

Special Meeting
July 09, 2007

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:05 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein (arrived at 6:45 p.m.), Kleinberg (arrived at 6:30 p.m.), Morton

Absent: Mossar

STUDY SESSION

1. Joint Meeting with the Utilities Advisory Commission (UAC) Regarding Utility Issues

Council Member Cordell stated she would not participate in the discussion with the emergency water supply due to a conflict of interest because she is employed by Stanford University.

Vice Mayor Klein stated he could not participate in the discussion of emergency water supply due to a conflict of interest because his wife was employed by Stanford University.

Council Member Kleinberg stated she could not participate in the discussion of the emergency water supply due to a conflict of interest because her residence is located within 500 feet of the reservoir.

Utilities Advisory Commission (UAC) Chair John Melton noted later in the evening the Council would be considering the adoption of a resolution placing an advisory measure on the November ballot asking voters whether an area under El Camino Park should be used for an underground water storage reservoir, as part of the proposed emergency water supply project for the City. Chair Melton, along with UAC Commissioners George Bechtel and Dexter Dawes noted the UAC's support of the resolution and the proposed emergency water supply project, and asked the Council to take action to support the measure. The Council indicated the need to ensure the community is educated on the importance of the project and understands the project is not just for Stanford.

Council Member Beecham advised the City should provide some background on the need for and nature of the project to address a safety issue. He emphasized the need for both an educational and political campaign. The UAC Commissioners also asked the Council to direct staff to prepare and share information on the subject with the public for purposes of ensuring the public can make an informed decision. The Council agreed to take the UAC's recommendations.

The Council and UAC discussed the need for staff to hold more public workshops and to communicate with customers through vehicles such as bill inserts, frequently asked questions posted on the website, and visits to the media, the issues of rate increases, drought impacts on rates including any water rationing messages, use of utilities funds, conservation programs/efforts, and the benefits of conserving to reduce bills. More specifically, Chair Melton noted the need to inform the public of why costs are increasing and the purposes for which Utilities funds are used.

Council Member Kleinberg suggested the UAC consider changing its title to the "Resources Allocation Commission" to show a focus on conservation and support of the environment. It was also suggested that bill comparisons be posted on the web site year-round and not just when rates are adjusted. It was agreed that one message to consumers should be that Utilities can offer help on how homes and businesses can save money and conserve resources.

No action required.

ORAL COMMUNICATIONS

None.

ADJOURNMENT: 6:45 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:03 p.m.

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

Mayor Kishimoto announced Item No. 19 would be moved forward to become Item No. 11A.

ORAL COMMUNICATIONS

Mark Petersen-Perez, Addison Avenue, requested the placement of a police investigative unit in the Police Department.

Sid Espinosa applauded the Community Art Program.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Mossar, to adopt the minutes of May 14, 2007, with corrections as noted, May 21, 2007 and June 04, 2007, as submitted.

MOTION PASSED 9-0.

CONSENT CALENDAR

Gerard Wu, President Adobe Meadow Neighborhood Association, requested more notice to the communities affected by park improvements.

Council Member Beecham said he would vote no on Item No. 2.

Council Member Morton said he would not participate in Item No. 1 due to a conflict of interest because of family holdings in telecommunications and similar organizations.

Council Member Mossar said she would not participate in Item No. 1 due to a conflict of interest because of family holdings in SBC and Comcast.

Vice Mayor Klein stated he would not participate in Item No. 4 due to a conflict of interest because his wife was employed by Stanford University.

Council Member Mossar noted she did not participate in the Study Session because she was conflicted on the discussion regarding emergency water supply because her husband is employed by Stanford University, and the discussion about undergrounding pertaining to AT&T and Comcast as her family has holdings in AT&T and Comcast. She also said she would vote no on Item No. 2.

Council Member Cordell said she would not participate in Item No. 4 due to a conflict of interest because she was employed by Stanford University.

MOTION: Council Member Morton moved, seconded by Barton, to approve Consent Calendar Items 1 through 11.

1. Ordinance 4959 entitled "Ordinance of the Council of the City of Palo Alto, Amending Section 18.76.020 of Chapter 18.76 and Sections 18.77.020, 18.77.060 and 18.77.070 of Chapter 18.77 of Title 18 of the Palo Alto Municipal Code to Conform the Palo Alto Municipal Code to the California Digital Infrastructure and Video Competition Act of 2006"
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6. Approval of Contracts with Bond Blacktop, Inc., in the Amount of \$556,812 for Phase I and with C.F. Archibald Paving, Inc. in the Amount of \$2,101,185 for Phase II of the 2007 Street Maintenance Program, Capital Improvement Program Project PE-86070

7. Approval of a Letter of Intent with the Palo Alto Art Center Foundation to Renovate and Expand the Palo Alto Art Center and Upgrade Associated Infrastructure (Capital Improvement Program Project PF-07000)
8. Approval of a Utilities Enterprise Fund Contract with Power Engineers, Inc. in the Amount of \$267,422 for the 230kV Electric Transmission Interconnection Study Phase II and \$26,742 for Unforeseen Additional Services
9. Approval of Utilities Enterprise Fund Contracts with Navigant Consulting, Inc. for Electric Regulatory and Technical Consulting for a Total Amount of \$325,000; with Navigant Consulting, Inc. for Gas Regulatory and Technical Consulting for a Total Amount of \$325,000; and Flynn Resource Consulting, Inc. for Electric Regulatory and Technical Consulting for a Total Amount of \$150,000 for Fiscal Years FY 2007-08, FY 2008-09 and FY 2009-10
10. Ordinance 4960 entitled "Ordinance of the Council of the City of Palo Alto, Amending the Budget for the Fiscal Year 2007-08 to Accept a Donation from the Friends of Heritage Park, LLC in the Amount of \$192,572 and to Provide an Additional Corresponding Appropriation to the Capital Improvement Program (CIP) Project PG-07000, Heritage Park Playground Public/Private Partnership Project"
11. 1st Reading - Adoption of a Park Improvement Ordinance Approving and Adopting Plans for Improvements to Don Jesus Ramos Park, and Approval of a Contract with Pacheco Brothers Gardening, Incorporated in the Amount of \$418,900 for Construction of Don Jesus Ramos Park Improvements - Capital Improvement Program Project PE-07003

MOTION PASSED 9-0 for Items 3 and 5 through 11.

MOTION PASSED 7-0 for Item 1, Morton, Mossar not participating.

MOTION PASSED 6-3 for Item 2, Beecham, Klein, Mossar no

MOTION PASSED 6-0 for Item 4, Cordell, Klein, Mossar not participating

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 11A. (Old Item 19) Colleague's Memo from Council Members Kleinberg and Cordell Request for Funding for Fire Station No. 8 for summer 2007

City Manager Frank Benest said the meeting with the Firefighter's Union regarding staffing Fire Station 8 without overtime had been scheduled for July 13, 2007.

Fire Chief Nick Marinaro said determination of high fire days was by temperature, wind speed, humidity, fuel temperature, and fuel moisture. These measures were calculated by a computer system that determined the burn index.

Director of Open Space Greg Betts advised there were fire breaks in the parks throughout the City. Foothill Park had a roving fire patrol and the Park Rangers were trained in wildland fires.

Council Member Morton asked whether the support from the County Fire Department was automatic and what the response time was.

Chief Marinaro stated County Fire automatically sent resources with a 10 minutes response time.

Vice Mayor Klein asked how the fuel load was quantified and a description of high fire days.

Chief Marinaro said the fuel load could be quantified by a fire behavioral specialist and the higher the burn index the greater potential to spread.

Vice Mayor Klein asked for statistics on low vs. high fire days.

Chief Marinaro stated fires occur more frequently on high fire days.

Vice Mayor Klein asked whether staffing levels were discussed with the Fire Union during negotiations.

Mr. Benest said the Union was clear on not discussing minimum staffing levels.

Council Member Cordell asked which fire precautions had been in effect the longest and which had been implemented solely for this season.

Mr. Betts stated the closures of Encinal and Pine Gulch Parks and the posting at Foothill Park were unique this season.

Council Member Cordell asked for an explanation on the panoramic cameras.

Chief Marinaro said an upgraded panoramic camera had been installed recently at Fire Station 8.

Council Member Cordell asked the timeline for the camera's operations.

Chief Marinaro said it was on line 24 hours per day, 365 days per year.

Council Member Cordell asked whether the camera was operated without staffing at Fire station 8.

Chief Marinaro said yes.

Mr. Benest advised the camera was monitored through Dispatch 24 hours per day, 365 days per year.

Council Member Kleinberg asked how often Dispatch focused on the camera.

Mr. Benest said the camera was not viewed constantly. Staff monitored the camera as part of their routine.

Council Member Kleinberg inquired on the response time for residential areas.

Chief Marinaro said on average the response time would be 8 to 12 minutes.

Council Member Kleinberg asked for the worse case scenario during rush hour.

Chief Marinaro said approximately 15 minutes.

Council Member Kleinberg asked whether time travels had been performed.

Chief Marinaro said no; there were district drills and familiarizations.

Council Member Kleinberg inquired on the number of fires on high danger days over the past ten years.

Chief Marinaro said the number of fires was small compared to the call volume.

Council Member Kleinberg asked whether the two recent fires at the "dish" were on high fire days.

Chief Marinaro said the second fire occurred on a high fire day.

Council Member Kleinberg asked the number of acres of the "dish" burned on the low fire day.

Chief Marinaro said 171 acres were burned.

Council Member Morton asked for the travel time from Station 8 to the "dish."

Chief Marinaro said it was approximately 8 to 10 minutes.

Mayor Kishimoto asked why the first fire at the "dish" was not considered a high fire danger day.

Chief Marinaro stated the burn index had not exceeded 60.

Mayor Kishimoto asked where the City was with standards of coverage for allocating limited resources for Station 8.

Mr. Benest said the study had not been undertaken.

Mayor Kishimoto asked whether the Union was resistant to prevent less coverage elsewhere throughout the City.

Mr. Benest said the Fire and City Management believed cross-staffing was rational and the Fire Union did not concur.

Council Member Morton asked whether mediation was an option for coming to a compromise with the Union.

Mr. Benest said there was a minimum staffing provision in the contract. If Station 8 was opened the minimum level of staffing required to be increased by two.

Council Member Kleinberg asked whether there was a policy in place that required overtime for staff specifically for Station 8.

Chief Marinaro said the contract states when Station 8 was open, minimum staffing increased by two and had been staffed with overtime personnel.

Council Member Kleinberg asked whether there was a rule stating it was required.

Mr. Benest said no.

Chief Marinaro stated each year the Fire Department was polled for interest in staffing Station 8. The overtime cost was to backfill staff at any Station when the number dropped below 31.

Mayor Kishimoto said Los Altos Hills offered to provide a sum of money to the City in exchange for the use of Foothill Park to Los Altos Hills residents.

MOTION: Council Member Kleinberg moved, seconded by Cordell, to authorize the use of up to \$140,000 from the Council Contingency Fund to cover the costs to staff Fire Station #8 in the Palo Alto foothills through the summer season.

Jan Terry, 925 Laurel Glen Drive, recommended turning the fire protection west of Highway 280 over to the County.

Chris Catlin, 3106 Bandera Drive, requested the Council vote to protect the community.

Bill Terry, 925 Laurel Glen, recommended to staff Station 8.

Mark Nadim, 2927 Alexis Drive, noted his disappointment in the length of time it took to meet with the Union.

Wayne Martin, 3687 Bryant, recommended video streaming cameras for constant viewing.

William D. Ross, 2103I Amherst St., recommended permanent funding for Fire protection.

Tony Spitaleri said the issue was about public safety.

Richard Placone said the foothills area was in danger of becoming another Oakland Hills fire.

Daniel Dulitz, 3995 Page Mill Road, recommended analyzing the burn index to be sure it is being used properly.

Amy Chan, 938 Laurel Glen Dr., requested the Council look toward the future for a long term solution on fire protection.

David Hopkins, 920 Laurel Glen Dr., supported the Colleagues Memo.

Cathy Cartmell, 4001 Page Mill Road, recommended finding a long-term plan for fire protection.

David Ditzel, 4010 Page Mill Road, said response time was the main issue.

Robert Moss, 4010 Orme Street, recommended researching a long-term solution to maintain Station 8.

Herb Borock, P.O. Box 632, said the minimum staffing levels omitted mention of a firefighter from Los Altos and the two from the second paramedic unit.

Richard Geiger, 714 E. Charleston Road, recommended the City work with Open Space to build a permanent, staffed Station in the upper regions.

Sean Lanthier said surrounding areas increase their staff during the summer season and have one Station fully staffed 365 days.

Breene Kerr, Council Member Town of Los Altos Hills, suggested a mutually beneficial agreement between the two Cities for cost sharing.

Annette Ross, 2103 Amherst St., recommended the Council fund Station 8.

Council Member Kleinberg said that recent events have demonstrated the importance of staffing Station 8.

Council Member Cordell stated the staffing of Station 8 represented public safety and disaster preparedness; both are mandates of the Council.

SUBSTITUTE MOTION: Council Member Barton moved, seconded by Beecham, to Table this item until after staff has met with the International Association of Fire Fighters (IAFF).

Council Member Beecham said the City Manager had been directed to Meet and Confer with the Fire Union which was scheduled for July 13, 2007. Therefore, he supported the Motion.

Council Member Morton supported the Motion to defer until after meeting with the Union.

Council Member Kleinberg did not support deferring the discussion.

Council Member Cordell did not support deferring the discussion.

Mayor Kishimoto asked when the Motion would return to the Council.

Council Member Barton stated the return date would be based on the negotiation timeframe.

Mr. Benest said he would report the status of the discussion with the Fire Union on Monday, July 16, 2007.

Assistant City Manager Emily Harrison said there was room on the calendar for the continued discussion on July 16, 2007.

Mayor Kishimoto supported the Motion to continue to a date certain of July 16, 2007.

SUBSTITUTE MOTION RESTATED: Council Member Barton moved, seconded by Beecham, to continue this item until Monday, July 16, 2007.

Council Member Kleinberg clarified staff was to Meet and Confer with the Union in either situation.

Mayor Kishimoto said the discussion with the Union needed to include the Los Altos Hills offer.

AMENDMENT TO SUBSTITUTE MOTION: Council Member Drekmeier moved, seconded by Kishimoto, to staff Fire Station 8 until Monday, July 16, 2007.

Council Member Kleinberg asked where the funding would be taken from.

Mr. Benest said the Fire Department would fund the staffing and if a mid-year amendment was required, that would be done at that time.

AMENDMENT TO SUBSTITUTE MOTION FAILED 4-5 Barton, Drekmeier, Kishimoto, Klein yes.

SUBSTITUTE MOTION RESTATED PASSED 6-3 Cordell, Drekmeier, Kleinberg no.

MOTION: Council Member Cordell moved, seconded by Klein, to reconsider the Amendment to the Substitute Motion to fully staff Station 8 until the matter returns to the Council.

MOTION PASSED 5-4 Barton, Beecham, Morton, Mossar no

AMENDMENT TO SUBSTITUTE MOTION: Council Member Drekmeier moved, seconded by Kishimoto, to staff Fire Station 8 until Monday, July 16, 2007.

AMENDMENT TO SUBSTITUTE MOTION PASSED 6-3 Barton, Beecham, Mossar no.

UNFINISHED BUSINESS

12. Request for Council Direction Concerning Citywide Ultra-High-Speed Broadband System Negotiations

Council Member Kleinberg said she would not participate in the item due to a conflict of interest because her employer is funded by Google, which would appear as a conflict.

Council Member Morton said he would not participate in the item due to a conflict of interest because of family holdings in SBC and Comcast.

Council Member Mossar said she would not participate in the item due to a conflict of interest because of family holdings in SBC and Comcast.

Deputy Director of Administrative Services Joe Saccio stated 180 Connect heard Council concerns from the June 18, 2007 meeting. The response from 180 Connect was put at places for tonight's meeting.

City Auditor Sharon Erickson identified three recommendations to mitigate serious risks.

Council Member Drekmeier said 180 Connect had dropped the \$30,000 they had previously requested for the business plan.

Mr. Saccio said yes.

Council Member Drekmeier said the \$65,000 request was still required.

Mr. Saccio said yes.

Council Member Cordell asked whether the response adequately addressed the City Auditor's concerns.

Ms. Erickson stated her concerns were met by the 180 Connect responses.

Council Member Cordell felt unsettled by receiving the response at such a short time.

Council Member Drekmeier asked what the consortium would do if 180 Connect folded prior the completion of the business plan.

Ron Ivy, 180 Connect, said the primary focus was to look at a business plan to create a financial model for the project to move forward.

Steve Westberg, 180 Connect, said his role was working on advancing the company which is on the cusp of a radical strength in the company's balance sheet.

Mayor Kishimoto asked whether it was a cash investment.

Mr. Westberg advised it was a \$42,000,000 commitment and completion was expected August 15, 2007.

Mayor Kishimoto asked whether there was a back-up situation.

Mr. Westberg said there were secondary investments lined-up with a slightly different structure with the same capitalization.

Mayor Kishimoto asked whether the consortium could move forward without 180 Connect.

Mr. Ivy stated there were multiple partners in the consortium working together, so that in the event one partner drops out, there would be a secondary to complete the business plan.

Council Member Cordell asked for clarification on the information in the resume provided by Mr. Jones.

Thomas Jones said he received his Bachelors of Science of Civil Engineering from California State University in 1992.

Council Member Cordell asked for his comments on the e-mail submitted by the City Auditor.

Mr. Jones said there was a misunderstanding with the dependency on Direct TV. 180 Connect was a public company and had the ability to work with multiple companies at any given time. As far as the finances are concerned, Steve Westberg was in attendance to answer those questions.

Council Member Cordell asked whether he disagreed with the findings or not.

Mr. Jones said he disagreed with the layout of the findings.

Bill Terry, 925 Laurel Glen Drive, said if the broadband network was not available to cover the entire city; it should not be referred to as "citywide."

Wayne Martin, 3687 Bryant, did not support the broadband movement at this time.

MOTION: Council Member Beecham moved, seconded by Klein, to direct staff concerning the Citywide Ultra-High-Speed Broadband system project, based upon one of the two options below:

- 1) Confirm the City's commitment to proceed with the project given that the City's financial commitment to the project to:
 - a) Direct 180 Connect Network Services, Inc. to develop a business plan at its own expense; and
 - b) Authorize the use of \$65,000 in Council Contingency funds to hire legal, financial and telecommunications consultants to support the City's role in the development of the business plan.

Mr. Saccio said staff would meet weekly for follow-up.

Council Member Cordell asked what the \$65,000 was funding.

Director of Administrative Services Carl Yeats said the funding was to support staffs' efforts towards the completion of the business plan and other areas of the broadband movement.

Council Member Cordell asked whether there were other companies under consideration besides 180 Connect.

Mr. Yeats commented that 180 Connect was the sole company at this time.

Council Member Cordell asked the fund source for the \$65,000.

Mr. Yeats said it would be taken from the Council Contingency Fund.

Council Member Cordell said she did not support expending funds for this effort.

Mayor Kishimoto stated her support to move forward.

MOTION PASSED 5-1, Cordell no, Kleinberg, Morton, Mossar not participating.

REPORTS OF COMMITTEES AND COMMISSIONS

13. From Finance Committee: Request to Increase the City's Transient Occupancy Tax

Resolution 8732 entitled "Resolution of the Council of the City of Palo Alto, Submitting to the Qualified Electors of the City at the November 6, 2007, General Municipal Election a Measure Related to the City's Transient Occupancy Tax (TOT) which would increase the TOT from 10% to 12%"

Council Member Morton noted the surrounding areas currently had higher TOT's than Palo Alto and he did not feel an increase of such a small amount would deter visitors to the City.

Director of Administrative Services Carl Yeats said the recommendation for the TOT increase was to generate revenue.

Vice Mayor Klein asked why the language recommended by the Finance Committee to collect from the larger travel companies was deleted.

City Attorney Gary Baum stated there was ongoing litigation involving certain travel companies. Therefore, to avoid involvement, the language was deleted after strong consideration.

Mr. Yeats said the existing language was clear. They should be collecting and remitting the tax based upon what they collect.

Lee Wieder, Chamber of Commerce, opposed the TOT increase.

Robin Kennedy asked questions about the likely effect of the hotel/motel closures due to lack of reservations because of the increased TOT.

Jim Rebosio, 1830 Kentucky St., Redwood City, said there had been no questioning of the major hotels in the area regarding the affect on the financial income of hotels.

Sherry Bijon, Palo Alto Downtown Association, said raising the TOT may impact the revenues of other facilities such as, restaurants and retail due to lack of visitors.

Chop Keenan, Keenan Land Company, said land use was as important as tax revenue.

Hemant Mistry, 4164 El Camino Real, opposed the increase in TOT.

Manny Patel, 3339 El Camino Real, recommended a study of local hotel rates and occupancies in combination with economic performances.

Stephanie Wanasek, Cardinal Hotel, recommended the Council review the economic study performed in 2002.

Barbara Pressman, 531 Stanford Avenue, supported the hotels in the area.

Barbara Gross, Center Drive, shared concern with the City's budget shortfall.

Herb Borock, P.O. Box 632, said the recommendation from staff was not the recommendation from the Committee.

Bob Moss, 4010 Orme, said visitors cared more about the distance to what they were visiting not the TOT.

Mr. Benest advised there had been discussions with numerous hotel representatives.

MOTION: Council Member Morton moved, seconded by Klein, to approve the Finance Committee's recommendation to:

- Authorize the placement of a ballot measure on the November 6, 2007 general election to increase the City's Transient Occupancy Tax (TOT) from 10 to 12 percent and approve Staff recommendations to:
- Adopt the resolution approving the ballot question language and directing the City Attorney to prepare an impartial analysis.
- Designate up to four council members to author the argument in favor of the measure.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to authorize the Mayor to designate up to four Council Members to author the argument in favor of the measure.

Vice Mayor Klein said he did not expect to see a decrease in the hotel occupancy in the City due to a two percent increase in the TOT.

Council Member Beecham clarified his position in support of the business community.

Council Member Barton supported the TOT.

Mr. Benest noted he had met with Chamber Director, Jim Rebosio, and several other members of the business community.

Council Member Kleinberg asked whether the TOT Task Force was involved in these conversations.

Mr. Benest said he was uncertain whether the TOT Task Force was involved.

Council Member Kleinberg said she would like to have specific information to discount the allegation that hotels were not contacted.

Mr. Yeats said there had been a survey of Cities, and the Palo Alto businesses were contacted as well as the local hotels.

Council Member Kleinberg asked whether the staff person contacted the General Manager of the hotels to discuss the TOT increase.

Mr. Yeats said he was uncertain.

Council Member Kleinberg asked about the use of the increased TOT to return to the hospitality industry.

Mr. Benest said the TOT increase was a General Tax, which required a fifty-one percent vote, and was not designated for a specific service.

Council Member Cordell commented she supported the Motion.

Mayor Kishimoto said she supported the Motion.

MOTION PASSED 9-0.

Council Member Mossar asked to move Item No. 15 to a date uncertain.

MOTION: Council Member Mossar moved, seconded by Kleinberg, to continue Item No. 15, Acceptance of Audit of Library Operations.

Council Member Morton asked for Item No. 15 to be moved to July 16, 2007.

Assistant City Manager Emily Harrison said key staff would not be available during that meeting and Item No. 15 would be moved to September.

Council Member Cordell commented the item was important and the community should be available to speak.

MOTION PASSED: 9-0.

ORDINANCES AND RESOLUTIONS

14. Resolution 8733 entitled "Resolution of the Council of the City of Palo Alto Calling a Special Election for November 6, 2007 for Submittal to the Qualified Electors of the City an Advisory Measure Related to the Use of El Camino Park for the Placement of an Underground Emergency Water Storage Reservoir and Well and the Replacement of the Existing Above-Ground Pump Station and Ordering Consolidation"

Council Member Cordell said she would not participate in the item due to a conflict of interest because she was employed by Stanford University.

Vice Mayor Klein said he would not participate in the item due to a conflict of interest because his wife was employed by Stanford University.

Council Member Kleinberg said she would not participate in the item due to a conflict of interest because her residence is located within 500 feet of the reservoir.

Council Member Mossar said she would not participate in the item due to a conflict of interest because her husband was employed by Stanford University.

MOTION: Council Member Morton moved, seconded by Beecham, to approve the Resolution, to have the Mayor appoint four Council Members to author the argument in favor of the measure.

Council Member Beecham requested a change to the Draft Ordinance language on Page 2, 4th line, to change to Modern from State of the Art.

City Attorney Gary Baum said the correction would be made.

MOTION PASSED 5-0, Cordell, Klein, Kleinberg, Mossar not participating.

PUBLIC HEARINGS

16. PUBLIC HEARING: Approval of a Record of Land Use Action and Request for a Tentative Map of "Park Plaza" for Condominium Purposes to Merge Three Parcels into One Parcel to Allow for Legal Separation of Ownership for 84 Residential Condominium Units on the Upper Floors and 11 Research and Development Condominium Units on the Ground Floor, and a Negative Declaration at 2865 Park Boulevard and 195 Page Mill Road. *(COUNCIL MOTION REQUESTED TO CONTINUE ITEM TO 08/06/2007)*

Council Member Drekmeier said his prior approval of the project was for apartment units, and since the project has changed to condominium units he was not sure he could support it.

MOTION: Council Morton moved, seconded by Cordell, to continue this Public Hearing to August 6, 2007.

MOTION PASSED: 9-0.

17. PUBLIC HEARING: Award an Option to Lease to the Environmental Volunteers (EV) to Rehabilitate, Relocate if Necessary, and Lease for its Headquarters the Former Sea Scout Facility Located at 2560 Embarcadero Road

Council Member Drekmeier felt it was a gift to the community for the Environmental Volunteers to want to take over the project.

MOTION: Council Member Drekmeier moved, seconded by Barton, to approve staff recommendation to: 1) authorize the City Manager to execute the Option to Lease Agreement with the Environmental Volunteers (EV); and 2) waive certain City processing fees for the project in accordance with Policy & Procedures 1-25, Public/Private Partnerships.

Council Member Morton asked whether there was concern for additional costs for the building upgrades due to it being in the flight path.

Maryanne Welton said the additional costs would be for insulation and STC rated windows and the FAA had programs available to assist in the funding.

Council Member Morton asked whether the building being in the flight path caused issues.

Ms. Welton stated the map was incorrect and the building was not in the flight path. The maps had not been updated.

Allan Berkowitz requested that the Transfer Development Rights (TDR) be applied to the project's capital improvement costs.

Mayor Kishimoto asked the cost of the TDR.

Manager of Real Property Bill Fellman said \$237,500.

Council Member Drekmeier suggested an amendment to apply TDR for project capital improvement and construction costs.

INCORPORATED INTO MOTION WITH CONSENT OF MAKER AND SECONDER: to allow Transfer Development Rights to apply to project capital costs.

Council Member Barton asked why the TDRs were removed from the lease option.

Mr. Fellman said the TDR was not in the lease or option. It was in the CMR stating it would be held over for use on any City building.

Vice Mayor Klein asked for explanation of the TDR policy.

Mr. Fellman said the purpose of the TDR was when the market is up, there was a higher rent per square foot. The TDR allowed a buyer to purchase, hold and resell. The property would remain a City asset.

Vice Mayor Klein asked whether a TDR had been transferred to a non-profit, public/private partnership previously.

Mr. Fellman said no and the people with the Roth Building were interested in the sale of TDR.

Council Member Mossar stated TDR issues arose for the renovation of specific historic properties.

Mr. Yeats said the intent was to auction the TDR and present the proceeds to the EV to be used as part of the project.

Council Member Mossar asked for clarification whether EV thought they were going to receive the TDR to sell.

Mr. Yeats said the original negotiation was that the revenue generated would go towards the construction funding.

Council Member Mossar asked for the maker of the Motion to clarify his intent.

Council Member Drekmeier noted the intent was to allow the TDR to apply to the project's capital cost.

Council Member Morton requested clarification for the percentage of funds from the TDR to be used for specific projects.

Mr. Yeats said the intent of the new policy was to allow the Council to designate how the funds were to be spent on any City-owned historic building.

Council Member Morton asked whether the current commitment was for the entire sale of the TDR.

Mr. Yeats said the original intent was for the entire sale.

Council Member Morton suggested authorizing the sale and return to designate the amount to be applied.

Mayor Kishimoto supported the Motion.

Council Member Morton asked the amount the EV had been expecting from the sale of the TDR.

Mr. Berkowitz said RV expected approximately \$250,000.

Council Member Morton recommended a mechanism be put in place for the Council to return to revisit the process.

City Attorney Gary Baum suggested a not to exceed \$300,000 limit.

Council Member Morton asked to add the wording "without further Council input."

AMENDMENT TO THE INCORPORATION: Council Member Morton moved, seconded by Klein, to allow Transfer Development Rights up to \$300,000 with any additional amount over \$300,000 subject to the approval of the City Council.

AMENDMENT PASSED: 8-1, Drekmeier no.

Council Member Drekmeier asked whether the cap was set at \$300,000.

Council Member Morton said no; if a higher amount was bid, the issue would return to Council for consideration.

Mr. Yeats stated the TDR bidding process required the Council to approve the actual sale of the TDR.

Council Member Drekmeier asked if the TDR was sold for less \$250,000 what would be the process.

Council Member Morton said the project retained the full amount.

Mr. Yeats said there was no specific amount mentioned in the negotiations.

MOTION AS AMENDED PASSED: 9-0.

COUNCIL MATTERS

18. Colleague's Memo from Mayor Kishimoto and Council Members Mossar and Kleinberg Requesting Support by Waiving the \$1,260 Permit Fees

and Authorizing the \$12,000 Expenditure from the Council Contingency Fund for the July 20, 2007 Promenade Event

MOTION: Mayor Kishimoto moved, seconded by Kleinberg, to support the use of up to \$12,000 from the Council Contingency Fund to cover public safety, public works and other City costs and a waiver of \$1,260 in permit fees to support the Palo Alto Downtown Promenade Event to be held on Friday, July 20, 2007.

Council Member Barton asked whether the public safety fees had been waived previously.

Mr. Benest said no.

Mayor Kishimoto stated this was not meant to be an ongoing subsidization from the Council contingency.

MOTION PASSED 8-1, Barton no.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Council Member Barton announced he recently attended the California League of Cities Policy Committee Meeting in San Jose on Environmental Quality and did not have anything to report.

Council Member Drekmeier questioned how Palo Alto had been incorrectly listed as opposing The Healthy Pet Act (AB1634) when Palo Alto had not taken a position.

Assistant City Manager Emily Harrison said a letter from the Animal Services Division of the Police Department had been sent to the Local Government Committee in Sacramento providing input on AB1634. The letter was speaking only for the Animal Services Division, and not the City of Palo Alto.

Council Member Morton noted he was the City's representative at the 2007 Louisville, Kentucky, Senior Games, and was impressed by the enthusiastic and remarkable seniors.

Council Member Kleinberg noted there was a driver who had been killed on the railroad tracks that evening and she encouraged revisiting the subject of grade separations.

Council Member Drekmeier reported he had attended Palo Alto's Chili Cook-Off. He wished to send condolences to the family and friends of a former high school classmate, Curtis Berger, who had passed away from a heart attack at the Cook-Off.

Mayor Kishimoto said she attended the Mayor's Innovation Project in Los Angeles. She noted an additional Special Council Meeting had been scheduled for Monday, July 30, 2007. She wanted to share her sympathies with the family of Anna Luskin, former Palo Alto High School student, who passed away in recent a car accident.

CLOSED SESSION

20. CONFERENCE WITH CITY ATTORNEY -- POTENTIAL/ANTICIPATED LITIGATION

Subject: Written liability claim against the City of Palo Alto by Mingjun Zhang and Xiaojun Wang

Authority: Government Code Section 54956.9(b)(1) & (b)(3)(1)

COUNCIL ADJOURNED TO CLOSED SESSION AT 11:30 p.m.

City Attorney Baum announced there was a settlement in the amount of \$12,688.

FINAL ADJOURNMENT: The meeting adjourned at 11:40 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.