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October 27, 2003

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:45 p.m.

CITY COUNCIL

PRESENT: Beecham, Burch, Freeman (arrived at 5:57 p.m.), Kishimoto, Kleinberg, Lytle (arrived at 5:55 p.m.), Morton (arrived at 5:50 p.m.), Mossar, Ojakian

UTILITIES ADVISORY COMMISSION

PRESENT: Bechtel, Dahlen, Dawes, Rosenbaum

ABSENT: Carlson

SPECIAL MEETING

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No action required.

ADJOURNMENT: The meeting adjourned at 6:40 p.m.

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

SPECIAL ORDERS OF THE DAY

1. County Green Business Program Presentation

No action required.

ADJOURNMENT: The meeting adjourned at 6:55 p.m.

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

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

ORAL COMMUNICATIONS

Juri Vilms, 1330 Harker, spoke regarding water fluoridation.

Bob Britton, Professional & Technical Engineers, Local 21, spoke regarding right to communicate by email to City employees.

Sophia Dhrymes, spoke regarding the election and roadblock at Cowper/Hawthorne.

Erwin Morton, 1491 Kings Lane, spoke regarding Measure B.

Elaine Meyer, 609 Kingsley Avenue, spoke regarding 800 High Street.

Lynne Johnson, Chief of Police, spoke regarding domestic violence.

Ann Pianetta, 3875 La Donna Avenue, spoke regarding public health and water fluoridation.

Lorna Shapiro spoke regarding Measure B.

Bill Lou, 470 Carolina Lane, spoke regarding minority/culture issue and comments from Council Member Kishimoto 10/19/03 *Palo Alto Daily News*.

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

Teri Blackburn, 408 Grant Avenue, spoke regarding fluoride Measure B.

Herbert P. Woodward, 2733 Cowper Street, spoke regarding fluoride Measure B.

Monica Yeung Arima, 1052 Bryant Street, spoke regarding the Organization of Chinese Americans.

APPROVAL OF MINUTES

Bunny Good, P.O. Box 824, Menlo Park, spoke regarding three corrections to the minutes of September 15, 2003.

City Clerk Donna Rogers requested the minutes of September 15, 2003, be removed from the agenda.

MOTION: Council Member Ojakian moved, seconded by Morton, to approve the minutes of September 8, 2003, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Freeman to remove Item No. 9 from the Consent Calendar.

Mayor Mossar announced Item No. 9 would be removed to become Item No. 12A.

Council Member Freeman registered a "no" vote on Item No. 8.

Council Member Morton stated he would not participate in Item No. 6 due to a conflict of interest because of family investments in Hewlett Packard.

Council Member Ojakian said he would not participate in Item No. 6 due to a conflict of interest because he was an employee of Hewlett Packard.

Council Member Lytle registered a "no" vote on Item No. 8.

MOTION: Council Member Burch moved, seconded by Ojakian, to approve Consent Calendar Item Nos. 1-8 and 10.

LEGISLATIVE

1. Ordinance 4807 entitled "Ordinance of the Council of the City of Palo Alto Approving and Adopting a Plan for Improvements to Terman Park"
"(1st Reading 10/14/03, Passed 9-0)"

2. Resolution of Intent to Establish Underground Utility District No. 39 Sherman/El Camino Real/Page Mill/Park Blvd

Resolution 8350 entitled "Resolution of the Council of the City of Palo Alto Declaring its Intention to Amend Section 12.16.020 Of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code by Establishing Underground Utility District Number 39 and Repealing Resolution No. 8316"



3. Adoption of a Resolution Authorizing a Grant Application for the State's Local Housing Trust Fund Program (LHTFP); Designation of \$4,210,000 of City Housing Funds as Matching Funds; Commitment to Targeting

the Grant and Match Funds and Approval of Updated Affordable Housing Fund Guidelines

Resolution 8351 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City to Apply to the California Department of Housing and Community Development for the Local Housing Trust Fund Program (LHTFP) Grant"

Resolution 8352 entitled "Resolution of the Council of the City of Palo Alto Amending and Updating the Housing Reserve Guidelines as the Affordable Housing Fund Guidelines"

4. Approval of Resolutions Amending Revised Compensation Plan for Management and Professional (Formerly Management and Confidential) Employees and Amending the Merit Systems Rules and Regulations

Resolution 8353 entitled "Resolution of the Council of the City of Palo Alto Adopting a Compensation Plan for Management and Confidential (Hereafter "Management and Professional") Personnel and Council Appointed Officers, and Rescinding Resolution Nos. 8096, 8117, 8165, 8181, 8194, 8223, 8241, 8250, and 8311"

Resolution 8354 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1701 of the Merit System Rules And Regulations"

5. Approval of Resolution Amending SEIU Memorandum of Agreement to Extend Probation Period for One Classification to Account for Testing Schedule

Resolution 8355 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1401 of the Merit System Rules and Regulations Regarding the Memorandum of Agreement Between the City of Palo Alto and Local 715A, SEIU, AFL-CIO, CLC"

ADMINISTRATIVE

6. Approval of the Operating System Software Maintenance Support Contract in the Amount of \$131,474 for H-P 3000, H-P 9000, H-P rp5430 and H-P rp5470 Servers
7. Contract Between the City of Palo Alto and TruGreen LandCare in an amount not to exceed \$325,000 for the 2003-2004 Tree Maintenance Project
8. Approval of Amendment Two to Employment Agreement with Lance Bayer for Code Enforcement and Public Safety Training Services

10. Acceptance of the Watershed Action Plan and Continued Commitment to Participate in the Santa Clara Basin Watershed Management Initiative

MOTION PASSED 9-0 for Item Nos. 1-5, 7, and 10.

MOTION PASSED 7-0 for Item No. 6, Morton, Ojakian "not participating."

MOTION PASSED 7-2 for Item No. 8, Freeman, Lytle "no."

MOTION: Council Member Ojakian moved, seconded by Morton, to move the Closed Session to the recess.

MOTION PASSED 9-0.

REPORTS OF COMMITTEES AND COMMISSIONS

12. Planning and Transportation Commission Recommendation on the Proposed School Commute Corridors Network

Transportation Projects Manager Gayle Likens said the Planning and Transportation Commission (P&TC) unanimously recommended adopting a School Commute Corridor Network, to recognize and give priority to pedestrian and bicycle facilities, infrastructure improvements, and general enhancements to safety along the City's most heavily used school commute routes. The network was Citywide and provided for a continuous interconnected system of school commute to all public schools in Palo Alto. By creating the subset of streets, the designation was used to focus resources and attention on protecting, maintaining, and enhancing travel safety on the most important school commute routes in the City. Staff recognized not all the routes were optimal at the present time. The designation would be used as a priority factor when the City developed project lists for street resurfacing, sidewalk maintenance and replacement, traffic calming, and grant applications for funding of school commute safety enhancements. The project had the strong support of the Advisory Committee that assisted staff in the project. Staff wanted to reverse the decline in walking and biking to school. The staff report (CMR:377:03) discussed most of the factors.

Director of Planning and Community Environment Steve Emslie said the height review in the text approved by the P&TC focused more narrowly on driveways and traffic volumes in terms of safety and did not include the broader language of land use changes. Staff indicated that the broader language was not necessary because staff felt Comprehensive Plan (Comp Plan) policies were in place that addressed the need to take into account pedestrian, bicycle, and other nonvehicular forms of transportation in

making the recommendations on land use changes and/or redevelopment of sites. Comp Plan Program T-39 provided the guidance to review future projects and their impacts on nonvehicular forms of transportation.

Planning and Transportation Commissioner Bonnie Packer said Palo Alto was one of the first cities in the nation to identify roads in order to prioritize the way roads were treated. The P&TC approved the staff recommendation and clarified that the grade separations were for pedestrians and bicycles.

Mr. Emslie said staff wanted the transportation document clear that existing Comp Plan policies were in effect through the implementation of the Transportation Plan. Staff felt there were sufficient protections for the review of land use changes in the Comp Plan that provided the policy framework for the review of future projects. Staff did not believe it was necessary for the transportation document to reiterate what was in the Comp Plan.

Council Member Freeman asked whether the "Priority for measures to enhance visibility and sight distance for motorists, cyclists, and pedestrians" was currently a Comp Plan policy.

Mr. Emslie said the major change between Attachment B and what was ultimately approved by the P&TC was the reference to land use change. Staff felt the transportation document should be limited to issues that were related to specific project objectives.

Council Member Freeman clarified staff decided only Comp Plan policies that referred to transportation were included.

Mr. Emslie said staff did not want the transportation document to become a land use document.

Michael Maurier, Fairmede Avenue, disagreed with Mr. Emslie's views on the subject of land use decision wording. He preferred to see the language strengthened.

Martha Bowden, 27833 Saddle Court, Los Altos Hills, said people drove too fast on Arastradero Road from Foothill Expressway to El Camino Real. At a recent Parent and Teachers Association (PTA) meeting at Terman School, a traffic conference was held involving traffic personnel and police representatives. She was aghast to learn that police in Palo Alto were unable to enforce the speed limit on Arastradero Road. The posted speed limit was 25 mph, and because traffic proceeded in excess of the posted speed limit, the police were unable to use radar to enforce the speed limit. The Police informed her that if Arastradero Road were deemed a school corridor, radar could be used to enforce the speed limit. The Council was urged to make Arastradero Road a school corridor in order to slow traffic down and add revenue to the City.

Mandy Lowell, 1423 Hamilton Avenue, said the Palo Alto Unified School District (PAUSD) Board had a great concern about the real and perceived notions of the commute routes to school. The Board supported efforts to prioritize school commute safety corridors to slow the prevailing speeds and identify routes that were designated as commute routes. The Board discussed the Terman/Arastradero Corridor. Residents had a great concern about the speed limit not being enforced on Arastradero Road.

Betsy Allyn, 4186 Willmar Drive, said the Greenacres II neighborhood supported the adoption of the proposed School Commute Corridor Network as a positive first step. A recommendation from the City's 2000 Charleston Road Corridor Traffic and Safety Study stated, "Decisions that affect traffic volumes and speeds on a school corridor should be consistent with the nature of the roadway and its role as a school commute route used by school aged pedestrians and bicyclists." If the choice were between safety and capacity, safety must take precedence.

Penny Ellson, 513 El Capitan Place, Civic Affairs Committee for Green Meadow Community Association (GMCA) co-chair, said GMCA supported the proposed School Corridors Network and advocated designation of Charleston Road as a school corridor since the Charleston Corridor Traffic Management and Safety Study made the recommendation three years prior. GMCA appreciated the excellent collaborative work that staff, the PAUSD, PTA, and community residents did to implement the project. Improving bicycle and pedestrian safety on Charleston Road was a top priority of GMCA because Charleston Road connected the neighborhood to most of the City's public resources. She was surprised to find the language that referred to heightened land use changes was removed from Attachment B of the staff report (CMR:377:03). The language and applications of designation requiring heightened review of land use changes should be put back in the document. Land use review was significantly different from review of driveways. All Citywide school corridors should be protected because they were the carriers of the City's most vulnerable commuters. The Council was urged to approve the proposal with the suggested correction.

Deborah Ju, 371 Whitclem Drive, said she was surprised to find the heightened review provision was removed from the staff report (CMR:377:03). The Charleston Meadows Association supported adoption of the proposed School Commute Network because it was a positive first step toward addressing the unsafe conditions along the Charleston/Arastradero Corridor, as well as other streets Citywide that were heavily traveled by children walking and bicycling to school. She suggested incorporating a recommendation from the City's 2000 Charleston Road Corridor Traffic and Safety Study. The provision was, "Land use decisions that affect traffic volumes and speeds on a school corridor should be consistent with the nature of the roadway and its role as a school commute route used by school

aged pedestrians and bicyclists.” The notion that land use decisions that affected volumes and speeds on a school corridor should consider the existence of the school corridor seemed obvious and noncontroversial. She disagreed with Mr. Emslie’s comments in the minutes attached to the staff report (CMR:377:03) “that the original provision conflicts with the Comp Plan.” No particular findings were mandated and land use was not prohibited. The P&TC considered a version that included heightened review only with respect to additional turning movements in and out of developments, but that did not include heightened review where a project on a corridor had a driveway around the corner, regardless of how much volume the project added to the school corridor. The Council was urged to approve a measure that included heightened review of all land use decisions that affected traffic volumes and speeds along a school corridor.

Myllicent Hamilton, 4014 Ben Lomond, urged the Council to approve the recommendation for the School Commute Corridor Network. The Council was urged to strengthen the School Commute Corridor Network resolution by including the 2000 Charleston Road Corridor Traffic Management and Safety Study recommendation previously mentioned. The recommendation ensured that the safety of children was paramount and that the benefits of development did not override the safety.

John Tuomy, 279 Scripps Court, agreed land use decisions were part of the issue, but speed was a problem for many years. A way to get through the process to enforce the speed limit on Charleston and Arastradero Roads was needed at the current time. Land use decisions could wait.

Ann Crichton, 1062 Cardinal, Ohlone School PTA Traffic Safety Representative, said parents were encouraged to use alternative ways to get to school, and a 10 percent improvement in getting people out of their cars was seen at Ohlone School. The commute corridor for students and schools was extremely important to make the community more livable and desirable.

Kathy Durham, 2039 Dartmouth Street, said she was involved in school commute issues since 1989. The Council was urged to approve a School Commute Corridor Network. Streets were not only for cars. The Network gave priority for pedestrian and bicycle facilities improvements, sidewalk replacement, street repaving, and other enhancements to travel safety for the most important school commute routes. Increased biking was seen at the schools. The School Commute Corridor Network was focused on engineering. The Council was urged to approve the Network.

MOTION: Council Member Morton moved, seconded by Burch, to approve the Planning and Transportation Commission and staff recommendation to officially adopt the following: 1) The proposed Palo School Commute Corridors Network (Attachment A of CMR:377:03); 2) Principles of Designation (Attachment B); 3) Applications of Designation (Attachment B);
10/27/03

and 4) Criteria for Inclusion (Attachment B) with revisions to Attachment B: a revision of word "Land Use" to "Transportation," removing the word "turning" and removing "into and out of development or redevelopment sites."

Council Member Morton wanted the City to do something during school hours to control traffic. Visible signs were suggested for the corridors to make people understand the routes that children followed.

Council Member Burch said he was persuaded by what the Planning and Community Development Director said with regard to Palo Alto being well covered in terms of land use.

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Freeman, to approve the original staff and Planning and Transportation Commission (P&TC) recommendation with revisions on Attachment B to last bulleted item as follows: add wording after the word "vehicle" to say "trips including turning movements into and out of development and redevelopment sites."

Council Member Kishimoto said the issue of school commute safety was the top reason she became involved in politics. Reading that there was a 40 percent decline over the prior 20 years in the amount of students who walked, biked or took transit to school was shocking. Mentioning land use was important.

Council Member Freeman agreed the plan needed to move forward. There was no change to what the Council did. Everything was located in one place and she urged the Council to support the plan. The plan did not preclude the Council discussing any type of development that might happen along the corridor. Awareness of the school commute corridor was increased.

Council Member Kleinberg asked which option allowed the Council to examine safety more carefully if the Council did not use the language that was included in the Charleston Traffic Study regarding volumes and speeds but used the language proposed in the substitute amendment which only referred to vehicle trips.

Mr. Emslie said traffic, bicycle, and pedestrian safety was always taken into account because that was required under the California Environmental Quality Act (CEQA) to be identified as an impact and required under the Comp Plan to be reviewed.

Council Member Kleinberg asked if the Council were to use language to assess land use changes and use the language that said "added vehicle trips" rather than vehicle volumes and speeds, what might be the stricter language to assess safety.

Interim City Attorney Wynne Furth said Mr. Emslie's point was the document was not the document that empowered or limited staff's, Council's, or P&TC's abilities to consider the issue. The issues were already on the table when reviews were made. The document was intended to implement the part of the transportation element that instructed staff in setting priorities and in reviewing designs. There was a specific recommended reference to one aspect of the moving of vehicles and was a site specific issue, that is, driveways that crossed sidewalks and bicycle paths.

Mr. Emslie said staff interpreted trips and volumes to mean the same thing. Increased trips equated to increased volume.

Council Member Kleinberg asked whether the interpretation was contained in any law or regulation.

Mr. Emslie said the interpretation was common practice. Trips were the same as volumes.

Council Member Kleinberg said she was more interested in speed than trips.

Mr. Emslie said speed was a direct contributor to traffic safety, was a major consideration in the prediction of accidents on a corridor, and had a direct relationship to pedestrian and bicycle safety. It would be taken into account in evaluating mandated environmental impacts.

Council Member Kleinberg said she supported the substitute motion. She wished the staff report (CMR:377:03) had recounted the unanimous vote of the Council to make traffic calming dollars prioritized for school commute corridors. The vote was a strong message, which was reflected in the staff report and in the fact that the P&TC looked favorably on the issue. She was inclined to vote for the stricter standard. The Comp Plan Policy T-39 started out, "To the extent allowed by law," and went on to talk about making safety the first priority of citywide transportation planning and prioritizing pedestrian, bicycle, and automobile safety over vehicle level-of-service at intersections. The Council was setting policy that would eventually frame a context for application of law. It was incumbent upon the Council to take a stand on behalf of traffic safety, particularly when talking about school commute corridors. The School Commute Corridor Network was an important step in providing safety.

Council Member Ojakian referred to the designation of a school corridor and its relationship to the radar legislation. In the legislation, there was an 85th percentile. A survey was done of the area to see what the actual flow of the traffic was. Exceptions were built into the legislation. One was distance around a school of approximately 200 feet. Palo Alto attempted several years ago to get the State to change the legislation. He did not recall an exception that talked about a whole corridor being an exception.

Ms. Likens believed there was a misunderstanding about the issue. The designation would not change the way police could enforce speed limits on Arastradero Road with regard to the school zones. Police had the ability to enforce the 25-mile per hour speed limit in the school zones when children commuted to and from school. That would not have an impact on allowing radar enforcement to be used along the entire corridor or in the hours when school was not in session.

Council Member Kishimoto recalled in 2001, there were four segments added to the 25 mph prima fascia. There were two segments of Arastradero Road that were allowed to be lowered from 35 to 30 mph but had not been implemented.

Ms. Likens asked whether Council Member Kishimoto spoke about the results of the speed surveys.

Council Member Kishimoto said she referred to the 2000 speed survey and a new law that was recently passed.

Ms. Likens said staff would follow up.

Council Member Ojakian said many years prior, he and several other Council Members met with the press in an informal environment. He tried to challenge one of the papers about the need to write more about traffic safety in Palo Alto, particularly around the area of school age children. He hoped the press would take items such as the traffic issue and report them so people in Palo Alto understood the sensitivity around issues. The plan was Citywide and provided safety to many people in different areas. He wanted to see an amendment that asked staff to return with periodic reports on an annual basis so the Council could see what tangibly was done.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that staff shall return with periodic reports on an annual basis.

Vice Mayor Beecham supported the Substitute Motion. The Network was the result of good work by people on the Advisory Committee, was needed for the children, and fit in with the Comp Plan.

SUBSTITUTE MOTION PASSED 9-0.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

12A. (Old Item No. 9) 1849 Webster Street [03-IR-65]: Recommendation of Staff to Deny Request for Hearing of Appeal by Don And Carol Mullen, 618 Tennyson Avenue, of the Director of Planning and Community Environment's Approval of the Application for a Second

Story Addition and a Substantial Remodel of an Existing One Story Single Family Residence, Owned by Elizabeth and Jaime Wong, 1849 Webster Street, Under the Single Family Individual Review Program

Mayor Mossar said the item before the Council was whether or not to agree to hear the appeal. The Council would not hear the appeal at the current meeting. The procedure was if two Council Members chose to pull an item from Consent, the Council discussed whether or not to hear the appeal, and four members of the Council had to vote "aye" in order for the appeal to be heard.

Kent Mitchell, Attorney for Wong's, 550 Hamilton #230, agreed with the staff report (CMR:472:03) and the Director's decision. His clients exercised utmost good faith under trying circumstances. In the face of adversity, the Wong's responded to every reasonable request by the staff. The application was revised several times and incredible costs were incurred. Staff was honest with the guidelines and guideline process, and the City Attorney backed up the staff with every interpretation that staff was called upon to give. The question was whether the Council would stand behind staff and the City Attorney on what was a very reasonable request for a second story addition. The credibility of the Individual Review (IR) guidelines was at stake. The vote of the Council would decide the credibility of the Council. The Council was urged to restore common sense and fair and due process and to vote against hearing the matter.

Carol Mullen, 618 Tennyson Avenue, said the clearest and best-known part of the Zoning Ordinance was the declaration by the City of Palo Alto that a 6,000-square-foot house should be massive enough for any Palo Alto. The Planning Department refused to enforce the cap. The Wong's were the first to submit plans after the Planning Department was forced by her and her husband to admit they had no written authorization to grant the exemptions. The Wong's were the first to design the second submission after the Planning Department had to claim it had an oral tradition that contradicted the City cap and the FAR which allowed the creation of great exemptions. She asked for the enforcement of the City's promise that 6,000 square feet was the maximum, most massive house in the City of Palo Alto.

Don Mullen, 618 Tennyson Avenue, asked the Council to consider hearing his appeal. The house at 1849 Webster Street was approved at 750 to 800 square feet above the 6,000-square-foot cap. The excesses were allowed by a series of unwritten exemptions. The Wong's house was too massive because the covered first floor porches and outside stairway and storage areas were exempted from the FAR without justification. Planning and Community Environment Director Steve Emslie told him the practice he was appealing should stop. Oversized houses would continue to be approved until the new Zoning Code was written. The request for a hearing was the Council's best opportunity to tell the Planning Department that existing

ordinances must be enforced until revised. The Council should schedule a hearing and make a decision after a thorough review by the Planning and Transportation Commission (P&TC) of the issue.

Charles Huang, representing the Organization for Chinese Americans (OCA) Silicon Valley Chapter, expressed concern about comments made in a letter submitted to the Council. The Council was urged to make sure discussions were conducted with equal respect for everyone when other Chinese Americans submitted projects before the Council.

Tom Jordan, 474 Churchill Avenue, favored the Council granting the hearing because of strong public interest. The issue was not insignificant in that the P&TC would be hearing the issue raised in the appeal within the next couple of days.

Carroll Harrington, 830 Melville Avenue, Future of Single Family Neighborhoods Advisory Group co-chair, said she had a big investment in the success of the program. She found it hard to believe after all the meetings and hearings, newspaper articles, letters to the editor, and excellent staff reports that the Council wanted to hear the appeal again. The Wong's complied with the IR guidelines and should be given a permit to remodel their house. The Council was urged not to hear the appeal and accept the staff report.

Joyce Yamagiwa, 571 Seale, encouraged the Council not to hear the appeal. There was no merit on what was suggested. The Council could not hold someone to a standard that had not been developed.

Matthew Ingco, 571 Seale, suggested the Council not hear the appeal. The project met City planning guidelines, and any project that met guidelines should be approved.

Sally Probst, 735 Coastland Drive, urged the Council not to hear the appeal and to stop wasting staff time and resources.

Kamran, 875 Elbridge Way, supported approval of the application for 1849 Webster Street. The system was being abused. The Council was urged to deny the appeal and uphold the decision of the Planning Department.

Ronni Kerrins, 3280 Clifton Court, said Ordinance 18.040.03.65D read, "In the R-1 single-family residence districts, gross floor area means the total covered area of all floors of the main structure and accessory structures greater than 120 square feet in area, including covered parkways and stairways, measured to the outside surface of the stud walls." The Wong's floor area ratio (FAR) ended at the end of the living room. Anything outside the stud walls was not counted. There were no stud walls on the porch. Many of the rationales used to justify the votes in favor of the appellants in

the last decision were biased, unjustified, and not consistent with the law. Consequently, the Council made an egregious error in its decision to uphold the last appeal. The error that the Council made in May 2003 affected the Wong's and every member of the community, the Planning Department, isolated pockets of neighborhood goodwill, and the Council itself. Review and re-review of the case cost the City and taxpayers thousands of dollars. The Wong's made changes consistent with what was prescribed in the original City Council decision. The Council's only option was to uphold the Planning Department's decision.

Bret Kerrins, 3280 Clifton Court, said the Council should not hear the appeal because the case was an abuse of process. The FAR was not part of the IR guidelines, and the guidelines could not be used to hear such information.

Chuck Bradley, 2957 Waverley Street, urged the Council to not hear the appeal by the neighbors. The City and the Wong's were in agreement on all the building requirements. The IR was not intended to become the nightmare it was for the Wong's. The issue took on proportions that went beyond the matter of the Wong's building plans. The Council needed to fix the IR guidelines to allow only one appeal process by neighbors; otherwise if the process continued unchecked, the complexion of home building in Palo Alto would change in the future years.

Craig Woods, 1127 Webster Street, said the fact that the item was before the Council represented a failure in the IR process. The well intentioned goal of the IR process was to avoid hostility between neighbors. The IR process provided a procedural forum and made the situation worse. The issues raised about FAR and porches represented a red herring from the standpoint of things that were not appropriate to the IR process and only served to delay the decision. The Council was urged to deny the appeal.

Stephen Pogue, Architect for Mr. and Mrs. Wong, San Francisco, said the City's residential laws worked. Palo Alto stood out among its neighboring communities and property values reflected the fact. Recently there was a movement to sway zoning codes and its interpretation with the agenda of limiting residential growth. By encumbering the zoning process with useless challenges, the hope was to hobble Planning's ability to make independent decisions and, thereby influence design through the City Council. The FAR in Palo Alto was not overly generous, and the price of land put big lots and more square footage out of the reach of most small families with genuine space needs.

Bodil Gerotwol, Channing Avenue, expressed concern that the Council would again hear an appeal with regard to Mr. and Mrs. Wong's application. She objected to the amount of money spent by Mr. and Mrs. Wong as well as taxpayers. The Council was urged to not hear the appeal.

Jack Pfluke, 221 Kingsley, said the P&TC approved projects after weighing input from all the experts on staff. Repeatedly turning over P&TC decisions should not be possible. Each time the Council honored an appeal, a statement of no confidence was issued.

Mary Haverstock, 2350 Byron Street, said Mr. and Mrs. Wong redesigned their home and stayed within the City's guidelines. She did not believe the intent of the IR was to provide an opportunity for a neighbor to hijack the process. The Council was urged to not hear the appeal.

Cindy Samos, 346 Colorado Avenue, urged the Council to not hear the appeal. Residents watched with great interest to see whether the Council used objective criteria to make its decision on the appeal. Residents believed that voting to hear the appeal was tantamount to having no respect for the IR guidelines and the Zoning Ordinance. If there were issues with the ordinance, there were proper channels to follow. There was no reason why the Wong's should be forced to continue the grueling process. The proposed addition surpassed the IR guidelines and should be allowed to proceed without further delay.

Monica Yeung Arima, 1052 Bryant Street, urged the Council to deny the request for the hearing. Mr. and Mrs. Wong respected the original design of the home when planning their addition and followed all the City's rules.

Bill Lou urged the Council to deny the request for the hearing. The Wong's followed the guidelines and should not be penalized because of a neighbor.

Roger Mansel, 550 Santa Rita, said the Council should not let the process go on and should stop the appeal.

Elizabeth Wong, 1849 Webster Street, said the appellant filed four appeals on their hard earned approvals. She submitted petitions signed by 111 Palo Altans requesting Council approval of the application. The people who signed the petitions said she and her husband were treated unfairly and inappropriately by neighbors and the Council. There was no basis for the appeal. Neighbors were 35 to 100 feet from her house, which took away credibility of the appeal. The Mullens were 80 feet away and appealed half a dozen houses. The Mullen's mission was to stop development in Palo Alto.

Jaime Wong, 1849 Webster Street, said the Mullen's appeal letter had three points. One argument said, "This approval exceeds the authority of the Planning Department to grant exemptions from the Zoning Code regarding FAR and covered porches." No exceptions were granted and none were requested. Putting restrictions on his plans and not on others was wrong. FAR calculations were not part of the guidelines and thus outside the scope of the hearing. The house was designed four feet shorter than the 30 feet allowed, which was a 14 percent reduction. The second story was 68 percent

of the footage of the first floor. The Mullen's lived in a two-story house with maximum allowable FAR and were hidden from his property by 30-foot tall hedges and trees. The Council was urged to vote unanimously to turn down the appeal.

MOTION: Council Member Burch moved, seconded by Beecham, to approve the staff recommendation to decline to hear the appeal by Don and Carol Mullen, 618 Tennyson Avenue, thereby upholding the Director of Planning and Community Environment's approval of the application for a second story addition and a substantial remodel of an existing one story single family residence, owned by Elizabeth and Jaime Wong, 1849 Webster Street.

Council Member Burch said the first issue before the Council was the daylight plane and whether shadows fell on properties at certain hours of the day. The IR process worked. The appeal process went on for too long a period of time.

Vice Mayor Beecham said the IR process was labeled in the past by the press as being broken. The Council had to respect the IR guidelines, which were clear. The application met the guidelines. The project was a poster child for a process out of control. The process had to stop with the Council.

Council Member Ojakian expressed concern about the costs of the process to the City and to applicants. He hoped the Council voted unanimously to deny the appeal.

Council Member Morton said he heard people suggest there was a right to build a 6,000-square-foot home where there were no other homes of that size. The house was too big. All the neighbors objected. He wanted the appeal heard because he wanted to hear from staff that the IR guidelines were met.

Council Member Kishimoto supported the motion because the FAR issue was outside the IR process, and the Wong family listened to the objections and significantly changed the design. The bulk of the second story was moved to the center of the lot. The lot was 20,000 square feet, which was considerably larger than the neighbors' lots.

Council Member Lytle supported the motion because the administration and interpretation of the Zoning Ordinance was an administrative function. The issue of the appeal, dealing with the measurement of porches and whether it exceeded the 6,000-square-foot limit was not the purview of the IR guidelines.

Council Member Kleinberg said the IR guidelines were met. The FAR was not in the guidelines. Some neighborhoods in Palo Alto typically had large homes mixed in with modest homes. The change in the guidelines should include a

change in the process. The IR guidelines were overused in terms of the appeal process.

Council Member Freeman said she agreed to pull the item to allow people with various issues to come together in one room, in a democratic environment, to vet their concerns. The discussions were valuable and allowed all opinions to be heard. She did not feel she could hold the process at bay while waiting for a change in a law and suggested the Mullen's presented their case in front of the P&TC when the matter was heard in the near future. The issue at hand was whether the IR guidelines and original direction from Council were met. The process employed by the Planning Department was in need of immediate review. The City Manager and City Auditor were requested to take the task to immediately review the processes under question.

Mayor Mossar responded that Council Member Freeman's request of the City Manager and City Auditor was not an action within her purview to direct.

Vice Mayor Beecham said the item had been pulled from the Consent Calendar by two of his colleagues, one of whom he heard say the guidelines had been met. He assumed the colleague's vote was to uphold the staff recommendation. The Council spent considerable time at the current meeting hearing many members of the public when the item could have been left on the Consent Calendar. The process would have been done with. The current action was part of why the process did not work.

MOTION TO CALL THE QUESTION made by Vice Mayor Beecham, seconded by Burch.

Council Member Freeman said a point of order upheld the motion to call the question.

Interim City Attorney Wynne Furth said point of order took precedence.

Council Member Freeman said it was imperative that she responded to Vice Mayor Beecham's comments regarding her particular stance. Each Council Member had the ability to do as they saw fit. She listened carefully to the public, read the reports, and made up her mind based on all the information. She was disappointed that her particular actions, which she felt were correct, should be interrogated by another member of the Council.

MOTION TO CALL THE QUESTION WITHDRAWN BY THE MAKER AND SECONDER

MOTION PASSED 8-1, Morton "no."

CLOSED SESSION

10/27/03

97-43

The Council took a recess at 9:55 p.m. and adjourned to a Closed Session.

11. Conference with Labor Negotiator
Agency Negotiator: City Council Ad Hoc Personnel Committee (Judy Kleinberg, Dena Mossar, Nancy Lytle, Vic Ojakian)
Unrepresented Employees: Interim City Attorney Wynne Furth
Authority: Government Code section 54957.6

The City Council met in Closed Session to discuss matters involving labor negotiations as described in Agenda Item Nos. 11.

Mayor Mossar noted the reportable action from the City Council was they accepted the offer from the Interim City Attorney Wynne Furth.

The meeting reconvened at 10:08 p.m. to the regular City Council meeting.

PUBLIC HEARINGS



13. Public Meeting: Consideration of the Proposed Establishment of a Downtown Business Improvement District (BID) and Levy of Assessments on Businesses Generally Located in the Downtown Area of Palo Alto

~~Resolution of the Council of the City of Palo Alto Confirming the Report of the Advisory Board in Connection with the Establishment of the Proposed Downtown Palo Alto Business Improvement District, Declaring its Intention to Establish said District, Declaring its Intention to Levy an Assessment on Businesses within said District for Fiscal Year 2003-2004, and Setting a Time and Place for a Public Hearing on the Establishment of the District and the Levy of the Assessment~~

Economic Resources Manager Susan Arpan said Business Improvement Districts (BIDs) were established to enhance the economic vitality of a City such as Downtown Palo Alto to unify the downtown area, to provide enhanced maintenance, promotional events, banners and directional markers, a staff person to coordinate downtown activities, and establish business directories. Over 200 cities in California had BIDs, including Mountain View, Burlingame, San Jose, San Mateo, and Los Gatos. BIDs supported city objectives as a key milestone under the long-range financial plan and as a recommendation of the Year 2000 Retail Strategy. One of the Comprehensive Plan (Comp Plan) goals was to initiate assessment districts or other programs to facilitate improvements and to support and enhance the University Avenue Downtown area as a vital mixed use area containing retail, personal service, office, restaurant, and entertainment uses. The City Council appointed a BID Advisory Board, made up of 15 members. The Advisory Board recommended a BID budget based on projected BID revenue, a method and basis for levying the assessment, improvements and

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activities to be accomplished with BID funds, and a timeframe for initiating the BID assessment and activities. The Advisory Board worked hard to come up with an equitable application of the assessment, based on business type. The lack of a business database was a challenge. A complimentary role was identified with the Chamber of Commerce. The BID boundaries encompassed the greater downtown. A solid BID budget figure was not available until revenue was collected. Based on early performas in the first six months, the BID was anticipated to generate approximately \$101,000. The Advisory Board identified activities it wanted to accomplish within the six months, which included marketing and promotion activities, graphic design, and the establishment of a Website. Council's action included accepting the report and recommendations, holding the public hearing, and considering adoption of a resolution of intention.

Mayor Mosser declared the Public Hearing open at 10:23 p.m.

Paul Cardoza, 501 Forest Avenue, Apt. 1106, said the Advisory Board maintained it contacted everyone in advance of what it was doing, but no one in his building at 550 Hamilton Avenue received any information. He found out about the BID after reading an article in the *Palo Alto Daily News*. The people in his building saw little benefit from the BID. The inequity of the suggested fee structure was unreasonable. The total assessment for the 550 Hamilton Avenue building was \$12,500.

Israel Zahavi saw the BID as something for the community. The BID tried to benefit the community by contributions. The BID would replace the Palo Alto Marketing Committee that was made up of volunteers. Someone was needed to coordinate the activities of the Downtown.

Susan Kaplan, 550 Hamilton Avenue, asked the Council to not pass a poorly thought out and unfair proposal for the BID. The flaws in the current proposal stemmed from the lack of proportional representation on the Advisory Committees for the BID. The product before the Council represented the needs of only a small group of retailers rather than all the business interests in the Downtown area. The Committee did not evenly represent the businesses in the Downtown.

Ronald Kaplan, 4015 Norm Street, said as a result of inequitable representation, the assessments proposed for the BID were grossly unfair to small professionals who derived little, if any, benefit from the BID. The assessment structure needed to be reconfigured. The spread of assessments had to be much wider with those who stood to benefit most paying more. The Committee rushed its work in order to get the report to the Council. The result was the unfair and flawed proposal recommended by the Committee. The Council was urged to reject the proposal and recommend that a truly representational committee reconvene to devise fair assessments.

Hedy McAdams, 1440 Bryant Street, urged the Council to not approve the measure, noting it was grossly unfair. The burden was on the BID to show the business community how they would benefit. The clients that came to her office brought business to the retailers and restaurant owners.

Rod Firoozye, 550 Hamilton Avenue, Ste. 300, filed a protest to the Advisory Board's recommendation. The City of Palo Alto currently had in excess of 30 percent vacancy rate in office spaces. Part of the reason was due to the high value of office rent. The Advisory Board proposed to add to that additional expense. There were problems with the representation on the Advisory Board. There was inadequate representation for the true professionals.

Victoria Lukanovich, 425 Alma Street, #209, supported the BID because the health of the Downtown business community depended on the equal involvement on the part of all businesses in the Downtown district. The BID offered a powerful means by which all types of businesses could work together to inject vitality into the Downtown area. The BID Committee was accommodating in its efforts to address and resolve issues raised by businesses that were concerned about the establishment of the BID. The BID was an effective voice for the Downtown business community.

Faith Bell, 536 Emerson Street, said the BID would increase the ability of all Downtown businesses to community with each other, to have advocacy with neighborhood groups and the City, and to have a hotline to notify business about security issues. Civic beautification was a benefit to all the retail, service, and professional clients.

Sandra Lonquist, Chamber of Commerce CEO, said the Chamber Board voted to support the concept of a BID in August 2002. The Chamber currently worked with the Advisory Board to look at the opportunity and evaluate the complexities involved in trying to put a BID in place in Downtown Palo Alto. The Downtown Marketing Committee was part of the Chamber for many years and worked closely with a consultant to evaluate the needs of businesses. The Chamber wanted to work cooperatively to assist all businesses to cooperate and coordinate to create a positive, vital, and cohesive downtown.

Georgie Gleim, 140 Island Drive, believed the BID was good for the Downtown and helped create a more distinct thriving Downtown that would benefit all businesses in the District. The BID would build on the efforts of the Downtown Marketing Committee which during the prior years organized events such as Snowmen and Sleigh Rides, Winterfest, Art Shows, and fundraisers. The Downtown Marketing Committee provided information to the City, which allowed better use of City resources Downtown and produced Downtown directories. The BID was a way to enhance and enlarge the efforts to continue to improve the entire community. Benefits were beyond only sales. Working for the good of the entire Downtown community was the

right thing, and strengthening and formalizing the community was good for the entire City.

Barbara Gross, 520 Cowper Street, said she was a 15-year volunteer on the Downtown Marketing Committee, which could no longer fulfill the role to handle 900 businesses in the Downtown. The Downtown was complex, and the sales tax revenues generated in the Downtown businesses paid for Citywide services as well. There was no infrastructure to communicate with property owners or business owners. The BID provided oversight capability through which information could be channeled. The BID structure was able to direct and champion both the micro and macro type of issues that came up.

Barbara Blatner, 550 Hamilton Avenue, Ste. 110, spoke in opposition to the BID and asked the Council not to accept the recommendations. Her business brought people from many cities to Palo Alto to shop and dine. The idea of having to pay a fee of \$135 with no benefit was disturbing. She and others in her building received no information about the BID until they were told they had to pay a fee. The improvements and activities such as sleigh rides and banners had nothing to benefit her or other therapists.

Beth Rosenthal, 550 Hamilton Avenue, opposed the confirmation of the BID as it was proposed. She was the only unaffiliated member on the BID committee representing the professional community. In every vote that was taken, the committee voted as a block, and she was the only member who did not vote with the group as a whole. The pressure to meet a timetable that was preset in terms of presenting the proposal to the City and a reluctance to consider diminishing the amount of money that had already been projected resulted in the committee voting as a monolith against every proposal she made. She read a letter from the owner of Jungle Copy who indicated his clients were against the BID and that operating a business in Palo Alto was very expensive. The City Manager told her someone was needed to recruit business for Palo Alto. Her response was that the City needed to stop doing things that drove out existing businesses.

Peter Rosenthal, 585 E. Crescent Drive, supported the concept of the BID but was opposed to Council approving the current recommendation. If the BID were approved, no changes would be made unless 450 to 500 of the taxed businesses responded. Palo Alto did not need to create any additional antagonism between two interest groups who could, with a little effort, be aligned. The issue causing the dissention was the inequity embodied in the proposed assessment schedule. The relative benefit scale did not make sense. The Council was urged to send the report back to the committee.

Stephanie Wansek, Chair of BID Advisory Board, 235 Hamilton Avenue, recommended the Council accept the report and recommendations and adopt the Resolution of Intention and set the Public Hearing for November 10/27/03

24, 2003. She could not put a finger on a direct benefit to her hotel but felt there was an obvious benefit to the Downtown businesses. A majority of the professional businesses felt no need to protest. The Advisory Board heard the professional businesses and agreed with many of their recommendations of recognizing additional tiering for sole proprietorship, but the Advisory Board did not have the data to do that. Assessments needed to be sent out, which would provide data on number of employees in order to further tier and break out a sole proprietorship or single ownership of a business.

Cornelia Pendleton, 267 Hamilton Avenue, said the benefit of BID came from being part of a community. Downtown Palo Alto was more than a shopping district; it was a business district. A good mix of businesses made the Downtown successful. A value had to be placed on the benefit that made forming the BID worthwhile. A small group of professionals disagreed with the dollar value. The Advisory Board said it would reevaluate the fees for single, part-time professional office space. Until data was received to help evaluate the fees, the Advisory Board chose to adopt a modified version of the original structure.

Jim Maliksi, Maliksi and Associates, 654 Gilman Street, said he was surprised when he decided to open a business in Palo Alto that he did not have to pay a Business License Tax. The BID did not benefit him directly but benefited everyone in the Downtown. The Council was urged to go forward with the BID proposal.

Sunny Dykwel, 480 Gary Court, saw the value of being involved in the BID and paying \$135 per year. The Advisory Board listened to the concerns of the businesses at 550 Hamilton Avenue. Fees and structure would be reevaluated after six months. The Council was urged to approve staff's recommendation.

Norman Carroll, University and Emerson, said the item before the Council was whether to hear about the details. Nothing was set in stone. The Public Hearing in November was supposed to be about the details. The fee structure might be unfair for people with a part-time business, but the fees could be pro-rated. The BID benefited the Downtown.

Robert Moss, 4010 Orme Street, supported the concept of the BID and was glad to see that nonprofits would not be assessed. There was no question that everyone in the Downtown would benefit. The professional offices benefited from having a cleaner, more attractive environment. Assessing at 50 percent might be high when discussing the benefits. The assessment might be reduced to 25 or 35 percent for professional offices.

Bunny Good, P.O. Box 824, Menlo Park, opposed the BID because she thought it would be used for the maintenance of the Homer tunnel. Section 3 of the Resolution called for the maintenance of any tangible property with an

estimated useful life of five years or more. Attachment 2 to the resolution stated, "as much as possible, the intention of the BID is to spend BID dollars locally within the BID." The assessment district was first suggested for Homer in 1996.

Mayor Mossar declared the Public Meeting closed at 11:25 p.m.

Council Member Morton clarified the Council could recommend that the Advisory Committee return to the Council in November with a change in the fee.

Assistant City Manager Emily Harrison said that was correct.

Council Member Morton said he was surprised to see there was no category for sole proprietor and proposed an additional category for sole proprietor in Zone A in the amount of \$125, and in Zone B the amount of \$75. He understood that an office of five-plus professionals paid \$225 and that five sole proprietors paid substantially more. The fee structure could have easily handled the issue by adding a third category where a business with more than 10 people paid \$500.

Vice Mayor Beecham suggested giving direction to the Advisory Committee to see a revised structure for fees.

Interim City Attorney Wynne Furth said the resolution, when adopted, was mailed to businesses that were to decide whether or not to go ahead. Modifications to increase the assessments could not be made. Amounts could not go up, but could only go down. Categories could be added.

Council Member Morton clarified \$500 was the limit for 10 or more people.

Ms. Furth said that was correct.

Ms. Arpan said the notice would make the process start over again, if the amount was higher from the noticed amount.

Mayor Mossar clarified the process started all over if there were any upward changes.

Ms. Arpan said that was correct. Staff was required to do a 45-day notice prior to the public hearing informing businesses about the amount of assessment.

Council Member Morton said there was a good chance that 50 percent of the people would object to the BID because there was no category for sole proprietors.

MOTION: Council Member Morton moved, seconded by Kishimoto, to support the staff recommendations with one modification and to begin the process over to notice affected businesses about any changes to the fee structure and timeline. This will include the recommendation that the Advisory Board consider a new fee structure with a new category for single person businesses in the range of \$125 for Zone A businesses and \$75 for Zone B businesses and consider adding a category of 10 plus employees for service and professional businesses which could be \$500.

Council Member Morton said the issue of underrepresentation was a real issue that the Council dealt with at the prior meeting. Wider participation would have insured the success. The benefit was somewhat intangible, but everyone benefited.

Council Member Kishimoto supported the concept of a BID. The Council needed to start over. A structure that was more widely accepted was possible. The Committee's hard work and good will was recognized. Their intention was to build a community. Incorporating the SOFA Area into consideration of downtown was important. The City talked about looking into a business license fee for professional and retail, and the fee went for keeping the Downtown cleaner and promoting the Downtown community.

Council Member Kleinberg asked why the Committee member names and their votes were not included in the report to the Council. The report appeared to be unanimous.

Ms. Arpan said the report was a majority report. The minutes of the meeting were recently completed.

Council Kleinberg said there were many questions raised about the make up of the committee and the way it was conducted. She asked whether there was any opportunity for a minority report.

Ms. Arpan said names of the members of the Committee were listed in the two prior reports. There would have been an opportunity for a minority report but no one indicated they wanted to do that.

Council Member Kleinberg said with respect to the idea of self-reporting, some people said it sounded like a good idea, but it could not be done currently. She asked what would be different between now and later in terms of self reporting.

Ms. Furth said notices needed to be sent to people so they understood what their potential assessment was. Most BIDs were established in areas that already had business license taxes. The City had to elaborate upon the basic procedures that were set forth. A notice would be sent out indicating the assessment would be a certain amount based on the people in the business.

Council Member Kleinberg asked whether notices were sent out.

Ms. Furth said notices were sent to businesses. Changes might require further noticing.

Ms. Arpan said the first notice was a result of having to send out a notice with the assessment 45 days in advance of the public hearing. A requirement was that, after the resolution of intention, another notice had to be sent to each business in the district with the resolution of intention. The City Attorney suggested sending out another assessment notice that gave people the opportunity to self report they were a single-owner business.

Council Member Kleinberg had a problem grasping why the City could not figure out who to ask to self report.

Mr. Benest proposed the Council make a determination with what it felt most comfortable with, particularly with respect to the issues in the motion. Staff would figure out how to proceed legally. The key for the Council was to decide what it thought was the best way to proceed.

Council Member Kleinberg was supportive of the BID, noting it had worked in other communities. The Council could not ignore the disenchantment of a large group of people. The way the policy decision was arrived at with respect to the assessments made her uncomfortable.

Vice Mayor Beecham said the BID was the right thing for the Downtown to do. The numbers included in the report did not sufficiently work for the entire business community Downtown.

MOTION WITHDRAWN BY MAKER

MOTION: Council Member Morton moved, seconded by Kleinberg, to approve the concept of the BID and ask staff and the Advisory Committee to return with a revised assessment fee schedule and to begin the process over to notice affected businesses about any changes to the fee structure and timeline.

MOTION PASSED 8-0, Burch absent.

14. Public Hearing: Public Hearing Regarding Comcast's Compliance with Franchise Agreement and Customer Service Standard Obligations and Audit Kick-Off

Council Member Kishimoto stated she would not participate in the item due to a conflict of interest because of investment interest in Comcast.

Council Member Morton stated he would not participate in the item due to a conflict of interest because of investment interest in Comcast.

Mayor Mossar stated she would not participate in the item due to a conflict of interest because of investment interest in Comcast.

Vice Mayor Bern Beecham asked staff whether the sole purpose of the item was to hold a public hearing for input.

City Manager Frank Benest said that was correct.

Information Technology Manager David Ramberg said, as Cable Franchise Manager, he represented other communities served by the cable system, including Atherton, East Palo Alto, Menlo Park and portions of San Mateo and Santa Clara Counties. Palo Alto was the lead agency in the Cable Joint Powers Agreement (JPA) which was established in 1983, and the City Council was the governing body of the JPA. The public hearing was required as part of the three-year review. The public hearing was to invite members of the JPA communities to provide comments.

Mayor Mossar declared the Public Hearing open at 11:58 p.m.

Nick Nocchi, Comcast, provided background information about his position with Comcast. By year-end, Comcast would have paid over \$9 million in franchise fees to all the communities it served. Much of his job was to localize operations in the West Bay and to upgrade the cable plant.

Vice Mayor Beecham asked staff whether written comments could be submitted during the next week or two.

City Auditor Sharon Erickson said that was correct.

John Aragon, Comcast, summarized how fast Comcast upgraded its systems since taking over cable operations in the Bay Area. Services were being localized.

Robert Moss, 4010 Orme Street, said Comcast was customer hostile. Cable Co-op averaged two to three complaints per month, and AT&T and Comcast went up to as many as 75 to 100 complaints per month. Comcast was not compliant with the requirements of the franchise with regard to hooking up government facilities to the I-NET. Dish was a better service.

Vice Mayor Beecham declared the Public Hearing closed at 12:07 a.m.

No action taken.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Ojakian announced there would not be a meeting on November 3, 2003.

ADJOURNMENT: The meeting adjourned at 12:08 a.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.