 37 parking spaces and people not being able to do their business in the area because of the lack of parking.

Council Member Scharff asked Staff what would be the best 30-year investment plan if the money and cost issues were set aside.

Mr. Williams stated it would not be a choice of one but a combination of elements. The Central Plaza concept was the one most favored. The area could be closed off to create space for public events and the same design would be applied along the distance of the area. This option would require additional costs and the loss of parking but would provide an attractive area. It meant balancing the cost, parking, and the value of wider sidewalks.

Council Member Scharff asked which of the three parking options would be most favorable; the angled, the hybrid, or the community input modified.

Mr. Rodriguez stated that the ideal design would be to look further into any of the alternatives and identify what California Avenue should look like over the

next 10 years. He suggested moving forward to implement the current allocated resources in the areas where the community had focused. The community hybrid option took advantage of the current funding resources and minimized the impact of the added cost to widen the sidewalks. A cap would dictate the amount of funds that could be used for the plan. He said there was the possibility of applying for more grant funds in the future.

Council Member Scharff wanted to know what the reasons were to continue to look at the angled or hybrid parking options as opposed to the community input option.

Mr. Rodriguez said it was important to get more input from the community and merchants on where they wanted to have more focus, widening alternatives, and land uses in relation to the long-term specified plan.

Council Member Scharff asked how many options did Staff want the Council to review.

Mr. Williams stated no more than two. He said the main issue was to get a sense on how significant the dollars and the parking was that would dictate Staff's direction in choosing options.

Council Member Scharff stated parking was the larger issue. He said he did not have enough information to determine whether the loss of parking spaces would impact the district. He asked if the Council would be getting more information on the district's ability to absorb the loss of 37 parking spaces. He raised concerns that the options showed the plaza of not getting fair treatment and the work was focused mostly on the El Camino Real end.

Ms. Bahmani stated the next community meeting would concentrate on the plaza and include presentations of the favored options to the Council as soon as they were available.

Council Member Scharff stated that was not the issue. The issue was that there was less work being done to the plaza end of the street and wanted to see an even treatment on a long-term basis.

Council Member Burt suggested keeping the discussion on a conceptual level. He stated the initial proposal on the parking concept was to have a net increase of 24 parking spaces on California Avenue and the Modified Hybrid proposal was 10 spaces. It was monetized as \$50,000 per structured space and worth approximately \$1.2 million. He stated there would be concerns from the merchants if the net increase was not provided. On-street parking in front of shops was highly valued by the merchants. The northeast end of the

proposal was almost devoid of treatments. The area from Birch Street to El Camino Real had the most restaurant and pedestrian activities and should have the greater proportion of treatment, but he felt that Staff and consultants had gone too far. He stated that pedestrian safety was more important than sidewalk expansion for outdoor dining. The parking district had Pedestrian/Transit Oriented Development (PTOD) zoning and would have gradual intensification in the area. Pedestrian and bicycle use could be expanded to lessen automobile trips but there was a need to preserve parking spaces. He was pleased to hear Staff's intent to engage with the merchants and businesses regarding the phasing approach in construction and advised getting the traffic analysis to the California Avenue Area Development Association (CAADA).

MOTION: Council Member Burt moved, seconded by Council Member Klein to: 1) Encourage Staff to focus on a concept version of a Modified Hybrid Plan alternative to include assurance of a net gain in parking spaces on California Avenue, 2) Better treatment to pedestrian safety in the northeast end from Birch Street to the plaza, and 3) Stay close to the cost of what was currently proposed in the Modified Hybrid Plan.

Council Member Burt stated that Staff had offered an estimate of \$400,000 on alternatives at the last Council Meeting and received proposals ranging from \$600,000 to \$1.2 million. No proposals were received that had the cost-range the Council used as the basis to send back to Staff. He said the plan was long-term and needed to be done correctly but expressed that money was an object. He stated that the Modified Hybrid Plan with improvements was a winner and would net out for more parking for the merchants.

Council Member Klein acknowledged Mr. Williams' leadership efforts of transparency. He said not all parking spaces were created equal. People preferred on-street parking versus garage parking. Removal of 100 spaces to be replaced with structured parking would increase the cost by \$5.5 million. Improvements to California Avenue would create a more desirable place and would demand more parking. He said the direction that should be given to P&TC should be to choose an alternative that would not reduce the number of parking spaces and if possible to increase desirable parking spaces. He urged the Council to approve the Motion.

AMENDMENT: Council Member Schmid moved, seconded by Council Member Scharff to have Staff look at both the Central Plaza Concept Plan and the Parallel Parking on both sides of California Avenue Concept Plan.

Council Member Schmid stated that the California Avenue project started as a vision to beautify the area. He quoted Mr. Williams as saying, "opportunities for public inner-action where people could gather." The City was driven by a grant from the Valley Transit Authority (VTA) to look at the street, which resulted in a decision to make the street 2-lanes instead of four. Lane reduction with wider sidewalks would give pedestrians the opportunity to interact with one another. A 19-foot sideway gave a different feel and allowed for more trees, space, seating areas, and activities. He encouraged looking at the project as a long-term concept and what California Avenue could be. It would cost money and would only work if people in Palo Alto saw the finished project as a "magnet" where people could go there to meet people. The needed parking could be elsewhere and noted that the maps contained options with alleyways that connected parking from other areas to make California Avenue a pedestrian-friendly place. Modifications to the street would generate sales tax and would pay for the project in the long run. He urged the Staff to look at options for California Avenue to become a community magnet and be a center point for a new neighborhood.

Council Member Scharff stated the project was a vision. He said PTOD zoning was conflicting because it allowed the ability to build buildings with less parking, which short-changed the citizens. He suggested that Staff look at the Parallel Parking and the Central Plaza options and to return with recommendations.

Vice Mayor Yeh asked if the Modified Hybrid, Parallel Parking, and the Central Plaza options would be considered as part of the outreach program.

Council Member Scharff said yes and that Staff could analyze all three.

Vice Mayor Yeh encouraged Staff to include parking structures in the outreach program. He said taking advantage of some alternatives and paring them with parking realities needed to be considered if street level parking would become multi-level parking structures in the future. The Modified Hybrid was one of the more compelling options because of the proposed added cost. The biggest expense would come from structured parking no matter what type of sidewalk option was picked. He said merchants would benefit from any of the sidewalk options because it would draw more foot traffic. He asked if the VTA grant precluded a trial period.

Mr. Rodriguez stated the VTA grant did not restrict a trial period.

Vice Mayor Yeh asked what the status was in incorporating a trial period into the design.

Mr. Williams said Staff had concerns of doing a trial period. He expressed the difficulties in trying to create an infrastructure of a 2-lane roadway and not having the capability of seeing more trees and seating areas, and having to tape off sections to try and project the benefits of the project. The visual would be unappealing. Staff had considered sectioning off a portion of the block closest to the El Camino Real to replicate some of the project and to get a sense of backup in entering California Avenue.

Vice Mayor Yeh said he was hearing Staff's concerns but the residents had expressed their concerns of wanting assurance that the final results of the project would work. He referred to the Charleston-Arastradero trial process and felt the same approach could apply to replicate the project at a functional level but not on an aesthetic level. He felt that a trial phase would be important for everyone involved.

Mayor Espinosa said he appreciated Staff's wanting to get the best project for the long-term. He raised concerns about lessening the parking spaces without the addition of a garage or two, which would mean a larger project. He said some of the issues he would like to see come back to the Council would be to incorporate the bicycle-shared programs, median plantings, conversations with the Public Art Commission (PAC) regarding art projects, angled parking to one-way and side streets, and special enhancements to improve the entrance way into California Avenue off of the El Camino Real. He supported the Amendment.

Council Member Holman asked if discussions up to this point helped Staff to narrow down the options.

Mr. Williams said it had. Staff would adjust the Modified Hybrid Plan along with a couple of other options. He stated changes would be made but did not know at this point how substantial the changes would be. He said the issues that had been heard would be taken into consideration and would be addressed in each option.

Council Member Holman asked if Staff wanted the Council to make amendments to the Motion or to provide comments for Staff's to consider.

Mr. Williams said to provide comments. The P&TC would synthesize the comments and workout the details to bring back to the Council.

Council Member Holman said she would not be voting on the Central Plaza option because the visuals were not presented well enough for review. She raised concerns regarding the elimination of parking spaces. It was not the number of spaces that would be removed but where they were located. Retail

liked parking directly in front or immediately behind the store. The Central Plaza concept eliminated parking spaces and was unacceptable. She asked the Staff to address having a gateway to the California Avenue entrance, median trees, landscaping, and improvements to the Palo Alto Central Wall in terms of artwork or plantings.

Council Member Price was in favor of looking into structured parking and envisioned metered-parking in the future that would impact people's behavior. She supported the Amendment.

Council Member Shepherd asked if two additional scenarios were being added.

Council Member Schmid said there were three.

Council Member Shepherd stated that the merchants had voiced an interest of having street closures and asked that the Seasonal option be addressed. It would provide added parking that would be removed during street closures. She asked if parts of the Seasonal option could be incorporated into the Hybrid option to get a sense from the merchants if that was an interest of theirs. She noted that CAADA was now California Avenue Business Association (CABA) and had expanded their reach to more merchants.

Mr. Rodriguez said it would be possible to look into incorporating some of the Seasonal features into the Hybrid option.

Council Member Shepherd asked if that task could be done without having to incorporate it into the Amendment and for Staff to return with feedback. She was in favor of being able to close down streets in the summertime for performing arts and live entertainment.

Mr. Rodriguez said that could be done.

Council Member Burt felt the Amendment was going in the wrong direction. There was discussion to add 24 parking spaces with the notion of taking away 32 to 37 parking spaces. The vitality of the street would increase and would demand more parking spaces. He said he wanted the project to move forward and would be a waste of time, dollars, and goodwill to pursue other options. Merchants would be livid if half of the on-street parking was taken away. There was capacity for off-street parking, which would serve as a relief valve for the next few years. He agreed there would be a need for structured parking in the future but that was not part of this proposal. He did not feel the alternatives had been narrowed down by much and the focus needed to be more on the project.

AMENDMENT PASSED: 5-4 Burt, Holman, Klein, Shepherd no

MOTION AS AMENDED PASSED: 9-0

20. Submittal of Mitchell Park Library and Community Center Monthly Report and Council Direction to Staff to Continue Monthly Reports.

Council Member Price advised that she had a preexisting business partnership with Turner Construction and would not be participating. She left the meeting at 12:52 a.m.

Interim Director of Public Works, Mike Sartor stated that on September 12th, Staff brought forward to the Council a recommendation to increase the construction contingency for the project. He said the Council had directed Staff to return with a Monthly Report regarding change orders, which Staff would be presenting at this meeting. Eight change orders had been approved for an amount totaling over \$1 million which was 4.2 percent of the contracted amount. Copies of the change orders were included in the Staff Report ID#2149.

Council Member Shepherd stated Change Order #8 reflected a significant amount of money and asked Staff to provide a description regarding the waterproofing of planters.

Acting Assistant Director of Public Works, Phil Bobel stated that a detailed description was available but was not included in the change order because it was a settlement and did not have a line item format similar to the last seven order changes.

Council Member Shepherd said Change Order #8 was the largest of the change orders and wanted to see what the material changes were from the original bid.

Mr. Bobel stated that the waterproofing component was one of the largest of major components. The component was a large perforated metal panel sealing that went around the exterior of the build. Each of the waterproofing material was less than the metal panel sealing but would not be visually seen in the summary.

Mr. Sartor confirmed that a detailed description would be provided in the next Monthly Report.

Council Member Shepherd stated that Change Order #1 included \$10,826 for tree grinding and pruning and thought that type of tree treatment was part of

the City's tree maintenance program. She asked how the tree component was connected to the construction of the building.

Mr. Bobel stated that the tree component should have been included in the construction project and found that once into the project the tree procedure was a major step and needed to be added to the contract.

Council Member Shepherd stated because of the project, the trees needed to be trimmed a certain way, which was not considered as part of the regular tree maintenance.

Mr. Bobel stated that the process went beyond the regular maintenance procedure. The trees would be cutback to avoid getting damaged from the project and would provide added protection.

Council Member Shepherd thanked the Staff for the report and she was pleased the project was halfway through completion and moving forward.

Council Member Schmid stated that at the September 12th Council Meeting the Mitchell Park contract reflected a \$2.4 million in contingencies. There was a request for an increase in the amount of \$3.7 million that brought the sum to \$6.1 million; a dramatic change from mid-July to mid-September. The drastic change had raised concerns on how to monitor and provide oversight to the contract in moving forward. The Main Library contract would be coming forward in December and he felt it was important that the Council have a sense of oversight on the new contract. One of the Monthly Report goals was the ability to look at the numbers and identify what had taken place. Five weeks had passed since September 12th and the material showed change orders that added up to over to \$1 million. He said the reasons for the dramatic change order increase had not happened yet and any oversight that was being done now would not be picked up. He asked if there were other data the Council should be looking at to help identify those movements.

Mr. Bobel said Staff could provide at the next Monthly Report the proposed change orders that were in the pipeline that would show upcoming activities.

Council Member Schmid stated that a Library Bond Stakeholders Committee (LBSC) had been established and one of their roles was to help identify discrepancies. Contained in the Staff Report was the Committee's Meeting Minutes of July 26th. The meeting lasted half-and-hour and noted that the Committee was supposed to have sent a quarterly report to the Finance Committee. No action was taken because the Committee indicated the Draft Financial Report Summary from Administrative Services Division (ASD) was not available prior to their meeting. The Committee did not have Change

Orders No.1 through No.8. He asked what role LBSC played if they did not have the information. He raised concerns about how the oversight committee operated and asked if they needed different data, if they should they be doing things differently, and what their role was in helping the Council.

Mr. Bobel stated the Committee most likely would be addressing the issue at their next meeting and would want to see additional information since the approach now was to provide Monthly Reports. They had not asked for specific change order reports in the past. The Committee had been told of the increase in the number of change orders and the suggested increase in contingency authority would still be lower than the engineer's estimate. It appeared the Committee found this to be satisfactory and would not be a concern.

Council Member Schmid stated it would be helpful to hear from the Committee of the measures they used in helping with the Monthly Reports. He felt that prior to moving forward on the Main Library contract there should be a clear metric in mind for oversight on how the bids come in and to include in the contract the means of monitoring changes.

Vice Mayor Yeh stated he had difficulty in deciphering parts of the change order form. He asked the contracts have a standardized format with clear definitions regarding the reasons for changes and needed abbreviations clarified to help decipher the form.

Mr. Bobel stated that a definition of terms would be included in moving forward. He explained that Change Order No.8 was a negotiated settlement for a series of individual items and had a different format. Staff will come back to the Council with clarification and the importance of the line items.

Vice Mayor Yeh said the Monthly Reports provided public record and an accessible way for anyone to understand the work that was being done.

MOTION: Vice Mayor Yeh moved, seconded by Council Member Shepherd to: 1) Accept this update on the Mitchell Park Library and Community Center (MPL&CC) construction contract change orders; and 2) Direct staff to continue to submit Monthly Reports to Council.

Council Member Shepherd said it was alarming to see a request come forward for a contingency increase for an excessive amount with no justification. The Monthly Reports would provide a clear understanding of the projects.

Council Member Burt asked what the last contingency increase was at the last meeting.

Mr. Bobel said it was 20 percent.

Council Member Burt raised concerns regarding the role of the LBSC. He stated the LBSC met on July 26th for half-an-hour. The Committee was informed of the topic and the Council had spent over 4 hours discussing the issues. He questioned how the LBSC's function served the Council. He said the issue had been publicized and felt that the Committee would have wanted to be brought up to speed on the issues. He felt they were not engaged and questioned their purpose.

Council Member Klein stated he was pleased with the Monthly Report. He did raise concerns regarding Staff relying on the engineer's estimate as a measure on how the project was progressing. He said the engineer's estimate was only an estimate and not an acceptable metric. He felt it would have been better to go with a higher bid if change orders continue to come forward. A good metric would be to compare the change orders against the contractor's bid of the project. It would serve as a gauge on how successful the project was progressing and show the public how well the City was handling their money. In terms of the LBSC's position, he said the bond measure called for an independent oversight committee and it was the Council's responsibility to form that committee. The LBSC role was to see that the monies were spent in accordance with the Bond. The Council could ask the Committee to get involved with the efficiency of the project but it was outside of their charge.

Mr. Bobel agreed with Council Member Klein's comments. He said the LBSC meetings were brief and understood their charge was limited to making sure that the monies were appropriately charged against the Bond. It was the Council's responsibility to oversee how careful and efficient the money was spent.

Council Member Shepherd response to Council Member Burt's comments was that she saw the Council as the owner of the project and that it functioned correctly. She felt the Council would get separated from conversations such as this, if the responsibility was delegated to a committee. She wanted the Council to retain the ownership of the project and not give it away.

Vice Mayor Yeh understood Council Member Burt's concerns. Measure N called for a committee with a special function. He said the Council met with the Boards and Commissions to stay connected. He was interested in establishing a similar process with the LBSC. He suggested meeting with the Committee or having a Staff member bring the Committee up to speed regarding Council's discussion on the use of the monies. He concurred with Council Member Klein's statement to have the Committee expand their scope. He agreed with

Council Member Shepherd that the Council was responsible for the oversight function. He asked for Staff's feedback on his comments.

Mr. Bobel said the intent was to brief the LBSC at their November meeting on everything the Staff had discussed with the Council. His intent was to get the issues on the LBSC's agenda.

MOTION PASSED: 8-0 Price absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Vice Mayor Yeh reported on attending the annual Northern California Power Agency meeting.

Council Member Klein spoke on attending the Santa Clara County Cities Association (SCCCA) meeting where Assembly Member Jim Beall spoke on pension reform. Additionally, the SCCCA is holding their annual holiday party on December 8 in Sunnyvale.

Council Member Burt reported that he attended the Metropolitan Transportation Commission (MTC) planning. On October 15, 2011 Senator Simitian held a town hall meeting where he discussed a poll that he conducted on cost overruns of high speed rail and his skepticism of the MTC.

Council Member Shepherd reported on Project Safety Net, Developmental Assets which they rolled out to local schools and their campaign to get this out to the community.

Mayor Espinosa asked each Council Member to speak to one or two community groups about the Developmental Assets Program and get these groups to adopt 2-3 assets.

Council Member Klein spoke about Diana Steeples who passed away on October 3, 2011 and was the driving force behind the Senior Coordinating Council. She started the program with the urging of the City Council. The program is now Avenidas, which is the City's response to senior programs.

ADJOURNMENT: The meeting was adjourned at 1:33 A.M. in memory of Diana Steeples who passed away on October 3, 2011.