

Special Meeting  
February 14, 2005

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ADJOURNMENT: The meeting adjourned at 10:55 p.m. .... 15

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:45 p.m.

PRESENT: Beecham (arrived 6:50 p.m.), Burch, Cordell, Freeman, Kishimoto, Kleinberg (arrived 6:59 p.m.), Morton, Mossar, Ojakian

#### SPECIAL ORDERS OF THE DAY

Mayor Burch announced Item No. 1 would follow Item No. 2 to become Item No. 2A.

2. Resolution 8500 entitled "Resolution Expressing Appreciation to Thomas Wyman for Outstanding Public Service as a Member of the Library Advisory Commission"

**MOTION:** Council Member Ojakian moved, seconded by Morton, to adopt the resolution.

**MOTION PASSED** 7-0, Kleinberg, Beecham absent.

Tom Wyman said neighborhood libraries were an important part of the Palo Alto community.

Council Member Kishimoto said Mr. Wyman had a huge impact on the Palo Alto community. He was instrumental in initiating the Library Advisory Commission, was a member of the Historic Society, wrote about the history of the libraries, and had worked tirelessly with the Friends of the Library.

Council Member Freeman said Mr. Wyman was a pillar of the community and he would continue to help the community, which he loved.

- 2A. (Old Item No. 1) Resolution 8501 entitled "Resolution Expressing Appreciation to Captain Torin Fischer Upon His Retirement"

**MOTION:** Council Member Beecham moved, seconded by Morton, to adopt the resolution.

**MOTION PASSED** 9-0.

Police Chief Lynne Johnson said for the past five years, the Police Department had developed a relationship with the Palo Alto Unified School District due to Captain Fischer's willingness to work with the schools.

Council Member Kishimoto said the schools had expressed their appreciation.

Council Member Ojakian said he respected Captain Fischer as a fine officer and a good person.

Vice Mayor Kleinberg said Captain Fischer was an advocate for children, families, and the community.

Council Member Freeman said she appreciated Captain Fischer's ability to listen and to make changes when possible.

Mayor Burch said he appreciated Captain Fischer's accomplishments with the Off the Streets Team who helped find answers for the unhoused people in the community.

Captain Torin Fischer said individuals who mentored, directed him, and allowed him to grow helped his accomplishments. He was a product of the environment of the City of Palo Alto and its leadership. He thanked everyone who contributed to his growth and development.

Mayor Burch read from the City Council's procedures that the presiding officer at the Council meetings was legally required to preserve strict order and decorum. He stated no individual's First Amendment Rights had been denied at the February 7, 2005 Council meeting.

#### ORAL COMMUNICATIONS

M. Christine Kloeti, P.O. Box 754, spoke regarding police brutality.

Rich Shapiro, Redwood City, spoke regarding free speech.

Herb Borock, P.O. Box 632, spoke regarding temporary construction trailers in Foothills Park.

Dorothy Bender spoke regarding the conflict of interest with the Mayfield Agreement and Council Member Ojakian.

City Manager Frank Benest stated the Stanford Liaison Committee did not have a role in negotiating the Mayfield Agreement.

Joy Ogawa, Yale Street, spoke regarding the City Attorney's memo and the conflict of interest issue concerning the Mayfield Agreement and Council Member Ojakian.

Bob Moss, 4010 Orme Street, spoke regarding civility at council meetings.

Norm Carroll, 425 High Street, spoke regarding a conflict of meetings with similar agendas scheduled for the same evening.

#### CONSENT CALENDAR

**MOTION:** Council Member Morton moved, seconded by Ojakian, to continue Item No. 3 to a date uncertain at the request of staff.

**MOTION PASSED** 8-0, Beecham absent.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve Consent Calendar Item Nos. 4 and 5.

**MOTION PASSED** 9-0.

#### ADMINISTRATIVE

3. Approval of a Utilities Enterprise Fund Contract with D'Arcy & Harty Construction Incorporated in the Amount of \$2,831,312 for Project 16 Sanitary Sewer Rehabilitation *(Item pulled at the request of staff)*
4. Approval of a Contract with Spencon Construction, Inc. in the Amount of \$614,612 for FY 2004-2005 Sidewalk Replacement Phase 2 Project
5. Request Council Approval for Shuttle Program Donations Campaign

**MOTION PASSED** 9-0.

#### UNFINISHED BUSINESS

6. Environmental Services Center (ESC)
  - a) Responses to City Auditor's Review of Environmental Services Center Proposal

**No action required.**

- b) Acceptance of City Auditor's Review of Environmental Services Center Proposal
- c) Proposal to Add Two Additional Environmental Services Center Alternatives (an 8-Acre Facility and a 13.7-Acre Facility) for Consideration in Award of Contract with EIP Associates for an Environmental Impact Report and Cost Benefit Analysis for a Total Not to Exceed the Amount of \$466,407

Director of Public Works Glenn Roberts said the issue was the future of the solid waste refuse and recycling programs. The public and the City Council had concerns about the impact on the Baylands and the amount of acreage involved.

Assistant Public Works Director Mike Sartor reviewed the presentation materials from November 15, 2004. He spoke about the proposed additional alternatives to the Environmental Impact Report (EIR).

Mr. Roberts said the EIR alternatives would be studied. A matrix had been prepared, which showed the comparison of the alternatives and the different program components included. Staff recommended all alternatives be studied and all the information obtained prior to making a decision.

City Auditor Sharon Erickson said the Auditor's Office had been asked to independently review the financial implications of the ESC proposal. The report identified several land use issues and less expensive options. Because no action was taken on the report, Council was being asked to accept the report that evening. Acceptance of the Audit Report and the recommendations in it would not preclude the Council from taking action on an EIR that evening.

Walt Hays, Parkside Drive, said an EIR needed to be completed to look at other sites prior to making a decision on the ESC.

John K. Abraham, 736 Ellsworth Place, said the ESC project had potential noise issues.

Ed Freiberg, 726 E. Charleston Road, said future generations were owed parkland by the Bay and the Baylands should not be used otherwise.

Clark Akatiff, 105 Rinconada, said the ESC project needed to be scaled down.

ACTERRA Executive Director Michael Closson, 354 Poe Street, said ACTERRA he did not feel it was the best time for the City to undertake an EIR on the proposed Environmental Services Center.

Mary Carlstead, 147 Walter Hays Drive, said the EIR and cost analysis should not be performed.

Paul Losch, Lincoln Avenue, said there were differences of opinion and analysis regarding the ESC proposal.

David Bubenik, 420 Homer Avenue, said the proposed ESC was an industrial sized building.

Council Member Mossar asked where Mr. Bubenik had acquired the proposed building drawings.

David Bubenik said the drawings were from a 1999 Brown, Vence and Associates (BVA) study.

Arthur Keller, 3881 Corina Way, said there were alternatives to an ESC facility and agreed with the City Auditor that the cost effectiveness should be evaluated prior to implementing an EIR.

Robert Moss, 4010 Orme Drive, said the scope of the EIR should be narrowed.

Karen White, 146 Walter Hays Drive, said Byxbee Park should be restored to parkland.

Annette Glanckopf, 2747 Bryant Street, said City funds should not be prematurely spent on an EIR.

Gere McGilvray, 2533 Middlefield Road, said the Baylands should be preserved.

Herb Borock, P.O. Box 632, inquired about the recommendations from staff five years prior to initiate annexation of the Los Altos Treatment Plan.

Emily Renzel, 1056 Forest Avenue, said an EIR should be performed only after the decision was made to do a project.

Betsy Allyn, 4186 Willmar Drive, spoke about individuals who had spent their lives preserving the land by San Francisco Bay.

Wayne Swan, 240 Kellogg Avenue, said additional analysis of needs, size, and functions would help provide the preferred alternative.

Tom Jordan, 474 Churchill Avenue, said an EIR should not be authorized until a cost benefit analysis was completed.

Edie Keating, 3553 Alma Street, #5, said a noisy facility should not be built on the parkland.

Libby Lucas said the esthetics and environmental impacts should be considered for the long term.

**MOTION:** Council Member Kishimoto moved, seconded by Cordell, to adopt all of the City Auditor's recommendations of February 14, 2005.

Council Member Beecham said there was no economic advantage to the City operating an Environmental Service Center.

**SUBSTITUTE MOTION:** Council Member Beecham moved, seconded by Council Member Cordell, to stop the project to consider an Environmental Services Center in the Baylands.

Vice Mayor Kleinberg asked for clarification of the substitute motion.

Council Member Beecham said if the motion were to pass, the Auditor's Report would be irrelevant because the project would not go forward. The motion was to completely stop the project.

Council Member Cordell asked for clarification of the project.

Council Member Beecham said the project was consideration of a future recycling facility at the current landfill. To stop the project meant when the current landfill operation was closed, it would become a park.

Council Member Mossar said she was reluctant to jettison recycling from the community.

Council Member Morton said an important part of being a responsible member of the world community was to deal with waste. An EIR would provide information about alternatives.

Council Member Kishimoto said she had four motions: 1) prior to an EIR, adopt the Auditor's recommendations with a cost benefit analysis; 2) decline an EIR; 3) establish a policy to close the landfill by 2011; and 4) analyze grading aspects.

City Attorney Gary Baum said by Robert's Rules and the Council's own rules, Council Members needed to speak to the substitute motion not the original motion.

Council Member Ojakian asked whether continuing a transfer station at Byxbee Park required undedication of parkland.

Mr. Roberts said the transfer station would be implemented after 2021 if an agreement with Sunnyvale were not attained.

Council Member Ojakian asked whether Mr. Roberts was speaking about the 1.58 acres.

Mr. Roberts confirmed.

Council Member Ojakian said the 1.5 acres would not be needed until 2021.

Mr. Roberts said the land needed to be preserved.

Council Member Ojakian stated some parkland would need to be undedicated.

Mr. Roberts confirmed.

Council Member Ojakian asked the City Auditor for the impact to the General Fund if the motion passed.

City Auditor Sharon Erickson said the Refuse Fund currently transferred \$4.3 million per year to the General Fund for rent of 47 acres of active landfill; the agreement ended in 2011, but one half the rent continued through 2013/2014.

Council Member Ojakian asked whether funds would pass into the General Fund if operation were continued.

Ms. Erickson said rent of \$100,000 an acre per year was paid by the Enterprise Funds who used City-owned land.

Council Member Ojakian said, in 1996, the facility at the Los Altos Treatment Plant was discussed.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct staff to study zero waste and recycling goals, and return to Council with options, strategies, cost benefit analyses, and policy recommendations to further these goals.

Council Member Freeman said she was in favor of recycling and preserving parklands. She asked whether Vice Mayor Kleinberg's amendment to the motion eliminated anything being discussed.

Mr. Baum said the substitute motion was an amendment.

Council Member Beecham said Vice Mayor Kleinberg had suggested a friendly amendment. The maker of the substitute motion had accepted it.

Council Member Freeman asked whether there was funding for the studies and inquired about the location of the other sites.

Council Member Beecham said he supported recycling and zero waste.

Mayor Burch said it was important to solve the problem of waste for the second half of the century.

Council Member Kishimoto said she wanted to make an amendment to the substitute motion.

Mr. Baum said the Council's rules would not allow amending an amendment to an amendment.

Mayor Burch asked whether the substitute motion could be voted on with the one amendment.

Mr. Baum said a substitute motion or an amendment could be amended once.

**SUBSTITUTE MOTION PASSED** 5-4, Morton, Burch, Ojakian, Freeman no.

City Manager Frank Benest said staff should develop a work plan from the motion, ensuring staff understood what the Council wanted, how it should be completed, and the cost.



Mayor Burch concurred.

Council Member Kishimoto said the recommendations from the City Auditor regarding the grading and Baylands plan were useful.

Mr. Baum said the Council should accept the City Auditor's Report.

**MOTION:** Council Member Cordell moved, seconded by Beecham, to accept the City Auditor's recommendations, as contained in the November 2004 review of the Environmental Service Center proposal.

**MOTION PASSED 9-0.**

RECESS: 9:40 p.m. to 9:48 p.m.

### COUNCIL MATTERS

7. Colleagues Memo from Vice Mayor Kleinberg and Council Member Mossar Reporting Back to Council on Potential Grant Monies Available for the Purchase of the Peninsula Open Space Trust Arastradero Gateway Property for Open Space Preservation

Council Member Mossar said the California Coastal Commission Conservancy and the Santa Clara County Parks Charter Funds had each pledged \$1,000,000; the goal was \$3,600,000.

**MOTION:** Council Member Mossar moved, seconded by Kleinberg, to direct staff to provide information to the Council about possible trail alignments, consistent with the Comprehensive Plan, to satisfy the critical pedestrian trail connections that would link the trailhead at the Gateway property to the San Francisco Ridge Trail. Because of the urgency of these funding opportunities with the Santa Clara County and Coastal Conservancy to provide a significant portion of the acquisition amount, we ask that the Council agendaize a discussion and possible action on a funding agreement as soon as possible.

Vice Mayor Kleinberg acknowledged the efforts of Council Member Mossar, Assistant City Manager Emily Harrison, City Manager Frank Benest, and Open Space and Science Division Manager Gregg Betts.

Council Member Morton asked whether the trail alignment would give access to parts of Foothills Park.

Council Member Mossar said the trail alignment was the subject for discussion.

Council Member Morton said staff would be requested to return with comments on the feasibility of opening some of the Foothills Park trails.

Council Member Mossar said the trail alignments provided connectivity from the Bay to the ridgeline and from Santa Clara into San Mateo County.

Council Member Morton questioned whether the trail connectivity was pedestrian and equestrian.

Council Member Mossar said it was pedestrian connectivity.

Herb Borock, P.O. Box 632, said agendas had not indicated that funds requested from the Coastal Conservancy for land purchase would be used for trails.

Council Member Mossar said the funds were not available unless the public agrees on pedestrian only trail inter-connectivity.

City Attorney Gary Baum said there had not been a Brown Act violation from the agenda.

Council Member Freeman asked whether the "residents only" admission policy for Foothills Park would be discussed on future agendas.

Council Member Mossar confirmed.

**MOTION PASSED 9-0.**

8. Colleagues Memo from Mayor Burch, Council Member Beecham and Council Member Cordell Regarding Analysis of California Avenue Site as Alternative to Civic Center for New Police Building

Mayor Burch said staff was asked to review the item again in order to make the best financial decision prior to building the new Police Building, as a branch onto City Hall.

Margot Goldberg, 159 California Avenue, said she had concerns about construction noise, traffic and parking.

Terry Shucat, 290 California Avenue, said the California Avenue Area Association was opposed to building a new police facility on the existing parking lots.

Wayne Swan, 240 Kellogg Avenue, said a Redevelopment Agency should be established for South Palo Alto.

Ronna Devincenzi, 2600 El Camino Real, said 97 percent of the merchants in

the California Avenue district signed a petition opposing the new police building to be built on the parking lots.

Sanford Forte, 280 College Avenue, said dual use of the new building should be considered.

Arthur Keller, 3881 Corina Way, said re-use of building space should be considered.

Herb Borock, P.O. Box 632, said the police should be as close as possible to its civilian oversight.

**MOTION:** Mayor Burch moved, seconded by Cordell, to direct staff to bring back more information on the California Avenue site. That information should include:

- Comparison of the pros and cons of the California site, compared to the Civic Center site, including temporary and ongoing costs.
- Analysis of issues raised by California Avenue merchants regarding surface parking and disruption to businesses during construction.

Council Member Beecham said, if passed, there should be a full discussion about construction noise and impacts.

Council Member Morton stated he would not participate due to a conflict of interest because his office was located on Sherman Avenue.

Council Member Morton left the meeting at 10:25 p.m.

Council Member Freeman asked for the square footage of the current police facility.

Assistant City Manager Harrison said she believed it was approximately 20,000 square feet.

Council Member Freeman said the City's government offices should be constrained to a smaller capacity rather than increased. She asked whether any approved funds had been spent on the new police building design.

Ms. Harrison said staff would need to return with a Budget Amendment Ordinance to continue with a conceptual design.

Council Member Freeman said the use of the current Police Department's square footage should be considered.

Council Member Kishimoto asked about the study, which indicated the California Avenue location as the most expensive site to build a new police facility.

Ms. Harrison said the California Avenue option was somewhat the same cost as the Civic Center option without the disruption.

Mayor Burch said Council wanted to be informed of everything that was involved.

Council Member Kishimoto said there was an obligation to improve the quality of the development as it was urbanized.

Ms. Harrison said methods to maximize the current parking and on-street parking would be addressed to minimize the merchant's concerns.

Council Member Ojakian said, in 1999, the California Avenue option was dismissed because it was the most expensive.

Ms. Harrison said the original cost feasibility study was not a detailed study on ten sites.

Council Member Ojakian asked why the other options in the report had not been considered.

Ms. Harrison said the other site options had been reviewed.

Council Member Ojakian asked about the funding for all of the options.

Ms. Harrison said it would be same for City Hall as well as the California Avenue option.

Council Member Ojakian asked what that funding was and said he had concerns about the possibility that funds would need to be raised.

Council Member Cordell said the proximity of a police building close to the courthouse and to California Avenue was advantageous.

Vice Mayor Kleinberg said other sites and joint development possibilities should be explored.

Mayor Burch said the Council had voted to proceed with concept and design on the California Avenue site.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** consideration of adding in the study of the County Mental Health building connected to the Court House.

Council Member Kishimoto asked what had changed since the last City Manager's Report (CMR).

Ms. Harrison said staff was concerned about the Council's discussion regarding the need to exceed the 50-foot height limit for the Civic Center option.

Council Member Mossar asked staff whether it was possible to study the County Mental Health building, as a possible site.

Ms. Harrison said staff was prepared to return to Council with information on the California Avenue site; they would bring suggestions addressing the parking concern issues. Staff would also pursue discussions with the County regarding the Mental Health building.

Council Member Mossar said she wanted the public to understand Council needed to move forward on the issue, and staff needed to know how to proceed.

Mayor Burch said for security reasons, the size of the County building had to be determined.

Council Member Freeman asked what the Council had decided regarding the height of the addition.

Ms. Harrison said staff had been requested to study what was needed to proceed with a Planned Community (PC) to exceed the 50-foot height limit.

Council Member Cordell said Vice Mayor Kleinberg's suggestion should be looked at immediately.

Vice Mayor Kleinberg asked whether there was a timeline urgency.

Ms. Harrison said staff was prepared to return to Council with a Contract Amendment and a Budget Amendment Ordinance (BAO) to proceed to conceptual design and preparation of environmental impacts statements on the next phase of the project at the Civic Center.

Vice Mayor Kleinberg asked whether the project was in hiatus.

Ms. Harrison said it was, but the momentum on the entire project should not be lost.

Vice Mayor Kleinberg said a joint project could possibly serve the County's needs as well as the City's.

Mayor Burch said he wanted to analyze and address the issues raised.

**MOTION PASSED** 6-2 Ojakian, Freeman, no, Morton not participating.

9. Resolution Scheduling the City Council Vacation for Calendar Year 2005

Mayor Burch asked whether Council understood the change of dates.

Assistant City Manager Emily Harrison said there was concern about the number of days the Council would be on vacation.

Council Member Mossar said the December 19, 2005 meeting could be canceled and not be a part of their vacation.

Ms. Harrison said she would try to not schedule items for that date.

Mayor Burch said during the summer period, a quorum could be drawn together to draw names or take action for the ballot.

**MOTION:** Council Member Beecham moved, seconded by Morton, to adopt the resolution scheduling the City Council vacation for Calendar Year 2005 from Tuesday, August 9, 2005, through Friday, September 9, 2005, and Tuesday, December 20, 2005 through Friday, January 6, 2006.

**MOTION PASSED 9-0.**

#### COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Mossar reported she had attended a press conference in Washington, D.C. last week on the day after President Bush released the budget, which concerned cutting the Community Development Block Grant (CDBG) funding. The National League of Cities (NLC) had collected information regarding cities across the country, and what was being done with CDBG funds. The Mayor was requested to send a letter to legislators with a copy to the NLC stating the importance of the CDBG funds to Palo Alto.

Council Member Freeman referred to Mr. Borock's statement and asked why the property adjacent to the maintenance yard was not being used for construction trailers.

Ms. Harrison said she would get answers.

Council Member Freeman referred to the City Attorney Report regarding Council Member Ojakian's request for a determination from the Fair Political Practices Commission (FPPC) on whether, as an employee of Hewlett-Packard, he had a conflict of interest in regards to the Mayfield Development Agreement. In the past, these items had been agendaized for vote. She recommended the issue be agendaized.

City Manager Frank Benest said it was not the practice to have the issue agendaized.

Council Member Freeman said she had not experienced that.

Council Member Morton said Council Member Cordell's appraisal was not voted on.

Council Member Mossar said the Council could object when it was disclosed that the request had been made.

Council Member Freeman said it was good for the public to hear.

ADJOURNMENT: The meeting adjourned at 10:55 p.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

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