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FINAL ADJOURNMENT: The meeting adjourned at 12:30 a.m. 18

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:05 p.m.

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

ORAL COMMUNICATIONS

Bunny Good, P.O. Box 824, spoke regarding withdrawal of her request for apology from City Attorney Ariel Calonne.

Fran Laurence, 850 Webster Street, spoke regarding weed abatement and her book on dandelions.

Betty Meltzer, 1341 Dana Avenue, spoke regarding the kickoff for Trees for El Camino Project on Saturday, January 25.

John K. Abraham, 736 Ellsworth Place, spoke regarding the noise audit and his concerns.

Greg Kerber, Birch Street, spoke regarding noise mitigation – environmental and health.

Dennis Mitrzyk, 201 Maclane Street, spoke regarding weed abatement of his property.

Mayor Mossar asked staff to notify Mr. Mitrzyk about what action would be taken.

SPECIAL ORDERS OF THE DAY

1. Resolution 8262 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Anthony Spitaleri Upon His Retirement"

Resolution 8263 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Raul Arreola Upon His Retirement"

MOTION: Council Member Morton moved, seconded by Beecham, to adopt a Resolution Expressing Appreciation to Anthony Spitaleri Upon His Retirement, and a Resolution Expressing Appreciation to Raul Arreola Upon His Retirement.

MOTION PASSED 9-0.

Fire Chief Ruben Grijalva acknowledged the retirees' many years of outstanding work with the City of Palo Alto. He described Raul Arreola as

being compassionate, kind and loyal, and Anthony Spitaleri as a leader, man of action, and personal friend.

Firefighter Raul Arreola thanked Chief Grijalva for his recognition and spoke of his enjoyable 31 years with the City.

Firefighter Anthony Spitaleri reflected over his years of service with the organization and the great opportunity he had of serving and being involved with the community for the past 35 years.

Council Member Morton thanked both firefighters for their 30-plus years of service and commented on how impressed he was of their dedication to the Palo Alto community.

Mayor Mossar welcomed and thanked all the Palo Alto Firefighters in attendance that evening to honor their colleagues. She said the Council heard good things about Palo Alto firefighters and wanted them to know how much their service was appreciated.

APPROVAL OF MINUTES

Mayor Mossar noted two requests for changes on the City Council Meeting Minutes of November 12, 2002.

MOTION: Council Member Freeman moved, seconded by Lytle, to include City Manager verbatim statements on Page 95-50 as a correction to the minutes of November 12, 2003.

MOTION FAILED 5-4 Freeman, Kishimoto, Lytle, Ojakian "yes."

Council Member Freeman said she understood that verbatim minutes or portions of the minutes transcribed verbatim were not customary for Council minutes, and the Municipal Code stated sense minutes would be taken as a transcript of the proceedings. She recalled in July 2002, Mayor Mossar and Council Member Morton crafted a one-time compromise of a verbatim transcription, approved by the Council, to resolve differences of opinion of how particular minutes would be worded. Similar to Mayor Mossar's rationale, she had a different opinion on the paraphrasing of the City Manager's comments. She agreed that verbatim minutes were not the norm, but in the present case where actual and not potential litigation was involved, she believed it was only correct to document the comments verbatim.

Council Member Lytle supported Council Member Freeman's motion and said verbatim minutes were needed to support pending litigation and raise public confidence in the Council Members. In the minutes of November 2002, the

City Manager found that charges of Council manic interference or undue influence on staff were invalid. It was in the Council's interest to correct the record and remove public misunderstanding about the issue. When an elected official was subject to unjust allegations, righting the injustice was the responsibility of the entire institution. She said the City Manager and the City Attorney did their job to train and ensure against Council manic interference according to Council protocols. The Council must do its part to reinforce the City Manager's statement in the public records.

Council Member Morton was in favor of keeping City Council minutes as sense minutes, as required by the City Charter. He said if the issue was litigated, it should be resolved in court and not with the Council. He encouraged his colleagues to accept the minutes as drafted by the City Clerk.

Council Member Burch did not support the motion. He said the present method of transcribing minutes was the essence of Council's actions and not meant to show what a particular Council Member thought or an expressed opinion. Sense minutes should not be used to correct the records.

Vice Mayor Beecham did not support the motion. He suggested postponing approval of the minutes until his colleagues brought back corrections.

Council Member Lytle asked, if the motion failed and Council was litigated, would that prevent transcribing the minutes for purposes of litigation and was evidence being covered up.

City Attorney Ariel Calonne said it was not covering up evidence. Minutes are the binding and conclusive record of what happened at a Council meeting and of Council's actions and stated facts. He was not in a position to advise as to the Palo Alto Weekly's lawsuit and referred to Senior City Attorney Bill Mayfield. His recollection of the City Manager's comments was closer to Vice Mayor Beecham's, and he did not believe the question of inappropriate Council questioning or administrative interference was present in the litigation.

Council Member Lytle asked Mr. Mayfield for confirmation.

Senior City Attorney Bill Mayfield said it was implicated in the lawsuit indirectly by requesting the public records related to e-mails on agenda items to be produced by the lawsuit. There was no contention of illegal activity in regard to Council interference and the minutes were not part of the lawsuit.

Council Member Kishimoto supported the motion to go with verbatim minutes and also said modification to sense minutes would be satisfactory.

MOTION: Council Member Freeman moved, seconded by Kishimoto, to approve the minutes of November 12, 2002, with modifications as follows:

Page 95-50, last paragraph, second sentence to read "*He stated that is not the case and* staff believed that Council had the right to ask questions, but staff did not take direction from *individual* Council Members; and

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add on Page 95-34, the last sentence to read "Staff was asked to respond to the questions and concerns raised in the two minority reports of the Blue Ribbon Storm Drain Committee."

Council Member Freeman said the motion included accepting the minutes with verbal changes.

MOTION PASSED 8-1, Morton "no."

CONSENT CALENDAR

Mayor Mossar announced that Consent Calendar Item Nos. 3 and 4 were removed at the request of staff.

LEGISLATIVE

Council Member Kleinberg questioned why it was necessary to remove the two items from the Consent Calendar for additional research.

Assistant City Manager Emily Harrison said questions from Council Members on both items were extensive and, in some cases, requested surveying information from other cities that could not be completed in one day.

Council Member Kleinberg asked how much research time was required.

Ms. Harrison said she had not consulted with the Utilities Director on the Western Area Power Administration (WAPA) item but would need approximately 15 to 20 hours on the Golf Management Contract.

Council Member Kleinberg asked if it was staff's judgment that research was germane to the deliberative process or did staff feel the staff report was sufficient.

Ms. Harrison said staff felt the Council Members' questions were germane to their deliberative process.

City Manager Benest said there were three sets of questions that needed researching. The first set involved data that could be answered through the course of the day; the second set involved questions on WAPA; and the third set dealt with the rationale of positions taken in the Golf contract negotiations.

Council Member Kleinberg said her reason for questioning was because the exact situation was brought to the Policy and Services Committee where there was a request for additional information. She would be supportive of the request because if a Council Member required additional information to come to a conclusion, it would be important to get the information.

Council Member Burch raised concern regarding the process of the Consent Calendar items being pulled. He said there were nine Council Members and, if one or two members had questions that caused the items to be pulled, it prevented the remaining Council Members the chance to vote. He said Council had been given the City Manager's Report (CMR) and, if seven or eight of the nine members were ready to vote and the vote was "yes", then Council could proceed. If the majority voted for additional information then items should be pulled. He was ready to vote and would not support removing the two items.

Council Member Kishimoto requested that Item No. 2 be removed to become Item No. 4A.

Council Member Morton asked to make Item No. 4A follow Item No. 5, since Item No. 5 would require more time.

Mayor Mossar said Council was in control of the amount of time taken on the items. If Council chose to take extensive time to cover items, then it is Council's fault that the public waits.

Council Member Kishimoto raised concerns about removing the two items. She would be open to discussing questions regarding items being pulled.

Mayor Mossar commented on her frustration regarding the process of removing items from the Consent Calendar. She said there was a special committee continued from last year's Policy and Services Committee that was wrapping up a discussion about Council protocols. The issue was being dealt with in the protocols and would be coming to Council for full discussion.

Council Member Freeman clarified she did not ask to have those items pulled; it was a staff decision. She said when she asks questions, it is to get a better understanding of a staff report.

Council Member Lytle asked why the decision was made to remove the items for additional research.

Mr. Benest said items are removed often, as staff wanted to be responsive to Council the best way possible. If there were a series of questions from Council Members on a Monday, staff will remove the items until direction was given on how to handle the situation.

Council Member Lytle asked if that was a new practice.

Mayor Mossar said staff advised that items were removed all the time and she did not want the practice changed. Again, she asked if the practice was correct.

Ms. Harrison said it was correct.

Council Member Morton expressed his frustration over one or two Council Members initiating major research projects requiring hours of time and Council could not make a determination on whether or not it was a good utilization of staff's time. He said questions should be public and return to Council as part of the information. He moved that staff not engage in those projects or to have the questions made public.

Mr. Benest proposed staff would provide answers to questions brought up on those items and, if additional research was required, staff would wait for Council's direction.

Mayor Mossar said she was uncomfortable with resolution on the matter since it was not an agendized item.

3. ~~Approval of Increasing the Allocation of Western Electric Bill Payments Toward the Funding of Operation and Maintenance~~

~~Resolution of the Council of the City of Palo Alto Delegating the Director of Utilities the Authority to Continue to Direct Up to One Hundred Percent of Western Area Power Administration Monthly Bills to Meet Obligations Under Western Area Power Administration Contracts~~

ADMINISTRATIVE

4. ~~Approval of a New Management Agreement for Golf Professional Services~~

4A. (Old Item No. 2) Approval of Amendments to Palo Alto Municipal Code Chapter 9.10 Regulating Construction Noise and Including Sidewalks in Public Street Sweeping Section

John K. Abraham, 736 Ellsworth Place, Palo Alto said the 110 decibels stated in the construction noise ordinance was a problem. He addressed high pressure washing of sidewalks and asked that the proposed ordinance be changed to avoid noise levels at 90 decibels at 4 a.m. in the morning.

Joy Ogawa, 2305 Yale Street, spoke regarding the U.S. Environmental Protection Agency. She asked Council to vote against imposing lower environmental standards for business districts than for the residents who lived within or near business districts.

Greg Kerber, Birch Street, spoke on the noise ordinance and urged rejection or modification of the ordinance.

Assistant Police Chief Lynn Johnson said Noise Exemption Permits (NEP) had not been issued to any company to do power washing on private businesses. Most businesses on California Avenue felt the power washing performed by the City was adequate. She addressed citizen's complaints regarding the smell of urination and defecation in the area. There was also the issue of an appropriate time when the Public Works Department could do the cleanup and not expose people to slipping and falling causing liability risk to the City.

Mr. Calonne said the current ordinance allowed street sweeping between 10 p.m. and 8 a.m. daily and allowed businesses to restrict street cleaning. What the public was saying was while street sweeping and street cleaning was allowed, sidewalks were not included in the definition of street cleaning. When the City Manager's Report (CMR) was initially approved: 1) it was clear the Green Machine and sidewalk cleaning equipment would be used; and 2) the reference to street cleaning would be superfluous because language of street sweeping was included. Street cleaning had to mean more than just street sweeping. The change had consumed a large amount of staff time. The findings included in the ordinance were existing law and absolutely correct. He pointed out, to accept the arguments from Mr. Kerber, Mr. Abraham, and Ms. Ogawa was essentially to take the stance that staff was lying about the intent expressed in the ordinance when it was passed. The CMR explained that street cleaning and street sweeping were included and, if sidewalks were not meant to be there, there was no reason to talk about street cleaning.

Council Member Kishimoto asked what the noise level testing results were on the cleaning equipment in previous years.

Ms. Johnson said the current City contractor's pressure washing equipment met the current ordinance. The previous contractor's equipment tested in 1988-89 did not meet the ordinance and was not issued a noise exemption permit. The Green Machine was rated at 75 decibels.

Council Member Kishimoto said she believed the noise level for sidewalks in business districts was different from street sweeping because sidewalks needed to be cleaned frequently and the Green Machine could be used daily. The Business Improvement District Downtown had requested more frequent cleaning. She felt there should be some differential between street sweeping and sidewalk sweeping.

MOTION: Council Member Kishimoto moved, seconded by Freeman, to accept the second part of the staff recommendation that Section 9.10.060(b) be amended to indicate that the requirements for construction in non-residential areas, which is authorized by valid City building permits shall be the same as those for residential areas, and to modify the first part of the staff recommendation to state: "The ordinance allows street cleaning from the hours of 10 p.m. to 8 a.m. up to 90 decibels at a distance of 25 feet."

Council Member Freeman requested adding supplemental language to the Business District Sidewalk Cleaning, "except in emergencies to limit days Monday through Friday, excluding Saturdays, Sundays and holidays, with hours between 6 a.m. and 12 midnight and to keep sound levels at 75 decibels.

Council Member Kishimoto said she would like to hear staff's comments first.

Director of Public Works Glenn Roberts said the days of the week would not impact current operations. Implications in the base motion for current operations would require changes to the current contract, as the contractor would have to go back and forth, which would increase costs considerably.

Mayor Mossar requested the maker of the motion to refer ideas of limiting hours and days of sidewalk cleaning back to staff to evaluate and return with an alternative proposal, and to authorize the second part of staff's recommendation.

MOTION WITHDRAWN BY THE MAKER AND SECONDER

MOTION: Council Member Kishimoto moved, seconded by Freeman, to refer ideas of limiting hours and days of sidewalk cleaning back to staff for an evaluation to come back with an alternative proposal, and to authorize the second part of the motion.

Mr. Calonne wanted to clarify that it was a major new assignment. The current legal advice given was that the ordinance permits sidewalk cleaning during the hours described. He did not want to leave the impression it was just a refinement for staff. Council was on the verge of initiating a major assignment that was not anticipated in bringing the issue forward. He said it was Council's prerogative.

Council Member Morton asked to make a substitute motion to accept staff's recommendation as it was.

Mayor Mossar said Council Member Morton's argument was a "no" vote on the motion on the floor. She suggested voting on the current motion on the floor.

Mr. Calonne said substitute motions were to change directions of the original motion. The substitute motion was in order if there was a seconder.

Council Member Kleinberg asked how much staff time it would take to comply with Council Member Kishimoto's request of referral.

Mr. Calonne questioned the request for evaluating a different noise level.

Mayor Mossar said the motion did not include evaluating different noise levels. It was just to set a noise level of 75 decibels.

Mr. Calonne said he misunderstood. He thought the referral was to evaluate noise levels.

Ms. Johnson said it would take staff approximately 10 to 20 hours to comply with Council Member Kishimoto's request for referral.

Council Member Lytle said she would not support the motion because it was not consistent with the Comp Plan objectives.

Vice Mayor Beecham said he did not support the motion to send it back to staff because it did not give staff direction on what to do and where to go, which he did not find very productive. He lived a half-block from the Downtown area, was aware of the noises that occurred at night, and would not move because of that. He was in favor of the motion as it stood.

Council Member Freeman was opposed to the motion as stated. She was confused as to what the City staff should provide in order for Council to make the decision.

Mayor Mossar said the motion on the floor did not refer anything back to staff. It was to accept both parts of staff's recommendation. She was in support of the motion.

SUBSTITUTE MOTION: Council Member Morton moved, seconded by Burch, to accept staff recommendations to amend Palo Alto Municipal Code Section 9.10 as follows:

- Section 9.10.060(l) be amended to include business district sidewalk cleaning; and
- Section 9.10.060(b) be amended to indicate that the requirements for construction in non-residential areas, which is authorized by valid City building permits, shall be the same as those for residential areas.

Ordinance First Reading entitled "Ordinance of the Council of the City of Palo Alto Amending Chapter 9.10 of Title 9 (Peace, Morals, and Safety) of the Palo Alto Municipal Code Regulating Noise in Order to Clarify the Restrictions on Construction, Demolition, or Repair Activities and the Restrictions on Public Street Cleaning in Business Districts"

SUBSTITUTE MOTION PASSED 5-4, Freeman, Kishimoto, Kleinberg, Lytle "no."

REPORTS OF COMMITTEES AND COMMISSIONS

5. Policy and Services Committee recommendation to the City Council Regarding the Athletic Fields Advisory Committee Report

Council Member Kleinberg thanked the Parks and Recreation Commission (PARC) for acknowledging the concerns of the public and moving quickly to develop a strategy to address those concerns. She congratulated the Athletic Fields Advisory Committee (AFAC) for the extensive amount of time they devoted to conducting the research and putting together the report. She said the AFAC was a role model of civic participation and collaborative problem-solving. The report identified short- and long-term options, as well as the partners and stakeholders who were needed to meet the challenge and come up with creative ideas for expanding field usage to make it more effective. She acknowledged Dawn Calvert, Superintendent of Recreation, for her role in providing staff leadership for the project.

Superintendent of Recreation Dawn Calvert said she was honored and privileged to serve as the AFAC Chairperson and to work with various community representatives. She introduced representatives from the AFAC present that evening.

Parks and Recreation Commissioner Bill Garvey said he had recently read a report from the United States Surgeon General that said obesity among children in the United States was a threat to national security. Despite the crisis in child healthcare in the U.S., Palo Alto had to turn away children who wanted to play sports because there were not enough fields. Demand had far exceeded supply and the problem would only get worse in future years. The findings of the AFAC needed to be acted on immediately because the field situation was in a crisis mode. The PARC unanimously approved the recommendations, and he urged the Council to adopt a policy for the City to provide adequate top quality playing fields for youth and adult sports in Palo Alto.

Mike Cobb, Athletic Fields Advisory Committee, 3863 Dixon Place, said Palo Alto's playing fields were deteriorating and the supply had fallen behind demand. Children had to take a number before being able to participate in organized sports in the City. The AFAC started with a group of people, who had varying interests and primarily wanted to protect their "turf." What emerged was a unified team to speak with one voice for the common good. The AFAC would not only explain the problem, but also would present a solution from which a very broad spectrum of Palo Altans would benefit. He invited the young people in the audience to introduce themselves to the Council and state which sport they represented.

Shoshana Mitchell, 3888 Grove Avenue, spoke regarding playing girls softball and soccer at Greer Park.

Noah Snider, Palo Alto, spoke regarding playing baseball at Jordan Middle School.

Doug Kreitz, Fields Administrator, American Youth Soccer Organization (AYSO), representing the Athletic Fields Advisory Committee, showed a power point presentation. He spoke about a typical situation where softball and soccer players used the same field. By the end of the season, soccer fields became mud holes. Staff worked hard to restore the fields; however, there were insufficient numbers of fields available in order to allow the fields to rest and for staff to keep up with the damage. The number of adults and youth involved in organized sports in 2001 was approximately 4,500 people, and in 2002 it was over 5,000; 289 teams played in Spring 2002, and players were being turned down because of a lack of playing field capacity. He cited the vision statement of the AFAC, "To meet the high expectations of the community, Palo Alto will provide a sufficient number of high quality playing fields to *fully satisfy* the year-round need of the youth and adult sports organizations."

Mike Piha, President of Palo Alto Pop Warner Youth Football Organization and Coach, said there was an issue with practice space. The number of kids interested in playing Pop Warner football had grown in the past five years from approximately 40 kids to close to 200; however, the organization could not field any more teams because of the lack of available practice space. One of Palo Alto's Pop Warner teams made it to the National Championship in Florida; however, the team was never able to play its games in Palo Alto. Instead, the team had to travel to other cities to play games. It was a shame the organization had to turn kids down to play a growing sport in Palo Alto. He anticipated the challenge to find practice space and athletic fields for the organization would continue in 2003.

Mr. Kreitz acknowledged the leadership of Dawn Calvert and City staff, as well as all the contributions they made to the work of the AFAC. The goal was to meet all the needs of all the sports being played in Palo Alto. A major aspect of the report was to understand what some of the problems were. The appendices of the report provided an in depth look at problems and difficult issues regarding cooperation with the schools and the relationship with Stanford University. Palo Alto was short on real estate and demand for the fields was great. The largest demand was for youth soccer. For good sports, it was important not to have different types of sports competing for the same field. The partners necessary in solving the problem included Palo Alto, the Palo Alto Unified School District (PAUSD), Stanford University, other community interest groups, and neighboring communities.

David Goldman, Athletic Fields Advisory Committee and Palo Alto Little League Baseball, said the AFAC discussed a myriad of solutions. Synthetic turf and lights were the short-term solutions wherever possible. Solving the problem included working with Stanford and the PAUSD and assisting in the maintenance and management of existing fields. The long-term solution involved adding to the current inventory of sports facilities. Several locations were identified, including Mayfield, Byxbee, Baylands area, and Stanford, as well as acquiring other commercial lands. "Sports turf" was not the same as the old "astro-turf". New technology had resulted in a new form of sports turf, which was not just green carpet laid on cement. The current form of sports turf had a base with tremendous drainage capacities. It was not a carpet, but individual pieces of synthetic simulated grass with bits of rubber making it a much softer and more consistent playing surface, which also added to the durability and safety. Menlo Atherton High School's football field could even be used during rainstorms because of the sports turf. Fields identified as possible sites for the sports turf included JLS and Jordan Middle Schools, Palo Alto High School, Greer Park, Cubberley, and El Camino soccer fields. The fields were dedicated athletic fields. The AFAC was not interested in paving over every park in town and making everything synthetic. The desire was to create a field that could be used 365 days per year in all types

of weather and, where permitted, with lights only on truly dedicated sports fields. Because of the money saved through less maintenance, the break-even point on a synthetic turf field was six to seven years. The AFAC was concerned about the environmental aspects of the synthetic turf and was proud to say it offered environmental benefits. To water one grass football field for one year required five million gallons of water. The environmental aspects of such new technologies were a safer, more consistent, longer life surface.

Mr. Cobb said the AFAC had the unanimous recommendation of the PARC and the Policy and Services Committee, and he applauded the wonderful staff support. He believed that although the City was facing a budget crisis, the athletic fields needed to be a Council priority.

Bob Moss, 4010 Orme Street, said the AFAC's report was written more than a month before California Governor Gray Davis decided to "pillage and plunder" local government. He believed there would be financing problems in the upcoming years, which would hinder improvements to the City's athletic fields. There was a discrepancy on Page 9-8 of the report, which stated the use of neighborhood parks was not for organized sports. He then noted that Page 2 of Appendix A listed Briones and Bol Park as other parks that might be available for use. Briones and Bol Parks were not good choices. Briones Park had a large swell in the middle of it, and Bol Park was bought and paid for by the residents of Barron Park. The intention of Bol Park was to remain a low-key rural environment.

MOTION: Council Member Kleinberg moved, seconded by Burch, that the City Council adopt the following recommendations of the Policy and Services Committee based on the recommendations of the Athletic Fields Advisory Committee Report:

- The City Council establish and adopt a City policy that sufficient, top quality, athletic playing fields be provided to fully support the present and future needs of youth and adult sports organizations in Palo Alto.
- The City Council direct staff to develop and put in motion a Phase I action plan to implement near term solutions on the most aggressive timeline possible, consistent with budgetary and other considerations, to deal with the immediate playing field problems already facing sports organizations.
- The City Council direct staff to begin the process of developing cost and other data, timelines, issues, and potential approaches for a Phase II program, which would address potential long term playing field solutions.

- The City Council resolves that resolution of the playing fields problem is a Council priority, which is covered by current Council priorities.

Council Member Kleinberg clarified AFAC's recommendation whereby the City Council resolved the resolution of the playing fields problem as a Council priority, was brought to staff, and it was determined the athletic fields renovation and expansion was within the Council's existing infrastructure priorities. If the recommendations passed as worded, it would not require a re vote on the Council's priorities.

Council Member Burch said he was impressed with the thoroughness and hard work of the AFAC.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct staff to take the Phase I Action Plan to the Finance Committee to identify funding and then to the Planning and Transportation Commission.

Mayor Mossar asked whether there were funds in the budget to develop the Phase I Action Plan or did the Finance Committee need to identify funding to develop it.

City Manager Frank Benest suggested bringing the matter to the Finance Committee in March 2003 to determine estimated costs for the Phase I Action Plan.

Mayor Mossar said it would make better sense not to take the Action Plan to the Finance Committee, but take the notion of creating an Action Plan to the Finance Committee.

Mr. Benest said he would like to direct staff to determine initial steps and cost estimates and then bring the issue to the Council and the Finance Committee for input given the City's present situation.

Mayor Mossar asked if the City Manager's comments were consistent with the understanding of the maker, the seconder, and the suggestor of the motion.

Council Member Beecham said that was what he meant to say.

Council Member Morton complimented the members of the AFAC for all their hard work and looked forward to their continued participation. He solicited the help of the PARC because the City had two related entities, Stanford and the PAUSD, who also needed to be persuaded to put an equal amount of energy into the project.

Council Member Lytle said there was nothing more important the City could do for the community than to create more opportunities for children. There were community benefactors willing to contribute to the project.

Council Member Ojakian extended his thanks to the members of the AFAC who contributed, not only to the AFAC report, but also continued work with kids in the community. He said there was no dispute that the fields were needed; however, he believed it was important to find cost-neutral solutions such as the synthetic sports turf. It was also important to create good relationships with several of the entities in the area in an attempt to work something out to obtain additional field space.

Mayor Mossar acknowledged the new Finance Committee members for 2003, who she knew cared deeply about the athletic fields.

Council Member Kishimoto agreed the athletic fields needed to be one of the Council's Top 5 priorities. She suggested to the AFAC the implementation of the following: 1) resident versus non-resident fees; 2) installation of bathrooms and spectator seating; and 3) possible flood-control issues because of the competition for both funding and land.

Phil Losch, Athletic Fields Advisory Committee said the AFAC recognized real estate was scarce in Palo Alto and there were other interests in the City that viewed certain areas of land important to their priorities. The AFAC believed they would be able to work it out with all involved parties.

Council Member Burch encouraged the AFAC to look beyond Palo Alto and work with neighboring cities to find space to build a complex that could be developed with contributing City funds.

Mr. Bosch said the AFAC was doing that.

Council Member Kleinberg would not participate in any portion to the extent that dealt with Stanford and Stanford property because her husband's former law firm represented Stanford in land use matters.

Mayor Mossar would not participate in any portion to the extent that dealt with Stanford and Stanford property because her husband was employed by Stanford University.

Mr. Calonne said staff did not have foreseeability as to Stanford.

Council Member Kleinberg said to the extent there could be some involvement of Stanford property she would recuse herself.

Mayor Mossar said she wanted the public to know why she and Council Member Kleinberg would not be able to weigh in on properties owned by Stanford.

Mr. Calonne said it was better not to acknowledge foreseeability.

Council Member Freeman said the athletic fields were a high priority and an indicator of the quality of life in Palo Alto.

MOTION PASSED 9-0.

RECESS: 9:48 to 9:54 p.m.

CLOSED SESSION

The meeting adjourned at 9:55 p.m. to a Closed Session.

Assistant City Attorney Bill Mayfield said two items of the closed session that were threatened litigation have turned into pending litigation: The Palo Alto Weekly versus the City of Palo Alto.

6. Conference with City Attorney -- Potential/Anticipated Litigation
Subject: Pending Litigation by Palo Alto Weekly (Public Records Act)
Authority: Government Code section 54956.9(b)(1) & (b)(3)(C)

Conference with City Attorney -- Potential/Anticipated Litigation
Subject: Pending Litigation by Palo Alto Weekly (Brown Act)
Authority: Government Code section 54956.9(b)(1) & (b)(3)(C)

7. Conference with City Attorney -- Potential/Anticipated Litigation
Subject: Threatened Litigation by San Jose Mercury News (Public Records Act) Authority: Government Code section 54956.9(b)(1) & (b)(3)(C)

Conference with City Attorney -- Potential/Anticipated Litigation
Subject: Threatened Litigation by San Jose Mercury News (Brown Act)
Authority: Government Code section 54956.9(b)(1) & (b)(3)(C)

The City Council met in Closed Session to discuss matters involving potential/anticipated litigation as described in Agenda Item Nos. 6 and 7.

The meeting reconvened at 12:25 a.m.

Mayor Mossar announced that no reportable action was taken on Agenda Item Nos. 6 and 7.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

MOTION: Council Member Kleinberg moved, seconded by Morton, to agendaize reconsideration of the action taken by the City Council on December 9, 2002, to open the record of the October 30, 2002, Closed Session.

MOTION PASSED 5-3-1, Freeman, Kishimoto, Ojakian "no", Lytle "abstaining."

Council Member Kishimoto brought up the issue of the District Attorney's comment regarding three Council Members meeting separately and requested City Attorney comments.

City Attorney Ariel Calonne said he did not agree with the District Attorney's concerns that the meetings needed to be public.

Council Member Freeman commented on the birthday of Martin Luther King Jr. She read a comment he had made; "The ultimate measure of a man is not where he stands in the moment of comfort and convenience but where he stands in moments of challenge and controversy." Hopefully, the Council would follow a great leader and try to work better together.

Council Member Beecham commented on study sessions, which were useful and helped the Council understand the subtleties of certain issues.

FINAL ADJOURNMENT: The meeting adjourned at 12:30 a.m.