

Special Meeting
April 23, 2012

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 P.M.

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh (left the meeting @ 10:00 PM)

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, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray)
Employee Organization: Service Employees International Union, (SEIU) Local 521
Authority: Government Code Section 54957.6(a)

The City Council reconvened from the closed session at 7:21 P.M. and Mayor Yeh announced no reportable action.

The City Council convened as the Public Improvement Corporation at 7:22 p.m. and reconvened to the City Council meeting at 7:23 p.m.

SPECIAL ORDERS OF THE DAY

2. Proclamation for May as National Preservation Month.

Council Member Holman read the Proclamation into the record.

Margaret Feuer, past Board Member of the Palo Alto Stanford Heritage invited the Council to the programs the Palo Alto Stanford Heritage planned for May. The Heritage held walking tours as a way to educate the public about the historic character of the neighborhoods in Palo Alto. At the 17th

04/23/2012

Annual Preservation Award Ceremony on May 20, 2012 brass plaques would be given to houses celebrating 100 years and achievement awards would be presented to members of the community. Jacqueline Proctor, author of a book about architect Harold Stoner, would be the guest speaker. She invited everyone to attend one or all of the events in May.

CITY MANAGER COMMENTS

City Manager, James Keene reported the temporary child care center affected by the Hoover Pavilion restoration project opened April 23, 2012. Significant progress was being made on the Hoover Pavilion restoration project, and construction of the adjacent parking structure was expected to begin soon. The Association of Bay Area Governments (ABAG) awarded the City and the Palo Alto Housing Corporation the Growing Smarter Together Award on April 19, 2012 for the construction of the Tree House Apartments located at 488 West Charleston Avenue. Mayor Yeh was interviewed for the ABAG video and Council Member Schmid and the Director of Planning and Community Environment accepted the award on behalf of the City. He reminded the Council the 90th Anniversary of the May Fete Parade would be held on May 5, 2012 with the theme Palo Alto at Play. The parade would have a shorter route, starting at the corner of University and Emerson and ending at Heritage Park. May Fete was planned by the Palo Alto Recreation Foundation and the Kiwanis Club of Palo Alto. .

Mayor Yeh reported Palo Alto's Sister City of Tsuchura presented the City with a model of a sailboat used by residents of Tsuchura. The model would be displayed on the seventh floor of City Hall for the year, and then displayed in the front lobby of City Hall.

APPROVAL OF MINUTES

MOTION: Council Member Espinosa moved, seconded by Council Member Shepherd to approve the minutes of December 11, 2011, January 9, 2012, and January 17, 2012.

MOTION PASSED: 9-0

ORAL COMMUNICATIONS

Ivy Sanders Schneider, Vice President of the Teen Arts Council said the Teen Arts Council was an organization dedicated to spreading the arts throughout the community and providing platforms for teen expression. In the past, they held four successful open microphone events, two dances for middle school students, a stage reading of an original play, four full-length shows, a music festival, and several trips to the Ronald McDonald House.

Spence Carlson, Treasurer of the Teen Arts Council, stated the Teen Arts Council would expand its reach, increase its impact on the community, continue searching for ways to promote youth wellness, provide teens with methods for taking control of their events and projects, and pursue partnerships and fundraising to support those goals. They planned to continue producing the open microphone series, middle school dances, and the Hurricane Music Festival. The teens supported and appreciated the parent organization Palo Alto Children's Theatre, which had allowed them to pursue the arts.

Ethan Hausser, a general member of the Teen Arts Council, reported he was an actor in an upcoming show. Without the Teen Arts Council, the teens could not create and perform unique productions. He thanked the Palo Alto Children's Theatre and the City of Palo Alto for giving them the opportunity.

Zillah Glory, Teen Arts Council Coordinator, had learned to love the fact that her voice did not matter. What mattered most was the teens' view of themselves after the event. The teens did not describe all the things they did, how much they worked together, how often they met, or their work to resolve problems. She invited the public to the Julia Alvarez Capstone Event for the Big Read Voices United Bay Area on Wednesday, at 7:00 p.m., at Cubberley Community Center. The Teen Arts Council designed the website for the event and was hosting the entire online aspect of the event.

Bill Burruss noted the quick response of the City Council and Staff to the design change at Middlefield Road. Approximately 80 percent of the merchants of California Avenue were opposed to reducing four lanes to two. The change would be a disaster for the merchants and traffic flow. The Council had worked quickly to change the design of Middlefield Road; however, there would be no correcting California Avenue once it was reduced to two lanes. He invited the Council to observe traffic and discuss the problem with merchants.

Philippe Lchot said the situation with California Avenue was a farce. At peak traffic times, there would not be any through traffic. At the beginning of the project, some people were in favor of it; however, they were now opposed to it. Residents were opposed to the change as well.

CONSENT CALENDAR

Council Member Klein advised he would not be participating in Agenda Item No. 3 as he lives across the street.

Council Member Espinosa stated he would not be participating in Agenda Item No. 8 as he was an employee of Microsoft.

Council Member Shepherd stated she would not be participating in Agenda Item No. 4 as it was a conflict with her husband's law firm.

MOTION: Council Member Schmid moved, seconded by Council Member Price to approve Agenda Item Nos. 3-10, with a correction on Agenda Item Number 4 that the public hearing is set for May 7, 2012 for FY 2013 and not FY 2012.

Pamela Radin spoke on Item Number 9 as a proponent of Ross Road and finishing Oregon Expressway for the safety changes it would bring. She urged the Council to pass this Item.

Mike Aberg spoke on Item Number 9 and was looking forward to the bike-pedestrian light at Ross Road and Oregon Expressway. This would be the first step in having a Ross Road bike boulevard.

Andrew Boone spoke on Item Number 9 and was glad to see the last step for the Oregon Expressway Improvement Project was before the Council. In addition to the signal light timing improvements, the visible change at Ross Road and Oregon Expressway was a bicycle-activated light to cross Oregon Expressway. A network of bicycle boulevards was recognized as the most important piece of infrastructure, with the biggest benefit for the lowest cost to reduce traffic congestion, reduce air pollution, and achieve many transportation goals.

Mayor Yeh indicated the public hearing in Item No. 4 on the Consent Calendar would be held on May 7, 2012 for Fiscal Year 2013.

3. Approval of a Record of Land Use Action for a Variance for the following exceptions associated with the remodel and addition to an existing single-family residence: (1) placement of a swimming pool within a 24 foot special setback; (2) placement of noise producing equipment (pool equipment) within a 24 foot special setback; (3) one-story encroachment into the 24 foot special setback (approximately 90'-3" long by 4'-1" deep); (4) basement, following the first floor footprint, and below grade patio encroachment into the 24 foot special setback; and (5) one encroachment into the front setback (27" at the master bedroom corner for a length of 5'-6") located at 885 Seale Avenue. * Quasi Judicial
4. Preliminary Approval of the Report of the Advisory Board for Fiscal Year 2013 in Connection with the Palo Alto Downtown Business Improvement District and Adoption of Resolution 9243 Declaring its Intention to Levy an Assessment Against Businesses within the Downtown Palo Alto Business Improvement District for Fiscal Year

2013 and Setting a Time and Place for a Public Hearing on May 7, at 7:00 PM or Thereafter, in the City Council Chambers.

5. Approval of Amendment No. Five to Agreement with the Housing Trust of Santa Clara County, Inc. to Provide a Contribution in the Amount of \$200,000 from the Residential Housing Fund for Fiscal Year 2011/12 to be Expended Through Fiscal Year 2015/16.
6. Finance Committee Recommendation to Accept the Auditor's Office Quarterly Report as of December 31, 2011.
7. Approval of Amendment Eight to the Agreement With the County of Santa Clara for Abatement of Weeds to Change the Method for Setting Abatement Fees and Costs.
8. Approval of Contract C12144913 with CompuCom Systems Inc. in the Amount of \$210,617.28 per year for Microsoft Enterprise Agreement (MEA).
9. Adoption of a Budget Amendment Ordinance 5152 in the amount of \$410,000 and Approval of Agreement with the County of Santa Clara for the City's Fair-Share Contribution for the Oregon Expressway Improvement Project.
10. Approval of City Council Priorities Quarterly Report Update.

MOTION PASSED for Agenda Item No. 3: 8-0 Klein not participating

MOTION PASSED for Agenda Item No. 4: 8-0 Shepherd not participating

MOTION PASSED for Agenda Item No. 8: 8-0 Espinosa not participating

MOTION PASSED for Agenda Item Nos. 5-7, 9-10: 9-0

AGENDA CHANGES, ADDITIONS, AND DELETIONS

None

ACTION ITEMS

11. Discussion of Zoning Amortization Study and Options Related to Communications and Power Industries (CPI) at 811 Hansen Way.

Curtis Williams, Director of Planning and Community Environment reported the purpose of the meeting was to allow input from residents and Communications and Power Industries (CPI), and to solicit comments and

direction from the Council. CPI moved to the site in 2005, bringing their facility from San Carlos. Residents had raised concerns about the level of hazardous materials at the site. There had been three recorded incidents of violations that had heightened residents' concerns. In 2007, Staff worked with residents, the Council, and CPI to draft amendments to the Zoning Code. Amendments denied any facility having hazardous materials above thresholds established in Title XIX the ability to expand or construct new facilities without Council approval unless they were at least 300 feet from residents. There were also provisions regarding the amount of existing hazardous materials that could be modified. Generally these types of facilities would not be permissible elsewhere. As a result of ongoing concerns, Staff initiated a zoning amortization study to require compliance over an appropriate period of time to recoup investments. The City commissioned that study from CB Richard Ellis, who delivered a report to the City approximately one year ago. Staff noted that in the interim, CPI had reduced the quantities of the two hazardous materials that exceeded the thresholds of Title XIX, and was in compliance with the zoning regulations regarding the 300-foot setback that would otherwise be required. Nevertheless, the amortization study reviewed the issue of the plating shop facility and what would be a reasonable time period to allow that facility to be either relocated on the site or placed elsewhere. The recommended time period was approximately 20 years from the date CPI moved to the site, which would be approximately 2026. Staff had outlined three potential options on this project. Staff was not asking the Council to decide which option to pursue, but wanted to outline some possibilities. One was to pursue zoning that would require further setbacks to address not specifically Title XIX facilities, but plating shops or similar facilities with these particularly hazardous materials, and follow up with an amortization process. A second option was to have a further study of hazardous material quantities and the risks thereof to determine what kind of zoning change was appropriate and what kind of setback from residential areas was appropriate given different types of materials. The third option was to work with the residents and CPI to determine what further gains could be achieved in continuing to reduce the use of hazardous materials on the site, and lower those levels. Staff asked for direction from the Council. Staff believed they needed to engage some technical assistance to help understand the implications and risks for the nearby residential neighborhood. Staff requested the Council direct Staff to retain third-party, independent assistance to review offsite hazards and appropriate levels of hazardous materials in proximity to residential areas. Staff could use this information relative to further deliberations about zoning options or further design and process improvements at either CPI or other industries.

Bob Fickett, President and Chief Operating Officer of CPI, had been employed with CPI at the Palo Alto campus since 1982. Five years ago, the City Council directed the City Manager to work with CPI to reduce the

quantities of two Title XIX chemicals below threshold levels. CPI supported the recommendation and worked for five years to reduce the amount of these chemicals. As of March 2012, all chemicals were below Title XIX thresholds. In 1986 CPI remodeled the plate shop and reduced the amount of chemicals. Prior to 1986, the amount of chemicals was much higher. The move from San Carlos to Palo Alto necessitated a short-term, temporary increase in the amount of chemicals on-site, because of the increase in parts being processed. It also provided a catalyst for CPI to upgrade the plate shop. CPI employed Chemical Solutions to design, develop and renovate the plate shop to state of the art. Chemical Solutions successfully improved the efficiency of the plate shop, while bringing all safety systems up to best of class. Since the completion of renovations, CPI had continually decreased the amount of chemicals onsite to the point of being below threshold. For nitric acid, the same timeline applied. CPI placed great importance on safety. In regards to storage, incompatible materials were segregated. Containment included secondary and tertiary containment as well as berms. Also, approximately 300 different alarm and sensor points were onsite. There was also security around the clock, monitoring the alarm systems, and personnel were very well trained on the proper notification protocol. For transportation, chemicals were delivered by trained experts, and each delivery was overseen by a trained CPI person. Delivery size was limited, and transportation was performed in double containment. CPI separated cyanides and acids by very large berms. CPI had reduced the bath sizes, and all baths were covered when not in use. There was a wastewater treatment center, exhaust scrubber system, emergency generator, and gas monitors and alarms. Plate shop employees were long tenured, with an average of greater than 15 years handling chemicals at CPI, and they were very well trained. In the unlikely event of a worst-case scenario or a hazardous materials waste, modeling for the worst-case scenario had been performed, and it indicated no offsite consequences. Modeling used conservative assumptions, assumed the release occurred outside, even though chemicals were contained inside. It assumed there were no walls or ceilings to attenuate it. Analysis was performed by a third-party expert, Risk Management Professionals, who was recommended to CPI as being the most knowledgeable and experienced in the field. The County brought in its own outside technical experts for review of the 2008 Risk Management Plan. This expert did agree with the findings. The 2008 Plan calculated toxic endpoints of less than 33 feet from the point of origin. In addition, since the 2008 Plan, CPI had greatly reduced the amount of chemicals; nitric acid by 70 percent and potassium cyanide by over 80 percent. In the worst-case scenario, neither potassium cyanide nor nitric acid reached the property line. The odor from a nitric acid spill would travel much further than the toxic endpoint and would reach the neighborhood, but was not harmful. In 2006 there was a release of nitric acid, which did cause an odor to reach the neighborhood. There was no danger, to the neighbors. CPI cleared the room, took measurements in the room where the release occurred, and

found that the peak measurements did not exceed the physical exposure limit (PEL). Employees could have worked in that room even if it stayed at its peak level for up to an eight-hour period without any risk of health consequences. While it was not harmful even at the source, it was enough to cause an odor to reach the neighborhood. Since CPI's measurements were below the PEL, it did not notify the Fire Department. In hindsight, CPI should have contacted the Fire Department. Since then, CPI had updated its process, and would notify the Fire Department regardless of the size of the release. CPI had been onsite since 1953. It was a very large, long-term employer in Palo Alto, with more than 660 employees. The average tenure of the employee base was greater than 20 years. The high vacuum requirements of devices required that the surfaces of all parts, assemblies and final product be incredibly clean. This required that assembly be performed in a clean room. It also required that parts, assemblies and final product go through the cleaning process. The plate shop was integral to CPI's business. The division manufactured between 3,500 and 4,500 products per month, made up of approximately 500,000 piece parts. These parts found their way through the plate shop many times during the manufacturing cycle. Without an in-house plate shop, CPI would have trucks flowing through the business nonstop, greatly increasing costs, cycle time and the risk of contamination. This would render CPI non-competitive. In summary, CPI had been onsite for approximately 60 years. During that time, the noteworthy incident was when the plate shop in 2006 released a nitric acid odor that carried into the neighborhood. This odor was not and could not have been dangerous. CPI was designed to keep the worst-case scenario onsite. Regardless, it concerned the neighbors, and CPI took their concerns to heart. Since that time, CPI had increased efforts, training, investment, and focus with the objectives of getting below Title XIX thresholds while continuing to increase all safety aspects of the business. Over the last five years, CPI had radically reduced the amount of both potassium cyanide and nitric acid. Now CPI had no chemicals above the threshold. CPI had increased the number of alarms to the point there were almost 300 alarm and sensor points onsite, from the plate shop to the storage area to the roof to the fence line. CPI had invested in an emergency generator to backup the alarms and the chemical scrubber. CPI had increased the level of training of employees along with anyone else who came into contact with the chemicals, including delivery personnel. CPI had improved its communications protocol. While the neighbors and community were extremely important to CPI, its employees and their well being were equally important. He was proud of CPI's safety record, and proud CPI was a vital supplier to the medical industry and the U.S. Government. While the factory was virtually irreplaceable, the workforce could never be duplicated, which was why CPI had every intention of staying in place for the foreseeable future. Lastly, he wanted to address some recent misstatements in some of the City's materials, which implied CPI had been a non-conforming organization until recently. CPI's operations had always

conformed to the Palo Alto zoning rules. Given the facts, any attempt by the City to target CPI would be unjustified, unenforceable, and unlawful. There is no threat to the health or safety of the community. Attempting to eliminate CPI based upon fears not supported by evidence would be discriminating, and CPI would oppose such an attempt. If the City did attempt to eliminate CPI and adopt an amortization period, the only reasonable amortization period would be at least 40 years as determined in the report from Marshall and Stevens that was provided to the Council. As a longstanding member of the Palo Alto community, they preferred not to fight against the City. Therefore, CPI urged the City Council to adopt some form of the third option in the Staff Report, for CPI to continue to work with the City and the neighbors to further reduce the risk and promote the health and safety of the employees and the neighbors.

Steve Maher, Risk Management Professionals, indicated his firm had been in business since 1995. He had been in the industry, performing a variety of risk management actions since the early 1980s. Risk Management Professionals were considered specialists in risk-based applications. Risk Management Professionals had given technology in various annual California Certified Unified Program Agencies (CUPA) conferences that fire departments attended. Twice the company had been asked to share its approaches for dealing with potentially hazardous issues, especially related to cyanide. Under key services, California Accidental Release Prevention (CalARP) program had been referred to as Title XIX. From a CalARP perspective, experts considered severe events with some limiting assumptions that made the analyses extreme and worse than reality. Some of the assumptions were everything being outdoors and no active safety measures being applied. Experts applied those to potassium cyanide solution spills, solid particle release, and nitric acid spills to ensure the community was protected. Even with all these boundary conditions, these spills would not go any further than 33 feet. CalARP had some significant limiting approaches from a regulatory perspective. CPI asked Risk Management Professionals to look beyond that, at occurrences such as extreme earthquakes and people deliberately mixing chemicals. Risk Management Professionals found that, even with those extreme events, CPI had exceeded all industry practices. CPI's actions in terms of creating an inherently safer design was consistent with the industry in terms of implementing these best safety practices.

Samir Tuma recognized much work had been accomplished. However, the work was not over and the situation remained untenable. There remained a substantial quantity of toxic chemicals behind the neighborhood. There was just under the threshold of 100 pounds of potassium cyanide and just under the threshold of 1,000 pounds of nitric acid. CPI had done a good job of meeting the technical requirements, but getting under those thresholds did not make it safe. CPI produced a significant amount of hazardous by-

product, some of which had been found in Matadero Creek. CPI admitted in their documents there was a possibility of a release, and residents agreed with that. The dispute was the consequences. There was little or no warning of a release. The notion of time to shelter in-place or to learn of a release was minimal. The consequences of one of these incidents were dependent on the assumptions and the model. In the past, two consultants hired by CPI produced different results. The notion that residents' safety should be the subject of an assumption one way or another was problematic. The time to respond was impossibly short. A plating shop with potassium cyanide and nitric acid did not belong next to a neighborhood. There had been some discussion about which occurred first, the neighborhood or CPI. Residents had pictures and maps that showed the history of the area, and the neighborhood was first.

Art Liberman was a retired physicist, and had some expertise in this area as director of a division of a major corporation that made vacuum electronic devices. In 2005 CPI consolidated operations and rebuilt the plating shop in Palo Alto. The rebuilding occurred when risks of chemical releases were not well understood and the health consequences of acute and chronic exposure to hazardous chemicals were seldom discussed. That changed when the Bhopal disaster occurred worldwide, and locally when it was realized there was a widespread contamination of groundwater under Barron Park from leaking chlorinated solvents in the Research Park. If this incompatibility was not what the Council wanted for its land-use policy, then it needed to update its zoning regulations. CPI's actions to improve safety were not taken by CPI's own initiative. They all required prodding, pressure and activism by residents, persistence by regulators and government officials, and policy decisions by political leaders. Everyone understood and appreciated CPI's principle objective to be profitable. However, there was a conflict between making profits for investors and spending money on investments in the health and safety of residents who did not work onsite. On the other hand, the health and safety of residents must be the top priority for the Council. In 2006, the consequence of an accident analyzed by CPI's expert extended one-fifth of a mile. In 2007 and later, the consequences computed by a different consultant did not extend beyond CPI's site boundaries. The difference was the result of different assumptions, methodologies and consultants. The Stanford National Accelerator Laboratory (SLAC) had performed risk analysis for cyanide, for example, using similar accident scenarios and found distances which were several hundred feet. The CalARP regulations about worst-case scenarios did not require site owners to consider the consequences of chemical reactions between the hazardous materials. Each material was considered separately. Residents' nightmare scenario was a mixing of acids with cyanide. This was possible, because cyanide and acids were in the same room at CPI. Such an accident would release hydrogen cyanide. The concentration after an accident of hydrogen cyanide inside a two-story home located 100 feet from the location of the

accident could be at a lethal level. The actions of CPI's consultant were consistent with the regulations. However, he did not consider what might be an accident with the worst possible outcome for residents. In 1985, there was a fire in a plating shop; hydrochloric acid fumes were released, and hundreds of people were affected and evacuated along El Camino Real. In 2008, a spill occurred in an alleyway between the back of CPI and homes. He did not know how frequently tanker trucks filled with acid drove along this narrow alleyway, but it made residents nervous. In case of a toxic fume release during working hours, CPI employees were notified and had an in-house emergency response team, but residents were on their own especially during evenings and weekends. The consultant indicated many chemicals had an odor, but that was not dangerous. That was not true for hydrogen cyanide. CPI was just below Title XIX thresholds, but the amounts of extremely hazardous materials were still significant. Accidents with offsite consequences were possible. CPI did generate a significant amount of hazardous wastes. In a City that prided itself on ecological and environmental consciousness, the Council ought to be aware that a considerable amount of these toxic materials were produced as a result of the plating shop operation.

Mr. Tuma urged the Council to adopt the first option in the Staff report, initiate a zone change to prohibit plating shops within a reasonable distance of residential neighborhoods, and commence amortization of the plating operations. A loophole in current zoning regulations allowed the building of the same facility in the City of Palo Alto. The business would be required to provide notice, but it could build a similar facility. Residents would not be happy with a 14-year amortization of the site. Given the circumstances of the situation and in the interest of concluding the issue, he personally could accept that. He hoped CPI would see that continuing to operate next to a community was not a decision that made sense, and hoped they would move the operation out of the neighborhood.

Council Member Shepherd asked residents what the distance was for full disclosure when selling a home, and what the experience was for selling homes in that neighborhood.

Mr. Tuma had been told disclosure was one-half mile.

John Anderson, a realtor with Coldwell Banker, indicated homes tended to remain on the market longer, even though the market was hot, and values tended to be slightly lower than the rest of the area.

Council Member Shepherd asked what was being disclosed to potential purchasers.

Mr. Anderson stated disclosures varied by company. Coldwell Banker had a Barron Park disclosure that stated there was an issue.

Council Member Shepherd stated potential purchasers were made aware of the problem.

Mr. Anderson reported not all companies disclosed that.

Council Member Shepherd referenced an email from residents regarding alarms sounding and not knowing who to call for information. She inquired about the procedure for residents to gain information when alarms sounded.

Mr. Fickett said there was a number at CPI for residents to call.

Paul Denapi, Manager of Facilities Department, CPI, indicated CPI tested its fire protection system periodically, and neighbors could hear that alarm. CPI had provided a telephone number for the security office, which was manned 24 hours a day. When testing alarms, CPI did not notify anyone. If there was a release, CPI would contact the Fire Department immediately.

Council Member Shepherd asked if there was any direct communication between CPI and residents.

Mr. Denapi reported CPI's responsibility was to contact the Fire Department. The Fire Department had a communication system to notify employees and residents of Palo Alto.

Council Member Shepherd asked if conservative scenarios for an accident included the mixing of toxins in one area.

Mr. Mahar reported Risk Management Professionals considered extreme cases of mixing all possible potassium cyanide onsite in the plating room with excess quantities of nitric acid under various conditions, to assure themselves that there was not a risk to the community without any necessity for emergency response.

Council Member Shepherd asked for the meaning of without the necessity for any emergency response.

Mr. Mahar stated the distance at a threshold that could hurt somebody did not go offsite.

Council Member Shepherd inquired if that meant that there would be an alarm onsite, but the neighbors would not know there was an emergency inside the plant.

Mr. Mahar said in cases of no communication to the community or no action taken by the community, there were no harmful quantities that could hurt anyone.

Council Member Shepherd noted Risk Management Professionals' presentation indicated tests were performed as though accidents occurred outdoors. She asked if that was the case when mixing toxins.

Mr. Mahar reported Title XIX requirements called for analysis of releases outdoors. Separate from that requirement, Risk Management Professionals also considered extreme scenarios of earthquakes, loss of power, and someone deliberately mixing chemicals. Risk Management Professionals also considered use of the scrubber system, which removed 98 percent of material in the plating room, loss of power when the scrubbers might not work, and use of emergency vents when power was restored.

Council Member Shepherd asked if Risk Management Professionals tested for mixing toxins in an outside environment and the distance that would travel to the neighbors.

Mr. Mahar answered no.

Mr. Fickett indicated Risk Management Professionals did test where these accidents could happen. They considered the possibility of potassium cyanide being added to the acid tank, and tested for the distance the release would travel from the acid tank. That release remained onsite in tests.

Vice Mayor Scharff referred to residents' comments concerning hydrogen cyanide. He asked if Risk Management Professionals' tests indicated the release from someone mixing two chemicals did not leave the site.

Mr. Mahar replied correct. In the scenario of mixing materials, the chemicals could mix in the plating room only. The plating room itself was not outside, and there was a scrubber system that removed 98.5 percent of the release. The scrubber system operated continuously and had emergency power. It was fair to take credit for that. If the scrubber system did not operate, there was no place for the hydrogen cyanide to go; it stayed inside the room. It would gradually seep out, but by that time first responders and emergency responders would be onsite to re-establish operation of the scrubber system, or possibly seal leakage points. Earthquake events could cause an interruption in power, but the emergency power system was seismically qualified to ensure the scrubber system functioned properly.

Vice Mayor Scharff asked Mr. Mahar to address the scenario in which an earthquake occurred, the building collapsed, and chemicals mixed in the open air.

Mr. Mahar indicated credit was allowed for efforts to strengthen the building to ensure it could withstand design-basis earthquakes.

Vice Mayor Scharff inquired if the building would not collapse in the event of an earthquake. He asked if an earthquake caused the building to collapse and chemicals to mix, was that a threat.

Mr. Fickett reported CPI was safe during the Loma Prieta earthquake. Since that time, the building had been seismically upgraded, the plate shop had been rebuilt to a higher seismic standard, and the berm separating acid from cyanide had increased.

Mr. Mahar stated the industry wrestled with this issue when considering hazardous materials. There were specific State standards endorsed by emergency responders and fire departments for actions to protect the community and employees. When an emergency response system accounted for all foreseeable events, then the company had done its best effort to protect employees and the community.

Vice Mayor Scharff asked if CPI legally must maintain quantities below Title XIX thresholds, because it had reduced quantities to below those thresholds.

Mr. Fickett answered yes.

Vice Mayor Scharff inquired if CPI moved above threshold levels, would it be a non-conforming use.

Mr. Fickett replied yes. Because CPI was not a new build, it was allowed to have above Title XIX thresholds, but could not increase quantities more than 10 percent. Once it dropped below threshold levels, CPI was not allowed to increase above threshold levels.

Vice Mayor Scharff stated CPI would not be above Title XIX thresholds in the future.

Mr. Fickett answered yes.

Council Member Price asked CPI to discuss changes in the handling of hazardous waste over the past few years and the assumptions it made about that.

Mr. Denapi reported CPI used an outside vendor to dispose of waste it could not treat in its waste treatment facility.

Council Member Price inquired if CPI had modified its practices in that area over the past few years.

Mr. Denapi stated he did not know. CPI had done a good job in terms of handling waste at its facility. CPI staff met every Monday to discuss what would be processed in the plate shop and what chemicals would be transferred to the waste treatment system. CPI had done a tremendous amount of work in terms of handling the material, and had done a good job of handling the waste.

Council Member Holman referenced a statement that plate shops were completely reconstructed in 15-year intervals, and asked if that was usual.

Mr. Williams did not have the technical knowledge to know if that was standard practice. In the amortization study, the consultant had relied on Mr. Fickett's statement that the plate shop had been rebuilt.

Council Member Holman inquired how often inspections were performed for conformance to Title XIX, and if inspections were noticed or surprise visits.

Gordon Simpkinson, Fire Marshall reported the Fire Department had an annual inspection program for CPI and any facility that had similar levels of hazardous materials onsite. They reviewed Title XIX compliance, whether a risk management plan was in place, whether the plan had been updated for changes in process or quantity of materials onsite, requirements for hazardous materials management plans, compliance with California Fire Code requirements, and compliance with local standards for storage of hazardous materials. The Fire Department had a comprehensive inspection program.

Council Member Holman asked if inspections were noticed.

Mr. Simpkinson stated inspections were noticed in general. Notice was typically a phone call 24-72 hours prior to inspection to ensure the facility manager or other appropriate personnel was onsite.

Council Member Holman inquired if the discharge into Matadero Creek was surface water.

Mr. Simpkinson indicated most exterior storage areas were required to have a means of containing spills from the primary containment. If the primary containment was a tank and the means of capturing spills was a bermed area around the tank, the tank could collect rain water unless it had a cover. If there was rain water intrusion, the standard practice was to examine the rain water for signs of release and to test for pH in areas of acids. Once the rain water had been screened and determined not to be contaminated, then

there was a drainage system which allowed rain water to be released. An attendant had to be present to observe the draining of the containment and the restoration of it at the conclusion. That was standard industry practice for exterior storage area. In the case of the release, he understood water with relatively small concentrations of metals had accumulated in the containment system, and was inadvertently released.

Council Member Holman asked if the same scenario could happen again, now that CPI no longer stored materials outside.

Mr. Simpkinson stated CPI performed a comprehensive analysis of the sequence of events that lead to the release and any mistakes that needed to be corrected or improvements that needed to be made to its processes.

Council Member Holman asked CPI to address her previous question about the release.

Mr. Fickett reported the release happened because the accumulation and run over occurred during a weekend. During weekends, CPI now did not allow any chemical flow.

Council Member Holman asked why containment areas did not have vapor locks while clean rooms did. That would seem to be a practical and comprehensive method to ensure safety.

Mr. Fickett stated air locks were used to keep positive pressure on the room. The plate shop was cleaned by the scrubbers. Each had different purposes.

Council Member Holman suggested a vapor lock would provide extra containment to decrease the likelihood of a release escaping.

Mr. Fickett indicated the design would prevent releases from reaching a doorway.

Council Member Holman noted an incident in 2006.

Mr. Fickett stated that incident did not occur in the plate shop. That incident occurred during the move from San Carlos, when rear garage doors were open. Under normal circumstances with those doors closed, the release would not have reached the neighborhood.

Council Member Holman stated if the rear doors were open, but only one set of doors at a time, it would seem to provide an extra barrier.

Mr. Denapi reported a clean room was a room for employees to put on smocks and contained positive pressure. There was too much traffic in and out of the plate shop to have a clean room.

Council Member Holman asked whether reconstruction of plating shops every 15 years was standard practice.

Mr. Fickett indicated it was not standard practice. An important differentiation was that the plate shop was not totally reconstructed. CPI replaced tanks and piping in 1986 and 2005. Rebuilding depended on how long equipment lasted and changes in state of the art concepts.

Council Member Holman asked if Mr. Tuma's statement regarding the current ordinance was accurate.

Mr. Williams reported a facility could be located in CPI's location, but it could not contain hazardous materials over Title XIX thresholds. It would have to be set back 300 feet, and go through the process for a Conditional Use Permit. If the facility was below Title XIX threshold requirements, there were requirements for notification to neighbors if any part of the facility was within 150 feet of a residential property and for accidental release and emergency plans.

Council Member Holman noted the current Code required notification after issuance of the building permit, and suggested that should be changed.

Mr. Williams recalled that was discussed at the Council hearing, and the Council determined that it was appropriate to provide notice but it was intended not to create a discretionary review situation.

Council Member Schmid noted representatives from the City and County were present at the inspection of CPI regarding Title XIX thresholds, and asked who was present from the City.

Mr. Simpkinson indicated Inspector Paul Johnson was present at the time. The Fire Department was in the process of finalizing the documentation for the inspection.

Council Member Schmid inquired if the official party was a County inspector.

Mr. Simpkinson answered yes.

Council Member Schmid asked if the County performed annual inspections or only the Fire Department.

Mr. Simpkinson stated both agencies performed annual inspections. The County's annual inspection concerned hazardous waste and changes to the risk management plan. The Fire Department would need to confer with the County's representatives in terms of their standard practice for specifically addressing ongoing Title XIX compliance. He believed the County inspector verified that conditions remained the same each year, but did not comprehensively revisit the risk management plan.

Council Member Schmid asked if either agency could report CPI as being non-compliant with Title XIX thresholds.

Mr. Simpkinson responded yes. The facility was required to maintain a hazardous materials management plan, and that needed to be updated within 30 days of any significant change of quantities of hazardous materials onsite. The Fire Department had received that documentation and provided that information to the State's environmental reporting system.

Council Member Schmid stated that became important in the future.

Mr. Simpkinson stated CPI had officially committed to being at levels below the thresholds.

Council Member Schmid inquired if Title XIX requirements were based on emission standards that were no longer state of the art.

Mr. Mahar was not familiar with the details of how the EPA made regulations or tests or studies performed. The Title XIX parallel was to look at lower threshold quantities and less dilute amounts of material, so it had a broader range of encompassing facilities that may be closer to the community. California had some special circumstances in terms of dealing with residential areas being located close to industry. The concentrations considered harmful for nitric acid that were applied as part of Title XIX, were consistent with emergency response planning guidelines. EPA had less stringent thresholds for quantities, and nitric acid quantities were lower for California.

Council Member Schmid assumed there was a connection between EPA standards and the various states.

Mr. Mahar stated most of the Title XIX danger thresholds were consistent with EPA requirements. EPA reviewed chronic worker exposure and other things that were not necessarily associated with the community.

Council Member Burt asked for the history of rebuilding the plate shop prior to 1986.

Mr. Fickett stated 1959 was the only rebuild on record prior to 1986.

Council Member Burt inquired if there were several different permissible methodologies for offsite hazard assessment.

Mr. Mahar answered yes.

Council Member Burt understood the first analysis used a series of worst-case scenarios, and asked if that was correct.

Mr. Mahar had reviewed the documentation for the original risk management plan for CPI, and it did review reaction-type hazards of nitric acid mixing with cyanide directly. In the 1980s, California had a risk management prevention program, which reviewed topics such as cyanides mixing directly with acids. As things evolved, Title XIX only reviewed spills of the actual covered materials. It was a discontinuity. CPI asked them to consider scenarios that could create bigger hazard to ensure CPI was representing a proper risk balance.

Council Member Burt stated the prior risk management plan and the offsite hazard assessment used a different methodology from Risk Management Professionals' methodology. He asked if both methodologies were permissible under Title XIX.

Mr. Mahar stated the original submittal in 2005 went beyond Title XIX requirements. In one respect, it was an incorrect submittal; however, the facility operator would want to cover those kinds of issues.

Council Member Burt inquired whether the original assessment evaluated a mixing of the full quantity of acid and cyanide.

Mr. Mahar did not recall.

George Leong, Risk Management Professionals indicated the original assessment reviewed 10 pounds of potassium cyanide and excess nitric acid.

Council Member Burt asked if Risk Management Professionals' methodology considered that mixture.

Mr. Mahar said it went beyond Title XIX for the portions.

Council Member Burt asked how Risk Management Professionals got a fraction of the impacted range compared to the original assessment.

Mr. Leong stated the EPA had a useful tool when reviewing worst-case hazard assessments. It was a list of tables separated by a tenth of a mile.

The first risk management plan submitted used that table, and found the result to be two-tenths of a mile.

Council Member Burt understood the first methodology had a program of rounding up in calculations. He wanted to understand Risk Management Professionals' scenario which evaluated higher volume mixes of the most severe incompatibles and did not identify any offsite impact potential.

Mr. Mahar suggested he prepare an outline of the two assessments to answer the question. He did not want to mislead the Council by speculating. He believed his methodology was more accurate and applicable to particulate releases of potassium cyanide.

Council Member Burt asked for the square footage of the plating facility for the wet and non-wet process areas.

Mr. Denapi did not know the exact numbers, but believed the wet portion of the plate shop was approximately 2,500 square feet and the prep area was approximately 1,500 square feet. The acid storage room in the basement was approximately 400 square feet.

Council Member Burt stated a wet area was open chemicals in tanks.

Mr. Denapi agreed with his statement.

Council Member Klein understood there was no such thing as no risk. He suggested a scenario of a severe earthquake that breached the building walls of CPI, such that there was no containment from the building, and the chemicals mixed. He asked what the risk was to the immediate neighborhood compared to his house three miles away.

Mr. Mahar could not answer exactly because of variables, but it was unlikely the mix of chemicals would spread in that much destruction.

Council Member Klein changed his assumption from an earthquake to a terrorist who mixed the chemicals and breached the walls.

Mr. Mahar reported Risk Management Professionals did not consider that scenario, because of the security of the facility. There were two meaningful thresholds: living within the community, and codes and standards. If he was not comfortable with living in the community, then he would recommend his client make improvements. Adhering to codes and standards ensured all facilities applied best practices and were on an even footing.

Council Member Klein asked if the community was more at risk than he was three miles away.

Mr. Mahar stated, assuming zero risk at Council Member Klein's household, the incremental risk posed by CPI to the community was negligible. Risk Management Professionals had been asked to consider cyanide and nitric acid only, so he was speaking for those chemicals and not hazardous waste issues mentioned earlier.

Council Member Espinosa asked why Staff needed a technical consultant for subsequent City actions and what work was anticipated.

Mr. Williams reported the amortization study was focused on gaining compliance with Title XIX. Staff had not considered the technical differences between the two studies. Now Staff needed to define the remaining constituents and the level of risk associated with them, and determine appropriate restrictions for the use of hazardous materials adjacent to residential neighborhoods. Staff wanted a third-party, independent review of the two studies that had drastically different results.

Council Member Espinosa noted Staff's second option would have an impact on other businesses, and inquired if Staff knew which businesses, the number of businesses, and the breadth of the impact.

Mr. Williams indicated there were businesses located at Barron Park and across the street from College Terrace, but Staff did not have a sense of the quantities used and the level of risk. That was another reason to have a third-party review.

Council Member Espinosa asked if the City monitored use of hazardous materials, and their location and proximity to neighborhoods.

Mr. Simpkinson reported the Fire Department considered the types of facilities that were in proximity to residential areas when the Zoning Ordinance was amended the first time. With respect to plating shops, there were only four within the city limits of Palo Alto, and three of those were located far away from any residential neighborhoods. In terms of other facilities near residential areas, those facilities typically had less hazardous materials onsite. The Fire Department reviewed the nature of the uses, and determined the risk of an accident was not as great as the risk from a major structure fire. Plastics, foams and materials within office furniture and partitions would produce far more offsite consequences than a facility with small amounts of hazardous materials. The Fire Department was concerned about areas primarily along Hansen and Hanover. Most of those industrial areas had buffer zones before reaching storage facilities.

Council Member Espinosa asked for the neighborhood's suggestions for noticing and further study if the Council did not amend the Zoning Ordinance.

Mr. Liberman stated his opinion did not reflect that of the neighborhood, and it would not be fair for him to offer suggestions. He hoped the Council did not repeat the lack of notice and hearing which occurred in 2005 when it approved reconstruction of the facility.

Mayor Yeh understood achieving below Title XIX levels meant the frequency of delivery of chemicals had changed. He asked CPI to comment on the frequency of deliveries.

Mr. Fickett stated the change in deliveries was minimal. Most of the change occurred in usage; some processes were changed to different, milder chemicals. Potassium cyanide was delivered in double-contained 5-pound bags. Nitric acid was delivered less than once a week.

Mayor Yeh asked if delivery of both had increased in frequency.

Mr. Fickett said nitric acid has shown an increase in frequency. CPI had reduced the usage quantity of potassium cyanide, and he could not state that delivery had increased or decreased.

Mayor Yeh inquired if new hazards were created from increased deliveries of chemicals.

Mr. Simpkinson reported the overall transportation of hazardous materials in Palo Alto had not changed as a result of CPI's actions, primarily because CPI did not represent the majority share of those types of deliveries.

Lynnie Melena, President of the Barron Park Association, spoke on behalf of the Board. The Barron Park Association was concerned about the presence of hazardous materials in close proximity to the neighborhood. They appreciated CPI reducing the quantities of chemicals to below Title XIX thresholds; however, it was not good planning for these two land uses to exist side-by-side. The plating shop at CPI was an anachronism, because other facilities around it had changed. CPI took the opposite course and expanded its plating operations without notifying neighbors. She felt an amortization schedule was the only real solution for CPI. Palo Alto had amortized many uses, which were more benign than CPI. She urged the Council to support option one.

Kriss Deiglmeir stated the City Council had to make a common and critical decision regarding public safety. Based on the range of presentations, there were opposing views. Decisions about public safety were not without

controversy. Many public safety measures were led by community members. She wanted the Council to consider individuals when making their decision. The standard of public safety had to move. It was unacceptable to have a toxic chemical manufacturing plant close to a residential neighborhood. She urged the Council to adopt Staff's option one and initiate a Zoning Ordinance. She wanted to give CPI an opportunity to recover its costs, and wanted the City to act in the best interests of Palo Alto.

Douglas Moran urged the Council to recognize that the best plans and mechanisms could be negated by a poor safety culture. It was difficult to determine the quality of a safety culture from outside. There were too many basic failures in the 2006 release. The incident began when an operator dumped a bad batch of chemicals into the waste tank. He was unaware that it would trigger a reaction. That sort of mistake had been anticipated and the venting system had scrubbers to remove the harmful gases, except the access doors to the scrubbers were open and the gas escaped. The surrounding room was supposed to be a secondary containment vessel in case of failure, but its doors to the outside were open. Those two measures were in the model as being 100 percent effective. A good safety culture would not have those sorts of mistakes. The report submitted to this meeting showed a dismissive attitude in numerous places. They falsely claimed the odor only reached homes, when in fact an adult became faint. They had calculations trumping observed facts.

Winter Dellenbach stated she would have two minutes to try to save herself if an accident occurred. The children at Barron Park School would have either 45 seconds or 2 minutes; she could not remember which. She asked how they would learn of an accident. She wanted to know if there was a clean-up of the discharge into Matadero Creek. The Council knew CPI was incompatible with the neighborhood. Residents' health and safety were at risk. She wished CPI had taken half the time and cost to move the plating shop to an appropriate and reasonable place.

Robert Moss had over 40 years' experience working with toxic and hazardous materials. CPI would not succeed with any of the organizations he had worked with. The claim that the risk area was only 33 feet was absurd. A low-level toxic spill had caused a resident more than 100 feet away to be sickened. The Council should begin amortizing it. If CPI had one more event, he wanted it shut down. The most important thing was protecting public health and safety. If CPI was incapable of doing that, it was up to the Council. Adequate controls and performance meant more than having a plan. The Fire Department should provide only a 15-minute notice of inspection, so there was no possibility of hiding problems. Protecting the public was important, and that meant enforcing good, quality controls. They were depending on the Council and Staff to save lives.

Michel Adar indicated his home was built 12 years before CPI moved into the neighborhood. At that time, the area was not part of Palo Alto, and there were no regulations for hazardous materials. Because of the construction of his home, he could not shelter in-place. Shelter in-place would not work here, and the residents needed something better.

Mircea Voskerician stated CPI had no plan in place to handle an accident. It was a mistake to approve the remodel in 2005. They needed to do something to live in the community. Only CPI representatives would want to live in the neighborhood with the current situation.

Jeff Dean did not believe the Council would allow a new plating shop to operate near a residential area. He asked what value the facility provided the community. He asked the Council to consider changing the zoning, because CPI was an incompatible use.

Fred Balin stated when the accident occurred in 2006, residents of Barron Park learned for the first time what was happening at CPI. The City of Palo Alto never announced that it was a Title XIX site. The whole issue came up in the context of performance standards. On the Fire Department issue, the station on Hanover Street might be consolidated with Arastradero to have one unit.

Council Member Burt felt consultants could play a role in the Council's evaluation of options one and two. He had three general categories of functions for an independent consultant in the City's employ. The first was to identify any additional best practices. Second was an independent offsite hazard assessment. He suggested using three scenarios and two methodologies to provide a range of results. The first scenario would be a baseline, the second at Title XIX thresholds, and third was locating the facility 300 feet from residences. The third category was to define levels of hazardous materials and appropriate separation from residential areas. The area had become a research park, and there were appropriate questions regarding zoning and segregating incompatible uses. This facility appeared to have exceptionally strong safety measures, but that did not mean it should be adjacent to a residential area. The Council needed information to make rational decisions concerning options one and two.

Vice Mayor Scharff agreed the Council did not have enough information, but felt the Council should initiate a Zoning Ordinance amendment to prohibit plating shops without an appropriate separation from residential areas. A consultant could provide the appropriate distance of separation. He did not want to make a decision regarding implementation of an amortization.

Council Member Burt clarified a consultant could provide a definition of a plating shop. Other facilities used identical materials, but were not plating shops. He inquired about the number of years remaining on CPI's lease.

Mr. Williams stated 38 years.

Council Member Burt stated the plating shop was not designed to last until 2050, and suggested there was at least one more rebuild before the lease expired. The reality of what CPI would have to do might not be so different from what the neighborhood and the City were considering.

MOTION: Council Member Burt moved, seconded by Council Member Espinosa to direct Staff to; 1) return with a budgetary proposal to hire an independent third-party expert to evaluate off-site hazardous assessments under several models and compare to current zoning and CPI practices, 2) recommend definitions and thresholds of hazardous materials facilities that would be considered for a Zoning Ordinance proximate to residential areas, and 3) initiate a Zoning Ordinance amendment to prohibit plating shops, or facilities using similar hazardous materials without appropriate separation of residential areas.

Council Member Espinosa stated the lack of independent information was a concern. He noted CPI had hundreds of employees, who would be affected by changes. This company had been responsive to Council and community needs. He expressed concerns about the proximity of CPI to the neighborhood.

Council Member Burt asked how long Staff would need to prepare a budget proposal.

Mr. Williams answered 30 days.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct Staff to return within 30 days with a budget proposal.

Council Member Holman inquired about a timeline for providing results.

James Keene, City Manager indicated Staff would outline the process and timeline in the budget proposal. Those details would be presented within the 30-day period.

Council Member Holman asked for the length of time for the normal procurement process.

Mr. Keene stated Staff recognized the urgency of the issue, and would review methods to respond expeditiously while complying with ordinances. There could be a range of options, and Staff would present the quickest path.

Council Member Holman was looking for an outside estimation of time.

Mr. Keene said the intent of the Council's Motion seemed to be driven to ensure that Staff presented a budget proposal designed to meet the ends inherent in the Council Motion.

Council Member Holman asked if Staff was confident in the current amortization schedule.

Mr. Williams reported Staff was confident with the study in relation to this particular project. If the Council wanted to consider a certain category of hazardous materials being used, the study could be different. The study was prepared for one specific business and one set of circumstances.

AMENDMENT: Council Member Holman moved, seconded by Council Member XXXX to require amortization for CPI consistent with the amortization study which is 14 years longer.

AMENDMENT FAILED DUE TO LACK OF A SECOND

Council Member Burt asked if it was appropriate for the Council to include action on the amortization period in open session.

Molly Stump, City Attorney understood the intent of the Amendment was to gain technical assistance. The Council would be well served to receive the budget proposal and performing that work before addressing anything further.

Council Member Burt understood that CPI and the City had different amortization studies, and Council action could have legal ramifications. Consequently, the Council could choose to have discussion on an amortization period in a closed session.

Ms. Stump agreed with that characterization. Based on material submitted by CPI, they stated the amortization could be an issue subject to legal contention. That would be a basis for the Council to discuss it in closed session.

Council Member Holman asked why the amortization study was contained in a Staff recommendation option.

Ms. Stump indicated the Staff recommendation options were general in nature, and intended to provide Council Members a framework for discussing issues in an open session. Staff anticipated this Item would have multiple steps, and would not be resolved in only one meeting. She recommended the Council receive advice before taking action on the second step.

Council Member Holman hoped the Motion would have language regarding consideration of an amortization schedule.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER TO request Staff present to Council recommendations on potential amortization options to be reviewed in the context of the information provided by the third-party consultant.

Ms. Stump indicated the Council could direct that to come back to Council.

Council Member Burt noted the Motion did not stipulate an open or closed session. That would be at the discretion of the City Attorney.

Mr. Keene stated there was no confusion about having a closed session if necessary.

Council Member Price stated the Motion suggested the results from the consultant would be used to review potential amortization options. It did not reference additional amortization studies that may be needed to review the adequacy of the amortization studies.

Council Member Burt had not heard from the City Attorney or Staff that additional work was necessary to evaluate the adequacy of the amortization study.

Ms. Stump said the first step could raise new issues, and Staff would need to incorporate that into their response, but Staff did not foresee anything specific.

Council Member Shepherd inquired whether Staff had considered other communities' means of addressing hazardous material facilities being located adjacent to residential areas. She also asked if a setback of 300 feet was standard practice.

Mr. Williams reported most communities zoned for compatibility issues, but did not know if other communities considered the types and quantities of hazardous materials. That would be part of the consultant's function to some extent, but Staff could do that work as well.

Council Member Shepherd suggested best practices could be in existence.

Mr. Williams stated this was similar to performance zoning. He explained separating certain types of uses from residential areas versus separating uses with certain types and quantities of hazardous materials from residential areas. Staff would review that.

Mr. Keene noted there was a good potential for conflicting perspectives on this issue, and this was additional review and analysis. The wisest move would be to direct this level of review and due diligence in advance of subsequent decisions.

INCORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to include within the best practices, best zoning practices.

Council Member Shepherd asked if the City had ever requested a company amortize its building and exit this type of manufacturing.

Mr. Williams was not aware of that occurring with a Research Park property adjacent to Barron Park. It had occurred with Fry's Electronics and approximately ten other uses in the late 1980s in areas where the City wanted to promote residential use.

Council Member Shepherd suggested that information would be useful to the Council. She was concerned about the neighbors and the habitat and having research in a safe manner.

Council Member Price originally supported option one; however, discussions indicated additional study was appropriate. She was concerned about assessment and evaluation requiring too much time. She agreed with the comments regarding health and public safety. She expressed concerns about balancing Staff's workload with a sense of urgency. The best zoning practice would be not to allow this to occur next to residential properties. She assumed modeling would be reviewed in the risk assessment study by a third party. She suggested the consultant consider the feasibility of additional improvements.

INDORPORATED INTO THE MOTION WITH CONSENT OF THE MAKER AND SECONDER to direct Staff return with the results of the consultant study and the subsequent City action with a goal of six months or less.

Council Member Burt asked the City Manager for comments on that sort of timeframe.

Mr. Keene indicated Staff's preference was to present recommendations. If that was unacceptable, he suggested the language be a goal of returning

within six months. Staff's goal was to draft a proposal to achieve an outcome in the most expeditious manner.

Council Member Burt felt the tasks set forth in the Motion could be accomplished in that timeframe.

Council Member Price wanted to include language of a goal of six months or less.

Council Member Klein supported the Motion. He asked why the amortization report took nine months to reach the Council.

Ms. Stump indicated a variety of work was performed subsequent to receipt of the initial draft, before Staff considered it final. The Council had a closed session scheduled in December on this topic.

Council Member Klein stated the health and welfare of citizens was a priority, but CPI was a valued member of the business community. He recalled none of the amortizations in the 1980s were of this size. This facility would not be approved today, and suggested CPI look for another location. The real impact on the neighborhood's health and safety could not be assumed. The Council had to weigh the risk, and an independent consultant was crucial to determining the risk. CPI was not just a plating shop; it produced products useful to society.

Council Member Schmid supported the Motion. The critical factor was CPI's compliance with Title XIX, which removed some immediate pressure. That was an indication that both CPI and the City were seriously considering health and safety. There was a need for technical evaluation of standards and hazardous material zoning. Public health and safety were critical factors, and allowed the Council to focus on other land-use decisions.

Council Member Holman agreed with Council Member Price regarding a timeframe. She felt the Staff Report provided three options that were not real because of legal considerations.

Vice Mayor Scharff expressed concerns about perceived risk and decreasing home values. He noted the amortization schedule continued to run while the process took place. While the process took time, the time was not lost.

MOTION PASSED: 8-0, Yeh Absent

12. Finance Committee Recommendation to Adopt a Resolution 9244 Amending the Gas Utility Long-term Plan Objectives, Strategies and Implementation Plan.

James Keene, City Manager reported Staff's recommendation was to make slight modifications to the Long-Range Plan as a result of the Council's action on gas pricing policy approved on March 7, 2012.

Council Member Shepherd indicated there was no discussion on this topic at the Utilities Advisory Commission (UAC) or the Finance Committee (FC). The Item was to align the written policy with the new Council policy regarding the purchase of gas.

MOTION: Council Member Shepherd moved, seconded by Council Member Schmid to approve the Resolution adopting revisions to the Gas Utility Long-term Plan (GULP) Objectives, Strategies and Implementation Plan.

Council Member Shepherd there was a lot of conversation to reach the current gas acquisition strategy. On the whole, prices would decrease even though the market might be more volatile.

Council Member Schmid supported the movement toward market-based pricing. There would be efficiencies to having a market-driven price.

Council Member Klein feared, when the cycle turned and prices increased, ratepayers would complain to the Council, and the Council would attempt not to follow the policy in implementing a full increase. He hoped Staff was preparing strong informational material regarding following the market whether it increased or decreased. He was not optimistic that citizens understood that.

Council Member Burt indicated there was discussion on this topic at the FC. He had dissented to the Motion, because he supported moving away from the policy of stability without a balance with market competitiveness. He did not know the proportions of stability and competitiveness, but both factors should be present. He remained skeptical that a market-supply approach was the long-term best approach. This strategy would work well until prices increased. He would not support the recommendation.

Council Member Shepherd differed with Council Member Burt regarding discussion of the topic at the FC meeting. His reasons for not supporting this were not apparent at the time.

Vice Mayor Scharff recalled Council Member Burt chose not to speak at the FC meeting.

MOTION PASSED: 7-1 Burt no, Yeh Absent

13. Approval of the Use of \$2,275,796 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.

Greg Betts, Community Services Director recalled Staff made a presentation to the Council in June 2011 after a series of discussions with the Parks and Recreation Commission (PARC). Council directed Staff to review six items. Staff had successfully achieved those six directives, and had returned to the PARC to get their consensus to fulfill those objectives. Staff had also worked with designers on the reservoir project. They were coordinating the design of the restoration of El Camino Park, and had prepared updated figures from those presented in June 2011. Staff had also discussed prioritization of projects with the PARC. The purpose of tonight's Item was to review funding of this project. Site design remained tentative, and Staff would have a study session with the Architectural Review Board (ARB) on May 3, 2012. There had been quite a bit of action on 27 University Avenue, the location of MacArthur Park Restaurant and the Red Cross building. Staff was working closely with the designers on 27 University Avenue to ensure the entire gateway parcel was well integrated. This would achieve the goal of creating a gateway among Stanford Shopping Center, Stanford University, and Downtown Palo Alto. Staff was mindful of timing issues. El Camino Park was one of four principle sports facilities in Palo Alto. The reservoir project was ahead of schedule, because of the dry weather. There was some urgency to complete the design, so that the project could be completed without two separate phases. Separate phases would add to the cost of the project. The San Francisquito Creek Joint Powers Authority (JPA) was moving forward with plans for improvements to the levees at the Baylands. Moving the levee would affect parking and play at the Baylands athletic facility. One of the field carpets at the Stanford-Palo Alto playing fields was almost useless, and there was a proposal for a Capital Improvement Program (CIP) in the Fiscal Year 2013 Budget. Replacing the carpet would take the sports facility out of play. Staff was concerned that these sports facilities were away from neighborhoods, and wanted to avoid placing sports activities in neighborhood parks.

Daren Anderson, Division Manager for Open Space Parks and Golf indicated Staff recommended tentative approval of the design for park improvements at El Camino Park, recognizing that the design had not yet been approved by the ARB; use of \$2,275,796 in Park Development Impact Fees to fund Staff's tentative list of improvements at El Camino Park; and deferral of construction of a dog exercise area until an environmental assessment could be completed for Stanford University's approval, and final funding could be secured. At the June 13, 2011 Council meeting, the Council approved the design for improvements to El Camino Park to include a synthetic field, new

pathways, a picnic area, and other amenities, and use of \$1.4 million in Impact Fees for funding it. The Council's first amendment was to pursue improved connectivity for bicycles and pedestrians. On the north section of the park, across Alma into the proposed dog area, Staff proposed a crosswalk. A traffic safety study was needed to confirm the location and method for crossing. The proposed crossing was only 250 feet from an existing controlled crosswalk on El Camino Real. Towards the south end of the park, Staff was considering a sidewalk connection that would go across MacArthur Park and connect with a bike path. The additions to 27 University Avenue and MacArthur Park regarding connectivity would provide a connected southern portion of the park. The second amendment was to incorporate bike racks into the design. Siegfried Engineering Inc., the landscape architect firm designing the project added 15 bike racks, each supporting two bikes, in four areas. The third amendment was to seek an alternative to the Public Facility (PF) zoning currently in place to restrict land use to recreation or to serve as a disincentive for other uses. Staff confirmed the existing PF zoning was as restrictive as possible for the property. The fourth amendment was to incorporate a dog exercise area and to expand the parking lot. Staff met with the PARCPARC to discuss options for a dog off-leash exercise area. The PARCPARC voted on a dog exercise area of approximately a half acre in the undeveloped north section of El Camino Park. Stanford University would require some additional environmental study as well as possible mitigations because of the proximity of San Francisquito Creek. Due to the need for additional study, possible mitigations, and limited funding, Staff recommended deferring the final design and construction of that dog exercise area until a study could be completed and funding found. Regarding additional parking, Staff met with the PARC and presented options for expanding parking. After much discussion, the PARC helped select a design that added a loading/unloading zone and 26 parking stalls to bring the total to 68 for the site. The fifth amendment was to pursue an extended lease from Stanford University. On April 16, 2012 the Council approved an amendment to the 1997 Sandhill Road Development Agreement and extended the lease for El Camino Park for nine additional years, from June 30, 2033 to June 30, 2042. The sixth and final amendment was to return to the PARC for final design approval. On September 27, 2011, the PARC approved the design, but recommended the dog exercise area at a cost of \$207,000 and the expanded parking lot at a cost of \$242,000 be funded by a source other than Park Development Impact Fees. There was no other uncommitted capital funding available, which explained the difference between the PARC's recommendation and Staff's recommendation. Staff understood and appreciated the PARC's concern about investing heavily from the limited fund, but wanted to use \$2.275 million on this one site. Given Council's concern about the critical need for parking and the anticipated increase in usage, Staff added the recommendation for Impact Fee funding. Since the PARC felt the dog park was a non-essential item at this park at this time given funding limitations,

Staff recommended deferring this portion of the project until the Impact Fee account was replenished and a final design and environmental assessment could be funded and completed to the satisfaction of Stanford University. The Planning and Community Environment Department would perform an addendum to the Environmental Impact Report (EIR) once the project moved to that stage. The Park Development Impact Fee balance was approximately \$2.8 million. Staff's recommendations would reduce that balance to \$537,449. If the Council chose to include the dog exercise area, the total cost for the project would increase to approximately \$2.5 million, and the Impact Fee balance would decrease to \$309,000. The PARC's recommendation would cost approximately \$1.899 million, and leave an Impact Fee balance of approximately \$913,000.

Paul Snyder, Seigfried Engineering, Inc. reported improvements included a synthetic soccer field that would double as a lacrosse field, a passive park area with connectivity, an expanded parking lot, additional trees, reconstruction of a natural turf field, and a second passive park area. He had conferred with Staff regarding the 27 University Avenue project in relation to environmental documentation, limitation of the easement, park improvement ordinances, the utility corridor, and future projects in the area. He reviewed photos of the project. He and Staff had discussed the historical significance and integration of the Olympic grove. The design of the project had been optimized to maximize use of the entire park. Connectivity of the park had been enhanced and considered future possibilities. Architectural elements of the pump station would be included in the restroom facility and scorekeeper's booth.

Mr. Betts indicated two locations were favored for relocation of the MacArthur Park Restaurant building. The first location, proposed by the City of Menlo Park and the Veterans' Administration, was the former Camp Fremont in Menlo Park along Willow Road at the Veterans' Administration. The second location was the Golf Course, where it would be used as an alternative to the current clubhouse. Staff had considered three possible locations of the building within the park: 1) the dog park at the north end of the park; 2) the head of the parking lot close to the railroad track; and, 3) the undeveloped property at the south end of the park. Relocation to the dog park would require the removal of a number of eucalyptus trees. Relocation to the parking lot would reduce the size of the parking lot and eliminate a number of trees in the vicinity.

Herb Borock noted 27 University Avenue and 400 Mitchell Lane were not on the Agenda, and felt it was inappropriate to discuss them. The current Agenda Item included an action that was subject to the California Environmental Quality Act (CEQA). Tonight's meeting should have been properly noticed for approval of the environmental review, and it was inappropriate to take action for the same reasons it was inappropriate to act

on the California Avenue project. The softball field which doubled as a soccer field was being moved from one place to another. He did not believe Park Impact Fees could be used for that purpose. The major cost was the synthetic field, which lasted approximately eight years; therefore, the Council was not receiving anything for an extension of the lease. All that meant was an additional period of time when that playing field would compete with money for other park uses. It was a mistake to spend so much money on this one park, especially since it was mainly for adult teams comprised of residents from other cities. In terms of protecting this area for park use, the main protection was the park dedication. If a limit was linked to the lease and the lease was being extended, then the park dedication should be extended the same number of years. The area next to the synthetic soccer field could be used for a dog park, but one of the Commissioners argued that area should be reserved for people affiliated with the organized teams playing sports.

Council Member Espinosa shared the concern about discussing the 27 University Avenue project, because it was not agendaized and the Council had not seen any details on that project. He expressed concerns about approving a multi-million dollar park design when there was the potential for a significant alteration.

Mr. Betts stated Staff's purpose in mentioning the University Avenue project was to let the Council know Staff was being mindful of the integration of the two projects. Connectivity through this entire area had been an important concern of the Council and Commission. The area of mature redwood trees was a constraint of the park. On the other side was the pump house for the reservoir. The City had a separate long-term easement from Stanford University for the position of that pump house, but the pump house could not be changed. The soccer/lacrosse field would keep the area as multi-use as possible. That was one of the reasons for the removable fence. If a building was located at the current transit center, it would allow for flow into the park. Staff was not trying to create barriers between the two adjoining uses.

Council Member Espinosa was concerned about the possibility of a major building being located anywhere in the park, because it could require a major redesign. The current design called for a significant amount of money.

Council Member Price asked whether the safety fence was the same as portable fencing or a separate portion of the site plan.

Mr. Anderson stated the safety fence was designed to be placed by the north field to prevent balls from going into the parking lot.

Mr. Snyder indicated the larger safety fence would be placed along the El Camino Real side and the backside of the soccer field.

Council Member Price inquired if the surface materials were permeable, and asked for cost implications of permeable versus non-permeable.

Mr. Anderson said permeable concrete would be utilized on the El Camino Real side of the north field. Because irrigation would be removed from the north field, Staff wanted to enhance every possibility of getting water to the trees in that area and would use porous concrete for the pathways. Porous concrete was more expensive than asphalt. Around both north fields, the design called for use of decomposed granite pathways, which would allow water to flow to root systems.

Council Member Shepherd asked for an explanation of the \$1.6 million from the reservoir project.

Mr. Anderson had a list of the various items funding from Utilities would pay for.

Council Member Shepherd asked how the \$1.6 million became a part of the Park Impact Fees.

Mr. Anderson stated the \$1.6 million was not included in Park Impact Fees. Staff had broken down the \$1.6 million from Utilities into each component of the park design, and deducted that amount from the cost of each component.

Council Member Shepherd asked if the cost of improvements was actually \$3.9 million.

Mr. Anderson answered yes.

Council Member Shepherd stated that was not clear.

Mr. Betts explained the Utilities Department under Proposition 218 was required to return the park to its original condition. The differences were the passive recreational area at the north end of the park, the permeable pathways, the new fencing, the artificial turf, the expanded parking lot, the combination sports field, and all items the Council directed Staff to consider.

Council Member Shepherd suggested having two line items and a combination of the two in order to show the approximately \$4 million impact on the park. She shared Council Member Espinosa's concerns regarding possible relocation of a building into the park. She asked when the two bike subways might be constructed.

Mr. Anderson did not have that information, but would review it.

Council Member Shepherd asked for a description of the PARC discussion concerning the dog park.

Mr. Anderson reported discussions at the PARC meeting covered the impacts of placement of the dog park in each section of the park. Adjacent to the playing fields meant balls would go into the dog run and owners would need to retrieve them. The area to the north was a natural area suitable for a dog park and would be low cost. A location at the parking area would require a short hike to reach.

Mr. Betts noted the dog parks at Hoover Park and Greer Park were undersized. Staff tried to find an area large enough to support a dog park underneath trees.

Council Member Shepherd asked if both playing fields would have night games, because lights were included in the design.

Mr. Anderson reported the south softball field had lights. Staff needed more community outreach to ensure lights on the north field would not negatively impact the adjacent neighborhood. Construction plans allowed the addition of lights at a later point without having to dig up the playing field.

Council Member Klein suggested the Council determine if the topic was ripe for a decision before spending more time discussing the merits.

Mr. Snyder explained the south end of the project was being restored to the original condition, and the Utilities Fund was paying for the bulk of that restoration. There were no significant investments in that area, and the only improvements were the decomposed granite pathway and a small portion of the connectivity around it. Any investment in this project relating to the south end of the park was negligible, probably less than \$10,000. On the north side of the park, design elements could be impacted by relocation of the Julia Morgan building. However, the playing field in the north end of the park could not be moved.

Council Member Espinosa inquired about the impact a continuance would have on the park project timeline and costs.

Mr. Betts stated the Item could be continued to July; however, the two major concerns were staging the project and the delay in reopening the park.

Mr. Snyder reported the park would sit fallow for five to six months after the reservoir was complete if the Council approved the design. If it was continued to July, that time would increase to seven or eight months. If the project was delayed by six or eight months, then the costs would only increase. Costs of mobilization and reorganization after Phase I was complete were difficult to state exactly, but would not be a small number.

Council Member Klein asked what would be the additional cost if the Council approved something tonight, then later wished to relocate the Morgan house to the north side of the property.

Mr. Snyder explained the cost of redesign depended on the exact footprint and the stage of construction. He did not understand how that was relative to the overall design fee or the entire cost of the park or how valuable the risk was when compared to leaving the park fallow. While cost estimating the project, there was an opportunity to set a time to update the Council. It was possible the project could be reevaluated at the time information became available. He had discussed with Staff opportunities for that structure within the park that would not cause major problems.

Mr. Keene noted the question of the relocation of the building was dependent on the park project going forward. If the project did not move forward, then the building would remain in its location and would have no impact on the park. If the building was to be relocated, the relocation site was within the City's discretion. Rather than waiting until July, he preferred the Council approve the design as-is pending Staff's return with a discussion of relocating the building.

MOTION: Council Member Klein moved, seconded by Council Member Espinosa to accept Staff recommendation: 1) accept the Community Services Department (CSD) and the Parks and Recreation Commission's recommendations for the approval of the (pre-Architectural Review Board reviewed) design for park improvements at El Camino Park, including pathways, a synthetic turf playing field, a multi-use natural turf playing field, landscaping, an expanded parking lot, a dog exercise area, and other amenities, 2) accept CSD's recommendation that \$2,275,796 of Park Development Impact Fees (impact fees) be used to fund staff's tentative list of improvements to El Camino Park, and 3) move forward with the construction of the recommended dog exercise area for \$2.275 million, from the Park Development Impact Fees plus the 10 percent contingency fee, subject only to the completion of the environmental assessment and Stanford's approval.

Council Member Klein felt this was an opportunity to complete an excellent community asset. He disagreed with the recommendation concerning the dog park, because a deferral meant it would not happen. The argument was

a polite way of saying Staff and Commission felt other projects were superior to a dog park. Palo Alto was not a dog-friendly community despite the number of residents owning dogs. This was an opportunity to provide a facility for a part of the City that did not have ready access to a dog park. Parking was a legitimate issue, but the impact would be minimal.

Council Member Espinosa asked Staff to consider the possibility of a building completely altering the entire design of the park. If it caused those kinds of changes, Staff should return to Council sooner rather than later. He had heard community concerns about the lack of spaces for dogs. The PARC's conclusion was to look for and carve out spaces for dog runs when renovating parks. This was an opportunity to support the project for an area that needed space for dogs.

Council Member Holman asked the City Manager to clarify his comment regarding Staff returning to Council within 30 days with an idea of where the Julia Morgan building might be located.

Mr. Keene explained his comment was not meant to be certitude. Given the concern about the co-existence of the park with a building, he suggested Staff return to the Council as soon possible with a discussion regarding whether or not the Council wanted to place the building within the park. It was in the context of not delaying the project until the summer, if Staff could provide an answer sooner than that.

Council Member Holman inquired why the Council could not wait until that time to move approval of a park improvement.

Mr. Keene stated every time Staff returned an item to the Council, the Item was more complicated and the remainder of the Agenda Item was open to discussion. If the Council decided to put that building on the site, it could have some ripple effects and could have some impact on the whole discussion. If Staff recommended not placing the building in the park, then the Council did not repeat all the Items.

Council Member Holman stated the Motion was to approve park improvements without consideration of how a building might or might not be moved into the park.

Mr. Keene understood the Council did not have a position on whether or not the building should or should not be on that site. The Council was concerned about the potential impact of the park design and the project moving forward if there was a decision to locate that building on the site. If Staff felt moving the Julia Morgan building into the park was a viable option, they would not begin design work until they had presented that information to the Council.

Council Member Holman felt the Council would have the park design discussion to determine where the Julia Morgan building would be located. She felt it would be a shame to lose the Julia Morgan building to Menlo Park.

Council Member Schmid supported the Motion. He felt the changes that could come on connectivity were as important as the Julia Morgan building. If the Quarry Road overpass and the Everett underpass were completed, the park would be easily accessible. If there was development to the south of the park, the parking spaces in the park would become a valuable commodity. He hoped the Council could integrate the possibilities of this park.

Council Member Burt asked how many bike racks were located by the dog park.

Mr. Snyder stated there were approximately five racks by the dog park and each rack held two bikes, for a total of ten bikes.

Council Member Burt suggested the racks by the dog park should be relocated in the park. He asked what the replenishment rate was for the Park Impact Fee.

Mr. Betts indicated it varied quite a bit, but the average was approximately \$200,000 to \$300,000 per year.

Council Member Burt asked for the life of the artificial turf.

Mr. Betts stated eight to ten years.

Council Member Burt asked how much it cost.

Mr. Betts said \$800,000 for the soccer field.

Mr. Snyder indicated the cost of the actual surface carpet was approximately a quarter of the \$800,000.

Council Member Burt expressed concerns about spending that amount of money for a field used primarily by non-residents. He felt the Council should provide Staff with guidance as to the location of the Julia Morgan building so that the park design could accommodate it, rather than trying to fit the building into an established park design.

Vice Mayor Scharff asked the City Attorney if that topic was within the Agenda.

Council Member Burt stated he framed it as a placeholder space in the park, which was on the Agenda.

Ms. Stump viewed it as appropriate with respect to the design items on the park.

Mr. Keene believed Council Member Burt's comment was within the perspective he had suggested. It would be a design challenge to fit the building in. It would be easy for Staff to present some schemes to show how the building could fit. That should not preclude the Council from providing direction to Staff.

Council Member Price did not support the Motion with regard to the dog park. She supported Staff's original recommendation to defer the dog park, because of limited resources. She assumed Park Impact Fees would be replenished, but was concerned about that. Relocation of the Julia Morgan building had environmental impacts as well as design impacts. The implications of that for the Budget were serious. She asked if Staff could provide options in a short period of time, because of the design and environmental impacts.

Council Member Holman concurred with Council Member Burt's comments for a Council directive regarding integration of the Julia Morgan building into the park or the 27 University Avenue site. She did not support the Motion, because it did not have a larger context. She liked the park design, but felt the park was a poor location for a dog park.

Vice Mayor Scharff supported the Motion. He felt the opportunity for a dog park was important and should be supported.

Council Member Shepherd supported the Motion. This design was optimal for this particular park at this particular site. She felt the design of the dog park was awkward, but the dog park would be used. She preferred a discussion of the Julia Morgan building include all the options.

MOTION PASSED: 6-2 Price, Holman no, Yeh absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd stated she attended the City/School Liaison Committee in place of Mayor Yeh last week, where they toured Ohlone Middle School.

ADJOURNMENT: The meeting was adjourned at 12:24 A.M.