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October 7, 2002

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ADJOURNMENT: The meeting adjourned at 12:05 a.m.483

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:30 p.m.

PRESENT: Beecham, Burch, Kishimoto, Morton, Mossar, Ojakian

ABSENT: Freeman, Kleinberg, Lytle

SPECIAL MEETING

1. Interview of Candidates for the Planning and Transportation Commission

No action required.

ADJOURNMENT: The meeting adjourned at 7:05 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:10 p.m.

PRESENT: Beecham, Burch, Freeman, Kishimoto, Kleinberg, Lytle
Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Lynn Chiapella, 631 Colorado Avenue, spoke on the need for a Zoning Administrator.

Wei Wang, 3054 Price Court, spoke on the settlement proposal.

Bunny Good, P.O.Box 824, Menlo Park, spoke on teen youth rejects tunnels.

John K. Abraham, 736 Ellsworth Place, spoke regarding the noise ordinance.

SPECIAL ORDERS OF THE DAY

1. Appointment of Candidates to the Architectural Review Board

Mayor Ojakian said there were two seats on the Architectural Review Board (ARB) with three-year terms that needed to be filled. Each candidate required five votes in order to be appointed. There were a total of six candidates.

City Clerk Donna Rogers announced that on the first ballot Drew Maran (with 9 votes) and Susan Eschweiler (with 7 votes) were reappointed/appointed to three-year terms ending September 30, 2005.

Vice Mayor Mossar said it was an incredible pool of applicants for the two seats on the ARB.

CONSENT CALENDAR

Emily Renzel, 1056 Forest, spoke regarding Item No. 5. She supported testing the hydrogen fueling station; however, she had concerns regarding the location of the station at the Sewage Treatment Plant site and addressed Attachment A of staff report (CMR:395:02) Indemnification Agreement, dated 10/2001, paragraph B. (iii) and said it was written in past tense and not in future tense. The Director of Public Works had assured

her the project would go through the proper processes to make its intentions clear in the Indemnification Agreement.

City Attorney Ariel Calonne said he was not aware of any non-city approvals required and called on the Public Works Director to identify any that would be necessary.

Public Works Director Glenn Roberts said he was not aware of any external permits required and reassured that the project would go through all the appropriate review and permitting processes. Since it was a small-prepackaged trailer size unit being placed on site, he felt the processing would be minimal because of the nature of the unit. The Fire and Building Department did not find the unit to be hazardous or unsafe. It still needed to go through the Planning Department for site review and for proper permits.

Vice Mayor Mossar stated she would vote "no" on Item No 2.

Council Member Morton would not participate in Item No. 2 due to a conflict of interest because he was the Founder of Community Skating, Inc.

Council Member Kleinberg would not participate in Item No. 3 due to a potential conflict of interest because her husband's law firm represented Stanford in land use matters.

Vice Mayor Mossar stated she would not participate in Item No. 3 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Freeman requested that Item No. 5 be removed from the Consent Calendar to become Item No. 8A. She also asked why Pacific Gas & Electric, Company (PG&E), Item No. 6, was selected as a sole source and questioned whether other firms had been contacted.

Council Member Beecham stated PG&E was the sole operator of high-pressure gas in the area and had the local resources and expertise.

City Manager Frank Benest said he thought the item had previously gone before Council.

Council Member Freeman said the previous staff report described the item using the same language as the staff report (CMR:384:02) for the selection process.

City Attorney Ariel Calonne requested Council Member Freeman clarify her question. He said the staff report (CMR:384:02) indicated that other firms were contacted but PG&E, by virtue of proximity and specialized training facilities, was justified as the sole source. If Council was not satisfied with this justification, the Purchasing Division could provide additional backup material.

Mayor Ojakian asked how that would affect the process.

Council Member Freeman asked whether it would affect the training time.

Mayor Ojakian said staff was not present to answer the question. He recommended reverting back to the procedure where if an item was removed, Council should indicate such earlier in the day, so that staff could be present to answer any questions.

Mr. Calonne questioned whether the Council was aware that under the Department of Transportation (DOT) regulations, pipeline workers must undergo drug testing and safety certification. He thought that was the basis for the specialty.

Council Member Freeman said she would not ask that the item be removed if she received information on how the sole sourcing was determined and given the names of the other firms that were contacted.

Mr. Calonne said the information requested was available.

Council Member Freeman referred to Item No 7 and asked Mr. Emslie to explain how the figures were calculated as outlined in staff report (CMR:404:02).

Director of Planning and Community Environment Steve Emslie stated the total cost of the contract was \$244,000. Since it was a partnership with the Joint Powers Board (JPB), they did not bill the City for their share of approximately \$35,000, which brought the contract down to \$206,500. This was the budgeted amount because it was the total obligation of the City. There were two reimbursements; one from the Palo Alto Unified School District (PAUSD) of \$18,000 and the other was an internal transfer from the Parking Capital Improvement Program, in the amount of \$18,000 since shuttle service was provided during construction. Once the transfers occurred, they would reimburse the General Fund, and then the total obligation of the General Fund was \$177,000.

MOTION: Council Member Kleinberg moved, seconded by Beecham, to approve Item Nos. 2-4, 6 and 7 on the Consent Calendar.

LEGISLATIVE

2. Ordinance 4762 entitled "Ordinance of the Council of the City of Palo Alto Amending Title 18 (Zoning), Chapter 18.32 (PF Public Facility District Regulations), Section 18.32.070 (Special Conditions), Subsection (A)(2) of the Palo Alto Municipal Code to Modify the Fencing Requirements in the Public Facilities District" (*1st Reading 9/17/02, Passed 7-0, Morton "not participating," Mossar absent*)
3. Ordinance 4763 entitled "Ordinance of the Council of the City of Palo Alto Amending Sections 16.45.050, 16.47.030 and 16.58.030 of the Palo Alto Municipal Code to Create Certain Development Impact Fee Exemptions" (*1st Reading 9/17/02, Passed 7-0, Kleinberg "not participating," Mossar absent*)

ADMINISTRATIVE

4. Report of Williamson Act Contracts with the City of Palo Alto
6. Amendment to Contract No. S2140631 Between the City of Palo Alto and Pacific Gas And Electric Company (PG&E) in the Amount of \$50,000 for Additional Training and Training Consulting Services Mandated by the U.S. Department of Transportation (DOT) Operator Qualification Compliance
7. Contract Extension and Increase in the Expenditure Limit of the Rail Shuttle Bus Service Administration Agreement Between the City of Palo Alto and the Peninsula Corridor Joint Powers Board for the Palo Alto Shuttle Project

MOTION PASSED 7-1 for Item No. 2, Mossar "no," Morton "not participating."

MOTION PASSED 7-0 for Item No. 3, Kleinberg, Mossar "not participating."

MOTION PASSED 9-0 for Item Nos. 4, 6, and 7.

PUBLIC HEARINGS

8. PUBLIC HEARING: The City Council will consider the Draft Phase 2 of the South of Forest (SOFA) Coordinated Area

Plan, including properties in the boundaries of Forest Avenue, Ramona Street, Addison Avenue and Alma Street

~~Resolution of the Council of the City of Palo Alto Certifying the Adequacy of the South of Forest Area Coordinated Area Plan Final EIR as the Environmental Document for the South of Forest Avenue Coordinated Area Plan, Phase 2 and Making Findings Thereon Pursuant to the California Environmental Quality Act~~

~~Resolution of the Council of the City of Palo Alto Amending the Land Use Map of the Palo Alto Comprehensive Plan for the Area Generally Bounded by Alma Street, Forest Avenue, Ramona Street, and Channing Avenue (South of Forest Avenue Coordinated Area Plan, Phase 2) and adding "Coordinated Area Plans" to the Land Use Definitions in the Land Use and Community Design Element of the Comprehensive Plan~~

~~Ordinance of the Council of the City of Palo Alto Adopting the South of Forest Area Coordinated Area Plan, Phase 2 and Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Certain Properties Generally Bounded by Forest Avenue, Ramona Street, Addison Avenue, and Alma Street to South of Forest Area, Phase 2 Districts~~

Council Member Beecham would not participate in the item due to a conflict of interest because he had a former client within a radius of the project.

Vice Mayor Mossar would not participate in the item due to a conflict of interest because she owned property in the affected area.

Council Member Morton would not participate in the item due to a conflict of interest because he had a client within the South of Forest Avenue (SOFA) Plan area.

Council Member Kishimoto said she was the Council liaison to the SOFA Working Group and proposed the recommendation on how to proceed with the process. Due to the size of the SOFA 2 packet and since it had been delivered on Friday, members of public had expressed they did not have enough time to review it properly. Since Council would be coming back to the item in November, she proposed to consider not having public comment and limiting the item to only the staff presentation and Council questions.

Council Member Kleinberg suggested the public hearing not be closed that evening and to also allow the public to speak at that evening's meeting.

Mr. Benest said in regards to the meeting process, staff had suggested that after the presentation all public testimony be taken and to close the public hearing. When the Council returned in November, they could focus on deliberation, discussion, and the final decision. The other alternative was to take the liaison's approach and have public testimony when the item returned to Council.

Council Member Kleinberg wanted to know what the timeline was in terms of a legal deadline to bring the item to a Council vote during the current calendar year.

Senior Assistant City Attorney Wynne Furth said the item was a zoning change, a Comprehensive Plan amendment, and a legislative act. Legally, there was not a permit deadline.

Mr. Benest said the only issue was that staff held off with other developments in the area because Council wanted to look at the big picture prior to deciding on pending applications.

Ms. Furth said any other applications would proceed and be judged on the law in effect at the time they were up for final approval.

Council Member Burch agreed with Council Member Kleinberg to move forward with the item. He said although there was a lot of material received, it was material previously seen. He wanted to hear from the staff, have Council ask questions, and also hear from the public at that evening's meeting.

Council Member Freeman asked whether there would be a legal or time issue if the public hearing were to be left open for public testimony when the item returned to the Council.

Mr. Calonne said there would be no legal issue.

Council Member Lytle asked that the public speak at that evening's meeting in case they were not able to return for the continued hearing. She wanted to get additional information prior to making a decision and would like to have the ability for the public to comment on the additional information. In the past, if the public spoke for a second time, they were restricted to only make comments on the new information.

Council Member Kishimoto said she knew what it was like to wait for hours to speak, so to accommodate the public, she would agree to allow the speakers who wanted to speak that evening to return to speak a second time, asking that they discipline themselves when the item came up in November.

Council Member Kleinberg asked whether the information being requested by Council Member Lytle would change the substance of the proposal.

Mr. Calonne said no.

Council Member Kleinberg said she was not sure everyone who had raised his or her hand totally understood the outcome.

Major Ojakian asked the people who had signed up to speak to indicate if they would prefer to speak that evening or not. If not, their card would be held for when the item returned to the Council.

Council Member Lytle said her intent was to allow people to speak to new information but asked that in the second hearing people restrict themselves to the new information.

Major Ojakian said the question was whether Council wanted to hear public testimony at that evening's meeting and should it be heard again later.

Council Member Kleinberg said she was in agreement as long as she was assured people who spoke at that evening's meeting had the opportunity to speak again on new information.

Mr. Calonne said it was Council's call.

Council Member Burch wanted to know what the new information was that Council Member Lytle was asking for.

Director of Planning and Community Environment Steve Emslie said staff recommended the Council open the public hearing, take public testimony, and continue the public hearing to November 18, 2002. At that time, the discussion would continue and lead to a decision from Council. Staff's objective was to receive Council's request for additional information in order to provide a comprehensive evaluation and to put the background of the SOFA Coordinated Area Plan (CAP) into the right context.

Chief Planning Official Lisa Grote gave an overview and technical summary of the SOFA CAP and the information as outlined in staff report (CMR:410:02) and its attachments.

Planner Dennis Backlund summarized the historic preservation provision of the SOFA CAP. He said the areas covered by the plan were the oldest heritage areas of the City. There were still several structured surviving areas that testified architecturally to the history of the area. Alterations would take place under the Secretary of the Interior Standards that guaranteed the resource would remain as a historic resource upon completion of the project. He also clarified additions to staff report (CMR:410:02) regarding the provision of exceptions in mandating the preservation of historic resources by prohibiting demolition. The goal was to bring the SOFA CAP into conformance with documents that were relevant to the master plan by providing exceptions. The first document was the Secretary of Interiors Standards for Rehabilitation. The Standards stated historic resources would be preserved taking into account technical and economic feasibility. The Standards had a hardship clause that said studies would need to show a hardship existed. The second document was the Historic Resources Ordinance approved in 1980 that stated any significant historic resource should have a provision of the prohibition of demolition and alterations to proceed under the Secretary Standards. The exceptions would be if a building was an extreme safety hazard or if it retained no reasonable economic use. The third documents were ordinances of other cities in the United States. He had not found a case where there was not a provision for exceptions. In addition, he said a correction needed to be made on page 4 of the staff report (CMR:410:02). The historic purposes referred to were not those of the CAP, but rather consistent with the historic purposes of Chapter 16.49.060(a) of the Palo Alto Municipal Code (PAMC).

Council Member Lytle asked if that meant State and National eligible projects were both being treated according to the same exceptions. She wanted to know the difference between National and State, and why they were distinguished in terms of recommendations for exceptions.

Mr. Backlund said the State eligible resources were referred to in PAMC Chapter 16.49.060, which stated that the removal of the resource would not have a significant effect on the achievement of the historic purposes of PAMC Chapter 16.49. The provision was for imminent safety hazard and for economic feasibility.

Council Member Lytle asked what the reason was for treating them according to a lesser standard.

Mr. Backlund said resources eligible for the California Register were considered as historic resources under California Environmental Quality Act (CEQA).

Council Member Kleinberg said the proposal for removal or demolition would be allowable for extreme economic hardship and asked whether that was quantifiable.

Ms. Furth said the Supreme Court set the standards.

Council Member Kleinberg asked if it had any technical guidelines.

Ms. Furth said there was not a formula and it always involved a certain amount of discretion.

Council Member Kishimoto asked whether the historic resources eligible for the State's list of historic places were demolished or relocated due to Council's determination, would that removal have a significant impact on the achievement of the historic purpose, or did it only require specific findings and not an environmental analysis.

Mr. Backlund said in relation to environmental law, any resource determined eligible for the California Register was a resource under California Environmental Quality Act (CEQA) and was reviewed if a discretionary project were occurring on the site. The overall goal of the plan was not to look at demolition but to maintain and preserve resources.

Council Member Kishimoto asked how many properties would be affected. She asked staff for clarification whether a property, eligible for the California Register of Historical Resources list, could be demolished or relocated if it was the Council's determination that the removal would not have a significant impact. She asked if the property would not have to go through the EIR and there would be a specific complex finding. She asked if the finding would be written down where the Council could look at it.

Mr. Backlund said there were approximately 19 areas potentially eligible for the State Register.

Council Freeman said she would feel more comfortable if she knew the parameters of what the Council could or could not do to historic properties in the area.

Ms. Grote gave an overview of the Historic Bonus, Seismic Bonus, Transfer of Development Rights (TDR), Office Limitations, and the review process of historic resources as outlined in staff report (CMR:410:02)

Council Member Burch asked if 75 percent of all structures near or adjacent to an historic building were being modified, would they need to be reviewed by the joint Historic Resources Board (HRB)/Architectural Review Board (ARB).

Ms. Grote said yes. It was a recommendation set by the Working Group, HRB, Planning and Transportation Commission (P&TC) and staff because of the historic nature of the overall area. The ARB recommended a different review process that focused on joint ARB/HRB review for only the historic sites that had historic designation.

Allison Kendall from Freedman, Tung & Bottomley, an urban design firm, gave a presentation on the developed prototypes, as outlined in Attachment 1 of staff report (CMR:410:02). Prototypes were created for the projects that could be built using the development standards and design guidelines that had been considered.

Matt Kota, Bay Area Economics, gave a presentation on the economic analysis conducted on the development standards in the Working Group Plan, using Freedman, Tung & Bottomley prototypes as the basis for the analysis, as outlined in Attachment J of staff report (CMR:410:02).

Council Member Kleinberg noted a typographical error in staff report (CMR:410:02) page 13. She said the allowable Floor Area Ratio (FAR) in the SOFA 2 area should be 1.5 and not 1.1.5.

RECESS: 9:28 p.m. to 9:40 p.m.

Larry Hasset, Chair of the Working Group, said the SOFA 2 Working Group Plan provided a comprehensive guide for new development in the area. It achieved all the goals directed by Council in 1997. He urged Council not to discard the Comprehensive Plan (Comp Plan) and cautioned changing specifics within the Plan that might impact other parts. He asked Council to have the same continued dialogue with the Working Group members as with staff on their alternative recommendations.

Planning and Transportation Commissioner Phyllis Cassel said the Planning and Transportation Commission (PT&C) received the Working Group recommendation report and was asked to review the report to make recommendations and resolve areas of differences between the staff report and Working Group. There were some differences; however, both reports were basically the same. The differences between the two plans were primarily found within the Development Standards section of the documents

(Chapter 5 of each document). The differences included: Floor Area Ratio (FAR); height; parking standards; type of office limitations; whether planned community (PC) zones should be allowed; and how to address nonconforming uses.

Council Member Kishimoto said the Council was entering the critical last segment of two years of hard work on the SOFA Coordinated Area Plan (CAP) Phase 2. She had joined the Working Group at the end of Phase 1 where it was decided there was a need for a unified vision to guide Palo Alto's future land use decisions. She felt there was a high degree of frustration and distrust, and the Council needed to learn from the mistakes made in Phase 1. The next two months were critical to the process, and it was important not to rush the last step. The Council was being asked to weigh several issues: 1) the number of new housing units versus, or combined with, consideration of the infrastructure or services; 2) controlling the rate of change or development; 3) density, heights, and Planned Community (PC) developments, which brought about fear regarding traffic, impact on the neighborhood streets, massing, and too much building. As Council liaison, she asked that the ARB review the staff recommended version. The Council owed it to the neighborhood as well as developers to evaluate how it all worked together and how it interfaced with existing zoning.

Mayor Ojakian declared the Public Hearing open at 10:05 p.m.

David Bubenik, 420 Homer Avenue, recommended the joint plan worked on between City staff and the Working Group be reviewed by the PT&C. He felt there should be one plan and suggested the joint plan be brought to Council for consideration.

Harold Justman, 828 Ramona Street, said zoning plans are about social relationships that improved the neighborhood. Zoning laws should be founded on democratic principles.

Mary Smitheram-Sheldon, Sedway Group, 505 Montgomery Street, Suite 600, San Francisco, said the Sedway Group was a real estate and urban economic consulting firm retained by Palo Alto High Street Partners to review the economic analysis of the SOFA 2 Plan prepared by Bay Area Economics.

Mark Sabin, Palo Alto Chamber of Commerce, said he was concerned the proposed SOFA 2 Plan acted as a precursor to specific zoning plans for other sensitive areas in the City. The proposed SOFA 2 Plan took four plus years to complete. The Chamber felt the Citywide zoning ordinance amendments, as dictated by the adoption of the 1996 Comprehensive Plan update, were the proper way to insure the application of zoning

regulations throughout the City. He said there were several opinions throughout the community regarding the SOFA 2 Plan and encouraged Council and community members to contact the Chamber regarding the positions outlined in the October 1, 2002, letter included in the packet.

Heather Trossman, Palo Alto Chamber of Commerce, felt the proposed regulations needed modification in order to address several areas of concern. The Board was concerned about financial feasibility shortfalls described in the economic analysis studies prepared by BAE and Sedway Group. Both studies showed shortfalls in residual land values occurring in a variety of projects with a variety of P&TC proposed densities and land cost assumptions. She felt the projected shortfalls required further consideration.

Tracy Hutchison, Palo Alto Chamber of Commerce, spoke regarding issues on commercial use such as parking and traffic concerns, as outlined in a letter to Council dated October 1, 2002.

Steve Pierce, 209 Cowper Street, spoke regarding housing FAR with respect to retail and office issues.

Sally Probst, 735 Coastland Drive, spoke regarding the SOFA 2 Plan, which requirements were too restrictive. She said the City needed more low-income residential units and more attainable housing. The Working Group version of the SOFA 2 Plan had FAR's too low, parking too high and density too low. If the City wanted housing, mixed use, locations near transits, they should not adopt the proposed SOFA 2 Plan without a number of modifications.

Janet Stone, representing Greenbelt Alliance, 530 Bush Street, San Francisco, said she was in full support of the SOFA 2 Plan. She spoke regarding issues on FAR such as residential densities and parking. She said the FAR restrictions for the Planned Community (PC) districts were counterproductive to achieving the transit-oriented higher density housing for the area. Although the allowable FAR was greater than the base RT-35, it was insufficient in promoting higher density residential or residential mixed-used development. The density limitations discouraged building smaller, more affordable units. If Council decided to employ FAR requirements, she suggested the use of standards that made transit-oriented developments economically feasible.

Curtis Peterson, 909 Alma Street, said if Palo Alto wanted housing in the SOFA 2 they needed to retain the current PC

zoning without additional limits or needed to increase the FAR density limits in the SOFA 2 proposals.

Doug Ross, 909 Alma Street, said Council had identified housing as one of the Top 5 priorities. If housing is a major problem, why did the Working Group and the P&TC recommend reduced density stipulations in the current Comp Plan.

Woody Gontina, 901 Alma Street, said the SOFA 2 Plan prevented many projects from moving forward. It had been nearly a year that the 800 High Street project had languished due to SOFA 2. He asked Council to no longer let SOFA 2 stifle growth in an area supportive of projects such as 800 High Street. He asked Council to try and achieve the housing goals by allowing responsible, higher density, transit-oriented projects like 800 High Street to move forward.

Susan Russell, 744 Los Altos Avenue, Los Altos, said it was important to keep the PC option. To restrict the FAR and density on a site that could provide affordable house was a mistake. She suggested for a public-owned site that the City could have selected a non-profit developer through a Request for Proposal (RFP) process and work with the developer to find the best project for the site.

Paul Kelleher, 426 Homer Avenue, supported the plan developed by the Working Group. He spoke regarding higher density in the proximity of the transit hub and the Working Group being dominated by neighborhood representatives.

City Manager Frank Benest suggested Council submit to the Director of Planning and Community Environment Steve Emslie questions that could be responded to, and he proposed that all answers be given to Council for review prior to the next hearing of November 18, 2002.

Ms. Furth clarified all questions and answers submitted would be included in the response packet so the public and Council would know the source of the questions and concerns.

Mayor Ojakian asked whether there should be a motion to continue the public hearing to November 18, 2002.

Ms. Furth said that would be appropriate and to set a certain date.

MOTION: Council Member Lytle moved, seconded by Burch, to continue the item to the November 18, 2002, regular City Council meeting.

MOTION PASSED 6-0, Beecham, Morton, Mossar "not participating."

Council Member Burch said he understood that Council would be getting the questions and answers back but questioned the request for data.

Mr. Benest said if there was a request for data that needed additional work or analysis, particularly if it involved a consultant, staff would need to give feedback to Council on the cost.

Mayor Ojakian said the City Manager would like to hear that evening what additional data was needed so the Council could be given advance notice if a cost factor was involved.

Mr. Benest said most of the data would likely be generated through the questions, but if more economic analysis were required, it would require funds.

Council Member Freeman clarified the questions, answers, and responses would be included in the Council packet generated prior to the next public hearing.

Mr. Benest said the questions would be consolidated.

Ms. Furth said questions should be submitted in a form to be viewed as a public document.

Major Ojakian said questions and responses would come a week in advance.

Council Member Lytle requested further policy analysis regarding the pros and cons of the reduced parking and addressed the issue of a two-way street conversion on Homer and Channing avenues. She asked for an explanation on zoning regarding lines being drawn behind parcels or down the middle of street lines. She questioned the Public Facility (PF) rezoning in the P&TC recommendation that shifted from a PF site to a housing site. She asked what evaluation was done on all potential future uses of PF sites, and why public use was changed to a private use. She wanted a description of the joint HRB/ARB process in terms of its undefined status in the document. She questioned the pros and cons of the efficiency versus not having the same standards and leaving it to an administrative decision. She asked whether there was a way of getting the efficiencies but still having a defined process in order to gain the community's trust with the process being described.

Mr. Benest said unless there was something different on Council Member Lytle's list, basically she was asking staff to respond to policy questions and concerns that were not data issues.

Council Member Lytle said an item that might require additional calculations of cost would be getting a three-dimensional model to illustrate those differences in the recommendations.

Mr. Benest said he would find out what the time and cost would be and would let Council know.

Mr. Emslie said Freedman, Tung & Bottomley had done most of the work and could explore what it would take to complete the study.

Council Member Lytle said that would be helpful. The last thing would be to build off of the Chamber chart and add existing zoning to compare what was in place and to add carrying capacity information to the chart, such as population capacity, jobs, parking needs, school enrollment capacity, and childcare capacity issues.

Mr. Benest asked what carrying capacity issues staff needed to review.

Council Member Kishimoto said she was going to submit her questions electronically. She wanted to bring up the review issue and questioned whether the new staff recommendations and the historic issues should go back to the P&TC or HRB, which boards or commissions should review, and if it would be helpful for the ARB to review. She questioned how the Council would be able to reach an agreement on a large mixture of options and on 40 different parameters.

Major Ojakian said since there was only six participants, it would take five votes to pass on whatever Council ultimately decided.

Council Member Burch asked if Council were short of a majority would there be a lottery to bring more Council in to vote.

Ms. Furth said that was correct.

Council Member Kishimoto asked whether some type of structure should be in place prior to the next meeting.

Major Ojakian said a timeline would be set within the upcoming week of when questions needed to be submitted. He would work

with the City Manager to compile issues so Council could focus on what needed to be voted on.

Council Member Kleinberg said if all the items were going to be added, it would be wise to get all of the boards/commissions involved for guidance on these issues. She asked that the Commissioners look at what carrying capacity meant in terms of the process and to add the housing requirements and legal issues to this mix.

Ms. Furth advised that when asking questions to keep in mind that it was a small area. It was nine blocks and 18 acres and almost all developed. The Council needed to be specific in stating concerns.

Mr. Benest said to be very specific regarding what needed to be taken back to a certain board/ commission. It would be helpful in establishing a timeframe of how long the process would take.

Council Member Kleinberg said Council's first responsibility was to do the process correctly for the neighborhood and residents of the area. She asked for more time so that the Commissions could review all new issues and get public response.

Council Member Freeman said since the issue was a very big and important decision, Council needed the time to listen to the development community, neighborhood, consultants, and staff. The Comp Plan Program states a requirement to assess school impacts prior to approval of development projects that required legislative acts, including general plan amendments and zoning changes. She wanted to see the School Board's input on these issues and asked where the children would go to school when high-density housing was developed.

Mayor Ojakian asked staff to put in a monitoring device so whatever was put in place, Council would be able to gauge its effect. That would give future Councils the opportunity to be aware of what happened and able to react if something needed to be changed.

Council Member Burch said he understood the economic analysis was based on dollar amounts far less than what it was at the present time and requested that the analysis be reconfigured on the current values.

Council Member Lytle clarified when she requested the chart and use of the term carrying capacity, it was to use the same population generation numbers and the job ratios used in the

projects and to apply them to the zoning proposal and the existing zoning. She said when properties were zoned, a capacity for growth was being set. The Comp Plan and current zoning established one set of potential growth figures and as zones changed the figures changed. She wanted to know how these figures were being modified.

Mayor Ojakian said the hearing was continued to November 18, 2002. The people who were not able to speak at that evening's meeting would be able to speak on November 18th. Council Members were to submit their questions to staff by October 17, 2002.

Mr. Benest said staff would let Council know when the item needed to be scheduled back to boards and commissions to obtain the information required. Staff would require a certain period of time to get Council's questions and respond to them. Then a meeting would need to be scheduled with the boards/commissions for feedback, incorporate their feedback, and report back to Council. A follow up meeting would need to be scheduled.

MOTION: Council Member Kleinberg moved, seconded by Freeman, that the City Manager schedule meetings of boards and commissions that had already reviewed the SOFA 2 plans for their quick consideration and evaluation of any new information and data.

Mr. Benest said anyone outside of the commissions wishing to comment on questions and responses would need to do that at the Commission's public hearing.

Council Member Freeman said, in order to avoid longer delays, meetings should be scheduled as quickly as possible.

Council Member Kishimoto advised when new issues were being presented to the Boards and Commissions, the ARB should study massing and the P&TC version, and that the HRB should study the implications of the new staff recommendations and the tension between the historic preservation policies and the FAR development standard.

Mr. Benest said staff had completed their work and will have the opportunity to present feedback in the upcoming hearings.

Mayor Ojakian said Council Member Kishimoto's comments were directed more toward the ARB.

Council Member Kleinberg did not accept Council Member Kishimoto's comments as a friendly amendment since they were so

different from her motion. She requested a small amount of review and to have it done as efficiently and quickly as possible.

Council Member Lytle encouraged her colleagues to expedite the process and have the board/commissions review the new issues as quickly as possible.

Council Member Freeman asked if questions were submitted within two days would staff be able to determine which questions would go to which board or commission.

Ms. Furth said it would need to be agendized.

MOTION PASSED 4-2, Burch, Ojakian "no."

Mr. Benest urged Council to get their questions in by the October 11, 2002, and staff would determine how long it would take to respond. A timeline was developed for presenting them to the various boards/commissions, which were the ARB, HRB, and P&TC.

Council Member Freeman wanted to make everyone aware that was the proper process. Council received recommendations from boards/commissions or working groups. Council listened to the staff reports and asked questions. If questions needed to be addressed, they would need to go back to the appropriate board/commissions since Council asked for their input.

8A. (Old Item No. 5) Approval to Join the California Fuel Cell Partnership at the Associate Partner Level in Order for the City of Palo Alto to Host a Test and Demonstration Hydrogen Fueling Station

Council Member Lytle wanted assurance from staff that the Site and Design process would be followed for a minor change. She said there was a process for minor Site and Design in an Ordinance. It was an advertisement referring to the Architectural Review Board (ARB) where people could appeal the full process and was outlined in the Palo Alto Municipal Code (PAMC). In the past, there was confusion as to whether staff could do that without the advertisement in the ARB review. It was not permitted in the PAMC, and she wanted to make sure it received ARB and public notification.

Director of Public Works Glenn Roberts said they would work through the Planning Department and follow the process.

MOTION: Council Member Lytle moved to continue the item.

MOTION FAILED FOR LACK OF A SECOND

City Manager Frank Benest assured Council staff would follow the process.

Council Member Lytle said a statement was made that the environmental review was categorically exempt and it would have been helpful to see a checklist of what was considered in that determination. Should the item require a public hearing, people would know that it had been evaluated.

Mr. Roberts said information would be provided as part of the review process but as far as being located in a sensitive habitat, it would be located on top of existing pavement in the interior of the existing Regional Water Quality Control Plant (RWQCP) where there were other processes going on.

Council Member Lytle said it was a water quality control plant and viewed as particularly sensitive. She wanted to make sure the water was protected from having any type of contamination near it.

Major Ojakian asked if her questions had been answered.

Council Member Lytle said she wanted information from the City Attorney and a report back to the Council. She said the confusion was about the site and design process. Each time an application went to the Baylands where there was an overlay, staff was vague about the process and negotiation always took place as to whether to go to the ARB, to do a full Planning and Transportation (P&TC) review, or to have it reviewed at staff level.

Major Ojakian said Mr. Roberts had explained how that particular project was being developed and was satisfied given the fact it was something within the confines of the existing plant.

MOTION: Council Member Burch moved, seconded by Ojakian, to approve and authorize the Mayor to execute the attached Indemnification Agreement, Confidentiality Agreement, California Fuel Cell Partnership Safety Management Statement of Principles, and the California Fuel Cell Project Statement of Intent with the California Fuel Cell Partnership, making the City of Palo Alto an Associate Partner in the consortium.

Council Member Freeman said she thought the resource impact verbiage was vague where it stated "about \$500 a year." she wanted more certainty.

Mr. Roberts said the \$500 a year was an estimate for minimal consumptions of water and electricity.

Council Member Freeman asked whether it would be okay at \$500 a year.

Mr. Roberts said yes.

Council Member Freeman asked what the scope was of the Associate Partner level. She said the Associate Partner level was clearly described in the staff report (CMR:395:02), but it did not describe what Associate Partner level meant as a member of the group.

Mr. Roberts said they were a non-voting member of the consortium and would provide a host site for a fueling facility. There were no other responsibilities or obligations.

Council Member Freeman asked if the City was provided with cars.

Mr. Roberts said not at that stage. The agreement only guaranteed a host station through 2003 and provided opportunity for the future in 2004 and 2005 to be fleet users, yet to be developed contingent upon the manufacturer's determination.

Council Member Freeman asked whether the City would have a fueling station with nothing to fill.

Mr. Roberts said there would be usage during 2003 by the manufacturers running their prototype test vehicles in Northern California for developmental purposes and the vehicles would be fueled at our fueling site. Anything beyond 2003 was to be determined by the voting members of the partnership including the California Resources Board.

Council Member Freeman asked if there were any safety issues regarding the fueling station.

Mr. Roberts said the Fire Department was informed of the material. The material was reviewed for all compliance with the hazardous material codes and fire safety. The conclusion was it had the same degree of risk as at the Municipal Service Center (MSC) for natural compressed vehicle fueling. In regard to the site location, they found it was at a much lower risk potential than the other chemicals and processes located at the RWQCP. In reviewing the project with the Real Estate Department and Utilities, it was determined that was the best location for the fueling station.

Council Member Burch asked if this item could be continued since more detailed information was required.

Mr. Roberts said the fuel consortium would be meeting at the end of the month to review the program and had requested a response from Palo Alto as to whether or not this site would be available. He said we could risk losing the opportunity if it were delayed.

Council Member Freeman said she did not want to be in a position where there was an opportunity for an environmentally friendly solution. The goal was to ensure that all safety angles were covered.

SUBSTITUTE MOTION: Council Member Lytle moved to continue the item for one week to get a report from the City Attorney as to what review process it would receive out of the Site and Design Ordinance before taking a vote, and what kind of environmental backup there would be for that process.

MOTION FAILED FOR LACK OF A SECOND

Mr. Benest said Mr. Roberts had been handling the project and would be on vacation the next week.

Council Member Lytle said Mr. Roberts had answered the question but additional information was needed from the City Attorney.

Council Member Freeman asked whether they could move forward with this item and direct the City Attorney to respond.

Mr. Benest suggested that if Council wanted to undertake the effort as part of the City's commitment to environmental management and new technologies, he proposed Council consider and vote on it that evening. Within a week staff would report back to the Council stating what the PAMC actually required and the implications for the project in terms of site and design.

Ms. Furth said it would take five votes for approval.

Council Member Lytle asked to hear from speaker Emily Renzel prior to voting.

Emily Renzel, 1056 Forest Avenue, said a simple solution would have been if the contract stated to join without site specification. The motion would be to approve the contract but expect normal City process to apply to the land use.

MOTION PASSED 5-0, Beecham, Kleinberg, Morton, Mossar absent.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman presented a gift from Niihari, Japan to the City of Palo Alto.

Mayor Ojakian announced a proclamation for "Young Adolescent Month."

ADJOURNMENT: The meeting adjourned at 12:05 a.m.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.