

Special Meeting  
January 11, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:04 p.m.

Present: Burt, Espinosa arrived at 6:12 p.m., Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh arrived at 6:20 p.m.

Absent:

#### CLOSED SESSION

##### 1. CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Dennis Burns, Russ Carlsen, Lalo Perez, Sandra Blanch, Marcie Scott, Darrell Murray, Joe Saccio)

Employee Organization: Palo Alto Police Managers' Association (Sworn)

Authority: Government Code Section 54957.6(a)

##### CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Kelly Morariu, Dennis Burns, Russ Carlsen, Sandra Blanch, Darrell Murray, Marcie Scott, Lalo Perez, Joe Saccio)

Employee Organization: Palo Alto Peace Officers' Association

Authority: Government Code Section 54957.6(a)

##### CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Lalo Perez, Sandra Blanch, Marcie Scott, Darrell Murray, Joe Saccio)

Employee Organization: Local 521, Service Employees International Union (SEIU) - SEIU Hourly Unit  
Authority: Government Code Section 54957.6(a)

#### CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Marcie Scott, Lalo Perez, Joe Saccio)

Employee Organization: Local 521 Service Employees International Union

Authority: Government Code Section 54957.6(a)

#### CONFERENCE WITH LABOR NEGOTIATORS

City Designated Representatives: City Manager and his designees pursuant to Merit System Rules and Regulations (James Keene, Kelly Morariu, Russ Carlsen, Sandra Blanch, Darrell Murray, Marcie Scott, Lalo Perez, Joe Saccio)

Employee Organization: Local 1319, International Association of Firefighters

Authority: Government Code Section 54957.6(a)

Council adjourned into the Closed Session at 6:12 p.m.

The Council reconvened from the Closed Session at 7:30 p.m., Mayor Burt advised no reportable action taken and noted that this item would be heard again at the end of the meeting.

#### SPECIAL ORDERS OF THE DAY

2. Resolution 9028 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Karen Holman for Outstanding Public Service as a Member of the Planning and Transportation Commission."

**MOTION:** Council Member Schmid moved, seconded by Vice Mayor Espinosa to adopt the Resolution expressing appreciation to Karen Holman for outstanding public service as a member of the Planning and Transportation Commission (P&TC).

Council Member Holman thanked the City for the Resolution and acknowledged the other P&TC Commissioners. She said it was a privilege to

have worked with them and looked forward to serving the community as a Council Member.

**MOTION PASSED: 9-0**

3. Proclamation for the 25<sup>th</sup> Anniversary of Gamble Garden Center.

Council Member Klein noted that Elizabeth Gamble bequeathed property to the City that became the Gamble Garden Center.

Council Member Scharff read the Proclamation into the record.

Marge Harrington, President of the Board of Gamble Garden accepted the Proclamation and extended an open invitation for everyone to visit the Gamble Garden Center.

Karen Olson, 566 Washington Avenue, 25<sup>th</sup> Anniversary Chair, said a proposal was passed 25-years ago to have the Gamble Garden Center as a public garden and horticultural center preserving the historic estate in its entirety. Gamble Garden Center will be honoring the 1985 Council Members later in the month and invited the Council to join in the celebration.

CITY MANAGER COMMENTS

City Manager, James Keene said video cameras had been installed at the intersection of the Town and Country Village Shopping Center and Palo Alto High School driveway to support traffic entering the Embarcadero Road and safe trips to and from the new Trader Joe's market. A temporary device was installed to accommodate the holiday traffic and a new device would be installed by the end of the week. Updated reports could be obtained on the City's website. Beginning in late February, adjustments would be made to move back one day delivery of the Council packets. On January 30, 2010, tree replacement would begin on California Avenue. The Planning and Transportation Commission (P&TC) was recruiting for one, unexpired term, ending on July 31, 2012. Applications are due on January 27, 2010 at 5:30 p.m. The Human Relations Commission (HRC) was recruiting for two, full-terms, ending on March 31, 2013 and one, unexpired term, ending on March 31, 2012. Applications were due on January 27, 2010 at 5:30 p.m. Applicants may contact the City Clerk's Office (650) 329-2267 or visit the City's website. The SAP Utilities billing project issues were resolved. The Utilities online customer self-service portal, My Utilities Account, could be accessed through the City's website and viewing utility bills and making online payments could be done.

Council Member Klein asked why there was a three-day wait in installing the traffic light device at the Palo Alto High School intersection.

Director of Planning & Community Environment, Curtis Williams said the device needed to be calibrated and tested. Testing time could require anywhere between three days to a week.

Council Member Klein asked whether there was a Plan B if the new traffic device did not work.

Mr. Williams said he was not aware of a secondary plan, but it appeared the cameras had addressed ninety percent of the problem. The new device would give additional refinement. Even with the existing controller, the cameras were the best improvement.

#### ORAL COMMUNICATIONS

Joy Ogawa, said the Stanford Avenue/El Camino improvement plans would be presented at the upcoming Wednesday night's Planning and Transportation Commission (P&TC) meeting. She raised concerns of adequate public input prior to the Staff finalizing the plans.

Wynn Grcich, 30166 Industrial Parkway, SW #296, Hayward, spoke regarding sewage sludge as being toxic and dangerous. She said the Federal Government was misleading in renaming the sludge as bio-solids and using it as organic matter for vegetable gardens.

William Landgraf, 262 Stone Lane, urged the Council to reduce the salaries and benefits of employees to help balance the City budget.

Sara White, 1741 Cowper St., raised concerns about the proposed development of the Cargill Bayfront salt ponds. She said over one-third of the bay had been filled and she opposed further development. Development of the site would be costly and required enormous infrastructure to the detriment of those living in Bay Area.

Timothy Gray, 4173 Park Blvd., said the Utilities Department announced the natural gas station was in place at the Municipal Service Center (MSC). Residents and people in the area could utilize the service and go Green at a favorable rate.

Aram James, referred to a recent court ruling on tasers that could end their use by law enforcement agencies. He urged the Council to support banning the use of tasers.

Mark Petersen-Perez, raised concerns regarding law enforcement officers who violate human rights and who were actively involved in unconstitutional activities.

Paul Mavis, Boy Scouts Troop 57, said the group was attending the City Council meeting to fulfill a requirement in earning a citizenship merit badge.

Mayor Burt asked Staff to respond to a question at a later date raised by a speaker regarding the Stanford Avenue/El Camino improvement plan.

City Manager, James Keene said he would do a follow up at a later date.

City Attorney, Gary Baum clarified the Brown Act, Government Code, Section 54954.3 required the Council to set a time for open communication to allow the public to speak during City Council Meetings. Comments are to be limited to that which is within the subject matter jurisdiction of the legislative body.

#### APPROVAL OF MINUTES

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Yeh to approve the minutes of December 7, 2009 as corrected.

**MOTION PASSED:** 7-0 Price, Shepherd abstaining

**MOTION:** Council Member Schmid moved, seconded by Council Member Klein to approve the minutes of December 14, 2009

**MOTION PASSED:** 6-0 Holman, Price, Shepherd abstaining

#### CONSENT CALENDAR

Mayor Burt asked the City Attorney whether the public was allowed to speak to items on the Consent Calendar before or after a Motion was made to remove an item.

City Attorney, Gary Baum said the public was allowed to speak before since it could affect the Council's decision.

Mayor Burt referred to the meeting procedures which noted the option to allow public testimony prior to adoption of the Consent Calendar. The public could be heard at a later time if an item was removed.

Herb Borock, P.O. Box 632, spoke regarding Agenda Item No. 6 and provided the Council with a copy of a letter from William D. Ross regarding the 2180 El Camino Real project which included arguments and new information regarding the project.

Emily Renzel, 1056 Forest Avenue, spoke regarding Agenda Item No. 8 and said Lytton Plaza was a historical location in Palo Alto for free speech. Given the historic events that had taken place at the plaza, she urged the Council to think twice prior to initiating the process.

Herb Borock, P.O. Box 632, spoke regarding Agenda Item No. 8 and noted certain requirements were not being followed in the Policy and Procedures of Naming City-Owned Land and Facilities. He urged the Council to not initiate the renaming process.

Roger Smith, 270 Tennyson Avenue spoke regarding Agenda Item No. 8 and spoke of the Thoits family's community involvement and the contributions they had made throughout the years. He was in support of renaming the plaza.

Aram James, spoke regarding Agenda Item No. 8 and suggested renaming the park after Malcom X or Cesar Chavez to help mitigate the history of racism which Palo Alto had been known to have.

Sherry Bijan, Palo Alto Downtown Business & Professional Association (PAd), 721 Emerson Street, spoke regarding Agenda Item No. 8. She said the park was not being renamed based on the Thoits' financial contributions but the community was acknowledging people who were instrumental in developing the community.

Mark Petersen Perez, spoke regarding Agenda Item No. 8 and said Lytton Plaza should be recognized as a place that was welcomed by all and urged the Council to retain its current name.

Duncan L. Matteson, 400D Classic Residents by Hyatt, spoke regarding Agenda Item No. 8 and supported renaming the plaza. He said it was about honoring the Thoits family who had been involved in the growth and success of Palo Alto.

Sunny Dykwel, 480 Gary Court, spoke regarding Agenda Item No. 8. She said the item was being referred to the Parks and Recreation Commission (PARC) and would return to the Council with a recommendation.

Mark Petersen- Perez spoke regarding Agenda Item No. 10. He said the Palo Alto Police Officers were receiving excessive overtime pay and suggested the Council reevaluate and reclassify the officers' job description from non-exempt to exempt. Readjusting their salaries would compensate for the overtime and contribute to salary savings in the budget.

**MOTION:** Council Member Holman moved, seconded by Council Member Schmid to pull Agenda Item No. 6 to become Agenda Item No. 10A.

Council Member Klein advised he would not be participating in Agenda Item No. 8 as he recently joined the Thoits Law Firm.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Yeh to approve Agenda Item Nos. 4, 5, 7-10

4. Review and Acceptance of Annual Status Report on Developers' Fees for Fiscal Year 2009.
5. Approval of Amendment No. Two to Contract No. C07116703 with C-Way Custodian Services to Increase the Annual Compensation Amount by \$52,192 for a Total Annual Compensation Amount of \$577,820 to Provide New Custodial Collection Services at Selected City Facilities for the Remaining Two Years of the Contract.
6. ~~2<sup>ND</sup> READING Adoption of an Ordinance entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 2180 El Camino Real from Neighborhood Commercial (CN) District to PC Planned Community for a Mixed Use Project Having 57,900 Square Feet of Floor Area for a Grocery Store (Intended for JJ&F Market), Other Retail Space, Office Space, and Eight Affordable Residential Units, with Two Levels of Below-Grade Parking Facilities and Surface Parking Facilities for the College Terrace Centre, and Approval of Design Enhancement Exceptions to Allow a Sign Spire and Gazebo Roof to Exceed the 35-Foot Height Limit, and to Allow Encroachment into a Minimum Setback on Oxford Avenue; and Approval of the Mitigation Monitoring and Reporting Program (MMRP).  
(First reading December 7, 2009—Passed 8-1, Kishimoto-No)~~

7. Ordinance 5070 entitled "Ordinance of the Council of the City of Palo Alto Repealing Chapter 16.18 of the Palo Alto Municipal Code and Amending Title 16 to Adopt a New Chapter 16.18, Establishing Local Energy Efficiency Standards for Certain Buildings and Improvements Covered by the 2008 California Energy Code." *(First reading October 19, 2009 – Passed 8-0 Barton absent)*
8. Request for Referral of an Application to Rename Lytton Plaza to the Parks and Recreation Commission Subject to the Provisions of City Policy 1-15 – Facility Naming and Renaming.
9. Approval of a Three Year Term Contract with G&K Services in the Total Amount of \$465,000 for Uniform Rental and Laundry Services.
10. Adoption of Two Resolutions to Incorporate a Side Letter with the Palo Alto Peace Officers' Association (PAPOA) to Allow Deferral of the FY 09-10 Negotiated Salary Increase and Extend the Term of the Memorandum of Agreement for One Additional Year and correct the 2007-2010 Salary Schedules: (1) Resolution 9029 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1601 of the Merit System Rules and Regulations Regarding the 2007-2010 Memorandum of Agreement (MOA)", and (2) Resolution 9030 entitled "Resolution of the Council of the City of Palo Alto Amending the Compensation Plan for Police Non-Management Personnel (PAPOA) Adopted by Resolution No. 8779."

**MOTION PASSED for Agenda Item No. 4, 5, 7-10:** 9-0 Klein not participating in No. 8.

- 10A. (Former No. 6.) Ordinance 5069 entitled "Ordinance of the Council of the City of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 2180 El Camino Real from Neighborhood Commercial (CN) District to PC Planned Community for a Mixed Use Project Having 57,900 Square Feet of Floor Area for a Grocery Store (Intended for JJ&F Market), Other Retail Space, Office Space, and Eight Affordable Residential Units, with Two Levels of Below-Grade Parking Facilities and Surface Parking Facilities for the College Terrace Centre, and Approval of Design Enhancement Exceptions to Allow a Sign Spire and Gazebo Roof to Exceed the 35-Foot Height Limit, and to Allow Encroachment into a Minimum Setback on Oxford Avenue"; and Approval of the Mitigation Monitoring and Reporting Program (MMRP) *(First reading December 7, 2009—Passed 8-1, Kishimoto-No)*



Council Member Holman said her reason for pulling the item was to incorporate Staff's responses to the "at place" document at this evening's meeting. She requested clarification of Exhibit B (Conditions of Approval.) She asked how numbers 1, 3, 4, and 5 related to the construction permits and asked why they were not included in the Ordinance.

Director of Planning & Community Environment Curtis Williams said the conditions were replaced specific to construction. Number 3 would go after construction inspection. Number 4 would be after construction inspection was issued and number 5, the Transportation Demand Management (TDM) program, would be on-going issue after construction. Number 1 most likely would be in the Ordinance, but all of the conditions applied whether they were in the Planned Community (PC) or in the Conditions of Approval. They would run as long as the project existed or until a zoning change took place changing the conditions. Staff did not make the distinction, but these conditions were in the Conditions of Approval when the item was brought to the Council on December 7, 2009.

Mr. Baum suggested to Council Member Holman that conditions are incorporated by reference into the Ordinance.

Council Member Holman asked Staff to respond to Mr. Ross's communication.

Mr. Baum addressed Mr. Ross's concerns regarding the California Environmental Quality Act (CEQA) analysis and whether it had been completed in a timely fashion and cited the case of *Save Tara V. City of West Hollywood*. The case did not apply because it was regarding an earlier issue. He felt the Design Enhancement Exceptions (DEE's) were adequately described in the Staff report and in the findings made by the Council. Appropriate findings were made in the Comprehensive Plan (Comp Plan). The Housing Element was not an issue because the project was not within the housing inventory. The City's Housing Element was certified and in the process of being revised as most was within the State. The Sterling Park issue was irrelevant because it was an on-going trial court case and the affordable housing issue was voluntary and part of the public benefit.

Mr. Williams confirmed the DEE's were included in the analysis for the Mitigated Negative Declaration (MND) listed in the project description. The City had an adopted Housing Element and were in the process of updating it.

Council Member Holman said her questions had been answered and agreed to the inclusion of the City Attorney's recommendations and suggestions.

Mayor Burt said the inclusion of the items were in order of a Motion.

**MOTION:** Council Member Holman moved, seconded by Council Member Schmid to adopt the Ordinance Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Known as 2180 El Camino Real from Neighborhood Commercial (CN) District to PC Planned Community for a Mixed Use Project Having 57,900 Square Feet of Floor Area for a Grocery Store (Intended for JJ&F Market), Other Retail Space, Office Space, and Eight Affordable Residential Units, with Two Levels of Below-Grade Parking Facilities and Surface Parking Facilities for the College Terrace Centre, and Approval of Design Enhancement Exceptions to Allow a Sign Spire and Gazebo Roof to Exceed the 35-Foot Height Limit, and to Allow Encroachment into a Minimum Setback on Oxford Avenue; and Approval of the Mitigation Monitoring and Reporting Program (MMRP) incorporating the changes into the Ordinance:

1. The page numbering will be revised to be consecutive. The pages are complete and in the correct order as presented.
2. On page 8, item (b)(6), "KK&F" will be revised to "JJ&F".
3. On page 8, item (b)(12) will be corrected to read "use of the outdoor market area as shown on the project plans as being 2,447 square feet shall be limited to an open air market for grocery related uses only."

**MOTION PASSED:** 9-0

#### ACTION ITEMS

11. PUBLIC HEARING Approval of the Acceptance of Citizens Options for Public Safety (COPS) funds in the amount of \$100,000, Pursuant to Government Code Section 30061, Title 3, Division 3, Relating to the Supplemental Law Enforcement Services Fund, to Consider the Police Chief's Request to Purchase Computer Forensic Software, Global Positioning System Devices, Radio Earpieces, Remote Area Lighting Systems, Patrol Team Operation Kits, Replacement K-9 Unit, and Additional Funding for the Crime Scene Evidence Collection Vehicle.  
*(continued from 12/14/09)*

Mayor Burt asked whether Staff had comments.

Police Chief, Dennis Burns said Staff did not have a presentation but was available for questions.

Public Hearing opened at 9:06 p.m.

Mark Petersen-Perez spoke of the need for a Crisis Intervention Team (CIT) and for the Council to consider allocating funds to establish a CIT. It would mean having a unit of police officers specially trained to respond and deescalate serious situations such as domestic violence.

Aram James said in addition to having a CIT, non-sworn officers specialized in crisis intervention should come to the scene separate from law enforcement officers. He requested a report which identified the number of K-9 bites, categorized by race, and K-9's involved in border patrol activities in the past 36-months that took place at the East Palo Alto/Palo Alto border.

Roger Smith, 270 Tennyson Avenue, encouraged the Council to accept the funds to help the Police Department protect the citizens of Palo Alto.

Public Hearing closed at 9:13 p.m.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Klein to approve the acceptance of Citizens Options for Public Safety (COPS) funds in the amount of \$100,000 for the purchase of computer forensic software, Global Positioning System Devices, radio earpieces, Remote Area Lighting Systems, Patrol Team Operation Kits, Replacement K-9 Unit, and additional funding for the Crime Scene Evidence Collection Vehicle.

Vice Mayor Espinosa said it was important that funds be accepted to help the City's police force and the community. He thanked the officers for all their hard work.

Council Member Klein echoed the Vice Mayor's comments.

Council Member Yeh said it was important to understand the process when making a purchase to ensure the City gets the best unit rate and homework had been done to make sure the external funds were being used as efficiently as possible.

Mr. Burns confirmed the Department would go through the City's purchasing process to ensure the appropriate steps were followed in obtaining a fair rate.

**MOTION PASSED: 9-0**

12. PUBLIC HEARING Approval of a Request for On-Site Use of 1,146 Square Feet of a 5,668 Square Foot "Double Bonus" from a Proposed Historic Rehabilitation and Seismic Retrofit and Record of Land Use Action, to Increase the Floor Area Ratio (FAR) of a Property Listed on the Palo Alto Historic Inventory as a Category II Historic Resource and on the Seismic Structures Inventory as a Seismic Category II Building, Located at 661 Bryant Street Pursuant to PAMC 18.18.070.

Council Member Shepherd said she would not be participating in Agenda Item No. 12 because she was a member of the church that initially owned the building, was part of the due diligence team that prepared the sale of the building, and played a role in voting for the sale of the building. Although she would not participate, she said she would like to participate in the project should it come before the Council again.

Chief Planning and Transportation Official, Julie Caporgno provided an overview of the project as outlined in Staff Report CMR:116:10.

David Bower, Historic Resources Board (HRB) Chair said the HRB took into consideration that the church was built in 1916, the addition of the Sunday school area in 1929, the courtyard enclosed in 1946, and no significant architectural changes had been made in 94-years. The HRB felt the proposal and the building met the needs of the residents. It enabled the preservation of the building and gave the Developers incentives to complete the historic renovations and seismic upgrades. The HRB approved the project as meeting the Secretary of the Interior's Standards with 23 conditions that affected the preservation of the historic fabric and the structure of the building. HRB asked the Council's approval of their recommendation.

Public Hearing opened at 9:23 p.m.

Ralph Britton, 240 Rinconada Avenue, said the Palo Alto-Stanford Heritage voted to support the project. The building was part of an area where churches were built during a certain era and defined the neighborhood. Preserving a piece of the area made a strong statement as to what Palo Alto looked like 50-years ago. He urged the Council to adopt the building as a historic landmark.

Blake Reinhardt, Embarcadero Capital Partners, project owner said for the past year they had worked with the City in developing a plan that met the Secretary of the Interior's Standards and had gotten to the point of requesting the onsite use of bonus density and looked forward to the renovation and seismic project.

Monte Anderson, Architect said he had been involved with the preservation of Palo Alto for the past 20-years and spoke of how the building was a seismic hazard due to its tall, long-span dome structure. As a qualified historic architect, he said the building met the Secretary of Interior's Standards and the HRB and Staff agreed with the assessment. He noted the building had a mezzanine on the second floor that would be the mechanism to seismically stabilize the central space. The project was eligible for both the preservation and the seismic bonus making it unique. He said the building was a preservation bonus and a winning project and hoped to get the Council's approval.

Penny Barrett, 541 Patricia Lane, said the church was built in 1916 as a center for active thinkers. Adopting the proposed reuse of the building would insure its continued use to active thinkers. She urged the Council to approve the process.

Martin Bernstein, spoke of how important it was to keep the historic fabric, particularly the windows of the church, making it an exemplary project. He urged the Council to approve the project.

Robert Moss, 4010 Orme Street, said there was 4,600 sq. ft. of Floor Area Ratio (FAR) that could be used and asked whether usage of the FAR be limited to 2,500 sq. ft. per project. The allowance for the FAR transfer did not have an expiration date and in order to move things forward the transfer should have a date of expiration.

Public Hearing closed at 9:40 p.m.

Council Member Schmid asked what the Transfer Development Rights (TDR) was worth.

Ms. Caporgno said it varied and depended on how many were available and the need for expanding.

**MOTION:** Council Member Schmid moved, seconded by Vice Mayor Espinosa to approve the request for on-site use of 1,146 square feet of "Double Bonus" floor area at 661 Bryant Street (in the form of a new office mezzanine in the auditorium rotunda of the former Christian Science Church) by making the two required findings cited in Municipal Code Section 18.18.070(b)(8)(A):

1. The exterior modifications for the entire project comply with the U.S. Secretary of the Interior's "Standards for Rehabilitation and

Guidelines for Rehabilitating Historic Buildings" (36CFR Section 67.7); and

2. The on-site use of the FAR bonus would not otherwise be inconsistent with the historic character of the interior or exterior of the building and site.

Vice Mayor Espinosa said he felt the preservation bonus was appropriate and encouraged the Council to support the Motion.

Council Member Holman inquired about the permit inspection schedule. She asked if an onsite marker could be placed that would give a brief history of the building and reference the building had a covenant that provided limitations on its development.

Ms. Caporgno did not think there would be a problem in providing a marker and would work with the Applicant in obtaining one onsite. She said an inspection schedule was not included in the Ordinance and could not be imposed on the project. The Council could impose the condition.

Mr. Anderson said he would not be opposed to having a marker but would like to have a better understand of its purpose. Covenants are in the title report and could be viewed by future buyers.

Council Member Holman said covenants come to light at the point of sale but often were forgotten over the course of time in property ownership.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** that the Applicant be required to provide an historical marker onsite with language provided by City Staff describing the history of the building and that it is covered by a covenant.

**AMENDMENT:** Council Member Holman moved, seconded by Council Member Scharff that the building be inspected every three years to verify conformance with the Conditions of Approval and Secretary of Interior's Standards for the life of the project.

Council Member Schmid, asked whether the inspection process would be during the course of construction or forever.

Council Member Holman said it would be for the life of the project. She said things happened during the construction process and were not much of a concern. The concerns became greater after the inspections were completed. The inspection schedule would be similar to Planned

Community-owned projects (PC) that were inspected every three years for the life of the project.

Mr. Williams said Staff's concerns were more about property use and differed from PC projects. The project was viewed initially as a construction project. Once multiple inspections were made during the course of the project, any construction that would undo the certification would require a building permit and would violate the building codes if it was being done without a permit.

Council Member Price raised concerns about the nature of the Amendment. The concept of having an on-going review every 2 to 3 years could add additional Staffing which may not be necessary. She did not support the Amendment.

Vice Mayor Espinosa said he encouraged the Council to think about the process in setting broader based policies. He did not disagree with the content of the Amendment or having signs at historic buildings, but felt the issue should be agendaized and discussed. He raised concerns of setting precedence in establishing a policy through an Amendment of a project proposal. He did not support the Amendment.

Council Member Yeh echoed Vice Mayor Espinosa's comments. He said it was important to have a clear system for ensuring Conditions of Approval when implementing across projects.

Council Member Klein said inspections cost money and would not serve a purpose in this instance. He said there were lots of Ordinances and most were enforced on complaint basis. To enforce Ordinances on inspection basis would have an impact on the budget. He concurred with Mr. Williams' comment and said if there was going to be amendments or alterations to the building it would require a building permit and would need to go through the process. He did not support the Amendment.

Mayor Burt raised concerns regarding the level of penalties that were built in for the high economic valued Transferable Development Rights (TDR's.) The Council may want the Policy and Services Committee (P&S) to evaluate a policy. He did not support the second Amendment.

**AMENDMENT FAILED:** 2-6 Holman, Scharff voting yes, Shepherd not participating.

Council Member Klein said this was a superb project and preserving the church would be a great contribution to Palo Alto. He supported the Motion.

**MOTION PASSED:** 8-0 Shepherd not participating

13. PUBLIC HEARING on Objections to Weed Abatement and Adoption of Resolution 9031 entitled "Ordinance of the Council of the City of Palo Alto Ordering Weed Nuisance Abated."

Mayor Burt read into the record the Weed Abatement statement stating this was the time and place set for a public hearing on Resolution 9031, declaring weeds to be a nuisance. He asked whether anyone wished to be heard on this matter and announced that a representative from the County of Santa Clara was available for questions.

City Attorney, Gary Baum noted that Council Member Price advised she would not be participating in Agenda Item No. 13 due to a reference to her property on the list.

Public Hearing opened and closed at 10:09 p.m. without public comment.

Council Member Schmid asked what the difference was between a weed and an indigenous plant.

County of Santa Clara Weed Abatement Coordinator, Milton "Moe" Kumre said the weeds being referred to were dried, flammable grass. Most of the native plants are flowering. Questionable plants were referred to a biologist to determine as to whether it was a weed or a native plant. He said there was exclusion in the fire protection law which states a native plant could be cut if it posed a fire hazard.

Council Member Schmid suggested for clarification to add to the Ordinance what constitutes a weed as being dry and flammable.

Mayor Burt asked Staff whether there was language that could be implemented to provide that clarification.

Mr. Baum said reports on this topic had been discussed previously and felt language could be added to the report for clarification.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Shepherd to adopt the Resolution ordering the abatement of weed nuisances in the City of Palo Alto.



**MOTION PASSED:** 8-0 Price not participating

Council adjourned from regular session to the Redevelopment Agency at 10:14 p.m.

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Holman requested that when Staff returns with the report on the Stanford Avenue project that Staff provide clarification of the authority of the Planning & Transportation Commission in reviewing the project.

Vice Mayor Espinosa invited everyone to volunteer for the planting of the trees on California Avenue to be held on Saturday, January 30, 2010.

Mayor Burt reported on the State Assembly hearing held today on the High Speed Rail (HSR) Project. There will be a hearing of the State Senate Transportation Committee on January 19, 2010 on HSR, and on January 21, 2010, Senator Simitian will be holding a community meeting on HSR budget in our Council Chambers.

City Council reconvened into the Closed Session held over from the beginning of the Agenda at 10:20 p.m.

The City Council reconvened in the chambers after the Closed Session at 11:35 p.m.

City Attorney, Gary Baum announced that there was no reportable action on the five closed sessions.

ADJOURNMENT: The meeting adjourned at 11:36 p.m.