

Special Meeting  
May 2, 2011

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:01 P.M.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh arrived @ 6:05 P.M.

Absent:

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS  
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Darrell Murray)  
Employee Organization: International Association of Fire Fighters (IAFF), Local 1319  
Authority: Government Code Section 54957.6(a)

CONFERENCE WITH LABOR NEGOTIATORS  
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Sandra Blanch, Marcie Scott, Darrell Murray)  
Employee Organization: Palo Alto Police Officers Association (PAPOA)  
Authority: Government Code Section 54957.6(a)

The City Council reconvened from the closed session at 7:40 P.M. and Mayor Espinosa advised no reportable action.

05/02/2011

## STUDY SESSION

### 2. Public Safety Systems Virtual Consolidation Project.

The abbreviated Study Session on the virtual consolidation of dispatch systems between Palo Alto, Mountain View, and Los Altos provided the Council with updated information on the project. A Computer Aided Dispatch (CAD) vendor had been selected and final negotiations were underway with Intergraph Corporation. The project had three components; the public safety applications including CAD and Records Management System (RMS), the 9-1-1 phone system, and radio communications. Consolidation of the applications on a common network was well underway with CAD implementation projected to be completed in the second quarter of 2012. The 9-1-1 phone system replacement would occur in 2012 and funded by the State. A common radio channel had been identified and licensed with the FCC. Grant funding was secured to build out the channel with estimated completion in late 2012.

### 3. Presentation of the City Manager's Proposed Budget for Fiscal Year 2012.

City Manager, James Keene read the Budget Transmittal Letter contained in the proposed Operating Budget Book for Fiscal Year 2012. He said that the City is currently in a time of extraordinary flux, requiring ongoing structural changes. Some of the challenges were brought on by the recent economic downturn and others by unprecedented increases in costs, particularly health care and pension costs. There are signs that the economy is recovering as transient occupancy and sales tax revenues are stabilizing and starting to increase. However, the impacts on the City of what has been termed the "Great Recession" will be felt for many years. He stated that the total City Budget including enterprise and other funds is \$463 million or a 3.2 percent increase. This is due primarily to increases in pension and health care costs. The Budget includes a number of departmental reductions such as restructuring the Public Works Department for cost savings, but the Budget presented is balanced by counting on achieving significant timely concessions from our Public Safety unions, which have yet to make any structural cost savings contributions to the City's fiscal difficulties. He reviewed past employee concessions, the Long Range Financial Forecast, infrastructure backlog, and Council priorities and how they are included in the budget.

## SPECIAL ORDERS OF THE DAY

4. Proclamation Recognizing Municipal Clerks Week May 1-7, 2011.

Vice Mayor Yeh read the Proclamation into the record.

Council Member Schmid spoke regarding an article from Tocqueville's, "Democracy in America" that referred to New England Townships where citizens gathered in April or early May to decide future policies through direct votes. He said the first administrator or magistrate was the Clerk who would post meeting notices, scribe the motions, count the votes and would keep them in the town center. The Clerk had a long and distinguished history and the beginning of a sovereignty that still remains today.

Mayor Espinosa said the Mayor shares his office space with the City Clerk's office and worked closely with the City Clerk and Staff. He expressed his appreciation for their hard work and the service they provide and thanked them for being a top-notch team.

City Clerk, Donna Grider said it was an honor and a privilege for her and her Staff to serve the City and the Council of Palo Alto.

5. Selection of Candidates to be interviewed for the Historic Resources Board for Four Terms ending on May 31, 2014.

**MOTION:** Council Member Klein moved, seconded by Council Member Shepherd to appoint the four candidates without interview to the Historic Resources Board, and to bring this item back the following week on the Consent Calendar for appointment.

Council Member Klein said he was not in favor of setting specific term-limits. He said three out of the four applicants were incumbents that had served respectively for 12, 15, and 17 years and were the longest tenured commissioners. He saw value in bringing in new candidates periodically.

Council Member Shepherd said the Historic Resources Board (HRB) was a difficult commission to fill because candidates needed to understand construction and the historic process required for the trade. She suggested having a more rigorous recruitment process in obtaining future applicants.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to invite the new board member to come and speak during oral communications at next week's Council meeting.

## **MOTION PASSED: 9-0**

Mayor Espinosa welcomed Molly Stump on her new appointment as City Attorney.

## CITY MANAGER COMMENTS

City Manager, James Keene said Agenda Item No.12 required more work and Staff requested it be pulled. He said the item would be agendaized as an Action item in June 2011.

Mr. Keene reported that PG&E would be testing natural gas lines in the City of Mountain View on May 3, 2011. Project Safety Net was honored on April 21, 2011, with the Human Relations Award from the Santa Clara County Human Relations Commission and the Board of Supervisors. The 89<sup>th</sup> Annual May Fete Children's Parade was scheduled for May 7, 2011 @ 10 a.m., in Downtown Palo Alto. The Palo Alto Golf Course would be hosting its 4<sup>th</sup> Annual Open House on May 7, 2011, 11:30 a.m. to 4:30 p.m. The City's fiber crew completed the Google-Stanford fiber connection on April 8, 2011. Testing was scheduled for May 3, 2011.

## ORAL COMMUNICATIONS

William Landgraf spoke regarding medical benefits for City employees and the information made available to the public.

Rita Morin informed the public of a library construction meeting to be held on May 5, 2011, 6-9 p.m., in the main Community Garden, Main Library located at Newell and Embarcadero Roads. The meeting would include the Main Library's new roadway proposal.

Donna Zucker said she was not notified of the roadway proposal and felt there was a breakdown in the City's communications.

Bob Moss spoke regarding the meeting with Senator Simitian and the superfund sites in Palo Alto. He urged the Council to support the transfer of monitoring and oversight of the sites to the U.S. Environmental Protection Agency (USEPA) from the Regional Water Quality Control (RWQC). He said the RWQC had not been responsive in addressing the high levels of indoor carcinogens at the sites.

Mayor Espinosa announced it was a violation of state law for the Council to discuss issues raised during Oral Communications. These issues were not agendaized.

## APPROVAL OF MINUTES

**MOTION:** Vice Mayor Yeh moved, seconded by Council Member Shepherd to approve the minutes of March 14 and 21, 2011.

**MOTION PASSED:** 9-0

## CONSENT CALENDAR

Mayor Espinosa noted that Agenda Item Number 12 had been pulled by Staff to be heard at a later date.

**MOTION:** Vice Mayor Yeh moved, seconded by Council Member Price to approve Agenda Item Numbers 6-11, 13.

Vice Mayor Yeh asked if a Staff Report was available that included all the change orders related to the contracts in Item No. 6.

City Manager, James Keene said he would provide an answer after the meeting.

6. Approval of Four Contract Documents for the Civic Center Infrastructure Improvements Project (Capital Improvement Program Project PF-01002): (1) Change Order with Nexgen Builders, Inc. in the Amount of \$194,817 for Restroom Remodeling for a Total Contract Amount Not to Exceed \$656,130; (2) Change Order with ACCO Engineered Systems, Inc. in the Amount of \$62,747 for a Data Center Cooling System Upgrade for a Total Contract Amount Not to Exceed \$1,536,542; (3) Change Order with H.A. Bowen Electric, Inc. in the Amount of \$262,076 for Electrical Panel Replacements and Circuit Tracing for a Total Contract Amount Not to Exceed \$1,175,476; and (4) Contract Amendment No. Two to Contract No. C08124310 with Cambridge CM, Inc. in the Amount of \$83,180 for Extended Construction Management Services for a Total Contract Amount Not to Exceed \$1,282,390.
7. From Finance: Approval of Contract with Macias Gini & O'Connell LLP (MGO), in an Amount Not to Exceed \$774,596 (including 10% contingency fee) for External Financial Audit Services for Fiscal Years Ending June 30, 2011 through June 30, 2015.

8. Approval of Contract with Communication Strategies for Project Management Services for Telephone System Replacement and Infrastructure Upgrade.
9. Budget Amendment Ordinance 5115 in the Amount of \$135,618 to Fund the Purchase of a Walk-In Van and a Forklift; Approval of Purchase Orders with 1) Golden Gate Truck Center in an Amount Not to Exceed \$80,726 for the Purchase of a Walk-In Van; and 2) Big Joe Handling Systems in an Amount Not to Exceed \$54,892 for the Purchase of a Forklift (Scheduled Vehicle and Equipment Replacement Capital Improvement Program Project VR-11000).
10. Approval and Authorization for the City Manager to Enter into Amendment One for Contract No. C07118158 with City of Inglewood to Add Collection Services for Delinquent Parking Citations.
11. Resolution 9164 entitled "Resolution of the Council of the City of Palo Alto Requesting Approval from the CalPERS Board of Administration for Extension of Employment Pursuant to Government Code Section 21221(h) for Acting City Auditor Michael Edmunds."
- ~~12. Approval of Park Development Impact Fees to Fund Park Improvements at El Camino Park in Conjunction With Utilities Department CIP WS-08002 El Camino Park Reservoir Project.~~
13. Approval of a Utilities Enterprise Fund Contract with Daleo Inc. in an Amount of \$4,042,637.15 for Gas Main Replacement Capital Improvement Program GS-08011 Project 18 and GS-09002 Project 19A in Crescent Park, Charleston Terrace, Charleston Meadows, Ventura, Green Acres, and Research Park Subdivisions.

**MOTION PASSED for Agenda Item Nos. 6-11, 13: 9-0**

#### ACTION ITEMS

14. Public Hearing: to Hear Objections to the Levy of Proposed Assessments on the Palo Alto Downtown Business Improvement District and Adoption of Resolution 9165 entitled "Resolution of the Council of the City of Palo Alto Confirming the Report of the Advisory Board and Levying Assessment for Fiscal Year 2012 on the Downtown Palo Alto Business Improvement District."

Mayor Espinosa read into the records the script for Public Hearings. "This is the time and place for the Public Hearing on the Levy of an Assessment on

Businesses in the Palo Alto Downtown Business Improvement District (BID) for Fiscal Year 2012. In February 2004, the City established the BID. Annually, the City Council must hold a Public Hearing to authorize the levying of an assessment in the next fiscal year. On April 11, 2011, the Council set this time and day as the time and date of the Public Hearing on the proposed levy of an assessment for fiscal year 2012. The Council appointed the Board of Directors of the Palo Alto Downtown Business and Professional Association as the advisory board for the BID. The advisory board has prepared its annual report for the 2012 fiscal year and submitted to the Council. The City published the required notice in the local newspaper of record regarding authorization of the BID for 2012 as required by the BID law. All interested persons will have an opportunity to provide testimony this evening. At the conclusion of the Public Hearing, the Council will determine whether a majority protest exists. A majority protest will exist if the owners of businesses that will pay 50 percent or more of the proposed levy of an assessment have filed and not withdrawn a written protest."

Council Member Shepherd advised she would not be participating due to her husband's law firm building lease being in the BID district.

Economic Development Manager, Tommy Fehrenbach gave a presentation as outlined in Staff Report ID#1640. He said there were two corrections that needed to be made on page 243 of the report. Other Revenue should be \$17,175 and Total Income should be \$159,175.

Public Hearing opened and closed without public comment at 9:04 P.M.

Mr. Fehrenbach declared there was no majority protest.

Council Member Holman asked if the northern part of Lytton had been included in Zone A.

Mr. Fehrenbach said no changes had been made in the BID District.

Deputy City Manager, Steve Emslie said boundaries could be reevaluated at the next annual BID reauthorization process.

Council Member Holman said City Hall was in Zone A and asked why it was not noted in the map cutout.

Mr. Fehrenbach said government entities and non-profit organizations were exempted from the BID assessment process.

Council Member Holman asked if financial institutions exempted from the BID assessment process needed to be reviewed because of limitless occupancies.

Mr. Emslie said that could be reviewed during the next reauthorization process.

Council Member Holman asked if BID member appointments had been the same since the organization started.

Mr. Fehrenbach said he could not speak for prior years but there had been changes in the past year.

Council Member Holman said the Staff report indicated the Council had appointed the first set of representatives and asked what the process was.

Anne Senti-Willis, BID Executive Board Chair said the Palo Alto Downtown Business and Professional Association (PADBPA) bylaws had term limits and a member could serve two consecutive, two-year terms and must sit out for one-year before serving again.

Council Member Holman asked if the BID membership had an internal process.

Ms. Senti-Willis said yes it did. A nominating committee was appointed annually and one had been appointed in March. She said the item would be agendaized in May to discuss the status of the nominating committee and to identify perspective candidates for next year's annual election.

Council Member Holman asked if the opportunity to be a representative was open to anyone who paid into the BID.

Ms. Senti-Willis said it was and that representatives were selected from retail stores, banks, and commercial businesses.

**MOTION:** Mayor Espinosa moved, seconded by Council Member Klein to: 1) preliminarily approve the Business Improvement District (BID) Advisory Board's 2012 Budget Report for the BID; and 2) adopt the Resolution of Intention to Levy Assessments in the Palo Alto Downtown Business Improvement District for Fiscal Year 2012.

**MOTION PASSED:** 7-0 Shepherd not participating, Yeh absent



15. Public Hearing: Request by SummerHill Homes for a Zone change from R-1 (8000) to RM-15 (Low Density Multiple-Family/Village Residential), a Comprehensive Plan Amendment to assign the Village Residential Land Use Designation to a 2.65-acre site currently designated Single-Family Residential at 525 San Antonio Road; and Approval of a Record of Land Use Action.

Director of Planning and Community Environment, Curtis Williams gave a presentation as outlined in Staff report ID#1561.

City Attorney, Molly Stump said State law prohibited the City from considering impacts on proposed developments regarding school capacity. She said impact fees were assessed during the environmental process. The potential impacts on schools could not be considered by the Council. She spoke of the letter from the applicant's attorney regarding concerns of the proposal. The City Attorney's Office believed Staff's recommendation did not pose a liability risk for the City.

Planning and Transportation Commissioner, Susan Feinberg said the application was reviewed by the Planning and Transportation Commission (P&TC) on March 23, 2011. The Commission voted 6-1 in support of Staff's recommendation for the Council to deny the applicant's request for the Comprehensive Plan amendment and zoning change. The P&TC's findings for denial were referenced in the Motion that was passed and the specifics were included in the Draft Record of Land Use Action, pages 2 and 3. The findings were based on the project not being consistent with the existing Comprehensive Plan (Comp) designation for the site, the policy to locate increase housing density near transit stations, Council's direction to avoid rezoning R-1 to higher density housing, and the lack of proximity to a train station within one-half mile.

Public Hearing opened at 9:28 P.M.

Katia Kamangar, Managing Director and Vice President, SummerHill Homes said they had worked with the City and neighborhoods for the past 35-years in creating projects. She said SummerHill Homes was before the Council this evening because of the Planning and Transportation Commission (P&TC) and City Staff's denial and the Palo Alto School District's (PAUSD) interest for the land. She said her presentation would include events leading up to submitting of the application, issues with the school district's interest of the land, merits of the application, and why the City should seize the opportunity for housing. She said SummerHill Homes was not informed that R-1 (8000) was the only type of housing for the site and that a different application would have been submitted if SummerHill Homes had known. Staff

indicated that Village Residential was inappropriate zoning for the site due to its location. The site was between two different uses and different zoning densities. SummerHill Homes was in tune to Council's directions as it related to land use. She said PAUSD voiced an interest for the land when the application was submitted and indicated their need was for campus expansion and other school-related needs. SummerHill Homes and the property owner raised concerns that the school district had shown their interest late in the process and had not voiced their interest previously to the owners nor did they bid on the site when it was marketed in spring 2010. City Staff indicated they no longer would be able to support SummerHill Home's proposal after PAUSD expressed their interest. SummerHill Homes felt the school district's interest permeated conversations which included conversations with neighbors, and the lack of school capacity became the number one issue for the neighborhoods objecting to the proposal. SummerHill Homes believed the site was suited for moderate density increase. The land along San Antonio Road had varied land uses that included retail, gas stations, and townhomes with RM-15 (Multiple Family Residential) and RM-30 (Medium Density Multi-Family) zoning. Staff's early suggestion was to use Village Residential zoning that served as a transition to moderate density multiple-family districts or districts with non-residential uses. SummerHill Homes along with P&TC members were in agreement with Staff's initial decision to use Village Residential zoning for the site. The proposal was for 23 small lot homes on a private looped street, to use Village Residential zoning for an overall density of 8.6 units per acre. Village Residential allowed 8 to 12 units per acre. The site location was close to a Caltrain station and walking distance to neighborhood services with retail at the corner of Charleston Road and Middlefield Road, and good freeway access. The Regional Housing Needs Assessment (RHNA) state-mandated goals estimated 12,000 new housing units for Palo Alto over the next 25-years. SummerHill Homes asked the Council to approve the proposal to meet the need in housing and population growth in Palo Alto.

Linda Lingane spoke against the project. She said high density housing caused instability in the neighborhood.

Elizabeth Wolf spoke against the project and the impacts on the schools and overcrowding of roadways. She urged the Council to not approve the proposal.

Srini Sankaran spoke on behalf of the Greendell Neighborhood Association and spoke against the project. The rezoning would create an increase in school capacity, increase in traffic, and not enough public facilities in the area.

Osborne Hardison spoke against the project. He said rezoning would affect home values and the project would not be transit-oriented. He said this was the wrong place for the wrong density and the wrong time.

Nardini Rajan spoke against the project and the dangers it would have on the San Antonio Frontage Road.

Marlene Kawahata spoke against the project and said the area would become a parking lot and would impact pedestrians and bicyclist safety.

Ben Bower said he was in favor of development but was against the 23 proposed units in the project. He spoke of how the project would impact utility distribution. He asked the Council to not approve the project.

David Bena spoke against the project and rezoning of the property and asked the Council to keep the R-1 zoning or convert the site into a park.

Karen Sundback spoke on behalf of the Greenmeadow Community Association (GMCA) and spoke against the project and was in favor of Staff's recommendation. She said approval of the project would exacerbate unplanned housing and would affect services in Palo Alto.

Penny Ellson said the purpose for zoning was to provide predictability and long-term City planning. She said repeated unpredictable upzoning of smaller sites requested by developers created unplanned aggregate growth.

Shirley Eaton spoke of traffic impacts and the accessibility to public transit services if the project was approved.

Carolyn Dobervich spoke of the project as a highway oriented project because people purchasing the homes did not fall in the demographic that used bus lines. The site location was outside the one-half mile radius to the train station, had poor accessibility to transit services and would not be pedestrian-friendly.

Lynn Grant said the project would increase transportation impacts and create growth impact to the shopping center. She said the site plan included a gate to the Greendell campus as access to the Cubberley site. PAUSD had rules for campus ground usage

Lisa Steinbeck said the project would contribute to a shortage in preschool and daycare services.

Wendy Kandasamy spoke regarding upzoning and how it would signal to developers the field was open to speculative proposals. She urged the Council to enforce zoning policies.

Martha Sbarbori said upzoning the site would more than double the zone use of the project. She said the project needed to be viewed in aggregate with other approved projects beyond the growth assumed in the Comp Plan Housing Element and Environmental Impact Report's (EIR) from recent years.

Elizabeth Alexis spoke against the project and in support of Staff's recommendation. She said the site was not favorable for housing.

Bob Moss said the R-1 zoning had not been upzoned for higher density housing in the 30 years. Upzoning of the site would allow the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC) to place thousands of homes in Palo Alto. He spoke against the project and in support of Staff's recommendation.

Ms. Kamangar said the City's EIR indicated the proposed development would generate less than one-tenth of the traffic generated by the current site use. Staff identified no significant population increase or potential impacts that could not be mitigated. SummerHill Homes was proposing Village Residential zoning that provided for transition density. She reminded the Council that the property owners wanted to sell the land and SummerHill Homes felt the land would ultimately be for housing. She said the project would bring added housing with low impacts to the City and asked the Council to approve the proposal.

Public Hearing closed at 10:19 P.M.

Mayor Espinosa said he had a conversation with the Greenmeadow Community Association (GMCA) and nothing was discussed that was different from what had been presented at this evening's meeting. He said he discussed the logistics of the meeting with the applicant prior to the meeting but not the content of the application.

Council Member Burt said he had conversations with two GMCA representatives and with the property owner but not with the applicant.

Council Member Shepherd said she had conversations with GMCA community members in the past six months but not with the applicant.

Council Member Klein said he spoke to two GMCA members in the last several days regarding the project and no other topics were discussed.

Council Member Holman said she spoke to two GMCA members and no information was provided that was not consistent with what had been presented this evening.

Council Member Scharff said he spoke to two GMCA members and no information was provided that was not consistent with what had been presented this evening.

Council Member Schmid said he spoke to GMCA members and no information was provided that was not consistent with what had been presented this evening.

Council Member Price said she spoke to several GMCA members and had received e-mails regarding the item.

Council Member Schmid asked about timing of the conversations and asked Mr. Williams if he had conversations with a series of applicants in winter 2009 and early spring 2010.

Mr. Williams that was correct.

Council Member Schmid asked if the Council had a meeting in May 2010 regarding the Comp Plan update and Housing Element and principles that were important to identify housing opportunities.

Mr. Williams said that was correct.

Council Member Schmid asked if the two decisions that were made was to not have R-1 upzoning on the housing site and to focus on new housing sites within one-half mile of transit stations.

Mr. Williams said that was correct and had been voted on by the Council.

Council Member Schmid asked if the decision was made in May 2010 to direct Staff to work on the Housing Element.

Mr. Williams said yes.

Council Member Schmid asked if the letter dated October 20, 2010, "Project Statement for 525 San Antonio Road" was the official application for the development of the site.

Mr. Williams said yes.

Council Member Schmid said the application was submitted five months after the Council's meeting in May 2010 and the material was available to any applicant. He said the City had received a letter from PAUSD on January 18, 2011 that stated the school district had thought about the site but had no decision to act on the site and the City was free to move forward on whatever process was required. He asked if this was the first communication the City received from the school district.

Mr. Williams said that was correct.

Council Member Schmid said it was his understanding that the Leadership in Energy and Environmental Design-Neighborhood Development (LEED-ND) was used to help the City assess the viability of developments on proposals with three or more units on a site. He said the process would begin in January 2012 with a one-year lead in period to gather data to evaluate whether the criteria would help assess the impacts on neighborhoods.

Planning Manager, Amy French confirmed that the Council adopted the pilot program for LEED-ND that required a checklist to gather information for 2011.

Council Member Schmid said it was his understanding that Staff had indicated it was a voluntary requirement at the time of the application. The applicant had volunteered to do a checklist and would be available in a few days. He asked if the checklist was available.

Ms. French said it was not required when the application was submitted in October and one was not submitted.

Council Member Schmid said he understood the applicant had volunteered to do a checklist and would have it available.

Ms. French said the applicant said they were working on one at the time of the P&TC hearing.

Council Member Schmid said the LEED-ND checklist would allow looking at the project in an objective and systematic way to meet the goals for implementation by January 2012. He asked if there was a way to get a LEED-ND checklist for the project.

Mr. Williams said Staff could develop data for a LEED-ND criteria.

Council Member Schmid asked if he could anticipate seeing the criteria and the impacts on the neighborhood by fall and asked to include the Edgewood development.

Mr. Williams said yes and would include 6 to 10 developments that had been identified.

Council Member Scharff said the project would replace a daycare service that would impact families and the community. He felt the project would not add to the quality of life in Palo Alto or would not benefit the community to upzone the project.

**MOTION:** Council Member Scharff moved, seconded by Council Member Shepherd to deny the applicant's request for a Comprehensive Plan re-designation to Village Residential land use and RM-15 (Multi-Family/Village Residential) zoning of the 2.65 acre site currently designated Single-Family Residential and zoned R1-8000 (Single Family Residential with 8,000 square foot (s.f.) minimum lot size).

Council Member Shepherd said Palo Alto had been undergoing several projects to navigate its future and south Palo Alto had taken the brunt of some explorations. Palo Alto was trying to keep Caltrain and the San Antonio train station alive with the prospect of more homes across from the San Antonio station. She said she did support developers because they provided answers to cities with problems in building communities and guidance on how communities could look. She said the project was not in the parameter for the type of change that was proposed and was not suitable for the site at this time. She supported the Motion.

Council Member Burt said for 30 years the City's commercial and industrial zoned parcels had underlying permitted use for RM-15 and RM-30 zoning which meant the properties could build at that density. Successive Councils had encouraged the use of RM-15 and RM-30 because of the job-housing imbalance. He said not one developer took advantage of the opportunity. Commercial value sank and residential value remained high when the dot com industry crashed. The market force quickly took over and the City was inundated with applications which were not anticipated. He said the Council put a stop on the zoning four years ago that was in existence for 30 years. He asked the City Attorney to clarify that by law the Council could not address housing impacts on schools for approval of a project but the Council could on overriding policy decisions on land use.

City Attorney Molly Stump said that was correct.

Council Member Burt said the Council incorporated the impact on schools into the City's land use policies. He said the presentations talked about traffic impacts and the importance placed on the use of the property as a valued childcare center. The applicant claimed the traffic generation of the current land use was 10 times of the proposed use. The current use had been the same for 37 years and the traffic generation was much higher than the proposed development of 23 units. The site housed the largest childcare center in Palo Alto and the community felt it was a valued community asset. He said the community needed to acknowledge the fact that childcare center had greater traffic generation and greater off-street parking than the proposed project if they wanted to keep the childcare center. He concurred in keeping the site as R-1 zoning. He supported the Motion.

Council Member Klein said he had no contact with anyone associated with the PAUSD. He spoke of the criticized development on the former Ricky Hyatt and Elk Lodge sites and why that type of development should not be duplicated. The Council would be setting up a dangerous precedent by approving a smaller version of the development. He felt R-1 zoning added to Palo Alto's quality of life and the proposed project would not. He supported the Motion.

Council Member Holman recognized the applicant for responding to the concerns of the neighbors and their attempt to address their concerns. She concurred with the speaker's comment that zoning provided predictability. She said the project on the former Ricky Hyatt site was brought forward on a tentative map and advised that large projects should be well vetted and project size should be considered on proposed projects. She supported the Motion.

Council Member Price addressed traffic issues surrounding the site and spoke of the bicyclist and pedestrian challenges in the area. The applicant's efforts on the site plan, design, and transition were good. She said the project would impact the corridor because of the intensity of proposed retail and housing along San Antonio Road. She felt more productive conversation should take place with PAUSD to get an understanding of their responsibilities in addressing population growth in the area. There was a shared responsibility in planning for the onset of population and jobs. She supported the Motion.

Vice Mayor Yeh said his reason for supporting the Motion hinged on public transportation. He said he believed in development along transit corridors and spoke of the challenges that exist when there was a motive for public transportation and not have the ridership support. He did not see Palo Alto



moving forward quickly on residential development to support the existence of public transportation. He said the area was going through many changes and would continue for several years and made no sense to approve upzoning.

Mayor Espinosa said he wanted to get an understanding to why the applicant and the owner had spent a great deal of time and money in getting the project to this point and what was the expectation.

Mr. Williams said the case was unusual. He said the Staff could have been more proactive and aggressive in relating policies and the seriousness relative to the project. Staff identified projects that were involved in the process when regulations were being considered. Projects had not been discussed as it related to the Housing Element and went unnoticed and Staff was not able to quickly pinpoint what the applicant was subjected to.

Mayor Espinosa said several projects were put on hold due to the economic situation. He wanted to ensure that any policy changes were communicated to the people when their projects come back to life.

Mr. Williams said he thought the projects that were on hold were commercial but Staff would do a review.

Mayor Espinosa said he wanted to initiate a proactive conversation with the City of Mountain View and with the community to the south regarding the developments on both sides of San Antonio Road and to focus on transportation and housing growth. He said the community will grow to build communities that were right and would foster the type of life envisioned for Palo Alto. He clarified that his vote was not an anti-development vote but identified that the proposed project was not right for this site. He supported the Motion.

**MOTION PASSED: 9-0**

**16. Caltrain & High Speed Rail Staff Update.**

Deputy City Manager, Steve Emslie gave a PowerPoint presentation as outlined in Staff Report ID#1557.

Council Member Klein said he was in Sacramento last week to testify in support of AB953 which had not yet passed. AB952 had passed but did not think AB953 would. He said Bonnie Lowenthal, Chair of the Transportation Committee, and Assemblyman Rich Gordon, Chair of the Assembly Sub-Committee on budget matters for High Speed Rail (HSR) had committed to

work on a budget to ensure funds for a new ridership study. Elizabeth Alexis, co-founder of the Palo Alto advocacy group Californians Advocating Responsible Rail Design (CARRD) and William Grindley from the Town of Atherton, did a study using the HSR Authority's numbers that reflected the real cost to be closer to \$65 billion. He said the City Council Rail Committee (CCRC) had sent a letter to the HSR Authority six weeks ago regarding the true cost of the system using their numbers. To date, no response had been received. He said Congresswoman Anna Eshoo, Senator Joe Simitian, and Assemblyman Rich Gordon's proposal had been noticed at the local, state, and congressional level and was not well received by HSR proponent, Assemblywoman Cathleen Galgiani. The matter was reported in a local newspaper and the CCRC was contemplating whether to address the issue. He announced the next HSR Authority meeting was scheduled for May 5, 2011 in Sacramento. The CCRC meetings had been cut back to one meeting per month and quarterly meetings were being considered since HSR matters were no longer hectic.

Council Member Burt said the next Peninsula Cities Consortium (PCC) meeting was scheduled for May 6, 2011 in Menlo Park and open to Council Members and the public. He spoke regarding the Eshoo, Simitian and Gordon's proposal on phase implementation. He said the political leadership in San Francisco raised concerns that they had funded the Transbay Terminal and that HSR's CEO, Roelof Van Ark's proposal would stop HSR at 4th and Townsend in San Francisco and not connect to the Transbay Terminal. He expressed the need to look at how the Eshoo, Simitian, and Gordon proposal might favor a connection to the Transbay Terminal. The HSR's proposal was for a 3-track tunnel proposed at billions of dollars and the only way to get to the Transbay Terminal would be to align with Senator Simitian's concept. He said the funding and the project had been altered at the federal level and had not been acknowledged by the State Rail Authority and State Board.

Council Member Shepherd said she needed clarification on Caltrain information being brought forward since the HSR Committee was changed to City Council Rail Committee (CCRC). She suggested having CCRC meetings when something important came up instead of having the meetings quarterly.

Council Member Schmid said his understanding was a Draft Environmental Impact Report (EIR) was postponed due to disagreements regarding track modes. The presentation noted one was being worked on and asked if one would be coming forward regarding the 4-track system. He raised concerns that an EIR would appear and the impacts to the City had not been reviewed.

Council Member Burt clarified the EIR had been postponed and pushed out for a year and a half according to HSR's current schedule. He said there was disagreement between the Eshoo, Simitian, and Gordon's proposal and HSR Authority's intentions. The HSR's EIR would cover the first and second phase. The Eshoo, Simitian, and Gordon's proposal had one phase and limited to 2-tracks. He said Mr. van Ark was at a recent Senator Simitian Committee meeting and Senator Simitian clarified that Proposition 1-A did not stipulate a requirement for a 4-track system or an EIR that studied a 4-track system.

Council Member Schmid asked if a consultant was doing a study regarding impacts to the City.

Council Member Klein said there were several consultants and an analysis was being done on how a 4-track configuration would have financial impacts to businesses and residents.

Council Member Schmid asked when the analysis would be available.

Mr. Emslie said it would be available in a couple of weeks.

Council Member Klein said a trial was schedule in late August regarding a plaintiff in the litigation with concerns of the adequacy of the EIR.

Council Member Holman needed clarification on the HSR Committee wanting to look into an EIR for portions of the project.

Mr. Emslie clarified the HSR wanted to analyze the phase implementations for the San Jose to San Francisco segment regarding impacts on 2-track and 4-track usage as ridership increased.

Council Member Holman asked if the CCRC was meeting monthly instead of bi-monthly.

Mr. Emslie said that was correct.

Council Member Holman followed up on Council Member Klein's comment regarding the CCRC reporting to the Council on quarterly basis. She questioned why meetings could not be monthly if reports were short.

Council Member Klein said because it was not the best use of the Committee's time unless there was an emergency.

Council Member Holman said it was important to keep the Council abreast of emerging events.

**MOTION:** Mayor Espinosa moved, seconded by Council Member Holman to have the City Council Rail Committee and Staff, at a minimum, provide verbal quarterly updates on Caltrain and High Speed Rail to the City Council, with the recognition that additional updates are welcome if high priority or profile issues with Caltrain or High Speed Rail arise.

Council Member Schmid asked if the Council would continue to receive CCRC agendas and minutes.

Mr. Emslie said yes.

**MOTION PASSED: 9-0**

#### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd asked to adjourn the meeting in memory of Leonard Ely who passed away on April 29, 2011. Mr. Ely was born in Palo Alto, attended Palo Alto High School and received an undergraduate degree in economics and an MBA from Stanford. He was a local businessman and philanthropist. He served on the board of more than 30 local organizations.

Council Member Price reported on attending the Santa Clara County Human Relations Commission event that recognized Project SafetyNet, the Youth Community Services luncheon on April 29, 2011, the Style Event held at Lucie Stern on April 30<sup>th</sup>, and the Safety Faire held on May 1, 2011.

Vice Mayor Yeh reported that he would not be at the Council meeting on May 9<sup>th</sup> as he will be attending the Northern California Power Agency federal lobbying trip in Washington, D.C.

Mayor Espinosa reported that Hewlett Packard Corporation announced that they were donating \$25M to the Lucille Packard Children's Hospital. He invited everyone to attend the upcoming May Fete parade, the tree planting by Canopy. He also stated that there will be several bike events the following week to include bike to work day.

ADJOURNMENT: The meeting was adjourned in memory of Leonard Ely at 11:42 P.M.

