

Special Meeting
January 30, 2006

1. Joint Study Session with San Francisquito Creek Joint Powers Authority (JPA) Regarding Potential Interim Improvements 3
2. Public Officials for Environmental Reform (POWER) Award Presented by Santa Clara Valley Water District (SCVWD) to the Palo Alto City Council 5
- ORAL COMMUNICATIONS 5
3. Resolution Expressing Appreciation to James Cobb Upon His Retirement..... 5
5. Approval of a Resolution to Implement Section 414(h) of the Internal Revenue Code to Designate the California Public Employee Retirement System 9 % Retirement Contributions as Employee Contributions and Deduct from the Salaries of Palo Alto Peace Officer Association (PAPOA) Members..... 5
- 9a. (Old Item 4.) Request by Greenbriar Homes Communities, Inc. and McNellis Partners for Approval of City Council to Conduct a Preliminary Review of a Mixed-Use Residential and Retail Development at 3401, 3415 and 3445 Alma Street (Alma Plaza) [05-PLN-00416] 6
- *6. Public Hearing: 1101 East Meadow Drive & 1010 East Meadow Circle [05-PLN-00289]: Request by Trumark Companies on Behalf of Batton Associates, LLC and HDP Associates for a Vesting Tentative Map for a Proposed Residential Infill Development to Merge Two Parcels (Approx. 4.4 acres) and Create 75 Condominium Units. Environmental Assessment: Negative Declaration per the California Environmental Quality Act. Zone District: LM 8
7. Public Hearing: Recommendation by the Planning and Transportation Commission that the City Council Adopt an Ordinance Amending Chapter 18.65 of Title 18 for the Purpose of Allowing the Auto

Dealership Overlay Zone (Combining District) in Two Limited Manufacturing (LM) Districts Located on the East and West Side Adjacent to Highway 101 at the San Antonio Interchange.....	14
8. Authorization to Proceed with the Environmental Impact Report (EIR) for the 8-Hr Emergency Water Supply Project; Approval of a Draft Notice of Preparation; Approval of a Budget Amendment Ordinance in the Amount of \$350,000; and Approval of Amendment Number 3 to the Phase I Water Distribution System Improvements Contract with Carollo Engineers for Additional EIR Support Services	20
9. Colleagues Memo from Mayor Kleinberg and Council Members Cordell and Klein re Resolution of Conflict of Interest Matter	30
COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS	32
FINAL ADJOURNMENT: The meeting adjourned at 12:12 a.m.	32

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:08 p.m.

CITY COUNCIL

PRESENT: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

SAN FRANCISQUITO CREEK JOINT POWERS AUTHORITY

PRESENT: Abrica, Duboc, Gordon, Mossar, Zlotnick

STUDY SESSION

1. Joint Study Session with San Francisquito Creek Joint Powers Authority (JPA) Regarding Potential Interim Improvements

Director of Public Works Glenn Roberts, Menlo Park Director of Public Works Kent Steffens, and JPA Executive Director Cynthia D'Agosta made a PowerPoint presentation that provided background information on San Francisquito Creek and the JPA's flood control efforts. Mr. Roberts noted the creek did not have adequate capacity to convey the one percent (100-year) flow rate at many points along its length. He described the multiple times and locations at which the creek had gone over the banks during the past 75 years. He displayed a topographic model and a cross-sectional view that depicted the creek's "perched" nature and described how this trait caused floodwaters to flow away from the creek towards natural low points in the topography. Mr. Steffens described an effort conducted by the JPA Management Team and the Neighborhood Team in 2002 to identify potential projects for the Army Corps of Engineers (Corps) Continuing Authorities Program (CAP). He discussed the hydraulic model that predicted water levels in the creek for various streamflow rates and noted the model was calibrated to match actual measured storm events. He explained the Management/Neighborhood Team had used the model to study a potential project that would add 1000 cubic feet per second (CFS) capacity to San Francisquito Creek between the Pope/Chaucer Bridge and Highway 101 by adding an additional culvert at the Bridge and raising downstream levees or flood walls. Mr. Steffens noted the project was estimated to cost approximately \$10 million and would not be technically feasible without additional mitigations (e.g. the widening of the Highway 101 Bridge and the raising of levees downstream of Highway 101) at additional cost. Ms. D'Agosta described the watershed-wide flood control approach being pursued by the JPA and the specific process for working with the Corps on a General Investigation (GI) project. She listed several factors the JPA

Management Team recommends be taken into account when considering interim flood control measures.

Norman Beamer, Xenia Hammer, and Art Kraemer, representing the Crescent Park Neighborhood Association, made a PowerPoint presentation describing proposed interim flood control measures for San Francisquito Creek. Mr. Beamer cited the December 31, 2005 storm event as a reminder that Palo Alto continued to face the threat of flood damage from San Francisquito Creek. He stated his belief the City was exposed to legal liability under the existing conditions and advocated for the City to take a leadership role in implementing interim flood control measures. Ms. Hammer described some of the historical man-made changes that have impacted the creek, particularly noting the reconstruction of the Pope/Chaucer Bridge in 1948. Mr. Kraemer described the creek analysis performed by neighborhood residents Stephen Monismith and Tom Rindfleisch, using the hydraulic model. He described a proposal to make interim improvements that would enable the creek to convey 7200 CFS (the peak flow recorded in the February 1998 flood event). The proposal included replacement of the Pope/Chaucer Bridge, the widening of the Highway 101 Bridge, and the addition of levees and/or floodwalls at selected points downstream of Chaucer Street. Mr. Kraemer argued the extent of the levee rising could be minimized by not providing freeboard above the water levels projected by the hydraulic model. He stated such interim improvements would be consistent with the JPA's proposed GI project and opined a successful interim project would increase the likelihood of public support for the larger GI project. Mr. Beamer closed by presenting the argument the City could reduce its current legal liability by implementing interim improvements and advocating prompt action by the City and the JPA.

Doug Sporleder, Menlo Park Fire District, encouraged the Council to discuss and develop the subgroup responsible for emergency response, to develop a vegetation management plan, discuss the development of the standardized notification threshold, and develop an area wide emergency signal system.

Mickie Winkler, Menlo Park Council Member, encouraged evaluating solutions that are compatible with recent flooding.

Steve Kennedy, 2025 Euclid Avenue, East Palo Alto, spoke about a video he prepared regarding vegetation management.

Richard Geiger, 714 E. Charleston Road, spoke about his concern with the City spending tax money on a project in a very isolated section of the City.

Arthur Keller, 3881 Corina Way, questioned whether the Crescent Park community wanted a longer term project.

No Action Required.

SPECIAL ORDERS OF THE DAY

2. Public Officials for Environmental Reform (POWER) Award Presented by Santa Clara Valley Water District (SCVWD) to the Palo Alto City Council

Greg Zlotnick thanked Palo Alto for continued support of the Santa Clara Valley Water Resources Protection Collaborative and presented the Council with the 2005 Public Officials for Water Environmental Reform "Breaking the Constraints" Award.

ORAL COMMUNICATIONS

Annette Ashton, 2747 Bryant Street, spoke regarding timely communications and public notices.

John K. Abraham, 736 Ellsworth Place, spoke regarding incorrect police demographic data.

Elaine Meyer, 609 Kingsley Avenue, spoke regarding the libraries.

Danielle Martell spoke regarding public concerns.

Stephanie Munoz, 101 Alma, Apt. 701, spoke regarding conflict of interest.

CONSENT CALENDAR

MOTION: Vice Mayor Kishimoto moved, seconded by Cordell, to remove Item No. 4 from the Consent Calendar to become Item No. 9A.

MOTION PASSED 9-0.

MOTION: Council Member Morton moved, seconded by Cordell, to approve agenda Item No. 3, and the removal of agenda Item No. 5 from the Consent Calendar.

3. Resolution Expressing Appreciation to James Cobb Upon His Retirement
- ~~5. Approval of a Resolution to Implement Section 414(h) of the Internal Revenue Code to Designate the California Public Employee Retirement System 9 % Retirement Contributions as Employee Contributions and Deduct from the Salaries of Palo Alto Peace Officer Association (PAPOA) Members~~

MOTION PASSED 9-0.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Morton, to hear agenda Item 9A (old Item 4) at this point in the agenda.

MOTION PASSED 9-0.

9a. (Old Item 4.) Request by Greenbriar Homes Communities, Inc. and McNellis Partners for Approval of City Council to Conduct a Preliminary Review of a Mixed-Use Residential and Retail Development at 3401, 3415 and 3445 Alma Street (Alma Plaza) [05-PLN-00416]

Sheri Furman, 3094 Greer Road, suggested the item was a major land use issue better studied first by the Planning and Transportation Commission. The Council was urged to consider requiring the entire area to be ground floor retail with housing above the retail.

Arthur Keller, 3881 Corina Way, spoke on the importance of retaining Alma Plaza as neighborhood-serving retail.

Bob Moss, 4010 Orme Street, spoke about the importance of getting retail in a viable center in Alma Plaza and recommended the option to have the Planning and Transportation Commission and City Council to fully discuss the issue.

Jim Baer, 172 University Avenue, spoke in favor of orderly, extensive, organized outreach.

Council Member Klein clarified the item would be a study session.

Director of Planning and Community Environment Steve Emslie said that was correct.

City Manager Frank Benest said the study session was currently set for one and one half hours, but the Council could set however much time it wished. The Council could share values and perspectives so that the developer could proceed in developing an application responsive to the interests of the City.

Council Member Klein clarified the Planning and Transportation Commission (P&TC) would not take action but would only hear individual Commission member's comments.

Mr. Benest said that was correct.

Council Member Morton asked whether it would be possible to plan a two-hour joint study session with the P&TC.

Mr. Benest said he saw no legal or technical obstacles.

MOTION: Council Member Morton moved, seconded by Klein, to direct staff to schedule a joint study session with the Planning and Transportation Commission to hear the applicant's suggestions for Alma Plaza.

City Attorney Gary Baum said the Code allowed the Council to meet alone or hold joint meetings with any of its Boards and Commissions.

Council Member Morton said a joint session was advantageous because it insured both the Council and P&TC would eventually hear the matter with the same initial starting point.

Council Member Klein said he shared many of the concerns expressed by the speakers. The process needed to move along.

Vice Mayor Kishimoto agreed with the direction of the motion but preferred a study session with the P&TC first.

SUBSTITUTE MOTION: Vice Mayor Kishimoto moved, seconded by Mossar, to direct the Planning and Transportation Commission to initially study the project prior to the City Council study session.

Mr. Baum said the Code required the public be provided with significant time to participate.

Council Member Mossar asked staff to share the work product of a preliminary review.

Mr. Emslie said, from staff's perspective, the work product was a City Manager's Report that outlined the high level policy issues involved with making a land use decision. Policy issues would be lined out with as much detail as possible, including staff recommendations.

Council Member Mossar said she valued the P&TC's independent reaction to the issues brought to the Council by staff and the P&TC's independent evaluation of public input and input from the developer. The P&TC was another source of information for the Council. The Council should act independently, be informed by the P&TC, but not sit in the same session together.

Council Member Cordell said a combined session would not expedite but would drag out the process.

Council Member Drekmeier asked whether it was possible for the item to go to the P&TC in February and to the Council on March 13, 2006.

Mr. Emslie said staff would maintain the current schedule. The P&TC might consider a special meeting.

Council Member Morton supported the original motion because there would be feedback between the Council to the P&TC if policy questions were involved. The study session should be done as a joint presentation.

Council Member Klein said the issue had been before the Council in a variety of ways for several years, and it was part of the Comprehensive Plan (Comp Plan).

Council Member Beecham said the purpose of the preliminary review was for the Council to give input to the applicant. The role of the P&TC was to advise the Council.

SUBSTITUTE MOTION PASSED 7-2, Klein, Morton "no."

Council Member Drekmeier asked whether the P&TC would address the item prior to the Council meeting on March 13, 2006.

Assistant City Manager Emily Harrison said the sense of the Council was to keep the project moving. Staff would stay with the date originally planned. Mr. Emslie would work with the P&TC to schedule a special meeting if necessary.

UNFINISHED BUSINESS

- *6. Public Hearing: 1101 East Meadow Drive & 1010 East Meadow Circle [05-PLN-00289]: Request by Trumark Companies on Behalf of Batton Associates, LLC and HDP Associates for a Vesting Tentative Map for a Proposed Residential Infill Development to Merge Two Parcels (Approx. 4.4 acres) and Create 75 Condominium Units. Environmental Assessment: Negative Declaration per the California Environmental Quality Act. Zone District: LM.

City Attorney Gary Baum said for quasi judicial matters, under the Council's policies and protocols, as well as under State Law, the Council was the judge for the matter. In the interest of open government and, primarily so that the public received the same information as the Council, Council Members were asked to disclose whether or not they had communications outside the Chambers where they received information from the developers or

opponents in addition to information in the staff reports. Council Members were encouraged to disclose contacts they had with the developer.

Mayor Kleinberg clarified Council Members were to make their decision based only on the material in the record currently before the Council.

Mr. Baum said that was correct. The Council may not deny or condition approval of the vesting tentative map if the map was consistent with the General and Specific Plan, if the designs and improvements were consistent with the General and Specific Plan, if the site were physically suited for the development, if the site were suited for the density of development, if design and subdivision were not likely to cause environmental damage or serious public health problems, and would not conflict with public improvements or easements.

Council Member Barton said he had a conversation with Jim Baer but received no additional information beyond what was provided in the packet.

The Public Hearing opened at 8:20 p.m.

Aaron Yakligian, Trumark Companies (Applicant), 4185 Blackhawk Plaza Circle, Danville, said Trumark had developed high quality of life, attainably priced, new home neighborhoods around the Bay Area for nearly two decades. Following the Council's clear lead the prior year for Trumark's East Meadow Drive project, Trumark was excited to present the completion to the gateway to the East Meadow Circle area. The proposal for the Echelon community resonated with the comments Trumark received from the Council and from the Planning and Transportation Commission (P&TC) in 2004. For that approval, the Council unanimously supported the P&TC's recommendation that the proposed density was appropriate for the site, that Trumark raised the bar for green building in Palo Alto, and that the City desired to see future projects of similar quality in the neighborhood. The design for Echelon was based on the collective direction. The properties at 1101 East Meadow Drive and 1010 East Meadow Circle totaled approximately 4.5 acres, and the site's existing 1960's office space had been vacant for some time. As with many light industrial sites in Palo Alto, there was an existing RM 30 zoning overlay that allowed for a residential development with up to 30 dwelling units per acre. Trumark met with staff to determine the best use of the property. The outcome was the proposed 75 homes. The Vesting Tentative Map represented approximately one year of close cooperation with City staff, the Architectural Review Board (ARB), and the P&TC. The final product demonstrated responsible planning, efficient land use, and quality design. In addition to separating pedestrians and automobiles, the site offered a perimeter trail system, which allowed residents to walk between outdoor rooms with public art, water features,

and children's play areas. The trail added an additional one-half mile of safe and attractive walking paths. The existing setbacks along street frontages were preserved, which created a wide buffer from the street and allowed saving most of the existing perimeter trees on the site. The established trees, along with more than 150 new trees to be provided, helped to expand the existing canopy to create a lush, green, attractive pedestrian-friendly environment. Trumark was committed to using green building elements. Echelon would exceed the new Title 24 standards by 15 percent. Eleven below market rate (BMR) homes were included. The homes were evenly distributed throughout the site and were identical to the market rate homes. The sale price of the homes averaged below \$300,000. Traffic generation from the site was reduced. Trumark invested nearly \$400,000 in park fees, \$139,000 for libraries and the Community Center, and nearly \$.25 million for schools in the neighborhood. Through neighborhood outreach and meetings, the community recognized the need for added pedestrian safety at the nearby intersection of Fabian and East Meadow. Trumark voluntarily proposed to construct a lighted crosswalk in the median. Trumark worked closely with the City Transportation Division to design a road signage program that would further increase the pedestrian safety near the intersection. The Vesting Tentative Map was the result of many previous accomplishments throughout the process. In July 2005, the project was unanimously approved by the ARB and received the Planning Director's approval. A Negative Declaration was prepared and circulated in July, and the Vesting Tentative Map was deemed complete. In November 2005, the PT&C unanimously recommended approval. Trumark asked the Council to approve the Vesting Tentative Map.

Ken Brownlee, 3617 Louis Road, spoke in opposition to the Trumark development of high density housing and requested the Council deny the map amendment until a lower density proposal was submitted.

Mark Sabin, 533 Alberta Avenue, Sunnyvale, spoke about the attainable nature of the housing, and urged the Council to support the project.

Earl Caustin, 3671 Louis Road, Palo Verde Residents Association Board Member, spoke about traffic and educational impacts that had no requirement for environmental impact review, and urged the Council to study all the projects in a comprehensive fashion.

Sheri Furman, 3094 Greer Road, requested the Council ask the Planning Division to initiate a comprehensive look at the area that included park lands.

Smita Joshi, 851 E. Meadow Drive, Palo Verde Residents Association President, spoke about the lack of notification to the neighbors and the

stress on City facilities and asked for a comprehensive consideration of the development.

Sally Probst, 735 Coastland Drive, League of Women Voters, spoke in support of the Trumark Development which responded to many of the goals in the City's Comprehensive Plan and urged the Council to approve the Tentative Map.

Jeff Rensch, 741 Chimalus Drive, spoke in support of the Trumark project because of the below market units, less traffic, and target population.

Robert Moss, 4010 Orme Street, spoke about the piecemealing of the project and lack of environmental impact report.

Vivian Blomenkamp, 1023 Forest Avenue, spoke in favor of the project, noting the City needed the proposed type of housing.

Patricia Saffir, 2719 Bryant Street, spoke in support of the Council approving the Vesting Tentative Map because the project was well suited for the area.

Bena Chang, Silicon Valley Leadership Group, 224 Airport Pkwy #620, San Jose, spoke in support of the Echelon Project, which helped Palo Alto meet its continued need for homes.

Arthur Keller, 3881 Corina Way, Adobe Meadow Neighborhood Association, suggested the Council create a moratorium on further development of East Meadow Circle until the City had the opportunity to assimilate the results of the East Meadow Design charette and do appropriate zoning and regulations.

Eddie Keating, 3553 Alma Street, spoke in support of the project, noting there would not be impacts on immediate neighbors.

Stephanie Munoz, 101 Alma Street, supported Mr. Moss' suggestion that there be an examination of the soil and environment of housing prior to housing being built and felt open space parkland should be on the site.

The Public Hearing closed at 9:00 p.m.

MOTION: Council Member Barton moved, seconded by Mossar, to approve the staff and Planning and Community Environment's recommendation to approve the proposed Vesting Tentative Map to merge two parcels (Approximately 4.4 acres) and create 75 condominium units, based upon the findings and conditions contained within the Record of Land Use Action.

Council Member Barton said the Vesting Tentative Map was consistent with the Comprehensive Plan (Comp Plan).

Vice Mayor Kishimoto asked how high the site would be raised for the flood basin.

Mr. Yakligian responded the average was four feet across the site and had already been approved by FEMA.

Vice Mayor Kishimoto asked whether there had been examination of hazardous waste.

Mr. Yakligian said extensive environmental studies were conducted, including looking at what uses were in the past. The studies indicated there was not an issue on the site.

Vice Mayor Kishimoto asked whether a set of guidelines would go back to the Council or whether proposals for rezoning for open space would go back.

Mr. Emslie said the primary focus of the work at the current time was the development of guidelines to be used for future development. The area zoning was recently amended so that housing was no longer permitted by right but would be a conditionally permitted use.

Vice Mayor Kishimoto said there was no section in the initial study for either the checklist or the text on cumulative impacts.

Mr. Emslie said a cumulative impact analysis was not pursued because the project fell within the gross projections of the Comp Plan Environmental Impact Report (EIR) and because impacts associated with vehicle trips were less than the current land use.

Vice Mayor Kishimoto said she noted the cumulative traffic had decreased but there were other potential impacts such as, greater use of wastewater and water. Trumark Development did a good job following City directions and bringing in the sustainability project. The proposed increase of 35 students was an impact on the school district. The cumulative impacts must be reviewed.

Council Member Morton clarified the 75 units proposed \$400,000 to be included in the City's park fund.

Mr. Emslie said that was correct. The \$400,000 was the estimate of the park fee the project paid to the City.

Council Member Morton said he was concerned impact fees were unrealistic. Staff was asked whether the vesting expired if the project were not completed.

Mr. Baum said an approval was both an entitlement as well as an obligation. Fees were locked in at the date of completion of approval.

Council Member Morton asked whether staff was comfortable with the response the developer made with regard to a toxic study requirement.

Mr. Emslie said the Regional Water Quality Control Board (RWQCB) maintained the authority to enforce the identification and clean up of hazardous materials. After Phase 1, if there were any evidence of toxic release on the site, Phase 2 was involved. Soils reports were required for the project. The Architectural Review Board (ARB) conditions required the site be monitored by a licensed soils engineer, who must provide written verification that the project proceeds as called for in the plans.

Mr. Baum said the Department of Toxic Substance Control would be involved in the event of hazardous materials.

Council Member Morton said he supported the motion but was concerned at the rate at which the community was being built out and the public's desire for an overall plan for South Palo Alto.

Council Member Klein said he supported the motion because the developer did a good job following the City's rules. Neighborhood associations were encouraged to stay involved.

Council Member Drekmeier said the project was attractive and had good environmental features. The idea of taking a coordinated East Meadow Circle and working in mixed uses was favored.

Council Member Cordell said a question was raised about the intersection at Fabian Way and East Meadow Drive and she asked whether any mitigation was planned.

Aaron Yakligian said the proposal included a lit crosswalk at Fabian Way and East Meadow Drive, with an additional road signage program.

Council Member Cordell said she hoped the Council would get feedback from the developer regarding his experience in dealing with the Planning Department.

Mayor Kleinberg said there would be a tremendous amount of recreational amenities built into the Campus for Jewish Life area. Safety at the crossings was a concern. The developer was encouraged to work with staff to ensure pedestrian safety. Comprehensive oversight was needed.

MOTION PASSED 9-0.

7. Public Hearing: Recommendation by the Planning and Transportation Commission that the City Council Adopt an Ordinance Amending Chapter 18.65 of Title 18 for the Purpose of Allowing the Auto Dealership Overlay Zone (Combining District) in Two Limited Manufacturing (LM) Districts Located on the East and West Side Adjacent to Highway 101 at the San Antonio Interchange

Council Member Barton clarified there were differences between the staff recommendation in the staff report (CMR:134:06) and the Planning and Transportation (P&TC) recommendations.

Planning and Community Environment Director Steve Emslie agreed there were differences. The staff's recommendation was to exclude a land parcel west of Highway 101 that the P&TC had included in their recommendation. Further, the map indicating the boundaries of the ordinance was different from the map the P&TC received; the map that was prepared for the City Council's consideration had been changed to correctly reflect the language of the ordinance.

Planning and Transportation Commissioner Daniel Garber reported the discussion the P&TC had of the proposed ordinance resulted in two motions. The first supported the staff's recommended boundaries of the proposed ordinance but confined the boundary to the area immediately adjacent to Highway 101 between Embarcadero Road and the San Antonio exits. The P&TC's goal to keep the Auto Dealership (AD) overlay from being adjacent to low density residential allowed a single land parcel on the west side of Highway 101 to be included in the proposed ordinance. A second motion was made to include the area of Embarcadero Road east of Highway 101 in the AD overlay. The discussion of the display of cars on Embarcadero Road caused the motion to fail because the proposed ordinance creates an implied acceptance of the display of cars along Embarcadero Road that would be at odds with the function of Embarcadero Road's Gateway to the Baylands.

Mr. Emslie explained the staff's initial recommendation to the P&TC was for the proposed boundary of the AD overlay to include the areas on either side of Highway 101 and the Embarcadero Road area east of Highway 101. The P&TC's subsequent recommendation was to limit the boundary to the areas just discussed. Staff forwarded the P&TC's recommendation to the City

Council with one exception; eliminating all properties west of Highway 101 from inclusion in the ordinance. After consideration, legal staff recommended the elimination of this area from the ordinance because if only one parcel in this area west of the Highway was allowed, as the P&TC had recommended, this could be interpreted as spot zoning of a single parcel and expose the City to future legal action challenging the ordinance.

Council Member Barton said there were auto dealerships on Embarcadero Road and he was unsure why one more was a problem.

Mr. Garber reported the P&TC had acknowledged this in their discussions, which included recognition that the existing auto dealerships have restrictions already in place limiting how they can use their land for displaying cars and other vehicles. Changes or revisions to the permitted uses would have to go through standard processes, including review and oversight by the City's various boards, commissions and Council. However, the P&TC did not pass the motion to include this area in their recommendation because it did not support the Baylands Gateway function that Embarcadero Road is intended to support.

Planning Manager John Lusardi said two maps were included in the Council packet that showed a one quarter mile radius for both interchanges. The difference between the staff recommendation and the P&TC recommendation on the San Antonio interchange was that staff had recommended all the properties within a one quarter mile radius of the San Antonio interchange be included with an AD overlay. The P&TC agreed with all the properties on the east side of Highway 101 being included in the AD overlay, with the additional conditional use findings. On the west side, the P&TC's recommendation was "no properties adjacent to or across the street from low density residential and only those properties that front on Highway 101." That left only one parcel on the west side of San Antonio Road.

Council Member Drekmeier asked why the area on the southeast side of the San Antonio Road/Highway 101 intersection was ruled out.

Mr. Lusardi said the properties were zoned GM. The AD overlay was allowed for the GM zone. Only the LM zones were discussed.

Council Member Drekmeier asked how the idea of the Municipal Services Center (MSC) played into the zoning.

Mr. Emslie said the City had site control over the MSC. As owner, the Council had the ability to make the real estate transaction as well as appropriate land use changes.

Council Member Mossar clarified the recommendation from the P&TC only approved the overlay zone on the one area on the east side of Highway 101.

Mr. Emslie said that was correct.

Council Member Mossar clarified none of the LM zones near the Embarcadero interchange were recommended for the zone.

Mr. Emslie said that was correct.

Council Member Mossar stated the recommendation from the P&TC only approved the overlay zone on the east side of Highway 101.

Mr. Emslie said that was correct.

Council Member Mossar said the Council was provided with documents that referred to in the staff report (CMR:134:06) and asked whether the draft Site Assessment and Design Guidelines for Palo Alto Baylands Nature Preserve was being used.

Mr. Emslie said the document was on hold.

Council Member Mossar said the P&TC talked about specific design controls in the area recommended for the overlay. Staff was asked what the P&TC referred to for guidance in appropriate development.

Mr. Emslie said the P&TC referred to the existing Baylands Master Plan which was adopted and in effect.

Council Member Mossar asked whether there were design guidelines in the Baylands Master Plan.

Mr. Emslie said there were no design guidelines, but the Baylands Master Plan talked in general about the need for sensitive design that respected the proximity of the Baylands as a natural environment. The purpose of the draft guidelines was to prepare the guidelines anticipated in the current Baylands Master Plan.

Council Member Mossar said her recollection was that the P&TC used phrases such as "horizontal lines, not vertical lines," and others that were design guidelines in nature. The P&TC's use of the phrases was confusing. Staff was asked what the impact of the overlay decision would be on the existing auto uses on Embarcadero Road.

Mr. Emslie said the existing auto uses had already been placed into the appropriate auto overlay.

Council Member Mossar asked what the P&TC meant by recommending that the overlay not be placed in one area.

Mr. Emslie said additional auto dealers were not recommended on Embarcadero Road.

Council Member Mossar asked whether the decision of the P&TC precluded expansion of one of the existing auto dealers.

Mr. Emslie said that was correct. The current auto overlay allowed for increases in FAR for auto dealer use.

Council Member Morton said he understood the concerns expressed by the Council that it would not want auto dealerships backing onto single family residential properties. Adoption of an auto overlay did not guarantee that someone could build an auto dealership. The auto overlay was a permissible use, but a developer had to go through the Planning application process. Staff was asked whether neighborhood protections were lessened if an auto overlay were adopted.

Mr. Emslie said being in the auto overlay area did not entitle auto dealerships to be built in the area without the subsequent review by the P&TC and Council.

Council Member Morton clarified the P&TC and the Council could protect the existing neighborhoods by not approving projects that backed onto single family residential.

Mr. Emslie said the Council had discretion in applying the zone on a site by site basis.

Council Member Drekmeier said although he did not work at the location, his employer was at Corporation and East Bayshore and asked whether he should recuse himself.

Mr. Baum clarified the company was a non profit and Council Member Drekmeier had no ownership interests.

Council Member Drekmeier said that was correct. The non profit owned the building at 3921 East Bayshore.

Mr. Baum asked whether the building was in an area that would be rezoned.

Council Member Drekmeier said the building was in the area to be rezoned.

Mr. Baum said he did not believe the decision would affect Council Member Drekmeier's source of income but it gave the appearance of a conflict.

Council Member Drekmeier stated he would not participate in the item due to a conflict of interest because his employer owned property within 500 feet of the area.

Public Hearing opened at 9:58 p.m.

Smita Joshi, 851 E. Meadow Drive, urged the Council to not allow zoning for auto dealerships and not to rely on a case by case basis to review new proposals.

Earl Caustin, 3671 Louis Road, urged the Council to identify the areas that would be allowed to be rezoned and avoid the west side of Bayshore.

Arthur Keller, 3881 Corina Way, spoke against using the west side of Bayshore for auto dealerships.

Public Hearing closed at 10:05 p.m.

MOTION: Council Member Barton moved, seconded by Beecham, to approve the staff recommendation to adopt an ordinance amending the Auto Dealership (AD) combining district to allow the AD overlay zone in the Limited Manufacturing (LM) districts located on the east side of Highway 101 at the San Antonio Interchange, and that the applications for Auto Dealership development in these zones require a Conditional Use Permit (CUP).

Staff also recommends that the Auto Dealership (AD) Combining District Ordinance include the following additional language to address the use of auto display platforms with specific site development applications:

"SECTION 3, Subparagraph (b) of Section 18.65.070 [Special Requirements] is hereby added to read as follows:

(5) Two automobile display pads shall be permitted for each auto dealership site, and shall be subject to Architectural Review Board approval.

Council Member Barton said auto dealers found it a benefit to locate adjacent to other auto dealers. The Conditional Use Permit (CUP) allowed for review. Auto dealers brought considerable sales tax to the community.

Council Member Beecham said auto dealerships could be added to the area with the CUP.

Vice Mayor Kishimoto said she supported the Baylands and would count on the Architectural Review Board (ARB) to protect the nature of the Baylands when considering proposals in the area.

Council Member Klein reflected his office of the last 20 years was in this area and he did not regard Embarcadero Road as the main focus of the motion. Because the area was already built out, there were really very few or no opportunities for the existing auto dealerships to expand or other dealerships to locate there. A change to Attachment "A" of the staff report (CMR:134:06) was suggested: "in the two LM zones which are on the east side of Bayshore Freeway."

INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER to change the proposed ordinance Section 3 (4) to remove "adjacent to the intersection of San Antonio Road" and replace with "which are located on the east side of the Bayshore Freeway (Highway 101)."

INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER to change the proposed ordinance Section 3 (4) a. to add the word "any more" prior to "detrimental" and after the words "natural areas" add "than the present uses of such property."

Council Member Mossar suggested saying that design be consistent or compatible with the Baylands Master Plan rather than mentioning specific criteria. The language in the ordinance was over the top and unnecessary.

Council Member Barton said he would be happy with the more general language.

Council Member Klein said his concern was that since there was property now and it might not be possible to get the property back to where it met the standards of the Baylands Master Plan.

Council Member Morton clarified auto dealerships were allowed on the west side of Bayshore Highway, south east of San Antonia Road in the GM zone.

Mr. Emslie said auto dealerships were already allowed.

MOTION PASSED: 8-0, Drekmeier not participating.

ORDINANCES AND RESOLUTIONS

8. Authorization to Proceed with the Environmental Impact Report (EIR) for the 8-Hr Emergency Water Supply Project; Approval of a Draft Notice of Preparation; Approval of a Budget Amendment Ordinance in the Amount of \$350,000; and Approval of Amendment Number 3 to the Phase I Water Distribution System Improvements Contract with Carollo Engineers for Additional EIR Support Services

City Attorney Gary Baum said two of the Council Members had a conflict with one portion of the application, and three Council Members had a conflict with another portion. The item included the eight-hour emergency water supply, which would be addressed by wells and reservoir.

Mayor Kleinberg stated she would not participate in the item as she owned property within 500 feet of one of the potential well sites.

Vice Mayor Kishimoto asked that the Council Members state their conflicts.

Council Member Morton stated he would not participate in the item because he had a conflict with respect to proposed well locations because of a long-term leasehold interest within 500 feet of a proposed well location.

Council Member Cordell stated she would not participate in the item due to conflicts with respect to the proposed reservoir locations arising from their interest in Stanford due to her employment with Stanford University.

Council Member Klein stated he would not participate in the item due to conflicts with respect to the proposed reservoir locations arising from their interest in Stanford due to his wife's employment by Stanford University.

Council Member Mossar stated she would not participate in the item due to conflicts with respect to the proposed reservoir locations arising from their interest in Stanford due to her husband's employment by Stanford University.

Mr. Baum said four Council Members were needed to pass the first portion of the agenda item, and five or six Council Members were needed on the second portion because it involved the expenditure of funds.

Council Member Mossar asked whether the decision of the first set of Council Members were binding on the next set of Council Members.

Mr. Baum said the Council's decision was binding. Those who were conflicted could not make the decision.

Council Member Mossar said in the past when an item was segmented, those who left the room for a portion had limited say in the ultimate outcome.

Mr. Baum said the Council's say was that it would be deciding which wells were to be considered by the Council, the placement, and the analysis of the wells.

Interim Assistant Director of Utilities Engineering Tomm Marshall said the eight-hour emergency supply project was based on criteria developed by the Department of Health Services as to what type of supply was needed to be on a system available during an emergency. An emergency in Palo Alto might be a disconnection from the Hetch Hetchy pipeline. The intent was to have eight hours of maximum demand in storage to supply water to customers plus the ability to fight fires in all zones throughout the City. There was a need to construct three new wells in the City to provide additional water supply plus rehabilitation of five existing wells. Construction of a 2.5 million reservoir was needed, with a pump station. The Mayfield pump station needed to be refurbished.

Vice Mayor Kishimoto asked about the location of the wells.

Engineering Manager for Water, Gas, Wastewater Roger Cwiak referred to a map in the staff report (CMR: 124:06) that showed the existing wells and the proposed well sites.

Vice Mayor Kishimoto said the locations were the El Camino Park, Eleanor Pardee Park, Community Center, Heritage Park, Middlefield Road, Downtown Parking Lots, and California Avenue Lots.

Council Member Mossar said El Camino Park was owned by Stanford University.

Mr. Baum said the size of the well site fell below the threshold for Stanford but Council Member Mossar was entitled to make the decision whether or not to participate.

Council Member Mossar said at another time she was precluded from having an emergency water supply discussion that involved El Camino Park.

Mr. Baum said Council Member Mossar would be precluded on the reservoir portion of the item because the reservoir took a significant portion of El

Camino Park. The well site was so small that it fell below the financial threshold for Stanford.

Council Member Beecham said the list of the CIP projects at the back of the staff report (CMR:124:06), Attachment D, did not indicate anything on Downtown parking lots. If there were a Downtown parking lot, he needed to make sure it was not within 500 feet of his residence.

Mr. Baum said it was not within 500 feet.

Stephanie Munoz, 101 Alma Street, spoke about her concern that the existing park and playfields of Palo Alto and Gunn High Schools not be impinged upon by large reservoirs and suggested the well be located near the community garden.

Arthur Keller, 3581 Corina Way, spoke about subsidence in wells in flood plains.

MOTION: Council Member Barton moved, seconded by Beecham, to authorize staff to proceed with preparation of an Environmental Impact Report analyzing rehabilitation of five existing wells and locating and constructing three new wells, and to accept the proposal related to those wells as set forth in the Notice of Preparation.

Council Member Beecham said the City needed emergency provision for water in the event of the failure of the Hetch Hetchy system.

Council Member Mossar asked what stage the City was at with the Water District in the decision about wells.

Mr. Cwiak said staff worked with the Water District on the project and used its data for a test well drilled at Pardee Park. Permits would be obtained from the Water District as the City went through the process to site a well.

Council Member Mossar said she wanted to participate in the emergency water supply discussions but had been precluded. Relying on wells was a bad direction for the City.

Vice Mayor Kishimoto asked why Council Member Mossar was opposed to wells.

Council Member Mossar said wells were an environmentally poor choice. Palo Alto did not have a lot of groundwater and subsidence was an issue.

Vice Mayor Kishimoto said her understanding was wells were used only for emergencies and questioned whether the California Avenue site had a contaminated plume that ran under the area.

Mr. Cwiak said there had been a plume in the area but staff did not know whether that plume had actually affected the area where the well would go. The site would be evaluated with other sites.

Vice Mayor Kishimoto said she understood there were two monitoring sites on California Avenue.

Mr. Cwiak said he was not completely familiar with all the monitoring for the Stanford Industrial Park. Staff would make every effort to minimize the amount of money spent on analysis of the sites.

Vice Mayor Kishimoto asked about the conclusion of the discussion regarding connecting to the Water District along the Arastradero area.

Mr. Cwiak said a study was done and there was a take or pay option. If the City took the line, a fee had to be paid whether or not water was used every year. The option was more expensive than wells.

Council Member Beecham said data had been presented to the Council where the City had analyzed subsidence-mostly wells. Well usage was monitored by the Water District, which insured there was no environmental damage.

Council Member Drekmeier asked where the water went when one of the wells was pumped.

Mr. Cwiak said with the current wells, water was not pumped continuously. Samples were taken on a three-year basis. In the past, when the City exercised the wells, the water at Hale Well was de-chlorinated and put into San Francisquito Creek. The water at Rinconada was run into the storm drain and de-chlorinated, if necessary.

Council Member Drekmeier asked if the water was utilized for drinking or fire suppression.

Mr. Cwiak said the wells were connected to the distribution system and pumped directly into the distribution system.

Council Member Drekmeier asked whether the tanks were above ground.

Mr. Cwiak said water was pumped out of the ground into a reservoir and then pumped into the distribution center at some of the sites.

Council Member Drekmeier asked whether the distribution system was gravity fed or a series of pumps.

Mr. Cwiak said in the lower areas of Palo Alto, east of Highway 280, were supplied pressure from the Hetch Hetchy system by gravity. Everything in the foothills was pumped up to the reservoirs.

Council Member Drekmeier clarified staff was confident that if the grid went down, water would be distributed to where it was needed.

Mr. Cwiak said in Palo Alto's history, until 1938, the entire system was supplied by wells. From 1938 to 1962, there was a combination of wells and Hetch Hetchy water. Since 1962, the water has been exclusively Hetch Hetchy unless a supplemental supply was needed from the wells.

Council Member Drekmeier said he guessed if there were an emergency, there would be a huge demand for diesel generators and he asked whether there were priorities in place for how those would be utilized and how it tied into the wells.

Assistant City Manager Emily Harrison said in the event of an emergency, the pressure would not be kept in the system at a normal rate. Severe restrictions on water would occur almost immediately.

Council Member Mossar said once wells systems were set up, the pressure to pump the wells passed what was environmentally sound.

MOTION PASSED 6-1, Mossar "no," Kleinberg, Morton, not participating

Mr. Marshall said the reservoirs were for an eight-hour emergency supply based on criteria and put into place by the California Department of Health Services (DHS) for providing eight hours of supply at maximum demand plus being able to fight fires in all the pressure zones within the city. The project consisted of a 2.5 million gallon reservoir and other needed improvements. The 2.5 million gallons provided enough water supply in the system to fight fires, specifically in the Stanford Shopping Center and the Downtown areas.

Ms. Harrison referred to a memorandum from Jean McGown, representing Stanford University. In the past, Stanford worked cooperatively with staff to look at the El Camino site. Stanford's preferred location for a reservoir might not be the City's preferred location. Stanford had concerns about the area staff identified. Part of the area represented a part of the Stanford Shopping

Center, on which there were long term parking covenants. Part of the area was in the County. Staff talked to the Palo Alto Unified School District (PAUSD) Property Committee the prior week to prevent the Palo Alto High School site. Staff was not encouraged by the interest from the high school and did not intend to go forward with that area as a site unless there was a willing partner.

Council Member Morton asked whether the City supplied water utilities to Stanford.

Mr. Marshall said the City did not supply water directly to Stanford University but did supply water service to Stanford lands within the City's boundaries.

Council Member Morton asked whether there were any potential for shared costs with Stanford for the emergency system.

Mr. Marshall said Stanford built a reservoir on its property to cover its emergency needs.

City Manager Frank Benest said Stanford Lands, as major customers, paid through the rate structure to deal with the study and any capital projects.

Council Member Morton clarified the PAUSD was a customer and not looking to enhance their emergency supply.

Ms. Harrison said that was correct. The school site came up because of a possible opportunity to have a win-win situation with the PAUSD in terms of providing funding for their programs. The purchase of a temporary and permanent easement would not involve the PAUSD having any diminution in its use of the property.

Council Member Morton clarified the action before the Council was to allow staff to go forward and pick the opportune site.

Council Member Drekmeier said Stanford had two reservoirs in the foothills. His assumption was that Palo Alto had a water source in the foothills for the residents.

Ms. Harrison said there was a system of reservoirs in the foothills. Palo Alto was short of a reservoir in the area called Pressure Area I, which would feed directly into the Downtown and shopping centers. The reservoir would be located where there was a gap in service.

Vice Mayor Kishimoto asked what other communities were doing.

Ms. Harrison said staff found that Mountain View was building two reservoirs; one on a school district site and one in Los Altos.

Vice Mayor Kishimoto said whether the CIR money had to be spent on looking at reservoir sites if the City had a clear choice for a location.

Ms. Harrison said the City was not going to put a lot of effort into the Palo Alto High School site if there were no willing partner. Staff was not sure it had a willing partner at El Camino.

Vice Mayor Kishimoto asked whether staff had looked at a taxpayer bond.

Ms. Harrison said Mr. Cwiak was creative in trying to find money that was not the rate payers.

Vice Mayor Kishimoto encouraged the City to think of integrated solutions.

Mayor Kleinberg said she was concerned an eight-hour water supply was too small.

Ms. Harrison said eight hours was misleading since the system provided a month or more supply of water.

Mayor Kleinberg asked whether the water was potable.

Ms. Harrison said the reservoir water was from Hetch Hetchy.

Mr. Marshall said the eight hours was at maximum demand.

Mr. Cwiak said the average daily demand was approximately 12 million gallons. The City had approximately 10.5 million gallons of water in storage. The maximum day demand was about 2.5 times the normal demand. If the wells were turned out, water would be used at a lower rate for a longer period of time. If all the projects were built with all the wells, approximately 11 million gallons of water would be produced every day.

Mayor Kleinberg asked how the water supply figured into the needs of wastewater cleaning if service were disrupted through a flood or earthquake and the City's water treatment plan was not usable.

Mr. Cwiak said the water used in the wastewater treatment process came from the sewers. If water was not being flowed through the pipes, water would not go to the sewer except for groundwater that got into the collection system and flowed to the treatment plant. The treatment plant only treated sewage.

Mayor Kleinberg asked about the parking lot situation at Stanford Shopping Center as a potential use as a reservoir site, given the Stanford preferences and issues with the Stanford Shopping Center.

Ms. Harrison said staff found El Camino Park as the most desirable site. The parking lot site was not as attractive. Stanford had a concern about where the reservoir was located in El Camino Park and a concern about long term commitments they made for parking. Stanford was a willing partner for El Camino Park if the City limited itself to the part of the El Camino Park that Stanford believed had the least long term concern from their development opportunities for El Camino Park.

Senior Assistant City Attorney Wynne Furth said when staff looked at the range of alternatives for the reservoir siting aspect of the Environmental Impact Report (EIR), staff tried to have a range of sites to let the City make a decision to build a workable system. Sites were considered based on hydrology, groundwater for the wells, and archeological problems.

Mayor Kleinberg said if the City only looked at Stanford controlled lands for the reservoir, Stanford might want to take care of its own fire suppression and water supply needs. The City might have other sites that did not have to be so close to Stanford. She clarified Stanford could make it difficult for the City to put in an adequate supply to protect Stanford's property. Staff was asked whether the City might be liable if it did not have enough supply to protect Stanford.

Ms. Furth said it was the City's responsibility to come up with a water system that met State requirements and met the City's requirements for its own water system in terms of what was delivered. The City would find a site that minimized the adverse impacts on Stanford. The EIR process would drive the City to the best result, which involved considering impacts on the environment, Stanford, and good design of the water system. A non-Stanford site was also included. The Engineering Consultants and Utilities Department identified a range of reasonable sites after a long process.

Council Member Drekmeier said the \$12 million made him nervous. Staff was asked whether it was possible the reservoir might not be needed, noting that if there were an emergency, water use would be cut back and ground water would be pumped.

Ms. Harrison said use of the wells would not obviate the need for a 2.5 million gallon reservoir.

Mr. Cwiak said the 2.5 million gallon reservoir was needed in order to pump six thousand gallons of water per minute into the area that needed fire

protection, which included the Stanford Medical Center and Stanford Shopping Center.

Council Member Drekmeier clarified the reservoir was necessary for fire suppression versus drinking water.

Mr. Cwiak said that was correct. One well would produce approximately one thousand gallons per minute, which would supply the normal reduced water supply needs during an emergency in that area.

Council Member Morton clarified that Heritage Park was not included as one of the sites to be reviewed.

Mr. Cwiak said Heritage Park was not considered as a reservoir site.

Ms. Harrison said preliminary engineering calculations were done to see what the cost would be to take the water from Hetch Hetchy line.

Council Member Drekmeier clarified the purpose of the reservoir was for fire suppression and asked whether the City could collaborate with Stanford to use their two reservoirs in case of fire. The City would then supplement Stanford's water needs with the City's wells.

Ms. Harrison said Stanford had sized its emergency water supply for its needs and did not have excess capacity to supply the City's emergency water needs. Stanford paid the same water rates that other customers in the system paid and would continue to pay the rates that paid for the improvements.

Mr. Benest said Stanford Medical Center was in Palo Alto. Stanford had paid, over time, to fund the system which required the improvements.

Council Member Drekmeier said his understanding was the new reservoir would be built specifically for potable water for consumption, but now he was hearing the real importance of the reservoirs was for fire suppression.

Ms. Harrison said if the Hetch Hetchy system were dislocated, the reservoir would be used as needed to supplement the regular water system. Staff tried to meet standards set by a State agency in terms of supply in the event of an eight-hour emergency where the City had to provide both fire service and continue to provide water to customers.

Mayor Kleinberg asked whether water was available for neighboring cities that might have a fire and needed help.

Ms. Harrison said Roger Cwiak had been assiduous in trying to find alternate sources of funding. Homeland Security money was available for inter-tie projects. Mr. Cwiak was actively working with the neighbors to pursue an inter-tie project.

Stephanie Munoz, 101 Alma Street, spoke about reservoirs not impinging on existing park and school land and asked whether consideration had been given to pumping water from the Bay for fire suppression.

Arthur Keller, 3581 Corina Way, spoke about use of gray water for fire suppression and irrigation.

Joy Ogawa spoke about attending a focus group and learning that wells were a minimal impact above ground. Her concern about the reservoir was that more water was provided for future development. The City would spend \$350,000 to go ahead with an EIR, and she did not believe the City was ready for an EIR.

Norman Carroll, 425 High Street, #120, said using gray water for fire suppression was a great idea, but a separate system was needed.

Council Member Beecham said using service water would be a good idea, but the City had no ability to treat water from the creek. In terms of using creek water for fire suppression, the City had only one distribution system. The hydrants were hooked up to drinking water. Discussion in the past consisted of piping effluent from the Wastewater Treatment Plant to another location, which was expensive. Building a tank underground and using potable water was a good idea.

MOTION: Council Member Beecham moved, seconded by Morton, to:

- (a) Authorize staff to proceed with preparation of the portion of an Environmental Impact Report for the eight-Hour Emergency Water Supply project pertaining to construction of a new 2.5 million gallon reservoir and pump station and improvements to the Mayfield Pump Station;
- (b) Approve the remaining portion of the draft Notice of Preparation (NOP) for the EIR pertaining to reservoir sites and identifying El Camino Park as the preferred location for the reservoir and pump station, and three alternative reservoir sites for further analysis;
- (c) Approve the attached Budget Amendment Ordinance (BAO) in the amount of \$350,000, transferring the funds from the Water Rate Stabilization Reserve (RSR) to the Phase I Water Distribution System Improvements Project; and
- (d) Approve Amendment No. 3 for additional EIR support services for

the Phase I Water Distribution System Improvements Project contract with Carollo Engineers (CMR:407:05) to study additional reservoir sites in the EIR process.

MOTION PASSED: 6-0, Cordell, Klein, Mossar, not participating

COUNCIL MATTERS

9. Colleagues Memo from Mayor Kleinberg and Council Members Cordell and Klein re Resolution of Conflict of Interest Matter

Mayor Kleinberg reported it was important to advise the public regarding the potential conflict of interest that had been raised regarding whether a legal financial conflict of interest existed between two employees. It had been determined the City Attorney's opinion was definitive enough to dispose of the matter as far as any legal/financial conflicts that existed. The issue had been resolved to the satisfaction of the Council.

Sally Probst, 735 Coastland Drive, spoke regarding her concerns with the manner in which the public spoke about the staff and Council Members. She noted she supported, and had great respect for, the Assistant City Manager and Police Chief, and for a Council that stood up for what was right. She was pained when the public attacked the Council and staff.

Stephanie Munoz, 101 Alma, Apt. 701, noted friendships were something that was important in society. She noted the Council would be well advised to have a meaningful oversight of fundamental liberties. Good judgment should be on the side of caution in the matter.

Aram James stated this conflict should be reviewed dispassionately without looking at the individuals. He felt there were problems with the City Attorney's report. The Assistant City Manager is a high level position, which involves decision-making authority for items that could potentially involve police activities and the Police Chief. The shared interest in a vacation timeshare raises the question of conflict of interest because it creates an economic link between the Assistant City Manager and the Police Chief. There is the appearance of impropriety.

Danielle Martell noted during her recent candidacy for Council Member, she asked the questions about the relationship history and the possible nepotism between Assistant City Manager Harrison and Police Chief Johnson. The citizens and taxpayers have received an answer for the first time. She requested that an independent and more complete evaluation be done regarding the relationship between the Assistant City Manager and the Police Chief.

Arthur Keller, 3881 Corina Way, noted he was pleased the City looked into this matter. He felt this issue should be put to rest and he expressed his respect for, and trust of, Assistant City Manager Harrison.

Council Member Cordell noted this matter was before her colleagues to state their support for the Assistant City Manager and the Police Chief regarding this conflict issue.

Council Member Barton stated he was pleased this issue was brought forward and felt it was time to move on. He recognized his support for Assistant City Manager Harrison and for her hard work and intelligence.

Council Member Drekmeier noted he was glad there was resolution on this issue. He also stated his respect for the Assistant City Manager Emily Harrison and for her hard work and positive attitude and all that she does for the City.

Council Member Klein felt the charges leveled were inappropriate and it is up to the Council to defend staff who can't defend themselves in these matters. He expressed his appreciation to Council Member Cordell for bringing this matter forward.

Vice Mayor Kishimoto added her voice of support for both the Assistant City Manager and the Police Chief. She stated members of the public are welcome to raise issues like this and, if Assistant City Manager Harrison ever feels she can't be objective, she will advise the Council.

Council Member Beecham thanked the City Attorney for the thorough memo. He noted he had the highest respect for the Assistant City Manager's integrity and candor.

Council Member Mossar noted her agreement with her colleague's comments and her respect for the Assistant City Manager and the Police Chief.

Council Member Morton noted during the recent election the only interest in this issue was by the one individual who raised the question. It is the public's right to raise issues at times that have no basis. He stated his appreciation for the report and his appreciation for Assistant City Manager Harrison and for all she has done for the City.

Mayor Kleinberg thanked Council Member Cordell for taking the initiative to help resolve this matter and to allow the Council the privilege of recognizing the loyalty and integrity of Assistant City Manager Harrison and Police Chief Johnson, and for the high quality work and loyalty they show the community every day. There is a right of free speech in this Country, but the right of

free speech carries responsibilities. There are limits and it is hard for Council to listen to scurrilous attacks made to staff and also Council Members. Although she wouldn't push the balance any other way because free speech needs to be given extreme latitude, it is comforting to sometimes stop and say we don't like what we hear sometimes and we are sorry that sometimes things are said the way they are said.

No action required.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Mayor Kleinberg noted this Friday, February 3, 2006, is "National Wear Red Day" to signify the importance of the American Heart Association.

FINAL ADJOURNMENT: The meeting adjourned at 12:12 a.m.

ATTEST:

APPROVED:

City Clerk

Mayor

NOTE: Sense minutes (synopsis) are prepared in accordance with Palo Alto Municipal Code Sections 2.04.180(a) and (b). The City Council and Standing Committee meeting tapes are made solely for the purpose of facilitating the preparation of the minutes of the meetings. City Council and Standing Committee meeting tapes are recycled 90 days from the date of the meeting. The tapes are available for members of the public to listen to during regular office hours.