

Special Meeting  
April 21, 2003

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

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

ABSENT: Beecham

CLOSED SESSION

1. Public Employee Performance Evaluation  
Subject: City Manager Frank Benest  
Authority: Government Code section 54957

The City Council met in Closed Session to discuss matters involving public employee performance evaluation as described in Agenda Item No. 1.

**Mayor Mossar announced that no reportable action was taken on Agenda Item No. 1.**

ADJOURNMENT: The meeting adjourned at 7:00 p.m.

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, Menlo Park, spoke regarding business incompetence.

Harold Justman, 828 Ramona Street, spoke regarding SOFA park dedication.

John K. Abraham, 736 Ellsworth Place, spoke regarding tennis project.

Trina Lovercheck, 1070b McGregor Way, spoke regarding moratorium.

Herb Borock, P.O. Box 632, spoke regarding registration and requirements for telecommunications lobbyists.

David Coale, 766 Josina Avenue, spoke regarding the green building policy.

Sophia Dhrymes, spoke regarding public corruption and cruelty towards Karras property.

Ed Power, 2254 Dartmouth Street, spoke regarding good government.

Carol Mullen, 618 Tennyson Avenue, spoke regarding taxpayer's rights.

Sheri Furman, 3094 Greer Road, spoke regarding playing fields and parks.

SPECIAL ORDERS OF THE DAY

1. Appointment of Candidates to Library Advisory Commission

FIRST ROUND OF VOTING FOR THE LIBRARY ADVISORY COMMISSION

VOTING FOR HOWARD OCKEN:

VOTING FOR PAULA SKOKOWSKI:

Mossar, Ojakian, Kleinberg,  
Burch, Morton

VOTING FOR SHELBY VALENTINE:

Lytle, Freeman, Kishimoto,  
Beecham

City Clerk Donna Rogers announced on the first ballot Paula Skokowski (with 5 votes) was appointed to an unexpired term ending January 31, 2005.

2. Appointment of Candidates to the Human Relations Commission

FIRST ROUND OF VOTING FOR THE HUMAN RELATIONS COMMISSION

VOTING FOR EVE AGIEWICH: Kleinberg, Ojakian, Morton, Burch, Beecham, Mossar, Lytle, Kishimoto

VOTING FOR ADAM ATITO: Freeman, Kleinberg, Ojakian, Morton, Burch, Beecham, Mossar, Lytle, Kishimoto

VOTING FOR CHRISTIANE COOK: Freeman, Lytle, Kishimoto

VOTING FOR ANDREW FREEMAN:

VOTING FOR VICTOR FROST:

VOTING FOR LINDA LENOIR: Freeman, Kleinberg, Ojakian, Morton, Burch, Beecham, Mossar, Lytle, Kishimoto

VOTING FOR SHAUNA WILSON: Freeman, Kleinberg, Ojakian, Morton, Burch, Beecham, Mossar

City Clerk Donna Rogers announced on the first ballot Adam Atito and Linda Lenoir (with 9 votes) and Eve Agiewich (with 8 votes) were appointed to three-year terms ending March 31, 2006, and Shauna Wilson (with 7 votes) was appointed to one unexpired term ending March 31, 2004.

3. Appointment of Candidates to the Public Art Commission

FIRST ROUND OF VOTING FOR THE PUBLIC ART COMMISSION

VOTING FOR GERALD BRETT: Morton, Burch, Beecham, Kishimoto, Mossar, Freeman, Ojakian, Lytle, Kleinberg

VOTING FOR PAULA KIRKEBY: Morton, Burch, Beecham, Kishimoto, Mossar, Freeman, Ojakian, Lytle, Kleinberg

VOTING FOR BARBARA MORTKOWITZ:

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

City Clerk Donna Rogers announced on the first ballot Gerald Brett, Paula Kirkeby, and Barbara Mortkowitz (with 9 votes) were appointed to three-year terms ending April 30, 2006.

#### UNFINISHED BUSINESS

4. Schedule for Phase 2 of the South of Forest Avenue Coordinated Area Plan and Impacts on Other Planning Division Work Items and Related 800 High Street Referendum Issues (*continued from 4/14/03*)

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

City Attorney Calonne said it was Council Member Morton's decision not to participate. The matter did not create a foreseeable chance of an impact on the outcome of the SOFA Coordinated Area Plan. He did not believe Council Member Morton had to withdraw as a matter of law and he could participate but was prudent not to do so and chance a concern arising with Federal Political Practices Commission (FPPC).

Mayor Mossar said she would participate because she had determined that she was not in conflict because it was a scheduling matter.

Mr. Calonne was in agreement with her participation.

Mayor Mossar asked Council to let her know if they were uncomfortable with her participation. She told Council Member Morton his comments were welcomed, but his personal choice would be honored. She asked him to state for the record which decision he had made.

Council Member Morton was concerned that he had not heard from Mr. Calonne that there was no conflict. However, given the possibility of a conflict he excused himself from the discussion.

Director of Planning and Community Environment Steve Emslie explained the management implications of accelerating the SOFA 2 project. SOFA was an all encompassing plan divided into two areas: SOFA 1 encompassed the old Palo Alto Medical Foundation site and SOFA 2 encompassed the area between Alma, High, Emerson, and Ramona Streets. Transferring the management of the project to a Senior Planner, which had been done by Chief Planning Official Lisa Grote, could escalate the schedule. It would be appropriate for that to occur in the advanced planning section where the

long-range planning was done for the community. Staff needed to remove one item from the Senior Planner's work list in order to do that, which was primarily the Baylands. That would move the project from a fall consideration up to a late July consideration by the Council. Ms. Grote would discuss some future and current projects, some of which had a date certain and needed to be acted on by Council.

Ms. Grote reviewed the background of the SOFA 2 Plan and gave an update. On October 7, 2002, Council received two sets of recommendations, one from the Working Group and one from the Planning and Transportation Commission (PTC). Those recommendations had a number of similarities regarding the policies and vision statements. However, there were some notable differences on how to deal with floor area ratios (FAR) such as whether Planned Community (PC) zone changes should be allowed in the area, parking standards, and how to address non conforming uses. With that consideration, Council directed that a massing model be produced to help evaluate the different types of FAR limitations and how they would look. That direction was given in October 2002, the model was completed in November 2002 and brought back to the Historic Resources Board (HRB) in December 2002, brought to Architectural Review Board (ARB) in January 2003, and taken to PTC in February 2003. At the February 2003 PTC meeting several property owners from the area raised concerns about non-conforming uses, parking standards and FAR. PTC recommended a meeting with the property owners and the working group regarding those concerns and to finalize their recommendations to Council. The Planning Department prepared a fact sheet about the recommendations and how they would fit or differ with the existing requirements. The largest impact to accelerating that schedule was to the advanced or long-range planning section within the division. Advanced planning was typically responsible for approximately eight areas including the Baylands guidelines, El Camino Real Plan, consolidating the Baylands Master Plan, and other long-range planning studies. The senior planner was also responsible for the Below Market Rate (BMR) housing programs implementation, Community Development Block Grant (CDBG) programs, data monitoring of Stanford lands and other development potential areas within the City, outside agency review and comment on their proposals such as the open space research district. A Senior Planner was assigned to assist half time with the SOFA Plan while working on the El Camino Real Study. An Associate Planner was reassigned to assist with advanced planning. That person was assigned to data and development monitoring and a quarter of their time would be devoted to assisting the Associate Planner with the SOFA Plan. In addition, there were 15 development projects listed in the staff report (CMR:239:03) with the potential for becoming active. The SOFA fact sheet would be completed by the end of April 2003, after which time a meeting would be scheduled with the property owners to review the questions and discussion items. A second



meeting would be scheduled two to three weeks later and within two to three weeks after that meeting, recommendations would return to the PTC for their final review. The recommendations and reports would be presented to Council by the end of July 2003. There would be a public meeting or a report to Council every two weeks in order to meet the July 21, 2003 deadline.

Herb Borock, P.O. Box 632 said Council should complete the SOFA 2 Plan before dealing with 800 High Street again. Council had the capability to do so. The schedule was reasonable and there was enough information. It would be in order to reintroduce a motion to rescind the action on 800 High Street. He reminded Council that over 3,000 citizens signed the petition and one of the things they said, which was in the notice of intent, was that the ordinance for 800 High Street ignored the coordinated plan process for the SOFA area. The decision that evening clearly implicated that. Petitioners stated they were not signing to give someone the authority to negotiate for them. The Council could deal with SOFA 2 at the present time and it should be done but, if there were any compromises made, it should be done in the SOFA 2 Plan.

David Bubenik, 420 Homer Avenue, said when the issue was discussed on March 31, 2003, questions were raised about the role of the Working Group and, in particular, its relationship to the City Council. As a member of the SOFA 2 Working Group, he researched City documents. Staff formed the Working Group and the persons involved were Council appointed, like the Comprehensive Plan (Comp Plan), so they were not obligated to the Working Group. Members of the Working Group were selected at the September 15, 1997, City Council meeting. Former Vice Mayor Andersen appointed the PAMF/SOFA Working Group as directed by Council. He and former Council Members Gary Fazzino and Lanie Wheeler reviewed over 40 applications and selected 13 members and 4 alternates. The ordinance was passed the following week at the second reading. It appeared the Working Group was appointed by Council and was responsible to the Council. Title 19 of the Palo Alto Municipal Code (PAMC) stated, "Each coordinated area plan will be prepared pursuant to a program for City facilitated interaction between residents, business and property and other interested persons. City Council shall appoint 7 to 14 member working group comprising residents, business and property owners and persons representing broader community interest but not limited to environmental, community design, and business perspectives. The working group shall be advisory to the staff Planning Commission and City Council." The role of the working group as stated in Title 19 was to, "Create enhanced opportunities for building a sense of community through public involvement in the planning processes which are designed to satisfy constitutional due process requirements but also to provide residents and business and property owners an early meaningful

opportunities to help shape the physical components of neighborhoods and communities.” He believed the key words were early and meaningful opportunities.

Larry Hassett, 875 Alma Street, said he appreciated the workload of the Planning staff. The final phase of the process could be streamlined and obstacles resolved before the November election. He wanted to know whether the intended purpose of the coordinated area was to provide residents, business, and property owners with early and meaningful opportunities to help shape the physical components of their neighborhood and community had any real meaning. Public trust needed to be restored. The final report from the Working Group was finished almost a year prior. Delays had been caused by staff and Council and not by the Working Group. Council was warned not to approve PC projects before putting the Coordinated Area Plan in place. Residents were living with the consequences of Council’s previous PC approvals. He was convinced the recommendations from the Working Group would fulfill the goals and objectives set forth by Council without destroying the character of SOFA. He asked Council to direct staff to bring the Working Group’s plan before Council without further delay.

Mayor Mossar asked Mr. Hassett to clarify his statement on the importance of completing the SOFA 2 Plan before the November election.

Mr. Hassett replied there was a need to have the guidelines for future developments.

Bob Moss, 4010 Orme Street, said he was sympathetic to staff’s workload, but he believed there were compelling reasons why the SOFA 2 Plan should be completed as soon as possible. The project had been underway longer than other projects and there was a referendum, which voiced the concerns of residents and stated there was a problem with the way SOFA projects were handled and approved. The proponents of the projects stated the plan was not complete, so they were uncertain about how to proceed on the project. Council had a duty to act. Vice Mayor Beecham had incorrectly stated that signatures were not solicited with a specific request that Council repeal the ordinance. Mr. Calonne cited three options to take when a petition for referendum was before the Council. He urged the Council to move forward with the PC review.

Dorothy Bender, 591 Military Way, said the \$30,000 massing model should be presented to Council. Since 800 High Street had been referended, it was imperative that Council hear it so they could decide whether to rescind the ordinance or place it on the ballot. Council had the authority under Section 19.10.030 of the zoning code to set the goals and maintain the plan

schedule. The working group's recommendations should be taken into account and considered at a public hearing. The massing model should have been presented to Council prior to the vote on 800 High Street and should be presented prior to the decision going to the voters. She urged Council to agendaize the item so the SOFA 2 working group could make their presentation.

Thomas Jordan, 474 Churchill Avenue, said SOFA 2 should have been completed and would save the City \$40,000 in election costs. He perceived that Council was in an odd predicament because they had approved 800 High Street prior to the SOFA 2 presentation. However, that should not prevent Council from correcting the situation. He corrected Mayor Mossar and Vice Mayor Beecham regarding the wording on the referendum.

Joy Ogawa, 2305 Yale Street, said the referendum ballot vote would not be necessary if the SOFA 2 Coordinated Area Plan had been in place before a decision had been made on 800 High Street. She believed Council acted presumptuously. She was perplexed by Council's action, which gave the El Camino Real Master Plan priority over SOFA 2. The proposed El Camino Real Master Plan included reduction of the number of traffic lanes from six lanes to four lanes between Park Boulevard and California Avenue and on a section near Barron Park. The field test proposal would cost the City \$1 to \$2 million. The EIR for the lane reduction was much more complicated and expensive and required more staff time. She did not believe lane reductions on El Camino Real should receive priority and Council needed to prioritize the SOFA 2 project.

Elaine Meyer, on behalf of the University South Neighborhood Group (USNG), 609 Kingsley Drive, said there appeared to be some confusion about the relationship between USNG and the referendum. The referendum effort was a citywide movement initiated independently of USNG. It had the support of USNG and the active participation of a number of its members; however, the referendum movement had its own leadership and therefore USNG could not speak for the referendum or conduct negotiations on its behalf.

Mr. Calonne said the Council should keep in mind the Working Group was intended to give early opportunities for meaningful participation by the public. The ordinance was specifically designed so the Working Group could have conflicts of interest. The Working Group had conflicts of interest because many of them owned property and had business interests within the area. That meant Council had an obligation under the 1974 Political Reform Act not to accept their recommendations without review. The working group was an advisory and the trilogy in the ordinance of staff, PTC, and Council was intended to try and balance a competing policies. There was a strong

interest in changes in governance to allow more participation by the neighborhoods and was currently trying to balance that against the rules of financial conflicts of interest. There was tension designed into the ordinance and staff was doing their best given those laws.

Council Member Kleinberg asked about the 15 other projects that might be delayed by giving priority to the SOFA CAP. She asked whether there was any way to prioritize the projects and would delayed projects be jeopardized.

Ms. Grote replied the greatest delay would occur in the long-range planning section rather than among the 15 planning related projects. The projects listed in the one group were currently planning related and depended on a number of things. Sometimes it had to do with where the projects were in the review process, when it would be forwarded to Council, or whether additional information was needed. It was difficult to say which of the 15 projects would be most affected; however, those anticipated to occur in mid to late July would be most affected. The biggest delay would probably occur in the advanced planning stage with the Baylands coordination or consolidation of the Baylands Master Plan data monitoring. Projects related to development in commercial areas or industrial areas such as the Stanford Research Park, the shopping center, and some of the general use permit monitoring. Some of those projects could have been put on temporary hold while the SOFA 2 Plan was being completed.

Council Member Kleinberg said when Council discussed the Charleston Road Traffic Study, staff made assurances about not preventing preliminary reviews of that project. However, the staff report stated preliminary reviews could happen. She asked what assurance there was as to which process would be used.

Ms. Grote replied the prescreening did not prevent the process from going forward for either the Charleston or the SOFA 2 Plan. That was not an anticipated project scheduled to come forward in mid to late July.

Council Member Kleinberg asked whether listing it as the prescreening of the project meant it would be off schedule.

Mr. Emslie replied that was correct. The current planning items were listed primarily to give a sense of what projects were upcoming and which would be placed on the agenda. The reason the SOFA 2 was moved to advanced planning was to allow staff to remain whole and intact on the current project should the other plans continue forward.

Council Member Kleinberg asked whether SOFA 2 would preempt the other projects.

Mr. Emslie replied it was not a workload issue but a matter of getting projects on the agenda. There were a limited number of Council meetings between that current time and July 2003 and other projects could possibly be preempted.

Council Member Kleinberg asked whether that meant there would be no decision making.

Mr. Emslie replied that was correct but other options would have to be considered.

Council Member Kleinberg said she was not reassured, but she understood the explanation. She asked what was the status of the affordable housing projects and BMR agreements for development proposals.

Ms. Grote said it was not scheduled or anticipated to have a schedule change. The staff person involved with the housing program was not the same person who would be involved with SOFA. The types of items advanced planning worked on included housing, community development, and block grants. The primary impact of SOFA would be in the area studies and subsections of advanced planning.

Council Member Kleinberg asked whether moving forward with the SOFA 2 CAP Plan would alter Council priorities.

Ms. Grote replied it would not alter the Top 5 Priorities.

**MOTION:** Council Member Freeman moved, seconded by Kishimoto, that staff complete the SOFA 2 CAP prior to August 2003.

Council Member Freeman said all of the listed projects were priorities. She believed it was Council's responsibility to complete the SOFA Plan, especially with a potential referendum approaching and a decision to be made by August on rescinding Council's decision on 800 High Street or moving forward with the referendum. Based on the Comp plan it was important to look at working groups, PTC, and staff information. She understood some of the projects would be slightly delayed because the end of July was only three months away, and there were other items on that evenings' agenda that had been around for at least ten months. It was reasonable for Council to complete at least one item, which had to do with growth in the City and make a decision by going through the process before making a final decision in August.

Council Member Kishimoto believed Council had a clear obligation and commitment to the Working Group and to the community. In October 2002,

Council heard only five minutes of information from the chairman of the Working Group. Council needed to hear their integrated vision for SOFA 2 to understand why residents in the Working Group opposed 800 High Street. She believed the community had a lot of work to do in terms of transit-oriented development, what it meant, whether Palo Alto wanted it, and how the City could meet the housing obligation.

Council Member Lytle said she would support the motion because Council needed to complete what had been started. The speakers reminded Council of the history of the process and the seniority it deserved as well as the purpose of the Coordinated Area Plan. She was reminded of how Council recommended the ordinance in the Comp Plan. The Council could develop a consensus building process and a mutual education process that would not take away from the planning process. The Council was trying to prevent referendum, growth moratorium, citizen planning initiatives, and lawsuits that were the typical reaction manner in which redevelopment was being treated. It seemed that Council was in exactly the position they were attempting to avoid through the Coordinated Area Plan process. A compromise may or may not be reached even if the project was brought forward. She believed it would be a way to boost confidence and help Council focus in terms of being the policy makers in the community. She had second thoughts about asking the over 3000 petition signers and developers to strike a compromise on the 800 High Street situation. The legislators and policy makers were responsible for formulating a compromise.

Council Member Burch said he would support the motion but he had a couple of qualifications. It was important to remember the Working Group was advisory and their work was not of a legal nature. Council was responsible for making the final decision and may or may not agree with the Working Groups' recommendations. Council could decide there would still be a PC zone. The Working Group membership fluctuated after the initial Council appointments as people left the group and new members joined, so Council did not appoint each member. It was possible that some of the people who signed the petition may or may not have read in detail what they were signing. He agreed it was right to bring the project forward, but it would be wise to remember that would not solve everything.

Vice Mayor Beecham said he would support the motion because it was appropriate for Council to move forward as quickly as possible to develop the SOFA 2 Plan so that everyone knew what Council would recommend for the area. He clarified that Council had not delegated responsibility to the developer to structure an agreement. Council had provided that opportunity to the community and the developer to find common ground and bring that back to Council. Council still had the responsibility to make the ultimate

decision. The petition was a confidential document and was not available to the public as submitted. The Notice of Intent to Circulate was available and it specified the petition requested the matter to go on the ballot. The wording on the circulated petition may in fact be different from the published Notice of Intent to Circulate. The differences did need clarification. Council should ask staff to bring the matter back so Council could clarify SOFA 2 by August 2003.

Council Member Kleinberg said she was pleased to hear staff responses regarding what would or would not happen if Council brought the matter forward. She was concerned that Council would create a problem by seeking to solve a problem, particularly in the area of priorities and encouraging affordable housing. She hoped it would not prevent people, who might be interested in developing affordable housing, to lose confidence in the commitment of the community. When the 800 High Street project went before the Council, it was not in the context of the SOFA 2 Coordinated Area Plan, She wanted to see the Plan brought before Council for consideration as a context for looking at 800 High Street. Council made a valid effort in reviewing the 800 High Street project and she believed Council stood firm in their votes. She would support the motion.

Mayor Mossar said she would support the motion. SOFA discussions started about ten years prior and predated the USNG. She was delighted when a previous Council agreed to establish the working group. It was the type of community participation the comprehensive plan advisory committee had envisioned. The Working Group was a new idea and difficult for the Council at that time to fully support. The SOFA 2 CAP was long overdue and she agreed with the cautionary comments made by several colleagues. The discussion focused on the Council's being able to take action on other planning matters but a larger vision would indicate what impacts that would have on Council's ability to handle other matters.

**MOTION PASSED** 8-0, Morton "not participating"

5. Public Hearing: The City Council will consider an application by A & P Family Investments for a Comprehensive Plan Amendment and Rezoning of a 1.84-acre parcel located at 2300 East Bayshore Road to the Research/Office Park land use and LM(D)(3) zoning designations. The property is currently zoned Planned Community (restaurant) and designated for service commercial uses in the Comprehensive Plan *(continued from 4/14/03) (Public testimony closed)*

Council Member Ojakian asked whether the site could be built out to 50,000 square feet.

Chief Planning Official Lisa Grote replied offices could be built on it and that was the approximate range.

Council Member Ojakian said the original project heard by Council was for a 74,000-square-foot building, and it was suggested the site could take 24,000 square feet.

Ms. Grote said that was correct.

Council Member Ojakian asked what other types of businesses could be built other than a restaurant and did the present building have to remain on the site.

Ms. Grote replied a restaurant was the only type of business allowed under the PC zone.

Council Member Ojakian asked whether it was solely restricted to restaurant use.

Ms. Grote replied that was correct.

Council Member Ojakian asked whether the present building could be demolished.

Ms. Grote replied the PC could be abandoned.

Council Member Ojakian asked what would be allowed on the property if the present building were demolished.

Ms. Grote said it could only be used for what was allowed in the PC or the PC could be amended. The land use was very restrictive.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve the staff and Planning and Transportation Commission (PTC) recommendation to:

1. Adopt the proposed Negative Declaration for a redesignation of a 1.84-acre corner parcel at 2300 East Bayshore from Service Commercial to Research/Office Park land use and a rezoning of the parcel from PC for restaurant use to LM(D)(3) (Attachment B of CMR:181:03);
2. Adopt the Resolution amending the land use map of the Palo Alto Comprehensive Plan to change the designation of 2300 East



Bayshore from Service Commercial to Research/Office Park (Attachment C); and

3. Adopt the Ordinance to change the zoning classification of 2300 East Bayshore from PC2785 to LM(D)(3) zone (Attachment D).

Resolution 8287 entitled "Resolution of the Council of the City of Palo Alto Amending the Land Use Map of the Palo Alto Comprehensive Plan to Change the Designation of a 1.84 Acre Parcel at 2300 East Bayshore Road from 'Service Commercial' to 'Research/Office Park'"

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Amending the Zoning Map of the City of Palo Alto to Change the Designation of a 1.84 Acre Parcel at 2300 East Bayshore Road from 'Planned Community' to LM(D)(3) 'Limited Industrial with Combining Districts'"

Council Member Morton said there was a narrow view of what sales tax generation meant. People purchasing services created sales tax. People who worked within the City was one of the largest groups of purchasers of services. Economic analysis needed to recognize that each office building had a set of people who shopped within the City. Economic analysis should include the impact of those who would occupy the building to show fairness as to what the alternatives were in terms of the economic impact. The community would profit from having people come into the community for jobs and, if jobs were going to be added, he wanted them added near the freeway. The site was near a freeway ramp, which made an ideal place to add office space.

Council Member Ojakian said the majority of adjacent properties were LM(D)(3) and the zoning allowed for an office building. The one piece of PC property would be restricted as to how much office space would be allowed. That would not be significant in terms of the overall building or in terms of the overall affects on the area. It would be beneficial to consolidate the parcels to get the best building possible. He agreed with Council Member Morton that it was a less than favorable area for various types of activities.

Council Member Lytle asked how many jobs would be created by using the site for office space.

Ms. Grote replied it would be approximately 200 new jobs.

Council Member Lytle asked whether that was for the entire office building or the corner parcel only.

Ms. Ms. Grote replied it was for the corner parcel only.

**SUBSTITUTE MOTION:** Council Member Kishimoto moved, seconded by Lytle, to not approve the requested zoning and to deny the staff recommendations.

Council Member Kishimoto said her reason for denying the request was that Council was being asked to take several actions. One was a change in the land use designation and the Comp Plan land use map. She looked at the land in the context of where it was and in terms of overall allocations of land uses around the City. She concluded the City was short on service commercial land and there was a continuous strip of service commercial land in that area. She was unsure what other businesses could go there, but it seemed to make sense to keep the Service Commercial (CS) land use designation. The zoning that would go with that was CS district and office use would be limited to 5,000 square feet. There could be residential and non-residential use there, which would probably be more appropriate for what the City was looking for in terms of overall land use.

Council Member Lytle said she seconded the motion because she wanted to hear the opposite side of the argument. She was conflicted over the decision. The City owed the applicant the benefit of having standard zoning. It was too restrictive to hold onto a historical rationale for what the land was used for in previous years. That did not allow enough flexibility and she did not feel comfortable with trying to maintain the status quo. She struggled with what zone worked best for that location and she still had not made up her mind.

Council Member Freeman said the vote was difficult for her because she had a hard time voting for any more offices in the City. She understood Council Member Morton's perspective of more offices meaning more revenue for the City and more tax dollars from people using local businesses. She also worried that the state or her pro-housing colleagues would look more at the fact that the City needed more housing. She was for affordable housing and was concerned about the one to one new job new housing ratio and that type of growth. She calculated approximately 100 new jobs would be created on that particular parcel if it was used for office and approximately 50 new jobs if the parcel was used for a restaurant. If the other parcel would be used for office, the new number of jobs would be approximately 50.

Ms. Grote said 96 jobs would result from 24, 000 square feet. There were 32 restaurant employees in the recent past. That would be 64 new jobs on the corner parcel. On the adjacent parcel the existing parcel would allow a

building up to 50,000 square feet for about 200 employees but that was on the adjacent parcel.

Council Member Freeman asked whether that parcel would be built out.

Ms. Grote replied yes.

Council Member Freeman said she had tried to rationalize the number of new jobs. She would feel comfortable if Council did not feel compelled to continuously infill the current neighborhoods to match one-for-one jobs to housing, especially in a freeway accessible area. She did not want to feel compelled to have one to one housing. Other Council Members might have differing opinions but that was the one thing that would allow her to consider a small office on that parcel. She asked whether the LM(D)(5) was for five acres.

Ms. Grote replied that was for the minimum lot size for a five-acre parcel.

Council Member Freeman asked was there any solution Council could make that would allow the City to be assured of a minimum size office if the two lots would be used together.

Ms. Grote replied the two lots could be used together if they were merged and a certificate of compliance would have to be issued to change the lot line adjustment. The same zoning could be considered for both parcels, which was why staff recommended the LM(D)(3) so the zoning would be the same on what would become one parcel. That would allow a maximum floor area of 30 percent whereas the LM(D)(5) was the same FAR. It was a different lot coverage requirement but the same FAR.

Council Member Freeman asked what the difference was in lot coverage.

Ms. Grote replied it was 15 percent under the LM(D)(5) whereas it was 30 percent under the LM(D)(3). It was less lot coverage but with the same amount of floor area.

Council Member Ojakian asked for clarification on the number of parking spaces needed for office space and restaurant space.

Ms. Grote replied under the LM(D)(3) it was one space for every 300 square feet.

Council Member Ojakian said the number of parked cars would indicate the traffic pattern that would occur. A restaurant would have a more intense traffic pattern than an office.

Ms. Grote said the parking requirement for a restaurant was one space for every 60 square feet seating area and one per 200 square feet for the service portion of the restaurant.

Council Member Ojakian said the traffic patterns affected his decision and was the reason he wanted the zoning change. He preferred not to have a restaurant on the parcel because the area was prone to traffic congestion. He felt incremental office space was better versus something that would generate traffic.

Council Member Burch said it always helped him to know the parameters. Council could not dictate what would go on the parcel; however, the City could control what would go on the parcel to a certain extent by zoning. If the property owner wanted to build office spaces, there was little to prevent it even if Council wanted to have another business parcel. The type of building was the property owners' decision. There were a number of office spaces for lease and for sale in the area. There was no housing or shopping near that area. He believed it was prudent to go along with the applicants' request. He would support the LM(D)(3) zoning.

Council Member Kleinberg asked Mr. Calonne what the state required from the City in terms of housing.

Mr. Calonne replied the legal term was there was not a self-executing requirement. It would be picked up in the next Housing Element update, but there was not a "real time to correct the problem as you go" requirement in the law.

Council Member Kleinberg asked whether it would be a compulsory requirement in the next Comp Plan update.

Mr. Calonne replied it would be a function of the regional housing need, which was a fairly complex formula that would be based in part on the job generation in the City, but the surrounding region would influence it.

Council Member Kleinberg asked whether the City had the power to decide whether to do anything about the housing imbalance as new office buildings were authorized.

Mr. Calonne replied it was within the Council's power. The housing element created a duty to do so and the Comp Plan contained language that came close to creating a duty to avoid exacerbating the job-housing imbalance. There was not an external self-executing enforcement mechanism that came in project by project to tell Council to balance jobs and housing.

Council Member Kleinberg said in view of the fact that the State could penalize communities in non-compliance, was that something the Council would have to deal with.

Mr. Calonne replied yes.

Council Member Morton asked whether the approximately 50 jobs, which he calculated at 1/10 of 1 percent increase in jobs, were of major significance in the overall calculations.

Mr. Calonne replied the formula was not completely clear about how the jobs would be added to whatever number to in order to determine the housing cost. He agreed it was a small number.

Council Member Burch said there were a number of vacant office buildings in that area and he asked whether the lost jobs were registered.

Mayor Mossar said there were no compelling reasons to move forward with the rezoning that evening. There was a Zoning Ordinance Update (ZOU) in progress, and she would be more comfortable considering the appropriate zoning for that particular parcel as part of the ZOU. Highway 101 was heavily congested at that location, and there was no public transit service in that area nor was there any planned. The Valley Transit Authority (VTA) and other transit agencies were facing budget concerns and there were no immediate plans for that area to receive public transportation. There would be no services available for residents if housing were built on that parcel. Another reason to wait for the ZOU was the southern connector road was potentially in the path of one of the alignments should that program go forward. She thought there should be a little more clarity about what was going on and it should be considered in the ZOU. She was not supportive of restricting the use to restaurant, but she believed the rezoning application should be considered in a larger context, therefore, she supported the substitute motion.

Council Member Lytle said she would not want to freeze the PC. There were some instances in the community where she would be interested in freezing a PC. Another restaurant was not something the community was in dire need of. When she considered the 20 office employees that could come from the CS district 5,000 square feet and the number of employees that could come from a commercial service use in that location, it made sense to her. The potential project possibly being in the path of a future connection helped her decide that she wanted to see an office building built in that path. She would not support the substitute motion.

Council Member Kishimoto said she was aware that the discussion dealt with job capacity and not actual jobs. She calculated that 31 housing units would be needed for 50 jobs. If the substitute motion failed she had a second idea.

Council Member Kleinberg said it was a difficult decision because it was in an area that was a perfect place for a big office building. Housing could be built there and just because the services were not there at that present time did not mean services could not follow the housing. In previous years it would have been difficult to imagine the types of retail services currently available in East Palo Alto and that was just the beginning. East Palo Altans had been coming to Palo Alto to spend their retail sales tax dollar and the City had benefited from that so people who lived and worked in Palo Alto could go to East Palo Alto to spend tax dollars. She viewed that as regional cooperation. The developers were not interested in housing and she was not indicating she would vote to put housing on that site. She was delighted about Planning following up on the ZOU and the idea to rezone for mixed use along the Highway 101 corridor mostly on the west side where there were empty office buildings. That could be an encouragement for mixed use and more housing above office. The City could be looking to the future and seeing more residential uses along Highway 101. It was a sensitive location near the Baylands, and there was the issue of increased traffic and what that would do to the air quality and the traffic impacts of the East Bayshore Road and Embarcadero intersection. Council had numerous discussions of the overuse of that intersection when permission was given to the International School to have its new entrance and exits. She did not want Council to forget that and finally there was an issue about Palo Alto's priority of housing whether it was affordable or other types of housing. Council's responsibility was to provide a variety of housing, not only affordable housing. There were many types of people living in the community, and she hoped they always would. Affordable was the type of housing, which was needed the most. She believed it was an ideal place for an office building, but she did not think the City needed to make that decision at that time. She would vote for the substitute motion.

Mayor Mossar said Council Member Kleinberg's comments made her think of services near that parcel. There were three restaurants, a golf course, a post office, a school, a playing field, walking and biking trails, one of the most unique open space areas in the entire Bay Area, a supermarket, and a number of job opportunities. It actually was near existing services.

Council Member Freeman said that was a good analysis of what was near the parcel. She served on the Storm Drain Committee and realized that area was not a good location for housing. Houses would probably not have been built in Crescent Park and the areas close to Highway 101 with the

information available at that time regarding the condition of the soil. The map showed some liquidation issues with the soil. Although Council probably wanted to see housing on that site, the safety factors needed to be rechecked. She asked Council Member Kishimoto to clarify how she arrived at 31 housing units for that parcel.

Mr. Emslie responded the statement meant 64 jobs would be created if the site were used for housing. The number was arrived at by using 1.66 as the multiplier, which yielded 31 housing units. That was a simplistic way to look at it but as Mr. Calonne mentioned, it was far more complicated than that. A variety of factors were considered including past records, environmental and transportation factors, and right of land issues. When it was allocated on a regional basis, it was probably difficult to back out the exact proportion. It was more complex than the seemingly straightforward multiplier.

Council Member Freeman asked if it would be more complex rounded up or rounded down.

Mr. Emslie replied it was partly based on judgment. The City participated in the process because that was an opportunity to review and critique the methodology and the adjustments made to the housing number. It was an interactive process which staff was engaged in throughout the number setting process. The current housing requirement was a little over 600, but the City was over the housing projection by 20 percent.

**SUBSTITUTE MOTION FAILED** 3-6, Kishimoto, Kleinberg, Mossar "yes."

**MOTION FOR PREVIOUS QUESTION** moved by Council Member Morton, seconded by Ojakian.

**MOTION FOR PREVIOUS QUESTION PASSED** 6-3, Freeman, Kishimoto, Lytle, "no."

**MOTION PASSED** 6-3, Kishimoto, Kleinberg, Mossar "no."

Vice Mayor Beecham said in the earlier discussions and in the staff report (CMR:181:03) there was discussion about automotive services and sales and, which was one of the considerations for that site. However, the applicant had little interest in doing that. Automotive dealers brought \$2.5 million in annual sales tax into the City. There was not a City policy on how and whether the City wanted to support automotive dealerships. Two dealerships were lost in the past two years. He understood that other cities bought land and leased it to dealerships so the City could use it for parking. Anderson Honda had an interest in moving to the Ikea site in East Palo Alto before Ikea secured the land. The City was in danger of losing additional

revenue if auto dealerships moved away and the City could not find ways to support them. At that time there was an Ad Hoc Committee on Economic Vitality comprised of Council Members and staff persons. That committee was working with businesses, including auto dealerships, on what they needed to maintain their economic vitality in the City.

**MOTION:** Vice Mayor Beecham moved, seconded by Morton, to direct staff to agendize the discussion regarding how to support automobile dealerships in Palo Alto.

**MOTION PASSED** 8-1, Ojakian "no."

#### APPROVAL OF MINUTES

**MOTION:** Council Member Morton moved, seconded by Burch, to approve the minutes of February 10, 2003, as corrected.

**MOTION PASSED** 9-0.

#### CONSENT CALENDAR

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve Consent Calendar Item Nos. 6-12, and 14-16, with Item No. 13 removed from the Consent Calendar at the request of staff.

Council Member Freeman registered a "no" vote on Item No. 10.

Council Member Council Member Lytle registered "no" votes on Item Nos. 9, 10, and 11.

Mayor Mossar suggested Council Members register their "no" votes and explain their votes during Council Comments.

Council Member Lytle asked Mayor Mossar for clarification of her directive.

Mayor Mossar explained Council had not been adhering to guidelines regarding the Consent Calendar. She suggested the best way to handle the Consent Calendar would be to register "no" votes and offer an explanation during Council Comments.

Council Member Lytle said, given that explanation, she asked that Item Nos. 9, 10, and 11 be removed.

Mayor Mossar asked Assistant City Manager Harrison whether items 9 and 11 were time sensitive.



Ms. Harrison replied Item Nos. 9 and 11 were time sensitive.

Mayor Mossar moved Item Nos. 9, 10, and 11 to the end of the meeting. Item No. 9 became 19B, Item No. 10 became 19C, and Item No. 11 became 19D.

Council Member Kleinberg suggested allowing members of the public who had submitted speaker cards to speak at that time since items would be moved to the end of the agenda.

Mayor Mossar said it was inefficient to pull items off the consent calendar although it was Council's right to do so.

Council Member Burch asked Council Member Lytle why she pulled Item Nos. 9, 10, and 11 after it became apparent that she could not explain her "no" votes on those items.

Council Member Lytle replied she planned to vote "no" on Item Nos. 9, 10 and 11. and she had a brief explanation for each of her "no" votes. She wanted the explanations to go with the "no" vote on the item and not on Council Comments.

Council Member Burch said from his perspective it would be easier to appeal to the chair to be allowed to make the brief comments instead of pulling the items and prolonging the meeting.

Mr. Calonne said he raised the concern with Mayor Mossar because there was a referral to Policy and Services Committee (P&S) about the Consent Calendar. The Consent Calendar worked when it was a function of the Council consenting to act on those items without discussion or debate. Hopefully, that would be addressed with the P&S Committee. Meanwhile, the Council had been expanding the kinds of commentary and questions related to the Consent Calendar and that was not working as a Consent Calendar. The Consent Calendar was operating as a disruptive interlude in the middle of the meeting and it was not helping Council, staff, or the public.

Mayor Mossar suggested that, until further direction and recommendation from the P&S Committee, to make it a policy that there would not be individual discussion and comments during Consent Calendar time. That policy would begin at the next Council meeting because it had caused such concern. She would like to not reagendaize the items, to take the comments that evening, but in the future she would not do that. She agreed with Mr. Calonne that it had become disruptive and it should be a time in the meeting to move forward.

Council Member Morton asked if Council would follow the normal policy of allowing the public to speak in Oral Communications before taking a vote.

Mayor Mossar said the public would always be allowed to speak before the Consent Calendar was voted on.

Council Member Morton asked whether that would be done that evening.

Mayor Mossar replied yes, as long as they were not reagendaized. If it became an agenda item, the public would be allowed to speak.

Council Member Lytle asked whether Council should hear from the public before she explained her "no" votes.

Mayor Mossar replied she should give her explanations at that time.

Council Member Lytle registered "no" votes on Item Nos. 9, 10, and 11. She registered a "no" vote on Item No. 9 because there was insignificant policy analysis to proceed with another hydro-partnership based on her experience with Trinity River. She registered a no vote on Item No. 10 because she valued those services more than some other things staff paid for such as City Pages. She registered a "no" vote on Item No. 11 due to the lack of a competitive bid process. She was not persuaded by the reasons given in the staff report (CMR:240:03).

Bob Smith, 2291 Greer, promoted the idea of web casting City meetings during the previous year, and he was pleased to see the City moving forward on that idea. Staff indicated they proposed a delay because of budgetary reasons. He did not find compelling reasons based on the proposed budget. It was suggested that it would take half of the technologist at \$60,000 a year to operate the facility. Most companies, including non-profits, performed web casting with existing staff and a limited budget. The City might already have some of the needed equipment. He urged Council to re-examine what it would take to get started, which would probably reveal the project could be started without that kind of proposed budget. Collaboration with radio station KZSU and the Media Center had been proposed, and representatives from the Media Center indicated they were interested in the project. The project did not have to be expensive, and there was an opportunity to show the community the City did not have to employ additional staff and budget each time a new service was provided.

Herb Borock, P.O. Box 632, said he agreed. He recalled a time in the past when that item was on the agenda for action. Staff removed the item and, at that time, there was an email from a member of the public who suggested it could be done much cheaper. A reason was not given as to why the item

was removed. He appreciated the continuation of having the public speak to Consent Calendar items that the Council had not removed. Former Mayor Simitian set up the procedure and he referred to colleagues by title and last name without having any protocols. The Consent Calendar process should be very simple, Council Members either wanted to remove an item or members of the public wanted to speak. He suggested that Council review how the previous Council dealt with the Consent Calendar.

Arthur Keller, 3881 Corina Way, said one of the program proposals had about 97% going for wind and about 2-3 % going for full voltage power. He suggested the company which supplied full voltage power be directed to install said photo voltage power within the confines of the City and not elsewhere. That would reduce the need for transporting power into the City, which would have losses in transmission as well as additional costs. He was pleased the program was designed to break even to the extent that if there was any surplus generated, he suggested the surplus go toward installing additional photo voltage power on City facilities.

Council Member Kishimoto registered a "no" vote on Item No. 10.

#### ADMINISTRATIVE

6. Proposed "Green" Building Policy



7. Amendment No. 3 to Contract No. C8103688 Between the City of Palo Alto and Turner Construction in the Amount of \$76,800 for Additional Testing and Inspection Services - Downtown Parking Structures (CIP19530)

Amendment No. 4 to Contract No. C6076145 Between the City of Palo Alto and Watry Design, Inc. in the Amount of \$37,400 for Additional Design Services and Request for Additional Contingency Monies for Future Unforeseen Design Needs - Downtown Parking Structures (CIP 19530)

8. Approval Of Appendix 6 Of The SAP Inc., Software License Agreement in the Amount of \$35,000 For Fiscal Year 2002-03 and \$95,000 in 2003-04 for Training Services Related to the Implementation of the Enterprise Resource Planning (ERP) Software or Resource and Financial Tracking System (RAFTS)

9. Northern California Power Agency (NCPA) Member Cost Sharing Agreement for the Financing of the Planning and Development of the POE Hydroelectric Project

10. Cost Analysis and Timing for Internet Broadcasting of Council Meetings
11. Amendment No. 1 to Extend the Existing Contract No. C0125969 Between the City of Palo Alto and CompPsych Corporation (CompPsych) in the Amount of \$12,000 for the Employees Assistance Program
12. Contract Between the City of Palo Alto and 3 Phases Energy Services to Provide Renewable Energy Certificates and Sales and Marketing Support for the Palo Alto Green Program for up to Five Years, Up to the Amount of \$1,890,000
- ~~13. From Utilities Advisory Commission: Approval of Utilities Strategic Plan Update *(Item to be removed at the request of staff)*~~

#### COUNCIL COMMITTEE RECOMMENDATION

14. The Finance Committee recommends to the City Council re New Green Power Program Rate Schedules, adoption of a resolution to establish Green Power Rate Schedules E-1-G, E-2-G, E-4-G, E-7-G, and E-18-G

Resolution 8288 entitled "Resolution of the Council of the City of Palo Alto Adopting New Utility Rate Schedules E-1-G, E-2-G, E-4-G, E-7-G And E-18-G, and Amending Resolution Numbers 8058, 8075 And 8174 and Repealing Resolution Number 7938 Pertaining to Electric Service Schedules E-1-G1, E-1-G2, E-1-G3, E-2-G1, E-2-G2, E-2-G3, E-4-G1, E-4-G2, E-4-G3, E-7-G1, E-7-G2 and E-7-G3 of the City of Palo Alto Utilities Rates and Charges"

15. The Finance Committee recommends to the City Council, adoption of a resolution authorizing the City Manager to enter into agreements with Western Area Power Administration to temporarily reduce the City's contract rate of delivery in 2003 and/or 2004 by up to 40 MW, and to spend up to \$20,000,000 on fixed price forward purchases for replacement with creditworthy counterparts with BBB+ or better credit ratings; and when contract gets to \$15,000,000 in a 12-month period, staff will report to Council.

Resolution 8289 entitled "Resolution of the Council of the City of Palo Alto Approving for a Limited Period of Time a Reduction in the Contract Rate of Delivery Authorized Under Contract Number DE-MS65-85WP59007 with the United States Department of Energy, Western Area Power Administration"

16. The Policy and Services Committee recommends to the City Council to direct staff to draft a resolution supporting a moratorium on the State of California's death penalty.

**MOTION PASSED** 9-0 for Item Nos. 6-8, 12, and 14-16.

**MOTION PASSED** 8-1 for Item No. 9, Lytle "no."

**MOTION PASSED** 6-3 for Item No. 10, Freeman, Kishimoto, Lytle "no."

**MOTION PASSED** 8-1 for Item No. 11, Lytle "no."

AGENDA CHANGES, ADDITIONS, AND DELETIONS

**MOTION:** Council Member Morton moved, seconded by Beecham, to continue Item No. 18 re 706-708 Los Trancos Road to the May 5, 2003, regular City Council meeting.

**MOTION PASSED** 9-0.

Mayor Mossar entertained a motion to move the three Closed Session items forward to become 18A, 18B, and 18C. The reason for doing so was there were items to be discussed in closed session that may have an impact on Item No. 19.

Council Member Morton asked whether Oral Communications could be taken before the vote so the public would not have to wait and speak after the Closed Session.

Council Member Lytle said because the Closed Session items were going to be taken before Item No. 19, which dealt with the Roth building and the Roth building Budget Amendment Ordinance (BAO) was also part of Item No. 17, she asked whether the Closed Session items would be discussed before Item No. 17.

Mayor Mossar said it was not part of Item No. 17.

Council Member Lytle asked whether it could become part of Item No. 17.

Mayor Mossar replied no.

Council Member Lytle asked whether it could become part of the mid-year BAO.

Mayor Mossar replied no because that would require a two-thirds vote. Item No. 19 would be left in place, the Public Hearing would be opened and closed, and the matter would be continued after the Closed Session. That enabled Council to hear from the public and Council received information from staff they would need in Closed Session in order to hear Item No. 19.

## PUBLIC HEARINGS

17. Public Hearing: The City Council will hold a Public Hearing to consider, among other items, mid-year changes to the 2002-03 Municipal Fee Schedule, including the adoption of new fees, increasing existing fees, rates or assessments.

Council Member Morton said the Finance Committee unanimously approved the item. The budget included some monies for the Roth building demolition but not the additional amount that would be required to retain the spine.

**MOTION:** Council Member Morton moved, seconded by Burch, that the Finance Committee recommend to the City Council re the 2002-03 Adjusted Budget - Midyear Amendments and Capital Improvement Program Status, adoption of a Budget Amendment Ordinance, which includes:

- a. Proposed midyear adjustments to the 2002-03 Budget for the General Fund, Enterprise Funds, Special Revenue funds, Internal Service Funds, Debt Service Funds, and Capital Improvement Fund;
- b. New or amended 2002-03 CIP Project Descriptions;
- c. Amendments to the 2002-03 Adopted Municipal Fee Schedule; and
- d. Amendments to the 2002-03 Table of Organization.

Ordinance 4785 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for The Fiscal Year 2002-03 to Adjust Budgeted Revenues and Expenditures in Accordance with the Recommendations in the Midyear Report"

Council Member Lytle said on page 5 of 9 of staff report (CMR:160:03), it stated that an additional \$30,050 for the Roth building was available. She asked whether a motion was in order to adjust that amount to accommodate the spine removal as part of the BAO.

Mayor Mossar said Council could not take that action without a BAO approval, which required a two-thirds vote.

Council Member Lytle said she thought the item before them was for a BAO approval.

Mr. Calonne said the action required a two-thirds vote. He believed the concern could be answered after the Closed Session. He did not believe there was an advantage by including it with Item No. 17. He would be concerned about Brown Act notice on it as well. He did not think it was feasible.

Council Member Lytle asked whether the Roth building retention was included.

Mr. Yeats said the item Council Member Lytle referred to recognized additional revenue from Summerhill Homes, which added revenue to an existing CIP. There was no additional funding for the demolition of the Roth building wings included in the mid-year budget adjustment.

Council Member Lytle asked whether additional funds could be added.

Mr. Yeats replied that would put the mid-year budget adjustment out of and would probably move the budget into the red at that particular time.

Mayor Mossar declared the public hearing open and hearing no requests to speak, declared the public hearing closed.

**MOTION PASSED 9-0.**

18. Public Hearing: The City Council will consider a request by Clare Malone Prichard of Stoecker & Northway Architects, Inc. on behalf of Mr. & Mrs. Irving Grousbeck for consideration of Site and Design Review and Variances for improvements to an existing single-family residence located at 706 and 708 Los Trancos Road. The Site and Design Review includes the following: a room addition, a new pad for relocation of existing mechanical equipment, removal of a masonry fireplace, the upper portion of the driveway to remain as concrete, two existing free-standing fences, and a lot line adjustment to increase site area. The Variance requests are for the following: the transference of allowable impervious surface area from Lot 5 (708 Los Trancos Road) to Lot 4 (706 Los Trancos Road) and an existing 8-foot high fence to remain as constructed. Further, the City Council will consider a request by Clare Malone Prichard of Stoecker & Northway Architects, Inc. on behalf of Mr. & Mrs. Irving Grousbeck for consideration of Site and Design Review of an existing free-standing fence that lies within a portion of the property located at 690 Los Trancos Road *(At the request of staff, item to be continued to 5/5/03)*

**Item continued to the May 5, 2003, regular City Council meeting.**

REPORTS OF OFFICIALS

19. Possible Further Directions to Staff Regarding Retention or Demolition of Roth Building Spine and Related Matters

Karen Holman, 725 Homer, spoke on behalf of the Palo Alto History Museum Project Committee. Council stated their policy direction to retain the Roth Building spine, and later there was a conflict between the numbers needed to retain the spine versus demolition of the spine. The committee asked Council to continue their policy to retain the spine and they presented an alternative, cost-effective proposal on how to do so. The proposal would cost one-third to one-half of what was proposed for the more rigorous fashion. The Committee presented the proposal to Public Works, it went through their review process, and the Chief Building Official had determined the proposal was a feasible alternative. The building's elevator could be used in its present condition without being replaced. She urged Council to consider the less rigorous alternative for retention of the spine. Regardless, of the demolition method, alternatives or amendments would have to be made to the back retention wall. The less rigorous method would need to have more structural support added.

Council Member Kishimoto asked Ms. Holman for clarification on the one-third to one-half cost reduction.

Ms. Holman replied the committee's architect and structural engineer said the less rigorous proposal for retention of the spine would cost one-third to one-half of what the more rigorous method in the original Public Works proposal would cost.

Council Member Kishimoto asked whether that meant one-third to one-half of the \$1.03 million proposal.

Ms. Holman replied that was her understanding but would need to confirm that with the architect or the structural engineer. The costs for structural steel and cement were large numbers and cutting those to one-half or one-third would bring the figure within the City's budget.

Council Member Morton asked what was her understanding when the original Request for Proposal (RFP) was published with respect to second floor access and the coherence of the building.

Ms. Holman replied the staff's recommendation in December 2001 was to retain the spine and that option was included in the RFP. The Committee's



understanding was that they would have the option to retain or remove the spine at their discretion or any successful respondent would also.

Council Member Freeman asked Ms. Holman to point out in the figures in her handout where the savings would occur.

Ms. Holman pointed out the column of figures that would reduce costs.

Council Member Freeman asked whether the less rigorous method meant the spine would be retained and supported at the reduced cost.

Ms. Holman replied yes.

Council Member Freeman asked whether they would have to wait to find out which non-profit would win the bid and have the opportunity to design the building.

Ms. Holman replied yes.

Council Member Freeman said it would be easier to design the building by using the less rigorous method than the more rigorous method because the more rigorous method would have to tear down structures.

Ms. Holman said the more rigorous method would mean that more would have to be removed in order to provide for entryways and windows.

**MOTION:** Council Member Morton moved, seconded by Ojakian, to move the Closed Session items forward and continue the item after the Closed Session.

**MOTION PASSED** 9-0.

#### CLOSED SESSION

The meeting adjourned at 10:10 p.m. to a Closed Session

20. Conference with City Attorney -- Potential Initiation of Litigation  
Subject: Potential Initiation of Litigation on One Matter  
Authority: Government Code Section 54956.9(c)
21. Conference with City Attorney -- Existing Litigation  
Subject: Eugenia Weiner v. City of Palo Alto, SCC#CV796572  
Authority: Government Code Section 54956.9(a)
22. Conference with City Attorney -- Existing Litigation

Subject: Philip Gibson v. City of Palo Alto, et al., Santa Clara County Superior No.: CV805641

Authority: Government Code section 54956.9(a)

23. Conference with City Attorney--Potential/Anticipated Litigation  
Subject: Significant Exposure to Litigation  
Authority: Government Code section 54956.9(b)(1) & (b)(3)(A).

The City Council met in Closed Session to discuss matters involving potential initiation of litigation, existing litigation and potential/anticipated litigation as described in Agenda Item Nos. 20 – 23.

**Mayor Mossar announced that no reportable action was taken on Agenda Item Nos. 20 – 23.**

The Closed Session adjourned at 11:55 p.m. and the City Council meeting was reconvened.

#### **CONTINUED DISCUSSION OF ITEM NO. 19**

**MOTION TO CONTINUE:** Council Member Kishimoto moved, seconded by Freeman, to continue Item No. 19 to the regular May 5, 2003, City Council meeting.

**MOTION PASSED** 6-0, Beecham, Burch, Morton absent.

#### COUNCIL MATTERS

- 19A. Council Members Hillary Freeman and Judy Kleinberg re Semi-Annual Reporting by Palo Alto Police Department on Demographic Data

Council Member Freeman said she received a reply to her memo from Interim Police Chief Lynne Johnson. The reply answered all the questions in her memo and she asked how the matter would return to the Council.

Mr. Benest replied after Ms. Johnson and her staff completed the analysis and evaluation of the current data, as well as some of the other activities she had identified, staff would return with a report to the Council. Staff would propose to do some certain things depending on what that analysis and evaluation contained.

Council Member Freeman asked whether there would be a report in June on that information.

Mr. Benest replied yes.

Council Member Freeman asked whether it would just be an informational report.

Mr. Benest replied it would be an informational item but she could suggest that the matter be agendaized.

Mayor Mossar said it sounded like no action was proposed for that evening.

**No action required.**

FINAL ADJOURNMENT: The meeting adjourned at 11:57 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.