

Special Meeting
November 8, 2004

1. Public Employee Performance Evaluation.....4

ADJOURNMENT: The meeting adjourned at 5:45 p.m.4

ORAL COMMUNICATIONS5

1. Status of Library System.....5

ORAL COMMUNICATIONS6

APPROVAL OF MINUTES6

2. Adoption of a Budget Amendment Ordinance in the Amount of \$580,353 and Approval of a Contract with Anderson Pacific Engineering Construction, Incorporated in the Amount of \$4,690,000 For Phase I Water Distribution System Improvements Project (WS01010, WS01011, WS01012).....7

3. Adoption of a Resolution Approving the Assignment Administration Agreement for Western Area Power Administration Base Resource Percentage Between Northern California Power Agency and City of Palo Alto7

4. Adoption of a Resolution Authorizing Execution of a Letter of Agreement and Payment of \$300,000 to the City of Roseville in Compensation for Calaveras Hydroelectric Project Water Storage Transfers Pertaining to the Culmination of the Agreement Between the Cities of Palo Alto and Roseville for the Assignment of Capacity in the North Fork Stanislaus River Hydroelectric Development Project and Other Electric Resources7

5. Adoption of a Resolution Approving the Long-Term Power Purchase Agreement (Wind Power) with PPM Energy, Inc. for the Purchase of Electricity Generated by a Wind Electric Generating Facility for a Term of 23 Years and Seven Months and a Contract Amount of \$78.4 Million.7

6.	Adoption of a Resolution Approving the Long-Term Power Purchase Agreements (Landfill Gas Power) with Ameresco Santa Cruz Energy L.L.C. for the Purchase of Electricity Generated By Landfill Gas Electric Generating Facilities for a Term of 20 Years; and Contract Amount of \$13.9 Million	8
7.	Adoption of a Park Improvement Ordinance Associated with the Improvement of the Lucy Evans Baylands Nature Interpretive Center Parking Lot in Byxbee Park and City Owned Baylands.....	8
8.	Adoption of a Resolution of Intention Setting a Public Hearing on a Proposed Exchange Between the City of Palo Alto and the Palo Alto Unified School District of Minor Portions of Land to Adjust the Boundary Between Walter Hays School and Rinconada Park.....	8
9.	Contract Between the City of Palo Alto and Bleyco Inc. in the Amount of \$607,500 for Construction of Baylands Athletic Center Electrical Upgrade–Capital Improvement Program Project PG-00010.....	8
10.	Approval of an Ordinance Amending the 2004-05 Budget to Add a Position of Senior Deputy City Attorney to the Table of Organization <small>(Item continued from 10/25/04</small>	9
11.	Amendment No. One to the Agreement Between the City of Palo Alto, the Palo Alto Library Foundation, and the Friends of the Palo Alto Library and Approval of Contract Amendment No. One to Contract No. C05108354 with Architectural Resources Group in the Amount of \$44,275 for Additional Design Services for a 610 Square Foot South Addition to the Children’s Library <small>(Item continued from 10/25/04)</small>	10
12.	Public Hearing: The City Council will consider an Application by Hoover Associates on Behalf of Richard Peery for Site and Design Review of a New 73,932 Square Foot Office Building with at Grade Parking and Related Site Improvements Located on a 5.66-Acre Site at 2300 East Bayshore Road Within the LM (D)(3) Limited Industrial Site Combining Zone District. Draft Initial Study Recommending the Preparation of a Mitigated Negative Declaration. File Numbers: 03-EIA-17, 03-D-04. <small>(Item continued from October 18, 2004 – Public Testimony Closed – Item to be continued to a date uncertain)</small>	12
13.	Adoption of a Budget Amendment Ordinance Transferring \$200,000 from the Technology Fund into the Police Vehicle-Mounted Video Recording Capital Improvement Program Project Number PD-05010 for the Purchase and Installation of In-Car Video Recording Systems in Police Patrol Vehicles.....	12
14.	Results of Outreach for Storm Drain Election	15

15. Recommendation from Human Relations Commission to Refer to Policy and Services Committee (P&S) a Recommendation to the City Council to Adopt a Resolution Opposing the Federal Marriage Amendment *(Item continued from 10/25/04)*..... 19

16. Conference with City Attorney -- Potential/Anticipated Litigation..... 20

17. Conference with City Attorney -- Existing Litigation..... 20

FINAL ADJOURNMENT: The meeting adjourned at 11:30 p.m. 20

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:00 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman, Kishimoto, Kleinberg, Morton (arrived at 5:35 p.m.), Mossar, Ojakian

CLOSED SESSION

1. Public Employee Performance Evaluation
Subject: City Auditor
Authority: Government Code Section 54957(b)(1)

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

Mayor Beecham announced there was no reportable action taken.

ADJOURNMENT: The meeting adjourned at 5:45 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, Cordell, Freeman, Kishimoto, Kleinberg, Morton, Mossar, Ojakian

MOTION: Mayor Beecham moved, seconded by Burch, to move Oral Communications forward for 20 minutes for the Palo Alto temporary employees issue.

MOTION PASSED 9-0.

ORAL COMMUNICATIONS

Cindy Wee, Annie Bunten, Karen Ehrhardt, Kristin Rasmussen, Roberta Ahlquist, Bill Guttoff, Paul George, Arlyn Sharp, Tasha Hudick, Karen Richins and Allen Krever spoke regarding Palo Alto temporary employees.

STUDY SESSION

1. Status of Library System

Library Director Paula Simpson reported on community input regarding the Library during her first seven months on the job. She also reviewed her assessment of the Library, including staffing, use of volunteers, collections, services, technology applications, budget and facilities. She concluded with a series of recommendations for improving the quality of library services. These options consisted of: 1) a parcel tax or other measure to support ongoing operations at the existing five service branches; 2) a tax measure to support the existing five branches plus additional facilities in other neighborhoods; 3) a plan for offering higher quality services within the Library's existing budget by converting some facilities to other uses and concentrating services in the remaining branches; 4) an option to do nothing, which would result in the continued steady decline of library services in Palo Alto; or 5) affiliate with the Santa Clara County Library system. Lastly, she presented the Council with her vision for a central library for all of Palo Alto, featuring all the services and programs community members had been asking for, especially space for a larger collection, and she encouraged the Council to consider the benefit to the City of that service model. After a brief question and answer period, Ms. Simpson and City Manager Frank Benest concluded the presentation by indicating a staff recommendation would be brought back to the Council on December 13, 2004.

No action required.

RECESS: 8:40 p.m. to 8:47 p.m.

ORAL COMMUNICATIONS

Hillary Freeman read a Proclamation entitled "Friends Nursery School 50th Anniversary."

Toni Stein, 800 Magnolia Drive, spoke regarding zero waste.

Jean Bozman, 3672 Evergreen Drive, spoke regarding the library.

Enid Pearson, Forest Avenue at Palo Alto, spoke regarding parks.

Bob Moss, 4010 Orme Street, spoke regarding the utility billing system.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Burch, to approve the minutes of September 27 and October 4, 2004, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

Council Member Freeman stated she would not participate on Item No. 8 due to a conflict of interest because of Government Code Section 1090, as she was employed as a substitute teacher with the Palo Alto Unified School District (PAUSD).

Council Member Freeman moved to remove Item No. 7 but did not receive a second.

Council Members Cordell and Kishimoto registered no votes on Item No. 8.

MOTION: Council Member Morton moved, seconded by Burch, to approve Consent Calendar Item Nos. 2-9.

LEGISLATIVE



2. Adoption of a Budget Amendment Ordinance in the Amount of \$580,353 and Approval of a Contract with Anderson Pacific Engineering Construction, Incorporated in the Amount of \$4,690,000

For Phase I Water Distribution System Improvements Project (WS01010, WS01011, WS01012)

Ordinance 4851 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal Year 2004-05 to Approve Transfer of Appropriation From Capital Improvement Program (CIP) WS-02005, El Camino Park Reservoir and Pump Station with \$443,325; to (CIP) Project WS-01010, Reservoir Booster Improvements; \$92,561 to CIP Project WS-01011, District System Water Quality Enhancements; and \$44,467 to CIP Project WS-01012, Booster Station Improvements-PRV's"

3. Adoption of a Resolution Approving the Assignment Administration Agreement for Western Area Power Administration Base Resource Percentage Between Northern California Power Agency and City of Palo Alto

Resolution 8470 entitled "Resolution of the Council of the City of Palo Alto Approving the Assignment Administration Agreement for Western Area Power Administration Base Resource Percentage between Northern California Power Agency and City of Palo Alto"

4. Adoption of a Resolution Authorizing Execution of a Letter of Agreement and Payment of \$300,000 to the City of Roseville in Compensation for Calaveras Hydroelectric Project Water Storage Transfers Pertaining to the Culmination of the Agreement Between the Cities of Palo Alto and Roseville for the Assignment of Capacity in the North Fork Stanislaus River Hydroelectric Development Project and Other Electric Resources

Resolution 8471 entitled "Resolution of the Council of the City of Palo Alto Approving Settlement Agreement Between the City of Palo Alto and the City of Roseville Regarding the Disposition of Water Storage Transfer Rights of Roseville under the Assignment of Capacity in the North Fork Stanislaus River Hydroelectric Development (Calaveras) Project Agreement"

5. Adoption of a Resolution Approving the Long-Term Power Purchase Agreement (Wind Power) with PPM Energy, Inc. for the Purchase of Electricity Generated by a Wind Electric Generating Facility for a Term of 23 Years and Seven Months and a Contract Amount of \$78.4 Million

Resolution 8472 entitled "Resolution of the Council of the City of Palo Alto Approving the Long-Term Power Purchase Agreement (Wind Power) with PPM Energy, Inc. for the Purchase of Electricity Generated by a Wind Electric Generating Facility"

6. Adoption of a Resolution Approving the Long-Term Power Purchase Agreements (Landfill Gas Power) with Ameresco Santa Cruz Energy L.L.C. for the Purchase of Electricity Generated By Landfill Gas Electric Generating Facilities for a Term of 20 Years; and Contract Amount of \$13.9 Million

Resolution 8473 entitled "Resolution of the Council of the City of Palo Alto Approving the Long- Term Power Purchase Agreement (Landfill Gas Power) with Ameresco Santa Cruz Energy, L.L.C. for the Purchase of Electricity Generated By Landfill Gas Electric Generating Facilities"



7. Adoption of a Park Improvement Ordinance Associated with the Improvement of the Lucy Evans Baylands Nature Interpretive Center Parking Lot in Byxbee Park and City Owned Baylands

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Approving and Adopting Plans for Parking Lot Improvements in Byxbee Park"

8. Adoption of a Resolution of Intention Setting a Public Hearing on a Proposed Exchange Between the City of Palo Alto and the Palo Alto Unified School District of Minor Portions of Land to Adjust the Boundary Between Walter Hays School and Rinconada Park

Resolution 8474 entitled "Resolution of the Council of the City of Palo Alto Setting a Time and Place for a Public Hearing on a Proposed Exchange of Land Between the City of Palo Alto and the Palo Alto Unified School District Adjusting the Boundary Between Walter Hays School and Rinconada Park, a Dedicated Public Park, without Increasing or Decreasing the Area of Either Property"

ADMINISTRATIVE



9. Contract Between the City of Palo Alto and Bleyco Inc. in the Amount of \$607,500 for Construction of Baylands Athletic Center Electrical Upgrade–Capital Improvement Program Project PG-00010

MOTION PASSED 9-0 for Item Nos. 2-7 and 9.

MOTION PASSED 6-2 for Item No. 8, Cordell, Kishimoto no, Freeman not participating.

Council Member Cordell said she had a concern regarding the exchange of land with regard to Item No. 8.

Council Member Kishimoto said she would support the land swap under the correct procedure with regard to Item No. 8.

UNFINISHED BUSINESS

10. Approval of an Ordinance Amending the 2004-05 Budget to Add a Position of Senior Deputy City Attorney to the Table of Organization (Item continued from 10/25/04)

MOTION: Vice Mayor Burch moved, seconded by Morton, to approve the staff request to adopt an ordinance amending the 2004-05 budget adding a Senior Deputy City Attorney to the Table of Organization and approval of a resolution amending the Compensation Plan. This position would be devoted 100 percent to Utilities legal services.

City Attorney Gary Baum stated if an attorney was hired by January 2005, an additional six months of services and preventative law would be provided by the City Attorney's Department.

Council Member Freeman requested to add an annual report with a comparison of funds saved from Utilities compared to funds spent on the position.

Mr. Baum said savings probably would not be shown the first year. A substantial savings would be shown in the long-term goal.

Council Member Freeman asked whether an annual report could be provided.

Mr. Baum said if the Council wished, an annual report could be provided.

Mayor Beecham said a Council Member had requested the report, not the Council. He asked Council Member Freeman whether she wanted to incorporate the request.

Council Member Freeman said she would like to request to incorporate an annual report as a fiscal review.

Vice Mayor Burch said he wanted to get the motion approved and deny the request to incorporate. He did not want anything added to the request for a report.

Mayor Beecham said Council Member Freeman's request was to have the City Attorney return annually and advise what the savings were on the position.

Council Member Freeman confirmed.

AMENDMENT: Vice Mayor Burch moved, seconded by Kishimoto, to ask the City Attorney to return with an annual report comparison of monies saved from Utilities compared to monies spent for this position.

Council Member Kishimoto said it was necessary to be cautious when adding permanent positions.

Council Member Morton said he would not accept the incorporation as the seconder. He had full confidence in the City Attorney to balance his own budget and should not have to add an additional reporting burden to his budget.

SUBSTITUTE MOTION: Mayor Beecham moved, seconded by Morton, to approve the staff request to adopt an ordinance amending the 2004-05 budget adding a Senior Deputy City Attorney to the Table of Organization and approval of a resolution amending the Compensation Plan. This position would be devoted 100 percent to Utilities legal services.

Ordinance 4852 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal Year 2004-05 to Add a Senior Deputy City Attorney Position to the Table of Organization"

Resolution 8475 entitled "Resolution of the Council of the City of Palo Alto Amending the Compensation Plan for Management and Professional Personnel and Council Appointees Adopted by Resolution No. 8353 to Add Two New Classifications"

Council Member Mossar said the City Attorney had promised a careful review of outside legal expenses and she would support the substitute motion.

Council Member Kishimoto said the Council had requested reports on new positions over the past couple of years. Reports on the new position should be made until it could be covered financially.

SUBSTITUTE MOTION PASSED 5-4, Cordell, Freeman, Kishimoto, Ojakian no.



11. Amendment No. One to the Agreement Between the City of Palo Alto, the Palo Alto Library Foundation, and the Friends of the Palo Alto Library and Approval of Contract Amendment No. One to Contract No. C05108354 with Architectural Resources Group in the Amount of \$44,275 for Additional Design Services for a 610 Square Foot South Addition to the Children's Library *(Item continued from 10/25/04)*

MOTION: Council Member Kishimoto moved, seconded by Morton, to approve the staff recommendation to:

1. Approve Amendment No. 1 to the Agreement (Attachment A) to CMR:450:04 between the City of Palo Alto, the Palo Alto Library Foundation, and the Friends of the Palo Alto Library for funding the Palo Alto Children's Library Improvements and Expansion Project; and
2. Approve and authorize the Mayor to execute the contract amendment with Architectural Resources Group (Attachment B) in the amount of \$44,275 for additional design services for a 610-square-foot south addition to the Children's Library. This will become part of the Children's Library Renovation and Expansion Project (PE-04010).

Beth Bunnenberg, 2351 Ramona Street, requested the Historic Resource Board receive early conceptual drawings on the south side addition of the Children's Library.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to include that the Historic Resources Board will have an opportunity to view the conceptual drawings.

Council Member Mossar said when the Council approved the project at the Children's Library, there was a dollar amount that it agreed to match. She asked whether the additional dollar amount for the project was within the limit approved by Council.

Assistant City Manager Emily Harrison said it was hoped the City's portion of the additional 610-square-feet would be covered by a grant from the Federal Government.

Council Member Mossar acknowledged the addition costs were more than what was approved by Council, but the City would be reimbursed.

Ms. Harrison confirmed.

MOTION PASSED 9-0.

12. Public Hearing: The City Council will consider an Application by Hoover Associates on Behalf of Richard Peery for Site and Design Review of a New 73,932 Square Foot Office Building with at Grade Parking and Related Site Improvements Located on a 5.66-Acre Site at 2300 East Bayshore Road Within the LM (D)(3) Limited Industrial Site Combining

Zone District. Draft Initial Study Recommending the Preparation of a Mitigated Negative Declaration. File Numbers: 03-EIA-17, 03-D-04.
(Item continued from October 18, 2004 – Public Testimony Closed – Item to be continued to a date uncertain)

Mayor Beecham asked Council Member Kleinberg for her comments on the October 18, 2004 Council meeting.

Council Member Kleinberg said she had reviewed the tape and the submitted documents from the October 18, 2004 Council meeting, which she had not attended.

MOTION: Council Member Kleinberg moved, seconded by Mossar, to deny the application with prejudice and disapprove the adoption of the mitigated negative declaration.

Council Member Kleinberg said she had reviewed the current project. She noted staff indicated the record on the traffic impact was incorrect and recommended a delay to allow for a new cumulative impact analysis. She said as designed, the project was not an enhancement to the Baylands, and not in harmony with the natural environment and scale of the area. The project needed to be redesigned to be more sustainable and compatible.

Council Member Morton asked the City Attorney if the project, which met the basic zoning requirements, was denied with prejudice, would the City be opening itself to legal exposure.

Mr. Baum said he believed the decision to be legally defensible. If the application was denied with prejudice, the project could not be resubmitted with the same plans.

Council Member Morton said for the record, he did not believe the Council was making the correct decision.

MOTION PASSED 6-3, Beecham, Morton, Ojakian no.

ORDINANCES AND RESOLUTIONS

13. Adoption of a Budget Amendment Ordinance Transferring \$200,000 from the Technology Fund into the Police Vehicle-Mounted Video Recording Capital Improvement Program Project Number PD-05010 for the Purchase and Installation of In-Car Video Recording Systems in Police Patrol Vehicles

Police Chief Lynne Johnson said she spoke with colleagues throughout the State who had installed video cameras in their patrol vehicles. They had

experienced an increase in conviction rates, a decrease in court time for their staff, a reduction of lawsuits and citizen complaints and an increase in accountability of their officers.

Aram James, 832 Los Robles Avenue, said a policy should be in place prior to purchasing the cameras. He asked for the community to get involved in the decision as to whether cameras should be installed in police vehicles.

Christiane Cook, 1234 Emerson Street, said the use of video cameras guaranteed due process.

Mayor Beecham said there was great concern the Police Department protect the rights and safety of every citizen in the community equally.

MOTION: Council Member Morton moved, seconded by Burch, to approve the staff recommendation to adopt the Budget Amendment Ordinance (BAO) that transfers \$200,000 from the Technology Fund into the Police Vehicle – Mounted Video Recording Systems Capital Improvement Program Project #PD-05010 for funding the purchase of hardware and installation for in-car video recording systems in all 26 police patrol vehicles.

Ordinance 4853 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for Fiscal Year 2004-05 to Establish Capital Improvement Program Project Number PD-05010, Police Vehicle-Mounted Video Recording CIP to Purchase Hardware and Installation of In-Car Video Recording Systems in Police Patrol Vehicles and to Provide an Appropriation in the Amount of \$200,000 from the Technology Fund"

Council Member Morton said it would be a step in rights protection and in documentation.

Vice Mayor Burch said it was further support for the Police Chief and members of the Police Department.

Council Member Kleinberg asked the Police Chief about the discretionary application of the video cameras, since it seemed to mitigate against the certainty of police actions and to repair distrust.

Police Chief Lynne Johnson said specific policies would instruct officers when to activate the cameras.

Council Member Kleinberg asked whether the Council would have the authority to approve the policy.

City Manager Frank Benest said the ultimate policy would be the decision of the Police Chief and the City Manager. The operational policies of the Police Department were not approved by the City Council.

Council Member Kleinberg said the expenditure required the confidence of the public.

Mr. Benest agreed.

Council Member Kleinberg said for the record, she would look for the most inflexible policy to return to the Council. The policy should maximize the expenditure and obtain the greatest degree of public confidence in the City's law enforcement.

Vice Mayor Burch asked the Police Chief whether the system would be used anytime a police officer made a stop.

Ms. Johnson confirmed. The more up-to-date cameras ran consistently.

Vice Mayor Burch asked whether the police officers were instructed to turn on the cameras when they made stops.

Ms. Johnson said there would be specific circumstances that required an officer to turn on the camera.

Council Member Freeman said she believed the cameras should be used at all times. She asked how the tapes would be used and whether they would become public information.

Ms. Johnson said the tapes would be used for training purposes and in investigations when there were allegations against a police officer.

Mr. Baum said when the tapes were used for investigations or crimes, they would not be made public.

Council Member Freeman asked how long the tapes would be archived.

Ms. Johnson said there would be a minimum requirement of one year.

Council Member Freeman asked whether there would be public input and a policy prior to the approval.

Ms. Johnson said the intent was to get the cameras installed as quickly as possible. The policy would be brought back to the Council when a vendor was selected.

Council Member Freeman asked whether that statement would be added to the motion or would the policy be brought back to the Council

Ms. Johnson said the policy would be brought back to the Council.

Council Member Cordell said there were problems with the numbers of stops, detentions and arrests, and the disproportionate number of people of color who had been stopped by the Palo Alto police. Confidence and accountability needed to be restored.

Council Member Ojakian asked whether the Human Relations Commission (HRC) had been included in the camera concept.

Ms. Johnson said the implementation of the cameras had been discussed with the HRC.

Council Member Ojakian said the installation of cameras would be beneficial to all parties.

MOTION PASSED 9-0.

REPORTS OF OFFICIALS



14. Results of Outreach for Storm Drain Election

Director of Public Works Glenn Roberts said the majority of the survey respondents preferred staying with the base \$10.00 program. The staff recommendation was to reiterate the base \$10.00 increase and return on December 6, 2004, for Council to approve the resolution setting the process for a mail ballot election in the Spring.

Audrey Sullivan Jacobs, Palo Alto Chamber of Commerce, spoke regarding three recommendations from the Government Action Committee meeting of November 4, 2004; the fee, the front loading, and the public education process.

Larry Klein, 872 Seale Avenue, said the individuals surveyed needed more information.

Council Member Morton asked about the impact on Stanford Industrial Park and the Stanford Shopping Center.

Mr. Roberts said each parcel of property would get one vote. The rate structure would be proportional to the amount of impervious area on any given parcel of land.

Council Member Morton said Stanford would pay a significant portion of the monies needed for the reserve and the curb improvements.

Mr. Roberts said it would be proportionately higher at any rate level.

MOTION: Council Member Morton, seconded by Freeman, to approve the staff recommendation to direct staff to return on December 6, 2004, to secure Council authorization for a property owner election in February/March 2005 for approval of an increase in the monthly Storm Drainage Fee to \$12.00 per Equivalent Residential Unit (ERU) to fund the proposed enhanced Storm Drain Program.

Council Member Freeman said a motion by the Council directed staff to provide a web-based survey.

Council Member Mossar said she had received comments from the public indicating they did not understand the project. To move the project forward, there needed to be more interest from the community.

Council Member Kleinberg asked about the annual fee adjustments and whether there would be a cap on the \$10.00 fee and how much the fee could be increased.

Mr. Roberts said with the approval of Council, the fee could be increased by the rate of inflation of approximately 3 percent per year.

Council Member Kleinberg said the public had been assured any increases would be returned to the Council. She asked what the cap would be.

Mr. Roberts said the cap would be 6 percent annually.

Senior Engineer Public Works Department Joe Teresi said the amount would be whichever was lower, 6 percent or the rate of inflation.

Council Member Kleinberg asked what the increase would be if 6 percent were annualized and compounded over the course of 12 years.

Mr. Teresi said the worst-case scenario would be an increase of 75 percent or \$7.50.

Council Member Kleinberg commented there had been many failed ballot measures in the community over the past five years. She was not confident that good information was available to promote the measure.

Vice Mayor Burch said moving forward would be a worthwhile effort. The Blue Ribbon Committee specified what was needed. He suggested the increase be \$10.00.

Council Member Ojakian asked Mr. Roberts about the reserves.

Mr. Roberts said over the life of the program, the absence of a reserve was not a flaw.

Council Member Ojakian asked whether it would be the first step to gain the public faith by asking for money for the potential of future projects.

Mr. Roberts confirmed.

Council Member Ojakian said the community needed a chance to see the way the project was structured.

SUBSTITUTE MOTION: Council Member Ojakian moved, seconded by Burch, to approve the staff recommendation to direct staff to return on December 6, 2004, to secure Council authorization for a property owner election in February/March 2005 for approval of an increase in the monthly Storm Drainage Fee to \$10.00 per Equivalent Residential Unit (ERU) to fund the proposed enhanced Storm Drain Program.

Council Member Ojakian said the storm drains needed to be repaired. He put a lot of confidence in the Blue Ribbon Committee.

Council Member Kishimoto said there was a specific plan as to what projects were to be completed. There was enough information to go out to the public.

Mayor Beecham proposed the amendment not have an annual fee adjustment included.

Council Member Ojakian said he was comfortable with the motion he had made.

Council Member Morton said the Council needed to provide the rationale for the fee increase amount.

MOTION WITHDRAWN BY MAKER; THEREFORE, THE SUBSTITUTE MOTION BECOMES THE MOTION ON THE FLOOR

MOTION: Council Member Ojakian moved, seconded by Burch, to approve the staff recommendation to direct staff to return on December 6, 2004, to

secure Council authorization for a property owner election in February/March 2005 for approval of an increase in the monthly Storm Drainage Fee to \$10.00 per Equivalent Residential Unit (ERU) to fund the proposed enhanced Storm Drain Program.

SUBSTITUTE MOTION: Council Member Kleinberg moved, seconded by Cordell, to move the staff recommendation to direct staff to return on December 6, 2004, to secure Council authorization for a property owner election in February/March 2005 for approval of an increase in the monthly Storm Drainage Fee to \$10.00 per Equivalent Residential Unit (ERU) to fund the proposed enhanced Storm Drain program, but remove the escalating annual fee adjustment.

Council Member Kleinberg said she wanted to review feedback from the community based on the \$10.00 increase without an escalation clause. The project needed to be marketed correctly, with unanimity and a committee that would go out to support it, without an escalation potential and a unanimous vote from the Council.

Council Member Cordell said there was not a sense about how the community felt about the issue. Many members of the community felt the increased fee would be an imposition.

Council Member Freeman said the fee would increase over the years, but not because of inflation.

Ms. Harrison said if the inflationary increase were to be removed from the proposal, the project would need to be downsized.

Council Member Freeman said identified projects would not be undertaken if there were a flat fee of \$10.00.

Mr. Roberts said the proposal was for \$17 million for projects in current dollars.

Mayor Beecham said staff would return with their advice on the flat fee of \$10.00

Mr. Roberts said staff would return on December 6, 2004, with a resolution that would identify the details of the ballot measure in order for Council to set the timeline in place.

Mr. Benest said staff needed to draft the language and return to Council on December 6, 2004. Staff continued to recommend the package from the Blue Ribbon Committee. The Council needed to make a decision that

evening.

Council Member Freeman said the storm drains needed repair. The Council did not have the data on what the citizens would consider.

Council Member Mossar said the Council should feel comfortable with their decision.

Council Member Ojakian concurred with Council Member Mossar.

Vice Mayor Burch said a Blue Ribbon Committee had hearings and spoke with the public. The Council should move forward on the item with the incremental increases.

Council Member Morton said the inflation rate should be set at 4 percent.

Mayor Beecham said he supported the flat \$10.00 increase.

SUBSTITUTE MOTION FAILED 4-5, Beecham, Cordell, Freeman, Kleinberg yes.

MOTION PASSED 9-0.

UNFINISHED BUSINESS

15. Recommendation from Human Relations Commission to Refer to Policy and Services Committee (P&S) a Recommendation to the City Council to Adopt a Resolution Opposing the Federal Marriage Amendment *(Item continued from 10/25/04)*

MOTION: Mayor Beecham moved, seconded by Mossar, to not accept the Human Relations Commission (HRC) recommendation.

SUBSTITUTE MOTION: Council Member Morton moved, seconded by Cordell, to accept the Human Relations Commission (HRC) recommendation to refer the item to the Policy and Services (P&S) Committee for a recommendation to the City Council to adopt a Resolution opposing the Federal Marriage Amendment.

SUBSTITUTE MOTION PASSED 6-3, Burch, Beecham, Mossar no.

CLOSED SESSION

The meeting adjourned at 11:12 to a Closed Session.

16. Conference with City Attorney -- Potential/Anticipated Litigation

Subject: Significant Exposure to Litigation on One Matter (Claim of Jameel Douglas)
Authority: Government Code Section 54956.9 (b)(1) & (b)(3)(C)

17. Conference with City Attorney -- Existing Litigation
Subject: Diane L. Buzzell v. City of Palo Alto; SCC #1-04-CV-012909
Authority: Government Code section 54956.9(a)

The City Council met in Closed Session to discuss matters regarding potential/anticipated litigation and existing litigation, as described in Agenda Item Nos. 16 and 17.

Mayor Beecham announced there was no reportable action taken.

FINAL ADJOURNMENT: The meeting adjourned at 11:30 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.