

Special Meeting
June 25, 2012

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:36 P.M.

Present: Burt, Espinosa, Holman, Klein, Scharff, Schmid, Shepherd, Yeh
arrived @ 7:00 P.M.

Absent: Price

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Lalo Perez, David Ramberg, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray)
Employee Organization: Service Employees International Union, (SEIU) Local 521
Authority: Government Code Section 54957.6(a)
2. CONFERENCE WITH LABOR NEGOTIATORS
City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Kathryn Shen, Sandra Blanch, Marcie Scott, Darrell Murray)
Employee Organization: Palo Alto Police Officers Association (PAPOA)
Authority: Government Code Section 54957.6(a)
3. CONFERENCE WITH CITY ATTORNEY
Potential Litigation Relating to High Speed Rail
Government Code Section 54956.9(c) - Potential Initiation of Litigation - 1 Case

Vic Farisato spoke regarding the SEIU labor negotiations.

Peggy Quillman spoke regarding the SEIU labor negotiations.

Lynn Krug spoke regarding the SEIU labor negotiations.

Ratu Serumalani spoke regarding the SEIU labor negotiations.

Teresa Jolin spoke regarding the SEIU labor negotiations.

Lucas Huezo spoke regarding the SEIU labor negotiations.

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Robert Item spoke regarding the SEIU labor negotiations.

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

CITY MANAGER COMMENTS

James Keene, City Manager, reported the Twilight Summer Concert series would begin June 30, 2012, at Rinconada Park. The Public Works Staff would host a community meeting on June 27, 2012, 7:00 P.M., at the East Palo Alto YMCA regarding the Newell Road/San Francisquito Bridge replacement project. The Public Works Staff had initiated revisions to Palo Alto's Ordinance regarding single-use plastic and paper bags. Meetings would be held June 26, 2012, 10:00 A.M., and June 28, 2012, 6:00 P.M., at Cubberley Community Center. The Santa Clara Water Valley District had issued a Request for Proposals regarding a replacement bridge for the Chaucer Street/Pope Street Bridge. The Public Arts Commission announced the installation of a mural at Rinconada Pool.

ORAL COMMUNICATIONS

Wynn Grich noted Mr. Moss had written an article regarding toxic hazards in Palo Alto. A Superfund site in Palo Alto contained a chemical which caused Parkinson's Disease. Agenda 21 of the United Nations encouraged global fluoridation of drinking water, even though fluoridation increased cancer death rates. When cities followed the protocols of Agenda 21, they received funds for redevelopment.

Omar Chatty stated another death on Caltrain tracks occurred the prior week. That was the 10th death in 2012, the 26th death since the beginning of 2011, and the 186th death since 1995. Two Palo Alto residents had died in 2012 as a result of Caltrain. He hoped someone would ask for a study to close the gap in the Bay Area Rapid Transit (BART). BART had 57 percent fare box recovery and moved 370,000 people per day. BART would be more useful for people in the Bay area than high-speed trains. If the High Speed Rail project was eliminated, then those funds could be used to close the gap in BART. It would take ten years to implement BART, and there would be another 160 deaths during that time. BART was responsible for only two deaths in 2012.

Michael Francois reported on fluoridation as a poison. Palo Alto had areas of groundwater contamination caused by Stanford Research Park, Communications & Power Industries Inc. (CPI), and Hewlett Packard (HP).

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AGENDA CHANGES, ADDITIONS, AND DELETIONS

Mayor Yeh noted Staff had requested Agenda Item No. 6: Public Hearing: Adoption of a Resolution of the Council of the City of Palo Alto Approving the 2012 Rail Corridor Study Report and Amending the Transportation Element of the Palo Alto Comprehensive Plan to Incorporate Certain Findings of the Report (Staff requests item be continued to 7/9/12) be continued to July 9, 2012.

MOTION: Council Member Schmid moved, seconded by Council Member Shepherd to continue Agenda Item No. 6 to July 9, 2012.

MOTION PASSED: 8-0 Price absent

ACTION ITEMS

4. Public Hearing: Appeal of An Architectural Review Approval And A Record Of Land Use Action Regarding the Director's Architectural Review Approval Of A Three Story Development Consisting Of 84 Residential Units In 104,971 Square Feet Within The Upper Floors (Revised to 82 units in 102,225 s.f.), 50,467 s.f. Ground Floor Research And Development Area (Revised to 47,917 s.f. and including potential 2,400 s.f. retail space), Subterranean And Surface Parking Facilities, And Offsite Improvements, With Two Concessions Under State Housing Density Bonus Law (GC65915) On A 2.5 Acre Parcel At 195 Page Mill Road And 2865 Park Boulevard. Quasi-Judicial (Continued from June 4, 2012)

Amy French, Acting Assistant Director for Planning and Community Environment, reported on June 4, 2012, the Council requested four changes to the Park Plaza project. The project changes were outlined in the Staff report. Staff recommended approval as set forth in the Record of Land Use Action. The mixed-use building contained 152,091 square feet (s.f.) of space, a decrease from 157,387 s.f.; 47,917 s.f. of ground-floor research and development (R&D) space, a decrease from 50,467 s.f.; and 82 residential units, a decrease from 84 units. It included a 2,400 s.f. area separate from the R&D space for a potential café and retail area. The mass on Park Boulevard was mitigated by the removal of floor area and creation of a pedestrian plaza. The lot coverage was reduced through removal of units and an uncovered deck. Balconies were added along the sides of the units facing the courtyard on Park Boulevard. The applicant indicated to Staff that the building colors and some materials would be modified in the center section. The parking demand decreased by approximately 14 spaces with

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the reduction of floor area. If the corner space was strictly retail, there would be a gain of 12 parking spaces.

Curtis Williams, Director of Planning and Community Environment, advised there had been substantial modification to the design. The long façade had been broken up and opened to the courtyard to give the impression of three distinct portions of the building. Staff felt the center portion of the building should have different colors and be constructed of different materials to enhance the appearance of three different components.

James Janz, Hohbach Representative recalled the Council had directed Mr. Hohbach to address design changes to accommodate goals articulated by Staff. They provided a pedestrian entrance at the north end of the building in addition to the main entrance for vehicular and pedestrian access. They kept the entrance off Page Mill Road to allow pedestrian flow from Caltrain. Water features were located at the main entrance and in the courtyard. They removed an apartment unit from the second floor and the third floor and 2,500 square feet of R&D space. The main entrance previously had a deck at the second floor level. Removing the deck allowed light and air into the courtyard and the addition of windows and balconies on apartment units. The project consisted of the corner tower, the first section, the pedestrian entrance, the second section with four corner apartments, the entrance to the underground garage, the main entrance, and the building facing the street. There could be landscaping, monuments or sculptures. They wanted to include retail uses, if they could locate tenants.

Bob Moss, Appellant stated the drawings were not accurate and did not represent the actual building. Such inaccuracies included the entrance to the underground garage and the number of trees and bushes. In particular, the drawings did not show the rear view of the 450-foot long wall, as high as 59 feet, facing Alma Street and the railroad tracks. The wall violated Policy 5 to have developments consistent with existing buildings. The project ignored contamination which would cause serious health problems. The consultant's letter indicated they could reduce the magnitude of Trichloroethylene (TCE). However, the original submission indicated the level of TCE remaining was three times the level allowed in residential areas. They never proposed testing TCE in the residential area, which violated EPA policy. The project violated the California Environmental Quality Act (CEQA). He quoted the 2007 court ruling regarding actions to be taken by the City. The project failed the design test, the compatibility test, the toxicity test, and the CEQA test. He recommended the Council direct the applicant to correct these problems or not approve the project. Council's approval of this project would be a bad precedent. He suggested eliminating the

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underground garage in the contaminated area, placing the building on a podium, and reducing the scale of the building.

Council Member Burt asked if the Council had the authority to include a Condition of Approval regarding a café.

Don Larkin, Assistant City Attorney reported the Council could condition the project to be consistent with information presented. An absolute requirement of a café would be problematic. He suggested asking the applicant if it would accept language of using best efforts to include a café. The City would not want an empty storefront.

Council Member Burt indicated his question concerned the Council's authority.

Mr. Larkin believed it was not within the Council's authority to require a use more strict than zoning laws would allow.

Mayor Yeh confirmed the Council had no disclosures.

Vice Mayor Scharff inquired if the Council could include the requirement to keep the storefront vacant or build a café if the applicant agreed.

Mr. Larkin answered yes.

Vice Mayor Scharff asked whether the Council could include, with the applicant's agreement, a requirement to lower the rental amount if a café tenant could not be found.

Mr. Larkin answered yes.

Vice Mayor Scharff inquired whether the Council's alternatives were to vote against approval or condition approval on the applicant's agreement to include a café.

Mr. Larkin reported placing an exact condition more restrictive than zoning laws allowed was problematic.

Mr. Williams suggested the Council indicate one of the purposes of such a requirement would be to enliven the streetscape and pedestrian environment, which would connect to the site and design component of the project.

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Council Member Holman referenced Packet page 17, No. 8, regarding amenities for visitors and occupants. She asked if visitors meant the public at large.

Ms. French reported visitors meant visitors to the courtyard and to the residential units.

Council Member Holman suggested the language should be members of the public, visitors, and occupants. She asked about signage that would indicate the public was allowed in the courtyard.

Mr. Williams felt the intent was not to make the interior courtyard a public plaza. The plaza outside the café would be a natural area for the public.

Council Member Burt inquired whether it was Staff's understanding and intent that the plaza would be public space and the interior courtyard would be limited to visitors to residential and commercial occupants of the project.

Mr. Williams reported that would be the natural intention, in that the plaza was located outside the café/retail area.

Council Member Burt asked if the applicant would agree to a café use and public use of the plaza.

Ms. French stated past Planned Communities (PC) had areas for public use and encroachments by restaurants. The Council would want tables and chairs in the plaza to enliven the space.

Council Member Burt said it would be a public space for purposes of serving the users of the food or beverage establishment.

Mayor Yeh advised the Council it could ask questions directly to the applicant.

Council Member Burt asked the applicant to respond whether they were willing to accept a café use and public use of the plaza.

Mr. Janz answered yes. The description of the use of the plaza versus the interior courtyard was accurate. He expressed concern about finding a café tenant who would be successful. The applicant would use best efforts, including appropriate rental rates, to locate a tenant.

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Council Member Burt felt an appropriate rental rate would include a subsidy to ensure the use. The Council would not determine the rental rate, but all Council Members felt a retail establishment would need a subsidy.

Mr. Janz stated the retail space rental charge would be lower than the R&D space rental charge.

Council Member Burt asked if the applicant would voluntarily agree to the Condition of Approval to include a retail food or beverage establishment.

Mr. Janz replied yes; however, the space was too large for the kind of self-service café he envisioned.

Council Member Burt inquired about the minimum square footage the applicant would commit to being a retail food or beverage establishment.

Mr. Janz understood the café would be located facing the entry rather than the corner.

Council Member Burt indicated the applicant could choose the location deemed to be the most successful. A better location meant a lower subsidy.

Council Member Schmid recalled past information indicated a density bonus concession. The applicant would receive a higher Floor Area Ratio (FAR) and a greater density of the project based on a concession of 17 Below Market Rate (BMR) units. However, the current information indicated that did not apply to this project. He asked why it no longer applied.

Mr. Larkin reported the applicant was proposing the same number of BMR units and receiving the same concession.

Mr. Williams indicated that was an ARB (Architectural Review Board) Finding that did not apply to this project, because it was not relevant.

Ms. French stated this was in response to Council Member Holman's concern regarding Staff's presentation of ARB Findings.

Council Member Schmid asked whether it was moved from Packet page 17 to Packet page 27.

Ms. French reported ARB Approval Finding No. 11 did not apply to this project; therefore, it was placed in order as Item 11 in the Record of Land Use.

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Mr. Williams noted Section 3 on page 4 reviewed all ARB Findings, and each one was enumerated. ARB Finding No. 4 and ARB Finding No. 11 were not applicable to this project.

Council Member Schmid inquired whether the housing condition in No. 11 was relevant.

Ms. French answered yes.

Mr. Williams stated it still applied.

Council Member Schmid asked if it was in the Council's discretion to grant two concessions.

Mr. Williams replied yes.

Council Member Schmid indicated the first concession was increased FAR, and asked what the second concession was.

Mr. Williams reported the concessions were onsite housing and FAR.

Ms. French said the FAR was reduced from the original amount.

Council Member Schmid asked if the Council had discretion to set the number of housing units.

Mr. Larkin advised the number of housing units was set by Zoning Ordinance. The Council did not have the discretion to reduce the number of units or the concessions required. The Council did have discretion over the ARB Findings.

Council Member Schmid indicated housing was a concession, but the Council did not have control over the number of housing units.

Mr. Larkin reported the concession was mixed use rather than housing. Housing and R&D were allowed on the site, but they were not allowed on the site together without the concession.

Council Member Schmid inquired whether the site could be credited to the Housing Element.

Mr. Williams responded yes. It was shown in the pending Housing Element as a project in the queue and was counted as part of the inventory.

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Council Member Schmid asked if it was on the maps in the Housing Element.

Mr. Williams indicated it was on the list of approved or pending projects. It was shown as having the potential for 84 units, and would be reduced if a smaller number was approved.

Council Member Schmid inquired whether it would remain on the housing inventory if the Council did not approve the project.

Mr. Williams said that depended on the basis for the Council's decision. It could be removed entirely or left in the inventory at some number of units.

Council Member Schmid inquired whether the public would be allowed in the interior courtyard if they purchased something from the café. The diagrams indicated 2,400 s.f. while comments indicated 1,200 s.f. for the café. He asked for a clarification of what would be offered.

Mr. Janz believed approximately 1,200 s.f. would be sufficient for a small café. The applicant would commit to up to that number if it was required. The public would be allowed in the inner courtyard, but would not be allowed to spend the night there. This situation would probably need a sign indicating it was private property, and it could be necessary to close it once a year to maintain the private property status.

Vice Mayor Scharff was trying to understand the café issue in that the applicant described it in a negative manner. He understood food would not be prepared onsite, but wanted some assurance that the café would not be a self-service cart.

Mr. Janz agreed with Vice Mayor Scharff's vision of the café. A Starbucks, for example, would fit within the description and the space. The applicant wanted a tenant that would be an amenity to the project and to the neighborhood.

Vice Mayor Scharff felt outdoor tables and chairs were wonderful, and that was shown in the pictures. He suggested the applicant provide details, such as 1,200 s.f. and a rental rate of 50 percent or less of the market for retail space, best efforts to obtain a café tenant, and provide outdoor seating.

Mr. Janz could commit to the details Vice Mayor Scharff suggested, except the 50 percent or less rental rate. He did not know if that amount was realistic. Bench seating was available inside the courtyard and along Park Boulevard, and there would be tables and chairs with the café.

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Council Member Espinosa wanted to understand the decrease in square footage for the café area, and asked if the applicant would commit to only 1,200 s.f.

Marcus Wood, Applicant Representative reported a 1,200 s.f. café needed revenue of \$1,000 per day to be successful. He was not sure the space should be a café, because there was not a population to support it.

Council Member Holman noted the project received a 30 percent parking reduction.

Mr. Williams indicated the reduction was originally 22 percent, but that was reduced to approximately 20 percent with the reduction in square footage.

Council Member Holman inquired why Staff recommended the elimination of parking spaces when a parking exception had been granted. She also asked for clarification of the language at the bottom of Packet page 4 regarding reduced square footage and reduced parking spaces.

Ms. French reported the project had eliminated 2,550 s.f., in addition to the reduced R&D space. The 2,400 s.f. included a back of house area. There was no proposal to reduce parking spaces onsite. The reduction was in the demand for parking, because the applicant had eliminated two housing units and 2,550 s.f. of R&D space, and converted space to retail. Ten spaces had been eliminated for the loss of R&D space and four spaces for the loss of housing units. The applicant was not reducing the amount of parking provided onsite.

Council Member Holman confirmed the demand for parking spaces was reduced and not the number of parking spaces provided.

Ms. French responded yes.

Council Member Holman stated the amount of square footage being reduced was 2,550 for commercial, while another portion of R&D space was converted to retail.

Public Hearing opened at 8:29 P.M.

Sam Sparck expressed concern about the treatment of the water and air pollution at the site. Previous measurements of groundwater at the site showed a dangerously high level of various kinds of pollutants, including carcinogens. He questioned the adequacy of the stated frequency and location of testing. In view of the large number of residents present at the

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site, he suggested testing should be conducted quarterly or monthly for the first year rather than annually. Only the commercial areas on the ground floor would be tested. Employees and visitors to the commercial areas were not as vulnerable to the pollution as residents were. He suggested periodic testing of interior air through the use of ducts and fans.

Herb Borock believed the Council should uphold the appeal and deny the application. The project was not substantially different from the previous version in bulk, mass, density or views from three sides. The amount of R&D space was not compatible with the housing as required for mixed use by both the State Housing Density Bonus law and the City's Zoning Code. The site's General Manufacturing (GM) zone district prohibited housing. The housing inventory site was for only 1.56 acres of the site and required only 46 units total. The Pedestrian Transient Oriented Development (PTOD) combining district was the only place in the Zoning Code that implemented Code Section 65915, and that defined compatibility for mixed uses in this site's land use map category. PTOD limited R&D in a mixed use site to 0.25 or one half the project's R&D. The State Housing Density Bonus law was implemented in the PTOD combining district by providing additional height, residential density, and residential floor area but did not provide additional R&D floor area above the 0.25. The building at 395 Page Mill Road was shown as three stories; however, only a small portion of that site was occupied by a building and the remainder was a parking lot. Under the State Housing Density Bonus law, the Council had discretion to determine whether the proposed concessions were appropriate. The proposed concessions were not appropriate. The Council had the discretion to determine that the mixed use was not compatible with the underlying zoning. This project violated State law, because it violated the requirements for mixed use within Code Section 65915.

Garth Pickett, of the Law Firm of Hopkins and Carley, indicated his firm was interested in the multi-family housing and mixed use aspects of the project. That had a small part in the firm's decision to locate across the street from the project. He supported approval of the project.

Geoff Dale felt this project was important for the neighborhood. He supported the project without the mandate for a subsidized café. The project improved the neighborhood and provided economic opportunities and residential space. The developer had mitigated safety concerns.

Doug Hohbach stated this was a good location for rental housing as it was close to transit and employment. Non-subsidized and subsidized rental housing needed density. The project was of lesser scale and density than projects in other parts of the Bay area in similar high value neighborhoods.

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Public Hearing closed at 8:40 P.M.

Mr. Janz reported the height of the tower was 59 feet; generally the building height was 40 feet. The underground variant Hewlett Packard (HP) plume had been analyzed. The project had a sub-slab vapor mitigation system. The applicant was adding active ventilation. An impermeable membrane would be placed underneath the entire project. Testing would be conducted in the garage and all three floors, including the residential and R&D levels. A report prepared May 8, 2012 indicated the estimated concentrations of PCE and TCE in indoor air, neglecting the effect of an active venting system, were a fraction of 1 percent of the respective State Indoor Air Criteria. The project did not violate CEQA. The Judge required recirculation of the Mitigated Negative Declaration (MND), and that would be done.

Mr. Wood lived in the vicinity of the project, and believed Mr. Hohbach had a good and useful project. The apartments were a major value. The proposed R&D space was worth less than the R&D of a rectangular building.

Mr. Moss stated the City Attorney's comments regarding changing the number of housing units were not consistent with his comments before the Planning & Transportation Commission (P&TC). Code Section 65915 indicated the Council could reduce or eliminate a concession if there was a safety problem. The site had a safety problem; therefore, the Council could reduce the number of housing units and change their location to comply with safety. Section G under Mitigated Measure (MM)-4 required testing, mitigation, and continued monitoring rather than positive actions. The Council was not required to approve 82 units, to accept the size of the building as proposed, and to mitigate issues that did not address toxic hazards. The Council was required to ensure the health and safety of future occupants. The maximum likely reduction in TCE concentration was 5 orders of magnitude. The concentration in the soil was 150,000, or 1 1/2 to 3 times the allowed level inside the building for residential use. There was an uncertainty of as much as 3 orders of magnitude depending on weather, groundwater, and environment. It's possible the indoor air concentration could be 150 parts per million. The consultant based its projections on assumptions rather than measurements.

Council Member Klein requested Staff's opinion of the duct and fan system for testing purposes.

Mr. Williams reported one of the conditions required testing of the residential areas within 90 days after construction.

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Council Member Klein indicated his question concerned the method for testing indoor air within residential units on a regular basis.

Mr. Williams did not understand the method.

Council Member Klein wanted to know if Staff was familiar with the method and whether it was practical.

Mr. Williams reported the consultants on the environmental document indicated it was difficult to measure interior residential air after construction, because many other products located in the spaces distorted measurements. Therefore, Staff recommended testing once within 90 days, and then continuous monitoring of the garage areas.

Council Member Klein inquired if the Council could include a condition of approval to research the method of testing.

Mr. Williams indicated Staff could discuss it with the consultant and the Regional Water Quality Board to determine if the condition could be expanded to include monitoring within residential units.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Shepherd to accept Staff recommendation to approve the Mitigated Negative Declaration and Architectural Review (AR) application for a revised, 152,091 square foot (s.f.) mixed use project with:

(a) 82 rental dwelling units, reduced from 84 dwelling units by the elimination of two "2D" units (each 1,373 s.f.) resulting in 58 two-bedroom units and a floor area reduction of 2,746 square foot at the upper floors, and commensurate reduction in parking requirements by four parking spaces;

(b) 47,917 square feet of ground floor commercial space (reduced by 2,550 square feet) for Research and Development (R&D) use (and potentially up to 2,400 s.f. of retail use), resulting in a reduction in parking requirements by ten spaces;

(c) an at-grade, landscaped plaza within a recessed building area, allowing for visibility and pedestrian access to the interior courtyard and "breaking up" the building along Park Boulevard, and related building modifications including additional fenestration and residential balconies.

(d) revised Record of Land Use Action

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(e) the applicant provide for at least a 1,200 s.f. retail food and beverage establishment and use its best efforts to support the retail food and beverage establishment.

Vice Mayor Scharff was willing to change the language regarding the café. He wanted the applicant to support the café, and the space could be larger if the applicant wished.

Council Member Shepherd stated this was a better project than that presented three weeks ago. The applicant had addressed the Council's concerns. Adding the café made the project more appealing. This would be an improvement for Park Boulevard and add to the vibrancy of the area.

Council Member Burt asked Vice Mayor Scharff to state his intent for the café language.

Vice Mayor Scharff reported the intent was to have a café of 1,200 s.f. or more. Also, the applicant would use its best efforts to support that café.

Council Member Burt requested Staff interpret the literal nature of the language.

Mr. Williams remarked the first part of the language indicated there had to be a 1,200 s.f. café. The second part stood alone as far as how the applicant supported it. The word café had a certain connotation, and Staff would prefer using "retail food and beverage" language to provide more flexibility.

Council Member Burt inquired whether Staff felt there was a danger that the second part diluted the first part.

Mr. Williams felt the first part required the applicant to provide at least 1,200 s.f. of space for a retail food and beverage establishment. It did not indicate what type of establishment might occupy the remaining 1,200 s.f.

Council Member Burt stated the Council's hope was that the applicant would find a tenant for the full 2,400 s.f. The applicant had addressed the Council's requests at the prior two meetings. He felt the design was improved, but remained problematic. However, he would support the project.

Council Member Schmid noted the monitoring schedule and the Regional Water Quality Control Board's cooperation with the EPA with regard to monitoring.

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AMENDMENT: Council Member Schmid moved, seconded by Council Member XXXX to direct Staff that at least once a year for 3 years to present the City Council with a report of the status of the toxicity monitoring of the past 12 months.

AMENDMENT FAILED DUE TO THE LACK OF A SECOND

Council Member Schmid said there had been some substantial change in response to Council directive. He liked the location of housing near the train station. That neighborhood was growing and changing, and this project could be an important element of a revitalized and expanded neighborhood. He was disappointed that the space for a café had been reduced.

Council Member Holman noted Packet page 12, Attachment A, No. 1 did not indicate the square footage of residential space, and suggested it should be included. The applicant had responded in meaningful ways; however, the design did not positively add to the existing environment. The diagrams presented showed the plaza and the café, but she could not discern the walkway in the elevation diagrams.

Ms. French reported the drawings in the supplemental packet showed those features, but the elevations from the ARB did not. Those elevations had not been drawn, because the concept would be finalized at the ARB.

Council Member Holman asked whether she felt the description of changes should be improved.

Ms. French stated the condition of approval requiring the applicant to return to Architectural Review for the final details could be amended as noted, and the drawing presented to the Council would be shown to the ARB along with the refined details showing changes in elevations.

Council Member Holman noted the ARB would focus on the materials and colors of the center section. She asked to what extent that would change, because that could have a big impact on the breaking up of the façade.

Ms. French reported Staff wanted to see the color and material changes reported by the applicant.

Council Member Holman asked the Architect to comment on color and material changes.

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Richard Campbell, Architect indicated the applicant attempted to show the Council an overview of the break-up of the elevation along Park Boulevard. Some details remained to be worked out, and the applicant hoped to do those with the subcommittee of the ARB.

Council Member Holman asked how the center section might differ from the rest of the building to break up the scheme.

Mr. Campbell said the applicant would review that with the ARB. The applicant attempted to break-up the building into three elements. Having developed three separate buildings, the applicant wanted to consider some material and color changes to give the impression of three distinct buildings.

Council Member Holman expressed concern that the compatibility of the project was based on other projects not before the Council. She was also concerned that the project was considered compatible even though buildings across the street were smaller in scale. She wanted the ARB to consider a different feature at the location of the water fountain, because the fountain did not fit the design of the building.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to direct Staff to explore the ventilation and testing system of the internal residential housing units as suggested by a member of the public, and if Staff finds the system to be useful and feasible then it will become a condition of approval for the project.

Vice Mayor Scharff asked if Staff had thoroughly explored these issues.

Mr. Williams indicated researching the system would not require much time. Staff had a more extensive testing program for the residential component of another of Mr. Hohbach's projects. Staff would determine if that program could be applied to this project.

Council Member Klein would support the project. He felt the Council was attempting to dictate a retail use rather than allowing the market to determine the use.

Council Member Holman inquired if the fountain was a representation of the proposed feature.

Mr. Campbell stated the fountain was best described in the information approved by the ARB.

Mr. Janz said the fountain was an example, an idea and subject to change.

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Council Member Holman inquired if it could be referred to the Public Art Commission.

Ms. French indicated it was located on private property, and Staff did not send private art to the Public Art Commission.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the Architectural Review Board subcommittee review the design for the project regarding the fountain.

Council Member Holman said the fountain did not follow the design of the building.

Council Member Schmid felt different perspectives would be useful.

Vice Mayor Scharff inquired whether the ARB had reviewed and approved the fountain.

Ms. French answered yes. The design was displayed for the ARB.

Vice Mayor Scharff commented that the Council, as policy, did not question an Art Commission decision, and the same policy should apply to the ARB. The applicant should make the decision.

Council Member Burt inquired whether the Council had a policy addressing art located immediately adjacent to a public street.

Mr. Williams reported the Council did not have such a policy, unless the art was part of a PC benefit. The ARB could review that as part of the private development.

Council Member Burt assumed the ARB approved the fountain in concept, and supported the Amendment with the understanding that the ARB would not prescribe an art piece. He asked if that was the intention of the Amendment.

Council Member Holman stated her Incorporated change was for the ARB to consider a different design.

Council Member Burt suggested the Incorporated change should be changed from consider a different design to review the design.

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Council Member Holman meant a design different from that presented in the plan sheet.

Council Member Burt would support the Incorporated change if it stated the ARB would review the design.

Mr. Janz stated the various details in the Staff report would be reviewed by the ARB subcommittee. He asked if the language could clarify that the Council was not sending the project back for a full ARB review.

Council Member Holman replied yes. She agreed with Council Member Klein's comments regarding the café being prescriptive, and would support an Amendment including language for other uses.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that in lieu of a retail food and beverage establishment that the use of 2,400 s.f. would be set aside for a public serving retail establishment other than financial, medical, legal and accounting.

Vice Mayor Scharff felt a café would draw people into the place, and a small retail shop would not do that. Having food and beverages in the plaza would create a streetscape that would draw people into the plaza.

Council Member Klein had no objection to a food and beverage establishment; however, other uses could work in the location. The Council should not restrict the applicant to certain uses.

Council Member Holman supported the language. The area could be a gathering place with uses other than a cafe.

Council Member Burt stated the objective was not to spread retail into the area; the objective was to create vitality in the plaza. Retail food and beverage was not restrictive to one type of food or beverage establishment. Those kinds of establishments were valued.

Council Member Schmid felt the Incorporated change offered opportunities for diverse choices and increased the square footage.

Council Member Espinosa believed commercial uses other than food and beverage could provide vitality. He supported the Incorporated change.

Vice Mayor Scharff indicated the space requirement was 2,400 s.f., with a minimum of 1,200 s.f. for a café.

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Council Member Shepherd asked the applicant if 2,400 s.f. would work for a café.

Mr. Wood answered no.

Council Member Shepherd asked him to explain.

Mr. Wood explained a business had to earn at least \$10 per square foot if the rental rate was \$1 per square foot. A 1,200 s.f. space would pay approximately \$3,000 per month in rent, and would need \$1,000 per day in revenue to break even. There was not a population in the area that would support a business of more than 1,200 s.f. The rental rate would have to be subsidized.

Council Member Shepherd could not support the Incorporated change if the applicant could not locate a successful business. She asked if the applicant would rather have flexibility in uses for a minimum of 1,200 s.f.

Mr. Janz understood the alternatives were 1,200 s.f. for a food and beverage operation or 2,400 s.f. for some other retail use. That gave the applicant flexibility. The applicant's first efforts would be to install a food and beverage operation in 1,200 s.f.

Council Member Shepherd asked if the Maker of the Incorporated change would change the square footage.

Council Member Klein stated there could be two or three uses in the 2,400 s.f. space.

Council Member Burt understood the applicant would accept either a 2,400 s.f. broader defined retail use or a 1,200 s.f. food and beverage use. He would support that language, and it provided the applicant flexibility.

Mayor Yeh would support that language, because it provided the most flexibility.

Council Member Holman felt the language of the Incorporated change could be misleading, and suggested the language should be "in addition to consideration for food and beverage." She asked Mayor Yeh to repeat his comments.

Mayor Yeh felt the combination of choices provided the broadest latitude to the applicant to achieve some kind of successful business at that location.

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Council Member Klein suggested striking language regarding the 1,200 s.f. use, and substituting "the applicant shall furnish either not less than 1,200 s.f. for a retail food and beverage establishment or 2,400 s.f. for retail use."

Council Member Holman accepted the language. She felt the language did not need to state there could be more than one tenant.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER TO REVISE THE PREVIOUS INCORPORATION TO READ that the applicant shall either furnish not less than 1,200 s. f. retail food and beverage establishment and that the applicant use its best efforts to support the retail food and beverage establishment or provide 2,400 s.f. which would be set aside for one or more public serving retail establishments, including but not limited to retail food and beverage, but excluding financial, legal, medical and accounting.

Mayor Yeh stated mixed use had been the broader intention for the California Avenue area. As the Council considered other projects, these kinds of mixed use projects were important. Palo Alto had a demand for office space. The lengthy process resulted in a better project.

MOTION AS AMENDED PASSED: 8-0 Price absent

Council took a break from 9:48 P.M. and returned at 10:00 P.M.

5. Public Hearing: Discussion and Direction Regarding City Policy for the Use of Utility Substation Sites, City Hall and Other City Property for Siting Wireless Communications Facilities

Curtis Williams, Director of Planning and Community Environment reported this was a follow-up discussion regarding wireless communications and permit considerations. In addition to discussing a potential proposal, Staff suggested revisions to Zoning Ordinances and other provisions of the Code either to accommodate these towers or to provide incentives for use of towers by the communications industry. The City did not have the authority to require communication carriers to locate their antennas on City sites, but the City could provide incentives for them to do so. Use of wireless phone and data communications was growing exponentially. The Council approved 19 applications and referred 1 to Staff, which was later approved. Installation activities had begun on those applications. Phase 2 and 3 of the Distributed Antenna System (DAS) AT&T proposal were in the review process, and Staff expected the final phase to be submitted in the next few weeks. Staff recommended the Council authorize Staff to 1) initiate a

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Request for Quotation (RFQ) or Request for Proposal (RFP) process to hire a vendor to analyze the specific types of facilities for these locations and provide market information; 2) outline potential Zoning and other Ordinance amendments and incentives; and, 3) return to the Council within six months with information from the consultant and Staff to consider the specifics. These antennas were generally 100-125 feet tall and would require considerable visual analysis. Crown Castle Communications had contracted previously with the Utility Department, and had performed some analysis of the potential service areas and possible required heights. Mr. Tanczos was an expert and could answer questions concerning the state of the industry and alternative technologies.

David Tanczos, Crown Castle Communications discussed options to accommodate growth in wireless, voice, data, and video services with various infrastructure solutions. The two main variables in wireless coverage were antenna center line and power output at the antenna. Small cells had a low center line, low power, and more sites. Small cells were a good solution, and were growing in popularity. His company commissioned a detailed drive of every road in Palo Alto, accumulated the data for all carriers, and used that data to assemble the report. The data suggested 190 locations for small cells within the City of Palo Alto where at least two carriers had a need for coverage. That did not address capacity need. More capacity was needed than those 190 locations could provide. The DAS system consisted of interconnected nodes on utility poles or other short structures, interconnected by fiber to a hub. If a community did not want to consider a small cell solution, the other end of the spectrum was towers only and the minimum number of towers. With three substations, Palo Alto would be blanketed with coverage. The drawback was the height of towers; East Meadow would be 225 feet tall, Hanover 280 feet tall, and Hopkins 225 feet tall, all well above the current zoning restriction. This solution would not handle all the capacity needs of Palo Alto, but technically it would provide good blanket coverage to the entire City. It had high center lines, high power, and fewer sites. The last option worth considering and the apparent direction of overall network architecture was the hybrid or heterogeneous networks (HetNets), which was a combination of macro cells and small cells working together in a single network architecture. Where macro cells were possible and feasible, they were the most cost effective method to provide coverage and capacity to the community. Macro cells could be located on towers or roof tops. At the fringes of coverage areas, small cells could be used to augment capacity. Small cells could be placed where macro cells were not feasible or in hotspots for capacity needs. The hybrid solution was a combination of medium-height towers at higher power and low-height, low power DAS nodes or other small cells. The exact heights of the towers would have to be field tested. This was multi-carrier

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infrastructure to accommodate all carriers on one solution. The hybrid solution addressed many needs regarding scalability and a framework for the future. The small cell solution was a strong solution, and could be considered. The first option for a tower was the standard mono pole, which provided the carriers maximum flexibility with numbers of antennas and amount of coaxial cable. The more flexibility the carriers had, the more they could add antennas and have bigger antennas as networks evolved and customer needs changed. The mono pole may not be as aesthetically pleasing as other options. The second option was a faux pine tree. It did not stand out as much as the mono pole, but provided the carriers flexibility to place a full array of antennas on the given center line. It was more expensive, but it was a good solution. The third option was a flagless flag pole. The flag pole was restrictive on size and quantity of antennas any given carrier could place on the site. The carrier had to place all antennas inside the canister on the pole, which limited flexibility with technology. If this was a preferred option, he suggested deploying two flagless flag poles to give the carriers flexibility to have all needed antennas at the given center line.

Council Member Burt recalled he had a conflict on a prior utility issue because of the location of his residence, and asked if that applied to this discussion.

Molly Stump, City Attorney stated if there was a Land Use decision before the Council that was within 500 feet of the residence it was determined even though the item may be small or an antennae it would implicate the Conflict of Interest statute. Staff would research and return with a more detailed response.

Mayor Yeh inquired whether Staff had an additional presentation.

Mr. Williams answered no. Staff wanted the Council's direction with regard to engaging a consultant.

Ms. Stump reported given the preliminary nature of the item and the request before Council was to issue an RFP to study sites it was not a situation where Council Member Burt would need to recuse himself at the current time.

Council Member Shepherd inquired whether the term wireless meant use of a smartphone in the community rather than a wireless network within a home or office.

Mr. Williams indicated it was all wireless uses.

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Council Member Shepherd asked if she could eliminate her home wireless network and use the City-wide wireless service.

Jim Keene, City Manager reported the wireless network provided through an Ethernet connection would be faster. Speed would be the main issue.

Council Member Shepherd wanted to ensure everyone was discussing the same thing.

Mr. Tanczos indicated the infrastructure was technology agnostic and could be used for any wireless purpose. Anyone could attach to the towers and transmit through the small cell network. Typically commercial wireless carriers connected to the towers.

Council Member Shepherd asked Mr. Tanczos to explain the fiber component for supporting this structure.

Mr. Tanczos stated the macro and small cells needed fiber backhaul to the end location. There was an opportunity to maximize the usage of in-place fiber and perhaps augment it. That would have to be determined in more specificity with whichever solution was chosen.

Mr. Keene explained the City, under this proposal, would connect these towers to fiber to have the backhaul connection to the fiber ring. Staff had always thought it could open some possibilities for further extension of fiber around the City, which would then support a wireless network for Public Safety or smart grid applications.

Council Member Shepherd inquired if this proposal would distribute wireless service into neighborhoods as well as into business districts.

Mr. Keene responded yes. This was an opportunity to incrementally advance the ability to enhance wireless services across the City.

Council Member Shepherd asked if approval of this proposal could cause the retraction of the DAS system proposal.

Mr. Williams reported AT&T had indicated there may be some opportunities for that. At this point, he did not believe AT&T would retract its proposal.

Council Member Shepherd asked if coverage improved when towers were taller.

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Mr. Tanczos replied yes.

Council Member Shepherd inquired about the height of flagless flag poles.

Mr. Tanczos reported the flag poles in the photo simulation were 105 feet tall.

Council Member Shepherd asked if the mono poles were the tallest towers.

Mr. Tanczos indicated the mono pole was also 105 feet. A self-support tower was the only tower that could reach a height of 280 feet.

Council Member Shepherd inquired if he had a picture of the self-support tower.

Mr. Tanczos responded no. The slide was illustrative of what could be achieved with that size tower.

Council Member Shepherd inquired if there was a reason not to install three flag poles rather than one mono pole at substations.

Mr. Tanczos indicated aesthetics would be the consideration. The two flagless flag poles would provide similar technological flexibility as the single mono pole.

Council Member Shepherd asked whether the substations had room for more than one pole.

Mr. Williams reported Staff would need to review those types of issues to determine what could be done at each site.

Council Member Shepherd felt the community wanted this type of technology. This would add infrastructure to the community without increasing costs.

Council Member Klein believed the community would not support the use of 250-foot towers.

Mr. Tanczos stated his company would not bring that proposal forward.

Council Member Klein inquired if any other cities had implemented the hybrid solution.

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Mr. Tanczos reported the hybrid option was occurring organically throughout the country. His company was utilizing the hybrid concept with many local governments.

Council Member Klein asked if any cities had completed their projects.

Mr. Tanczos indicated his company was working with a number of communities in south Florida to provide a macro cell and DAS solution for two carriers.

Council Member Klein asked for the names of two cities that would discuss their experiences with similar projects.

Mr. Tanczos was not directly involved in that project, but could forward a list of cities in south Florida.

Council Member Klein asked for the names of the cities in south Florida.

Mr. Tanczos did not know the names of cities.

Council Member Klein inquired about problems that had occurred with projects in the cities.

Mr. Tanczos stated the issues were community feedback and carriers deploying technology in a community-friendly manner.

Council Member Klein inquired about cooperation from carriers.

Mr. Tanczos reported his company worked with the carriers consistently and received a great deal of cooperation. Carriers were open to anything that provided certainty with a solution.

Council Member Klein asked if existing DAS installations would be incorporated into the solution or stand outside it.

Mr. Tanczos stated the DAS installations were not incorporated in this solution; although, many nodes in the hybrid solution would overlap with some of AT&T's nodes. He did not believe the proposal would impact AT&T's plans. However, other carriers would consider using a macro cell rather than a small cell.

Council Member Klein asked for the typical cost of this type of program and what the City could expect with regard to revenue.

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Mr. Tanczos indicated there were no costs for the City, and revenue would be shared with the City. His company would not build a single carrier network, because it was not financially feasible. The amount of revenue would depend on the number of sites developed, the timeframe, and which carriers committed to the project. Those issues would be worked out before the first site was built.

Council Member Espinosa asked Staff to respond to emails regarding emergency preparedness and coverage during emergencies.

Charlie Cullen, Police Technical Services reported having this infrastructure in place would provide opportunities to have disaster recovery wireless for Public Safety. He wanted to work with the Planning Department and the selected vendor to ensure there was space for both racks and power.

Council Member Espinosa noted the vendor would know the number of carriers needed for each tower or antenna to provide cost recovery. He asked about withdrawal of the project if carriers could not be found.

Mr. Tanczos explained at least three tenants per tower were needed to make a profit. As the cost of the tower increased, the fee charged to the tenant increased or the number of tenants increased.

Council Member Espinosa asked if direct incentives for tenants were provided.

Mr. Tanczos answered yes. Sharing was a significant incentive for all carriers. Having one main infrastructure shared by all carriers was more cost effective for everyone. Carriers typically searched for a sharing option before building their own system.

Council Member Espinosa believed incentives lessened the political process for carriers.

Vice Mayor Scharff asked if the white space on the map indicated a lack of coverage.

Mr. Tanczos reported the white spaces had adequate coverage for a few carriers. Only field testing would verify the number of nodes needed.

Vice Mayor Scharff confirmed field testing would occur before determining the number of nodes.

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Mr. Tanczos stated the information was close to correct, but the next step would be testing to determine realistic data.

Vice Mayor Scharff assumed increased tower height provided more coverage.

Mr. Tanczos answered yes.

Vice Mayor Scharff asked why tower height was not increased to eliminate areas of no coverage.

Mr. Tanczos explained the information was based on the shortest tower that would provide ample coverage throughout the community; however, this was not the only design possible.

Vice Mayor Scharff inquired if the user experience would be the same in an area of moderate signal as opposed to an area of strong signal.

Mr. Tanczos stated proximity to a cell site determined data speed. A location close to a cell site would have increased data speed. Small cells would be located at the fringe of coverage to boost data speed. Another option was to make towers extendable to higher heights.

Vice Mayor Scharff repeated the question, whether there was data to support the user's cellular experience in an area that was moderate or strong.

Mr. Tanczos answered no. Any location in the dark blue and the inner light blue areas on the map would provide a very good user experience. Beyond that, the user experience would be marginal. He did not have specific numbers.

Vice Mayor Scharff inquired about the method for charging the Public Safety Department for use of towers.

Mr. Tanczos reported a number of different business arrangements were possible. The RFQ could specify that space would be allocated to Public Safety uses at no additional charge.

Vice Mayor Scharff inquired about the amount of space available on a tower.

Mr. Tanczos indicated the amount of space depended on a carrier's needs, the spectrum frequency, and what was covered. The 700-800 megahertz frequencies transmitted better and farther than the 1.9 Gigahertz

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frequencies. With the size of these towers, most carriers would want to be located close to the top.

Council Member Holman asked if flags could be located on the poles.

Mr. Tanczos answered it was possible to have flags on them.

Council Member Holman inquired whether the carrier equipment in the shelters on the ground was visible from the public right-of-way.

Mr. Tanczos reported the data assumed the use of stackable shelters to minimize the amount of ground space needed and accommodation of at least four carriers. The resulting configuration was one shelter on the ground in a 12 foot by 20 foot space, a second shelter stacked on top of the first, and two more shelters next to it. If there was ample land, the shelters could all be located on the ground. With regard to that specific site, he could not state what was or was not visible from the ground.

Council Member Holman asked whether there was any reason not to have an artistic or camouflage design on the box.

Mr. Tanczos indicated that was possible.

Council Member Holman asked if that tower shown on Slide 8 was an actual proposed tower.

Mr. Tanczos stated that was one option. That was not meant to be a proposal for the park site, but was to illustrate a mono pole for comparison to the other options.

Council Member Holman inquired whether Slide 5 represented the current locations of the 21 DAS sites.

Mr. Williams stated the slide did not represent the DAS sites, and more than 21 sites were being proposed.

Council Member Holman inquired about removing incentives for DAS, so that the preferred application would be fewer installations.

Mr. Williams reported regulations prevented the City from denying DAS installations except for aesthetic reasons.

Council Member Holman suggested larger installations could have a streamlined process, while DAS installations would not. The City would not

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increase the difficulty for DAS installations, but would not make the process as easy.

Mr. Williams indicated that was Staff's intention. Once the process was approved and in place, then the process for a carrier would be ministerial.

Council Member Schmid asked how the company could avoid providing the investment without discouraging innovation for the next 10 or 20 years.

Mr. Tanczos said his company was constantly engaged in the future of technology. It was comfortable with the investments made in the complement of macro cellular networks and small cells.

Council Member Schmid asked for the period of payback for macro cells.

Mr. Tanczos reported carriers' willingness to make long-term commitments with their leases validated their research regarding future technology. The breakeven point on a site depended on how quickly tenants signed up, but generally was 8-12 years from a cash perspective.

Council Member Schmid inquired about the advantage of having a fiber line rather than a wire line.

Mr. Tanczos stated fiber had recently become a necessity at cell sites for backhaul. Many carriers had pushed to upgrade backhaul to fiber over the past two or three years. Carriers preferred sites with fiber backhaul already installed.

Council Member Schmid asked what that was worth.

Mr. Tanczos indicated his company did not provide fiber backhaul, rather it indicated whether or not fiber backhaul was available at sites. That information could help the carrier determine which sites to choose.

Tomm Marshall, Assistant Director Utilities felt the cell sites would need fiber, and fiber was located at all substations for backhaul. Infrastructure was in place to support carrier needs for backhaul.

Council Member Schmid inquired about the value of it.

Mr. Marshall could not state the value.

Council Member Schmid asked about advantages for emergency preparedness.

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Mr. Tanczos said one option was shared generators on sites to ensure the sites remained operable for cell site and backhaul equipment. His company had a 24/7 operation center to monitor all sites for service outages.

Council Member Schmid inquired if fiber optics had an advantage in an emergency situation.

Mr. Tanczos indicated fiber optics was a better option for everyone for a number of reasons.

Mayor Yeh noted the DAS solution was not ideal from many perspectives. In the hybrid model shown in the presentation reflected an overlapping area for the City Hall and Hopkins sites. He inquired about expanding the East Meadow and Hanover coverage areas to reduce the number of DAS sites needed.

Mr. Tanczos said that could be undertaken. The design presented was only one option. The biggest challenge was the lack of space for a tower at the Maybell Avenue site. Other options including private roof tops were not feasible; therefore, small cell solutions were located there.

Mayor Yeh asked if the Maybell Avenue site was a DAS location.

Mr. Tanczos stated the Maybell Avenue substation did not have adequate ground space for a tower, and that was the location of the large cluster of DAS nodes.

Mayor Yeh was agreeable to increasing tower height to reduce the number of DAS applications. He asked about current and anticipated coverage for Palo Alto Hills, since it was not included in the map.

Mr. Tanczos did not have that information with him, but he could generate it.

Mr. Williams reported the topography was not conducive to coverage, and finding a tower site would be difficult.

Mayor Yeh inquired whether carriers would submit a coverage map to the company constructing towers at substations.

Mr. Tanczos reported teams from the carrier and construction company would work to construct coverage maps and ensure assumptions matched.

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The carrier would provide feedback regarding its preferences to the construction company, who would then provide coverage maps to the City.

Mayor Yeh believed carriers should provide coverage maps, because it added value.

Mr. Tanczos stated he had coverage data from every carrier and from every road in the City of Palo Alto.

Mayor Yeh asked if that information could be made public.

Mr. Tanczos needed to check software licensing requirements.

Mayor Yeh asked if the intensity of data demand could be determined from each macro tower once it was constructed.

Mr. Tanczos indicated carriers would have to provide the intensity of data demand. He did not have access to that level of usage and capacity.

Mayor Yeh stated the ability to understand data demand around different substations and towers would inform fiber discussions and the provision of service. The Council's intention was to create and drive business towards macro cells. He asked about incentives created by other jurisdictions. He was not opposed to disincentives for DAS applications. He wondered whether costs of Staff time and costs for public hearings had been included in the DAS application process. The costs should be quantified relative to what the Council was trying to create.

Mr. Williams felt that an analysis would be helpful. There were substantial costs for Council, Staff, and Board and Commission time; however, the Applicants paid for the cost of Staff's processing time.

Mr. Tanczos reported the carriers would pursue the path of least resistance once shared towers were available. He would not advocate disincentives for small cells, because they were an important part of the design. Without small cells complementing the macro cells, the City would lose the robustness of the network and carriers would pursue more macro cells throughout the design.

Mayor Yeh suggested the Council could consider that in updating Zoning Ordinances. He asked if the RFQ would request submissions for both constructions of macro cells and fiber backhaul or construction of macro cells only.

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Mr. Williams indicated Staff viewed construction of macro cells separate from fiber backhaul. Submissions for both would complicate the issue.

Public Hearing opened at 11:21 P.M.

Herb Borock stated the Council asked questions of Mr. Tanczos not as a consultant but as a respondent to a RFQ. He felt there was a conflict of interest. He recalled Crown Castle approached the City to solicit work, rather than the City soliciting a consultant. A small number of substations were appropriate for this use, and Zoning changes were needed only for these substations. With regard to co-locating towers with the City's essential services, it was not appropriate to share those uses because of the need to protect essential services. Any kind of fiber system would benefit from using substations for locating aggregation equipment. Concerns for a fiber to the premises system were the amount of space for the towers, for the fiber and the amount of fiber to pull. A wireless smart grid would remove the opportunity to use a fiber connected smart grid, which would provide the incentive for a fiber to the premises system.

Robert Smith was interested in resolving cellular issues. He recommended the Council work closely with providers. There had been antagonism between the City and providers of all communication services. Simplifying the DAS applicant process would solve many problems. He could see advantages of the hybrid approach, but felt the community would be more likely to support DAS sites. He asked the Council to consider whether rent from cell towers was in the public interest.

Jeff Hoel reported smaller cells provided more bandwidth to each person. Macro cells could cover many people; however, the bandwidth would be limited. The resistance to DAS resulted from aesthetics. Smaller cells required less power, and people concerned about radiation could be reassured. Fiber to the premises could cost less, because it could be constructed at one time. Carriers use of dark fiber would cost more than a City-wide fiber to the premises system. Equipment located within a small cell and a large cell should connect to the small cell to leave the big cell available for people not located near a small cell.

Public Hearing closed at 11:30 P.M.

Council Member Burt reported the consultant was advising the Council on the feasibility of a model while also a candidate for supplying service under that model. He asked Staff if they were comfortable with one provider filling both functions.

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Ms. Stump reported the City had not retained the consultant, who was providing general information rather than advice. The solicitation would be prepared independently by Staff, and would be issued on a competitive basis to any firm that wanted to participate and respond.

Mr. Williams concurred with the City Attorney's comments. Because of the company's prior work with Staff, Staff felt it was appropriate for them to present details as a starting point for the discussion.

Council Member Burt inquired about an alternate viewpoint to allow the Council to compare two different perspectives.

Mr. Marshall felt the RFP would garner many potential solutions. Other companies would propose similar solutions.

Council Member Burt asked how Staff would describe an RFP to be broader than this model.

Mr. Marshall stated any solution needed a method to site antennas and consider the height issue. Other solutions not requiring those things were available. If the Council wanted to minimize DAS, it would have to consider a tower solution.

Mr. Williams suggested the RFQ or RFP would request general technological solutions in a comprehensive manner to address the issue of wireless service in the community, including an option to use City substation sites for facilities. A list of issues to be addressed in a proposal could include coverage and capacity needs, potential costs and revenues, integration with City-wide WiFi or fiber to the premises, efficiency, enhancement of emergency service, and compatibility and aesthetic considerations.

MOTION: Council Member Shepherd moved, seconded by Council Member Holman to accept Staff recommendation to direct Staff to return to Council with a proposal, including resource impacts and required zoning ordinance amendments, to allow for the secondary use and leasing of electric utility substation sites and City Hall to wireless communication service providers to better meet the community's need for such services. Council should specifically direct Staff to:

1. Retain a wireless communications consultant/provider to further evaluate the technical and marketing feasibility of the utility sites, City Hall and any other sites deemed potentially feasible, including conceptual design for the towers and antennas;

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2. Initiate zoning ordinance amendments to address height and site development standards for such facilities, and to provide for expeditious review of such projects and subsequent collocations; and
3. Explore and develop incentives for use of the facilities, including a ministerial permit review process, favorable lease rates, and streamlined utility and encroachment permit reviews, for consideration with the zoning ordinance amendments; and
4. Return to Council in 6 months with specifics of proposal and related ordinances.

Council Member Shepherd felt these were the right types of steps to answer the question of coverage within Palo Alto. The design of the DAS system was for single users only. The Council might need to expand that to other carriers, which meant more DAS units. She asked if Staff had considered that in this information.

Mr. Williams believed a logical component of the RFP would be review of single carrier DAS and multiple carriers.

Council Member Shepherd inquired whether the Motion should include space for the City's emergency radio and/or wireless communications.

Mr. Williams reported Staff would ask that proposals address that factor. Staff would consider proposals that best included that kind of set up.

Council Member Shepherd noted the Motion did not include that language.

Mr. Williams stated it would be a component of the RFP.

Council Member Shepherd asked if the City would have to pay for expansion of fiber for backhaul.

Mr. Marshall indicated a portion could be charged to system expansion and a portion could be charged to carriers for extending fiber as a new customer on the fiber system. The City typically charged the customer for the extension.

Council Member Shepherd inquired whether a carrier would be considered a customer at the substation and would have to extend fiber.

Mr. Marshall noted all substations had fiber. He meant extensions to DAS locations.

Council Member Shepherd asked if fiber currently extended to DAS locations.

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Mr. Marshall indicated it depended on location, but typically no.

Mayor Yeh said the Staff recommendation in the presentation was slightly different from the recommendation in the Staff report.

Council Member Shepherd inquired if the difference was the requirement for Staff to return to the Council in six months.

Mayor Yeh stated that would be a fourth recommendation. It was not included in the Staff report.

Council Member Shepherd wanted to include that recommendation.

Council Member Holman inquired whether six months was the earliest Staff could return.

Mr. Williams answered yes.

Council Member Holman asked whether equipment shelters were assumed to be part of the description in Recommendation 1.

Mr. Williams suggested substituting "for a City-wide wireless communications network" for "towers and antennas." That would include any and all components. Alternatively, the Council could add "and ancillary facilities."

Council Member Holman asked if Staff's report would provide options to eliminate or rollback incentives for DAS.

Mr. Williams indicated Staff would return with options for incentives and disincentives.

Council Member Burt did not find a correlation between the Staff report and the Motion. He asked Staff to explain how the Staff recommendations aligned with the list of community priorities for an RFP versus the information before the Council.

Mr. Williams stated the recommendation was too narrowly framed after the discussion tonight. The recommendation should be to initiate an RFP process for a City-wide wireless communications network.

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Council Member Burt felt the Motion should include the series of considerations and deliverables. That was a different Motion than the one proposed. He asked Mr. Williams to list the considerations again.

Mr. Williams stated the RFP would ask for a proposal for a City-wide wireless communications network including but not limited to identification of coverage and capacity needs; potential sites for wireless facilities including City substation sites and City Hall; potential costs and revenues to the City; integration with City-wide WiFi and fiber network; provision of emergency service enhancements.

Council Member Klein suggested the Item be continued for one week to allow Staff to revise the language.

Mayor Yeh felt it was important to get some clear language.

Council Member Klein felt this was not appropriate action for the Council.

Council Member Burt suggested the Council could adopt it as a direction to Staff or have it return for Council consideration as an agenda Item. He felt Mr. Williams had articulated the necessary set of elements.

Council Member Holman noted the Staff representation referenced an RFQ; however, the Motion referenced a RFP. She inquired which was intended.

Ms. Stump reported Staff would review the proper form, but the intention was a competitive solicitation that would be open to all qualified.

Council Member Klein expressed concerns that Mr. Williams had provided too much information. Including all those items comprehensively would confuse rather than help. He inquired about language regarding fiber to the premises.

Mr. Williams indicated the element was integration with City-wide WiFi and fiber.

Council Member Klein stated that raised the issue of Council action regarding fiber to the premises. Listing these items could confuse potential bidders and be counterproductive.

Mr. Keene indicated tonight's meeting was a Special Meeting to discuss these topics, and the remaining Agendas before the recess were filled with complicated Items. Either direction was acceptable, because Staff needed enough criteria to make selections.

MINUTES

Council Member Espinosa inquired whether the language was accepted by the maker and seconder.

Council Member Shepherd believed it was a Substitute Motion that had not been presented, made, or seconded.

Mayor Yeh stated the language had not been officially incorporated into any Substitute Motion and was not a Proposed Amendment.

Council Member Burt stated the language was quite different and contained complexity. He was willing to present it as a Substitute Motion or to continue the Item. The Motion had a fundamentally different direction, and he would not support it.

Council Member Klein felt the Item could be fitted into an Agenda, and it was important for the Council to be unanimous in its direction to Staff. The discussion could continue without reopening the public hearing. He believed the Item would require only 30 minutes on an Agenda.

SUBSTITUTE MOTION: Council Member Klein moved, seconded by Council Member Holman to continue this Item to the July 2, 2012 Council meeting.

Council Member Holman agreed this Item could be dispatched quickly. The Council should have time to consider the language, and asked Staff to provide the language for comparison.

City Clerk, Donna Grider reported the Action Items for July 2, 2012 were the Resolution in support of the Santa Clara Valley Water District Safe Clean Water and Natural Flood Protection Plan, the Long Range Facilities Plan for the Water Quality Control, the Energy Compost Facility Action Plan presentation, and a Colleague's memorandum.

Council Member Shepherd stated the original Motion was to have Staff gather information to request an RFP or RFQ. The Council could proceed with the Motion, Staff would return in six months, and the Council would direct Staff to prepare an RFP or RFQ at that time.

SUBSTITUTE MOTION PASSED: 7-1 Yeh no, Price absent

~~6. Public Hearing: Adoption of a Resolution of the Council of the City of Palo Alto Approving the 2012 Rail Corridor Study Report and Amending the Transportation Element of the Palo Alto Comprehensive Plan to~~

MINUTES

~~Incorporate Certain Findings of the Report (Staff requests item be continued to 7/9/12).~~

ADJOURNMENT: The meeting was adjourned in memory of Ralph Libby and Professor Yeh at 12:03 A.M.

ATTEST:

APPROVED:

City Clerk

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.