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August 4, 2003

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ADJOURNMENT: The meeting adjourned at 11:50 p.m.38

The City Council of the City of Palo Alto met on this date in the Council Chambers at 4:35 p.m.

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

CLOSED SESSION

1. Conference with Labor Negotiator
Agency Negotiator: City Manager and his designee pursuant to the Merit System Rules and Regulations (Leslie Loomis, Nick Marinaro, and Charles Perl)
Represented Employees Organization: International Association of Firefighters (IAFF), Local 1319
Authority: Government Code section 54957.6
2. Public Employee Performance Evaluation
Subject: City Manager, Frank Benest; City Attorney, Ariel Calonne; City Auditor, Sharon Erickson; and City Clerk, Donna Rogers
Authority: Government Code section 54957
3. Public Employee Appointment
Title: Interim City Attorney
Authority: Government Code section 54957

The City Council met in Closed Session to discuss matters involving labor negotiations, public employee performance evaluation, and public employee appointment as described in Agenda Item Nos. 1, 2, and 3.

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

Mayor Mossar announced action on Agenda Item No. 2, to continue the item to August 14, 2003; and on Agenda Item No. 3, the Council voted unanimously that upon resignation of the City Attorney, to appoint Wynne Furth as the Interim City Attorney, and the Mayor to appoint two or more Council Members to negotiate with Wynne Furth the terms of her contract.

COUNCIL MATTERS

4. Recruitment Process of City Attorney

Council Member Kleinberg spoke regarding a replacement procedure for replacing the City Attorney.

Herb Borock, P.O. Box 632, spoke regarding the procedures and cost to replace the City Attorney position.

Council Member Ojakian said the procedure for hiring a new City Attorney would be much the same as when the City Manager was selected.

MOTION: Council Member Kleinberg moved, seconded by Burch, to approve the recommendations in the Colleagues' Memo dated August 4, 2003, of the following objectives and timelines for the anticipated search for a new City Attorney:

- Take the time necessary to find the most qualified City Attorney for our community, but do it in the most efficient and fiscally prudent manner possible.
- In order to avoid the high cost of using a search firm, we propose that we utilize a volunteer Blue Ribbon Search Panel of local/regional legal and government experts who will handle the initial screening of applicants and will recommend to the Council a group of 3 to 5 finalists whom the Council will interview and from whom the Council will make a final selection.
- The Mayor will appoint the Blue Ribbon Panel based on a total number and eligibility criteria agreed upon by the Council (e.g., that no practicing attorney who is a Palo Alto resident be eligible for the Panel; that the Panel include at least one current or former City Attorney not necessarily connected on the Council) and appoint one of its members as the Chair.
- The Council will prepare and adopt a job description no later than mid-September (due to the summer break, we think this is the most realistic time line), to be followed by the official beginning of the search, comprised of advertising the job opening and appointment the Blue Ribbon Search Panel.
- The job opening will be advertised by means of relevant media during September and early October. Simultaneously the Mayor will appoint the Blue Ribbon Search Panel. Initial applicant screenings by the Blue Ribbon Search Panel will likely be held in late October or early November, and Council interviews of finalists and finalist site visits will be conducted in November/early December. Optimally, and the new City Attorney will begin work as soon after the first of the year as possible.

Council Member Burch said when the search for the City Manager was in progress, the newly-elected Council Members were able to hear and participate in the interviews, but not allowed to vote because they were not sworn in.

Mayor Mossar said for the record, the then sitting Council Members participated in the process.

Council Member Lytle asked who would support the Blue Ribbon panel of experts for the professional recruitment portion.

Vice Mayor Beecham questioned if Council Member Lytle's question was whether internal staff would be helping in the process.

Council Member Lytle questioned if the Human Resource Department would be working on the hiring or an outside professional recruiter.

Council Member Kleinberg said a temporary individual would work in City Hall or with the chair of the CAO Committee.

Council Member Lytle said she wanted the outreach recruitment to be in the best possible area of professional support to attract the best candidates.

Mayor Mossar clarified that Council Member Lytle suggested that a professional recruiter be hired in addition to the Blue Ribbon panel.

Council Member Lytle said yes.

Council Member Kleinberg said only a small unique outreach group would be easily identified through selected targets.

Mayor Mossar questioned how limited the outreach group would be and asked who would help with writing the job description for the City Attorney position.

Council Member Kishimoto said she believed that a professional should be hired to help with the recruitment, screening, and negotiating.

Council Member Morton said he would be uncomfortable transferring the interviewing and oversight to a panel and felt outside assistance would be needed.

Mayor Mossar said before the vote, the motion would be the recommendation to hire professional expertise.

Vice Mayor Beecham said in order for the right individuals to apply, the individuals should be satisfied with their current job and also they would be willing to take a chance and come to Palo Alto.

AMENDMENT: Mayor Mossar moved, seconded by Morton, to additionally direct the CAO Committee to hire an outside recruiter to assist in recruiting and assist the Council with the process of other phases of the recruitment to be brought back to the full Council for confirmation.

AMENDMENT PASSED 7-2, Kleinberg, Ojakian “no.”

Mayor Mossar said the recruiter would work with the Council and the Blue Ribbon Panel Task Force for recommendations as to who the best candidates were.

Council Member Lytle wanted to verify the Blue Ribbon Committee would be a separate entity from the Council. She preferred the full council be involved in equal ways in the recruitment process.

Mayor Mossar asked Council Member Lytle to explain how the Blue Ribbon Panel would work with the Council.

Council Member Lytle said the Blue Ribbon Panel would be another advisory group to the Council from another area of expertise. There would be two independent sources of recommendations.

Mayor Mossar said the CAO Committee would choose a recruiter. A recruiter would work with the CAO -Committee to specify the timeline and the specific process, then would bring the process back to full Council for confirmation and the details of the working relationship with the Blue Ribbon Task Force.

Council Member Lytle said a word should be modified to allow new Council Member elect members to be allowed to comment.

Mayor Mossar said she did not have that understanding.

Council Member Lytle explained the wording in the Colleagues’ Memo would only allow an incumbent to comment or vote.

Mayor Mossar said Council Member Lytle could make an amendment to the language.

INCORPORATED INTO THE MOTION BY THE MAKER AND SECONDER to make a change to page 2 of the Colleagues’ Memo to remove from the bullet the words “comment or.”

Council Member Lytle said if a change would take place, the vote would take place with the new Council.

Mayor Mossar asked for clarification.

Council Member Kleinberg said if there were new Council Members, they would have comments but, she also asked how long the Council wanted to wait. Currently they were being asked to wait seven months for a vote.

Council Member Lytle said any individual coming into the position would want the support of the Council they would be working for.

Mayor Mossar asked for comments on the current topic.

Council Member Burch agreed with Council Member Kleinberg and said the Council shouldn't wait until January to vote if the vote could be made in November.

Mayor Mossar said an amendment to the original motion had passed. The CAO Committee would hire a recruiter to assist the City Council with its process and would work together to define the specific process and would bring it back to the full City Council.

Council Member Ojakian said the process used should be the least expensive and one that expedited hiring a City Attorney. The process would use the expertise of individuals in our community who would screen a core group of people. The Council would then decide from that core group.

Council Member Kleinberg said she had a concern the individuals on the Blue Ribbon Committee might not like to be second-guessed by a recruiter.

Mayor Mossar clarified the amendment was to hire a recruiter.

Council Member Kleinberg asked what the recruiter would do.

AMENDMENT: Council Member Kleinberg moved, seconded by Beecham, to have the recruiter for the City Attorney do the front-end work and the Blue Ribbon Committee do the vetting and recommendations to the full City Council.

Council Member Morton confirmed and said he believed the community was getting the wrong message. The Council was expected to hire one of the most senior positions on the staff. He believed if a recruiter was hired, the Council should do the sorting and the vetting.

Council Member Freeman said the Blue Ribbon Committee provided input from the community whom the City Council served and would interact with the City Attorney.

Mayor Mossar asked for a vote. She clarified the role of the recruiter would be to help negotiate a contract and to help get it signed.

AMENDMENT PASSED 7-2, Kishimoto, Morton “no.”

Council Member Kishimoto said she did not want the Blue Ribbon Committee to limit what the Council would hear from both the professional recruiter and the Blue Ribbon Committee.

Council Member Kleinberg said all of the work products and recommendations from the recruiter and the Blue Ribbon Committee would be presented to the Council.

Mayor Mossar said it would be the full Council’s action that would make the hire and offer.

MOTION AS AMENDED PASSED 9-0.

Mayor Mossar asked for the specific process to return to the Council including the make-up of the panel, and the criteria.

Council Member Kleinberg said the timing and the chronology embedded in the memo was suggested only and should be flexible.

Mayor Mossar said the specific process that returns to the Council should include a timeline.

ADJOURNMENT: The meeting adjourned at 7:22 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:23 p.m.

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

ORAL COMMUNICATIONS

Chuck Bergson, East Palo Alto, spoke regarding IKEA Traffic Plan

Ken Horowitz, 525 Homer Avenue, spoke regarding the fluoride initiative measure.

Shari Moody, 119 Coleridge Avenue, spoke regarding an application for a street tree at 127 Coleridge Avenue.

Louis Calabro, PMB 155, 297 El Camino Real, spoke regarding the arrest of two Palo Alto police officers

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

Greg Kerber, Birch Street, spoke regarding police and The Edge.

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

Tom Jordan, 474 Churchill Avenue, spoke regarding the referendum wording on 800 High Street.

Joe Hirsch, 4149 Georgia Avenue, spoke regarding staff appreciation.

SPECIAL ORDERS OF THE DAY

1. Appointment of Candidate to the Planning and Transportation Commission

VOTING FOR JOSEPH BELLOMO: Beecham, Burch, Kleinberg, Morton, Mossar, Ojakian

VOTING FOR WILLIAM GOLDMAN:

VOTING FOR BRET KERRINS:

VOTING FOR KERRY YARKIN:

Kishimoto, Lytle, Freeman

City Clerk Donna Rogers announced that Joseph Bellomo (with six votes) was appointed on the first ballot to a four-year term ending July 31, 2007.

APPROVAL OF MINUTES

MOTION: Council Member Ojakian moved, seconded by Morton, to approve the minutes of June 9, 2003, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

Mayor Mossar stated she would not participate in Item No. 11 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Kleinberg would not participate in Item No. 11 due to a potential conflict of interest because her husband's former law firm represented Stanford in land use matters.

Council Member Morton stated he would not participate in Item Nos. 17 and 18 due to a conflict of interest because he was an auditor/accountant for many of the organizations receiving Community Development Block Grant funds.

Council Member Lytle registered a "no" vote on Item Nos. 11 and 13.

Council Member Freeman registered an abstention on Item No. 11, and a "no" vote on Item No. 13.

MOTION: Council Member Ojakian moved, seconded by Burch, to approve Consent Calendar Items 2-22.

LEGISLATIVE

2. Resolution Approving an Agreement with Caltrans to Install a Traffic Signal at US 101 North Bound Off-Ramp and San Antonio Road and Perform Road Work

Resolution 8326 entitled "Resolution of the Council of the City of Palo Alto Authorizing Execution of an Agreement with the State of California Department of Transportation to Install the Traffic Control Signals and Safety Lighting and the Construction of Roadway Improvements at US 101 Northbound Off-Ramp and San Antonio Road"

3. Approval of a Budget Amendment Ordinance in the Amount of \$88,596 from the Citizens for Public Safety (COPS) Fund into CIP PD-02017 – Public Safety Mobile Data Computer Project

Ordinance 4800 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2003-04 to Provide an Additional Appropriation in the Amount of \$88,596 to Capital Improvement Program (CIP) Project PD-02017, Public Safety Mobile Data Computer System, to Reallocate \$88,596 of Funds from Citizens for Public Safety (COPS)"

Contract Between the City of Palo Alto and Public Safety Systems, Inc. in the Amount of \$255,250 for Software Applications and Enhancements of Public Safety Computer Systems

4. Human Relations Commission Recommendation to the City Council to Adopt the Palo Alto Unified School District Family Night Resolution

Resolution 8327 entitled "Resolution of the Council of the City of Palo Alto Declaring September 4, 2003 and January 29, 2004 as Palo Alto Family Night: *Ready, Set, Relax!*"

ADMINISTRATIVE

5. Resolution 8329 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Dave Dudley Upon His Retirement"

6. Resolution 8330 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Paul Healy Upon His Retirement"

7. Contract Between the City of Palo Alto and Steel Fence Systems, Inc. in the Amount of \$176,259 for Fencing Upgrade Project for City of Palo Alto Utilities Facilities

8. Contract Between the City of Palo Alto and Compsych in the Amount of up to \$50,000 Per Year for Three Years for the City of Palo Alto's Employee Assistance Plan

9. Contract Between the City of Palo Alto and PAR Electrical Contractors, Incorporated in the Amount of \$1,518,215 for Park Blvd. 60KV Switching Station Rebuild Project (IFB#150392)

10. Amendment No. 1 to Existing Contract No. C2131552 Between the City of Palo Alto and Blymyer Engineers, Inc. in the Amount of \$18,000 for

Additional Work Related to the Design of an Integrated Fueling Facility at the Municipal Services Center



11. Amendment Number 1 to the Phase 1 Carollo Contract to Include a Project Level Environmental Impact Report and Delete the Final Design and Construction Services for the El Camino Park Reservoir, Pump Station and Well
12. County of Santa Clara Grant Application for Federal Funding to Repair and Repave a Portion of Embarcadero Way



13. Contract Between the City of Palo Alto and Duran & Venables, Inc. in the Amount of \$442,000 for Construction of Harbor Point and Byxbee Park Parking Lot Improvements



14. Contract Between the City of Palo Alto and J.J.R. Construction, Inc. in the Amount of \$495,965 for Contracting Out the 2003 Street Maintenance Program Phase II (Capital Improvement Project PE-86070/18670)

15. Amendment No. 3 to Existing Contract No. C8100757 Between the City of Palo Alto and INDUS Utility Systems (INDUS) in the Amount of \$154,500 for Software Maintenance Services for Utilities Customer Information System



16. Contract Between the City of Palo Alto and TRS Consultants in the Amount of \$284,500 for Contracting Out Construction Management Services for the Embarcadero Road Bicycle/Pedestrian Bridge and Path Extension (Capital Improvement Program Project PE93010/19310) and Homer Avenue Caltrain Undercrossing Project (Capital Improvement Program Project PE93101/10121)

17. Amendment No. 1 to Agreement No. C3149624 Between the City of Palo Alto and Palo Alto Community Child Care (PACCC) for Funds Allocated During the Fiscal Year 2002-03 Under the Community Development Block Grant

18. Amendment No. 1 to Agreement No. C3149075 Between the City of Palo Alto and Avenidas for Funds Allocated During the Fiscal Year 2002-03 Under the Community Development Block Grant

19. Contract Between the City of Palo Alto and Foothill DeAnza Business and Industry Institute in the Amount of \$100,000 for the First Year for Provisions of City-Sponsored Training Services, Including the Option to

Renew the Contract for up to Two Additional One-Year Terms in the Amount of up to \$120,000 Each

COUNCIL COMMITTEE RECOMMENDATION

20. Finance Committee recommendation re approval of the Long-term Electric Acquisition Plan (LEAP) Implementation Plan.

MOTION: Council Member Ojakian moved, seconded by Council Member Burch, approval of the following:

- The Long-term Electric Acquisition Plan (LEAP) Implementation Plan. Specific transactions would be brought to UAC and Council, as appropriate for approval.
- Authorize the City Manager to purchase the following two blocks of energy at an average unit price not to exceed 6¢/kWh, with an associated total cost not to exceed \$27.74 million, and complete all transactions associated with these purchases by June 30, 2004:
 - a. Block 1: twenty-five megawatts (MW) of power not to exceed 5.9¢/kWh and \$22.34 million; and delivered 24 hour/day during the months of January through March and September through December for 2005, 2006, and 2007; and
 - b. Block 2: twenty-five MW of power not to exceed 6.7¢/kWh and \$5.4 million; and delivered during the on-peak hours only during the months of September through December for 2005 and 2006.

In addition, the Council would authorize the City Manager to purchase the following block of energy at an average unit price not to exceed 6.5¢/kWh, with an associated total cost not to exceed \$7.98 million and complete all transactions associated with the purchases by June 30, 2004:

Block 3: twenty-five megawatts (MW) of power delivered during the on-peak hours only during the months of January through December for 2005

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Authorizing the City Manager to Purchase a Portion of the City's Energy Requirements During the 2005 - 2007 Period [Block 1 Purchases], the 2005 - 2006 Period [Block 2 Purchases], and the 2005 Period [Block 3 Purchases] Under Specified Terms and Conditions"

21. Finance Committee recommendation re Approval of Three Objectives and Four Guidelines for the Gas Utility Long-Term Plan (GULP).
22. Finance Committee recommendation to the City Council re Acceptance of the Auditor's Office Quarterly Report as of June 30, 2003.

MOTION PASSED 9-0 for Item Nos. 2-10, 12, 14-16, and 19-22.

MOTION PASSED 5-1-0 for Item No. 11, Lytle "no," Freeman "abstaining," Kleinberg, Mossar "not participating."

MOTION PASSED 7-2 for Item No. 13, Freeman, Lytle "no."

MOTION PASSED 8-0 for Item Nos. 17 and 18, Morton "not participating."

REPORTS OF OFFICIALS

23. Approval of Interim Basketball Use on the Tennis Courts at Terman School; Approval of Proposed Park & School Signage/Sign in System to Provide Optimal Security for the Terman Park Facilities During School Days; and to Refer to the Parks and Recreation Commission Proposed Long Term Alternative Solutions for Permanent Basketball Courts at Terman Park

Ms. Harrison said on July 14, 2003, the staff was given direction to initiate discussions with the Palo Alto Unified School District (PAUSD) on long-term options to achieve a closed campus at Terman Middle School. The City Attorney had been working on the signage. The City would continue to work with the PAUSD on the wording of the proposal. The PAUSD sent a letter requesting the basketball courts to start construction by October 1, 2003. The calendar could be modified if the Council chose to accommodate the October construction date.

Mayor Mossar asked if the PAUSD considered the basketball courts completion by October to be a permanent solution.

Ms. Harrison said yes, the PAUSD wanted to start construction by October 1, 2003.

Mayor Mossar asked if the Terman Specific Plan would be revised if permanent courts were built.

Ms. Harrison said a Park Improvement Ordinance would need to be done or a change in the number of permanently required tennis courts and exchange

them for basketball courts. It required a change to the Terman Specific Plan.

Mayor Mossar asked Senior Assistant City Attorney Wynne Furth if there were a way to build the courts and not change the Terman Specific Plan.

Ms. Furth said the Terman Specific Plan required the City to maintain a certain number of tennis courts on the site.

Senior Assistant City Attorney Nellie Ancel said the Terman Specific Plan mentioned two basketball courts. It was not believed the document was one of limitation but one that improvement could be made with four courts and would not raise an issue of consistency with the Terman Specific Plan.

Council Member Morton clarified that adding four more courts to the two already there would be considered an improvement not subject to a voter requirement.

Ms. Ancel said it would be consistent with the park use. She said she did not think the Terman Specific Plan would be a limitation on the ability to do improvements that were consistent with the park use.

Council Member Morton said the permanent removal of the tennis courts would be a change. A temporary dual use did not preclude their usage; it allowed dual use.

Ms. Ancel said that was what was believed.

Council Member Freeman asked for clarification on the difference of basketball being played on the parking lot at Nixon and the circumstances at hand.

Ms. Harrison referred Council Member Freeman's question to Paul Dias.

Director of Parks and Recreation Paul Dias said the PAUSD and the City felt the slope of the parking lot, the unevenness, and the rockiness of the paving at Terman could cause injuries.

Council Member Freeman asked the difference between Terman and Nixon.

Mr. Dias said he was unfamiliar with the Nixon use of basketball.

Mayor Mossar said after the speakers from the PAUSD spoke, the question could be asked.

Richard Neeley, 4256 Pomona Avenue, spoke about permanent solutions for the use of a strip of property at the end of Glenbrook Drive that controlled the access from Glenbrook Drive into the Terman property.

Monica McHenney, 769 Los Robles, expressed frustration with the progress of the Terman.

David Negrin, 2433 Sharon Oaks Drive, Menlo Park, spoke regarding expanding the tennis courts dual usage from two to four courts.

Elizabeth Rea, 230 Wilton Avenue spoke regarding playing on the basketball team at Terman.

Becky Rea, 230 Wilton Avenue, asked that a quick timeline be found to reach a permanent solution.

Gail Price, PAUSD Vice-President, 4082 Orme Street, said the City's cooperation and support were needed. The installation of the courts needed to begin construction on October 1, 2003.

Vice Mayor Beecham asked if Ms. Price had any further advice.

Ms. Price said resources were available to reach a reasonable and thoughtful solution.

Mary Frances Callan, Superintendent, PAUSD, 25 Churchill Avenue, said for the safety of 560 students, the signage on the Terman campus should be similar and consistent with the signage currently used on all the campuses to keep the schools safe. She asked for the courts to be re-stripped.

Bob Golton, Deputy Superintendent, PAUSD, 25 Churchill Avenue, made comments to each of the three staff recommendations: 1) He was satisfied with the recommendation for portable standards to be used on the four courts; 2) The security signage should be changed from "should" to "shall" or "must"; and he asked for 3) Parks and Recreation Commission (PARC) to consider options for long-term solutions.

Mayor Mossar wanted clarification of the "must" or "shall" change on signage request by the school district.

Mr. Golton said "must" or "shall" should be used.

Council Member Freeman said it had been indicated that Mr. Golton would have the answer to the Nixon basketball courts that were on a slope on a parking lot, versus the Terman situation.

Mr. Golton said the surface was a basketball surface that was currently being used to accommodate cars and would not be a good surface. There were faults being generated by car traffic. He did not recommend the multi-use at the Terman site because the slope at the Terman site was drastic and was needed for drainage issues. The rough driving surface was dangerous.

Council Member Ojakian asked if a basketball court had been considered near the fire access area and the sound walls.

Augie Lavignino, staff member, PAUSD, 25 Churchill Avenue, said the fire access road and the sound walls was a staff parking area. The property line between the City and the PAUSD ran in the same area and few basketball courts would be placed there unless there were modifications to the sound wall.

Council Member Ojakian said it was a potential solution and mentioned the property line went beyond what the diagrams showed.

Mr. Lavignino confirmed.

Council Member Burch asked how important tennis was to a middle school.

Mr. Golton said there were units taught on tennis and also on pickle ball that was a paddleball variation of tennis. The tennis courts are used for tennis and for pickle ball.

Council Member Burch asked how many students were engaged in basketball and how many students were engaged in tennis.

Larry Thomas, Terman Middle School Principal, said at the interim Garland School site, there were four full courts and one-half court used by the full 330 students. With growth to 560 students, the five courts would have full use. He believed the students would use the courts during lunch for tennis and pickle ball. He said there were six teams per grade level in after-school basketball. The basketball season was split up with 6th graders in one season and another with the seventh and eighth grade students because of the levels of participation; also because of outdoor, lined courts for kids to practice on and an indoor gym area for playing games. Games went on into the evening during basketball season because of the number of students that played after-school basketball.

Mr. Golton said the requirement for basketball was different in each area. In Palo Alto, any child that wanted to play basketball could play.

Council Member Kishimoto asked about the registration issue and the "shall" register sign wording. She asked if someone went to the school office to register, and if there would be any reason they would receive a no answer.

Mr. Golton said the PAUSD had first priority on the use of the fields. Permission would be granted if the fields were not in use.

Council Member Kishimoto asked if someone could sit on the lawn with their child if they wanted.

Mr. Golton said the hypothetical question was a good one, but the issue was about the soccer fields and middle school students all over the fields and sidelines. The PAUSD did not feel it would be a safe use for either middle school students or individuals.

Council Member Kishimoto asked if Mr. Golton believed that between 7:30 a.m. and 3:30 p.m. if someone came to register, the school would say "no."

Mr. Golton replied the school could say "no."

Council Member Kishimoto had a question about alternatives. She said if all the tennis courts were converted as a permanent solution, could Gunn tennis courts be used during the day as part of the trade-off.

Mr. Golton said the tennis courts were good tennis courts.

Council Member Kishimoto asked Mr. Golton if he knew about the Gunn tennis courts.

Mr. Golton said the public used the Gunn tennis courts after school.

Council Member Kishimoto asked if they would be available to be used during the day.

Mr. Golton said the issue of priority of the school using the courts would be in effect.

Council Member Freeman asked if there were plans in Terman's future for a tennis team.

Mr. Golton replied he did not have an answer to that question. He said that all three schools would have equitable programs. He was not aware that Jordan had a tennis team.

Council Member Freeman clarified Jordan had a tennis program.

Mr. Thomas said tennis was not an official part of after school sports. An organization had sponsored tennis at Jordan after school and opened it to students in the PAUSD, but it was not an official tennis team that played other middle schools and not an official part of the athletic program.

Council Member Morton questioned the permanent restriping of two of the courts and leaving two courts with removable basketball stands.

Mr. Golton said the Terman Specific Plan stated the City would retain four courts.

Council Member Morton replied it would be four courts.

Mr. Golton said the plan stated the courts would be maintained by the City in a manner equivalent to the City's courts elsewhere.

Council Member Morton said the restriping would in effect be in violation of that provision.

Lisa Webster Purie, 1090 Los Robles Avenue, spoke with regard to campus safety and registering. She said a closed campus was an important step for the safety of the 560 students.

Teri Blackburn, 408 Grant Avenue, #308, President of Terman PTA, said she was pleased about the consideration of the dual use of the tennis courts as a temporary measure. If the permanent basketball courts could not be built soon, then it would be important for the courts to be restriped.

Ira Weissman, 4228 Pomona Avenue, spoke in regard to the loss of his neighborhood pool, the park, the library, and the fitness center. He said the Palo Alto General Plan promoting walk-able neighborhoods had been ignored. His concern was about basketball courts being built directly behind the properties on Pomona and/or Glendale Avenues and the sound wall being removed.

Robert Moss, 4010 Orme Street, said the cost would be significantly different depending on where the tennis courts were relocated and where the basketball courts were located. He questioned how basketball courts could be placed into a dedicated park without a Park Ordinance Amendment. Terman had been a dedicated public park for 20 years and the movement to return the Terman site to the PAUSD was almost three years old. The City Attorney said there could not be restrictions on public use of a public park.

Joe Hirsch, Georgia Avenue, said striping a tennis court for a basketball court would ruin the tennis court. Terman wanted exclusive access of the

playing fields at Terman Park, which was dedicated parkland. That park could not be undedicated except by a vote of the electorate and should not be turned over for exclusive use to any party. The 3.5 acres behind Gunn High School be swapped with part of Terman Park. That part of Terman Park would need to be undedicated and the 3.5 acres behind Gunn would need to be dedicated and commit to put tennis courts on that property.

Edie Keating, 3553 Alma Street, #5, spoke about the use of the pathway at Terman Park as an appropriate use of the park that did not require sign in, even during school hours. Long-term solutions should not be rushed when working on a long-term plan.

Ellie Gioumousis, 992 Loma Verde, said the City's planning process should anticipate problems for years in the future. The parkland should not be used to for "hardscape." She said the basketball courts should be on existing "hardscape."

RECESS: 9:15 p.m. to 9:25 p.m.

Ms. Furth said she worked on the Memorandum of Understanding (MOU) with the Jewish Community Center (JCC), Stanford, and the PAUSD. Terman was a piece of land owned by both the PAUSD and the City. She said the two uses had to be balanced. When the school district was operating on its own property, it could exempt itself from the City's zoning regulations. The PAUSD could build athletic facilities on its properties subject to general California Environmental Quality Act (CEQA) requirements in the education codes. In Palo Alto, the people had not delegated to the City Council the power to make decisions about use of its parklands. As a result of a ballot measure passed by the public, it was a dedicated park and any decision to use it for something other than park use had to be made by the voters, not the Council. There had been a long tradition of joint use of open spaces and athletic facilities by the City for after school programs and summer programs on parkland, and by the PAUSD. The City had a provision, Title 22, which allowed it to provide exclusive use of sections of the parks under a permit system. The City had the power to grant the school exclusive use of some of the facilities, some of the time. At the same time, the City had to be careful that those were the minimum exclusions that could accommodate the shared purposes. The City also had a rule that park improvements had to be approved by Ordinance, which gives the public an option to force the issue to a ballot measure. The Terman Specific Plan spoke of the interests of the different parties and made some commitments from the City; one of the commitments was to maintain tennis courts. The land use regulations were not adopted by the voters and might be changed by the City Council. An Ordinance and a public hearing process could do that.

Ms. Ancel said the parkland was a traditional public forum and the public should have unrestricted public access. School land was not considered unrestricted public access land. Signage stating that people must or are required to register might be perceived as a burden on the right to the access. The staff was hoping to work with the PAUSD to arrive at language that was comfortable for both the City and the PAUSD.

Council Member Morton asked if the Terman Specific Plan required the City to maintain tennis courts as tennis courts, then striping would be prohibited.

Ms. Ancel said she would not recommend the tennis courts be restriped.

Council Member Morton said the option of restriping would be removed as an option. He asked if permit rights would allow signage that was somewhat stronger stating that during the period when the PAUSD permit would be in effect, to register.

Ms. Furth said if it could be defined more specifically the areas and times the PAUSD had exclusive rights. They would have the right to exclude people from those areas, unless those people followed their sign-in procedures. She believed the language was accurate, honest, and constitutional could be worked on.

Council Member Morton said one of the options would be to direct the City Attorney to return with language that would do that; the granted permit could be a way of tightening the language.

Ms. Furth said the City understood and accepted the PAUSD's definition of its own need.

Council Member Morton asked if the path could be explicitly exempted and any other areas considered public.

Ms. Furth said that identifying particular areas were beyond the City's legal expertise.

Council Member Morton asked about rollout areas that would last for a year or two. Would it be considered a violation of the open spaces expectation of Terman if a temporary surface would be found for basketball courts, possibly rubberized mats or a smooth surface.

Ms. Ancel said there were potential difficulties because of the requirement for the tennis courts to be maintained in the same manner as other courts.

Council Member Morton said he was speaking of basketball courts.

Ms. Ancel asked if he was talking about the temporary basketball courts.

Council Member Morton said he was asking about leaving the tennis courts alone and finding a place for temporary full basketball courts that would be a less than permanent surface.

Ms. Ancel said there were uses that would be consistent with the park use; an amendment would not be needed for the Terman Specific Plan. An environmental review would need to be made and a planning process.

Council Member Morton said he had hoped that a motion would allow the Council to explore further options using the permit requirements to provide extra security to the PAUSD and additional temporary basketball courts; leaving the tennis courts intact.

Council Member Ojakian asked whether the PAUSD had an obligation to honor any of the Terman Specific Plan. He asked if the swap negated that,

Ms. Furth said she did not recall the PAUSD undertaking to abide by the Terman Specific Plan with respect to its own land. She believed they took title of it as PAUSD land subject to school district regulations.

Council Member Ojakian asked if there would be an area where basketball courts could be provided on the PAUSD's land, and the City could assist them; an area not subject to going through the various boards and commissions.

Ms. Furth said the PAUSD did not need to follow the City's zoning procedures. She said they had to abide by the CEQA.

Council Member Burch asked what would be required were the Council to suggest for the four tennis courts be converted into four basketball courts as soon as possible.

Ms. Furth said if the City wanted to stop maintaining the tennis courts at Terman Park, then the Terman Specific Plan should be amended. That required a hearing before the P&TC, the Council, and the adoption of a Park Improvement Ordinance. A CEQA review should be made.

Council Member Burch asked how long it would take.

Ms. Furth replied she would refer the question to the Director of Planning and Community Environment Steve Emslie.

Director of Planning and Community Development Steve Emslie said the P&TC date could be moved up to late September.

Ms. Harrison said it would be dependent on the Council deciding on that long-term option.

MOTION: Council Member Burch moved that the Council proceed to convert four tennis courts into basketball courts and look for alternative places for tennis courts

MOTION FAILED FOR LACK OF SECOND

Council Member Kleinberg wanted clarification of the definition of "burden" when used in the phrase where parks were traditional public forums and the public must have unrestricted public access and cannot be burdened the right to the access.

Ms. Ancel answered the content must be neutral and narrowly tailored in the approach and believed the public "must" or are "required" to register would be narrowly tailored enough for the issues.

Ms. Furth said she believed the PAUSD criteria for using a sign-in system would not be accepted by the court in regard to the traditional use of a park.

Council Member Kleinberg asked if the language regarding the burden attached to the sign-in requirement was worrisome.

Ms. Furth said public policy favored safeguarding children in schools. She said she believed the courts would be reasonable to the efforts to forward the goals.

Council Member Kleinberg said the PAUSD would like to have the authority to remove the public who were not authorized.

Ms. Ancel said the school could deny or revoke registration and therefore it was worrisome to the City Attorney's Office.

Council Member Kleinberg asked if the school district wanted to put a monitoring procedure that would deter offensive individuals. She asked if there were a way to make signage more voluntary.

Ms. Furth said the language in the staff report was language the attorney's office was comfortable with.

Ms. Furth said the Joint Use Agreement had staff committees to work out the details.

Council Member Kleinberg asked if there were issues about the path in regard to public access to the paths of the periphery of the property at any time, including school hours and when children are playing on the fields.

Ms. Furth said she believed that would be an operational question for the PAUSD and Parks and Open Space Department or a legal issue.

Council Member Kleinberg said the PAUSD wanted more supervision.

Ms. Furth said consideration could be given to renegotiating the School Use Joint Agreement, which had not contemplated what should happen with areas like the path. As it was written, she assumed the paths would be open. Even though there were authorizations for joint use, the exclusions were being minimized.

Council Member Kleinberg asked if anyone had thought about constructing tennis courts and basketball courts over the parking lots on the school property.

Ms. Price said the proposal would be extremely expensive.

Council Member Ojakian asked Ms. Price if the intent was to close off the pathways.

Ms. Price replied it was not the intent to close off the pathways.

MOTION: Council Member Ojakian moved, seconded by Morton, to approve: the interim solution to allow for temporary use of eight half-court basketball playing areas on existing tennis courts during the hours and conditions specified; to accept the interim signage solution as staff has written; to direct staff to continue to work with Palo Alto Unified School District (PAUSD) for a long-term solution, and refer to the Palo Alto Recreation Commission (PARC) various options in the CMR Attachments A-D with one additional staff member to work directly with PAUSD to look at the east side of school property in the area of fire access. Further, that staff work directly with the PAUSD regarding the feasibility of permanent basketball courts and the paths are to be open to the public.

Council Member Ojakian said he wanted to speak to the long-term solution. He said the PARC wanted the opportunity to look at the various options and give comments. The PAUSD added an option because it was in a better area and the slope was less than the bus area. The sound wall was pre-

fabricated, on PAUSD property and could be moved. He suggested the money used should not be taken out of the Infrastructure Reserve and probably shouldn't be taken out of the Budget Stabilization Reserve. Staff should look at the Community Services budget and give that project priority.

Council Member Morton wanted to emphasize the legal rights the PAUSD had under the permit and to strengthen the language. He felt the paths should be open to the community. He also said the timeline should be accelerated. He asked if the PAUSD Environmental Impact Report (EIR) could be used as a starting point.

Ms. Ancel answered the PAUSD EIR would be used and also an addendum of the final EIR had been proposed.

Mr. Emslie said the City was the responsible agency and had a piece of the permit in order for the issue to go forward. Under CEQA, the City was allowed to use the environmental documentation completed by the PAUSD, but not required to use it.

Council Member Morton felt the PAUSD should be worked with to accelerate the process.

Council Member Lytle said she did not feel the leagues should have to compete on a rotational basis for the park fields by permit. She felt any money spent on constructing basketball courts in a location not in conflict with park use would be money that might be spent otherwise on a challenge of what could be done to satisfy the needs of the PAUSD.

Ms. Furth said the agreement was an attachment to the four-party Memorandum of Understanding (MOU).

Council Member Lytle said she was sympathetic to what the school parents and the PAUSD wanted the Green meadow community, and the writers of the Terman Specific Plan, and the charter authors wanted.

Ms. Furth said only intent could be brought in.

Council Member Lytle said exploring options and spending money building courts rather than spending money on litigation would be the better approach. The suggested E option was in an emergency access area, and she asked if there would be another area in the parking lot area for flexibility.

Ms. Harrison said the Fire Chief would not allow a design to go forward that was not safe.

Council Member Ojakian said he wanted to stay with the present option. The basketball poles would be placed in a manner that would not interfere with fire access.

Council Member Lytle asked if there was another place that could be considered.

Council Member Ojakian replied not at the present time.

Council Member Kishimoto said she was pleased the PAUSD supported keeping the pathway open and believed the case was strengthened for giving the 7:30 a.m. - 3:30 p.m. permit to the school. She acknowledged the location and the wording of the signs might need to be changed. She said Council Member Burch's suggestion to potentially convert the tennis courts to basketball courts should be explored.

Council Member Ojakian said the Terman Specific Plan required the City to have tennis courts

Council Member Kishimoto said the Terman Specific Plan would have to be amended.

Council Member Ojakian said he would not include it in the motion because he felt there were other solutions.

Council Member Kishimoto asked PARC to bring alternatives with pros and cons so factors could be weighed. She understood the PAUSD asked for an October start of construction and commented the joint plan was adopted in a hurry and suggested the original staff timeline be adhered to.

Mr. Benest said he would like the PARC to consider the cost effectiveness of various plans as part of their decision making process.

Council Member Freeman said there were no monies available in the budget for additional basketball courts. The PAUSD board should be responsible for building basketball courts. She questioned who was responsible for the cost of repaving the tennis courts, why it was not included in the current report, and how the cost of new basketball courts could be worked on when they were being requested of the City but not a City desire presently.

Ms. Harrison said the PAUSD Deputy Superintendent would take every possible action to avoid damaging the courts so a massive capital overlay would not be necessary. A 50/50 cost sharing agreement had been made for the renovation, if required. The City had not talked with the PAUSD and no commitment on their part had been made. Also, a staff recommendation

had not been made. The Council asked the City-School Liaison Committee to recommend sharing the cost. The PAUSD was on record as wanting to share the 50/50 costs of the new courts.

Council Member Freeman asked if Ms. Harrison was referring to the new basketball courts.

Ms. Harrison replied yes.

Council Member Freeman said if repaved, the tennis courts would not be the same as when used solely as a tennis court.

AMENDMENT: Council Member Freeman moved that at the end of the temporary 12-month period, the tennis courts be resurfaced with a 50/50 split for costs between the City and PAUSD board.

MOTION FAILED FOR LACK OF SECOND

Vice Mayor Beecham said the City had legal constraints in what could be done. He believed the agreement gave the PAUSD control of the facility. What was required by the school for control of the property, would not be reasonable or available from the City; the rights of exclusion could not be given to the school. The City would not have the right to ensure a safe, secure, and controlled facility. The City might find a legal way of giving exclusive use, by permit at certain times of the day, as an ultimate configuration for the facilities, the tennis courts and the basketball courts. The City's process took time and review and an additional five months were needed at that point. Both agencies had budget constraints, and he would help find the money to share the cost with the PAUSD.

Mayor Mossar asked what controls the City had over the PAUSD in regard to the public requesting access to the parkland.

Ms. Furth said the rights of exclusion the PAUSD had been for their campus. The staff would work with the PAUSD to address concerns.

Mayor Mossar said although there were separate agencies, it was the same public who paid the bills. The best solution needed to be made.

Council Member Kleinberg asked if it would be possible to provide a security guard during school hours for safety.

Ms. Harrison answered that some of the Community Service officers would be available before and after school. A security guard would be too costly.

Council Member Kleinberg said she requested the staff to streamline and fast track the process and to be creative. She asked for individuals who received a tax refund to donate the dollars back to the PAUSD.

MOTION PASSED 9-0.

PUBLIC HEARINGS

24. Public Hearing: The City Council will consider a report and assessment for weed abatement

Mayor Mossar asked the City Clerk if any objections had been received.

City Clerk Donna Rogers replied no written objections had been received.

Mayor Mossar asked if there was anyone who wished to be heard.

Mayor Mossar declared the Public Hearing open and hearing no requests to speak declared the Public Hearing closed at 10:37 p.m.

Council Member Lytle said when the soil was tilled around the Stanford dish for weed abatement purposes; another foot of soil erosion went into the creeks. She asked for weed abatement notification and Fire Department early notification include comments on how mowing was a better technique than tilling and could be used as an option.

Council Member Kleinberg would not participate at that point due to a potential conflict of interest because one of the assessments was against Stanford and her husband's former law firm represented Stanford in land use matters.

Mayor Mossar stated she would not participate at that point due to a conflict of interest because her husband was employed by Stanford University.

Ms. Furth said it might not have a significant impact on a corporation the size of Stanford.

Mayor Mossar and Council Member Kleinberg said they would participate.

MOTION: Council Member Morton moved, seconded by Burch, to approve the staff recommendation to hear and consider objections from affected property owners of proposed assessments related to completed weed abatement work and approve and/or modify the assessments for weed abatement.

MOTION PASSED 9-0.

25. Public Hearing: The City Council will hold a preliminary review of a redevelopment project concept for the 12-acre former Sun Microsystems site located at 901 San Antonio Road, as requested by Randy Popp of The Steinberg Group. The developers, Bridge Urban Infill Land Development (BUILD), a for-profit subsidiary of Bridge Housing Corporation, and Campus for Jewish Life (CJL), a non-profit organization, have proposed a mixed use development with affordable/attainable housing units, a community center and senior housing. *(Item continued from June 23, 2003)*

MOTION: Council Member Kleinberg moved, seconded by Freeman, to continue the item to a date uncertain at the request of the applicant.

MOTION PASSED 7-0, Beecham, Ojakian "absent".

REPORTS OF OFFICIALS

26. Finance Committee recommendation re Approval of the City Auditor's 2003-04 Work Plan

Council Member Morton said the Finance Committee unanimously approved this recommendation and passed it along to the City Auditor.

MOTION: Council Member Morton moved, seconded by Burch, to approve the City Auditor's 2003-04 Work Plan

City Auditor Sharon Erickson said the Palo Alto Municipal Code required her to submit an annual work plan to the City Council for review and approval.

MOTION PASSED 9-0.

27. Authorization to Contract for Environmental Review for Stanford Research Park and Mayfield Development Agreement

Council Member Kleinberg would not participate in the item due to a potential conflict of interest because her husband's former law firm represented Stanford in land use matters.

Mayor Mossar stated she would not participate in the item due to a conflict of interest because her husband was employed by Stanford University.

Chief Planning Official Lisa Grote presented the staff report. It requested the City Council to authorize the City Manager to approve the contract for the

consultant for the Environmental Impact Review (EIR) Analysis and Review for the Mayfield Development Agreement along with the Stanford Research Park analysis requested. That would mean the consultant selection would occur in an expedited manner.

Paul Losch, 890 Lincoln Avenue said he believed the focus should be on the EIR to move the process along and policy questions could be addressed later.

Mike Cobb, Dixon Place, asked for the process to continue to move forward.

Jeanette Marquess, 806 Los Robles Avenue, reminded the Council there were a large contingent of children, parents, and public committed to athletics in Palo Alto and asked for the process to be moved forward.

Joe Carroll, suggested a swim center to be put on 2.7 percent of the site. He said the soccer fields took up 46.3 percent of the land; the remainder was parking lot and landscape. A swim center would not change anything that had been proposed.

Liz Rehrmann, 3455 Alameda de las Pulgas #2, Menlo Park, said more than 1,700 children died each year from drowning. Water safety should be taught to children. The swim center would be a small part of what was proposed on the property.

Council Member Freeman asked if the swim center would provide pool time for local swim teams early in the morning and late at night.

Ms. Rehrmann answered the swim center would be strictly learn-to-swim as it was a very small pool, 36 feet by 60 feet, not designed for competitive use and would be a self-funded project.

Herb Borock, P.O. Box 632, said the staff report (CMR:287:03)asked the Council to prepare an EIR and enter into professional service or consulting contracts without formal or informal bidding. In 1991, the City amended the chapter of the Palo Alto Municipal Code (PAMC) regarding contracts and purchasing procedures to permit environmental assessments to be exempt from the bidding process, to be exempt from the lowest responsible bidder and to be exempt from the limit of \$65,000 for contracts the City Manager could process without City authorization. The PAMC did not authorize the City Manager to bind the City to a contract unless the applicant for the private development project agreed to bear responsibility for the entire cost of the contract. The EIR for the Stanford Research Park, for which the City would pay at least half, was the reason why the Council was being asked to modify the procedures.

MOTION: Council Member Burch moved, seconded by Morton, to approve the staff recommendation to direct the City Manager to take all actions necessary to prepare the Environmental Impact Report (EIR) for the Mayfield Development Agreement including the Stanford Research Park (SRP) and abutting sites along El Camino Real (ECR) in an expedited manner, including but not limited to entering into professional service or consulting contracts without formal or informal bidding, as authorized by the Municipal Code, thereby modifying the standard procedures for entering into these services or contracts which ordinarily require City Council review and approval.

Council Member Burch suggested moving forward with the staff recommendation.

Council Member Morton said it was a step in a very exciting process.

Council Member Freeman said she recollected that on the Hanover project, Stanford paid the entire cost for the EIR that had to do with any new development in the Stanford Research Park.

City Manager Frank Benest said if Stanford came forward with a private commercial development project in the Stanford Research Park, they should pay for the EIR of that project and with any cumulative impacts. When the City spoke to Stanford about the offer, and a project that would benefit the City of Palo Alto as well as having some benefit to Stanford, the discussion was that the cost would be 50/50 on the Supplemental Environmental Impact Report (SEIR).

Council Member Freeman asked if the Senior Assistant City Attorney would have the answer of the City's intent.

Senior Assistant City Attorney Wynne Furth said the Council's statement was that it did not want to approve further traffic inducing activities in the Research Park until there was an adequate environmental assessment of the long-term implications. The Council had the power to accept that method of achieving the goal from what was included in the Hanover minutes.

Mr. Benest said when Stanford made the offer, it was not considered a private development application on the part of Stanford. It was an offer of a value for value transaction.

Council Member Freeman asked if it included the entire Stanford Research Park.

Mr. Benest said the SEIR would cover the project, which included the accumulated impacts of the full build-out of the park.

Council Member Freeman said if there were to be a commercial building to be built in the future somewhere else in the park, would that particular EIR hold for the next project.

Ms. Furth said the goal of the document was to take a comprehensive look rather than site by site look at the development of the Research Park.

Council Member Freeman said she was concerned the Council was conceding the obligation to check out the dollar amounts to be spent and to whom contracts would be offered.

AMENDMENT: Council Member Freeman moved, seconded by Lytle, that the City pay an appropriate portion of the full Stanford Research Park Environmental Impact Report (EIR) for the area known as the Mayfield site to be shared with Stanford and that Stanford pick up the rest of the costs for the EIR.

Council Member Freeman said she believed the Council was going above the previous motions for what should be done for Stanford Research Park when the City was just one small part of it.

Council Member Lytle said she did not believe the City had ever paid for an EIR for a landowner on new development rights. She believed the Hanover intent in the Stanford Research Park was Stanford should fund the gross aspect of the EIR. The portion of the EIR that dealt with the Mayfield site and alternatives for Mayfield should be shared.

Mr. Benest said the City recognized the traffic work had been completed, which were half of the costs.

Council Member Kishimoto asked if there should be a cap to the City additional expenditures of \$150,000.

Mr. Benest said the City's contribution was approximately \$175,000, which was the City's transportation, and Stanford agreed to contribute \$200,000. The two amounts would complete the Environmental Review. He would need to return with a Budget Amendment Ordinance (BAO) if needed.

Council Member Kishimoto asked if she could speak to something other than this amendment.

Council Member Ojakian said if a BAO returned, it could be discussed at that time.

Vice Mayor Beecham asked if the motion should be retracted.

Council Member Lytle asked if the City's contribution was sharing information with what had already gone forward, why was the Council involved with a BAO to handle additional costs.

Mr. Benest said under the City's system, even when a grant was received from an outside agency, a BAO had to be done. In this case, the City was the agency and, in order for the City to contract with a group to do additional work, a BAO needed to be done.

Council Member Lytle asked Council Member Freeman why a limit was being placed.

Council Member Freeman said did not want the City to pay anymore out of its share.

Council Member Lytle withdrew her second to the original amendment.

AMENDMENT DIED FOR LACK OF A SECOND

Council Member Ojakian said that Stanford was offering an approximate \$25 million piece of property and spending \$2.5 million to make the property functional.

Council Member Morton said he was enthused about the project.

Council Member Lytle said her questions had been answered.

Council Member Freeman asked if the City Manager returned at the first meeting in September with the information on the contract services, would the build-out date still be changed from June to October, a delay of four months.

Mr. Benest said the timeline was tight for May/June and the recommendation was to move forward.

Council Member Freeman asked if the City Manager would return in September with an updated report, which included stages gone through, and who had been chosen.

Mr. Benest said he would give more information than what was requested.

Council Member Kishimoto asked how the Council would have input on the mitigation as well as the alternatives.

Mr. Benest said a full policy discussion would take place when the SEIR returned to Council about some of the key issues and the mitigations related to it.

Vice Mayor Beecham asked if the public scoping meeting to be held in September 2003 would be at the Council level or staff level only with the public.

Mr. Benest said it would be at the staff level inviting the public to comment on the proposed scope.

Council Member Kishimoto asked that the amendment also have the scoping at the Council level.

Ms. Harrison said there could be a special meeting.

Ms. Furth said by compressing the consultant selection process, there would be more time to deal with the EIR.

Council Member Kishimoto asked if the intervention point should be at the scoping or the mitigation point.

Ms. Furth said it was early in the design of the document.

Director of Planning and Community Development Steve Emslie agreed the concerns and issues should be put into the scoping session up front.

AMENDMENT: Council Member Kishimoto moved, seconded by Lytle, to have the scoping meeting at the Council level in September 2003.

Mr. Benest said the staff would propose to hold special a Council meeting to get input from the public and Council.

Vice Mayor Beecham asked if the meeting could be a study session.

Mr. Benest said a committee of the whole, which would allow the Council to give staff direction.

BY A CONSENSUS OF THE COMMITTEE OF THE WHOLE to hold a special meeting in September 2003, in order to receive input from both the public and the Council.

MOTION PASSED 7-0, Kleinberg, Mossar "not participating."

Council Member Freeman said the City Manager would return with a report in September outlining the information on the status of this project.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman spoke regarding the Police Demographic Data Collection report.

MOTION: Council Member Freeman moved, seconded by Kleinberg to refer to the Human Relations Commission the continued provision of a detailed analysis of racial profiling data on a biannual basis.

Council Member Kleinberg said the Human Relations Commission had already taken on that matter.

MOTION PASSED 9-0.

Council Member Freeman noted her concerns on Item No.16 regarding the two projects being combined, and she preferred that staff keep the items separate. She was also concerned with full costs to Homer Tunnel and requested staff to provide the total costs to the Council.

Council Member Freeman asked for the standard process to determine how a member of the Council's behavior could be addressed if the Council felt it was necessary.

Mayor Mossar noted the process for censure must be done during an open meeting of the Council.

MOTION: Council Member Morton moved, seconded by Burch, to refer issues of pre-council meals to the Finance Committee.

MOTION FAILED 2-7, Morton, Ojakian "yes".

MOTION: Council Member Morton moved, seconded by Burch, to refer the issue of off-site teleconferencing participation in Council meetings to the Policy and Services Committee.

MOTION PASSED: 7-2, Freeman, Kishimoto "no."

Council Member Burch spoke regarding staff's well written Pest Management and Pesticide Use Report.

Council Member Lytle explained her two "no" votes on the Consent Calendar. She voted against the Baylands parking improvements because she did not

agree with the direction, and the El Camino Park Reservoir EIR still needed staff work on the scope of services.

Council Member Mossar spoke about emergency water storage discussions with maximum participation of the Council.

Council Member Kishimoto spoke about comments from Tom Jordan regarding neutrality of ballot wording.

ADJOURNMENT: The meeting adjourned at 11:50 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.