

CLOSED SESSION .....	289
1. CONFERENCE WITH LABOR NEGOTIATORS .....	289
SPECIAL ORDERS OF THE DAY .....	290
2. Resolution 9109 entitled "Resolution of the Council of the City of Palo Alto in Appreciation for City Attorney Gary M. Baum". .....	290
3. Resolution 9110 entitled "Resolution of the Council of the City of Palo Alto in Appreciation for Library Director Diane Jennings" .....	290
CITY MANAGER COMMENTS .....	290
ORAL COMMUNICATIONS .....	291
APPROVAL OF MINUTES .....	291
CONSENT CALENDAR .....	291
4. Adoption of a Negative Declaration and Approval of Site and Design Review and a Conditional Use Permit, and a Record of Land Use Action for a New 8,877 Square-Foot Recreational Facility (Tennis Court) and Related Improvements for an Associated Single Family Residence on an Adjacent Lot Under the Same Ownership in the Open Space Zone District Located at 3208 Alexis Drive.....	292
5. Approval of Four Contracts With Baker & Taylor for Up to Three Years for the Purchase of (1) Library Books in a Total Amount Not to Exceed \$950,000, (2) Audio Visual Materials & Processing in a Total Amount Not to Exceed \$213,000, (3) Library Continuation Services in a Total Amount Not to Exceed \$180,000, and (4) Book Cataloging and Processing Services in a Total Amount Not to Exceed \$89,000.....	292
6. Approval of a General Services Agreement With ValleyCrest Golf Course Maintenance, Inc. in the Amount of \$1,850,000 for	

Maintenance Services and Sale of Used City Golf Course Maintenance Equipment to ValleyCrest for \$125,000. <i>(Continued from October 18, 2010)</i> .	292
7. Appointment of Michael Edmonds as Acting City Auditor. ....	292
ACTION ITEMS.....	292
8. Adoption of Two Resolutions: (1) Resolution 9111 Amending Section 1901 of the Merit System Rules and Regulations Regarding a Memorandum of Agreement for Represented Hourly Employees (SEIU Hourly Unit) and (2) Resolution 9112 Adopting a Compensation Plan for Represented Hourly Employees (SEIU Hourly Unit) and Rescinding Resolution 8758.....	292
9. Recommendation From the High Speed Rail Committee Regarding California High Speed Rail Station in Palo Alto and Other High Speed Rail Issues. ....	292
10. Public Hearing: Consider Certification of Final EIR for the Proposed 405 Lincoln Avenue Single Family Residential Replacement Project and approval of Demolition Delay and Record of Land Use Action for the Existing Residence at 405 Lincoln Avenue Which is Listed as a Contributing Structure in the Professorville National Register Historic District and a Contributing Resource to the Professorville Historic District on the City's Historic Inventory. ....	299
COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS .....	311
ADJOURNMENT: The meeting adjourned at 12:00 a.m.....	311

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

Present: Burt, Espinosa, Holman, Klein, Price, Scharff, Schmid, Shepherd, Yeh

Absent:

### CLOSED SESSION

#### 1. CONFERENCE WITH LABOR NEGOTIATORS

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

Employee Organization: Police Managers Association

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, Pamela Antil, Lalo Perez, Joe Saccio, Russ Carlsen, Sandra Blanch, Marcie Scott, Darrell Murray)

Unrepresented Employee Group: Management, Professional and Confidential Employees

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, Pamela Antil, Dennis Burns, Lalo Perez, Joe Saccio, Russ Carlsen, Sandra Blanch, Marcie Scott, Roger Bloom, Darrell Murray)

Employee Organization: International Association of Fire Fighters, Local 1319

Authority: Government Code Section 54957.6(a)

The City Council reconvened from the Closed Session at 7:47 p.m. and Mayor Burt announced no reportable action.

## SPECIAL ORDERS OF THE DAY

2. Resolution 9109 entitled "Resolution of the Council of the City of Palo Alto in Appreciation for City Attorney Gary M. Baum".

Council Member Schmid read the Resolution into the record.

**MOTION:** Council Member Schmid moved, seconded Vice Mayor Espinosa to adopt the Resolution of Appreciation for City Attorney Gary M. Baum.

**MOTION PASSED:** 9-0

City Attorney, Gary Baum thanked the Council for the Resolution and the City for the opportunity to serve the City of Palo Alto and its residents. He acknowledged and recognized his Staff for their help in making the City Attorney's Office a success. He extended a special thank you to his Staff, City Manager James Keene and the City Council.

3. Resolution 9110 entitled "Resolution of the Council of the City of Palo Alto in Appreciation for Library Director Diane Jennings".

Council Member Price read the Resolution into the record.

**MOTION:** Council Member Price moved, seconded by Council Member Klein to adopt the Resolution of Appreciation for Library Director Diane Jennings.

**MOTION PASSED:** 9-0

Bern Beecham, Palo Alto, spoke on behalf of the Friends of the Palo Alto Library Foundation, as a former Council Member and friend to wish Ms. Jennings the best on her retirement.

James Schmidt, Palo Alto, spoke on behalf of the Friends of the Palo Alto Library Foundation and wished Ms. Jennings the best on her retirement.

Library Commissioner, Bob Moss, Palo Alto, spoke of Ms. Jennings many accomplishments, achievements and work as Library Director and wished her the best in her retirement.

Library Director, Diane Jennings thanked the Council, City Staff, Library Staff and the teams she worked closely with throughout the years. She acknowledged former Library Director Mary Jo Levy who hired her 24 years ago and the volunteers who worked along side the Library Staff and the Library Commission.

## CITY MANAGER COMMENTS

City Manager, James Keene reported the Library Journal rated the Palo Alto Library as one of America's star libraries for the second year running. The public was invited to attend a 2-hour preopening ceremony at the College Terrace Library on November 6<sup>th</sup> between 2-4 p.m. There would be a Reception held on October 27<sup>th</sup> from 5:30 to 7 p.m. to showcase the Climate Change Exhibition on display in the City Hall Lobby through November 13<sup>th</sup>. Public Works Director, Glenn Roberts retired from the City after 18 years of service. Mr. Keene clarified his retirement was not due to a claim filed by Mr. Roberts.

#### ORAL COMMUNICATIONS

Adam Montgomery, Silicon Valley Association of Realtors, spoke regarding a request to review properties subject to an Environmental Impact Report (EIR) or Negative Declaration that may not be historically significant. The City was asked to provide to property developers a process on what potential buyers were able to do or not do with the structures.

Annette Glanckoph, Palo Alto, spoke of the Palo Alto/Stanford Citizen Corps Council (CCC) event held on October 21<sup>st</sup>. She noted special recognition was given to co-chairs Palo Alto Police Officer, Kenneth Dueker and Assistant to the City Manager, Kelly Morariu for making the event a success. Information Officer, Linda Clerkson was a success factor in making the event happen. Mayor Burt was also thanked for his participation in celebrating the success and progress of the first year of the CCC.

Mayor Burt thanked Ms. Glanckoph for her commitment and work on emergency preparedness.

#### APPROVAL OF MINUTES

**MOTION:** Council Member Yeh moved, seconded by Vice Mayor Espinosa to approve the minutes of September 20, 2010.

**MOTION PASSED:** 9-0

#### CONSENT CALENDAR

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

4. Adoption of a Negative Declaration and Approval of Site and Design Review and a Conditional Use Permit, and a Record of Land Use Action for a New 8,877 Square-Foot Recreational Facility (Tennis Court) and Related Improvements for an Associated Single Family Residence on

an Adjacent Lot Under the Same Ownership in the Open Space Zone District Located at 3208 Alexis Drive.

5. Approval of Four Contracts With Baker & Taylor for Up to Three Years for the Purchase of (1) Library Books in a Total Amount Not to Exceed \$950,000, (2) Audio Visual Materials & Processing in a Total Amount Not to Exceed \$213,000, (3) Library Continuation Services in a Total Amount Not to Exceed \$180,000, and (4) Book Cataloging and Processing Services in a Total Amount Not to Exceed \$89,000.
6. Approval of a General Services Agreement With ValleyCrest Golf Course Maintenance, Inc. in the Amount of \$1,850,000 for Maintenance Services and Sale of Used City Golf Course Maintenance Equipment to ValleyCrest for \$125,000. *(Continued from October 18, 2010)*
7. Appointment of Michael Edmonds as Acting City Auditor.

**MOTION PASSED:** 9-0

#### ACTION ITEMS

8. Adoption of Two Resolutions: (1) Resolution 9111 Amending Section 1901 of the Merit System Rules and Regulations Regarding a Memorandum of Agreement for Represented Hourly Employees (SEIU Hourly Unit) and (2) Resolution 9112 Adopting a Compensation Plan for Represented Hourly Employees (SEIU Hourly Unit) and Rescinding Resolution 8758.

**MOTION:** Council Member Scharff moved, seconded by Council Member Schmid to adopt: 1) the Resolution amending Section 1901 of the Merit System Rules and Regulations regarding a Memorandum of Agreement for Represented Hourly Employees (SEIU Hourly Unit), and (2) the Resolution adopting a Compensation Plan for Represented Hourly Employees (SEIU Hourly Unit) and Rescinding Resolution 8758.

**MOTION PASSED:** 9-0

9. Recommendation From the High Speed Rail Committee Regarding California High Speed Rail Station in Palo Alto and Other High Speed Rail Issues.

High Speed Rail Project Manager, Rob Braulik stated the High Speed Rail (HSR) Committee met last week and recommended to the Council to not have a train station in Palo Alto and to write a letter to the High Speed Rail Authority (HSRA) regarding the recommendation. The recommendation was based on the following major issues; 1) the HSRA required 3,000 parking spaces of which 1,000 had to be adjacent to the station and 2,000 within 3

miles of the station, 2) the City would need to pay for the spaces at an estimated cost of \$150 million, and 3) the project would be traffic inducing. Due to a lack of resources, the project would not be able to be completed correctly. Placing a train station anywhere on the Peninsula would divert traffic to San Francisco Airport (SFO) having a negative impact on San Jose International Airport (SJC) and the HSRA did not have a quantitative case on placing a mid-Peninsula train station on the corridor. The High Speed Rail Committee recommended to the Council to put on record to not have a train station in Palo Alto.

Deputy City Manager, Steve Emslie stated it was noted at the Town Hall Meeting on October 7<sup>th</sup> that the "at-grade" level option had different variances and would have bearing on the station's location. Elevation of the tracks may be required, causing further disruption to the urban fabric of Palo Alto.

Council Member Schmid stated a letter from Stanford had noted the possibility of the station at Stanford. Stanford owned most of the property closest to the proposed station site. He stated the City was acting on behalf of Stanford and asked if Stanford was aware of any consequences that may come about based on the decision made at this evening's meeting.

Mr. Emslie stated Stanford was aware of the HSR Committee's recommendation to the Council.

City Manager, James Keene stated no one from Stanford was present at this evening's meeting to address the Council.

Mr. Emslie stated the City had conversations with Stanford and they were supportive of the recommendation.

Mayor Burt clarified for the record that Stanford was aware and supportive of Staff's and the HSR Committee's recommendation and not the HSRA recommendation.

Mr. Emslie stated that was correct.

Council Member Scharff asked if the HSR Committee had considered taking a broader stand of not having an HSR station in the mid-Peninsula. He asked, given the traffic inducing nature of the project and the increase in greenhouse emissions, if consideration had been given to having a station in San Jose and San Francisco with the usage of Caltrain to get to either station.

Council Member Klein stated the HSR Committee focused on having a train station in Palo Alto and did not study potential locations in other cities. He stated one of the deciding factors for the HSR Committee's opposition was

due to an HSRA member describing the train station as being equivalent to having a regional airport in downtown Palo Alto.

Council Member Scharff stated the parking in Palo Alto could be impacted if a station was built in Redwood City. A station in Redwood City would be equivalent to having a regional airport not too far away. He noted the parking would unlikely be free at the station, therefore creating a negative impact on Palo Alto's downtown free parking by people taking Caltrain to Redwood City.

Council Member Klein stated the HSR Committee's assignment was to respond to the HSRA request in asking if Palo Alto wanted a train station, which the City would need to fund. The response from the HSR Committee was no and he hoped the Council would support the recommendation.

Council Member Price stated the HSR Committee's conversation was ongoing regarding the lack of confidence in the HSRA, poor technical work, lack of a business plan and the station's ridership projections which were heavily critiqued. She felt the project could have been a good opportunity if done correctly. The HSRA had projected to the year 2035 in considering parking. It was difficult to determine build out scenarios for Caltrain, fixed rail, or HSR when Palo Alto's situation would be unknown so far into the future.

Mayor Burt stated Jim McFall, Architect noted the station tracks would not be at-grade and asked Mr. Emslie to comment on the elevation.

Mr. Emslie stated it was estimated the tracks would be 9 to 10 feet higher than the current grade.

Stephen Rosenblum, Palo Alto, stated he supported HSR and was disappointed in the comments made regarding Palo Alto opposing the HSR project. He stated the HSR was designed to expedite people traveling between Los Angeles and San Francisco. He was not in favor of having a station between San Jose and SFO. It made no sense to have a competitive station system when there was Caltrain along that stretch. He stated there would be minimal negative environmental impact to have the deep tunneling option with a covered trench for Caltrain. It would create new real estate on surfaced land. A downside for the tunneling, aside from cost, was allowing the Union Pacific diesel trains to use the right-of-way. Tunnels required ventilation which would incur added expense. Union Pacific may need to consider electric locomotives to run freight trains through Palo Alto.

Virginia Saldich, Palo Alto, spoke regarding a HSR protest rally on Sunday November 7<sup>th</sup> at 11 a.m. at the Burlingame train station. She wanted to remind the Council of HSRA's Chief Executive Officer Roelof van Ark's statement that if Palo Alto and the Peninsula communities wanted a covered trench or tunnel they could pay for it. Mr. van Ark now asserts that the



covered trench option was off the table. She noted his messages were inconsistent.

Bob Saldich, Palo Alto, spoke regarding a 100-page report entitled "The Financial Risks of California's Proposed High Speed Rail Project" which stated that the HSR project would not cost California taxpayers. The authors of the report concluded the HSRA promise was an impossible goal. The report could be seen on the website CC-HSR (Community Coalition-High Speed Rail.)

Jumana Nabti, Palo Alto, stated the HSR project and transportation models were built on assumptions, the further out a project was projected, the less accurate it becomes. The HSR project was a 20 to 30-year investment with a shelf life of 50 to 150-years. HSR was an alternative mode of transportation and a station in Palo Alto should not be viewed as a problem but as an opportunity. The need to drive to and through Palo Alto would be less if people were able to get closer to their homes, businesses, and destinations by train. There were alignments and station design issues and she urged the Council to ensure the design was sensitive to the community's needs. She urged the Council to take advantage of the opportunity for economic and community development, better connectedness, and to reduce traffic impacts by supporting the HSR project

Herb Borock, Palo Alto, stated he supported the HSR Committee's recommendation. The HSRA needed to be informed that Palo Alto did not have the resources to contribute to the project's infrastructure. The Project Environmental Impact Report needed to include evaluation of the existing Caltrain locations to provide a range of alternatives when considering a station anywhere in Palo Alto. The actual number of parking spaces for a station would be much higher than the 3,000 spaces used in the project definition.

Martin Sommer urged the Council to inform Mr. van Ark to have HSR stop in San Jose, to electrify and upgrade Caltrain in its current track configuration and to distribute incoming and out-going passengers to and from the HSR in San Jose and feed to Caltrain, Bay Area Rapid Transit (BART) and all Bay Area transit systems.

Bob Moss spoke in favor of the HSR Committee's recommendation. He disagreed with the HSRA on their projections for parking requirements. He stated with the elevated train station option, it would be difficult to have the grade go from the train station to below the San Francisquito Creek. There would be less of an environment impact and billions of dollars saved to terminate the HSR in San Jose, upgrade Caltrain's speed to 110 miles per hour and use Caltrain to get from San Jose to San Francisco.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Holman to take a position indicating to the High Speed Rail Authority that  
10/25/10

the City of Palo Alto is against further consideration of a High Speed Rail station in Palo Alto.

Vice Mayor Espinosa stated Palo Alto was not equipped with the streets or the capacity to have an HSR train station in Palo Alto and could not foresee the necessary modifications for that to happen.

Council Member Holman supported the inclusion of the Comprehensive Plan policy and goals which helped focus on where the City was at, its position, and helped direct in commenting on an EIR.

Council Member Yeh stated each decision made by the HSRA in planning for the future disregarded the present. He raised concerns regarding the HSRA requirement for 3,000 parking spaces with no flexibility in considering various transportation modes. He stated stations placed up the Peninsula would risk cannibalizing Caltrain's services.

Council Member Shepherd stated signing an Agreement with the HSRA for a station may require more full-time Staffing to operate the Agreement. There were several unknowns that existed such as the HSRA might want to value out an added tax in the station's proximity to pay for their portion of the build. She stated there were two stops in Palo Alto which were Caltrain stops and would be at HSR capacity if the project materialized.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to direct Staff to draft a letter to the California High Speed Rail Authority, and send a copy of the letter to local, regional, state and federal elected officials.

**AMENDMENT:** Council Member Scharff moved, seconded by Council Member Shepherd to direct Staff to write a letter to the High Speed Rail Authority indicating that the City of Palo Alto is against further consideration of a mid-peninsula station in Palo Alto or anywhere on the mid-peninsula, and 2) add an additional paragraph that states all the negative aspects of a mid-peninsula station, including competing system of train stops, additional traffic to the mid-peninsula, and increased greenhouse gases.

Council Member Shepherd stated a mid-Peninsula station would affect its neighboring communities. She raised concerns regarding the HSRA wanting to make a stop in the mid-Peninsula when it could stop in the City of Millbrae which had BART accommodations. She felt a mid-Peninsula station would not be compatible with the Caltrain station.

Council Member Klein raised concerns regarding the City's lobbying position and the ability to persuade the HSRA. The letter was a direct response to HSRA asking if Palo Alto wanted a train station. The answer was clearly "no." He stated when a letter expanded beyond its scope it did not enhance the

10/25/10 107-296

City's bargaining position. The City was getting into issues beyond its jurisdictions and critical of the ridership studies.

Council Member Price stated she did not support the Amendment although she supported the Motion if the language related to another mid-Peninsula station where removed. She agreed with Council Member Klein's comments. She stated reduction of greenhouse gas emissions was possible if a reliable transit system was funded.

Council Member Yeh stated he did not support the Amendment. He noted recently there were several San Mateo County City's that had written a letter to express their position, spoke actually on behalf of the Peninsula. I know that our Mayor had spoken in concern that it did not reflect the nuance of what Palo Alto's position was. My thought was that if this was to go forward or that the PCC would be the perfect entity to consider this because it does represent Peninsula interests and it was created for that purpose.

Mayor Burt stated he would like to offer a slightly modified recommendation. He did not think it was appropriate to take a position that might be inferred as being on behalf of other Cities. He did think it was appropriate for the City to make the rationale as to why a mid-Peninsula station was a poor vision and a poor business plan for High Speed Rail whether it be in Palo Alto or anywhere on the Peninsula. Palo Alto could speak in the broader term without making a specific recommendation in opposition to a station in another City. It was not simply because Palo Alto did not want a station in their backyard. It was because it was a bad idea. A good rail design or not but whether it was a good expenditure of funds or not. It was an inducement to try and it backfired because for some Cities it may be an attraction, out in the Central Valley and other major hubs but for Mountain View and Palo Alto it certainly was not.

Council Member Shepherd stated the modified language was the original intent of the HSR Committee to do some declarative statements to stress the fragility of the Peninsula and the importance of Caltrain.

Council Member Holman stated she appreciated what she understood to be the clarification. She requested the amended Amendment be repeated.

**INCORPORATED INTO THE AMENDMENT WITH THE CONSENT OF THE MAKER AND SECONDER** to include why we believe a mid-peninsula station does not represent good design for the rail system, without taking a specific position in opposition of station elsewhere on the peninsula.

Mayor Burt stated included in our letter would be statements that would explain why we believe that a station for the mid-Peninsula does not represent good design for the rail system and several of the other reason that were stated before but without taking a specific position in opposition of

a station elsewhere on the Peninsula. So it's the rationale without recommending a specific action regarding other Cities.

Mr. Keene stated the inclusion of not having a station in Palo Alto needed to be in the letter.

Council Member Holman stated it referenced the design and not the financial aspects.

Mayor Burt stated yes. The intention was to reference the rationale of why a station on the Peninsula was not sound practice without taking a position of opposition to a station in any other City. It would extend the reasons why we were opposed to a station in Palo Alto to state that they apply to the concept of a station on the Peninsula.

Council Member Klein stated he visualized the letter to have one paragraph towards the end to state "for the reasons set forth above, we believe that the rationale we have expressed in this letter would probably also apply throughout the mid-Peninsula to any other proposed station." He stated 10 of the 12 paragraphs would focus on Palo Alto and one paragraph to the mid-Peninsula.

**AMENDMENT PASSED: 9-0**

**MOTION AS AMENDED PASSED: 9-0**

Mayor Burt spoke of a preliminary report that noted the Central Valley was chosen for the first phase of the 2010 Federal Railroad Administration (FRA) funds. Field experts felt the bulk of the State's matching funds and the 2009 Stimulus Funds would all be aggregated into one of the Central Valley sections. Those were the only State funds available and could take quite some time to consider building most of the segment in the State. The 2<sup>nd</sup> segment would be from whichever Central Valley segment was built to one of the two metropolitan areas. For example if the 1<sup>st</sup> segment was from Fresno to Bakersfield, the 2<sup>nd</sup> segment would be from Bakersfield to Los Angeles. He stated Mr. van Ark recently stated his obligation was to try and build a system from metropolitan area to metropolitan area, which was a departure from the position of the HSRA.

Council Member Price raised concerns of having a fractured system such as BART. She did not want to be in a situation in the year 2035 of having incomplete systems that served the region and community.

10. Public Hearing: Consider Certification of Final EIR for the Proposed 405 Lincoln Avenue Single Family Residential Replacement Project and approval of Demolition Delay and Record of Land Use Action for the Existing Residence at 405 Lincoln Avenue Which is Listed as a

Contributing Structure in the Professorville National Register Historic District and a Contributing Resource to the Professorville Historic District on the City's Historic Inventory.

Director of Planning & Community Environment, Curtis Williams stated the item being discussed was in regards to the proposed Demolition Delay Request and the Final Environmental Impact Report (FEIR) of 405 Lincoln Avenue. He stated the revised Record of Land Use Action (ROLUA) for 405 Lincoln Avenue, Mitigation Monitoring Program answers to the Council questions, and materials relating to the 2000 Historic Preservation Ordinance were distributed to the Council prior to this evening's meeting. He provided a presentation as outlined in Staff Report CMR 387:10.

David Bower, Historic Resources Board Chair, stated the Historic Resources Board (HRB) focused on whether or not a single building represented part of a historic district. The HRB felt the building was not significant enough to be a Category 1 building. It was significant to the greater Professorville Historic District and for that reason the HRB felt the expansion retention option was the best environmentally sound option. He noted the owners did not find that option to be acceptable. The HRB felt the Environmental Impact Report (EIR) was complete and recommended the Council to pursue the expansion retention option and if there was a replacement building, HRB asked that it come back to the Board since it had not been addressed in the hearings.

City Attorney, Gary Baum stated the project had several legal issues; one was whether the structure was of historical significance and governed by California Environmental Quality Act (CEQA) guidelines. He stated the test was whether the site was associated with events that made significant contributions to the broad patterns of California History and Cultural Heritage, was the building associated with the important lives in our past, did it embody the distinctive characteristics of a time period, region or method of construction or represent the work of an important creative individual or possess high artistic values, or has yielded or may likely to yield important information in prehistory or history. He stated the City's historical consultant, the EIR consultant, and Staff concluded the structure on its own was not historically significant. It was a contributing structure and not a Category 1 or 2. Palo Alto Municipal Code 16.49.020c was raised because it stated that every structure within the historical district was significant. The City was required to follow CEQA standards which stated that being within a historic district on its own did not make it a historic structure. The FEIR determined the demolition would not have a significant unavoidable impact upon the district as long as the mitigation measures were included and the primary one was compatible to the districts. The Juana Briones case was triggered and went to a writ trial in Santa Clara County Superior Court and found the City's Demolition Delay procedure discretionary and required an EIR. The case was on appeal and he did not anticipate the court would change the determination. That was the reason for bringing the item before

10/25/10

the Council today. The Demolition Delay did not fit well with CEQA. The City was required to follow CEQA and to analyze the Demolition Delay. There were liability issues for the City depending on how the Council ruled.

Council Member Klein asked if the demolition delay was on an automatic turnaround of 3 to 4 months, would that prevent concerns in the future.

Mr. Baum stated yes.

Council Member Klein asked whether there were structures within Professorville where the HRB would find destruction possible.

Mr. Bower stated yes. The HRB allowed demolition in Professorville on in-fill projects built in the 1950's and 1960's that did not contribute to the overall characteristics of the district. He noted a group of individuals and building professionals, of which six owned historic buildings, found the structure to be worth saving. The structure had historic value in terms of who built it, the people who had lived there and the architectural style.

Council Member Klein asked about buildings built prior to 1930.

Mr. Bower stated the answer remained as previously stated although the demolition was dependent upon the soundness of the structure.

Mr. Baum stated making Demolition Delay ministerial or automatic would address part of the question but we still would need to determine what the appropriate change or fix would be to Individual Review (IR) because that could be viewed as discretionary.

Council Member Holman stated Demolition Delay allowed property owners to explore other options besides demolition. She found the environmentally superior alternative was not explored and not required. She asked if the owners had explored other options or were encouraged by Staff to retain the building.

Chief Planning & Transportation Official, Julie Caporgno stated the issue was addressed during discussions of the property becoming a single-family home and she noted an EIR was required. A historic oak tree was on the site at the time which prohibited the expansion. The Applicants were well into the design of the project when the health of the tree was questioned and for safety reasons needed to be removed.

Council Member Holman stated according to the CEQA guidelines the project alternatives had to satisfy the project objectives and asked how specific that needed to be.

Mr. Baum stated the Applicant provided an outline of the project objectives. A degree of specificity was needed, it was not considered to be a viable alternative if a project did not meet the objectives.

Council Member Holman stated she thought to satisfy the project goals were to "generally accomplish the project goals." She asked if that was the correct terminology.

Ms. Caporgno stated that was the proper CEQA language. It was not necessary to accomplish every project objective but overall the project objective should be met by the ultimate project.

Mr. Williams stated Staff reviewed both options, the alternatives, and the letter submitted by the Applicant. There were significant hurdles in the cost of trying to make the building work in similar size and functionality of the home. The financial feasibility and realistic nature of the alternatives needed to be met.

Ms. Caporgno stated the HRB had recommended a basement be added in order to meet the square footage requirement. The structure needed to be lifted in order to facilitate a basement although the building configuration made it difficult.

Council Member Holman stated applying CEQA to a single-family home for demolition was an interesting facture. The City's code did not assure a maximum Floor Area Ratio (FAR). It was necessary to satisfy other criteria and asked how this was applicable to the project.

Mr. Williams stated the key issue was whether to demolish or not. The City's code did not prohibit demolitions and it was difficult to say whether there would be a loss in the anticipated square footage.

Council Member Holman asked if the FAR was one the issues driving the inability to expand the existing structure.

Mr. Williams stated the FAR would be met by the proposed home and asked where Council Member Holman's concern was coming from.

Council Member Holman stated because the environmentally superior alternative was to retain the existing building it did not seem feasible to accomplish the proposed FAR. It meant the proposed FAR was tied to what made the environmentally superior alternative feasible or not.

Mr. Williams stated it was not a case of variance or a situation trying to attain a special approval. The project was in the IR process which could not be used to limit the FAR. He stated the issue of demolition was first and

foremost and the feasibility of building another alternative was to not only achieve FAR but also cost and functionality of the home.

Council Member Holman stated the policy implications in Staff Report CMR 387:10 indicated if contributing status automatically determined significance or broader ramifications for the City, all contributing structures in Greenmeadow and Green Gables would be subject to preparation of an EIR. She previously had asked the question and was given a different implication which was, Greenmeadow had a single-story overlay, and the issue that would trigger CEQA in Greenmeadow would be the application for Home Improvement Exception (HIE) in conformance with the Secretary of Interior Standards.

Mr. Williams stated that was true for Greenmeadow because of the overlay but not with Green Gables. He asked Council Member Holman if she was saying there would not be a Demolition Delay. Demolition Delay triggered CEQA for single and two-story homes.

Council Member Holman asked if Greenmeadow had a Demolition Delay.

Ms. Caporgno stated neither Greenmeadows nor Green Gables had a Demolition Delay. She stated if there was a request for demolition of a site, information or design of the replacement structure needed to be provided and would trigger CEQA. Green Gables allowed two-story buildings because it did not have a single-story overlay.

Council Member Holman clarified CEQA would not apply to Greenmeadow because it had a single-story overlay, would not trigger an IR and that the decision made at this evening's meeting would not affect Greenmeadow.

Ms. Caporgno acknowledged the above statements.

Council Member Scharff asked specifically what Council was being asked for in relation to the revised Record of Land Use Action (ROLUA).

Mr. Baum stated Staff's recommendation was for Council to approve the ROLUA. The ROLUA should embody all the recommendations listed on the first page of the Staff Report unless something was dropped by accident.

Ms. Caporgno stated Staff's recommendation was to adopt the ROLUA that embodied all the recommendations including one correction that needed to be made.

Council Member Scharff asked what the correction was.

Mr. Williams stated Staff's recommendation was to incorporate the HRB's review of the replacement structure to satisfy one of the conditions and for



the record, to include the mitigation monitoring checklist that was set "at places" at this evening's meeting.

Council Member Scharff asked which mitigations Staff was referring to.

Mr. Williams stated they were included in the Mitigation Monitoring Program from the DEIR and were "at places."

Mr. Baum stated they were omitted from the ROLUA because it had not been provided until today.

Council Member Scharff asked if the mitigation measures were being asked to be compatible with the Professorville District and made reference to the Secretary of Interior Standards which seemed to be two different issues.

Mr. Williams stated it was consistent with the Secretary of Interior Standards for Rehabilitation as they applied to the Professorville District.

Ms. Caporgno stated Standard 9 dealt with components of both rehabilitation and new construction. The Staff reviewed and identified the elements that made up the structure's compatibility. She stated most of the elements had been met except for those called out in the mitigation measure and the need for an increased articulation forum; 1) to provide more organized elevation composition, 2) need for greater use of traditional elements executed in non-traditional materials, 3) need for warmer color palette, and 4) the need for further simplification in residential building eave lines. All elements needed to be met by the project evaluated in the EIR.

Council Member Scharff asked Staff if the following had occurred; 1) the Applicant approach the City, 2) the City suggest a historic consultant to advise them on how to make their project compatible with the Secretary of Interior Standards, and 3) did the Applicant hire the consultant.

Ms. Caporgno stated the City selected an EIR consultant and a historic consultant to prepare the analysis since an environmental review was required. There were no guidelines that defined compatibility since it was a new structure in the district. The historic consultant prepared compatibility standards based on the Secretary of Interior Standards and discussed them with the Applicant. The Applicant designed the house with the intent to meet the compatibility standards. The compatibility standards developed by the City based on the Secretary of Interior Standards were the parameters used to build the house. The Applicants had hired a separate consultant to evaluate the City's conditions.

Council Member Scharff asked if the City's consultant found the standards to be compatible with Secretary of Interior Standards.

Ms. Caporgno stated several of the compatibilities were met with the exception of the four she previously stated.

Council Member Price asked should the item return to the HRB, what the expectations for the Applicant were in regards to the parameters, latitude, and timeframe.

Mr. Williams stated the City's Historical Code required the HRB to review replacement structures within a historic district. The direction would be for the HRB to look at the replacement structure, focus on the four criteria of mitigations mentioned and provide Staff with input and advice on how the mitigations were being implemented by the Applicant. Staff would review the HRB's findings and the historic consultant's findings prior to making a determination. The estimated timeframe would be a 6 to 8 week process in agendaizing the item with the HRB and have them report back to Staff for a determination. The Applicant could work on any outstanding issues if they so desired which would lengthen the process.

Council Member Schmid stated the Council had rejected the environmentally superior alternative as it did not meet the project objectives as listed in Section 3.2 of the DEIR. He stated he had not read or heard discussion as why Staff felt Section 3.2 overrode the HRB's discussion and felt the issue would need to go back to Staff to determine why one was superior to the other.

Mr. Williams stated the ROLUA indicated the alternative was rejected, as not being feasible and not meeting the project objectives. It was for those reasons Staff recommended the EIR be certified and the Demolition Delay be approved. The Applicant would proceed with the demolition under the Demolition Delay if both actions were taken, absent any other kind of specific action by the Council. A replacement structure would require HRB's input.

Council Member Schmid stated there were two recommendations before the Council including the HRB's recommendation and he wanted to know why Staff preferred the replacement rather than the expansion.

Ms. Caporgno stated Staff needed to rely on how the objectives were being met by the Applicant. Staff supported the replacement structure because the Applicant had submitted a letter outlining why structurally it was not feasible for the building to be retained, and to get the adequate square footage from an expansion project.

Council Member Scharff stated it was the document from the Applicant that Staff agreed was the preferred alternative.

Ms. Caporgno stated that was correct and the document was attached to the Staff Report.

Mr. Baum stated the Council was the lead agency and part of certifying the EIR included choosing one of the alternatives.

Council Member Shepherd stated it was her understanding that the HRB had agreed with the Palo Alto/Stanford Historical Society that the building should be considered as a preemptive category and not a discretionary category. She asked if it would have made a difference in the recommendations if Staff had agreed with the consideration of the home in the Professorville District.

Mr. Williams asked Council Member Shepherd if she meant by preemptive if the building was classified as a Category 2.

Council Member Shepherd stated yes.

Mr. Williams stated absolutely.

Council Member Shepherd asked Staff to explain why the City was not in agreement with the Palo Alto Historical Society and the HRB. She asked if it was because Staff had categorized the building.

Mr. Williams stated some of the structures had been reviewed and categorized by number. Not all contributing structures were categorized unless there was a need. He explained the historical consultant hired by the City confirmed the structure in question was not of significant historical value and therefore did not require to be categorized. The EIR was based on the recommendations by the historical consultant.

Council Member Shepherd stated it was her understanding that the HRB found the structure to be a prescriptive building.

Mr. Bower stated the discussion brought out the ambiguity of the Secretary of Interior Standards. It was a set of standards and together when applied to a district or an individual building, then you come to a determination of whether or not it was significant.

Ms. Caporgno stated the FEIR mentioned the three factors that went into why Staff determined the structure was not significant as a contributor. The structure did not affect adversely the integrity of the district, it was not a significant style, it was small and single-story and not an obvious building in the district.

Council Member Shepherd asked if the HRB reviewed the mitigation list or were they only required to review the DEIR.

Mr. Williams stated it was his understanding the HRB's review was mandatory.

Ms. Caporgno stated the HRB supported the DEIR which identified the four mitigations.

Vice Mayor Espinosa asked Staff to explain how the City would approach issues of this setting precedent in projects moving forward.

Mr. Williams stated it would be a combination of Staff adjusting to the process such as starting with a study and a historical analysis prior to making a determination whether an EIR would be necessary. Council had the authority to determine whether every contributing structure had an impact under CEQA rule. He felt the Demolition Delay Ordinance should no longer be discretionary. Anything that needed to be accomplished beyond the Individual Review (IR) should return to Council in a policy format.

Council Member Holman referred to CMR 387:10, page 5 regarding the three criteria used to ascertain the significance of the structure. She stated No. 2 noted 405 Lincoln Avenue was one of the smallest contributors in the district, No. 3 noted the structure was a single story and was not considered a dominant presence in the district.

Ms. Caporgno stated the combination of three factors helped to determine the structure was not a significant contributor were; 1) the building did not have a dominant style, 2) it was unobtrusive, and 3) the building itself was small; therefore, a rebuild would not create a significant loss to the district.

Council Member Holman asked Staff to differentiate between No. 2 and No. 3 clarifying the building was one of the smallest contributors and not a dominant presence.

Ms. Caporgno stated that the demolition would not have a significant impact due to; 1) it being only 2,000 square feet, 2) a single story, and 3) the building did not have a dominant style in the district.

Public hearing opened at 10:34 p.m.

Allen Akin, Applicant, stated the house was referred to as a contributor under the District Nomination Form. The form defined the characteristics of the Professorville District and noted 405 Lincoln Avenue lacked all of the necessary characteristics. The Building was not associated with a Stanford Professor, did not possess one of the architectural styles and lacked ample material landscaping. The EIR had concluded 405 Lincoln Avenue was not a significant contributor. He stated the City's historic consultant had set guidelines for compatibility as part of the EIR and great efforts had been made to produce a design that was consistent with the Secretary of Interior Standards. The categorizing of the house had been examined in two surveys and found not to be significant and not required to be a numbered category.

The functionality of the alternative design was insufficient to meet the needs which were identified and covered in the description attached to the Staff Report including lack of yard space and lack of accessibility for disabled parents.

Tom Jack, Palo Alto, supported the demolition of the building. He had worked on historic homes for several years and found no compelling reason to preserve the structure in question. He resided a few blocks from 405 Lincoln Avenue for 41 years and urged the demolition and replacement.

Jason Trindade, Palo Alto, urged the City to review issues considered as variances and apply them accordingly to the home.

Carmo Trindade, Palo Alto, stated there had been insufficient discussion with the Historic Resources Board (HRB) to determine a Demolition Delay.

Drew Maran, Palo Alto, was in support of replacing the structure. The energy consumption in a restored home was greater than the carbon footprint of a new home.

Michael Dreyfus, Palo Alto, spoke on how unjust the Applicant had been treated in the process. He stated on the issue of preservation, to restore the home to exactly what it looked like would be like building a new home and would not be preserving anything.

Michelle Arden read a letter from Mark Wardenberg and Terry Alana Hunter in support of the Applicant building a new home.

Karen Nashville stated the Applicants had complied with all the rules and regulations required of a resident to build a home in the Professorville District and was in support of the project.

Jeanne Lavan read a letter from Susan Haviland who was in support of the project. She stated she had seen the plans and it appeared to be a good job of blending in with the historic neighborhood.

Bill Glazier spoke regarding the Applicants having performed all of the necessary requirements to remodel the home. He was in support of the remodel and requested Council approval of the project.

Joe Barta stated the house in question was not of significant historic importance to Professorville nor was it made of sound structure and he supported the remodel.

Beth Bunnenberg spoke of the history of the creation of Professorville. The historic relevance of the homes within Professorville were historic not based on their structure but by their history itself. She noted the Draft

Environmental Impact Report (DEIR) recommended environmentally superior alternatives that would maintain the integrity.

Richard Brand stated Professorville was made up of small houses and unique characteristics. He supported the Staff recommendation.

David Lieberman stated according to the National Historic Registry, the 400 block of Lincoln Avenue was not part of the historic preservation. City Staff had declared the Applicants had met every requirement to receive a demolition permit; therefore a permit should be granted.

Barbara Wallace stated the cumulative impacts of demolition of the home had raised great concern with a number of residents. She noted there had been no community outreach to the neighbors for their consideration.

Stephen Cassidy, as counsel for the Applicant, stated for CEQA purposes the historic resource was Professorville and not the residence itself. The EIR had concluded the residence itself was not significant to Professorville. The DEIR and the FEIR supported the notion even as a contributor home, the demolition and construction of a new residence would not have a material impairment to the Professorville District; which was the CEQA standard. He clarified the issue in front of the City Council was the adequacy of the EIR. He noted the Applicant had demonstrated a willingness to ensure the issue brought forth would be addressed to the extent possible.

Public hearing closed at 11:23 p.m.

Vice Mayor Espinosa stated the City had some debate over the years regarding historic preservation. He noted the leadership role of the Historic Resources Board (HRB) to maintain and treasure the historic structures of Palo Alto was well respected. He stated there was a process in place to assist the citizens who purchase property; unfortunately, the process had undergone a change during the Applicants' request for renovation.

**MOTION:** Vice Mayor Espinosa moved, seconded by Council Member Scharff to: 1) certify the Final Environmental Impact Report finding it complete and adequate under the requirements of the California Environmental Quality Act (CEQA), 2) find the Demolition Delay request for an existing structure at 405 Lincoln can be satisfied with the minimum 60 day moratorium, 3) approval of the Record of Land Use Action, 4) refer review of any revised plan for the site to the Historic Resources Board for evaluation of compatibility with the Professorville Historic District, and 5) include in the Record of Land Use Action the Mitigation Monitoring Checklist, with the inclusion that the City Council finds the environmental impact is reduced to less than significant due to incorporation.

Council Member Scharff stated in review of the EIR it appeared there were no significant impacts to the District nor was the property a significant historic structure. He requested the Council support the Motion.

Council Member Holman requested the Motion be repeated and the portion regarding the FIER be clarified.

Vice Mayor Espinosa repeated the Motion and asked for Staff clarification on Section 6 and 7 of the Record of Land Use Action (ROLUA).

Mr. Williams stated Section 6 and 7 reflected similar verbiage in regards to the ROLUA. He clarified the language in the Staff Report referred to the HRB reviewing and revised plan for the site and comment to the Director of Planning.

Council Member Scharff asked Staff whether the action being requested should be placed in Section 6 or 7 of the ROLUA.

Mr. Williams stated the language would be more suited to be added into Section 7 as a condition to read as follows: revised plan for replacement structure shall be reviewed by HRB and comments provided to the Director of Planning for determination.

Council Member Holman stated the FEIR did not focus on the demolition of the resource but rather the replacement structure. The City Charter noted that all historic structures were of significance where as the FEIR failed to recognize the project as such. She wanted to express the neighbors in Professorville had spoken out in unison for retention of the structure which made a statement to her regarding the importance for the neighborhood to maintain its history.

Council Member Price stated she would be supporting the Motion.

Council Member Klein stated the current process was in need of repair. He noted public policy throughout the City allowed for demolition with the exception of the Downtown District; CEQA should not be allowed to blindside the policy. He stated he supported the Motion and requested to add the following verbiage to Section 7: to insure the HRB hearing was held and their advice given to the Director of Planning within a specified time line.

Mr. Williams suggested the language read within 30 days of the Applicants submittal of plans.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to include in the Record of Land Use Section 7 the Historic Resources Board hearing with comments to the Planning Director will be within 30 days of the applicant submitting their plans.

Council Member Klein requested in Section 5 the language read "shall be satisfied within 60 days from the date of City Council action".

Mr. Williams clarified the language presented by Staff read "a delay of 60 days after the date of this action but no sooner than the date of all Planning approvals had been granted".

Council Member Klein suggested striking the portion of the language referring to the Planning approvals.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** change the last part of the sentence in Section 5 to-this time period shall be satisfied within 60 days of October 25, 2010.

Council Member Shepherd felt had a Study Session with the HRB occurred early in the process of this project there may have been more understanding and less delay. She requested Staff return to Council with a clear and concise understanding of the CEQA process and the defined rule of operation in a historic district. She shared her concern with a project being underway for three and a half years prior to Council or any Board or Commission having been privy to it. She stated she would be supporting the Motion.

Council Member Holman asked what happened if after the 30 days the plans were not deemed to be acceptable by the HRB or the Director of Planning.

Mr. Williams stated the HRB advises and therefore had the ability to state whether there were compatibility concerns. He clarified if the plans did not meet the standards set forth, the project would be denied. He noted 30 days was an adequate timeframe to get a project before the HRB.

Council Member Holman stated if the HRB recommended to the Director of Planning a project which was not compatible, what happened at that point.

Chief Planning and Transportation Official, Julie Caporgno stated the Director of Planning would not have a decision in 30 days. The Director used the HRB recommendations to complete the Individual Review (IR) process which may take up to 60 days.

Council Member Klein stated his proposed language accepted and incorporated into the Motion did not affect the Director's timeframe.

Council Member Holman clarified the Director could return the project to the HRB if the findings were not compatible.

Council Member Klein stated the idea was for the HRB to provide advice to the Director of Planning within the 30 days from the date of submission.



Ms. Caporgno stated the EIR had focused the compatibility discussion to the mitigation measures with the four components which would be the determination for compatibility. There were suggestions in the EIR as to how the mitigations could be met.

Council Member Holman stated if a building was demolished prior to the new construction beginning, the site was left as a patch of dirt and weeds. She asked why there needed to be a 60 day demolition schedule.

Council Member Klein stated the process needed to move forward quickly and presenting a timeline gave the perception of an end time.

**AMENDMENT:** Council Member Holman moved, seconded by Council Member XXX to delete the demolition prior to the approval of the permits.

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

City Attorney, Gary Baum noted there was a change to Section 4 to read "the City Council hereby finds the Environmental Impact has been reduced to a level less significant due to incorporation of the mitigation measure as listed in the mitigation monitoring check list including mitigation measure 4-1".

Mayor Burt asked for an estimated timeframe for Staff to return the improved process to Council with the adopted changes.

Mr. Williams stated Staff could return to Council with a report showing the key components within three months.

**MOTION PASSED:** 8-1 Holman no

### COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Mayor Burt reported that the High Speed Rail Policy Maker Working Group postponed its meeting and a new one has not been scheduled at this time; the United Nations Association Film Festival was occurring within the community and he urged citizens to attend the festival; and a delegation of 20 City Managers from the Netherlands visited the city last week.

ADJOURNMENT: The meeting adjourned at 12:00 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.