

Special Meeting  
November 28, 2011

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:01 P.M.

Present: Burt, Espinosa, Holman arrived @ 7:03 P.M., Klein, Price, Scharff, Schmid, Shepherd, Yeh

Absent:

Mayor Espinosa notified the community that former Mayor Jim Burch had passed away and the City flag was flown at half-mast in his honor. He will be remembered for his efforts and accomplishments in life and for the City.

#### ORAL COMMUNICATIONS

Marilu Lopez Serrano spoke regarding the Ravenswood School District meetings no longer being televised for public accessibility.

Bob Lord representing the Silicon Valley Chapter of World Runners invited the Council Members to run in the 2012 New Year's Day Run for a Healthy World run/walk to be held at the Baylands.

#### CONSENT CALENDAR

**MOTION:** Council Member Klein moved, seconded by Vice Mayor Yeh to pull Agenda Item No. 2, to become Agenda Item No. 3a.

**MOTION:** Vice Mayor Yeh moved, seconded by Council Member Holman to approve Agenda Item Nos. 1, 3.

1. Approval of Purchase Order With Mythics in the Amount of \$122,790.91 for Oracle Licensing and Maintenance.

11/28/2011

- ~~2. Finance Committee Recommendation that the Council Approve and Accept the Updated Retiree Medical Actuarial Study.~~
3. Approval of Final Map to Merge Four Parcels into a 3.62 Acre Parcel for Condominium Subdivision Into a Hotel Unit and 26 Residential Units, Located at 4301 and 4329 El Camino Real.

**MOTION PASSED for Agenda Item Nos. 1, 3: 9-0**

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 3a. (Former No. 2) Finance Committee Recommendation that the Council Approve and Accept the Updated Retiree Medical Actuarial Study.

Council Member Klein felt the dollar value of the items should have excluded it from the Consent Calendar. He asked Staff to publicly announce why there was a need for a new actuary firm. He said there were recommendations from the actuary which were accepted by the Finance Committee that he did not agree with and felt not all of the choices should be conservative. An over funded City could lead to an under funded community which could have a negative financial impact by making the community less desirable. He appreciated the caution being taken over the past few years and warned balance was necessary for a thriving community.

Lalo Perez, Director of Administrative Services, expressed the Staff had intended to continue the use of Milliman, Inc. (Milliman) to conduct the updated Actuarial Study. When it became evident the City needed to have the firm as an expert witness in the Binding Arbitration hearing, Staff had requested participation and the firm declined, stating they performed work for the International Association of Fire Fighters (IAFF) and felt it would not be in their best interest to participate. The new firm chosen, Bartel Associates, LLC (Bartel) was recommended by CalPERS and they were willing to participate in the Binding Arbitration hearing.

James Keene, City Manager added the firm was well recognized across the state and for a period of time were the leading actuarial experts.

Council Member Klein asked if the previous firm had completed any work on the project prior to transferring out.

Mr. Perez acknowledged they had completed some partial work.

Council Member Klein noted John Bartel had completed the Actuarial Study differently than Milliman had in the past. He asked whether Milliman would

have made the same changes during this update. For example with the medical trend assumptions; Bartel's assumptions were the rates would start high and end low which added \$4.8 million to the City's unfunded liability where Milliman's report stated at 6.5 percent to 5.85 percent.

Mr. Perez believed Staff would have been able to convince Milliman's staff that their suggested rate was too low as well as comments from Council in the Long Term Projects that the rates be at a higher rate more aligned to the rates being experienced recently.

Council Member Klein asked if there were other incidents that could be questioned.

Mr. Perez confirmed and explained that CalPERS made changes to the demographics every couple of years and so Milliman did not have the information prior to their departure. An additional factor noticed by Bartel was the employees hired prior to 1986 were not required to contribute to Medicare; although it was reviewed on a case by case basis, if it was determined they were not covered by Medicare, the City was responsible for the full cost not just the Medicare cost. Milliman had a rolling 30 year amortization but with Bartel it was a 28 year closed-end and the last difference was the rate of return assumptions because CalPERS had made changes.

Council Member Klein asked the cost difference between the closed amortization period versus the open.

Council Member Scharff noted Staff discussion on the differences between open and closed amortization was on packet page 175.

Mr. Perez stated he did not recall the number but would review the report and let Council know when the information was ready.

Council Member Klein said it was a basic actuarial decision and was certain Milliman maintained the open 30 year deliberately. His concern was if the rolling period was working for the City what was the benefit to locking in a close date.

Mr. Perez understood by moving to the 28 year closed-end recommendation by the end of the time the cost would only be for the current employees. The rolling was as if each year the loan was being extended with no reduction.

Council Member Klein said Staff told Council two years ago the model being used was accurate and now the new model is the accurate one.

Mr. Perez clarified two years ago was the first time Staff had experienced the program and after review and alterations they felt the proposed program was a better fit for the City.

Mr. Keene said the program was meant to be a mix of the goals Council wished to achieve. With any actuarial there was discretion for the City to focus on the mix of assumptions they expected Staff to include.

Vice Mayor Yeh said the Finance Committee had discussed the new Government Accounting Standards Board (GASB) rules and the need to report what the liability was versus the need to fund the liability. He asked if the liability had been reported with GASB. He asked what legislation had been developed to require funding the liability. The closed methodology would have a large impact on the steps towards repayment; there was a higher burden within a limited timeframe versus re-upping with the rolling methodology. He said it would be helpful to know if that was a direction GASB or legislation was going in.

Mr. Perez acknowledged there was a draft in the making but nothing had been released for review. His understanding was most agencies which had significant amounts were experiencing difficulty in addressing the liability in itself. He was concerned it was not as rich of a benefit as it used to be. If it could not be obtained as quickly as before the rating agencies may view the City not funding negatively irregardless of GASB's ruling. His secondary concern was the liability amount was beginning to match the General Fund.

Vice Mayor Yeh asked without being able to predict the direction GASB or the legislature would be going in, would it be possible to have an actuary calculate through both methodologies.

Mr. Perez stated it was possible, at an added cost. If the Council directed Staff it would be done.

Mr. Keene said it seemed better financial management would be to reduce or eliminate unfunded liabilities. He clarified either methodology would allow for modifications to accommodate different goals. There were time constraints for reporting to CalPERS prior to the end of the 2011 calendar year as far as what assumptions Palo Alto was using.

Council Member Klein said the language used by Staff throughout the report was the City was going to be funding the Annual Required Contribution (ARC) and it was his understanding that was included in the make-up of the budget.

Mr. Perez agreed that was how Staff had approached the funding plan for the Mid-Year. There was a \$4.3 million place holder for concessions for the safety groups; he noted not all of them would be met in the given timeframe.

Council Member Klein clarified his concern was with the ARC and the policy had been to fund the full ARC.

Mr. Perez confirmed that had been Staff's recommendation.

Council Member Klein noted it had been addressed that fully funding the ARC was not a requirement by GASB at this time.

Mr. Perez stated that was correct, the report indicated it was an annual requirement but in fact it was not a GASB requirement.

Council Member Klein was concerned that with the change in direction it was not City Staff but an outside entity that had placed a burden on the budget.

Mr. Keene informed the Council the City was in the position to not accept the actuarials' assumptions. He felt there was sound advice in Mr. Bartel's approach and recommendations. He agreed the elimination of unfunded liabilities over time was the best way to approach the debt situation. He acknowledged if the proposed assumptions were approved by Council, Staff would return later in the year with recommendations to fund the additional costs in the current budget year for the ARC.

Council Member Klein asked if the FY12-13 budget would be prepared in a similar manner.

Mr. Keene stated yes.

Council Member Klein asked for clarity on the interest rate assumption. On page 114 there was notification of an \$800,000 jump in the ARC between FY12 and FY13 because of the decrease in the discount rate from 7.75 percent to 7.25 percent but the next paragraph reads the PERS Trust offered three possible asset allocations which number one was the City's chosen option as the highest yield of 7.61 percent. Mr. Bartel recommended dropping this to 7.25 percent. He asked if Staff had accepted Mr. Bartel's interest rate assumption recommendation.

Mr. Perez replied yes. In FY12 Staff was using 7.75 percent but FY13 was where the PERS Trust options came to light. Staff was accepting the 7.61

percent with a margin for adverse deviation which dropped the rate to 7.25 percent.

Council Member Klein asked if Staff knew what Milliman would have recommended in the same situation.

Mr. Perez stated no.

Council Member Klein mentioned the conservative approach was costing an excess of \$800,000 when Staff could have used the 7.61 percent without incident.

Mr. Perez noted if the 7.75 percent had been used there would have been a \$580,000 difference in the annual payment.

Council Member Klein accepted the report but noted there were implications he was not accepting of because there was flexibility and he believed Staff was being overly cautious.

**MOTION:** Vice Mayor Yeh moved, seconded by Council Member Schmid to approve and accept the Updated Retiree Medical Actuarial Study.

Vice Mayor Yeh was aware when there was significant change in methodology there would be a robust discussion but having a Mid-Year check-in provided the opportunity to understand the true fiscal impacts.

Mr. Keene recommended the Council meet with Mr. Bartel prior to the budget process.

Council Member Schmid felt Mr. Bartel's assumptions were realistic and noted the environment was one where healthcare costs were rising annually. He acknowledged past Council decisions had passed liability obligations on to the present as they would do future Council's. He said it was unfortunate the increased revenue generated was being obligated to fund the ARC payment rather than salaries or other obligations. He believed the 30 year timeframe was based on the assumption most workers in the system would work for 30 years. He supported the acceptance of the Bartel recommendation.

Council Member Scharff understood the difference between a retiree paying off a debt when they would no longer be generating income while the City would continue to do so. He agreed it was a positive public policy to payoff the assumptions with a closed-end. He asked what the impact was if the present assumptions were not accurate.

Mr. Perez said the liability would continue to grow.

Council Member Scharff asked what impact the continued growth of the liability would have on the City.

Mr. Perez said there would be an increase in the calculation of the payments; if the amount was significant enough to impact the City, the concern was with the rating agencies.

Council Member Scharff asked why the public safety concessions were not included in the assumptions. The miscellaneous category was included and with that there was \$14.2 million saved. He asked if during the Mid-Year if the public safety was going to be included. He believed if the City was not going to fully fund the ARC they were better off using the assumptions that would lower the amount.

Mr. Perez agreed in concept that it made sense to use the assumptions with a lower amount if the full ARC was not being funded.

Council Member Scharff stated he supported the Motion.

Council Member Shepherd had concerns with the CalPERS 50 percent confidence rate of return. Palo Alto was within the norms of other municipalities. When the reporting occurred to the public, it appeared conservative although she felt for the 28 year period it needed to be reviewed. She was aware without the concessions from the safety units each time Council reviewed the assumptions it would change. She asked if the City would be able to cash flow the payoff with the period of the financial picture. With continued employee retiring there was a need to continue the funding. She noted her support for the Motion.

Council Member Burt asked why the item was on the Consent Calendar.

Mr. Keene had thought with the Finance Committee approving the item unanimously it would suffice being on the Consent Calendar. He understood if an item passed unanimously but might be contentious it would not be placed under Consent.

Council Member Burt said the subjective criteria was either contentious or of a high enough consequence and this item was \$29 million. He noted the concern of the new actuary being too conservative but mentioned the previous actuary understated the liability. He said the difference in the actuarial studies was the public safety groups from \$29 million to \$43 million. He asked if his interpretation was accurate.

Mr. Perez believed that was correct; if there was not a positive of \$14 million because of the miscellaneous group the liability would have been \$44 million.

Council Member Burt shared his concern with the City relying too heavily on an actuary study when they could be varied. His attention was drawn when Milliman refused to be an expert witness because of their association with the Fire Union.

Mr. Perez noted it was not the City's Fire Union but the National Fire Fighters Union.

Council Member Burt was disturbed that they would disengage their relationship with the City because of the relationship with the Union. A factor to be aware of was the decreased age of retirement and the second was the spike in Palo Alto retirements which altered different elements of liabilities. He noticed the PERS PPO premiums had been increasing at 2 percent annually less than what appeared to be the actual underlying costs.

Mr. Perez understood the premiums had increased 7 percent while the claims had increased ten percent. It was recommended by Bartel and Associates to adjust the 2 percent differential because the conjecture was the amounts would catch up. PERS was using reserves from the PPO plans to cover the differences, the recommendation was to prepare the City for the true bill.

Council Member Burt said that was an indication that PERS was understating the cost. This raised the concern of whether Palo Alto could trust the information coming from PERS. He acknowledged Palo Alto was one of the few Cities confronting the situation head on.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that Staff is to schedule a meeting with Mr. Bartel and full Council prior to the Finance Committee Mid-Year Review.

Council Member Holman said this level impact to budget deserved enlightened discussion.

Council Member Klein said Staff's intention was to fund the full ARC each year which had been City policy. The recent spike to Palo Alto retirements was referred to as a short term occurrence although the actuary did not believe that to be true.



Mr. Perez said the actuary requested to see trending data. The current data was available in the report.

Council Member Klein could not see how the level of retirement trend could continue.

Mr. Perez clarified the changes made in 2004 to the retirement packages caused an implosion of retirement costs from those who were hired prior and could retire earlier.

Council Member Klein said because of the economic trends in the country the national reports indicate a later in life retirement rather than the information presented in the report.

Council Member Shepherd asked with the current Motion if the ARC would be funded next year.

Mr. Keene said Staff was intending to bring forth during the Mid-Year a budget recommendation to fund the ARC in FY2012 and unless directed otherwise, the FY2013 budget would also fund the ARC.

Council Member Shepherd asked if the decision was to not fund the ARC would there be a discussion.

Mr. Perez stated the FY2012 had approximately \$10 million to fund the ARC which was adopted by Council previously. The discussion was to return with a recommendation to increase the amount to match the actuarial study recommendation. The payment was not made until the end of the year so Council could direct Staff not to make a payment.

Council Member Shepherd asked if the payment was due at the end of the physical year or fiscal year.

Mr. Keene confirmed the fiscal year, June 30, 2012.

Council Member Price asked what the average rate of return had been from CalPERS assumptions over the past 5 years.

Mr. Perez said the CalPERS Trust had been up and down, he did not have current numbers in percentages. He noted in January of 2011 it was 18 percent and as of September 30, 2011 there was a significant decrease in the portfolio which was at \$44 million and dropped by \$5 million. Staff would have the historic percentages when they returned.

Council Member Price felt the information would be helpful for the past few years and the assumptions moving forward.

Council Member Schmid noted the report showed half of the current active employees were in the age range of 45 to 54 which indicated a steady stream of retirements.

**MOTION AS AMENDED PASSED: 9-0**

**ACTION ITEMS**

4. Transmittal of the Highway 101 Pedestrian/Bicycle Over/ Undercrossing Feasibility Study; Recommendation of Adobe Creek Overcrossing as Preferred Option to Further Study and Approval of Amendment with Santa Clara Valley Water District for Extended Use of Adobe Creek Undercrossing.

Mike Sartor, Interim Director of Public Works, explained there was \$100,000 included in the 2010 Capital budget for a Highway 101 Crossing Feasibility Study. The contract was awarded to Alto Planning and Design to perform the Study in April of 2010. There was an additional \$250,000 included in the 2011 Capital Budget for a future environmental assessment and initial design work.

Elizabeth Ames, Senior Engineer noted the Feasibility Study had been reviewed in the past year with the goal of identifying a year-round crossing between Matadero Road and San Antonio Road; a stretch of approximately a mile and a half. Staff had met with the Planning and Transportation Commission (P&TC), the Parks and Recreation Commission (PARC), and the community. The highest anticipated use was Adobe Creek which was the preferred alternative of an overcrossing; the cost was between \$5 and \$9 million. Alignment E – Adobe Creek Undercrossing (tube option) was a twelve foot wide; eight foot tall tube structure placed in the channel and was evaluated at a cost between \$5 and \$8 million. The less expensive option was Alignment E – Adobe Creek Undercrossing (stem wall option) which was a four foot tall, eight foot wide pathway but it did not meet the minimum height standard of eight feet. Alignment D – Adobe Creek Overcrossing (Standard) was a streamline crossing over Highway 101 tying into Adobe Creek on either side at a cost of between \$5 and \$7 million. Alignment D – Adobe Creek Overcrossing (Enhanced) was a structure twenty foot wide for a cost between \$7 and \$10 million. Staff had reviewed surrounding area overcrossings for a comparison.

Deirdre Crommie, Vice Chair of the Parks and Recreation Commission expressed the support of the PARC for the Highway 101 overcrossing at Adobe Creek. The PARC favored Staff recommendation Alignment D because it provided linkages to the Bicycle and Pedestrian Path alongside Adobe Creek, an east and side linkage to the Baylands Trails. The PARC had concerns of the cost for the project but hoped to maximize the design to ensure a cost effective approach. She noted the widening of the Highway would diminish the natural lighting of the Benjamin Lefkowitz Bicycle and Pedestrian Undercrossing Tunnel and said an upgrade to add lighting should be considered.

Sunny Dykwel, Commissioner on the Parks and Recreation Commission acknowledged the Adobe Creek project continued to be a priority for the PARC as it provided a continued year-round access to the Baylands. The bridge was a critical part of the proposed Bicycle, Pedestrian Transportation Plan (BPTP) and it would build on the network of trails linking the neighborhoods to each other as well as to the educational and recreational opportunities.

Greg Tanaka, Commissioner on the Planning and Transportation Commission shared some points from the discussion regarding the overcrossing design options. The vote was a 3-2 because although it was clear there needed to be access to the Baylands they did not feel the cost was the most effective use for Palo Alto funds. If the cost could be defrayed or scaled back the overcrossing would be supported.

John K. Abraham believed the City could save over \$1 million from the Staff recommendation and proposed a design which would provide 70 to 90 percent access during most years and a large improvement over the current situation. The Benjamin Lefkowitz Bicycle and Pedestrian Undercrossing was presently open 50 percent of the time and only at a cost of \$21,400 annually to maintain. The Matadero Creek crossing was nearly usable with only a single creek to be concerned with and could be made user friendly with less than \$100,000 which was open far more than Adobe Creek.

Cedric de La Beaujardiere, Chair of the Bicycle Advisory Committee expressed their support for the Adobe Creek Overcrossing as it supported a higher number of users. An undercrossing would be partially open at best with a high maintenance cost.

Council Member Burt asked if the Bicycle Advisory Committee evaluated the alternative mentioned by Mr. Abraham having Matadero Creek and Adobe Creek as under freeway accesses and what the pros and cons would be.

Mr. de La Beaujardiere said he did not believe the Committee reviewed the option for having both creeks open simultaneously but there was support to see what could be done to open the Matadero Creek crossing longer. The goal was to have a year-round crossing available and from the discussions with the Santa Clara Valley Water District it was not a feasible option to have a year-round undercrossing.

Irvin Dawid encouraged people to bike over San Antonio Road and although it was a frightening endeavor it was the best alternative without traveling further down to Mountain View.

Council Member Price said Staff recommendation Alignment D-Standard mentioned a ten foot travel way while the Alignment D-Enhanced design spoke of a 20 foot travel way. She asked if the forecasted pedestrian and bicycle use of 104 thousand was referring to trips and not individual uses.

Ms. Ames stated there were 104 thousand trips in the vicinity between Matadero Creek and Adobe Creek. There were 70 thousand trips over Adobe Creek alone.

Council Member Price asked what the time period was for the basis of the analysis.

Ms. Ames explained the projections were based on the development and were intended to be long term.

Casey Hildreth, Associate, Alta Planning and Design said the seamless travel model took into account land use as well as Class 1 trail availability. The 104 thousand was a ball park figure for the entire stretch of land that was analyzed with approximately 55 to 70 thousand trips being generated by the Adobe Creek location. The figure was an annual estimation with a wide variability based on the lower volume of daily activity which could rise with the future growth.

Council Member Price asked if the ten foot travel way was sufficient in size based on the projected future trip numbers.

Mr. Hildreth noted a ten foot pathway would be the minimum width capable of handling the current estimated volumes.

Council Member Price asked if there was a way to anticipate the issue of year-round availability versus partially limited availability in terms of criteria for funding potential. Was there a reason for concern in a rating criteria system for potential grant applications that the designation of year-round.

Jaime Rodriguez, Chief Transportation Official, said yes, the designation would be considered as a criteria measurement but Staff would pursue any available grant funding depending on the Council designation.

Council Member Schmid supported the Highway 101 overcrossing and Staff's preferred model seemed to have generated support from the various community groups and committees. He noted there were a large number of overcrossings being completed by other cities and he asked why Palo Alto was merely in the planning stages.

Mr. Rodriguez felt the City was currently on the right track to pursue funding. In order to be competitive there was a lot of ground work that needed to be completed such as preliminary feasibility, feasibility study, and environmental assessments. The issue at hand was the funding available was for projects that were shovel ready not those in the planning stages.

Council Member Schmid asked whether there was a strategic consideration in the cost that the City had proposed.

Mr. Rodriguez stated yes, the more conservative the design the more competitive the funding was.

Council Member Schmid noted the report reflected the Matadero Creek path was initially built to be a bike path. All of the necessary materials were in place and the creek water level was half of that of the Benjamin Lefkowitz Bicycle and Pedestrian Undercrossing. He encouraged pursuing Matadero Creek as an option.

Council Member Scharff asked what the expected timeframe was to receive grant funding.

Mr. Rodriguez estimated within the next five years there would be substantial amounts of funding for these types of large scale bicycle projects.

Council Member Scharff asked if the Matadero Creek Undercrossing would occur in the next couple of years if Council did not move forward with the current project.

Mr. Rodriguez said if the feasibility study and environmental assessment were advanced through the design phase the City would be in a strong position for funding.

Council Member Scharff asked for the estimated cost for the Matadero Creek Undercrossing to be feasible.

Ms. Ames said the cost was estimated at just over \$1 million as was Adobe Creek seasonal project.

Council Member Scharff felt the Mary Bridge in Sunnyvale was a beautiful example of a crossing but his understanding from Staff was that type of architecture was out of date.

Mr. Rodriguez said if the City wished to pursue that level of design detail in order to be competitive there would need to be a larger local funding match participation.

Council Member Scharff asked if there was a figure Staff had in mind of a 10 to 20 percent local match.

Mr. Rodriguez said with a project of that magnitude there would be a minimum of a 20 percent match but a larger number in the range of 35 to 40 percent would be more beneficial.

Council Member Scharff asked if the Alignment D-Enhanced design was similar to the City of Belmont's Highway 101 Overcrossing.

Mr. Sartor confirmed the Palo Alto Alignment D-Enhanced design was more elaborate and wider than the Belmont Overcrossing.

Council Member Scharff said the Alignment D-Enhanced design was between the Mary Bridge and the Belmont Overcrossing.

Mr. Sartor agreed with the assessment.

Council Member Scharff asked if the less expensive option was similar to the Ralston Avenue Overcrossing in Belmont or the utilitarian bridge in Sunnyvale.

Mr. Sartor said it would be closer to the Ralston Avenue Overcrossing.

Council Member Scharff asked if Council approved Staff recommendation, what the next steps were.

Ms. Ames said Staff would return to Council with a Consultant Contract Amendment to initiate the design and the environmental assessment. Staff would review the options and the design features for the lightings and

railings before having the design reviewed by the various Boards and Commissions for final approval.

Council Member Scharff said Staff was not asking Council to make any design aspect decisions tonight.

Mr. Sartor said that was correct and he added part of the increased cost to the Alignment D-Enhanced design was the configuration and the width of the structure itself.

Council Member Scharff clarified Council was to accept the feasibility study and direct Staff to proceed with going forward with the overcrossing at Adobe Creek at a cost of \$250,000.

Mr. Sartor said that was correct.

Council Member Burt asked for clarification on the differences in the widths between the Alignment D-Enhanced design and the Ralston Avenue Bridge.

Mr. Sartor said the Alignment D-Enhanced design was at a width of 20 feet and he did not believe the Ralston Avenue was as wide. The Alignment D-Enhanced design had room for landing areas for viewing opportunities while the Ralston Avenue did not.

Council Member Burt asked how critical the 20 foot width was and if Staff could break-out the cost difference for that portion.

Mr. Sartor stated the cost estimated for the Alignment D-Standard design, at a ten foot wide structure, was from \$5 to \$7 million. The Alignment D-Enhanced design had several raised areas for pedestrians and ranged from \$7 to \$10 million.

Council Member Burt said only a portion of the cost was attributed to the width.

Mr. Sartor said that was correct and a portion of the cost was attributed to the shape and alignment itself.

Council Member Burt asked for a breakdown of the cost for the width which was the utilitarian and safety aspect of the bridge.

Mr. Sartor said Staff did not have that level of detail at this phase.

Council Member Burt understood if there was a Matadero Creek Underpass for bicycles there would be a cost of \$1 million. He asked what percentage of the year it would be able to remain open.

Ms. Ames stated Staff would need to review the creek flow chart to determine the specifics; however, she felt it would be a seasonal crossing open approximately six months per year.

Council Member Burt asked why only six months would be available if the time had been extended for the Adobe Creek.

Ms. Ames said Adobe Creek had been expanded but without completing an analysis of Matadero Creek she was uncertain of the potential expansion period.

Council Member Burt asked how many months Adobe Creek had been expanded.

Mr. Sartor confirmed Adobe Creek had been able to remain open an additional six weeks in 2011 because there had not been significant rain fall to date.

Council Member Burt asked for confirmation the intention for Adobe Creek was to expand the window in late winter and early spring.

Mr. Sartor agreed the goal was to open the pass sooner as weather permitted.

Council Member Burt asked if the anticipated open season range was from eight to nine months.

Mr. Sartor felt eight months was an appropriate estimate.

Council Member Klein asked how Staff viewed the practicality of the Public/Private Partnership ventures and had any other crossing involved private monies.

Mr. Rodriguez felt there were opportunities to develop Public/Private Partnerships. It could range from a private development that occurred to locating public elements for the projects. There were larger employers near the crossing area that had shown interest in investment possibilities.

Council Member Klein asked if Staff had spoken with Google or other companies regarding funding assistance.



Mr. Rodriguez stated no, until Council directed Staff they would not approach the matter.

Council Member Klein asked whether there was private money in any of the other bridges.

Ms. Ames said the Homer Tunnel had a contribution of \$250,000 provided by the Palo Alto Medical Foundation.

Mr. Sartor clarified the funds were a part of the Development Agreement so they should not be considered as a donation.

Council Member Klein asked about the funding cycle for similar projects in other cities.

Mr. Rodriguez said the timeframe was dependent on the individual project; although, he knew the Mary Avenue Bridge was approximately four years.

Council Member Holman said the Staff report mentioned improvements to the Benjamin Lefkowitz Bicycle and Pedestrian Undercrossing but there was no mention for additional lighting to account for the widening of Highway 101. She asked if there was a cost estimate for adding lighting.

Mr. Sartor was uncertain of the cost for additional lighting but the original lighting had been removed by the Utilities Department and was reinstalled as a preliminary step to the widening of Highway 101. He believed once the project was completed the lighting would be replaced as part of the new structure.

Council Member Holman noted the Highway 101 overcrossing to the Baylands was going to be a landmark for identifying Palo Alto. She inquired as to whether Staff had given thought to holding a competition to create a design for the project.

Mr. Sartor said if Council directed, Staff would explore that as an option during the design phase.

Mr. Keene added a competition was an interesting idea and it could present architectural and functional values for the City. He mentioned a bridge created in Tuscan, Arizona where art and design were brought together to forge an award winning project.

Council Member Holman felt opening up the design contest to broader than the known design pool may bring a stellar design at a reasonable cost. She agreed approaching Google may be worth while since a large portion of their staff would utilize the bridge.

**MOTION:** Council Member Shepherd moved, seconded by Council Member Holman to accept Staff recommendations to:

1. Accept the Highway 101 Pedestrian/Bicycle Over/Undercrossing Feasibility Study;
2. Direct Staff to proceed with the recommended option of an overcrossing at Adobe Creek; and
3. Authorize the City Manager or designee to execute the attached amendment to the Lease (Joint Use) Agreement with the Santa Clara Valley Water District and the City to allow extended use of the current undercrossing and to execute further amendments with similar terms until the overcrossing is available.

Council Member Shepherd appreciated the concept of a design competition, she felt it allowed people to rise to the occasion to take a municipality and transform it into something visionary. Palo Alto had a very high level of bicyclists and she felt this type of infrastructure improvement was greatly needed.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to investigate a bridge design competition.

Council Member Holman asked at what juncture Staff would return to Council with the feasibilities for design.

Mr. Sartor noted Staff needed to build the competition into the design contract with the architect and return to Council as part of the contract amendment for the environmental and design work.

Council Member Holman stated her intent was not to invite a higher cost. She asked if there should be a dollar range included as part of the competition regulations.

Council Member Price supported the Motion and offered to assist in the design award process since she was familiar with such arenas.

Vice Mayor Yeh supported the design competition idea and thought it would be interesting to see how the outside designers saw Palo Alto.

Mayor Espinosa was in support of the design competition and he was interested in a wider structure to support a major traffic overpass. He agreed there needed to be lighting added to the passes for the safety of the community.

**MOTION AS AMENDED PASSED: 9-0**

5. Approval of Negative Declaration, Adoption of the MTC Resolution 9211 entitled "Resolution of the Council of the City of Palo Alto Approval of CIP Establishment and Ratifying Contract with RBF Consulting for the California Avenue – Transit Hub Corridor Streetscape Project".

Curtis Williams, Planning and Community Environment Director, reviewed the proposal for the California Avenue – Transit Hub Corridor Streetscape Project and acknowledged Council had previously acted on the grant request to the Valley Transportation Authority (VTA) which was approved and had been forwarded to the Metropolitan Transportation Commission (MTC). The Negative Declaration had been approved and a Capital Improvement Project (CIP) had been established. The concept and one of the key issues was the reduction from four lanes to two lanes with an occasional left turn lane. The Council had authorized the retention of a design team from RBF Consulting to take the design further into detail and return to the Planning and Transportation Commission (P&TC) and Council with the final design. There was a ruling received on the litigation surrounding the project where the Judge directed the City to rescind the earlier approval of the items and reconsider them in the sequence that included the Negative Declaration initially followed by the Resolution and establishment of the CIP. Staff interpreted the ruling as procedural in terms of the order of the approvals and Staff was recommending the approval of the items in an order of recommendation by the Judge. The vision for the California Avenue – Transit Hub Corridor Streetscape Project was to promote pedestrian and bicycle safety. Staff believed the efforts complimented the adjacent land use and enhanced the vitality to the street, as well as, were consistent to the Comprehensive Plan and the Pedestrian and Transit Oriented Development objectives. The second item for Council consideration was the adoption of the Resolution to MTC with the reflected changes from the litigation. The third item for consideration was the grant funding in the amount of \$1.157 million and the City was matching that with \$550,000 which was primarily a design component and initial construction.

James Keene, City Manager stated the concept plan reviewed formed the foundation for the grant application and upon which the Negative Declaration work was performed. The objective was to enhance the sidewalk and pedestrian experience. Staff had acknowledged any of those improvements would add to the cost of the project and beyond that of the grant funding.

Greg Tanaka, Planning and Transportation Commissioner noted the P&TC voted unanimously for the project. The project was to provide additional parking, beautification, as well as enhanced uses of the street. The concept of the project was to combine the different modes of transportation from the pedestrians, bicyclists, to motor vehicles. The P&TC requested the construction phase be considered carefully so as not to become an impediment to the businesses that would be open during that phase.

Council Member Burt said a primary benefit found by the P&TC was the increase in on-street parking on California Avenue. He asked if Mr. Tanaka was aware the Council had requested there be two designs returned for review that would reduce the number of on-street parking by 30 rather than increased.

Mr. Tanaka was aware of the request and noted the designs had not returned to the P&TC for formal review. He had spoken with Jaime Rodriguez, the Chief Transportation Officer, regarding the issue.

Council Member Burt asked when the P&TC reviewed the project how much importance did they place to the on-street parking increase.

Mr. Tanaka said the additional parking was a major consideration.

William Ross represented the Petitioners and mentioned the court orders required compliance by the Council with all aspects of the California Environmental Quality Act (CEQA). The actions being contemplated this evening were not being done in compliance in the provisions provided within CEQA, specifically sections 15072 and 15073. There was not adequate notice of aspects of the project which were subject to judicial review.

Paul Pitlick spoke of the original California Avenue Fountain and the degeneration of the fountain. The Public Art Commission approved a new fountain that did not fit the area and it was suggested to have it moved and re-establish the original fountain.

Terry Shuchat said when the VTA grant was applied for one of the requirements was California Avenue be re-striped as a two-lane street. The City was not listening to the large group of property or business owners who

desired the street remain four lanes. They agreed the beautification of California Avenue was long overdue.

Cedric de La Beaujardiere supported the California Avenue project and looked forward to working with the consultant. The Bicycle Advisory Committee was supportive of the two-lane configuration as a safer bicycle route.

Jessica Roth was opposed to the lane changes but supported the beautification of the street. She felt the changes being made needed to be supportive of the businesses.

Michael Ekwall had concern with the City spending \$300,000 for a consulting firm to create a design project that could have been presented through a design competition proposal. He supported the streetscape but not the reduction in lanes.

Bob Hayes noted all of the opinions heard were valid although for different reasons. He wanted to ensure the voices and ideas of the merchants of California Avenue were heard to accomplish positive changes on California Avenue.

Peter N. Brewer was concerned the Council had been taken in by the grant monies available. He was against the lane reduction and felt the result would be negative for the vehicles and businesses.

Ronna Devincenzi said the California Avenue Area Development Association (CAADA) accepted the California Avenue Streetscape Plan including the lane reduction in 2007. If the streetscape had not been stopped in 2009, both phases 1 and 2 would have been completed in early 2010. She asked Council to continue with the project and complete it quickly and without losing parking spaces.

Robert Moss felt the Mitigated Negative Declaration should be re-circulated given that a number of issues had come to light since its original release. The huge demand for increased residential density had been ignored throughout the entire process. He did not think it was necessary to reduce the lanes in order to make the street viable. Widening the sidewalks would destroy the drainage and the expense to redo the entire system was costly.

Irvin Dawid said in research from Mountain View to Millbrae each one of their downtown areas was a two-lane street. He did not understand why California Avenue residents and merchants were so against the change other than it was a change. Two wide lanes were safer for bicyclists and pedestrians than

four narrow ones. Trying to accommodate motorists at the expense of pedestrians and cyclists was not good for the humans or the planet.

Jack Morton said simply there was a grant awarded to the City that provided the Planning Department with a desired outcome without providing the California Avenue community anything it desired. He felt misusing the Federal Congestion Pass-Through Funds to undermine if not destroy the vibrant Californian Avenue was not in the City's best interest. California Avenue businesses earned 60 percent of their revenues in the noon time slot which was dependant on the ability to get in and out of the area quickly.

Omar Chatty said the Congestion Management Funds being used were from the gas taxes at the federal level and he wished not to see the funds used improperly. He suggested using the funds for pothole repair, road repair, or even the Adobe Creek project. Four lane streets, if developed properly, were better suited for sharing roads with motorists, cyclists, and pedestrians.

Molly Stump, City Attorney clarified the Negative Declaration may be approved since it was properly noticed under the CEQA law. If the Council chose to approve the Negative Declaration, that provided the discretion with full consideration of public input to consider approval of the grant application and establishment of the CIP.

Council Member Schmid asked for clarification on what Council was approving.

Mr. Williams said the sidewalks were not included with this concept design for the grant application.

Council Member Schmid asked if the decision had anything to do with paving.

Mr. Williams clarified ultimately there would be paving associated with the reconfiguration on the street.

Council Member Schmid asked if paving was included in the \$1.7 million or in the grant currently being voted on.

Mr. Rodriguez stated no, it was not included.

Council Member Schmid said approving the \$1.7 million and the grant effectively committed the City to a reduction of lanes.

Mr. Rodriguez confirmed the grant proposal submitted was approved under the grounds Palo Alto would be moving forward with a lane reduction of California Avenue.

Council Member Schmid asked if that meant the capacity of the street would be reduced to 40 percent.

Mr. Williams said Staff performed a sensitivity analysis to determine what would be necessary to take California Avenue from the current level of service under this scenario to a level of service as recommended in Option D; that scenario would double the amount of traffic currently experienced.

Council Member Schmid said the Staff Report clearly stated the plan was to enhance the overall and adjacent non-vehicular space with trees, public art, seating areas for outside dining, benches, and kiosks. All of those ideas worked with the California Area Concept Plan, Pedestrian Transit Oriented Development (PTOD) District, and the Priority Area District but the actual wording of the contract with the consultant was different. The contract read the only responsibility of the project was to complete pavement, street, outside seating areas, and bicycle parking without any sense of the sidewalk becoming the focal point of the program. With all of the concepts being noted in the report, he asked why the starting point to the discussion was the reduction of lanes.

Mr. Williams said the redevelopment of Californian Avenue had been in deliberation longer than the concept plan. Staff was comfortable the type of increases in intensity for the area were within the parameters of the traffic impacts on California Avenue. He noted the Comprehensive Plan, and the discussions of the concept plan to this point had been on California Avenue being more pedestrian and bicycle friendly.

Council Member Schmid said according to the data, pedestrians were the majority of people using the area primarily between the hours of 11:00 am and 4:00 pm. The critical question was how they arrived and if biking was enhanced would more people come. He believed the merchants were concerned with how the City planned on maintaining or growing the economic vitality with the suggested changes.

Council Member Burt asked if line item 2C covered the reduction in parking.

Mr. Williams stated 2C covered the design to look into the issue of reduced parking.

Council Member Burt clarified 2C was an expanded Scope of Services to review the additional options.

Mr. Williams stated that was correct.

Council Member Burt asked how much of the design cost was attributable to evaluating the additional options the Council had asked to be considered.

Mr. Rodriguez stated the base project cost of \$295,000 included the development options for consideration by the Council to review the alternatives for improvements along California Avenue so the expanded scope being referred to was a part of the base cost.

Council Member Burt confirmed the vote was to reaffirm the consulting services which included the expanded Scope of Work.

Mr. Rodriguez stated yes.

Ms. Stump clarified line item 2C was added in an abundance of caution; the court did not disturb the contractual agreement between the City and the consultant. Staff wanted to ensure although other items had been rescinded the contract had remained intact.

Council Member Burt said there were a number of speakers' comments on how the redesign might affect the economic vitality. A number of the downtown areas cited were two-lane through streets with a greater number of volumes than that of California Avenue.

Mr. Rodriguez stated that was correct.

Council Member Burt asked if Staff had the volume numbers for Castro Street and University Avenue.

Mr. Rodriguez showed slides where California Avenue reflected one-third the volume of the other four downtown areas mentioned.

Council Member Burt confirmed the other four areas had two-lanes.

Mr. Rodriguez said that was correct.

Council Member Burt asked if the Staff knew the economic vitality impacts from the City of Mountain View when Castro Street reduced from four to two lanes.



Thomas Fehrenbach, Economic Development Manager noted the City of Mountain View experienced an increase in property values and believed there were more pedestrians during the noon hour.

Council Member Burt said those who visited Castro Street after the streetscape project noticed an increase in vitality. He wanted to clarify the vision for California Avenue preceded pursuing the grant dollars and he noted the first attempt to secure grant funding five years ago was unsuccessful. He agreed with the concerns on the discrepancy of the parking situation. More bicycles and more pedestrians increased the vitality and decreased the vehicle traffic. He asked for clarification that the Molly Stone's grocery store was zoned for condominium.

Mr. Williams corrected the area was zoned for retail commercial with residential above.

Council Member Burt acknowledged that most of California Avenue had alley ways which was where loading and unloading of delivery trucks should occur and would be more effective. He asked if there was anything in the current design evaluation that addressed the loading issues for the areas where there were no alley ways.

Mr. Rodriguez stated the current design did not include loading zones on California Avenue. Based on a strong community consensus there not be loading zones they were removed from the plans. There were opportunities to reintroduce the loading zones into the plans if the desire was there.

Council Member Burt said if Staff needed direction from Council to incorporate loading zones into the plans. He heard merchants concerns over the impacts to their business because of construction. He understood a reduction in parking had an impact. He said an increase in parking with a phased implementation, along with a greater utilization of the existing long term parking, would solve some of the issues. He asked if there was knowledge of the ability to increase long term parking permit issuance because there were underutilized stalls available.

Mr. Rodriguez noted as part of the City's ongoing parking management system in the California Avenue area, Staff did want the merchants to consider the opportunities of permit distribution alternatives.

Council Member Burt asked for clarification because he was speaking of increases but Staff referred to alternatives.

Mr. Rodriguez clarified alternatives to assist in increasing the number of permits available for employees of the California Avenue District.

**MOTION:** Council Member Scharff moved, seconded by Mayor Espinosa to approve the Negative Declaration for the project.

Council Member Scharff felt the report summarized the issue and there was less than significant impact to no impact and the traffic analysis was fairly thorough; therefore, he believed the Negative Declaration should be approved.

Mayor Espinosa noted the Mountain View downtown streetscape changes came with concern but also excitement and since its inception the vitality had increased. He was aware the Staff had made concentrated efforts to connect with the business community regarding the project and the changes to the area. He felt it was unfortunate that there were community members who continued to feel the efforts were not sufficient. He believed with the funding that was available it was compelling to improve the California Avenue District.

Vice Mayor Yeh supported the Motion. He said with regard to a trial period, it was important to understand there would be tweaks along the way to completion of the project. He asked what would be entailed if Staff were to map out a trial period for the lane reduction from four to two.

Mr. Williams indicated a trial period did not seem to work in this situation because there were a number of temporary improvements that did not come with the benefits such as the landscaping, street furniture, and the look of the area with cones or striping. He believed Staff could return and look at the first block from El Camino Real to address some of the concerns regarding a traffic back-up onto El Camino Real.

Mr. Rodriguez added in order to complete a trial there would not be a true view of the streetscape benefits. The way the current project was designed and estimated it assumed there was a gain in value.

Vice Mayor Yeh understood the points Staff was making but his concern was even with all of the pieces being in place for California Avenue, the construction would still need to be done in phasing. He mentioned the Charleston Arastradero Corridor where there were areas that were not complete because of a lack of funding.

Council Member Klein asked Ms. Stump to confirm the Negative Declaration was required to be posted for 30-days and it had in fact been posted.

Ms. Stump confirmed the Staff Report indicated the Negative Declaration was circulated between December 17, 2010 and January 18, 2011.

Council Member Klein asked if the previous circulation time was sufficient and there was no need for a re-circulation.

Ms. Stump stated the interpretation of the court order was the substance of the Negative Declaration and the procedure for posting and circulating was not disturbed by the Judge; therefore, it was the view of the City Attorney's office that the Council could proceed with the adoption of the Negative Declaration.

Council Member Shepherd supported the approval of the Negative Declaration.

Council Member Price supported the Motion and felt the process had been completed appropriately.

Council Member Burt wanted to ensure the review of the Negative Declaration was being treated in a diligent fashion. He had a question on section PN as it was listed as a less than significant impact. He felt it would be a positive impact. He asked why it was a slight negative rather than a positive.

Mr. Williams said typically if it was not applicable, Staff noted it as less than significant.

Council Member Burt confirmed it was an inclination on the side of caution.

Mr. Williams said yes.

Council Member Burt asked if Staff had reviewed the Mitigated Negative Declaration again, item by item and were confident the determinations made at the time when first circulated continue to apply across the board.

Mr. Williams responded yes, Staff had re-reviewed the document in its entirety with particular attention to the traffic information and felt comfortable with it.

Ms. Stump the mere passage of time did not require the work to be redone. The standard in the code was that there did need to be further environmental work when there was a new avoidable significant effect

identified and mitigation measures or project provisions added to reduce the effect and significance.

Council Member Burt asked if there had been significant projects since the document was previously reviewed.

Mr. Williams stated no and noted the document in question was not a Mitigated Negative Declaration, it was a Negative Declaration.

**MOTION PASSED: 9-0**

**MOTION:** Council Member Klein moved, seconded by Council Member Price to: 1) adopt Resolution to authorize the Santa Clara Valley Transportation Authority (VTA) to submit an application for the California Avenue – Transit Hub Corridor Streetscape project to the Metropolitan Transportation Commission (MTC) and to commit local-match funding for the project, 2) Establish a new Capital Improvement Program (CIP) project entitled California Avenue – Transit Hub Corridor Streetscape Project, and 3) Reaffirm the agreement with RBF Consulting for the design of the California Avenue – Transit Hub Corridor Streetscape project with funding from the CIP project.

Council Member Klein agreed the downtown areas with reduced lanes had an increased vitality. He was surprised to hear critics comment on not wanting to be like University Avenue when the real estate values on University were double to that of California Avenue and it was a vital location. He was aware the traffic moved slowly but that was an advantage to the businesses. He saw California Avenue as an underdeveloped asset to the community and felt it could benefit from a lane reduction.

Council Member Price felt it was important to state the action being taken was in support of the visionary plans of the City; the Comprehensive Plan, the Bicycle and Pedestrian Plan, and the City was being consistent in making progress on many items discussed in the past. California Avenue was a critical corridor in the community and it was in need of beautification and enhancements. She noted an area of concern in the Economic Development strategies and goals was California Avenue.

Council Member Holman asked if Staff could review the various construction period assists that would be provided to the merchants in the area.

Mr. Williams said although there had not been assists specified, Staff had been working with the merchants to define the staging phases and also to provide additional marketing and outreach necessary to ensure the

community and the surrounding areas were informed the district would be open during the construction.

Council Member Holman was troubled with the seeming disconnect between the Staff and the merchants.

Mr. Williams felt the best way to handle the situation was to meet with the Business Association of California Avenue (BACA) and define how the City could improve the communication with the merchants and set a regular schedule to maintain open lines of communication during the project.

Council Member Holman suggested there be ongoing and regular communications during the construction phase because there were possible issues that could arise during that time. She asked if loading zones were going to be re-introduced in the proposal to satisfy the needs.

Mr. Williams stated yes, that was on the list of items to be reviewed and discussed.

Council Member Holman asked why there was no mention of widening the sidewalks since it was a major discussion point throughout the project.

Mr. Williams said the widening of sidewalks was not listed as a specific item but it was one of the many issues for providing safe space for bicycles and pedestrians.

Council Member Holman asked if they so chose could Council move to eliminate any scenarios that would decrease parking.

Ms. Stump stated the further discussion of development, refinement, or potential design items related to how the concept plan would be implemented was not agendaized and therefore could not be voted on.

Council Member Holman understood if a trial period was to take place many of the benefits would not be shown; however, her thought was it might provide some assurances to the merchants if they could see the traffic flow aspects of the project.

Mr. Keene reiterated a trial period would be consistent with a false test which may inhibit people from venturing to California Avenue because of the barriers blocking the street. There were two modes of interpretation one being the data and the other being the manner in which people experience change.

Council Member Holman stated she had envisioned the trial period as striping being added to the street rather than physical barriers.

Mr. Rodriguez said when the Traffic Impact Analysis was reviewed there were specific recommendations regarding the operational preservation of intersections, specifically at El Camino Real. A trial period would present a negative impact from the aspect of there would be dead space on the roadway.

Vice Mayor Yeh supported and understood what Staff was relaying regarding the negative impacts for a trial period; although, it was important for there to be in-depth verbal conversations and paper back-up with the merchants so there was a conceptual understanding of the benefit for not doing the trial. He understood there would rarely be complete agreement with a project of this size and amount of changes.

Council Member Schmid asked for confirmation that at present, the vote was for a grant application submission while in the February 2012 timeframe the discussion would be of sidewalks and parking issues and in mid-summer there would be proposals for going out to contract.

Mr. Rodriguez stated that was correct.

Mr. Keene added there would be a final decision by the Council for the alternatives.

Council Member Shepherd asked for clarification on the Plaza upgrades.

Mr. Rodriguez said item 2B included the streetscape along California Avenue as well as the Park Boulevard Plaza area.

Council Member Shepherd supported the Motion

**MOTION PASSED: 9-0**

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

Vice Mayor Yeh spoke about two items recently discussed at the Local Government Advisory Committee for Assembly Member Gordon. The first was related to CalPERS transparency and televising their meetings, and the second dealt with lowering the bond approval limits by voters.

ADJOURNMENT: The meeting was adjourned in memory of Former Mayor Jim Burch at 11:26 P.M.

