

Special Meeting  
June 4, 2007

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

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

Mayor Kishimoto acknowledged Council Member Drekmeier's wedding on Saturday, June 2.

Dr. Amy Adams proposed an annual community parade to serve as a fundraiser for local causes and to foster community spirit.

Council Member Drekmeier thanked his wife and colleagues for acknowledging his recent marriage.

#### STUDY SESSION

##### 1. Santa Clara Valley Transportation Authority (VTA) Representatives Presentation Regarding Transportation Issues

Santa Clara Valley Transportation Authority (VTA) staff made a short presentation to the City Council regarding the agency's Organizational Audit and the Comprehensive Operations Analysis.

Mr. Jim Lawson, VTA Community Relations Manager, reported that the VTA has undertaken an Organizational Audit to look at the agency's finances, governance and service delivery. The Comprehensive Operational Analysis (COA) addressed the issues of low farebox recovery, high costs per revenue hour and low transit usage. The COA recommends a cost neutral program was developed that focuses services in a core service area where buses would run every 15 minutes and non-core and community bus areas where buses would run every 30-60 minutes. Start up of the new service plan is scheduled for January 2008.

Kevin Connolly, VTA Transportation Planning Manager, discussed the impact of the COA proposals on bus services in Palo Alto, including changes to Line 35, rerouting and conversion of Line 88 to a Community Bus route, and input received from the public at the May 23 community meeting at Lucie Stern Community Center.

Council members queried VTA staff on the continuing reduction in VTA bus services in Palo Alto, limited VTA efforts to market their services, and the relationship between Palo Alto's sales tax support for VTA services compared to the share of services received. Approximately 8 members of the public spoke in opposition to the rerouting of Line 88 and the need to maintain service to Gunn High School, the Midtown Neighborhood and the new housing and major developments approved for the Line 88 service area.

## 2. Review of the Palo Alto Airport Working Group Report

Ralph Britton, Chair of the Palo Alto Airport Working Group (PAAWG), presented the PAAWG report to the Council. PAAWG was appointed by Mayor Kleinberg to respond to the Santa Clara County Roads and Airports Division's Palo Alto Airport Business Plan. The Business Plan called for terminating the lease with the City of Palo Alto for the Palo Alto Airport.

The key issues for PAAWG report are:

- 1) Does the airport present a significant value to the community?
- 2) Can the airport be financially independent?

PAAWG concluded and resolved that:

- 1) The Palo Alto Airport is an important transportation, business, economic, recreational and emergency preparedness asset and resource for the City of Palo Alto and its residents.
- 2) The Palo Alto Airport can be operated on a self-sustaining economical basis and be cash positive without requiring any financial support from the City.
- 3) The continued operation of the Palo Alto Airport by the County will both diminish the resource value of the Airport and will threaten its long-term economic viability.

Mr. Britton concluded his remarks with the following PAAWG recommendations: 1) The City Council direct the City Manager to negotiate an early termination of the existing Palo Alto Airport lease with the County; 2) Appoint an interim manager for the Airport; and 3) Issue an RFP for the long-term management of the Airport, which will ensure that its asset value to the community is maintained and will preserve its economic value into the future.

The Council congratulated the Committee on the quality of the report. Some Council members queried the Committee on the information that was gathered.

No action required.

#### SPECIAL ORDERS OF THE DAY

3. Resolution 8714 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Kathy Lee Upon Her Retirement"

**MOTION:** Council Member Morton moved, seconded by Beecham, to approve the resolution.

**MOTION PASSED 9-0.**

Director Human Resources Russ Carlsen stated Kathy Lee is an exceptional human being, and has been a mentor and advisor to many employees.

Management Specialist for Human Resources Kathy Lee thanked Palo Alto for the great opportunity to serve the public and grow with the City.

Council Member Mossar thanked Kathy Lee for her many years of service and said she would be missed.

Mayor Kishimoto added the City appreciated her service.

4. Appointment of Candidates for Three, Three-Year Terms on the Historic Resources Board Ending May 31, 2010

#### FIRST ROUND OF VOTING FOR HISTORIC RESOURCES BOARD

VOTING FOR David Bower	Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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VOTING FOR Beth Bunnenberg	Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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VOTING FOR Patricia DiCicco	Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar
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City Clerk Donna Rogers announced on the 1<sup>st</sup> ballot, Bower, Bunnenberg, and DiCicco with nine votes each were appointed to the Historic Resources Board for a three-year term ending May 31, 2010.

5. Appointment of Candidates for Two, Three-Year Terms on the Human Relations Commission Ending March 31, 2010

FIRST ROUND OF VOTING FOR HUMAN RELATIONS COMMISSION

VOTING FOR Norman Carroll	Barton, Kishimoto, Morton
VOTING FOR Theodore Glasser	Drekmeier
VOTING FOR Olana Khan	Barton, Cordell, Kishimoto, Klein
VOTING FOR June Klein	Beecham, Klein, Kleinberg, Mossar
VOTING FOR Shauna Mora	Beecham, Cordell, Drekmeier, Kleinberg, Morton, Mossar

City Clerk Donna Rogers announced on the 1<sup>st</sup> ballot, Shauna Mora with six votes was appointed to the Human Relations Commission for a three-year term ending March 31, 2010.

SECOND ROUND OF VOTING FOR HUMAN RELATIONS COMMISSION

VOTING FOR Olana Khan	Barton, Cordell, Drekmeier, Kishimoto, Klein
VOTING FOR June Klein	Beecham, Kleinberg, Morton, Mossar

City Clerk Donna Rogers announced on the 2<sup>nd</sup> ballot, Olana Khan with five votes was appointed to the Human Relations Commission for a three-year term ending March 31, 2010.

- 5a. Selection of Candidates to be Interviewed for the Library Advisory Commission Vacancy

**MOTION:** Council Member Morton moved, seconded by Drekmeier, to interview the two candidates for the Library Advisory Commission.

Council Member Morton stated the Council had gone out to recruit for candidates three times.

**SUBSTITUTE MOTION:** Council Member Mossar moved, seconded by Beecham, to recruit once again for the Library Advisory Commission and include the two applicants in the applicant pool.

**SUBSTITUTE MOTION PASSED 9-0.**

ORAL COMMUNICATIONS

Mark Petersen-Perez, 434 Addison Avenue, spoke regarding rental property in Palo Alto.

Bunny Good, P.O. Box 824, Menlo Park, spoke regarding use of pornography in solicitation by Whole Foods.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Mossar moved, seconded by Morton, to adopt the minutes of April 23, 2007 as submitted.

**MOTION PASSED 9-0.**

#### CONSENT CALENDAR

Council Member Mossar stated she would be unable to participate in Item No. 6 due to a conflict because of family holdings of stock in some of the companies and would also be unable to participate in Item No. 10 due to a conflict of interest because her husband was employed by Stanford University.

Council Member Morton stated he would be unable to participate in Item No. 6 due to a conflict because of family holdings of stock in some of the companies.

Council Member Kleinberg asked whether Item No. 10 had been removed from the Consent Calendar.

City Attorney Gary Baum replied Item No. 10 would be continued to a date unknown due to the requirements of the Municipal Code and at the request of Stanford University.

Vice Mayor Klein stated he would not participate in Item No. 10 due to a conflict of interest because his wife was employed by Stanford University.

Council Member Cordell stated she would not participate in Item No. 10 due to a conflict of interest because she was employed by Stanford University.

**MOTION:** Council Member Beecham moved, seconded by Barton, to approve Consent Calendar Item Nos. 6 through 11.

6. Ordinance 4953 entitled "Ordinance of the Council of the City of Palo Alto Authorizing the City Manager to Purchase a Portion of the City's Electricity Requirements from Certain Pre-Qualified Electricity Suppliers

Under Specified Terms and Conditions During Calendar Years 2007 Through 2022, Inclusive”

7. Resolution 8715 entitled “Resolution of the Council of the City of Palo Alto Calling its General Municipal Election of Council Members, Requesting the Services of the Registrar of Voters, and Ordering the Consolidation of Said Election”
8. Transmittal of a Draft Revision of the Public/Private Partnership Policy from the Policy and Services Committee
9. Approval of a Contract with John T. Whitlinger in an Amount Not to Exceed \$288,999 for Tennis Classes, Individual Lessons for Youth and Adults and Summer Camps for Youth
10. Request for Proposals to Sublease a Portion of the University Avenue Depot, 25 University Avenue, Palo Alto, for a Café Service
11. Resolution 8716 entitled “Resolution of the Council of the City of Palo Alto Authorizing the Issuance and Sale of \$1,500,000 of Electric Utility Clean Renewable Energy Tax Credit Bonds, 2007 Series A, Approving Indenture of Trust and Private Placement Memorandum, and Authorizing Official Actions Related Thereto”

**MOTION PASSED** for item 6 7-0 Morton, Mossar not participating.

**MOTION PASSED** for Item 10 6-0 Cordell, Klein, Mossar not participating.

**MOTION PASSED** for items 7 through 9 and 11 9-0.

Tom Wyman, 546 Washington Ave, referred to Item No. 8 and reminded the Council of the donations given to the public libraries from the Friends of the Palo Alto Library. He stated the Public/Private Partnership Policy should be modified to ensure equality in the public/private partnerships.

12. Agenda Number Intentionally Not Used

#### ORDINANCES AND RESOLUTIONS

13. 1<sup>st</sup> Reading – Adoption of an Ordinance Amending Section 9.48.025 (Sitting or Lying on University Avenue Public Sidewalks Prohibited) of Title 9 [Public Peace, Morals and Safety] to Expand the Area Affected by the Section and to Add an Exemption for Bus Zones



Chief of Police Lynne Johnson stated there were complaints regarding panhandling in the area, which were covered by the current Ordinance. The amendment would not prohibit panhandling, but would prohibit people who sit and lie on public sidewalks and create safety issues. She stated only three citations had been given out since the first Ordinance was adopted. The Ordinance did require a warning prior to the citation being issued.

Council Member Drekmeier asked if a person came back would that then be the warning or a citation given and whether it would be in the course of a day or a week.

Ms. Johnson replied a citation would be given and it would be over the course of a week. Most people just move outside of the area covered by the Ordinance.

Council Member Morton asked about the ratio of customers to business owners making the complaints.

Ms. Johnson stated she was unsure of the ratio.

City Attorney Gary Baum stated the Ordinance was not about any one individual, but an expansion of the existing Ordinance to include a number of locations.

Council Member Kleinberg asked whether there was a rule regarding standing in front of a commercial establishment panhandling or asking people to sign a petition.

Ms. Johnson stated there was no prohibition.

Council Member Kleinberg asked what the exemption was regarding tables and chairs being placed outside of restaurants and coffee shops.

Ms. Johnson replied it would be considered exempt as long as the restaurant had the correct sidewalk encroachment permit.

Council Member Cordell asked whether this Ordinance was legal because it dealt with hazards associated with people sitting or lying on the sidewalks.

Mr. Baum replied the public sidewalks were to be used by the public for transportation. If there was an individual sitting or lying on that sidewalk, it could no longer be used by others.

Council Member Cordell asked whether it would be considered a danger or hazard.

Mr. Baum replied there would be a safety aspect for emergency or for transportation.

Council Member Cordell asked if the potential hazard of not having sidewalk use in an emergency was the criteria that would make the Sit/Lie Ordinance valid.

Mr. Baum stated that was correct and he stated that cases and the analysis referred to a governmental interest that included the safety and convenience of the public in commercial areas during certain times.

Council Member Cordell asked whether congregating in front of a building, which would detour people from going into the building, would validate such an Ordinance.

Mr. Baum replied the constitution allowed people to walk in the street and not be stopped by someone sitting or lying on the pavement.

Julienne Williams, AIW, 801 High Street, stated she supported the Ordinance. She had been told by many potential customers of her business that they would not shop there because of the constant panhandling in front of her business.

Eileen Richardson, 773 East Meadow, stated she supported expanding the Sit/Lie Ordinance. It would encourage the un-housed to get help, which would be of greater value than panhandling to get cash.

Leland Alton, 313 Encina Avenue, stated he could not stand for long periods of time and he would not support the expansion of the Ordinance.

Christiane Cook, 1234 Emerson, stated the City had no compassion for the homeless and she would not support the Ordinance.

Bunny Good, P.O. Box 824, Menlo Park, stated people with money used to give to public works projects. She asked where all the money had gone and she would not support this Ordinance.

Susan Richardson, P.O. Box 1035, stated she believed the Ordinance was made to protect business owners and she would not support it.

Norman Carroll, 3061 Emerson Street, stated the perception is that certain people are not welcome in town and all of the encroachments should be looked at or none at all.

Phil Lonardo, 774 Emerson Street, stated it is hard to impress the customers at Whole Foods when what they see first are people begging for money. He would support expansion of the Ordinance.

Council Member Mossar asked how the Sit/Lie Ordinance had been used in the past and whether it had been effective.

City Manager Frank Benest replied this would be part of a continuum of efforts.

Council Member Mossar asked in the past ten years how had the ordinance been used.

Ms. Johnson stated without this Ordinance, the Police would not be able to approach a citizen sitting on a sidewalk and ask them to move. The Ordinance in place has not stopped the panhandling in that area but it had helped.

Council Member Mossar stated Peet's Coffee employees sit outside and take smoking breaks. She questioned if this would be a violation of the Ordinance.

Ms. Johnson replied it would be if they were sitting on the sidewalk and interrupting the flow of pedestrian traffic.

Council Member Mossar stated this also happened at Whole Food's with their employees sitting in the alley during breaks.

Ms. Johnson replied the alley would be okay.

Council Member Mossar asked why the Ordinance stopped at Channing Avenue.

Ms. Johnson stated it was requested that Channing Avenue be included, but there was not the level of pedestrian traffic to include it into the Ordinance.

Council Member Mossar stated that Ace Hardware employees regularly sit in the alley and take smoking breaks. She stated the Ordinance made her uncomfortable since it would not treat everyone the same.

Council Member Cordell advised the Ordinance did not prohibit panhandling. It is constitutional for a City to enact an Ordinance prohibiting sitting and lying on public sidewalks. She asked to adopt only findings B and D of the proposed findings and this Ordinance must be enforced among everyone who is in violation.

**MOTION:** Council Member Cordell moved, seconded by Beecham, that the City Council adopt an ordinance amendment to the Palo Alto Municipal Code (PAMC) Chapter 9.48.025 expanding the area of the current sit/lie ordinance to include the area bounded by within 50 feet of any commercial property, add an exemption for bus stops, and adopt the following findings from Section 1 of the Ordinance:

- (b) Sitting or lying down on public sidewalks between Lytton Avenue and Channing Avenue from Alma Street to Emerson Street and the area between Lytton Avenue and Forest Avenue from Emerson Street to Webster Street, during the hours between 11 AM and 11 PM of this unusually busy time in these areas, results in delay and obstruction of free flow of travel, and results in congestion and blockage of the sidewalks when pedestrians are required to constrict and redirect their passage, often into the street, in order to avoid persons sitting or lying down on the sidewalk; and
- (d) The impact of this type of activity on the city's sidewalks in this area poses a significant and substantial risk to the interest of the public in the free flow of travel in the city and a hazard to the general health and welfare of the public.

Incorporate the ordinance as set forth:

**Ordinance entitled "The City Council of the City of Palo Alto Hereby Amends Section 9.48.025 (Sitting or Lying on University Avenue Public Sidewalks Prohibited) of Title 9 [Public Peace, Morals and Safety] to Expand the Area Affected by the Section and to Add an Exemption for Bus Zones"**

Council Member Beecham asked whether the deletion of section A and C would have any impact on the enforceability of the Ordinance.

Mr. Baum replied it should not have an effect.

Council Member Beecham said there were a wide range of services for the homeless and those-in-need. This Ordinance did not prohibit panhandling or soliciting but mitigated activities that did not benefit the businesses and he supported the Ordinance.

Council Member Drekmeier asked whether a street musician sitting out of the way and providing entertainment for people would be asked to move.

Council Member Cordell stated all those in violation of the Ordinance should be asked to move. If a person were blocking the sidewalk whether lying or sitting, this Ordinance would be enforced fairly and equally.

Council Member Drekmeier asked how strictly this was enforced.

Ms. Johnson stated they would be asked to move if they were in the area currently covered by the Ordinance.

Council Member Morton stated the Ordinance would continue to grow and eventually extend to be a Citywide Ordinance and he was conflicted on how he would vote.

Council Member Kleinberg said by deleting Section A of the Ordinance, it would state, "Sitting or lying down on the sidewalks of this unusually busy area." She asked for clarification.

Council Member Cordell stated language would have to be added.

Council Member Kleinberg asked whether panhandling being prohibited in one area, would cause it to continue to move to different parts of the City.

Ms. Johnson stated it was possible, but the downtown area where there was more traffic was generally where panhandling happened. She stated there are other programs they are working on which will help un-housed people.

Council Member Kleinberg asked what would happen with businesses from the hours of 8 am to 11 am if the Ordinance were enforced from the hours of 11 am to 11 pm.

Ms. Johnson stated the sitting and lying would not be prohibited.

Council Member Kleinberg stated there was question of legality of the same activity at the same place considered unsafe because of the hour of the day. She stated she would support the Ordinance with reluctance.

Vice Mayor Klein questioned whether Palo Alto was strict enough considering the amount of people un-housed. He supported this Ordinance and asked whether "strict enforcement" would be included in the language.

Council Member Cordell stated it was not part of the Ordinance but was part of her verbiage.

Vice Mayor Klein stated Council Member Cordell's verbiage was questionable regarding the extent that Police have judgment of when enforcement was needed.

Council Member Cordell clarified it was meant to state there would not be selective prosecution because that would be unlawful.

Council Member Barton stated the motive of safety is not proven. He added this would target a few people in a single location. He did not believe this Ordinance was needed.

Council Member Mossar noted many of the panhandlers were not homeless. She asked why this Ordinance did not cover all of the commercial areas in the City.

Mr. Benest said there were two reasons why the Ordinance did not extend to all commercial areas: 1) the downtown was a heavily walked area; and 2) it was easier to escalate than to de-escalate and take small steps with this.

Council Member Mossar stated she did not feel comfortable with this item and did not support this Ordinance.

Council Member Cordell asked whether a Sit/Lie Ordinance that covered the entire City would be lawful.

Mr. Baum replied the intent would be to focus upon the core commercial and pedestrian areas and address it through that method first.

Council Member Cordell clarified this was not spot zoning. The Sit/Lie Ordinance responds to a certain situation and must be justified constitutionally with sufficient cause. The timing of 11:00 a.m. to 11:00 p.m. was when these areas were heavily traveled. She asked to change the wording of Section B to: "Sitting or lying down on the public sidewalks between Lytton Avenue and Channing Avenue, from Alma Street to Emerson Street, and the area between Lytton Avenue and Forrest Avenue, from Emerson Street to Webster Street, during the hours of 11:00 a.m. and 11:00 p.m., an unusually busy time in these areas results in the delay and obstruction of the public's free flow of travel and results in congestion and blockage of the sidewalks when pedestrians are required to restrict and redirect their passage often into the street to avoid person sitting or lying down on the sidewalk; and the wording in Section D changed to: "The impact on the City sidewalk's in this area poses a significant and substantial risk to the interest of the public and the free flow of traffic in the City and a

hazard to the general health and welfare of the public." She stated the rest of the Ordinance would be set forth as is.

Council Member Beecham stated he would agree to the change in wording.

Mayor Kishimoto stated Palo Alto had done a lot for the un-housed and this was just one-step that had been effective. She supported this Ordinance.

Council Member Morton asked what was counted as heavy traffic.

Mr. Baum stated there was no quantitative test found on those cases.

**MOTION PASSED** 6-3 Barton, Morton, Mossar no.

15. Discussion of Palo Alto Airport Working Group (PAAWG) Report

**MOTION:** Council Member Mossar moved, seconded by Klein, to move Agenda Item No. 15 in front of No. 14 and to refer Item No. 15 to the Finance Committee.

Council Member Mossar asked whether Item No. 15 could be continued.

Council Member Kleinberg asked whether there was a time issue with the Palo Alto Airport Working Group (PAAWG) and if this would put Palo Alto in jeopardy with the County's timeline.

Vice Mayor Klein stated the title on this item should have been a referral to go to the Finance Committee on July 17, 2007 and return to the Council after the break.

Mr. Benest stated he did not believe there was any sense of urgency but it was a big issue, which should be considered thoughtfully. He said it would be referred to Finance Committee with a date to be determined.

City Clerk Donna Rogers asked whether the motion was to refer the item to Finance Committee on July 17, 2007.

Council Member Mossar stated the date was not intended to be a part of the motion.

**MOTION PASSED** 9-0.

COUNCIL MATTERS

14. Colleagues Memo from Mayor Kishimoto and Council Members Mossar and Beecham regarding Directing Staff to Initiate a Zone Change to Establish Amortization Periods for Non-Conforming Uses in SOFA 1

Vice Mayor Klein stated he would not participate in Agenda Item No. 14 due to a conflict of interest rule that states an official must be unbiased on the item. He noted it would be inappropriate for him to participate since the late Guy Blaise had been his law partner for many years and his widow and two daughters are part owners of property at 400 Channing.

Council Member Mossar stated when SOFA 1 (South of Forest Avenue) was completed there were properties that were not rezoned. The Colleagues' Memo was to decide whether it would be appropriate to rezone them to make them consistent with the SOFA 1 plan. It would be referred to staff to determine the amortization period.

**MOTION:** Council Member Mossar moved, seconded by Kleinberg, to direct staff to return to the Council within three months with a scope of work and timeline to: (1) investigate and identify all of the nonconforming nonresidential land uses within the SOFA 1 CAP; and (2) develop an amortization schedule to convert these properties to residential use.

Jim Finch, 26078 Eucalyptus Lane, Los Altos, noted this property should remain as office usage. He asked that this property not be included in any SOFA 1 study.

Dr. Frank Altick stated the dental building had been a critical part of the neighborhood for over 50 years and he did not support the zone change.

Dr. Norm Dishotsky stated many other medical and dental offices in Palo Alto were zoned as non-conforming use. He asked why the SOFA area was being singled out for this policy. He did not support the zone change.

Jon Goldman, 400 Channing Avenue, stated there were only four properties that had virtually no impact with this and he did not support the zone change.

Eric Sorensen, Channing Avenue, commented that there was no evidence the City's transformer was at risk to explode and he did not support the zone change.

Charlie Brock stated there had been numerous attempts to deal with the transformer, which had been approved through the City's Electrical Department, Building Department and the Planning Department.



Brad Eikian, 172 University Avenue, stated the issue of safety was not the issue at hand.

Jim Baer, 172 University Avenue, stated throughout the City of Palo Alto there were many non-conforming medical uses. If the determination is based on a complaint, then the door will be open to land use by complaint and not land use by policy and safety.

Bill Garrett, Esq., 525 University Avenue, said the Council needed to be consistent and fair in land use decisions and he did not support the zone change.

David Baumgarten, 915 Waverley Street, stated the vision of the SOFA plan was for a walkable and livable neighborhood that was compatible with the surrounding residential neighborhood. He supported the zone change.

Council Member Drekmeier questioned why the compromise was not implemented.

Mr. Baumgarten replied he accepted a compromise that involved moving the transformer, and putting up a fence to shield the electrical panel, which was three feet from his property line. He added months went by with no implementation.

Council Member Beecham stated he had been working with David Baumgarten over the past year on some of the issues and concerns, which were the pad-mounted transformer, noise from the air conditioning, and potential radiation from the x-ray unit. He stated he was reluctant to rezone it considering its history. Staff had informed him that up to 20 parcels could be affected, which would become a policy issue. He asked how many parcels would be involved with this zone change.

Director of Planning Steve Emslie advised that seven properties were affected.

Council Member Beecham asked how many were part of the considerations in SOFA 1 or SOFA 2.

Mr. Emslie replied they were all in SOFA 1 but there were considerably more in SOFA 2.

Council Member Beecham stated he was reluctant to reopen SOFA 1 and he did not support the motion.

Mayor Kishimoto stated there were medical offices located all over the City, which used industrial grade electrical machinery, and she supported the motion.

Council Member Barton asked about the uses of SOFA 1.

Mr. Emslie stated the plan had the City's standard non-conforming regulations attached to the uses and structures that did not conform to their current zoning, which stated non-conforming use can exist and be reused indefinitely. The new zoning code stated that "office" did not distinguish between any type of office, and continued unless an amortization schedule was imposed, which would continue in the regulations under SOFA 1.

Council Member Drekmeier asked about the health effects of the transformer present at 400 Channing Avenue.

Mr. Emslie replied there was a slight risk of hazard from a transformer. The City had enacted an Ordinance that required new transformers to be pad-mounted on the surface versus below ground. There was a risk of explosion generally with the older, wet models and the electromagnetic fields that were generated.

Council Member Drekmeier asked whether the other locations had the same transformer.

Mr. Emslie stated he was not sure.

Council Member Drekmeier asked whether the City required the transformers to include power for down the street.

Mr. Emslie stated each transformer was designed to take into account the loads in that area, which would be more than the property on which it was located.

Council Member Drekmeier asked whether the transformer was considerably larger than the average transformer because of the needs of 400 Channing Avenue.

Mr. Emslie replied it had to do with the area it was serving.

Council Member Drekmeier asked what a transformer would look like and where it would be located in a residential neighborhood.

Mr. Emslie stated it would look the same. Most of the transformers are in vaults underground and the newer ones would be above ground.

Council Member Drekmeier asked whether there were other locations where there were above ground transformers close to residential areas.

Mr. Emslie replied there was an estimate of 5,000-6,000 transformers above ground throughout the City.

Council Member Drekmeier inquired about legal rights and possible litigation with this zone change.

Mr. Baum stated non-conforming uses were always problematic to regulate. A consultant would need to be retained to determine a proper amortization period and it was possible it could exceed 10 years.

Mr. Drekmeier asked whether it would have to be long enough that this would not be considered a taking.

Mr. Baum stated it would have to be long enough that the economic value of the investment were fully amortized.

Council Member Drekmeier inquired about the 2005 compromise.

Mr. Emslie stated the compromise was not with the City. The City was facilitating a voluntary compromise. He noted the City was trying to get the parties together to see whether there was an amicable resolution. The property owners were concerned that there were not health or safety hazards and, once the final cost and health effects were known, the deal fell apart.

Council Member Beecham clarified the compromise was between the two private parties.

Council Member Morton stated the businesses located there could ask people to sign a petition to say they wanted to come to that area for those services. This would be setting the community up to have to fight for local services. He stated he did not support the zone change.

Council Member Cordell stated she was not sure that what was presented in the memorandum was legal and, if it was legal, it should balance the right of the owners of the office properties and the owners of the residential properties. She stated the owners of the property were willing to do a

compromise and a compromise should still be worked out. She did not support the zone change.

Council Member Mossar stated the neighborhood wanted to convert this from a large-scale medical center to a residential. The intent was to get rid of the heavy commercial uses and replace them with residences.

Council Member Morton asked when it was a non-conforming use, did there need to be a general definition of what the successful uses could be which then could be changed by legislation.

Mr. Emslie stated he was correct. The code defines the difference between a medical office and general office.

Council Member Morton stated in the future this particular problem would not exist for this site.

Mr. Emslie agreed and stated unless the property is changed it could continue to be medical.

Council Member Morton asked if the office next door could not go from being an administrative office and into a medical office.

Mr. Emslie replied that he was correct.

Mayor Kishimoto stated she had never seen a transformer on someone's front lawn that served the whole neighborhood. She did not understand why it was placed on a property owner's front lawn.

Mr. Emslie stated it served the whole neighborhood.

Council Member Kleinberg stated the City had the responsibility for locating this transformer and having other properties dependent upon it.

Council Member Drekmeier asked whether the City and the two parties could come back together with the City as a partner to find a short-term solution, which would address the concerns of the neighbor.

Assistant City Manager Emily Harrison stated there was no way to justify using taxpayer money to participate in the compromise.

Mayor Kishimoto asked about possibilities for the other six properties with same issue and she stated this was not spot zoning because they had been zoned residential.

Mr. Emslie stated more analysis was required.

**MOTION FAILED** 6-2 Kishimoto, Mossar yes, Klein not participating.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Kleinberg reported she attended a League of California Cities Peninsula Division dinner meeting, which discussed the Municipal Joint Powers Purchasing Project for Green Technology. She noted the recent good news regarding the Local Heroes Award, presented by Absolute Mortgage to public safety employees in the community.

Council Member Mossar referred to a letter from the Bay Area Air Quality Management District (BAAQMD) regarding air quality and new standards.

Council Member Kleinberg referred to a letter from the Santa Clara County Civil Grand Jury transmitting the final report on Disaster Preparedness in the County and Improvements Needed. She questioned whether it had been reviewed from the Palo Alto security point of view and operability issues.

Ms. Harrison noted the Palo Alto response letter would be brought back on July 16, 2007 for Council approval.

Mr. Baum said although Palo Alto was not a city reviewed by the Grand Jury, the Council would be requested to approve the response letter.

Council Member Cordell noted a letter in the Weekly and Daily newspapers entitled "Black in Palo Alto" and she requested the Police Auditor receive a copy of the letter. She questioned why this issue occurred since it violates Palo Alto policy. She thanked and commended the Council for the vote on Romic Environmental Services, which showed support for our neighbor community. On Wednesday, June 6 at 9 p.m., KQED will be broadcasting her interview with Billie Jean King.

Council Member Morton reported he attended a meeting of the Land Use Airport Commission recently and the major items on the agenda were updating the individual land use plans for each of the airports. He advised he was requested to appoint an alternate member to the Commission and he selected Former Mayor Mike Cobb, who would attend these meetings in Council Member Morton's absence.

Mayor Kishimoto congratulated Council Member Drekmeier on his recent wedding and, noted also, that Council Member Morton's son was recently

married. On Sunday, there had been a very successful first California Avenue Farmers' Market. She requested an update on the new Association of Bay Area Government (ABAG) housing element numbers for Palo Alto.

Mr. Emslie advised the numbers were reduced slightly but there is a lack of unity contributed to the unincorporated area of the county and ABAG is not taking that into account. Adjustments would be made during the review period.

**ADJOURNMENT:** The meeting adjourned at 11:42 p.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.