

July 11, 2005

Special Meeting 1

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

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

Regular Meeting 4

1. Selection of Candidates to Interview for the Human Relations Commission 4

2. Selection of Candidates to Interview for the Planning and Transportation Commission 4

ORAL COMMUNICATIONS 4

APPROVAL OF MINUTES 5

3. Resolution 8543 entitled "Resolution of the Council of the City of Palo Alto Determining Owners of Properties Electing to Pay Conversion Costs over a Period of Years, Determining and Classifying Unpaid Assessments, and Funding Loans to Property Owners From the Electric Reserve for Underground Connections - Underground Utilities Conversion Underground Utility Assessment District 40" 7

4. Approval of a Utilities Enterprise Fund Contract with Roto Rooter in the Amount of \$480,000 for Sewer Lateral Cleaning Services *(This item has been removed at the request of staff)* 7

5. Resolution 8544 entitled "Resolution of the Council of the City of Palo Alto Summarily Vacating a Ten-Foot Wide Public Utility Easement at 1741 Edgewood Drive" 7

6. Approval of a Contract with Itron, Inc. in the Amount of \$606,179 for Furnishing and Installing a Limited Automated Meter Reading (AMR) System..... 7

7.	Recommendation to Extend the Deadline on Development of a Zero Waste Policy Update to September/October 2005	7
8.	Finance Committee Recommendation to Adopt an "Art in City Projects Policy" that Includes a "1 Percent for Art"	7
9.	Public Hearing: Consideration and Determination Whether the Public Necessity, Health and Safety Require the Establishment of the District and the Removal of Poles, Overhead Wires, and Associated Overhead Structures, and the Underground Installation of Wires and Facilities for Supplying Electric, Communication and Similar or Associated Services in the District. All of the Area in the County of Santa Clara (the County), City of Palo Alto, Encompassing the Areas Contiguous with Portions of the North Side of Colorado Avenue/Middlefield Road/Oregon Expressway/ Cowper Street - Underground Utility District Number 41	8
10.	Public Hearing: Zoning Ordinance Update - Staff Recommendation that City Council Initiate Amendments to the Auto Dealership Overlay Zone Chapter 18.65 of the Zoning Ordinance to Provide for Standards for On-Site and Off-Site Auto Dealership Signage and Advertising and Allowing the Auto Dealership Overlay Zone in the Limited Manufacturing (LM) and LM(D) Zoning Districts of the Zoning Ordinance (Title 18).	11
11.	Council Discussion re: Future of Palo Alto Airport.....	16
	COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS	24
	ADJOURNMENT: The meeting adjourned at 11:57 p.m.	24

Special Meeting
July 11, 2005

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

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

ABSENT: Freeman

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR
Agency Negotiator: City Manager and his designees pursuant to the Merit Rules and Regulations (Frank Benest, Emily Harrison, Russ Carlsen, Carl Yeats, Richard James, Paula Simpson, Austris Rungis)
Employee Organization: Local 715 Service Employees International Union AFL-CIO (SEIU) -- SEIU Hourly Unit
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 at 7:00 p.m.

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

ABSENT: Freeman

SPECIAL ORDERS OF THE DAY

1. Selection of Candidates to Interview for the Human Relations Commission

Don Letcher, 788 N. Rengstorff, Mountain View, recommended candidates not use their authority to act independently.

MOTION: Council Member Morton moved, seconded by Kishimoto, to interview all the candidates for the Human Relations Commission.

MOTION PASSED 8-0, Freeman absent.

2. Selection of Candidates to Interview for the Planning and Transportation Commission

MOTION: Council Member Ojakian moved, seconded by Morton, to interview all candidates for the Planning and Transportation Commission.

MOTION PASSED 8-0, Freeman absent.

ORAL COMMUNICATIONS

Elliott Bolter, 286 Walter Hayes Drive, spoke regarding music in the parks.

Nancy Alexander, 435 Santa Rita, spoke regarding recent changes to zoning ordinance.

Dennis "Galen" Mitrzyk spoke regarding police activities.

Roger Crisostomo spoke regarding a ticket he received on June 30 for using a leaf blower at 8:15 a.m.

Danielle Martell spoke regarding the loss of Cafe Verona and other issues concerning Palo Alto.

Cindy Wee spoke in support of hourly employees.

Barbara Baxter-Berman spoke in support of hourly employees.

John Cunningham spoke in support of hourly employees.

Lois Salo spoke in support of hourly employees.

Herb Borock, P.O. Box 632, spoke regarding the composition of the City Standby Emergency Council.

Don Letcher, 788 N. Rengstorff, spoke regarding police overreaction and Council inefficiencies in discipline of employees.

Aram James spoke regarding the Police Department.

APPROVAL OF MINUTES

Herb Borock, P.O. Box 632, asked to include additional language to his remarks in the June 6, 2005 minutes regarding the Grand Jury Report.

Emily Renzel, 1056 Forest, requested Council delay approval of the June 6, 2005 minutes for one week to incorporate corrections from Enid Pearson.

MOTION: Council Member Morton moved, seconded by Mossar, to approve the minutes of June 6, 2005, as submitted.

SUBSTITUTE MOTION: Council Member Cordell, seconded by Kleinberg to delay the approval of June 6, 2005 minutes for one week.

Vice Mayor Kleinberg supported the Substitute Motion to help clarify the minutes regarding parkland issues.

SUBSTITUTE MOTION FAILED 4-4, Cordell, Kleinberg, Kishimoto, Ojakian yes, Freeman absent.

MOTION PASSED 5-3, Cordell, Kleinberg, Kishimoto no, Freeman absent.

Council Member Ojakian stated public comments submitted in writing would be retained as a public record.

MOTION: Council Member Morton moved, seconded by Mossar, to approve the minutes of June 13, 2005, as submitted.

MOTION PASSED 8-0, Freeman absent

CONSENT CALENDAR

Assistant City Manager Emily Harrison noted staff had requested the removal of Consent Calendar Item Nos. 4 and 6. She also clarified that Item No. 8, "Art in City Projects Policy," CMR:309:05, Attachment B, page 2, item 4, stated "The Finance Committee will review the finances of any art element in any infrastructure management project over \$20 million, and all projects that may impact the General Fund." A concern was raised that the policy appeared to contradict Palo Alto Municipal Code (PAMC) Section 2.26.060, which required a vote of the Council prior to Council exercising independent judgment on artwork. The proposed policy did not relate to the Finance Committee approval of artwork based on merit and only to approving the artworks cost to the General Fund, if the capital project met the \$20 million threshold. The Finance Committee had budgetary approval only and not approval of the artistic merit. If the artwork were for an historic building, the Historic Resources Board (HRB) would be involved in any artwork associated with that building.

Council Member Mossar clarified the Finance Committee would review the finances of any art element that would impact the General Fund and make recommendations to the Council.

Ms. Harrison said that was correct.

Council Member Morton requested to modify Item No. 8 to include, "Art in City Projects Policy," CMR:309:05, Attachment B, page 2, item 4.

Annette Ashton, 2747 Bryant, thanked the Public Art Commission (PAC) for installing artwork in Midtown.

Karen Holman, 725 Homer, referred to Item No. 8 and said she felt it was inappropriate to go forward with the proposal due to City budget constraints. Ms. Harrison's clarification eliminated conflict between the Transfer Development Rights (TDR) program and historic properties. Public art should be a public benefit and should not be used to mitigate visual impacts of a construction project.

Council Member Beecham registered a no vote on Item No. 8.

Vice Mayor Kleinberg registered a no vote on Item No. 8.

MOTION: Council Member Ojakian moved, seconded by Morton, to approve Consent Calendar Item Nos. 3, 5, 7 and 8, with corrections to 8, as clarified

by the Assistant City Manager.

LEGISLATIVE

3. Resolution 8543 entitled "Resolution of the Council of the City of Palo Alto Determining Owners of Properties Electing to Pay Conversion Costs over a Period of Years, Determining and Classifying Unpaid Assessments, and Funding Loans to Property Owners From the Electric Reserve for Underground Connections – Underground Utilities Conversion Underground Utility Assessment District 40"

ADMINISTRATIVE

4. ~~Approval of a Utilities Enterprise Fund Contract with Roto Rooter in the Amount of \$480,000 for Sewer Lateral Cleaning Services~~ *(This item has been removed at the request of staff)*
5. Resolution 8544 entitled "Resolution of the Council of the City of Palo Alto Summarily Vacating a Ten-Foot Wide Public Utility Easement at 1741 Edgewood Drive"
6. ~~Approval of a Contract with Itron, Inc. in the Amount of \$606,179 for Furnishing and Installing a Limited Automated Meter Reading (AMR) System~~
7. Recommendation to Extend the Deadline on Development of a Zero Waste Policy Update to September/October 2005

COUNCIL COMMITTEE RECOMMENDATION

8. Finance Committee Recommendation to Adopt an "Art in City Projects Policy" that Includes a "1 Percent for Art"

MOTION PASSED 8-0 for Item Nos. 3, 5 and 7, Freeman absent.

MOTION PASSED 6-2 for Item No. 8, Beecham, Kleinberg no, Freeman absent.

Vice Mayor Kleinberg expressed support for the concept of Item No. 8 but did not support the entire item due to the City's budget issues. She said the allowance for Council to consider any requirements was vague, and made it difficult for the City to fund the art project. She said she would like to see a cap put on City art projects.

Council Member Mossar said the Finance Committee did not preapprove use of the General Fund to fund Art in Public Places projects.

PUBLIC HEARINGS

9. Public Hearing: Consideration and Determination Whether the Public Necessity, Health and Safety Require the Establishment of the District and the Removal of Poles, Overhead Wires, and Associated Overhead Structures, and the Underground Installation of Wires and Facilities for Supplying Electric, Communication and Similar or Associated Services in the District. All of the Area in the County of Santa Clara (the County), City of Palo Alto, Encompassing the Areas Contiguous with Portions of the North Side of Colorado Avenue/Middlefield Road/Oregon Expressway/ Cowper Street - Underground Utility District Number 41

Mayor Burch declared the Public Hearing open at 7:56 p.m.

Jack Barrie, 657 Bryson Avenue, said his street had ongoing sewer problems for several years and asked for the problem to be fixed prior to moving forward with the underground wiring project.

Lynn Chiapella, 631 Colorado Avenue, said the project could affect the street trees. She asked that trees be protected throughout the project, provide flushing out vaults and identify in advance where pad mounts were located. She wanted to be notified when plans were available.

Richard Chou, 578 Bryson Avenue, asked whether it was possible to change his previous vote or choose not to participate in the undergrounding. He also asked whether collecting signatures would be a consideration.

Assistant City Manager Emily Harrison said Mr. Chou's participation and vote could not be changed.

City Attorney Gary Baum recommended that questions be handled after the public hearing was closed.

Ruth Brown, 541 Bryson Avenue, echoed Mr. Chou's concerns. She said the project would cost her an exorbitant amount and asked whether it had been already approved.

Mayor Burch declared the Public Hearing closed at 8:05 p.m.

Mr. Baum said the residents' votes were advisory in nature. Council would be making a final decision at the meeting to approve the District as an ongoing entity. Individuals within the District could not withdraw. A financing mechanism with a low interest rate was available to defer the cost over time. It was created for the purpose of undergrounding the area. There

were a variety of policy reasons why the underground wiring was completed in segments throughout the City.

Electrical Engineering Manager Tomm Marshall concurred the votes were advisory to help Council make a decision. A second reading would take place in two weeks to complete the public hearing and create Underground Utility District (UUD) No. 41. It would be compulsory after completion. Forty percent of the 185 customers in the District voted, which included 60 percent for the project, 29 percent against, and 11 percent undecided. It was a typical number of responses to UUD questionnaires.

Council Member Ojakian questioned the high cost to the residents and asked whether the \$10,000 quoted by one of the speakers was accurate.

Mr. Marshall said the costs were particularly high in the prior District because of a lack of competition between contractors to provide services. There were only two contractors willing to do it, which drove up the costs. The City aggregated the customers in District No. 40 and developed a contract at a much lower rate of approximately \$4,000 per home. In District No. 38, some residents paid as high as \$10,000 per home. The \$10,000 quoted was possible but he would need to see the data.

Council Member Ojakian asked whether the City had a provision to assist residents facing a hardship in meeting the cost.

Mr. Marshall said the City made available a ten-year loan to homeowners who chose to take advantage of it, which was then added to their property tax bill.

Council Member Ojakian addressed Mr. Barrie's sewer problems and said annual sewer repairs were built into the rates and were ongoing.

Ms. Harrison said staff would look into Mr. Barrie's problem.

Council Member Kishimoto addressed Ms. Chiapella's concerns regarding the care of street trees during the project.

Mr. Marshall said there were provisions in the contract to protect City trees.

Council Member Mossar asked what determined whether a District needed the underground wiring.

Mr. Marshall said the selection was based on the equipment in the area and whether it needed repairs or not.

Council Member Morton asked if a District was ever denied undergrounding.

Mr. Marshall said he did not recall one ever being denied.

Council Member Morton questioned how the cost per residence was determined.

Mr. Marshall said it was based on the previous UUD where the City administered the contract and estimated approximately \$4,000 per home. Homeowners would be asked to consider the ten-year loan program to help cushion the cost.

Council Member Beecham clarified the project was funded by the Electric Utilities, Comcast, and SBC Communications. The cost to underground the wires was shared by all who used the wires and not from funds used for sewers or other issues.

MOTION: Council Member Beecham moved, seconded by Mossar, to adopt an Ordinance to create Underground Utility District No. 41 and thereby amend section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code.

Ordinance 1st Reading entitled "Ordinance of the Council of the City of Palo Alto Amending Section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code by Establishing Underground Utility District No. 41"

Vice Mayor Kleinberg said the project was not a City-funded program paid by the residents. She asked whether residents were willing to be assessed.

Mr. Marshall said it would become an assessment if they opted to take the loan.

Vice Mayor Kleinberg asked if the underground wiring was a mandatory program and the only question from the residents was if they wanted the loan.

Mr. Marshall said that was correct.

Vice Mayor Kleinberg said she did not get a sense from the public that the program was mandatory. She needed clarification that Council was voting to approve the UUD project.

Mr. Marshall said that was correct and it would come back to Council with a City Managers Report (CMR) for the financing.

Vice Mayor Kleinberg said she felt the project received great support. She

asked for a better job of outreach and educating the homeowners in the future so they would have more understanding of the project.

Council Member Ojakian said there were approximately 35 out of 185 people who voted yes. He echoed Vice Mayor Kleinberg's comments

Council Member Mossar clarified the importance of underground wiring as a system preservation and maintenance tool. The City owned its utilities, distribution systems, and the community's dollars would be spent to maintain, upgrade, fix, and solve problems over time. Staff indicated undergrounding was a good way to increase the longevity of the distribution system.

Council Member Cordell asked what year undergrounding began.

Mr. Marshall said it began in 1965.

Council Member Cordell said due to the growing cost of undergrounding, she encouraged the City to find creative ways to assist property owners in financing the project.

MOTION PASSED 8-0, Freeman absent.

10. Public Hearing: Zoning Ordinance Update - Staff Recommendation that City Council Initiate Amendments to the Auto Dealership Overlay Zone Chapter 18.65 of the Zoning Ordinance to Provide for Standards for On-Site and Off-Site Auto Dealership Signage and Advertising and Allowing the Auto Dealership Overlay Zone in the Limited Manufacturing (LM) and LM(D) Zoning Districts of the Zoning Ordinance (Title 18).

City Manager Frank Benest introduced and welcomed Paul Perry, who was visiting from South Australia. Mr. Perry was the General Manager of Corporate Services for the City of Charles Sturt in South Australia, a community of 104,000 residents that covered a large area of Northwest Adelaide.

Director of Planning and Community Environment Steve Emslie gave a brief overview of the events leading to the recommendations outlined in the staff report (CMR:314:05). He said in July 2003, City Council approved a colleague's memo from the Ad Hoc Committee on the City's Economic Base. The document highlighted actions to retain the City's tax base. In 2003, a strong auto dealership (AD) market produced \$2 million in sales tax. In 2004, City Council adopted an ordinance for a new AD overlay that provided flexibility to the way new and previously owned cars were sold and marketed. It gave flexibility on showroom size, vehicle display, and signage.

The overlay would apply to all existing AD's on El Camino Real, Park Avenue, and Embarcadero Road. The Council was being asked to initiate an amendment to the AD overlay prior to consideration of the Planning and Transportation Commission (P&TC). The initiation zone amendment involved: 1) expanding the use of the AD overlay to the Limited Manufacturing Zoning (LM) district in the East and West Bayshore areas; and 2) to provide on-site and off-site advertising for multiple AD's visible from the freeway.

Mayor Burch declared the Public Hearing open at 8:37 p.m.

Deirdre Shipstead, 3393 Kenneth Drive, expressed concern about the traffic impacts, children's safety and floodlights connected to AD's in the area.

James Hager, 3160 Maddux Drive, expressed concern about how AD's would impact wildlife in the Baylands area.

Annette Ashton, 2747 Bryant Street, expressed concern regarding inappropriate zoning next to residential areas in the Midtown neighborhood, which would result in large intrusive signage and traffic issues in the Baylands.

Sheri Furman, 3094 Greer Road, echoed Ms. Ashton's concerns and comments. She asked the Council to exclude areas along West Bayshore Road from the overlay since they abut residential areas.

Robert Moss, 4010 Orme Street, said the Zoning Ordinance Update would be unattractive for the community. He urged Council to reject the recommendations in order to retain a community with quality and a good appearance.

Lynn Chiapella, 631 Colorado Avenue, spoke on behalf of Herb Borock who asked whether the appropriate process was used in changing the zoning code. Chapter 18.98 of the PAMC described how Council, the P&TC, and staff could initiate zoning changes. He questioned whether there should have been public hearings where residents would be invited and not restricted to AD's and those with economic interest. She voiced the same concerns and felt there should be more openness in government, and those people who were drastically affected would be invited to the meetings. She was not in favor of spot zoning.

Emily Renzel, 1056 Forest Avenue, expressed concern regarding how signage would impact the Baylands area and traffic issues in getting on to the frontage road at both ends.

Arthur Keller, 3881 Corina Way, expressed support for the revenue potential

the AD's would bring to the City, but raised concern regarding their location along West Bayshore Road because of the traffic impact to residential neighborhoods. He asked the Council not to consider West Bayshore Road in the zoning update.

Mayor Burch declared the Public Hearing closed at 9:00 p.m.

Council Member Morton requested clarification on what the Council was being asked to vote on that evening.

Mr. Emslie said the Council was being asked to start the process to initiate a zoning change. Council's recommendations would then be referred to the P&TC, and they would hold a series of public hearings and return to Council for adoption of an ordinance.

Council Member Morton said he was bothered by the phrase "initiating a change to the ordinance." He said the P&TC recommendations had not yet been heard, and they could agree with every comment made by the public at the meeting.

Mr. Emslie said the word "initiate" was a technical term referred to specifically in the Municipal Code, as the first step in the zoning amendment process.

Council Member Morton clarified the Council was being asked to vote on initiating the study and whether they should also vote on the recommendations.

Mr. Emslie said that was correct.

Mr. Benest said staff had been advised by three Council committees to develop an action plan to retain AD's, and have them continue, which would secure the \$2 million in services to the community on an ongoing basis.

MOTION: Council Member Kishimoto moved, seconded by Beecham, to adopt the staff recommendation to undertake the preparation of a zoning ordinance amendment for Chapter 18.65 of Title 18 (Zoning Ordinance) for the purpose of allowing the auto dealership overlay zone (Combining District) in the Limited Manufacturing Zoning districts as is currently provided in the Service Commercial District (CS), General Manufacturing (GM) and General Manufacturing Combining District (GM(B)) to allow for additional site and design standards for automobile dealerships selling new, pre-owned and used automobiles. Furthermore, to direct the P&TC to: Limit sites adjacent to state highways, eliminate lots sites adjacent to single-family homes, consider access for an impact of car carriers and test driving; maintain an AD overlay and reaffirm that for each LM parcel application

would go to P&TC and Council.

Council Member Cordell requested that Council Member Kishimoto clarify her statement, "there is not to be dealerships adjacent to single-family residents" and asked if she was referring to East Bayshore Road.

Council Member Kishimoto said along the East Meadow Circle area, there were parcels not adjacent to single-family homes that were West of Highway 101.

Council Member Cordell asked whether her motion did not make it exclusive to East Bayshore Road and could be West Bayshore Road.

Council Member Kishimoto said that was correct but it would be difficult to get in and out of the frontage road.

Mr. Benest said the item was a critical issue in regard to future economic vitality, and to exclude the West Bayshore Road area was not in the best interest of the City. He asked the P&TC to spend the time with staff to discuss the best sites to explore.

Council Member Kishimoto believed the P&TC would consider the impact of the car-carriers.

Council Member Beecham spoke regarding the retention of AD's and how they contributed to the City's General Fund and their services to the community. He clarified the Council was not taking action at the meeting to do any zoning, but directing staff to go back to the P&TC and return to Council with their review and recommendations. The P&TC was an independent review body, and Council did not have the authority to direct them. He expressed support for the motion

Council Member Mossar recalled a development proposal brought before the Council a few years prior for Embarcadero and East Bayshore Roads. She and a few of her colleagues agreed the site would be appropriate for an AD but were informed conversion of the property to an AD would not be economical. AD's did not purchase land at Palo Alto's prices to establish dealerships and she questioned the potential of AD's developing in the area.

Mr. Benest said zoning would provide the opportunity to bring AD's to locations where they could prosper. The City needed to be creative in establishing a development proposal in working with landowners and developers and have the zoning in place.

Council Member Mossar said the area along Highway 101 that abutted or was in close proximity to the Baylands required something special and that

was not recognized in the staff report. She could not support the motion.

Vice Mayor Kleinberg questioned Council Member Kishimoto's definition of "adjacent."

Council Member Kishimoto said it meant the closest, or contiguous, location.

Vice Mayor Kleinberg asked why Council Member Kishimoto was limiting the exclusion to single-family homes and not multiple-family homes.

Council Member Kishimoto said multiple-family homes were not next to Limited Manufacturing (LM) lots in most zoning, but the P&TC was free to expand to multiple-family home locations.

Vice Mayor Kleinberg expressed opposition to the motion. She said West Bayshore Road was residential in nature and would be impacted with noise, lighting, signage and traffic. She felt AD's in Palo Alto needed to be along major highways and needed signage, but the proposal contained dangerous elements and was not compatible with fundamental needs to residents and the environment.

Council Member Ojakian expressed support for the motion. He said it was important to retain the AD's for revenues and services. He also felt the maker and seconder of the motion considered the need for AD's and was sensitive to unfavorable conditions.

Mayor Burch expressed support for the motion. He said in trying to retain AD's, it was important to create favorable locations. Other cities were in competition to find plots of land along Highway 101 that could be offered to AD's.

Council Member Morton clarified the land being eliminated on West Bayshore Road was a single plot near Greer Park, and the area in front of Kenneth and Maddux Drives. He expressed support for the motion.

Mr. Emslie said that was correct.

MOTION PASSED 5-3, Cordell, Mossar, Kleinberg no, Freeman absent.

MOTION: Council Member Kishimoto moved, seconded by Kleinberg, to deny the staff recommendation regarding signage.

Council Member Kishimoto did not support staff's recommendation for off-site advertising for AD's and an amendment to the existing sign standards. She said it would open the door to billboards and subject the City to potential lawsuits regarding property rights procedures.

Vice Mayor Kleinberg said part of the package was to have AD's and the off-site advertising aesthetically compatible with the Baylands. Given the proposal, she could not support the recommendation.

SUBSTITUTE MOTION: Council Member Morton moved, seconded by Ojakian, to approve the staff recommendation to refer the preparation of zoning ordinance amendment to the Planning & Transportation Commission (P&TC) regarding Chapter 18.65 of Title 18 and, Chapter 16.20 of Title 16 of the Palo Alto Municipal Code (PAMC) to provide for off site advertising for multiple auto dealerships and amending existing sign standards for auto dealerships.

SUBSTITUTE MOTION FAILED 4-4, Cordell, Kishimoto, Kleinberg, Mossar, no, Freeman absent.

MOTION FAILED 4-4, Beecham, Burch, Morton, Ojakian no, Freeman absent.

REPORTS OF OFFICIALS

11. Council Discussion re: Future of Palo Alto Airport

City Manager Frank Benest provided background information regarding the status of the Palo Alto Airport. He said February 25, 2005, was the deadline for the County's Grant Application to the Federal Aviation Administration (FAA) for certain improvements. He received a letter from Santa Clara County dated, April 29, 2005, requesting the City to commit to keeping the airport operating for the next 20 years. A response was sent to the County stating the commitment could not be made nor could the Council sign the FAA Grant documents due to time constraints and the absence of the County's Master Plan and Business Plan. It was suggested the County make the assurances and the County declined. The lease for 101 acres started in 1967 and would end on June 11, 2017. The County would develop the premises in accordance to a Master Plan and City Council's approval and the agreement contained a clause stating the City must support the County in applications to the FAA concerning development and operation of the Airport. The County managed three airports; Reid Hillview, South County, and Palo Alto. It ran the airports as an Enterprise Fund and leased two Fixed Base Operators (FBO's): the Roy Areo Enterprises and the Airport Management Group. The County Airports Commission (CAC) oversaw the operation and reported to the Board of Supervisors. The County ran the airport at approximately \$1 million loss over the past five years, but would not renegotiate a new lease if the airport could not generate a profit. The airport was an asset to the City. The cost of the lease was \$25 for the entire term of 50 years; sales tax revenue was approximately \$60,000 per year; and

personal property tax was approximately \$200,000 per year. Most of the revenues went to the Palo Alto Unified School District (PAUSD) and the City received eight to nine cents on a dollar. The airport was a recreational resource, served the business community, and offered the safety services of the Life Flight, Angel Flight, Civil Air Patrol, and the transporting of organ donations.

Peter Carpenter, Joint Community Relations Committee (JCRC), said in 1923 the City Council voted to put Palo Alto on the aviation map by supporting the establishment of an airport. The airport served the community well and provided recreational, educational, and commercial benefits as well as revenues to Palo Alto. The airport cost the City virtually nothing. The Baylands and Comprehensive Plans (Comp Plan) supported the continued existence of the airport. Policy T57 of the Comp Plan stated it would support the continued vitality and effectiveness of the airport and remained limited to a single runway and two fix-based operators. Palo Alto would allow improvements and minor expansion of existing facilities in the Baylands area and homes adjacent to East Palo Alto. Traffic and aircraft noise would be minimized, and the lease would expire in 2017. For the last four years, the JCRC urged the Council to address issues associated with the remaining term of the lease, but nothing had been done. Consequently, the airport lost \$1.3 million in federal funding revenues collected from airport users via aviation fuel taxes, and would stand to lose another \$500,000 from a prior year grant. Section 18 of the lease stated "The City shall support the County in all applications in representation to all regulatory commissions and agencies, all financial assistance agencies, and in all matters concerning the development and operations of the premises." The City violated the agreement and action was taken without public notice, and the City was unwilling to commit to a long-term existence of the airport. It caused airport based businesses and aircraft owners not to commit to or make further investments in the airport. There were concerns the airport would lose money under the County's management. The County made a profit in four of the past five years and had subleased profitable activities to private concerns. The County operated and derived its revenues from the runway, the taxiway, and most of the outside tie-downs. The County also received a small per gallon fuel flowage fee from the private aviation fuel vendors. If the airport were managed by a single entity, its annual profits would be between \$500,000 and \$800,000. The Council needed to make an immediate decision before further harm was done to the airport. JCRC asked Council to: 1) reaffirm what was stated in the Baylands Master Plan of the Comp Plan that the Palo Alto Airport was an essential long-term transportation and recreational component of Palo Alto's infrastructure; 2) reaffirm the City's obligations under the lease of the Palo Alto Airport to the County of Santa Clara including Section 18; and 3) direct staff to submit a plan to the Council for the proactive management of the airport including alternatives to extend the renewing release for the County's day-to-day

operations of the airport.

Mr. Benest said two grant requests were in question. In 2003, the County applied for a \$450,000 grant to repair an access road to solve a security gate. In 2003, the City Council took action to provide a conditional grant assurance and the City Manager's Office provided a letter reflecting the Council's action. The County requested the City provide unconditional assurances for the next 20 years. In 2005, there was another grant request. He did not have the authority to make the assurance since the lease would end in 2017. Other airport stakeholders were East Palo Alto, because they were in the airport's flight path, and Stanford Medical Center, because of the emergency service support.

Council Member Morton asked what unconditional assurance the County was requesting.

Mr. Benest said in 2003, the Council made a decision to support a FAA grant application that would not automatically pass to the City or another lessee, and such a transfer would require further action by the FAA. The County said that was insufficient to execute the grant.

Bill Sanders, Menlo Park, said the National Air Transportation System was a vital access to the County and asked Council to preserve the funds to maintain the viability of the airport.

Tom Meyers, 443 Leland Avenue, said the FAA measured airports with towers on a scale from one to ten based on activity. The Palo Alto Airport measured seven. He urged Council not to take the airport away.

Martin Litton spoke regarding the environmental aspects of the airport.

Larry Shapiro urged the Council to keep the airport.

Bob Lenox, 1745 Webster Street, said the City owned the airport and the aviation community asked the Council to affirm there would be an airport for future grants and applications.

Ralph Britton, 240 Rinconada, requested the Council affirm the continuation of the airport and to act on the resolution offered by the JCRC.

Peter Kuykendall, 804 Rebecca Privada, Mountain View, asked the Council to keep the airport open.

David Creemer, 4065 Campana Drive, urged the Council to keep the airport open.

Dennis Thomas, 1777 Borel Place #330, San Mateo, spoke of the need to replace the mobile home trailer with a terminal building at the airport.

Stephen Renwick, P.O. Box 52102, Squadron Commander of the Civil Air Patrol, asked the Council to keep the airport open to allow for continued search and emergency services.

Robert Durbin, P.O. Box 52102, spoke regarding the cadets in the Civil Air Patrol. He asked that the airport be kept open so they could continue their learning and leadership activities, air shows, and participation in emergency services.

Curt Weil, 867 Lincoln Avenue, asked the Council to reaffirm their commitment to the airport and to keep it open.

Ben Koning, 411 Park Avenue, San Jose, urged the Council to keep the airport open.

Chuck Byer, 1170 Hamilton, urged the Council to give the City the future it deserved in aviation.

Emily Renzel, 1056 Forest Avenue, spoke regarding the City's lost opportunity cost. The City charged the Enterprise Fund \$100,000 an acre for use of the landfill and less than half-a-cent per acre to the airport. It was important that Council have a good overall picture before moving forward.

David Guerrieri, P.O. Box 116, Moffett Field, said closure of the airport meant a lost opportunity to help eliminate gridlock and congestion on City streets and highways and a loss of economic opportunities for children in technology implementation and innovation.

John Carter urged the Council to keep the airport open.

Brent Chapman, 1250 W. Dana Street, Mountain View, said the Palo Alto Airport was the home airport for two astronauts and both were active at the West Valley Flying Club, which is the largest flying club in the world with over 1,200 active pilots. He urged the Council to keep the airport open.

Larry Carr, 1451 California Avenue, said the airport was important to Life Flight and Stanford's missions. The airport provided the closest source of jet fuel for helicopters and served as an Instrument Flight Rules (IFR) portal airport for Life Flight. He asked the Council to reaffirm the long-term commitment of the airport.

Brad Milliken, 3341 Bryant Street, said aviation benefited the community in many ways and urged the Council to keep the airport open.

John Felleman, 3245 Bryant Street, said the airport had a rich and varied community. Aviation was continuously refining and building excellence skills for pilots and a life-long learning that was essential to a growing community.

Steve Merlan, 334 Belmont Avenue, Redwood City, said the airport contributed in solving transportation problems. He urged the Council to keep it open.

Council Member Cordell said the issue was not an action item on the agenda but listed under Reports of Official. She asked for clarification on what action the Council needed to take that evening.

City Attorney Gary Baum said the Council was being asked to provide a sense of whether or not to direct staff to make assurances to the County.

Council Member Morton asked staff what motion needed to be made to continue operation of the Palo Alto Airport. He further inquired whether it meant undertaking the financial responsibility to ensure there was a viable airport in Palo Alto.

Mr. Benest said the City had a lease with an operator through 2017 and the Council would need to decide whether to continue with the commitment. Over time, the Council would need to make a decision on whether to renew the lease with the County as an operator, find a new operator, or decide to operate the airport itself in a long-term commitment beyond the current lease.

Council Member Morton said the County wanted Council to apply for the 2003 grant and give unconditional assurances. To make assurances with such a time lapse meant that federal monies would need to be refunded. He asked if staff thought a grant could be approved with the existing life of the lease with the assurance the County would be the operator and Palo Alto would continue to maintain the airport.

Mr. Benest said it was not a feasible approach.

Council Member Morton said with a 20-year commitment, there would be an ongoing problem if the City continued to accept federal funds.

Mr. Benest said the County stated it would not execute the grant document based on the language the Council approved in making the assurances.

Council Member Morton said the County said they were not going to let the City transfer back the liability of paying back the federal government, and the City needed to assume the liability.

Mr. Benest said the City would not accept the obligation unless there was a separate action by the FAA in approving the City's concurrence with the 2003 grant application.

Council Member Mossar said the JCRC made three points in their resolution and asked staff to verify the statements: 1) could the airport be operated at a profit; 2) could the airport generate significant revenues; and 3) whether the airport required City funding.

Mr. Benest said a financial analysis had not been done to see whether the airport could operate at a profit. The airport generated \$50,000 to \$60,000 per year and \$200,000 in personal property tax, but he was unsure whether the airport required City funding.

Council Member Mossar said CalTrans thought the airport was inadequate and did not meet the standards.

Mr. Emslie said the capacity was limited by land use and did not allow for significant expansion. It had a short runway that limited the airport in a regional system.

Council Member Mossar stated it was her understanding that the Airport is part of the regional system, and the State recognizes it as part of a regional system and a regional asset. She asked why a County representative was not present that evening to advise the Council if the Airport Master Plan did or did not envision the elimination of the Airport services.

Mr. Benest said the County was invited. He was aware of a conflict in the top leadership's schedule and indicated they did not want to talk about airport's future until their Master and Business Plans were completed. The JCRC participated in initial discussions but staff had not seen a draft of the plans.

Council Member Mossar said if a motion was made to make assurances to keep the airport open after 2017, the County refused to operate it, and the City could not find another operator, would the City be stuck with having to decide on how to continue operations of the airport.

Mr. Benest believed there were sufficient testimonies that the airport could operate as a financially viable operation, but he could not make the assurances until the analysis was completed.

Council Member Mossar asked whether the City would be held responsible if the County or an independent operator did not want to operate the airport, and assurances had been made to continue the airport after 2017 in order to receive federal grant monies.

Mr. Benest said there were two options. If the airport did not last for 20 years, the City would be financially responsible for a portion of the federal grant and, also, the City would need to operate the airport.

MOTION: Council Member Ojakian moved, seconded by Burch, to give direction to reaffirm the 2003 commitment of the City Council to have an airport, as an essential long-term transportation and recreational component of Palo Alto's infrastructure, to be compatible with the Comprehensive Plan and Baylands Master Plan, and give unconditional assurances that are legally binding on 2003 and 2005 Federal Aviation Administration (FAA) Grants.

Mr. Baum restated Council's action was whether to reaffirm the 2003 commitment to the Airport and direct the City Manager to sign 2005 grant applications, if either were still available. If there were additional legal documents to sign with the county and the federal governments, they would return to Council for approval.

Mr. Benest said the County had requested the City make unconditional assurances for the 2005 grant application and the same unconditional assurances for the 2003 application.

Vice Mayor Kleinberg questioned the availability of the 2005 grant money.

Mr. Benest said Congresswoman Eshoo's office indicated there was an opportunity to receive grant money for 2005, and they were willing to work with the City.

Council Member Beecham said the Council took action in 2003 when they directed the City Manager to send a letter of support to the County for the grants. In 2005, the County informed the City the letter was inadequate after the application deadline had passed. It was wrong to place blame on the City Manager when it was the County who made the error. The long-term use of the airport was in the Comp Plan, which stated the City would support the airport. It did not state the support of the City was financial. He said the City charged \$100,000 per acre for other land use. The City subsidized the entire land except for \$25 for the entire term. He was reluctant to pursue additional grant monies due to lack of creditable information. The Comp Plan did not allow additional development. It was uncertain who would operate the airport after 2017, and the County did not show an interest for the operation. He suggested the people develop a plan making the airport profitable and to make it work.

Vice Mayor Kleinberg said she represented Palo Alto on the County commission and at no time was there any discussion of the closing the airport in the County Master Plan. The Council was being asked at this meeting to reaffirm the Comp Plan.

Council Member Mossar said she did not have a problem with the airport continuing but had a problem in making a commitment past the term of the existing lease. An appropriate motion would be to request staff to continue to pursue gathering information on cost benefits, revenues, operating at a profit, and funding.

Council Member Morton was in support to continue the commitment. He asked if the motion instructed the City Manager to sign the grant documents.

Council Member Ojakian said the City Attorney advised, and he concurred, to provide unconditional assurances on the 2003 and, ultimately, 2005 grants if available.

Council Member Morton said for a point of clarification the two contracts could not be separated.

Mr. Benest said the County would not commit to execute the agreement with the federal government unless unconditional assurances were made. The assumption was to help the County secure the monies.

Council Member Morton agreed with Council Member Beecham that the County was in error. Federal grants had conditions that if the conditions of a grant were not fulfilled the funds would need to be paid back or the assets surrendered.

Senior Assistant City Attorney Grant Kolling said if the lease were not renewed beyond 2017, the City would be liable in complying with the 2003 and 2005 grant agreement covenants unless another tenant was found to lease, or the City would need to take the responsibility to operate the airport. The County stated in a letter dated April or May 2005, that one of the grant agreements stated the City would continue operation of the airport property for the full term.

Council Member Kishimoto requested a timeline for deciding post-2017, since the 2006 FAA grant application would need approval. The scope of the grant was to maintain or improve the airport as it was. The City had a Comp Plan to support the airport without expansion and needed to continue maintaining the airport. She said the worst-case scenario of City exposure was being obligated for \$509,000 for the 2005 grant and \$135,000 for the 2003 grant. She asked whether the FAA could force the City to keep the airport going.

Mr. Kolling said he had never been presented with the issue of the federal government going after a City to enforce grant agreement covenants. He

imagined they would follow with a lawsuit seeking to enforce grant agreement and covenants, which would compel the City to keep the airport open. The City would be responsible to pay for any improvements.

MOTION PASSED 7-1, Mossar no, Freeman absent.

Council Member Ojakian asked to direct staff to return with a report on the future operation of the airport. The City should look proactively at alternatives for operating the airport whether it meant converting to a special district, or to seek another operator since the City was not sure of the County's operating plans. He asked at what stage would it be beneficial for the City to do a financial analysis of the airport and to include looking at a reasonable charge for the acreage.

Mr. Benest he said the best time would be after the Master and Business Plans were reviewed.

Vice Mayor Kleinberg said there were several stakeholders that would want to participate in the problem solving and she encouraged a stakeholders group to take part in the review.

Council Member Beecham said action was taken at the meeting that guaranteed the County could proceed with the 2003 and 2005 grants and, until the County returned with a Master Plan, he could not see anything the City could do separately that would be productive.

Council Member Kishimoto asked what the timeline was for the Golf Course redesign and the Bayland's Master Plan.

Mr. Benest said he did not have an answer and would get updates on the first cut of the Golf Course redesign and the Baylands Master Plan.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Kishimoto noted the latest public art installation in the Lobby and the Chambers done by a new Korean artist with the support of Samsung.

Vice Mayor Kleinberg applauded the Lucille Packard Children's Hospital, which was just named one of the ten best children's hospitals in the United States.

ADJOURNMENT: The meeting adjourned at 11:57 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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