

Special Meeting
May 16, 2005

1. CONFERENCE WITH LABOR NEGOTIATOR.....3

Adjournment: The meeting adjourned at 6:55 p.m.3

1. Resolution 8528 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Jonathan Hernandez Upon His Retirement"4

ORAL COMMUNICATIONS4

2. Resolution 8525 entitled "Resolution of the Council of the City of Palo Alto to Request the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2005-2006 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding".....6

3. 2nd Reading: Ordinance Approving a Development Agreement with Stanford University including the Mayfield Lease for the Stanford/Palo Alto Community Playing Fields (1st Reading 05/02/2005, Passed 5-1, Kishimoto no, Cordell, Freeman, Mossar not participating).....6

4. Approval of Change Order to the Blanket Purchase Order with Manpower Staffing Services for Temporary Employee Services6

5. Approval of a Utilities Enterprise Fund Contract with J. F. Pacific Liners Inc. in the Amount of \$2,093,604 for Sewer Cleaning and Video Inspection Services Capital Improvement Program Project 17 (WC-04002)6

6. Resolution 8526 entitled "Resolution of the Council of the City of Palo Alto Summarily Vacating a 346 Square Foot Portion of Palo Alto Avenue Adjacent to 548 Palo Alto Avenue and the Rear of 133 Cowper Street"7

7. Public Hearing: Palo Alto Downtown Business Improvement District and Adoption of a Resolution Confirming the Report of the Advisory Board and Levying an Assessment for Fiscal Year 2005-2006 in Connection with the Downtown Palo Alto Business Improvement District (BID).7

8. Public Hearing: Consideration of a Zoning Ordinance Update: Adoption of an Ordinance Adopting a Revised Low Density (RE, R-2, and RMD) Zoning Districts Chapter (18.10) Amending and Incorporating Residential Estate (RE) 18.10; Two Family Residence District (18.17); Two Unit Multiple-Family Residence District (18.19) and Related Neighborhood Preservation Combining District (NP) 18.30 of Title 18 (Zoning Ordinance) of the Palo Alto Municipal Code and Amending Cross-References in Various Other Code Sections. [CUP-11].8

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS 12

9. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION..... 12

10. CONFERENCE WITH CITY ATTORNEY-POTENTIAL/ANTICIPATED LITIGATION 13

ADJOURNMENT: The meeting adjourned at 8:45 p.m. 13

The City Council of the City of Palo Alto met on this date in the Council Chambers Room at 6:00 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman (arrived at 6:08 p.m.), Kishimoto, Kleinberg (arrived at 6:10 p.m.), Morton (arrived at 6:18 p.m.), Mossar, Ojakian (arrived at 6:05 p.m.)

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR
Agency Designated Representative: John Shannon and Council/CAO Committee (Dena Mossar, Bern Beecham, Yoriko Kishimoto, Jack Morton)
Unrepresented Employees: City Attorney Gary Baum, City Manager Frank Benest, City Auditor Sharon Erickson, and City Clerk Donna Rogers
Authority: Government Code Section 54957.6(a)

The City Council met in Closed Session to discuss matters regarding labor negotiations as described in Agenda Item No. 1.

Mayor Burch announced there was no reportable action taken.

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 Room at 7:10 p.m.

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

SPECIAL ORDERS OF THE DAY

1. Resolution 8528 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Jonathan Hernandez Upon His Retirement"

MOTION: Council Member Ojakian moved, seconded by Morton, to approve the Resolution.

MOTION PASSED 9-0.

Police Chief Lynne Johnson said Jon Hernandez had extensive experience in various areas of the Police Department. She congratulated him on his retirement.

Jon Hernandez thanked the City and the Council for their continued efforts in improving the direction of the Police Department and for the opportunities provided to him.

Council Member Kishimoto said she appreciated Jon's work to safeguard the streets.

Council Member Mossar said it was a pleasure to work with Jon and valued his ability to work with people.

ORAL COMMUNICATIONS

Dennis Mitrvzk, 201 Maclane Street, spoke regarding Historic Preservation and police oversight.

Stephanie Munoz, 101 Alma Street, spoke regarding enforcement priorities.

CONSENT CALENDAR

Council Member Mossar stated she would not participate in Item No. 2 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Cordell stated she would not participate in Item No. 2 due to a conflict of interest because she was employed by Stanford University.

Council Member Freeman stated she would not participate in Item No. 2 due to a conflict of interest because she owned property within 500 feet of the project.

Director of Planning and Community Environment Steve Emslie said staff recommended the item be continued to a Special Meeting on Tuesday, May 24, 2005 to allow City staff to meet with Los Altos Hills City staff and the Council. He outlined the formal and informal contacts and distribution of information that had occurred with Los Altos Hills and other adjacent cities.

MOTION: Vice Mayor Kleinberg moved, seconded by Ojakian, to continue Item No. 3 to a Special Council Meeting at 6 p.m. on Tuesday, May 24, 2005.

Council Member Beecham said all reasonable and legal requirements had been met. The Environmental Impact Report (EIR) had been approved and covered mitigations. He believed the action should not be postponed.

Vice Mayor Kleinberg said the Los Altos Hills Council and their residents should have complete and adequate notice and the opportunity to provide feedback.

Council Member Morton said the traffic light was a required mitigation. He asked whether the Council could modify the EIR.

Mayor Burch said the motion was to move the item to a date certain.

Council Member Morton said if the opportunity to change the EIR was closed, he did not believe the item should be continued.

Senior Assistant City Attorney Wynne Furth said staff believed continuing the item to May 24, 2005 could help resolve concerns. If the Council decided to proceed with the development agreement, there would be an opportunity to review the design specifics of the Hillview project. Stanford had the right to develop its specified sites.

Council Member Morton asked whether the Council could review the traffic light concern.

Ms. Furth said the traffic light would return when the project was reviewed.

Council Member Morton said it was unfortunate that the item needed to be moved.

Council Member Kishimoto asked what information was needed for legal noticing.

Mayor Burch said Council Member Kishimoto's question was outside the scope of the issue to be voted on.

MOTION PASSED 5-1, Beecham no, Cordell, Freeman, Mossar not participating.

MOTION: Council Member Kishimoto moved, seconded by Beecham, to approve Consent Calendar Item Nos. 2, 4, 5 and 6.

LEGISLATIVE

2. Resolution 8525 entitled "Resolution of the Council of the City of Palo Alto to Request the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2005-2006 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding"

3. ~~2nd Reading: Ordinance Approving a Development Agreement with Stanford University including the Mayfield Lease for the Stanford/Palo Alto Community Playing Fields~~ (1st Reading 05/02/2005, Passed 5-1, Kishimoto no, Cordell, Freeman, Mossar not participating)

~~2nd Reading: Ordinance Amending the Zoning Code and Map in Order to Implement the Development Agreement and Related Ground Lease~~ (1st Reading 05/02/2005, Passed 5-1, Kishimoto no, Cordell, Freeman, Mossar not participating)

ADMINISTRATIVE

4. Approval of Change Order to the Blanket Purchase Order with Manpower Staffing Services for Temporary Employee Services

5. Approval of a Utilities Enterprise Fund Contract with J. F. Pacific Liners Inc. in the Amount of \$2,093,604 for Sewer Cleaning and Video Inspection Services Capital Improvement Program Project 17 (WC-04002)

6. Resolution 8526 entitled "Resolution of the Council of the City of Palo Alto Summarily Vacating a 346 Square Foot Portion of Palo Alto Avenue Adjacent to 548 Palo Alto Avenue and the Rear of 133 Cowper Street"

MOTION PASSED 9-0.

PUBLIC HEARING

7. Public Hearing: Palo Alto Downtown Business Improvement District and Adoption of a Resolution Confirming the Report of the Advisory Board and Levying an Assessment for Fiscal Year 2005-2006 in Connection with the Downtown Palo Alto Business Improvement District (BID).

Stephanie Wansek, President of the Downtown Business Association, reviewed the highlights of the Advisory Board's accomplishments.

Marc Dickow, Chair of the Downtown Streets Subcommittee, responded to a survey by the Business Improvement District (BID). Two important issues were addressed; cleanliness of the streets and the unhoused population.

Vice Mayor Kleinberg queried whether the program had designer tip boxes.

Mr. Dickow confirmed. Tip jars would be located throughout the City streets. The monies collected would channel back into the program.

Council Member Morton said involving the unhoused population gave them an ownership interest in the downtown area.

Council Member Cordell said Springboard Forward was also working with the Downtown Streets Committee program. The two programs working together would set a precedent for other cities.

Mr. Dickow introduced Norm Carroll, Coordinator, Downtown Streets Program.

Bruce Gee, 1305 Greenwood Avenue, said smaller businesses paid a highly disproportionate amount of the BID assessment. The benefits of the BID were skewed towards retailers and restaurants.

Stacey Yates said she was in favor of the BID. As a new business, the BID gave her the opportunity to be more involved in the Downtown decisions,

events, and programs that affected her business and as a consumer.

Economic Resources Manager Susan Arpan said there were no written protests at that time.

MOTION: Council Member Morton moved, seconded by Freeman, to adopt the staff recommendation to approve the resolution.

Resolution 8527 entitled "Resolution of the Council of the City of Palo Alto Confirming the Report of the Advisory Board and Levying an Assessment for Fiscal Year 2005-2006 in Connection with the Downtown Palo Alto Business Improvement District"

MOTION PASSED 9-0.

Council Member Freeman said the BID group had devised a unique program that worked with the unhoused population

Council Member Morton said the BID had received many compliments for their accomplishments.



8. Public Hearing: Consideration of a Zoning Ordinance Update: Adoption of an Ordinance Adopting a Revised Low Density (RE, R-2, and RMD) Zoning Districts Chapter (18.10) Amending and Incorporating Residential Estate (RE) 18.10; Two Family Residence District (18.17); Two Unit Multiple-Family Residence District (18.19) and Related Neighborhood Preservation Combining District (NP) 18.30 of Title 18 (Zoning Ordinance) of the Palo Alto Municipal Code and Amending Cross-References in Various Other Code Sections. [CUP-11].

Director of Planning and Community Environment Steve Emslie said on April 11, 2005, the Council directed staff to review the Ordinance. All the changes in the R-1 districts had been modified and transferred in the low-density residential chapter.

Planning Manager John Lusardi said there was one change in the ordinance. The low-density residential chapter would have a provision for small 450 square foot second units in the R-2 district on lots from 6,000 square feet to 7,500 square feet.

Vice Mayor Kleinberg asked Mr. Lusardi to indicate where the language had changed.

Mr. Lusardi said there was no change to what had been provided.

Planning and Transportation Commissioner Michael Griffin said the Planning and Transportation Commission (P&TC) approved what had been given to the Council.

Council Member Morton reiterated to Mr. Lusardi that a second unit could not be built in a R-1 district unless the lot was 8,000 square feet or larger, and in a R-2 district it would be possible to have a 450-square-foot second unit if the lot was 6,000 square feet or larger.

Mr. Lusardi said the current minimum lot size in the R-2 district was 6,000 square feet; a duplex required a lot size of 7,500 square feet. The added provision allowed a small 450-square-foot second unit to be built on lots from 6,000 to 7,500 square feet.

Council Member Morton asked how many R-2 lots abut R-1 lots.

Mr. Lusardi said that information was not available.

Council Member Morton asked how many additional lots would qualify for a second unit by lowering the square footage from 7,500 to 6,000 square feet.

Mr. Lusardi said there are 373 R-2 lots in the City. There were 106 lots between 6,000 and 7,500 square feet.

Council Member Morton said he had concerns; he did not follow all the implications.

Mr. Lusardi said information was provided to the community in five community meetings and there were few community comments on the low-density residential zoning.

Mr. Griffin confirmed the subject had not received a lot of discussion when it was before the Planning and Transportation Commission.

Council Member Kishimoto asked whether there was a map for the R-2 zone.

Mr. Lusardi said the map on the wall illustrated the Residential Estate (RE) and R-2 districts. It did not show which parcels were 6,000 to 7,500 square feet.

MOTION: Council Member Beecham moved, seconded by Ojakian, to adopt the staff and Planning and Transportation Commission recommendation to approve the proposed ordinance (Attachment A of CMR:249:05) comprising

the revised Low Density Residential (RE, R-2 and RMD) zoning districts chapter, incorporating all three districts and the Neighborhood Preservation (NP) Combining District and related revisions into the Zoning Ordinance Update (ZOU) as a single chapter (18.10) of Title 18 of the Palo Alto Municipal Code.

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Updating the Low-Density Residential District Regulations of Title 18 [Zoning] of the Palo Alto Municipal Code by Repealing Chapters 18.10 [Re Residential Estate District Regulations, 18.17 [R-2 Two Family Residence District Regulations, 18.19 [RMD Two Unit Multiple-Family Residence District, and 18.30 Neighborhood Preservation Combining District (NP) Regulations] in Their Entirety and Enacting a New Chapter 18.10 Low-Density Residential Districts"

Council Member Beecham said there had been extensive discussion regarding the subject.

Council Member Morton asked staff whether a decision could be revised if it negatively impacted a great number of people.

Mr. Lusardi said staff could prepare an annual report for the P&TC and the Council highlighting the negative impacts.

AMENDMENT: Council Member Morton moved to include R-2 in second units in the R-1 report, which would require another paragraph in the annual report.

Council Member Beecham agreed to the amendment.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to include a report for second units in the R-2 district with the annual report prepared for second units in the R-1 district.

Council Member Kishimoto noted the lots were clustered in the University South and Downtown North area.

Vice Mayor Kleinberg questioned the policy that only allowed a second dwelling unit when it was owned by the same individual as the first unit.

Mr. Emslie said the policy was to ensure second units in that district remained rental units.

Chief Planning Official Lisa Grote said it was a current R-2 regulation in the

existing ordinance.

Vice Mayor Kleinberg said if the priority was to increase affordable housing and to increase home ownership, the market should not determine whether two dwellings on the same property were rental units or home ownership.

Mr. Larkin said there was a distinction between second units added to an existing structure and a common interest development, which was a separate type of ownership interest.

Mr. Larkin explained there was a requirement for compliance with the Subdivision Map Act and there had to be legal parcels created which was different than what was proposed.

Vice Mayor Kleinberg said it would preclude what would happen under the ordinance without an application for division of the parcel.

Mr. Lusardi confirmed. It would not preclude a tenancy in common or a common ownership.

Vice Mayor Kleinberg stated the ordinance would not allow separate ownership of units as it currently stood. She asked about the process when an owner decided to sell a unit.

Ms. Grote said a rental unit could not be converted to a condominium unit unless there was a consecutive three-year/3 percent or greater vacancy rate.

Vice Mayor Kleinberg requested a friendly amendment to change the wording in the ordinance from "churches and religious institutions" to "religious congregations and institutions". Also, the green building design encouraged shaded attachments to homes.

Mr. Lusardi said the Council could add the additional sustainability element.

Vice Mayor Kleinberg asked about the percentage.

Mr. Emslie said the Council could give staff the direction to return with the correct percentages for the two zones.

Vice Mayor Kleinberg asked about the allowance of detached storage structures in front yards and suggested a friendly amendment that storage sheds not be allowed to extend into front yards.

Council Member Beecham suggested staff return to the Council with items

cleaned up.

Vice Mayor Kleinberg said it should be noted there were items that needed attention.

Council Member Morton said some older homes had freestanding structures for lawnmowers, garbage cans, and recycling.

Vice Mayor Kleinberg said she did not believe the ordinance improved the type of housing needed in the community.

Council Member Mossar said the ability to provide secondary dwelling units would be limited.

MOTION PASSED 7-2, Mossar, Kleinberg no.

Mr. Griffin said he enjoyed his past four years on the PTC.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Beecham noted a recent article in the *Palo Alto Daily* regarding Palo Alto's energy contracts and, in particular, Enron, which contained factual errors, innuendos and false allegations. The *Daily* has offered him the opportunity to write a column for Sunday's paper that would not be edited and also that there would not be any other editorial comments on the column on that date.

Council Member Mossar stated there was a summary of San Francisquito Creek Joint Powers Authority (JPA) activities since inception (May 1999) at places that evening, which was a good reminder of all the milestones of the JPA.

Council Member Kishimoto commented on the impressive JPA chronology and invited her Council colleagues to attend the tour of the San Francisquito Creek watershed on Saturday May 14, 2005, from 10 a.m. to 4 p.m.

CLOSED SESSION

The meeting adjourned at 8:30 p.m. to a Closed Session.

9. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Thomas Clark v. City of Palo Alto, Bill Young's Automotive, et al., San Mateo Co. Superior Court No.: CIV434794
Authority: Government Code section 54956.9(a)

10. CONFERENCE WITH CITY ATTORNEY-POTENTIAL/ANTICIPATED LITIGATION

Subject: Written claim for damages against the City of Palo Alto by Fermin Amador

Authority: Government Code Sections 54956.9(b)(1) & (b)(3)(C)

The City Council met in Closed Session to discuss matters regarding existing litigation and potential/anticipated litigation as described in Agenda Item Nos. 9 and 10.

Mayor Burch announced there was no reportable action taken.

ADJOURNMENT: The meeting adjourned at 8:45 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.