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ADJOURNMENT: The meeting adjourned at 9:05 p.m. 14

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:00 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman arrived at 7:03 p.m., Kishimoto, Kleinberg arrived at 7:05 p.m., Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Samson Bailey, 234 Webster Street, spoke regarding the Palo Alto Sea Scout Base.

Richard Chizhikow, 345 Sheridan Avenue, spoke regarding the Palo Alto Sea Scout Base.

Kevin Murray, 2091 Harvard Street, spoke regarding the Palo Alto Sea Scout Base.

Grant Willner, 4139 Amaratha, spoke regarding the Palo Alto Sea Scout Base.

Colin N. Thom, 889 Talman Drive, spoke regarding the Palo Alto Sea Scout Base.

Herb Borock, P.O. Box 632, spoke regarding the Police Building at County Mental Health site – Grant Avenue.

Ken Hayes, representing the Hayes Group, 2657 Spring Street, Redwood City, spoke regarding 1012 Forest Avenue.

Norman Carroll, 425 High Street, #120, spoke regarding a meeting conflict.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Ojakian, to approve the minutes of January 24, 2005, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

MOTION: Council Member Freeman moved, seconded by Kleinberg, Cordell and Kishimoto to remove Consent Calendar Item No. 3 for continuance to a date uncertain as a public hearing.

City Attorney Gary Baum said under the recently adopted ordinance for streamlining of planning matters, an item would require three votes to remove it from the Consent Calendar. The next step would be to direct staff to set the matter for a public hearing.

City Manager Frank Benest said the discussion was whether or not the Council would like to hear the item in a full public hearing.

MOTION PASSED 4-5, Cordell, Freeman, Kishimoto, Kleinberg yes. (Motion passed according to Section 18.77.060(f) of the Palo Alto Municipal Code, which requires three votes.)

Council Member Freeman stated she would not participate in Item No. 4 due to a conflict of interest because of Government Code Section 1090, as she was employed as a substitute teacher with the Palo Alto Unified School District (PAUSD).

Council Member Freeman registered a no vote on Item No. 1.

MOTION: Council Member Morton moved, seconded by Kleinberg, to approve Consent Calendar Item Nos. 1, 2 and 4.

LEGISLATIVE

1. Ordinance 4862 entitled "Ordinance Amending Title 18 [Zoning] of the Palo Alto Municipal Code to Amend Chapters 18.32 [Public Facilities District Regulations], 18.49 [CD Commercial Downtown District Regulations], and 18.87 [Transferable Developments Rights] to Include Certain City-Owned Buildings as Sender Sites in the Transferable Development Rights Program" *(1st Reading, 02/07/05, Passed 7-1, Freeman no, Mossar absent)*

ADMINISTRATIVE

2. Contract Between the City of Palo Alto and Timmons Design Engineers in the Amount of \$274,379 for Architectural and Engineering Design Services for the Photovoltaic Demonstration Project - Capital Improvement Program Project PE-05001
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4. Contract Between the City of Palo Alto and the Palo Alto Unified School District (PAUSD) in which the City of Palo Alto will Provide Fiscal Services for the PAUSD Summer Enrichment Programs and Provide a Collaborative After School Program

MOTION PASSED 8-1 for Item No. 1, Freeman no.

MOTION PASSED 9-0 for Item No. 2.

MOTION PASSED 8-0 for Item No. 4, Freeman not participating.

ORDINANCES AND RESOLUTIONS

5. Funding Alternatives for the Acquisition of the Peninsula Open Space Trust Arastradero Gateway Property

Manager Open Space and Science Division Greg Betts said since October 2002, the Ad Hoc Committee headed by Vice Mayor Kleinberg and Council Member Mossar had explored funding opportunities for the acquisition of the Peninsula Open Space Trust (POST) Arastradero Gateway Property in order to complete the Enid Pearson Arastradero Preserve (Preserve). At Council's direction, staff had worked to pursue numerous grant opportunities in order to acquire the property. POST had guaranteed the City a purchase price of \$3.56 million, of which Santa Clara County (SCC) had pledged \$1 million. The California Coastal Conservancy (CCC) in partnership with SCC had also pledged \$1 million with the contingency that the property be more than just an addition to the Preserve, but also to fulfill the County's desire for the Preserve to serve as the terminus for three priority countywide trails. The three trails that would connect to various open space areas were: 1) the National Historic DeAnza Trail, which ran north and south through the Preserve and connected to Los Altos Hills and Portola Valley; 2) the S-1 Trail, which traveled from the Baylands Interpretive Center through the heart of Palo Alto, to the soon-to-be opened Gateway facility, and ended at the Daniel's Nature Center on Skyline Boulevard; and 3) the C-1 Trail, which began in Palo Alto and continued along Sand Hill Road through a route by Stanford University and then entered the preserve along Alpine Road.

Roger Smith, 270 Tennyson Avenue, said he had been active in helping to raise money to add to the City's parkland. He expressed his support in preserving the property at the Arastradero Preserve.

Doug Cox, 45 El Dorado Avenue, said he disagreed with certain aspects of the project, such as staff having made promises to the County without first defining ordinance changes, without knowing whether Council would approve

those ordinances, and/or whether it withstood a potential voter referendum. He urged the Council to vote no on the project, but asked staff to return with ordinance language changes. He also asked whether the Council could loan, give away, and/or sell a significant value and exclusive use rights of Foothills Park without or Citywide vote.

Karen Cotter, 120 Alma Street, #4, Menlo Park, said as the former Project Director for Acterra's Arastradero Preserve Stewardship project, she was afforded the opportunity to travel the Arastradero Trail Corridor between the Preserve and Foothills Park. The corridor was unique in that it was home to many plant communities, and the differences between the two parks were impressive. She did not believe foot traffic would increase dramatically because of the long hike; however, there was a possibility of additional bicyclists who desired to get away from Page Mill Road. She expressed support for the project.

Enid Pearson, Forest Court, expressed support for the proposal and hoped it would pass unanimously.

Herb Borock, P.O. Box 632, encouraged the Council to take the appropriate amount of time to figure out a way to have a pedestrian-only trail with proper mitigations.

Jennifer Basiji, Los Altos Hills, said she would like to see equestrians utilize the trail if approved.

Ernst Meissner, 1327 Johnson Street, Menlo Park, said Arastradero Preserve was one of the few places he could ride his horse; however, it was landlocked and did not provide adequate access to any of the surrounding trail systems. He encouraged the Council to consider a dual-use system for the trail.

David Smernoff, Board Member of Acterra, said he believed it was a wonderful opportunity for the City to be able to acquire the Arastradero Gateway Facility, which was surrounded by the rest of the Preserve.

Eddie Keating said she hoped the controversy about having to open Foothills Park to the public would be minimal. She did not want to be associated with a City that did not share its parks because she had enjoyed a number of parks in many other communities.

Nonette Hanko, 3172 Emerson Street, expressed support for the acquisition.

Lisa Killough, Director of Santa Clara County Parks and Recreation, said the County was a willing participant with the City and the CCC on the purchase of the 13 acres, which was an essential piece of property for the Arastradero Preserve.

Wayne Swan, 240 Kellogg Avenue, expressed his support for the project. It provided an opportunity for those who loved the outdoors and were stewards of the earth to enjoy the peacefulness of Foothills Park.

Michael Classon, 354 Poe Street, expressed his support for the he acquisition of the property and the acceptance of the proposed grants. Acterra was the proud steward of the Preserve for the past seven years, and was delighted to hold that position. In addition to all the restoration work, Acterra supervised approximately 1,000 volunteers each year.

Emily Renzel, 1056 Forest Avenue, said she believed as long as the Arastradero Gateway Property was restricted to pedestrian access, there would not be any major impact on Foothills Park. She urged the Council to vote in favor of it.

MOTION: Council Member Mossar moved, seconded by Kleinberg, to approve the staff recommendation to:

1. Approve and authorize the Mayor to execute the agreement with Santa Clara County for the funding of the Peninsula Open Space Trust (POST) Property acquisition and the approval of an associated conservation easement (Attachment A of CMR:156:05) for the preservation of the property);
2. Approve the dedication of an alignment of the Santa Clara County S-1 regional pedestrian trail along existing trails through the Preserve and Foothills Park (Attachment B);
3. Direct staff to proceed with drafting amendments to the Palo Alto Municipal Code to provide for additional pedestrian access points for Foothills Park.

~~Resolution Approving an Agreement with Santa Clara County for the Funding of the Property Acquisition and the Approval of an Associated Conservation Easement~~

Council Member Mossar said she had been involved with the Arastradero Gateway project since she began on the Council. She expressed her thanks to the many people who made the project happen. She also acknowledged

the acquisition and partnerships that were put together boded well for the future. There were many other opportunities for partnerships to enhance the City's open space access, trail connections, wildlife quarters, and habitat protection. Pedestrian access was compatible with what POST allowed in the Los Trancos Preserve and Foothills Park.

Vice Mayor Kleinberg said Palo Alto had a rich history of stewardship for open space and parks and recreation. She expressed her thanks and appreciation to the public for embracing a new vision. It was rare that Palo Alto had an opportunity to put together such a collage of positive outcomes.

Council Member Kishimoto expressed her support for the acquisition. She said it was humbling to be a part of the process that helped the acquisition move forward.

Council Member Cordell expressed support for the motion, and extended thanks to her colleagues who took the lead in making the project happen. She hoped when the motion passed it would be the impetus to open Foothills Park to the public instead of continuing to limit its access to non Palo Altans.

Council Member Morton said he supported the connection with the Master Trail Plan and the Bay Area; however, he did not understand why all the trails had to be opened to the general public. Many of the residents of Palo Alto knew there were other regional parks, which were heavily used. He asked whether access would be denied to large groups of hikers who showed up at Foothills Park. He also whether access for entering the trails was limited to Gates A, Z or D. He believed Attachment A of the staff report (156:05) should indicate Foothills Park would be opened to the general public for the right to hike through the Park, but not the right to use all the trails in the Park.

Mr. Betts said there were hikers of many different abilities, and both trails offered varying widths and steepness. By providing people with an opportunity, you were providing better access for the young, the elderly, and those with limitations to choose their own route. Staff's intent was to create a map kiosk at the entrance of the Arastradero Preserve and the top entrance of Foothills Park, which would highlight the most direct route (designated S1 Trail route) for people to get from one place to another quickly and easily. The entrance requirements at the main gate of Foothills Park would remain. The residency requirement was one resident to 15 accompanied guests. Part of the interest of the CCC and SCC was that the 13-acre parcel would serve as a trailhead for people to begin their hike.

Council Member Morton noted item C on Attachment A (CMR:156:05) did not designate the S1, C1 and R1-A trails as pedestrian trails. He asked whether the inclusion of the word pedestrian would make it clear to the community the intent was to make those trails pedestrian only and not accessible to bicyclists and equestrians.

Mr. Betts clarified only the S1 Trail went through Foothills Park.

Council Member Morton said he was worried that at some future point someone might interpret the passing of the motion as Council having designated those trails as non-pedestrian.

Mr. Betts referred to item F-1 of Attachment A (CMR:156:05), which indicated Foothills Park trails were pedestrian only, opened to the general public, and prohibited equestrian, motorcycle and bicycle uses.

Council Member Morton said he worried the passage would be taken to mean any trail within Foothills Park would be opened to the general public at any point, as opposed to the connecting points for hikers to the ridge. He expressed concern that by not limiting access to Gates A, Z and D, the City had not, in effect sold Palo Alto's birthright for \$4 million.

City Attorney Gary Baum said both the intent of the Agreement and the way it was rewritten was designed to express and address the issues raised by Council Member Morton.

Council Member Morton said those Palo Altans who had protected Foothills Park had the same concerns. By voting in favor of the acquisition, the Council intended to honor the ridge connections, but not necessarily open the Park to the general public.

Mr. Baum expressed his assurance that Council's intent would be carried out in the Agreement.

Council Member Ojakian asked whether staff had an idea of where and when the additional amount of monies would come from to complete the purchase.

Mr. Betts said there was a \$300,000 grant in the works with the State of California Wildlife Fund, which would be available once the Fish and Game Department evaluated the property. Although there was a rejection from the Gordon and Betty Moore Foundation on a grant request for \$1 million, the foundation was gracious in leaving open the possibility of a challenge grant if the City was successful in finding matching funds from another private

foundation, which staff was in the process of pursuing. There were also a number of smaller grants in the range of \$300,000 to \$500,000.

Assistant City Manager Emily Harrison said POST had offered the City a bridge loan if more time was needed for acquisition.

Council Member Ojakian asked when the trail would be operable.

Ms. Harrison said staff anticipated acquisition from POST in approximately 18 months. As for the trail, in many ways it was already operational.

Council Member Ojakian clarified in approximately a year and a half, the City would have a functioning trail for people to hike. He expressed support for the motion. He felt Palo Alto had done its share regionally in providing park space and other amenities to people, and would like to see Foothills Park remain a closed park.

Council Member Freeman asked whether there were other Preserves in Santa Clara or San Mateo County that were owned by municipalities but were restricted for use by the public.

Mr. Betts said no. Palo Alto was the only city in Northern California to have a restriction on a city park.

Council Member Freeman said the ostensible reason for the trail was to eventually have a Bay-to-Ridge trail. She asked whether there were any assurances for permanent connecting trails through the Stanford property and the Los Trancos side.

Ms. Hanco said the Los Trancos Trail was an open space preserve, which was owned and maintained by approximately 85 staff members of POST.

Council Member Freeman asked who was responsible for monitoring and maintaining the trail, and what the annual cost for service was.

Mr. Betts said the trail through the Enid Pearson Arastradero Preserve, and the Open Space Division of Community Services would maintain Foothills Park. Staff was fortunate to partner with both Acterra, as stewards of the Preserve for trail repair, and the Friends of Foothills Park for the clearing of vegetation and correcting drainage problems. In addition, the open space trails had a Capital Improvement Program (CIP) project as part of the infrastructure management program. The City presently had a three-year agreement with Northwest Woodland Services to maintain the trails at both sites.

Council Member Freeman said the taxpayers of Palo Alto would still maintain the portion of the S1 trail that traveled through Foothills Park. She suggested perhaps SCC would be willing to offer funds to help maintain the trails. She asked whether the City had legal protections in the Agreement to restrict additional entrances to Foothills Park.

Mr. Betts said the current ordinance for Foothills Park only allowed entrance through the main gate located at 3300 Page Mill Road. If the Council approved a Funding Agreement and the Associated Conservation Easement with SCC, staff would return in March 2005 with an amendment to the ordinance. The amended ordinance would create two new specific gates, which were the only additional entrances to the park. An action of the Council was required to create any additional access points to Foothills Park.

Council Member Freeman said she believed the gates inside the Preserve should be constructed in such a way as to prevent bicyclists from going through Foothills Park. She asked whether the City was in compliance with any previous directions made regarding public input.

Mr. Betts said during the budget process the creation of the Bressler POST property had been a key plan for the past three and a half years. There were discussions with both the adoption of the Foothills Park Trail maintenance plan, as well as the trails Master Plan for the Preserve.

Council Member Freeman expressed her support for the acquisition.

Council Member Beecham expressed his appreciation to Vice Mayor Kleinberg and Council Member Mossar for their leadership in the acquisition of the Bressler property.

Council Member Morton referred to Page 1 of Attachment A, line C, and suggested adding at the end of the section, "with the portion within Foothills Park be restricted to pedestrian traffic."

Mr. Baum said he had no problem with the language; however, staff would need to check with the County.

Council Member Mossar said the added language was acceptable to her; however, the County was poised and ready to take action, and she did not want to create a situation where legal counsels from the City and the County were haggling over language. She was willing to ask staff to consider the language, but was unwilling to accept it as an amendment that would turn into a long-term negotiation.

Council Member Morton said he would add the caveat "with the acceptance of the county."

Mayor Burch said the Arastradero Preserve was a priceless piece of property, and he would vote in favor of the motion.

MOTION PASSED 9-0.

MOTION: Council Member Morton moved that the City Attorney in discussion with the County Attorney ask that the words "with the portion of Foothills Park to be restricted to pedestrian traffic" be added to Attachment A, page 1, C.

MOTION FAILED FOR LACK OF A SECOND

REPORTS OF COMMITTEES AND COMMISSIONS

6. The Finance Committee Recommends Approval of the City of Palo Alto Participation in the Central Valley Project Corporation

Council Member Morton said the Finance Committee met in October 2003, and recommended to the Council, Palo Alto's participation in the Central Valley Project Corporation (CVP Corp) as a way of making a cooperative effort in joining with other organizations on replacement contracts.

Director of Utilities John Ulrich said CVP Corp would allow the City to help manage, through other partners, ways to improve reliability and efficiency. The present contract, which began on January 1, 2005, would run for the next 20 years and provide approximately 40 percent of the energy into Palo Alto. By joining CVP Corp, Palo Alto had the opportunity to receive additional benefits.

MOTION: Council Member Morton moved, seconded by Mossar, to approve the Finance Committee Recommendation on the City of Palo Alto Participation in the Central Valley Project Corporation (CVP Corp.) with suggestions incorporated within it for the CVP Corp. to amend its bylaws in the following ways: 1) the annual report in Article 7 would be completed within six months of the end of the fiscal year; 2) add to Item 4 that there would be an independent audit each year that would be part of the annual report; 3) Article 8, Section 5, add that the fiscal year match that of most local government agencies (July 1 to June 30); and 4) under the Membership Agreement, add a policy that CVP Corp. investments conform to California codes for municipal treasury investments.

Resolution 8502 entitled "Resolution Approving the Execution of the Central Valley Project Corporation Membership Agreement Between the Central Valley Project Corporation and the City of Palo Alto and Authorizing the City Manager to Execute the Central Valley Project Corporation Membership Agreement"

Council Member Morton said collaborative partnerships were the only way Palo Alto could continue in a very competitive and confusing utility environment of the future. He expressed his support for staff's recommendation.

Council Member Beecham clarified there were two entities called CVP. One was the project itself, which owned and operated the facilities. The CVP Corp was a non-profit organization made up of several agencies and did not own or operate any facilities. Council's action that evening was to vote for or against joining the CVP Corp as a non-profit entity. In addition, any projects the proposed entity wished to join would return to the Council for action.

Council Member Freeman echoed the comment of Utilities Advisory Commission (UAC) Chairman Dick Rosenbaum, who said, "although these things had been done in the past it was just not obvious that it was anything but complication." She said although it was not the CVP, it had to do with all of the dams, the waterways, and everything else that equated to the CVP. It was just another layer on top of what Palo Alto already had. She asked who were the other members.

Mr. Ulrich said the members belonged to various agencies, but all of them received a product from the Western Area Power Administration (WAPA). They included the Bay Area Rapid Transit (BART), City of Redding, City of Roseville, City of Santa Clara, Shasta Lake, Northern California Power Agency (NCPA), the Sacramento Municipal Utility District, and the Trinity Public Utility District. Council Member Freeman said NCPA was a member, and Palo Alto was a member of NCPA. She asked why was there the need for duplication.

Mr. Ulrich said it was important that individual members, including Palo Alto, worked on projects that benefited not only a large majority or small group but also specifically benefited Palo Alto. There was not duplication that allowed Palo Alto to have a say and only participate in projects that would benefit the City's allocation or energy from WAPA.

Council Member Freeman said she understood the City would be able to pick and choose which projects to participate in. She asked whether Westland's Water was one of the CVP power users.

Mr. Ulrich said yes.

Council Member Freeman clarified Westland's Water District had legal processes against the Hoopa Valley Indian Tribe, sports fisherman, and other people around the Trinity River. She expressed concern about Palo Alto being too close with other agencies who were less environmentally focused.

Mayor Burch said Council Member Freeman voted no at the Finance Committee meeting in October 2003, and he presumed she would vote no that evening.

Council Member Freeman said her intent was to vote no, but she wanted the opportunity to try and convince her colleagues to follow suit.

Mayor Burch said procedurally, the Finance and Policy and Services Committees were tasked to hear those matters. The matters were then brought to the full Council for consideration and a vote. If Council Members argued their position at the Standing Committee meeting, and then re-argued their position at the Council meeting, not much would have been accomplished in terms of streamlining.

Council Member Freeman said she wanted the public and her colleagues to understand that she did not discuss Westland's Water District at the October 2003 meeting because it was not previously listed as a possibility. The proposed resolution from the staff report (CMR:102:05) mentioned a commitment for each activity, which could mean things other than hydroelectric power, such as lawsuits regarding environmental issues. The City had already been paying overhead costs for NCPA and was now being asked to pay additional overhead costs for another organization from which the City had representation as a member of the NCPA. She questioned the environmental perspectives of some of the participants in CVP Corp.

Council Member Morton said he believed although the Council had forwarded the motion from the Finance Committee, the resolution was also being approved that evening.

City Attorney Gary Baum confirmed the Council needed to approve the resolution.

Council Member Kishimoto said in her discussions with staff as to whether CVP Corp was the type of organization that was subject to the Brown Act, she was informed it was a non-profit public benefit corporation and therefore not subject to the Brown Act. The Finance Committee scrutinized CVP Corp, because of a \$4 million advancement to invest on the City's behalf. She asked for confirmation as to whether the projects maintained their current

equipment, and if any projects came close to changing the water flows or had an environmental impact, would the federal government review them

Mr. Ulrich said that was correct. The federal government owned the CVP project and would have to comply with any appropriate laws before modifications could be made to their facilities.

Council Member Kishimoto expressed her support for the motion.

MOTION PASSED 8-1, Freeman no.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Kishimoto requested her colleagues keep their calendars open for Saturday, April 23, 2005, for participation in activities for Earth Week.

ADJOURNMENT: The meeting adjourned at 9:05 p.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.