

From: [herb](#)
To: [Council, City](#); [Clerk, City](#)
Subject: December 6, 2021 Council Meeting, Item #5: Roth Building Grant Funds and Resolution
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December 4, 2021

Palo Alto City Council
250 Hamilton Avenue
Palo Alto, CA 94301

**DECEMBER 6, 2021 CITY COUNCIL MEETING, AGENDA ITEM #5
ROTH BUILDING GRANT FUNDS AND RESOLUTION**

Dear City Council:

You are again being asked by staff to represent to Santa Clara County that the Roth Building when used for a History Museum open to the public will be used for park purposes when you have not dedicated the site of the Roth Building to park purposes as required by the Palo Alto Charter.

The proposed use of the Roth Building is an acceptable use for dedicated parkland.

Resolution No. 8057 expressed the Council's intention to dedicate as parkland the remainder of the 2.41 acres of the former Palo Alto Medical Foundation property when financing plans or mechanism are approved.

You have now approved financing mechanisms and plans including funds from park impact fees that can be used only to acquire and develop parkland that must be dedicated by ordinance according to Palo Alto Charter Article VIII.

The Palo Alto Charter at Article VIII requires that any land used for park purposes must be dedicated by ordinance for that purpose.

You are prohibited from approving the proposed resolution until after you adopt a park dedication ordinance as required by the Palo Alto Charter:

All lands owned or controlled by the city which are or will be used for park, playground, recreation or conservation purposes shall be dedicated for such purposes by ordinance.

No land heretofore or hereafter dedicated for such purposes shall be sold or

otherwise disposed of, nor shall its use be abandoned or discontinued except pursuant to majority vote of the electorate. Any election and related procedures under Article VIII shall conform to the provisions set forth in general law as it existed January 1, 1965, except that the council may call such election by majority vote.

No substantial building, construction, reconstruction or development upon or with respect to any lands so dedicated shall be made except pursuant to ordinance subject to referendum.

You also are prohibited from setting a termination date for the park use, because that would be tantamount to removing the property from park dedication which is a power reserved to the voters by the Charter.

When the City controls a property through a leasehold with a term of years, the City is able to include an ending date in the park dedication due to the fact that when the lease ends the City neither owns nor controls the land. An example of a park dedication for leased land with an ending date is the park dedication for the Stanford/Palo Alto Community Playing Fields at the intersection of El Camino Real and Page Mill Road.

After you dedicate the Roth Building for park purposes, if a future Council (or the public through the initiative process) wants to remove the property from park dedication in 20 years, then you (or they) can ask the voters to do that, just as the voters have done for additions to the airport and the sewage treatment plant, and for a proposed waste to energy facility.

For example, the Williams House property was dedicated for park purposes when the Council adopted Ordinance No. 4423 in 1997.

The first clause of that ordinance reads:

"WHEREAS, Article VIII of the Charter of the City of Palo Alto and Section 22.08.004 of the Palo Alto Municipal Code require that if any site, parcel or area of land owned by the City of Palo Alto intended to be used for park purposes shall be reserved for park, playground, recreation or conservation, the Council shall first cause to be prepared an ordinance dedicating such site, parcel or area of land for such purposes;"

The Roth Building property needs to be dedicated for park purposes, just as the Williams House property was dedicated for park purposes, before you can approve the proposed resolution with Santa Clara County to receive grant funds for the Roth Building.

Thank you for your consideration of these comments.

Sincerely,

Herb Borock