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March 16, 2009

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:13 p.m.

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Morton, Schmid, Yeh

Absent: Klein

**AT THIS POINT THE CITY COUNCIL ADJOURNED AND  
RECONVENED AS THE PUBLIC IMPROVEMENT CORPORATION**

**SPECIAL ORDERS OF THE DAY**

1. Proclamation for the Black and White Ball.

Vice Mayor Morton read the proclamation honoring the 2008 Palo Alto Black and White Ball.

2. Welcome to Visitors from Tsuchiura City, Japan.

**MOTION:** Council Member Yeh moved, seconded by Council Member Kishimoto to move Agenda Item Number 17 forward to be heard at this time.

**MOTION PASSED:** 8-0 Klein absent

Mayor Drekmeier extended a welcome to the visitors from Tsuchiura City, Japan and the host families from the City of Palo Alto.

Tsuchiura City Board of Education Supervisor, Mr. Kinoshita expressed his appreciation to the Council Members. He indicated the Student Exchange Program was in its 16<sup>th</sup> year.

Mayor Drekmeier stated his support for the Sister City Alliance (Alliance), and thanked Neighbors Abroad for their involvement.

- 2A. (Former No. 17.) Approval of a Sister City Alliance Agreement Between the City of Tsuchiura City, Japan and the City of Palo Alto.

Acting Director of Community Services, Greg Betts stated the Sister City Program, which is supported by Neighbors Abroad, has created and sustained bonds of friendship and understanding between several communities around the world since 1963. He indicated hundreds of family and student exchanges have been arranged. He overviewed the demographics and annual festivities of Tsuchiura City, Japan and its

similarities to the City of Palo Alto. He stated Staff is seeking the authorization for the Mayor to sign the Letter of Acceptance and Alliance Agreement. He indicated the intent of the Alliance was to create a mutual agreement to encourage educational and cultural exchanges and to foster person-to-person relationships. Once the Alliance was accepted by both cities, it will be enacted for a period of one year, and will automatically renew unless notice of nonrenewal is provided by either party 30 days before the renewal date.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to approve Staff recommendation to enter into a Sister City relationship with Tsuchiura City, Japan and authorize the Mayor to sign the Sister City Letter of Acceptance and the Alliance Agreement.

**MOTION PASSED:** 8-0 Klein absent

Consul Takanori Okuda applauded the citizens of the City of Palo Alto and Tsuchiura City, Japan. He read a congratulatory letter from the Consulate General of Japan located in San Francisco, California.

Council Member Kishimoto stated her deep appreciation for this partnership, and thanked the volunteers that worked tirelessly contributing to the Alliance between the two cities. She overviewed the global history of the Sister City Program.

#### CITY MANAGER COMMENTS

City Manager, James Keene overviewed the following: 1) The status of the City's new Police Chief recruitment. He indicated Staff hopes to appoint a permanent Police Chief in June 2009. 2) He stated the 2009 Walking Gas Leakage Survey will be conducted between March 30, 2009 and July 31, 2009. 3) He stated SAP and the City is finalizing the City's Utility Billing System. He indicated the final training for Staff will be conducted in the month of April, beta testing will be conducted in May, and the launch of the new on-line services is anticipated in late June. 4) He stated the Department of Transportation will be conducting an annual inspection focusing on field practices for the City's Operators. 5) He stated on March 1<sup>st</sup> the Palo Alto Landfill stopped accepting commercial loads of refuse. He indicated commercial users were noticed to take their refuse to the Smart Station and construction and demolition material to the Zanker Road Material Processing Facility. 6) He overviewed the toxic chlorine gas usage at the Public Works Treatment Wastewater Plant. In light of a Council Policy the Plant deregistered as a source of liquid toxic chemicals with the USEPA and the Santa Clara Health Department due to the completion of the Safer Liquid Chemical System. 7) He announced the implementation of the City

Clerk's new E-Gov Agenda Subscription Notification System that can be found on the City's website.

### ORAL COMMUNICATIONS

Paula Sandas, Palo Alto Chamber of Commerce, spoke regarding the Business License Tax. She stated City Staff made a comprehensive presentation of the proposed Business License Tax. She indicated the Palo Alto Chamber of Commerce developed a position to oppose the Gross Receipt Tax, and recommended the formation of a Blue Ribbon Task Force.

Kara Rosenberg, 820 Bruce Drive, spoke regarding the Parent Project which was supported by the Palo Alto Unified School District and the Palo Alto Police Department. She stated the intent of the Parent Project Program was to develop effective strategies, support, and create a relationship between the Police Department and the School District. She overviewed the Parent Project Program's success.

Kristen Johnson, 245 Wilton Avenue, spoke in regards to her experience with police officer brutality and racial profiling. She stated candidates for Police Chief should possess strength, understanding, and fairness in regards to racial issues. She was not in favor of selecting an internal candidate.

Leo Johnson, 245 Wilton Avenue, referenced a case law where police officer brutality was used in detaining an individual because of his suspicion of drunkenness in public.

Barbara Waugh, 425 Ferne Avenue, spoke in regards to her son's negative experiences with the Palo Alto Police Officers.

Mark Petersen-Perez, spoke regarding the City Council's communication and concerns with the Police Department.

### APPROVAL OF MINUTES

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Barton to approve the minutes of February 2 and February 9, 2009.

**MOTION PASSED:** 8-0 Klein absent

### CONSENT CALENDAR

Council Member Barton advised that he would not be participating in Consent Calendar Item Number 9 as he is on staff at Stanford University.

Vice Mayor Morton advised he would not be participating in Consent Calendar Item Number 7 as he has Sempra Stock Ownership which constitutes a Conflict.

Herb Borock, P.O. Box 632, spoke on Consent Calendar Item Number 4. He stated his observation of several documents being signed by Staff before the actions were approved by the City Council.

Bern Beecham, 321 Cowper, spoke on Consent Calendar Item Number 6. He expressed his appreciation for the City's continued support of the Palo Alto Art Center.

Robert Moss, 4010 Orme Street, spoke on Consent Calendar Item Number 12. He suggested that when the City applied for funding to emphasize using the retreated and recycled groundwater in the Research Park as irrigation. He suggested taking the water from the Water Treatment Plant and using it at the Stanford Research Park.

Herb Borock, P.O. Box 632, spoke on Agenda Item Number 12. He stated the proposal showed an advantage of a low interest rate and federal monies; however, the schedule separates reviewing the project and the financial implications from the environmental review.

City Attorney, Gary Baum spoke on Consent Calendar Item Number 4 stating the Letter of Agreement was pre-signed by City Staff; however, if the City Council did not approve the Agreement the letter would be void. He stated the City Manager only has authority to sign contracts if the amount in the budget has been approved by the City Council. Therefore, what was signed by the City Manager before the City Council's approval was within previously provided authority.

Council Member Espinosa requested information on whether an option was considered in regard to the idea raised by Mr. Moss.

Director of Public Works, Glenn Roberts stated the key issue was to establish a long range continuous sustainable supply of the reclaimed water in the area. He stated once the Groundwater Project is completed, the reclaimed water would not be available.

Council Member Espinosa stated he had an interest in seeing if reclaiming the recycled water could be added to the Project as an add-on that would possibly help keep the operational costs down and make the Project be more efficient.

Mr. Roberts stated he would pursue this option.

**MOTION:** Council Member Espinosa moved, seconded by Council Member Kishimoto to approve Consent Calendar Item Numbers 3-13.

3. Resolution 8906 entitled "Resolution of the Council of the City of Palo Alto Establishing a Citizen Oversight Committee for Expenditures of Library Bond Funds".
4. Approval of a Letter Agreement with the Friends of Lytton Plaza LLC to Authorize the Reimbursement of 50% of Design Costs Incurred by the Friends up to a Maximum of \$50,000.
5. Approval of a Contract with JJR Construction Inc., in an Amount Not to Exceed \$457,217 for the 2009 Street Maintenance Program Concrete Preparation Capital Improvement Project PE-86070.
6. Approval of Amendment No. 2 to Contract Number C08126592 with the Palo Alto Art Center Foundation in the Amount of \$6,249 for a Total Not to Exceed Amount of \$374,829 for the Development of Construction Documents for the Renovation and Capital Improvements to the Palo Alto Art Center, Capital Improvement Program Project PF-07000.
7. Resolution 8907 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Execute Amendments to the City's Electric Supply Agreements to Operate Effectively Under the New Transmission Market Rules of the California Independent System Operator Corporation".
8. Adoption of Two Resolutions to Incorporate Two Side Letter Agreements to the 2006-2009 Memorandum of Agreement with Service Employees International Union (SEIU), Local 521, Resolution 8908 Clarifying Vacation Accrual and the Term of the PERSChoice Reimbursement Plan: 1) Amending Section 1401 of the Merit System Rules and Regulations Regarding the 2006–2009 Memorandum of Agreement Between the City of Palo Alto and Service Employees International Union (SEIU), Local 521 and 2) Resolution 8909 Amending the 2006-2009 Compensation Plan for Service Employees International Union (SEIU), Local 521, Adopted by Resolution No. 8658.
9. Adoption and Approval of Nine Documents Facilitating the Construction and Funding of the Ultraviolet Disinfection Facility Project at the Palo Alto Regional Water Quality Control Plant:



- (1) Resolution 8910 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to Execute a State Revolving Fund Financial Assistance Agreement in an Amount Not to Exceed Eight Million Five-Hundred Thousand Dollars from the State Water Resources Control Board on Behalf of the Palo Alto Regional Water Quality Control Plant for the Design and Construction of the Ultraviolet Disinfection Facility";
  - (2) Resolution 8911 entitled "Resolution of the Council of the City of Palo Alto Designating Certain Ultraviolet Disinfection Facility Project Expenditures to be Reimbursed by Proceeds from State Revolving Fund";
  - (3) Resolution 8912 entitled "Resolution of the Council of the City of Palo Alto Establishing One or More Dedicated Sources of Revenue for Repayment of Funding Pursuant to the Federal Clean Water Act Amendments and Rescinding Resolution 8792";
  - (4) Enterprise Wastewater Treatment Fund Contract with Anderson Pacific Engineering Construction in a Total Amount Not to Exceed \$6,645,200 for Construction of the Ultraviolet Disinfection Facility;
  - (5) Amendment No. 2 to Enterprise Wastewater Treatment Fund Contract C06116829 with RMC Water & Environment in a Total Amount Not to Exceed \$400,000 for Engineering Services During Construction of the Ultraviolet Disinfection Facility;
  - (6) Enterprise Wastewater Treatment Fund Contract with the Covello Group in a Total Amount Not to Exceed \$659,370 for Construction Management Services at the Ultraviolet Disinfection Facility;
  - 7) Addendum No. 7 to the Basic Agreement Between the City of Palo Alto, the City of Mountain View and the City of Los Altos for the Acquisition, Construction and Maintenance of a Joint Sewer System;
  - (8) Amendment No. 5 to Contract Restatement and Amendment No. C237 Between the City of Palo Alto and the East Palo Alto Sanitary District; and
  - (9) Amendment No. 3 to Contract No. C869 Between the City of Palo Alto and the Board of Trustees of the Leland Stanford Junior University.
10. Approval of a Three Year Contract with SCS Field Services in the Total Amount of \$470,484 for Landfill Gas and Leachate Control Systems Maintenance, Monitoring and Reporting Services.

11. Approval of a Purchase Order for the "As Needed" Acquisition of Electric Wire and Cable for Municipal Service Center (MSC) Warehouse Stock Items with Wesco Distribution for an Amount Not to Exceed of \$900,000 for a Term of Up to Three Years.
12. Resolution 8913 entitled "Resolution of the Council of the City of Palo Alto Authorizing the City Manager to File an Application for a State Revolving Fund Financial Assistance Agreement in an Amount Not to Exceed \$37 Million from the State Water Resources Control Board for the Construction of the Palo Alto Recycled Water Project".
13. Request for Authorization to Increase Existing Contract with the Law Firm of Hanson Bridgett LLP by an Additional \$6,472 For a Total Contract Not to Exceed Amount of \$191,472.

**MOTION PASSED for Item Nos. 3-6, 8, 10-13:** 8-0 Klein absent

**MOTION PASSED for Item No. 7:** 7-0 Klein absent, Morton not participating

**MOTION PASSED for Item No. 9:** 7-0 Klein absent, Barton not participating

AGENDA CHANGES, ADDITIONS, AND DELETIONS

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Kishimoto to move Agenda Item Number 18 before Agenda Item Number 14, to become Agenda Item Number 13A.

**MOTION PASSED:** 8-0 Klein absent

13A. (Former No. 18) Human Relations Commission Recommendation to the Council that June 21<sup>st</sup> Should be Established as World Music Day in Palo Alto and Applicable General Fund Fees Should be Waived.

Human Services Division Manager, Kathy Espinoza-Howard stated the Human Relations Commission approved the recommendations listed within the Staff report. She shared the community benefits of approving the Staff report.

Claude Ezran, 2125 Louis Road, stated World Music Day is a celebration of music for professional, amateur, and children musicians alike. He stated the grassroots event would encourage the participation of a wide variety of music types. He indicated the sponsors of the event were the Human Relations Commission, Downtown Business Association, Palo Alto Chamber of Commerce, Palo Alto Weekly, Palo Alto Online, and Chinese Weekly. He stated this event entailed a detailed workplan, and stated a massive outreach to the community would happen after the report was approved. He

stated the event was self-funding, and minimizing the cost of the event was essential.

Council Member Burt stated this event could be a focal point to build multi-cultural relationships and understanding in the community.

Council Member Schmid stated his approval of this event and commended Mr. Ezran's involvement in the event.

Council Member Espinosa wished this event success and urged plenty of outreach, planning, and communication with downtown businesses.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Burt to accept the Human Relations Commission's recommendation to; 1) declare June 21 as World Music Day in Palo Alto commencing in 2009, and 2) waive all fees for special events and police officers, if additional officers are required for World Music day this year.

Mayor Drekmeier requested clarification on the time of the event.

Mr. Ezran stated the event will be from 5:00 p.m. to 8:00 p.m.

Mayor Drekmeier stated the event will promote civic engagement by allowing citizens to volunteer their time.

**MOTION PASSED:** 8-0 Klein absent

**MOTION:** Council Member Yeh moved, seconded by Vice Mayor Morton to move Agenda Item Number 16 before Agenda Item Number 15A, to become Agenda Item Number 14A.

**MOTION PASSED:** 8-0 Klein absent

#### PUBLIC HEARINGS

14. Approval of a Mitigated Negative Declaration and Adoption of an Ordinance Amending Chapter 5.35 ("Retail Sales – Requirement for Paper Bags") of Title 5 ("Health and Sanitation") of the Palo Alto Municipal Code to Place a Limited Prohibition on Single-Use Plastic Checkout Bags.

**MOTION:** Council Member Barton moved, seconded by Council Member Schmid to continue this to a date uncertain until a closed session is held on this matter.

Council Member Barton stated there have been legal challenges to this issue; he stated a discussion on the strategy of how to approach the issue

should be discussed by the City Council in Closed Session prior to voting on the item.

Council Member Schmid requested a Staff presentation, City Council discussion, and public comment before the Motion was voted upon.

Council Member Barton stated it was not clear to him why the City Council would have a conversation before going into a Closed Session to discuss the Staff report. He indicated the Closed Session may create a new conversation.

Vice Mayor Morton believed there was no point in deferring this item and the City may likely be sued. He indicated there are people in support of both sides of the matter and the City Council should move forward. He stated the State mandated requirement to take steps toward reducing pollution should be discussed even if it may not be a favorable litigation.

Council Member Burt requested Staff to weigh in on if it was advisable to postpone action.

City Attorney, Gary Baum stated the City Council should make a policy decision on whether to proceed. He indicated the City Council was aware of the legal landscape.

Council Member Burt inquired on the recent legal challenges that Council Member Barton brought up. He was not familiar with any changes in the legal landscape.

Mr. Baum indicated he sent a memo to the City Council regarding the Manhattan Beach case and its implications to the City of Palo Alto's situation.

Council Member Burt inquired if this case was what Council Member Barton was referring to.

Mr. Baum believed the Manhattan Beach case was what Council Member Barton was referring to.

Council Member Burt inquired if it was advisable to have a Closed Session about the potential legal liabilities before proceeding with the issue.

Mr. Baum stated it was ultimately up to the City Council to determine how to proceed.

Council Member Burt inquired on the City Attorney's recommendation as to whether a Closed Session would be prudent to continue this discussion.

City Manager, James Keene stated if the Council wanted to proceed in Closed Session at a later date, it would be appropriate to continue the Public Hearing portion.

Council Member Yeh stated there were members of the public who wanted to speak to this item.

Mr. Keene stated it was Council practice that once a Public Hearing was noticed to give the public an opportunity to speak. He inquired if the Public Hearing could be kept open until the item was brought back to the City Council.

Mr. Baum stated yes, if that was the way the City Council wanted to proceed.

Mayor Drekmeier stated the public would not have the benefit of a Staff presentation before speaking.

Mr. Keene stated there was nothing in the prepared Staff presentation that was not contained in the written Staff Report that went out to the public.

Public Hearing opened at 8:51 p.m.

Girl Scout Troop 60692, presented a poem that spoke to the environment. The Troop spoke in favor of the proposed plastic bag ban. The Troop promoted the use of reusable bags by handing out coupons.

Trish Mulvey stated all retail stores should be considered in this ban, including convenience stores, food vendors, pharmacies, and large chain grocery stores. She requested the City Council move forward with the action this evening.

Bryan Early, Californians Against Waste stated his support of the proposed Ordinance to ban the use of plastic bags. He stated plastic bags are a major component of marine pollution. He stated the Californians Against Waste support the past and current State initiatives that support the use of reusable bags. He urged the City Council not to wait for a State solution on this issue.

Tim James, 1415 L Street, Sacramento, representing the California Grocers Association, stated he opposed this Ordinance due to its scope. He stated maximizing environmental gain while minimizing business disadvantage should be considered by the City Council. He stated if the Ordinance was passed, the grocers would be responsible for the financial and operational burden.

Stephanie Munoz, 101 Alma urged the City Council to make small or moderate changes. She indicated the usefulness of plastic bags; further sharing the various uses of plastic bags. She encouraged outreach to residents on how to recycle and reuse plastic bags instead of banning them.

Carroll Harrington, 830 Melville Avenue representing the Palo Alto Business Goes Green, stated they have reached out to a broad spectrum of groups to discuss this complicated issue. She thanked Staff for their efforts coordinating the Comprehensive Reusable Bag Program, outreach, and incentives.

Robert Berman, 535 West Crescent Drive stated his disappointment with the proposed Ordinance because it did not reflect the broad section of views presented at a Study Session he attended last year. He felt more time should be spent on the Ordinance and it should address both plastic bags and paper bags.

Steven Joseph, Council to SaveThePlasticBag.com, stated his organization previously filed CEQA objections. He indicated SaveThePlasticBag.com had sent to the City their responses to the City Manager's memorandum. He stated SaveThePlasticBag.com recently won a lawsuit with the City of Manhattan Beach. Last month, the court ruled the Manhattan Beach Ordinance banning plastic bags was invalid because the City had not prepared an Environmental Impact Report (EIR). Just like Manhattan Beach, the City of Palo Alto is attempting to evade its legal responsibility to prepare an EIR before passing an Ordinance banning plastic bags. In the event the City adopts the proposed Ordinance, or any Ordinance banning plastic bags, without first preparing an EIR SaveThePlasticBag.com will file a petition for writ of mandate with the Santa Clara County Superior Court. He indicated the City's defense of the case would be a waste of taxpayer money, and he further discouraged it. He stated one of the City Council Members mentioned he thought SaveThePlasticBag.com was doing this to protect revenue of the plastic bag industry; he further stated this was not true. He stated he was here this evening because this campaign is in response to the myth, misinformation, and exaggeration that has been disseminated about plastic bags for several years. The fact of the matter is paper bags are far worse for the environment than plastic bags. That is the reason SaveThePlasticBag.com wanted an EIR, to prove that point to the City Council and the citizens of Palo Alto. The Scottish Report and the Use-Less-Stuff.com report SaveThePlasticBag.com submitted confirm this and it is wrong for the City Council and for the City to ban plastic bags while retaining paper bags. A proposed Ordinance would do exactly that; further stating the campaign was about protecting environmental truth.

Public Hearing closed at 9:10 p.m.

Council Member Kishimoto stated she would not be supporting the Motion; further stating she felt this issue was similar to an Ordinance the City Council adopted regarding banning gas powered leaf blowers. She stated this issue went on for five years, however once the ban went into affect, the City's air quality improved dramatically. She indicated she was ready to vote on the original Staff report this evening.

Council Member Schmid stated delaying the Staff report might provide the City Council and Staff an opportunity to figure out how to solve the consumers' dilemma of finding other sources to put their waste in.

Vice Mayor Morton stated he did not agree to stop the process of moving forward with this Staff report. He indicated by not allowing Staff to present a report gives the impression that the Staff report is not important enough to deal with now. He stated the issue of holding a Closed Session is on the basis of whether the City will have a lawsuit. He felt the issue that should be dealt with is plastic bags and their pollution. He indicated paper bags do not cause the same amount of harm in the waterways as plastic bags. He felt the Ordinance needed to move forward.

**MOTION:** Council Member Burt moved, seconded by Council Member Espinosa to Call for the Question.

**MOTION TO CALL FOR THE QUESTION PASSED:** 7-1 Schmid no, Klein absent

**MOTION FAILED:** 3-5 Barton, Burt, Yeh yes, Klein absent

Director of Public Works, Glenn Roberts briefly overviewed the Staff report, which was a follow-up to the Study Session held in November 2008. He stated the Ordinance restricts the use of take out plastic bags. He stated the three driving factors for adopting the Ordinance were: 1) the City's Zero Waste Program; 2) reduction of petro-chemical products and it being carbon neutral; and 3) trash reduction in public areas and waterways. He stated regulatory environment conditions imposed from the Regional Water Quality Control Board and City creeks listed by the State Board and Federal Government are high motivating factors.

Manager for Public Works in Environmental Compliance, Phil Bobel stated plastic litter in creeks made up 60 percent of the waste. He indicated plastic litter moves through the waterways and is ingested by marine life. He indicated eight meetings were held with large grocers and one meeting with food vendors. Based on those meetings, the Comprehensive Reusable Bag Program (Program) was formed. The components of the Program are to adopt the proposed Ordinance eliminating single-use plastic checkout bags that would take effect September 18, 2009. He indicated the fee on paper bags is currently being studied. He indicated three out of the seven stores

have voluntarily implemented the Program. The City was taking the Program in a phased approach which will allow some circulation of plastic bags that could be used in households for other uses. If this Ordinance was approved, the second reading would be scheduled on March 30, 2009. He indicated extensive outreach with stores and residents would be conducted.

Council Member Barton asked what the anticipated percentage of plastic bag use would be if the proposed Ordinance was adopted.

Mr. Bobel stated he did not have a percentage prepared.

Council Member Barton inquired why an Ordinance was not presented to address plastic bags, paper bags, and polystyrene containers. He indicated all these materials interrelate.

Mr. Bobel stated feedback from large grocers and retail shops owners helped give Staff direction as to the best approach to transition residents into using reusable bags. He indicated a one-size-fits-all concept does not apply with this issue and Staff dealing with all the different scenarios at once would potentially create staff issues.

Council Member Schmid inquired if a study was performed that documented the number of plastic bags in curbside refuse pick up.

Mr. Bobel stated there has been no such study.

Council Member Schmid stated he recycles his plastic and paper bags by using them as refuse liners in his garbage can. He indicated that if he converted to reusable bags for his grocery shopping, he would then need to purchase plastic bags to keep his refuse contained.

Mr. Bobel stated this was not the Ordinance's intent; he further stated not banning all plastic bags would allow residents to keep a supply of plastic bags for waste disposal purposes.

Council Member Schmid requested proof that banning plastic bags and putting a tax on paper bags would alter customer behavior and decrease household use of plastic bags.

Mr. Roberts stated most households use plastic bags as garbage can liners, and this was not what the Ordinance proposes to ban. He stated what was found in a Waste Characterization Study was within the draw string plastic bag, plastic bags were found. A vast amount of plastic bags are not reused and are simply disposed of.

Deputy City Attorney, Amy Bartell clarified the paper bag fee; she further indicated it should not be referenced as a tax.



Council Member Yeh requested if tracking information from the Bring Your Own Bag (BYOBag!) campaign on the use of paper bags was performed.

Recycling Coordinator for Public Works, Annette Puskarich stated surveys were conducted in 2008 and 2009 on the habits of shoppers. It was found paper usage in 2008 was 32.9 percent, and 37.7 percent in 2009. Reusable bag usage went from 9 percent in 2008 to 19 percent in 2009. Shoppers opting for no bag went from 7.6 percent in 2008 to 16.2 percent in 2009. The use of plastic bags in 2008 was 50.5, and 27.2 percent in 2009.

Council Member Yeh inquired if studies were conducted on incentives that could be used in conjunction with the plastic bag ban.

Mr. Bobel stated the projection in the Staff report did not include a fee on paper bags. There was a projection of store training, outreach, and giveaways.

Council Member Yeh clarified his question on the increase of reusable bags, which was the end goal of the proposed Ordinance. He inquired if there was an end life to the incentive program, or if the incentive program would continue. He inquired if there was a peak to an incentive program as opposed to the Ordinance.

Mr. Bobel stated Staff envisioned the incentive program to stay active for a long time.

Council Member Yeh inquired if Staff sees a potential alignment of the various environmental outreach programs.

Mr. Roberts stated there was a relationship between the GreenWaste Contract and Zero Waste Incentive; however it may be difficult to align the outreach programs and tracking of the program because of the plastic bag ban's significance between volume and weight.

Mr. Bobel stated the BYOBag! campaign resulted in three large grocery stores taking the initiative to ban plastic bags on their own. He indicated there was publicity associated with the actions of these grocery stores and it was difficult to single out one factor.

Council Member Yeh inquired on the remaining supermarkets that have not voluntarily complied, and any indication from them to voluntarily discontinue the use of plastic bags.

Mr. Bobel stated Staff asked all the large grocery stores to voluntarily stop using plastic checkout bags and three complied.

Council Member Yeh inquired if a large chain grocery store needed more leeway to change their plastic bag usage procedure than a smaller family owned specialty store.

Mr. Bobel stated evidence showed how the store perceived themselves was more the case. For example, Whole Foods is a large grocery chain and they took the initiative to ban plastic bag use at their check-out counters.

Council Member Yeh inquired on the distinction between convenient stores and grocery stores. He inquired if it was the quantity of bags used or the quantity of products sold.

Mr. Bobel stated the City was using the definition the State used to define convenient stores. He stated smaller stores, such as food vendors, are difficult to classify.

Vice Mayor Morton stated one of the advantages of moving forward with this Ordinance was changing the culture of the customer.

Council Member Burt inquired if other cities have adopted fees for bag use and whether there has been any case law or legal jeopardy involved.

Ms. Bartell stated no other city has placed a fee on the use of paper bags in California. She stated imposing a plastic bag fee on a store or customer has not been litigated.

Council Member Burt inquired if the City was prohibited from charging fees for all bags.

Ms. Bartell stated that was not correct.

Council Member Burt asked if the City had a modest fee on plastic and paper bags would the City be in jeopardy.

Ms. Bartell stated a fee could be imposed on paper bags but not on plastic bags.

Mr. Bobel indicated State law stated a fee on plastic bags could not be imposed in large grocers and pharmacies.

Mayor Drekmeier stated State law also requires large grocers and pharmacies to accept plastic bags for recycling.

Mr. Bobel stated that was correct.

Council Member Burt stated Staff direction was driven into this alternative because the City cannot charge an across-the-board fee.

Mr. Bobel stated that was an important point and dramatically narrowed the City's options.

Council Member Burt inquired on Staffs intention on a fee for single-use paper checkout bags.

Mr. Bobel stated Staff was currently studying this and what the appropriate fee should be. The next steps would be establishing a fee from input with store owners, and establishing the administration of the program.

Council Member Burt inquired on the possibility of broadening the Ordinance to single-use plastic bags to all stores within the City. He indicated this would help facilitate a change in the habits of consumers. He stated a charge imposed for paper bags would alter the public's view of bringing reusable bags shopping.

Mr. Bobel stated it was a policy call for the City Council. He stated increment change to the policy of banning single-use plastic checkout bags was a good philosophy for the consumer.

Council Member Burt inquired on the possibility of using low cost reusable bags to bag groceries. He indicated the fee would be the same as a paper bag.

Mr. Bobel stated it was not Staffs intention to persuade consumers toward the purchase one type of bag over another.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Espinosa to accept Staff recommendation to approve the Mitigated Negative Declaration and adopt an Ordinance amending Chapter 5.35 ("Retail Sales-Requirement for Paper Bags") of Title 5 (Health and Sanitation) of the Palo Alto Municipal code to place a limited prohibition on single-use plastic checkout bags ("Reusable Bag Ordinance").

Vice Mayor Morton stated he would like to see the City Council move more rapidly on this issue; however, he commended the Program for decreasing the number of single-use plastic and paper checkout bags used.

Council Member Espinosa stated he did not agree with the approach because of the slow pace; however, he did understand why this approach was taken. He encouraged Colleagues not to wait for a State or County action. He welcomed a Motion that might speed up the process or make the City's approach more comprehensive.

**SUBSTITUTE MOTION:** Council Member Burt moved, seconded by Council Member Barton to move that Staff return after CEQA review of a ban on all checkout plastic bags use in the City.

Council Member Burt thanked Staff for being as inclusive as possible by listening to the feedback of grocers and small business owners. He indicated the original Motion may not have much of an impact because many of the grocers have already changed their policies regarding single-use plastic checkout bags. He felt initially residents may have a challenge adapting to the new rules.

Council Member Barton stated the Staff report was rational and well intended; however, he was struck by how much time was being spent on an Ordinance that would affect four stores. He stated there was going to be legal ramifications regardless.

Mayor Drekmeier clarified the Motion; further stating the Motion was to direct Staff to look at a comprehensive plastic bag ban that would include pharmacies. He stated plastic bags used to cover newspapers were not part of the Motion.

Council Member Burt clarified that his Substitute Motion was to include checkout bags at any type of store.

Mayor Drekmeier inquired if the Substitute Motion referenced a fee on paper bags.

Council Member Burt stated his Substitute Motion did not address the fee on paper bags because Staff was still addressing the issue.

Mr. Keene stated the original Staff report had in the Ordinance itself a projected implementation date after the CEQA process. Presumably, if the Substitute Motion passed, the Mitigated Negative Declaration would need to be redrafted. He indicated it would possibly take another 3-6 months after the September date.

Vice Mayor Morton requested the City Council to pass the original Motion and then ask Staff to expand upon the Motion.

Council Member Yeh inquired what impact would be on the businesses, households, and community if the Substitute Motion were passed.

Mr. Bobel stated Staff was not sure; however, he was aware small stores are pushing back on the concept. He indicated the City would work with these stores to assist them in the transition.

Council Member Yeh inquired on the concerns of the small businesses.

Mr. Bobel stated the cost of paper bags and consumers current behavior of not carrying around reusable bags when impulse shopping are concerns of small businesses.

**INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that Staff is to develop very clear performance measures and a way to survey stakeholders.

Council Member Yeh stated the actions of the City Council Members could have very positive effects on the community. He stated it was important to make sure there were not unintended consequences.

Council Member Espinosa inquired on Staff reaction in regards to the aggressiveness of the City Council Members moving forward with a more aggressive plan.

Mr. Keene stated a more limited ban would be easier to address; however, would have less impact. If the City approved a full ban on plastic bags, the project would be extended 6 months over the initial September 18, 2009 implementation date. He felt the original Motion would be more manageable.

Council Member Espinosa inquired on Staff concerns with the Substitute Motion.

Mr. Keene stated the ability to manage feedback and the additional pressure on the businesses was a concern. He felt Staff would implement any decision that was approved by the City Council and either one of the Motions was preferable than doing nothing.

Council Member Kishimoto stated a two step process of adopting Staff recommendation and asking Staff to expand upon the Motion more aggressively and completely was appropriate.

Mayor Drekmeier stated plastic bags in local creeks were a big issue and people will get used to using reusable bags. He stated the Grocer Association is looking for a comprehensive package that bans plastic bags and puts a fee on paper bags to encourage consumers to bring reusable bags to reduce the grocer costs of single-use bags. He requested that Staff have a progress report on the paper bag fee by the time the ban goes into implementation.

Council Member Schmid requested clarification on if the Substitute Motion involves all retail stores, including food services.

Council Member Burt indicated the Substitute Motion includes all retail checkout bags, including food services.

Vice Mayor Morton stated one step should be taken at a time. Staffs recommendation covers 80 percent of all retail grocery markets in the City of Palo Alto. He felt Staff spent many hours on their recommendation and the City Council should support it.

**AMENDMENT:** Council Member Kishimoto moved, seconded by Council Member XXXX that by September 18, 2009 implementation date, Staff would return to Council with a timeline for charging customers for paper bags.

**AMENDMENT FAILED DUE TO LACK OF A SECOND.**

Mr. Baum stated the Substitute Motion was still on the table. He stated the underlying Motion could not be amended because the City Council was still on the Substitute Motion.

Council Member Kishimoto stated the Substitute Motion was to supplement the large grocery stores with all retail stores.

Council Member Burt stated his understanding was the Substitute Motion would remain in effect; in addition there would be an early implementation of what was essentially the Staff recommendation as stated in the Staff report.

Mayor Drekmeier inquired if the Substitute Motion meant moving forward with the Staff recommendation and adding to direct Staff to move faster on a comprehensive plastic bag ban.

Council Member Burt clarified the Substitute Motion was not just to move faster, but to cover the following points: 1) Staff to come forward as quickly as possible with a revised Mitigated Negative Declaration for a comprehensive plastic bag ban at all retail checkout stores; 2) support an early implementation of the limited proposal that Staff made; 3) at the time of implementation of the grocery store ban, Staff to present a fee schedule for paper bags; and 4) add performance standards.

Mr. Keene stated, if the Substitute Motion passed, Staff would be on track as proposed in the Staff report, and the public would be noticed that the City was banning plastic bags at large grocery stores scheduled starting in September 2009. He indicated concurrently, Staff would begin work on a revised Negative Declaration that would result in a ban that would expand to all plastic bags in retail stores.

Vice Mayor Morton stated his concern dealt with the Mitigated Negative Declaration. He stated his Motion was to pass the Mitigated Negative Declaration first to protect the existing Mitigated Negative Declaration and not to have Staff do it again for a wider scope. He suggested to add the expansion as a separate Motion.

Mayor Drekmeier requested from Staff how the City Council should proceed to bring this Motion to a vote.

Mr. Baum stated the Substitute Motion on the table is to approve the Mitigated Negative Declaration, adopt the Ordinance as described by Staff, direct Staff to work as rapidly as possible to prepare a full checkout plastic bag ban at food and all retail, direct Staff to work on a paper bag fee and bring back no later than the original Ordinance's start date, and address the new Ordinance's Mitigated Negative Declaration and any other environmental review as necessary. He indicated a second Ordinance would be written which would cover the paper bag fee.

#### **SUBSTITUTE MOTION WITHDRAWN BY MAKER**

**SUBSTITUTE MOTION RESTATED:** Council Member Burt moved, seconded by Council Member Espinosa to:

1) Accept Staff's proposal to approve the Mitigated Negative Declaration and adopt an Ordinance amending Chapter 5.35 (Retail Sales – Requirement for Paper Bags) or Title 5 ("Health and Sanitation") of the Palo Alto Municipal Code to place a limited prohibition on single-use plastic checkout bags;

2) Direct Staff to return to Council with a revised CEQA review document for a comprehensive single-use plastic checkout bag ban at all retail establishments, including single-use plastic checkout bags provided by food vendors;

3) Direct Staff to return to Council with a proposal and supporting nexus study for a paper bag fee by Sept. 18, 2009;

4) Direct Staff to return to Council with a clear survey of the results, including performance measures, of the comprehensive prohibition on single-use plastic checkout bags at all retail establishments.

Council Member Barton appreciated the end goal; however, he stated the process was problematic.

Council Member Kishimoto inquired if the Motion was for a paper bag fee proposal and a proposal for a complete ban of checkout plastic bags in all retail stores.

Council Member Morton stated yes.

**SUBSTITUTE MOTION PASSED:** 7-1 Barton no, Klein absent

14A. (Former No. 16.) Human Relations Commission and Policy and Services Committee Recommendation to Adopt the Ordinance Amending Section 9.72.070 of Chapter 9.72 [Mandatory Response to Request for Discussion of Disputes Between Landlord and Tenants] of Title 9 of the Palo Alto Municipal Code to Void Rent Increases Given Without Notice of the Right to Mediation.

Human Services Division Manager, Kathy Espinoza-Howard presented the Staff report. She stated the current Ordinance requires landlords to include a statement on the lease, or any other document that changes the terms of the tenancy, to include a statement that the Palo Alto Municipal Code gives the tenant the right to mediation of dispute between landlords and tenants. The tenant must request mediation within 21 days of learning about the facts that created the dispute by contacting the City of Palo Alto Facilitation Administration. The Palo Alto Municipal Code protects the tenant from retaliation for exercising the right to mediation. She stated it has been the experience of the Human Relations Commission (HRC) that the Ordinance is not being used as frequently as in neighboring cities. Staff believed amending the Ordinance to add a penalty avoiding rent increases when this statement does not appear on documents will help increase the use of the Mediation Services.

Shauna Mora, Human Relations Commission Member, stated the amendment to the Mandatory Response Ordinance would assist landlords meet their required obligations to tenant rights. She provided a brief history on the Ordinance. She believed the amendment to the Mandatory Response Program would help landlords be more compliant and would educate tenants in the City of Palo Alto of their rights and options.

Council Member Espinosa stated the idea was to inform landlords of their responsibility to inform tenants of their right to Mediation Services, and to enforce repercussions if this action was not fulfilled.

Leon Leong, 138 Byron Street, attended a Policy and Services Committee Meeting in July 2008. He had concerns with the Ordinance and the discussion amongst the Committee Members. He felt requiring landlords with only one rental to apply to the City was a burden and created administration costs to the City. He felt the registration process should be changed and landlords with two or more rental units should only be required to register with the City.



Martin Eichner, Director Dispute Resolution Programs for Project Sentinel, 430 Sherman #308, stated he took part in the lengthy discussions with City Staff, apartment owners, and community members that helped form this Ordinance. He explained why all landlords are required to register with the City, even though only landlords with two or more units are subject to the Mediation Program. He stated it was essential for the City to create a database of landlords in Palo Alto. He stated Project Sentinel has not seen a lease agreement showing the City's policy on the Mediation Program in any open cases, except for two non-profit housing corporations. He stated the Ordinance, as amended, has shown success rates in neighboring cities.

Ms. Espinoza-Howard stated Staff was asked to look at the possible conflict of this section in the Ordinance. She stated Section 9.72.030 states tenants of two or more rentals are required to participate in the Mandatory Mediation Program. Section 9.72.050 is specific to registration and states all landlords need to register with the City. The intent of the Ordinance is for the City to create a database of landlords within the City.

**MOTION:** Vice Mayor Morton moved, seconded by Council Member Barton to approve Staff recommendations to adopt the Ordinance amending Section 9.72.070 of the Palo Alto Municipal Code (PAMC) Chapter 9.72 (Mandatory Response to Request for Discussion of Disputes between Landlords and Tenants) of Title 9 of the Palo Alto Municipal Code to void increases in rents when a rental agreement, lease or other written document that changes the term of tenancy for a residential rental property is not accompanied by the notice required by Section 9.72.070 of a tenant's rights to mediation services.

Vice Mayor Morton stated this Amended Ordinance would ensure the notification statement be added to the lease document.

Council Member Schmid asked if the landlord registration list, imposed in 2001, was accurate and kept up-to-date.

Ms. Espinoza-Howard stated the list of landlords is accurate and kept up-to-date; however, she indicated only 250 landlords have registered. She stated this Ordinance should help achieve more registrations, and would be used to advise landlords of their new responsibilities. She stated more extensive outreach will be done. She stated the estimated number of landlords in Palo Alto is around 6,000.

Council Member Schmid indicated a critical issue was how the City would reach out to the community to get landlords to register.

Ms. Espinoza-Howard stated within the Staff report, an extensive communication plan was referenced. She stated the plan would be executed within 60 days of passage of the Amended Ordinance.

Council Member Schmid inquired on the relationship between registering and the Business License Tax.

Ms. Espinoza-Howard stated part of the proposed Business License Tax includes a Landlord Tax, which would include a landlord owning one or more rentals.

Council Member Kishimoto inquired if the Business License Tax and Landlord Tax is one in the same.

Ms. Espinoza-Howard stated yes.

**MOTION PASSED:** 8-0 Klein absent

Council Member Barton advised that he would not be participating in Agenda Item Numbers 15A and 15B as his residence is on Charleston Road.

Mayor Drekmeier advised that Agenda Item Numbers 15A and 15B would be heard together, and Motions would be taken separately.

15A. Approval of a Mitigated Negative Declaration and Architectural Review for a 35-Unit, 100% Affordable Housing Project, Adoption of an Ordinance Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Located at 488 West Charleston Road from PC Planned Community (PC 2565) to PC Planned Community \_\_\_\_\_, and Approval of Record of Land Use Action.

15B. Approval of a Loan Agreement with Tree House Apartments, L.P. to Provide an Acquisition Loan in the Amount of \$2,838,577 from the Residential Housing Fund and Community Development Block Grant (CDBG) Funds for the Development of a 35-Unit Affordable Housing Project at 488 West Charleston Road.

Interim Director of Planning and Community Environment, Curtis Williams stated the Affordable Housing Project (Project) combines innovative design and tree protection and new homes for individuals eligible for extremely-low and very-low affordable housing. He stated the two actions presented this evening include planned community zoning and the approval of the related Loan Agreement and funding for the Project. The City Council was shown a preliminary version of agreement in September 2008. He indicated the changes that have been made to the agreement have been approved by the

Architectural Review Board. The Project funding includes the \$300,000 the City Council shifted in CDBG funds at a prior meeting to help defray predevelopment expenses.

Candace Gonzales, Executive Director to the Palo Alto Housing Corporation, provided a brief history on the Palo Alto Housing Corporation and their mission. She stated Tree House Apartments would provide 35 new homes for extremely-low and very-low income households. She indicated the development would help the City meet its ABAG requirements.

Michael Pyatok, 1611 Telegraph Avenue, representing the Palo Alto Housing Corporation provided a brief review of the Project and spoke on the changes made. The building is positioned to save 13 of the heritage trees on the site. He stated the parking lot would be in the same location as it is presently. He overviewed the design of the building and its proximity to surrounding buildings. He stated the Palo Alto Housing Corporation took into consideration neighbors' concerns in the design phase. He stated there would be a variety of Social Services on site to support the residents' needs.

Lee Lippert, Planning & Transportation Commission Member, stated State Government Code 65915 allows for affordable housing to have a reduction to the existing development regulations. He indicated the two proposed Planned Community exemptions the applicant is requesting are a reduction in parking and a reduction in private open-space. He stated the development is near public transportation and bicycle parking was proposed to create a green community.

Council Member Kishimoto inquired if the applicant would provide an eco-pass to the new residents of the proposed Project.

Georgina Mascarenhas, 725 Alma Street stated this was something the applicant would consider; however, based on prior experience it does not guarantee residents would use the pass appropriately.

Council Member Kishimoto requested Staff to respond to the applicant's answer regarding considering eco-passes.

Mr. Williams offered options the City could impose on the applicant to supply eco-passes.

Council Member Kishimoto inquired on a car share program, parking space for the car share program, and the theory of residents willing to share a car rather than to maintain a personal car.

Mr. Williams stated the City could outline in the condition that the applicant is required to do one option in regard to alternative transportation. This would allow the applicant flexibility.

Council Member Burt inquired if, within the program, there was a parking reduction within the Transportation Demand Management (TDM) Program.

Mr. Williams stated a parking reduction was allowed and should be tied in within the TDM Program.

Council Member Burt inquired on the impact on the school system.

Mr. Williams understood the studio apartments are limited to one person per household. He was unsure on the one bedroom that was within the Project. Council Member Burt stated based on the size of the units it was reasonable for one person per unit. He expressed his support of the eco-pass to be incorporated within the Motion.

Council Member Schmid expressed his concerns, as follows: 1) the lack of parking; 2) few options for the development of stores, restaurants, and activities within the neighborhood; and 3) it was pedestrian unfriendly. He inquired how the residents would integrate within the community considering his issues. He stated his concern of creating a Project that does not allow underprivileged people social lives or advantages. He stated comparable housing projects are centered around downtown where the tenants need for a vehicle is lessened.

Mr. Williams stated there are other sites within the City that are comparable. He indicated that many residents living within these units will not be able to afford a car and the parking ratio to units is appropriately distributed. He stated the tenants with limited means of transportation will use bus services.

Council Member Schmid stated the income level for the tenants living within this Project will be between \$30,000 and \$42,000 annually. He stated that amount is comparable to young students. He indicated younger people within this income bracket purchase older cars as a means of transportation. He inquired if there was a distinction between the tenants of this Project and younger people earning the same amount of income. He inquired if overflow parking within other projects has posed a nuisance to the neighboring area because of the lack of sufficient parking.

Mr. Williams stated the scenarios in regards to the surrounding neighborhoods are different between this Project and other low income projects. He stated the circumstances of the tenants who would qualify for housing within the Project are not expected to possess their own vehicles.

Council Member Schmid requested the applicant to speak because the economic bracket these individuals fit into does not indicate they would not want to be mobile.

Eric Keller, representing Palo Alto Housing Corporation, spoke to the parking issues raised. He stated the majority of the units will be housed by individuals within the very-low income bracket. It was his belief that parking would not be an issue within the Project and a contingency plan had been created. He stated there will be fewer people that own cars in this Project and the bus system is within a few minutes of the Project.

Council Member Schmid inquired on the City's ability to rent space near the Project as overflow parking and monitor the use of the overflow parking area.

Mr. Williams stated the City has not considered this proposal.

Council Member Schmid stated it would lessen parking impacts on the neighborhood before a problem presents itself.

Mr. Williams understood the concern and believed the Project had sufficient parking as outlined in the Project's plans.

Council Member Yeh inquired on Phase Two of the Charleston/Arastradero Corridor Plan. He inquired if the proposed single lane would approach this area.

Mr. Williams stated this section was part of Phase One, and Phase Two would be on the other side of El Camino Real and Arastradero Road.

Council Member Yeh stated Charleston Avenue and Arastradero Road contain bicycle corridors. He inquired on the plans for egress for the students that travel this path on their bicycles.

Mr. Williams stated the proposed driveway for the Project is in an appropriate location. It was his belief the level of traffic would not contribute to conflicts at the driveway.

Council Member Yeh stated the line of sight for bicyclists could be potentially blocked. He inquired on safety measures that could be implemented to ensure this site has a safe crossing.

Mr. Williams stated a sign could be placed in the area to indicate bicycle crossing.

Council Member Yeh stated bicyclists are forced onto the sidewalk near Charleston Avenue. He stated preserving the heritage trees and the current use of the sidewalk from bicycles could potentially create a dangerous situation.

Mr. Williams stated he would have City engineers look at incorporating safety measures in regards to signage for bicyclists.

Council Member Yeh stated in the event there was overflow parking, where would overflow parking potentially exist.

Mr. Williams stated there are two landscape reserve spaces that could be built out if there is a parking issue.

Council Member Yeh inquired what would trigger the buildout of the reserve parking spaces.

Mr. Williams stated if Staff heard about a problem with overflow parking, Staff would go back to the developer and require them to build out the two spaces. He stated there was no other specific plan for overflow parking, which was the case for similar projects.

Council Member Yeh inquired if overflow parking complaints would come from residents or neighbors of the Project.

Mr. Williams stated complaints would potentially come from either source. He stated parking would be monitored by Staff and potentially heritage trees may need to be removed in order to build upon the parking lot.

Council Member Yeh inquired on the potential subsidy cost the City pays for affordable housing units. He inquired on how typical the Project's funding structure was.

Mr. Williams stated the funding structure is fairly typical. He stated there may be ten to twelve different funding sources for the construction of a low income housing project.

Council Member Yeh inquired on the cost to the City of Palo Alto for this Project.

Mr. Williams stated \$2.8 million. He stated the cost comes from Community Development Block Grant funds and was not General Fund or Housing Funds.

Council Member Yeh stated this Project may give notice to future consideration of other affordable housing projects. He inquired if this Project is a typical per unit cost subsidy to the City.

Mr. Williams stated there is a range of \$50,000-\$100,000 per housing unit. He stated this project was in the higher end.

Vice Mayor Morton stated if eco-passes were decided upon, his concern was that the eco-passes would be sold. He inquired if the eco-passes could be distributed in a way to ensure their proper use.

Mr. Williams stated the City could work with the Palo Alto Housing Corporation.

Vice Mayor Morton stated if the City made it a legal requirement that all tenants receive an eco-pass, the City may be subsidizing inappropriate behavior.

Council Member Kishimoto stated the Project area is problematic in terms of isolation and pedestrian safety.

Public Hearing opened at 12:07 a.m.

Joaquin Pedrin, 1040 Sunset Drive, San Carlos representing the Greenbelt Alliance stated the organization protects Bay Area open space by promoting affordable transit accessible communities. He applauded this affordable housing project because it promotes centrally located housing and for its environmental sensibility. He indicated the minimized parking makes sense for this Project.

Steven Van Zant, 262 Whitclem, spoke on the inadequate bus system in the area of the proposed Project Area.

S. Patel, 4173 El Camino Real #6 spoke on her concern regarding commute hour traffic.

Yvonne Lenbergs, 4173 El Camino Real, requested the City Council stop development until the Project is better thought through in regards to the issues addressed this evening. She spoke on her concern about gridlock in the area and parking.

Phyllis Cassel, 621 Wellsbury Way, spoke in regards to a letter the PT&C sent to the City Council. She stated the League of Woman Voters of Palo Alto believe the Project will meet a need of low-income residents in the community.

Herb Borock, P.O. Box 632, stated the Project violates the California Environmental Quality Act. He stated the plan does not contain a Developmental Schedule in the proposed Ordinance. It was his belief the tables within the Staff report were misleading.

Wei Wun, 4211I Rickey Way, spoke on the negative aspects of the area of the proposed site.

Public Hearing closed at 12:25 a.m.

**MOTION for Agenda Item No. 15A:** Vice Mayor Morton moved, seconded by Council Member Kishimoto to approve Staff, Architectural Review Board, and the Planning and Transportation Commission recommendation to: 1) Approve the proposed Mitigated Negative Declaration/Environmental Assessment, in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA); 2) Adopt the proposed Ordinance to change the zoning classification of 488 W. Charleston from Planned Community (PC-2565) to a new PC zone for a 35-unit, 100 percent affordable housing development; and 3) Approve the Record of Land Use action documenting Architectural Review Board findings and conditions of approval.

**AMENDMENT:** Council Member Kishimoto moved, seconded by Council Member XXXX to add a requirement for an Eco-Pass for residents.

Vice Mayor Morton stated the eco-pass would only be available to the residents that would use the pass.

#### **AMENDMENT FAILED FOR LACK OF SECOND**

Council Member Kishimoto stated her intention is to offer the eco-pass to all residents within the Project.

Vice Mayor Morton stated this would impose another fiscal impact on the developer.

#### **MOTION WITHDRAWN BY THE MAKER.**

City Attorney, Baum stated the Motion needed five votes in order to pass.

**MOTION:** Council Member Kishimoto moved, seconded by Council Member Espinosa to move Staff recommendation to: 1) Approve the proposed Mitigated Negative Declaration/Environmental Assessment, in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA); 2) Adopt the proposed Ordinance to change the zoning classification of 488 W. Charleston from Planned Community (PC-2565) to a new PC zone for a 35-unit, 100 percent affordable housing development; and 3) Approve the Record of Land Use



action documenting Architectural Review Board findings and conditions of approval, and 4) Add a requirement for an Eco-pass for residents.

Vice Mayor Morton left the meeting at 12:30 a.m.

Council Member Espinosa spoke on the concern of traffic and parking in the area and the potential impact on the community. He discouraged adding an expense to the developer to raise money for the eco-pass; further stating the City Council should take responsibility on these types of lifestyle changes that the City Council hopes to see in the community.

Council Member Burt stated the eco-pass is an essential element for these projects in the future to lessen the impact on the neighbors and the environment.

Council Member Schmid stated in order for the Project to be successful an area plan should be considered.

**AMENDMENT:** Council Member Schmid moved, seconded by Council Member XXXX to have Staff work on an area plan dealing with South El Camino Real and Charleston Avenue in terms of answering a question on how to build a neighborhood.

**AMENDMENT FAILED FOR LACK OF A SECOND.**

**SUBSTITUTE MOTION:** Council Member Yeh moved, seconded by Council Member Schmid to approve Staff recommendation to: 1) Approve the proposed Mitigated Negative Declaration/Environmental Assessment, in accordance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), 2) Adopt the proposed Ordinance to change the zoning classification of 488 W. Charleston from Planned Community (PC-2565) to a new PC zone for a 35-unit, 100 percent affordable housing development, 3) Approve the Record of Land Use action documenting Architectural Review Board findings and conditions of approval, 4) Add the requirement for Eco-pass for residents, and 5) Direct Staff to agendize a discussion of an area plan for South El Camino Real and Charleston Avenue.

Council Member Yeh inquired on Staff plans for the area.

Mr. Williams stated there was not an area plan scheduled. He indicated the Community Plan (Comp Plan) instructs Staff to look into areas of commercial services and community facilities.

Council Member Kishimoto recalled in the existing Comp Plan an area plan was scheduled on El Camino Way.

Mr. Williams stated yes.

Council Member Kishimoto inquired if this was done.

Mr. Williams stated no. He indicated it was not budgeted for.

Council Member Kishimoto requested that the issue be relooked at, and brought back to the City Council for consideration.

Mr. Williams stated yes.

Council Member Espinosa agreed with the concept; however stated an area plan should not be added to the Substitute Motion.

**SUBSTITUTE MOTION PASSED:** 5-1 Espinosa no, Barton not participating, Klein, Morton absent

**MOTION for Agenda Item No. 15B:** Council Member Burt moved, seconded by Council Member Schmid to accept Staff recommendations to; 1) Authorize the City Manager to execute the Loan Agreement(with attached promissory notes, deed of trust, and security agreement)with Tree House Apartments, L.P. to prove a loan of \$2,838,577, and 2) Authorize the City Manager to execute all other documents required to implement the Agreements, including escrow instructions and to approve all necessary subordination agreements and direct the City Manager to administer the provisions of the Agreements.

**MOTION PASSED:** 6-0 Barton not participating, Klein, Morton absent

#### REPORTS OF OFFICIALS

- ~~16. Human Relations Commission and Policy and Services Committee Recommendation to Adopt the **Ordinance Amending Section 9.72.070 of Chapter 9.72 [Mandatory Response to Request for Discussion of Disputes Between Landlord and Tenants] of Title 9 of the Palo Alto Municipal Code to Void Rent Increases Given Without Notice of the Right to Mediation.**~~
- ~~17. Approval of a Sister City Alliance Agreement Between the City of Tsuchiura City, Japan and the City of Palo Alto.~~

- ~~18. Human Relations Commission Recommendation to the Council that June 21<sup>st</sup> Should be Established as World Music Day in Palo Alto and Applicable General Fund Fees Should be Waived.~~

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

None

CLOSED SESSION

CONFERENCE WITH CITY ATTORNEY – Anticipated Litigation

19. Subject: Initiation of amicus curiae litigation in the matter of Town of Atherton, a Municipal Corporation, Planning and Conservation League, a California nonprofit corporation, City of Menlo Park, a Municipal corporation, Transportation Solutions Defense and Education Fund, a California nonprofit corporation, California Rail Foundation, a California nonprofit corporation, and Bayrail Alliance, a California nonprofit corporation, and other similarly situated entities, v. California High Speed Rail Authority, a public entity, Sacramento County Superior Court, Case No.: 34-2008-80000022.

Authority: Government Code Section 54956.9(c)

Vice Mayor Morton returned to the Council meeting at 12:41 a.m.

Mary Brodbeck, 2383 South Court stated she was in the process of reaching out to the public to create a coalition of citizens to have a voice. She was in favor of filing a brief in support of the lawsuit.

Elizabeth Alexis, 349 Diablo Court spoke on a number of items for the City Council to consider when deciding to file the brief.

Jody Davidson spoke in support of filing the amicus curiae because of environmental concerns.

Herb Borock, P.O. Box 632 indicated there should be no Closed Session before the City created the Public Report that was directed of Staff by the City Council. He indicated his confusion on what side the City was on.

Sara Armstrong, 4118 Park read a letter from the High Speed Rail Authority on the confusion of Scoping Meetings held in Palo Alto.

Council adjourned to closed session at 12:52 a.m.

Vice Mayor Morton left the meeting at 1:15 a.m.

City Attorney Gary Baum advised there was no reportable action.

ADJOURNMENT: The meeting adjourned at 1:25 a.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

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