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April 28, 2008

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ADJOURNMENT: The meeting was adjourned at 11:31 p.m.	17

The City Council of the City of Palo Alto met on this date in the Council Chambers at 5:40 p.m.

Present: Barton, Burt, Drekmeier, Espinosa arrived at 5:45 p.m., Kishimoto, Klein, Morton, Schmid, Yeh

CLOSED SESSION

City Attorney Gary Baum noted for the record that the concern received from Herb Borock via e-mail received on April 28, 2008 regarding the City Manager and the City Attorney attending the closed session on Agenda Item Number 1 were unfounded. The City Manager and the City Attorney may participate in the closed session as they are not members of the Unrepresented Employee Group Management & Professional Employees.

1. CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (Frank Benest, Emily Harrison, Lalo Perez, Russ Carlsen, Sandra Blanch, Lynne Johnson, Darrell Murray).

Employee Organization: Unrepresented Employee Group Management & Professional Employees

Authority: Government Code section 54957.6(a)

2. CONFERENCE WITH CITY ATTORNEY -- EXISTING LITIGATION

Subject: Silvio Obregon and Margarita Obregon v. The City of Palo Alto, et al.; Santa Clara County Superior Court, Case No.: 107CV087343

Authority: Government Code section 54956.9(a)

Council returned from the Closed Sessions at 6:40 p.m.

Mayor Klein advised no reportable actions were taken.

STUDY SESSION

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3. Presentation on the U.S. Green Building Council's (USGBC'S) Leadership in Energy and Environmental Design (LEED) Green Building Rating System for Commercial Buildings and Additional Information on Environmentally Preferred Purchasing and the Community Environmental Action Partnership.

Public Works Environmental Specialist and Sustainability Team Member, Julie Weiss, presented information about the City's new Environmental Purchasing Policy (EPP) and Plan, and 2007-08 EPP accomplishments. Julie discussed what EPP is, how it positively affects organizations financially, environmentally, and assists with risk avoidance. She discussed existing EPP efforts across several departments, and goals for next year which include rolling out a selection of newly "greened" contracts and products, annual reporting, and seeking opportunities to encourage vendors to reduce solid waste, hazardous waste, etc. associated with the City's purchases. Julie also discussed efforts underway to calculate the true cost of products factoring in environmental attributes (e.g., greenhouse gas emissions, solid waste, water pollutants) and savings from operational efficiencies which can offset potentially higher short-term costs for environmentally preferred products

Public Works Recycling Coordinator and Sustainability Team Member, Wendy Hediger, presented an update about the newly formed Community Environmental Action Partnership (CEAP). The CEAP is an outgrowth of both the Green Ribbon Task Force and the Climate Protection Plan. Its mission is to be a collaborative citywide initiative that engages the various segments of the Palo Alto community to identify opportunities and create and implement sustainable environmental solutions. The basic concept is to be inclusive, share knowledge, collaborate, innovate and act. The CEAP is a vehicle to create real change in the community, by the community. Wendy stated that there have been two highly productive meetings so far and the group has already finalized their mission, goals and structure and is starting to choose their actions. An interactive wiki website has been created in keeping with the CEAP's core value of collaboration and can be accessed at www.pa-ceap.org.

Chief Building Official Larry Perlin presented information about the LEED rating system developed by the U.S. Green Building Council. Specifically, he provided background information about LEED, where it is being used, the opportunities that exist both nationally and in Palo Alto to incorporate sustainable building practices into projects and the effects that buildings have on the environment. The various applications of LEED were then discussed and information about the different point thresholds and certification levels for new buildings was provided. He then provided a summary of the financial and other benefits of building green and incorporating LEED into the budgeting, programming, planning, design and construction of buildings. He then followed with a summary of two recent studies that examined the costs associated with applying LEED to achieve the different levels of certification. Lastly, he explained the status of the City's evolving Green Building Ordinance that is scheduled for Council review on May 12.

SPECIAL ORDERS OF THE DAY

4. California Municipal Utilities Association Award for PaloAlto**Green**.
5. Proclamation Commending the Great Work of Carroll Harrington, Margaret Suozzo and Walt Hays in Organizing Palo Alto Earth Month.
6. Proclamation Commending the Students of Addison Elementary School for Reducing Their Use of Plastic Bags.
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ORAL COMMUNICATIONS

Bryan Long, 1413 Dana Avenue, spoke regarding his support of the Climate Protection Plan.

Dan Mahoney, 2267 Tasso Street, spoke regarding his support for the Palo Alto Children's Theatre.

Suzan Stewart, 1550 Middlefield Road, spoke regarding her support for the Palo Alto Children's Theatre.

Phyllis Smith, 920 Boyce Avenue, spoke regarding her support for the Palo Alto Children's Theatre.

Kirsten Essenmacher, 1524 Channing Avenue, spoke regarding a petition she submitted requesting a Study Session on water.

Ralph King, 1084 Fife Avenue, spoke regarding his support for the Palo Alto Children's Theatre.

Louise Singleton, 141 Primrose Way, spoke regarding her support for the Children's Theatre.

Stephanie Munoz, 101 Alma Street, spoke regarding the employee's loyalty at the Palo Alto Children's Theatre.

John K. Abraham, 736 Ellsworth Place, spoke regarding the use of demographic data in the Palo Alto Police Department.

David Coale, 766 Josina Avenue, spoke regarding his support for the sustainability team funding.

Annie Bunton 658 Partridge Avenue, Menlo Park, introduced the newly elected SEIU Officers.

Robert Moss, 4010 Orme Street, spoke regarding Emily Harrison's work for the City.

Joanne Bogart, 883 Elbridge Way, spoke regarding her support for the Palo Alto Children's Theatre.

Jody and Catherine Davidson, spoke regarding toxic pollution in the City.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Council Member Barton, to approve the minutes of March 10, 2008 as submitted, and March 17, 2008 with noted corrections.

Mayor Klein and Council Member Kishimoto noted they would abstain from voting on the minutes of March 10, 2008 as they did not attend the meeting.

MOTION PASSED for March 10, 2008: 7-0, Kishimoto, Klein abstaining

MOTION PASSED for March 17, 2008 as corrected: 9-0

CONSENT CALENDAR

MOTION: Mayor Klein moved, seconded by Council Member Morton to move Consent Calendar Item No. 11 to become 13A.

MOTION: Council Member Schmid moved, seconded Council Member Kishimoto to move Consent Calendar Item No. 13 to become 13B.

MOTION: Council Member Yeh moved, seconded by Council Member Burt to move Consent Calendar Item No. 10 to become 13C.

MOTION: Council Member Barton moved, seconded by Council Member Morton to approve Consent Calendar Item Nos. 9 & 12.

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9. Approval of Two Contracts with 3Degrees Group, Inc. for (1) Electric Green Energy Program Services in an Amount Not to Exceed \$1,200,000 for a Term of Up to Five Years, and (2) for Natural Gas Green Energy Program Services in an Amount Not to Exceed \$250,000 for a Term of Up to Five Years

~~10. Approval of Solar Water Heating Incentive Program Services Contract with the Center for Sustainable Energy California in an Amount Not to Exceed \$730,000 for a Term of Up to Five Years~~

~~11. Approval of City Auditor Ideal Candidate Profile~~

4 12. Approval of an Access Agreement Between City of Palo Alto and Save San Francisco Bay Association (Save the Bay) to Permit the Use of Real Property in Order to Implement a Habitat Restoration Project at the Baylands (Byxbee Park)

4 ~~13. Recommendation to Refer Composting Feasibility Study Results and Consideration of an Election that Could Allow Composting to Continue on a Portion of the Landfill After Closure to the Policy and Services Committee~~

MOTION PASSED: 9-0

13A. (former No. 11) Approval of City Auditor Ideal Candidate Profile

MOTION: Mayor Klein moved, seconded by Council Member Morton to continue this item to May 5, 2008.

MOTION PASSED: 9-0

13B. (former No. 13) Recommendation to Refer Composting Feasibility Study Results and Consideration of an Election that Could Allow Composting to Continue on a Portion of the Landfill After Closure to the Policy and Services Committee.

Mayor Klein noted that Staff did not have a presentation and that he would go to the public for their comments.

Emily Renzel, 1056 Forest Avenue, stated this Item should be reviewed by the Parks and Recreation Commission (PARC) and the Planning and Transportation Commission (P&TC) before being referred to the Policy and Services Committee (P&S).

Walt Hays, 355 Parkside Drive, stated the existing Policy needed to be referred to the Policy and Services Committee (P&S) to evaluate the changes that have occurred in the environment since its original conception.

Enid Pearson stated the report was lacking the negative impact composting would have on the environment. She requested the Council not refer this Item to Policy and Services Committee (P&S).

Tom Jordan, 474 Churchill Avenue, requested the Council not refer this Item to Policy and Services Committee (P&S). He stated completing this project would eliminate over 100 acres of parkland and the upfront cost would be over \$1,000,000.

Ellie Gioumousis, 992 Loma Verde, stated previous Councils had unanimously opposed this Item and therefore the current Council should not re-open what was previously closed.

Stephanie Munoz, 101 Alma Street, considered composting a legitimate park function, recycling and composting are positive and healthy recreational efforts. She stated moving the composting facility would create more negative environmental impact with emissions necessary to transport the compost out and then returning upon its necessity.

Council Member Morton stated this Item needed to go to Policy and Services (P&S) for a full vetting and if after discussion it returned to the Council without a recommendation, then it should go to a vote of the people.

MOTION: Council Member Morton moved, seconded by Council Member Barton to refer composting feasibility study results and consideration of an election that could allow composting to continue on a portion of the landfill after closure to the Policy and Services Committee.

Council Member Barton stated the question before Council was not the Policy, it was whether or not to send it to Policy and Services Committee (P&S) for review.

Council Member Kishimoto stated the Motion was inappropriate at this time. Staff was to return to Council in July 2008 with all of the pieces complete. To refer this at present would be premature.

SUBSTITUTE MOTION: Council Member Kishimoto moved, seconded by Council Member Schmid that the Council continue this item until Council may review the Baylands Master Plan.

Chief of Planning and Transportation Julie Caporgno stated the Baylands Master plan would return to the Council in September 2008.

Mayor Klein clarified the Motion was to continue this item until September of 2008.

INCORPORATED INTO THE SUBSTITUTE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the Item go through the Planning and Transportation Commission for Site and Design and the other appropriate Commissions prior to returning to the Council in September.

Ms. Caporgno stated the Commissions had been scheduled to review the plan prior to September.

Council Member Burt asked whether the intention of the Substitute Motion was for the Council to receive recommendations from the appropriate Commissions prior to their review of the completed plan.

Council Member Kishimoto stated yes.

Vice Mayor Drekmeier stated the City's goal was a five percent reduction in greenhouse gases by 2009. Transporting our waste to another facility would deposit 2.4 million pounds of carbon dioxide each year into the atmosphere. He stated he supported the original Motion.

Council Member Espinosa stated he supported the Substitute Motion.

Council Member Morton stated he supported the Original Motion.

Council Member Burt stated he supported the Substitute Motion

Mayor Klein stated he supported the Substitute Motion.

SUBSTITUTE MOTION PASSED: 6-3, Morton, Barton, Drekmeier no

13C. (former No. 10) Approval of Solar Water Heating Incentive Program Services Contract with the Center for Sustainable Energy California in an Amount Not to Exceed \$730,000 for a Term of Up to Five Years.

Council Member Yeh stated he pulled this item to inquire whether this program was an unfunded State mandate.

City Attorney Gary Baum stated there was no local State mandate.

Council Member Yeh asked what justification existed from the City's perspective for this action.

Director of Utilities Valerie Fong stated Assembly Bill 1470 would require the governing body of each publicly owned utility providing gas service to retail end use gas customers to adopt, implement, and finance a solar hot water system program.

Council Member Yeh asked whether the State fund had any sources of revenues other than IOU's. He asked whether she was sure that the City was not missing out on receiving subsidies.

City Attorney Gary Baum stated Palo Alto did not currently have access to the California Solar initiative, however they could approach the Legislature for additional legislation that would allow the City access.

MOTION: Council Member Yeh moved, seconded by Council Member Kishimoto to approve staff recommendations to; 1) Approve and authorize the City Manager to execute the attached contract with the Center for Sustainable Energy California for Solar Water Heating Incentive Program services; 2) Authorize the City Manager to extend the contract annually for up to four additional years, subject to Council approval of sufficient funds; and to request staff to research potential to receive State funds for this program.

Council Member Morton stated there were two funding sources for this program, publicly owned and investor owned. Palo Alto has asked the legislature to review our special needs so our municipal customers could have parallel legislation.

SUBSTITUTE MOTION: Council Member Morton moved to approve Staff recommendations to; 1) Approve and authorize the City Manager to execute the attached contract with the Center for Sustainable Energy California for Solar Water Heating Incentive Program services; 2) Authorize the City Manager to extend the contract annually for up to four additional years, subject to Council approval of sufficient funds.

Motion Failed for Lack of Second

Council Member Yeh stated he would agree with Council Member Morton's discussion except Staff had not been able to definitively state that the California Solar Initiative was solely funded by revenue from IOU's.

Original Motion Withdrawn by Council Member Yeh

MOTION: Council Member Morton moved, seconded by Mayor Klein to approve staff recommendations to; 1) Approve and authorize the City Manager to execute the attached contract with the Center for Sustainable Energy California for Solar Water Heating Incentive Program services; 2) Authorize the City Manager to extend the contract annually for up to four additional years, subject to Council approval of sufficient funds.

Council Member Morton stated he would like to see solar products mandated for certain items such as pools.

MOTION PASSED: 9-0

PUBLIC HEARINGS

- 4** 14. Approval of Record of Land Use Action for Site and Design Review to Allow the Construction of a 3,600 Square Foot Ultraviolet Disinfection Facility to Replace the Existing System, and the Adoption of a **Resolution 8812** stating, "Resolution of the Council of the City of Palo Alto Approving the Negative Declaration for the UV Disinfection Facility for the Palo Alto Regional Water Quality Control Plant at 2501 Embarcadero Way".

Chief of Planning and Transportation Julie Caporgno stated the project was reviewed and recommended for approval by Planning & Transportation Commission and the Architectural Review Board.

Public hearing opened and closed with no speakers at 10:37 p.m.

MOTION: Council Member Morton moved, seconded by Vice Mayor Drekmeier to accept Staff's recommendation to adopt a Resolution to approve the Negative Declaration and the application for Site and Design Review for a new ultraviolet wastewater treatment facility, based on the findings and draft conditions of approval in the Record of Land Use Action.

Vice Mayor Drekmeier asked about the recycled water protection capacity at four million gallons per day; was that amount the total amount being recycled or the amount being recycled after release into the Bay.

Manager of Environment Compliance Phil Bobel stated all the water was treated at close to the same level; the bulk of the 25 million gallons went to the Bay. Roughly one million gallons per day went through additional steps (considered recycled water) to be used for the golf course, Greer Park and other park uses.

Vice Mayor Drekmeier asked how much will go to Mountain View when the pipeline was completed.

Mr. Bobel stated the amount would more than double.

Vice Mayor Drekmeier asked why the report stated only four million gallons per day.

Mr. Bobel stated that it referred to the capacity flow not the actual use amounts.

Council Member Kishimoto asked whether the UV disinfection process would replace the chlorine disinfection process.

Mr. Bobel stated yes.

Council Member Schmid asked whether there would be a vote to transfer funding from reserves to fund this project.

Mr. Bobel stated no, the action required was a Site and Design approval.

Council Member Burt asked whether the additionally proposed Tuolumne River diversion was 25 million gallons per day.

Mr. Bobel stated yes.

Council Member Burt asked whether the additional water being diverted to Mountain View would more than offset the additional demand that Palo Alto would have on the Tuolumne River Diversion.

Mr. Bobel stated the water being treated was Mountain Views' share. Palo Alto was under contract to treat it then return it to Mountain View.

Council Member Burt asked whether the removal of the chlorine disinfection plant would liberate potential land use.

Mr. Bobel stated there were plans in place to reuse the existing chlorine facilities for the UV process.

Council Member Burt asked whether the chlorine tank could be used for treated water.

Mr. Bobel stated yes.

Mayor Klein stated there had not been a decision made on the additional diversion for the Tuolumne River. The Final EIR decision will be made later on in the year.

MOTION PASSED: 9-0

REPORTS OF OFFICIALS

- 4** 15. Staff Recommendation for Council Direction on a Three Month Study Regarding a Single-Use Plastic Bag Reduction Program Incorporating the Increased Use of Reusable Bags.

Council Member Morton confirmed Staff would return to Council with results from a three months study on the progress of plastic bag reduction.

Manager of Environment Compliance Phil Bobel stated yes, at present time they were at the end of the first month.

Council Member Schmid asked for a definition of checkout bag. The report defines the acceptability of plastic bags in the produce or meats department.

Mr. Bobel stated the definition of check-out was the final departure from the store.

Council Member Schmid asked whether the Task Force included members from other surrounding Cities.

Mr. Bobel stated no, the Task Force and stores were limited to Palo Alto.

Council Member Schmid stated in terms of the impact on the environment, would it not be beneficial to make a regional change.

Mr. Bobel stated there was coordination of other Cities in the Santa Clara County.

Carroll Harrington, 830 Melville Avenue, urged the Council to change the timeline to May, June, and July in order to develop and implement a successful campaign.

Ryan Kenny, 1121 L Street, Sacramento, expressed excitement of the progress made by the Task Force and urged Council to approve the recommendations.

City Attorney Gary Baum stated the Council needed to consider the risk involved with continuing the process with a Negative Declaration or the cost for a Full EIR to prevent a possible lawsuit with the California Environmental Quality Act (CEQA).

Mayor Klein stated the merits were not being considered.

Vice Mayor Drekmeier stated the question was not plastic or paper it was reusable and how to get to that point. He stated the goal was to reduce, reuse, and recycle.

MOTION: Vice Mayor Drekmeier moved, seconded by Council Member Barton to accept Staff's recommendation to 1) work with supermarket and pharmacy representatives during April, May, and June 2008 to develop a single-use plastic bag reduction program incorporating the increased use of

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reusable bags; and 2) return to Council as soon as practical after June 30, 2008 with recommendations for a comprehensive program and ordinance incorporating those recommendations.

Council Member Burt asked whether the plastic bags containing newsprint had been considered as part of this reduction process.

Mr. Bobel stated the issue of all plastic bags was being considered, but at this point the beginning of the process was store bags.

Council Member Burt asked if it could be mandated to reduce the newsprint bags to one per paper from two.

Mr. Bobel stated he would review this concept.

Mayor Klein asked whether the timeline of three months was too short.

Mr. Bobel stated the goal was to complete the process in the timeframe stated in the report, with the Council break in August the return date would be September.

Council Member Morton stated the expectancy of a lawsuit was inevitable; the plastic bag corporations were not likely to give in.

Council Member Kishimoto supported the idea of charging for the use of the bags.

MOTION PASSED: 9-0

ORDINANCES AND RESOLUTIONS

- 4.** 16. Adoption of an Ordinance Adding Chapter 16.12 (Recycled Water) to Title 16 of the Municipal Code to Require the Use of Recycled Water for Irrigation, Toilet and Urinal Flushing and Trap Priming.

Manager of Environment Compliance Phil Bobel presented a chart regarding recycled water for viewing by Council.

Robert Moss, 4010 Orme Street, stated this project had been attempted in previous years with success until the residents of the complex were informed they were drinking recycled water. The firm occupying the facility insisted it be re-plumbed for regular water.

Vice Mayor Drekmeier requested staff to look into the feasibility of coordinating the work to open the street only one time.

MOTION: Vice Mayor Drekmeier moved, seconded by Council Member Espinosa to accept Staff's recommendation to adopt the proposed Ordinance to promote the use of recycled water and move toward a fully sustainable water supply system in California.

Council Member Morton stated the recommendation was the first step in preventing future water problems.

MOTION PASSED: 9-0

MOTION: Vice Mayor Drekmeier moved, seconded by Council Member Morton to direct Staff to examine the feasibility of installing the appropriate recycled water piping as part of other trenching projects within the City.

MOTION PASSED: 9-0

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Yeh reported that he and several members of Staff attended the annual lobbying trip of the Northern California Power Agency in Washington, D.C.

Council Member Kishimoto reported she attended a Santa Clara County VTA workshop this past week and there is a board meeting coming up this week.

Council Member Espinosa reported that the Media Center Board is looking for a new board member.

Vice Mayor Drekmeier spoke regarding the presentation by Hunter Lovins held in the Council Chambers. He also spoke about the Green Light Film Festival, co-sponsored by the City and the Media Center. He advised that May 15, 2008 is Bike-to-Work day. Last week the San Francisquito JPA requested the Santa Clara Valley Water District Board advance 3.5 million dollars to continue the feasibility study for the San Francisquito Creek. The board moves to allow Staff to begin negotiations on that. He also attended the Santa Clara Valley Water Commission last week. He also attended the JPA Board meeting on Thursday; Stanford gave a presentation on their habitat conservation plan.

Council Member Morton advised that he has been reappointed to the Airport Land Use Commission, and the Palo Alto Airport Comprehensive Land Use Plan will come to the Council this summer. It requires a public hearing and approval to be adopted.

Mayor Klein advised that he spoke to the Green Meadow Residents Association regarding the possible Library Bond issue for November 2008. There are several other outreach sessions planned over the next several weeks. He spoke about his trip to China this past week at the invitation of the United Nations Industrial Development Organization.

ADJOURNMENT: The meeting was adjourned at 11:31 p.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.