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March 5, 2007

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:03 p.m.

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

STUDY SESSION

1. Presentation of Preliminary Polling Results for Public Safety Building and Libraries

The Council received a presentation from the polling consultant on the results of a poll gauging community support for bond measures for a public safety building, library improvements and a combination of the two projects. The Council had an opportunity to question the consultant on the results of the survey, and will return to the subject to provide staff with direction on how to proceed on April 3, 2007.

No action required.

SPECIAL ORDERS OF THE DAY

2. Proclamation for Proposal of Hepatitis B Awareness Week in Palo Alto

Dolan Kim, Jr., Gunn High School student and Stanford Asian Center Labor Youth Council representative, accepted the Proclamation. He said the Proclamation would be the first step in promoting an awareness week for future eradication of Hepatitis B.

3. Selection of Applicants to Interview for the Park and Recreation Commission

MOTION: Council Member Morton moved, seconded by Barton, to interview all seven candidates for the Parks and Recreation Commission.

MOTION PASSED 9-0.

4. Selection of Applicants to Interview for the Human Relations Commission

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

MOTION PASSED 9-0.

ORAL COMMUNICATIONS

Mark Sabin, 533 Albert, Sunnyvale, spoke regarding a series of lectures that Palo Altans for Government Effectiveness (PAGE) is sponsoring.

APPROVAL OF MINUTES

MOTION: Council Member Mossar moved, seconded by Morton, to adopt the

minutes of February 5, 2007, with changes as specified.

MOTION PASSED 9-0.

CONSENT CALENDAR

Council Member Morton stated he would not participate in Agenda Item No. 6 due to a conflict of interest because of family stock holdings in Comcast and AT&T.

Council Member Mossar stated she would vote no on Agenda Item No. 7.

Mayor Kishimoto stated she would vote no on Agenda Item No. 7.

MOTION: Council Member Barton moved, seconded by Beecham, to approve Consent Calendar Item Nos. 5 through 9.

5. Utilities Advisory Commission Recommendation to Changes to Long-term Electric Acquisition Plan (LEAP) Guidelines Update
6. Approval of a Utilities Fund Contract with West Valley Construction Company, Inc. in the Amount of \$2,462,081 for Installation of the Utility Trench and Substructure, and Approval of the Specific Supplementary Agreement for Joint Participation Installation of Underground Facilities System Between City of Palo Alto, AT&T California and Comcast Corporation of California IX, Inc. for Underground Utility District No. 41 Capital Improvement Program Project – EL 03001
7. Resolution 8693 entitled “Resolution of the Council of the City of Palo Alto Amending Section 1501 of the Merit System Rules and Regulations Regarding the Memorandum of Agreement Between the City of Palo Alto and Local 1319, International Association of Fire Fighters (IAFF)”

Resolution 8694 entitled “Resolution of the Council of the City of Palo Alto Adopting a Compensation Plan for Fire Department Personnel (IAFF) and Rescinding Resolution No. 8451”
8. 1st Reading - Adoption of an **Ordinance Amending Section 2.23.050 of Chapter 2.23 of Title 2 of the Palo Alto Municipal Code to Add the Subject of Recycled Water to the Purposes and Duties of the Utilities Advisory Commission**
9. Cancellation of April 2, 2007 Regular Council Meeting and Setting a Special Meeting of April 3, 2007

MOTION PASSED 9-0 for Item nos. 5, 8 and 9.

MOTION PASSED 8-0 for Item No. 6, Morton not participating.

MOTION PASSED 7-2 for Item No. 7, Kishimoto, Mossar no.

MOTION: Council Member Kleinberg moved, seconded by Beecham, to move Item No. 11 before Item No. 10 to become Item No. 9A.

MOTION PASSED 9-0

REPORTS OF OFFICIALS

9A. (Old No. 11) Adopt Council "Top 4" Priorities and Milestones for 2007: Emergency Planning; Global Climate Change; Library Plan/Public Safety Building; and Sustainable Budget

City Manager Benest said the "Top 4" priorities and milestones had been identified and required Council approval to move forward in accomplishing the priorities.

MOTION: Council Member Kleinberg moved, seconded by Klein, to adopt the 2007 Council Top 4 Priorities and milestones as identified, with a change in wording from "global climate change" to "climate protection" and with one addition to Milestone No. 11, Transportation, to add the following: (e) Explore joint alternative transportation projects.

Council Member Kleinberg asked for a definition of "sustainable budget."

Vice Mayor Klein said it meant having to establish and adopt a budget process to include infrastructure, community, and City staffing needs in order to keep the City in excellent condition for the next five to twenty years.

Council Member Morton said the community was not clear on what was being sustained. They were under the impression that balancing the budget meant a decrease in services and social and community programs were at risk of not getting funded.

Mayor Kishimoto asked to add "to explore joint alternative transportation projects" to Milestone No. 11, Transportation.

MOTION PASSED 9-0.

COUNCIL COMMITTEE RECOMMENDATION

AGENDA CHANGES, ADDITIONS, AND DELETIONS

PUBLIC HEARINGS

10. Public Hearing: Consider certification of the Final Environmental Impact Report (FEIR) and approval of the Planning and Transportation Commission's recommendation on the preferred sites for the Emergency Water Supply and Storage Project. The proposed project is to construct a new 2.5 million gallon storage reservoir and pump station, construct up to three new groundwater wells, rehabilitate up to five existing groundwater wells, and expand the existing Mayfield pump station. The locations of the preferred sites are: The reservoir, pump station and one well – El Camino Park, 315 El Camino Real; a second well site at Eleanor Pardee Park, 801 Center Drive; a third well site at the Community Gardens behind the Main Library, 1213 Newell Road. The locations of the five existing wells to be rehabilitated are: Hale Well – 999 Palo Alto Ave., Peers Park Well – 1899 Park Boulevard, Rinconada Well – 1340 Hopkins Ave., Matadero Well – 635 Matadero Ave., Fernando Well – 410 Fernando Ave. The Mayfield Pump Station is at 1711 Stanford Avenue.

Council Member Cordell stated she would not participate in the item due to a conflict of interest because she was employed by Stanford University.

Vice Mayor Klein stated he would not participate in the item due to a conflict of interest because his wife was employed by Stanford University.

Council Member Kleinberg stated she would not participate in this item due to a conflict of interest because she owned property within 500 feet of Eleanor Pardee Park and, also, in Item No. 12 because of her work with Joint Venture Silicon Network and stock ownership in Google.

Council Member Mossar stated she would not participate in this item due to a conflict of interest because her husband was employed by Stanford University and, also in Item No. 12 because she is uncomfortable participating on this issue due to ownership of telecommunications stock in her mother-in-law's Trust Fund.

Council Members Cordell and Klein left the meeting at 7:20 p.m. due to conflicts with Item No. 10 and returned to hear Item No. 12.

Council Members Kleinberg and Mossar left the meeting at 7:20 p.m. due to conflicts with Item No. 10 and 12.

City Attorney Gary Baum clarified the City Charter required five votes to pass resolutions and ordinances. Each vote needed to be unanimous on this agenda item.

Acting Assistant Director of Utilities Engineering Roger Cwiak requested the Council consider staff's recommendations and to certify the adequacy of the Environmental Impact Report (EIR), including the Statement of Overriding Considerations adopting the Mitigation Monitoring and Reporting Plan (MMRP) and EIR findings, to approve the preferred sites of the project, to approve the park improvement ordinances (PIO) for the five parks, and direct the City Attorney's Office to develop language and schedule an advisory ballot in November 2007. He gave a presentation as outlined in staff report (CMR:161:07).

Mayor Kishimoto opened the Public Hearing at 7:35 p.m.

Tom Jordan, 474 Churchill Avenue, stated he was not in favor of an advisory vote. He referred to the City Charter, Article 8, paragraph 2, that a binding vote was required. He said the staff report did not include compensation to parklands for losses sustained due to the project. He felt the Utility Department payments should be applied to the fund in purchasing new parklands.

Enid Pearson said she was not in favor of an advisory ballot measure and asked the Council to comply with the Park Dedication Ordinance and to not consider parklands as options for City projects.

Bill Phillips, Stanford University, spoke in support of the project objectives and staff's recommendation of the El Camino Park site for the reservoir and well location, and opposed Stanford Shopping Center's North and South sites as alternative locations.

Wayne Martin, 3687 Bryant Street, spoke on the capacity and availability of water and was not convinced a large reservoir would provide the capacity equal to the cost. He asked the Council to review the reservoir's capacity, water availability, and cost in evaluating whether the project was viable.

Herb Borock, P.O. Box 632, spoke regarding the removal or use of parklands due to the City government's failure to follow the rule of the law.

Ellie Gioumousis, 992 Loma Verde, was in favor of placing the reservoir in the Stanford parking lot, which could be re-covered with concrete and asphalt. She asked that land for open space, grass and trees, not be used for the project.

Mayor Kishimoto closed the Public Hearing at 7:52 p.m.

Council Member Morton referred to the slide presentation and asked whether the project was expected to supplement areas 1 and 3.

Mr. Cwiak said the project would provide the same level of service throughout Palo Alto and could pump water wherever it was needed.

Council Member Morton referred to the supplemental wells and asked what site would be selected if the Community Center well were to go dry.

Mr. Cwiak said the Middlefield site would be the next alternate site.

Council Member Morton asked whether the property interest was to gain ownership of the land or a lease requirement where the reservoir was located.

Mr. Cwiak said it was to gain permanent easement for the life of the facility to construct and maintain the reservoir.

Council Member Morton asked if once the storage facility was built it could not be taken away.

Mr. Baum said that was correct.

Council Member Morton stated concerns regarding surface rights versus subsurface rights. He asked whether the dedication of parkland included subsurface rights in terms of conflicts between park usage and emergency water supply usage.

Mr. Baum said the common understanding was the surface land would be used and not subsurface rights. He clarified Article 8 stated "no land heretofore or hereafter dedicated for such purpose shall be sold or otherwise disposed of nor shall its use be abandoned or discontinued except pursuant to major vote of the electorate." The surface land was not being sold, abandoned or discontinued. Therefore, that provision of the Charter did not apply. He was not aware of the subterranean portion at El Camino Park being used for park use. The City was required to pass a Park Improvement Ordinance (PIO), which listed "no substantial building, construction, reconstruction, or development upon or with respect to any land so dedicated shall be made except pursuant to ordinance subject to referendum." Staff recommended keeping the spirit of the Charter and, with the Council's direction, to place an advisory measure on the ballot. A revised staff report explained two-thirds of the property acquisition would be provided to the City

as compensation for temporary loss of the parkland, as well as long-term use of the underlying land during the lease and construction period.

Council Member Morton asked whether an eight-hour water supply would be sufficient and asked whether an incremental increase of 25 or 50 percent of water supply would be relatively cheaper.

Mr. Cwiak said the reservoir was designed to deliver eight hours of maximum day use plus fire flow in each of the pressure zones. A system to deliver that type of load through the wells would be capable of supplying water for longer than eight hours. Pumping 1500 acre feet per day from the wells represented a 30-day supply to Palo Alto during an average winter day demand. The reservoir would pump approximately 5,000 gallons out per minute and the well would add an additional 1,000 gallons to the flow.

Council Member Barton asked whether the City compensated itself when a park closed for replacing equipment.

Mr. Baum said not to his knowledge.

Council Member Barton asked how much square footage of grass would be replaced with reservoir material when the project was completed.

Mr. Cwiak said the project consisted of an access hatch to the reservoir built under the surface with no recognizable difference to the current appearance of the park. A piece of surface would be removed to gain access and replaced after the work was completed.

Council Member Barton asked whether an advisory measure would set a legal precedence for the future.

Mr. Baum said he did not believe it would. He was more concerned about the Council placing it on the ballot as a mandatory matter and setting a precedence of temporary construction to the park. It would be a bad precedent if that type of use, activity, and construction revoked Article 8. The Council could place an advisory measure on the ballot at any time.

Planning & Transportation Commissioner Paula Sandas said the Planning and Transportation Commission (P&TC) unanimously supported the certification of the Final Environmental Impact Report (FEIR). The P&TC recommended the Middlefield site as the first alternate site for a well should the Eleanor Pardee Park not work. There was a need for a separate plan to conserve water in order to keep the reservoir and wells as an emergency water supply. Measures should be enacted to conserve water prior to using the wells and

reservoir in an event of a fire or drought situation. It was suggested to consider the project in tandem with the expansion of the Stanford Shopping Center and Medical Center. P&TC would have preferred staff to provide a value matrix to aid in evaluating the pros and cons of each of the sites.

Council Member Drekmeier expressed concerns regarding the cost of the project and the need for fire suppression at the Stanford Shopping Center and the downtown area.

Mr. Cwiak said there was a need for fire suppression in the downtown area and the area west of El Camino Real behind the Stanford Shopping Center. The reservoir located at that site would provide fire suppression water and the Mayfield reservoir would be used to push the water to south Palo Alto to fight fires.

Council Member Drekmeier asked what water supply would be used to suppress a fire at the medical school on campus and in the County.

Mr. Cwiak said it would come from Stanford's water supply. In a procedural agreement, the water from the new reservoir would be used to suppress fires in the hospital area, but in reality the fire department would hook up to the closest fire hydrant.

Council Member Drekmeier asked whether the City could tap into Stanford's reservoir.

Mr. Cwiak said the option was discussed but an agreement could not be reached. Stanford had a three-day water supply which was about two-and-a-half hours of Palo Alto's demand.

Council Member Drekmeier asked whether Stanford had wells on campus or depended on reservoir water for drinking and fire suppression.

Mr. Cwiak said Stanford had a combination of wells and reservoir.

Council Member Drekmeier asked whether it was feasible to consider Stanford's water as a first resort for fire suppression and ground water for consumption.

Mr. Cwiak said ground water could be used for daily use during an emergency if water could not be supplied by the Hetchy-Hetchy. The new well would deliver 1,000 gallons a minute necessary to supply the normal water needs in the City's pressure area behind Stanford Shopping Center.

Council Member Drekmeier asked if the Stanford reservoir did not have to supply drinking water would the water supply be sufficient to fight fires in the Stanford area and the area being served by the new reservoir.

Mr. Cwiak said it would be sufficient if there were no emergencies.

Council Member Morton asked whether the City gained sales tax from the Stanford Shopping Center.

Mr. Benest said unlike the campus property and the medical center, which belonged to Santa Clara County, sales tax was derived from the Stanford Shopping Center because it was within the corporate boundaries of Palo Alto.

Council Member Drekmeier asked whether the El Camino Park easement would be negotiated.

Mr. Baum said it was a protracted processes starting with a closed session to discuss property acquisition and would return to the Council during an open session. The intent would be to place the issue on the ballot and acquisition would take place after the vote.

Council Member Drekmeier asked how the easement would be funded.

Mr. Cwiak said the easement would be purchased from the water funds and debt funding would also be explored if the project were approved.

Council Member Drekmeier asked whether the water fund existed.

Mr. Cwiak said \$8.5 million dollars was being proposed for the water reserve fund.

Council Member Drekmeier said if citizen's voted against the project, in terms of advisory versus mandatory vote, what form would the project be returned to the Council.

Mr. Baum said the property acquisition would need to be presented to the Council. The Utility staff would provide a Request for Proposal (RFP), which required Council approval and the contract would be awarded to a vendor.

Council Member Beecham said Palo Alto had a unified system and could not separate drinking water from fire suppression needs. Water usage went through the same system. The State recommendation was for an eight-hour water capacity for all water districts; however, Palo Alto required significantly more for maximum daily use. He referred to Article 8 and requested

clarification on the temporary discontinuance of use.

Mr. Baum said the Charter had no reference to temporary discontinuance.

Council Member Beecham asked how temporary discontinuance be interpreted if temporary use was not explicit.

Mr. Baum said in his opinion the lack of reference to temporary use of the park meant it was not covered in the Charter provision. The PIO provided another mechanism for public review and the Council would need to pass an ordinance, which would be subject to a referendum.

Council Member Beecham asked whether the City Attorney believed it was affordable if parkland was temporarily lost during construction.

Mr. Baum said yes.

Council Member Beecham said the project would be funded with the water utility fund. It would be paid back through water utility billing process whether it was temporarily funded by a reserve or a bond. He supported the motion as well as an advisory vote.

Mayor Kishimoto questioned if the ordinance would be subject to a referendum.

Mr. Baum said yes.

Mayor Kishimoto asked whether timing would be an issue with an advisory or mandatory vote or could the Council approve the ordinance and wait for a referendum.

Mr. Baum said he would recommend the PIO be passed at this evening's meeting to move the program forward. He was not aware of any legal criteria on timing to place the item on the ballot. Once an ordinance was approved, there would be two readings with a 30-day waiting period. The item could still go to the vote of the people.

Mayor Kishimoto asked whether the 130-foot height of buildings in the Stanford expansion project would affect the fire suppression calculations.

Mr. Cwiak said the buildings would have pumps and sprinkler systems inside the buildings. The fire requirement for the buildings would be less than the existing older buildings in the pressure zone.

Mayor Kishimoto asked whether \$8.2 million dollars was targeted toward the Quimby Act or the Park fund.

Mr. Baum said the calculation was based on a tentative appraisal chart and the value was based on a lease to expire in 2033. It would be a policy decision on how funds would be distributed with legal limitations.

Mayor Kishimoto asked whether there was an issue on park uses.

Assistant City Manager Emily Harrison said staff would need to research an answer before making a decision.

Mayor Kishimoto asked when the preliminary design would begin.

Mr. Cwiak said the design would begin after the vote was taken and an interest expressed in the El Camino property. The timeline would work with the November 2007 advisory vote with an interest by the first quarter of 2008.

Mayor Kishimoto said the funding would come from the water rate payers and she asked whether rate increases would be made directly to the payers or if they required Council approval.

Special Counsel Amy Bartell said water rate increases were subject to a majority protest decision and the rate payers would not need to vote to approve or disapprove the increase. A mailing would be sent to the customers followed by a public hearing and if a majority of them submitted a written protest by the close of the hearing that would require eliminating the rate increase.

Mayor Kishimoto addressed Enid Pearson's concern regarding the use of parklands for the project. The purpose for the Park Dedication Ordinance was to view arguments in using other properties for City projects other than the parks. Property owners protested due to the high cost of property, disruption, and to preclude future uses. It was assumed El Camino Park would remain a park and to preclude future uses was not reason aside from the disruption. Ms. Pearson worked hard to pass the ordinance because there were no visible protestors, aside from the taxpayers. Unused land invariably got targeted for redevelopment.

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

- 1) Adopt the resolution certifying the adequacy of the EIR with a statement of overriding consideration, adopting the Mitigation Monitoring and

- Reporting Plan and adopting the EIR findings;
- 2) Adopt the Resolution approving the Project and designating the sites for the Emergency Water Supply and Storage Project;
- 3) Approve Park Improvement Ordinances for El Camino, Eleanor Pardee, Timothy Hopkins, Rinconada and Peers Parks;
- 4) Direct the City Attorney to return with language and suggested dates for an advisory measure for approval of placement of the reservoir underneath El Camino Park; and
- 5) Direct City Attorney and City Clerk to take appropriate steps to place an advisory measure on the ballot for November 2007.

Furthermore, passage of the park improvement ordinance for El Camino Park construction would be contingent on Council approval of the property acquisition of the appropriate rights to the area of the site and contingent on the advisory vote of the people.

1st Reading – Adoption of an Ordinance Approving and Adopting Plans for Improvements to Peers Park

1st Reading - Adoption of an Ordinance Approving and Adopting Plans for Improvements to Rinconada Park

1st Reading – Adoption of an Ordinance Approving and Adopting Plans for Improvements to Timothy Hopkins Creekside Park

1st Reading - Adoption of an Ordinance Approving and Adopting Plans for Improvements to Eleanor Pardee Park

1st Reading – Adoption of an Ordinance Approving and Adopting Plans for Improvements to El Camino Park

Resolution 8695 entitled “Resolution of the Council of the City of Palo Alto Certifying the Adequacy of the Final Environmental Impact Report (FEIR) for the Emergency Water Supply and Storage Project Pursuant to the California Environmental Quality Act and Adopting the Mitigation Monitoring and Reporting Program and the Statement of Overriding Considerations”

Resolution 8696 entitled “Resolution of the Council of the City of Palo Alto Approving the Emergency Water Supply and Storage Project to Construct a New 2.5 Million Gallon (MG) Storage Reservoir and Associated Pump Station at El Camino Park; Construct Three New Wells, at El Camino Park, Eleanor Pardee Park and the Main Library/Community Gardens; Upgrade the Existing Mayfield Pump Station; and Rehabilitate Five Existing City Wells: Hale Well Site,

Rinconada Park Well Site, Fernando Well Site, Peers Park Well Site, and Matadero Well Site”

Ms. Harrison said staff would like to return to the Council the issue of park development as opposed to the park rehabilitation and improvement. The Parks and Recreation Commission (PARC) had discussed the opportunity for lighting and to upgrade the turf, which did not fit under park development issues and asked to explore the choices with the Mayor.

Council Member Beecham offered to work with the Mayor on the issue.

Mayor Kishimoto asked if it would be back in time for the 2nd reading of the ordinance.

Ms. Harrison said it could be possible.

MOTION PASSED 5-0, Cordell, Kleinberg, Klein, Mossar not participating.

REPORTS OF OFFICIALS

12. Request for Council Direction on Options Concerning Citywide Ultra-High-Speed Broadband System Request for Proposal (RFP) Responses

Council Member Kleinberg previously stated she would not participate in the item due to ownership of holdings in telecommunications stock.

Council Member Mossar previously stated she would not participate in the item due to ownership of telecommunications stock in her mother-in-law's Trust Fund.

Administrative Services Director Carl Yeats gave a presentation as outlined in staff report CMR: 157:07.

Council Member Morton stated he would not participate in the item due to a conflict of interest because the family has holdings in Royal Bank.

Jeff Hoel, 731 Colorado Avenue, said the City was not in favor of the Citywide Fiber to the Home (FTTH) system because it could not afford the system. The Dynamic City proposal revealed the City could afford the financing and the project would be completed within three months.

Wayne Martin, 3687 Bryant, said half of the City was wired to accept the system and needed to obtain regulatory permission from the City for the special equipment.

Stephen Stuart, 2577 Park Boulevard, spoke in support of moving forward with the system. He said the proposal presented a vision of an environment for municipal delivery of services such as voice, video, and data that would provide opportunities for innovation in connecting community resources together. He was in favor of 180 Connect. He urged the Council to pursue discussions with 180 Connect and welcomed the opportunity to participate in the process.

Andy Poggio, 2708 Gasper Court, addressed the following bid issues: 1) to provide both bidders with issues regarding their proposals and to provide the City with their best and final bid within 30 days; 2) to not give up on a bond measure since it was the least expensive way to finance long-term infrastructure; and 3) for the Council to organize a knowledgeable group of citizens to compliment the City staff's efforts to help relieve workload.

Robert Moss, 4010 Orme, said without access to a good, high quality broadband, the community would suffer economically and socially. He urged the Council to move forward with the project.

Michael Eager, 1960 Park Boulevard, said he wanted to see more public involvement in the process. Dynamic City proposed the City develop a municipal telecommunications service. 180 Connect proposed to build and own a proprietary network and for the City to purchase the system in 30 years. He had concerns if the City would not make the purchase now he questioned whether the City's successors would be willing to make the purchase in 30 years. If the City wanted a telecommunications system, the City would need to build and own the system.

Herb Borock, P.O. Box 632, said the City should be in partnership with a company that would provide the system the community had been seeking the past 10 years. The RFP approach was too vague and too broad to get responses on the type of system that would bring subscribers to support the system. The community should be the moving force but should not be left alone to decide on a project. The Council would need to set the framework and make the decision.

Ellie Gioumousis, 992 Loma Verde, supported the project and stated the system should be built by the City and community and be City-owned. It was a good source of City revenue and she urged the Council to move forward on the project.

Arthur Keller, 3881 Corina Way, said having the system in homes contributed to reducing traffic in terms of telecommuting. He suggested the

Mayor appoint a Silver Ribbon Task Force consisting of knowledgeable people in the community to come up with an ideal system and to move forward with the project.

Council Member Beecham said Dynamic City did not meet the objectives in the RFP but 180 Connect's proposal was encouraging. They could build a system with minimal financial backing by the City. He suggested further discussions with 180 Connect to clarify what they could do and what was expected from City resources.

Vice Mayor Klein asked whether there had been discussions on how 180 Connect perceived the value of the City's non-cash assets being contributed.

Mr. Yeats said the City had not entered into formal negotiations since it was a Request for Proposal (RFP). 180 Connect was aware of the City's dark fiber system and its usage. He did not think the City could turn the system over to a third party because of long-term contract agreement in usage. The City was dependent on the dark fiber network for their Computer Aided Dispatching (CAD), the Fire Ringdown systems and all Citywide communications.

Vice Mayor Klein asked staff to find out what percentage of the system the City would own in exchange for the non-cash assets and what did "percentage ownership" mean. He was in favor of having citizens advise staff in negotiations with 180 Connect. He asked what the process would be in appointing a committee.

Mr. Baum said a committee could be appointed by the Mayor to advise staff but not the Council. It could not be a standing committee and would not be expected to meet for more than six months. The City Attorney's Office advised that committee members were subject to completing a Conflict of Interest Form 700.

Vice Mayor Klein asked whether the committee could advise the Council as well as staff.

Mr. Baum said a committee giving advice to the Council would need to be a Brown Act, Standing Committee.

MOTION: Vice Mayor Klein moved, seconded by Beecham, to direct staff to pursue discussions with 180 Connect.

Council Member Cordell said the Council was trustee for the City. Signing a contract with 180 Connect meant committing the General Fund Reserves to back a bond for the project. Utility revenue could not be legally used. The

project was not a core government service and not one of the "Top 4" Priorities. The City had taken on several other commitments as well as having to find monies for the libraries and for a new Public-Safety Building. She strongly opposed doing business with 180 Connect due to their involvement in a discrimination lawsuit and failing to disclose the issue on their own. She did not support the motion and urged Council to terminate the process.

Council Member Beecham clarified there was no mention in the proposal of having to issue a bond.

Council Member Cordell asked where the funds would come from if the Council were to move forward with the project.

Council Member Beecham said the 180 Connect proposal indicated they would provide most of the financing. The City had non-cash assets in the ground that could be marketed better than the City. He envisioned a vendor coming in but not physically having control over the system because of essential elements to the City's security operations.

Mayor Kishimoto said the project fit the Council's priorities in terms of economic development and sustainable budget. It was a major step to ensure Palo Alto's leading edge status for the future. She was in favor of the 180 Connect proposal and supported the motion.

MOTION PASSED 5-1 Cordell no, Kleinberg, Morton, and Mossar not participating.

Mr. Benest said the project was very intensive and would demand a great deal of staff time and involvement. He would ask staff to come back to the Council to identify what needed to be postponed in order to move the project forward.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Drekmeier reported he attended the Lower Peninsula Flood Control Commission meeting and was advised there would be dredging of San Francisquito Creek down creek from Highway 101 and there would be an installation of a water shark upstream, which would help prevent back-up of debris in the Creek.

Mayor Kishimoto reported on the following: 1) attendance at a ribbon cutting celebration of the reopening of the Bike Station; 2) attendance at a ribbon cutting at the gateway building of Arastradero Reserve; 3) noted that Item No. 5, LEAP, represented many great things and she congratulated staff; and 4) the next Brown Bag is scheduled for April 5 at lunch time regarding

Stanford's Transportation Demand Management (TDM) Program. She requested a status report on the downtown homeless situation.

Mr. Benest advised an interdepartmental working group had been developed to deal with various aspects of the homeless problem. A report would be provided next month.

CLOSED SESSION

Adjourned to Closed Session at 9:56 pm.

13. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Anacelia Fernandes De Queiroz v. Walter Edward Petelle, City of Palo Alto, et al., Santa Clara County Superior Court No.: 106CV055951
Authority: Government Code section 54956.9(a)
14. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION
Subject: Casey O'Neill v. City of Palo Alto, U.S. District Court, Northern District of California, Case No.: C05-04515-JW
Authority: Government Code section 54956.9(a)

Mayor Kishimoto announced there was no reportable action taken in the Closed Session meetings.

FINAL ADJOURNMENT: The meeting adjourned at 10:15 p.m.

ATTEST:

APPROVED:

City Clerk

Mayor

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

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