

Special Meeting  
March 17, 2008

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

Present: Barton, Burt, Drekmeier, Espinosa, Kishimoto, Klein, Morton, Schmid, Yeh arrived at 6:10 p.m.

1. Joint Meeting with Senator Joe Simitian Concerning State and Local Issues

**No reportable action was taken**

The meeting adjourned at 7:09 p.m. to the Closed Session and reconvened at 7:40 p.m.

2. CONFERENCE WITH LABOR NEGOTIATOR

Agency Negotiator: City Manager and his designees pursuant to Merit Rules and Regulations (Frank Benest, Emily Harrison, Russ Carlsen, Darrell Murray, Sandra Blanch, Lalo Perez, Nick Marinaro, David Ramberg,)

Employee Organization: Palo Alto Fire Chiefs' Association

Authority: Government Code Section 54957.6(a)

**Mayor Klein stated there was no reportable action**

SPECIAL ORDERS OF THE DAY

3. Proclamation Commending the Outstanding Public Service of Chris Ewert, Joe Manning, Frank Scioscia and Glenn Rawlinson as Co-Chairs of the Local Organizing Committee and All Volunteers and Sponsors for Palo Alto/Stanford Prologue of 2008 Amgen Tour Of California

Council Member Kishimoto shared her appreciation for all of the hard work put into making the event smooth, safe and successful.

Chris Ewert discussed how grateful he was to have the ability to hold the event in Palo Alto and thanked everyone who helped coordinate a successful event.

Frank Scioscia thanked everyone for the hard work and for allowing him to be a part of the Tour.

Joe Manning stated it was an event of a lifetime to see and participate in.

Council Member Kishimoto stated it was a great example of cooperation among complex partnerships.

4. Resolution 8806 Resolution of the City of Palo Alto Expressing Appreciation to Sandra Hirsh for Outstanding Public Service as a Member of the Library Advisory Commission
5. Resolution 8807 Resolution of the City of Palo Alto Expressing Appreciation to Lenore Jones for Outstanding Public Service as a Member of the Library Advisory Commission

**MOTION:** Mayor Klein moved, seconded by Council Member Barton to adopt the resolutions for Sandra Hirsch and Lenore Jones.

**MOTION PASSED:** 9-0

Council Member Barton read the Proclamation for Library Advisory Commissioner Hirsch.

Ms. Hirsch expressed her appreciation to her family for their support during her term as part of the Commission.

Council Member Barton read the Proclamation for Library Advisory Commissioner Jones.

Ms. Jones was thankful for her ability to serve the libraries.

Mayor Klein stated in response to an oral communications question regarding the status of the Children's Theater at a previous Council Meeting the City Manager would be giving an update.

City Manager Frank Benest stated Linda Craighead, the Arts and Culture Division Manager was going to give a brief update.

Arts and Culture Division Manager Linda Craighead stated all of the classes and outreach programs were continuing. The summer season will maintain the previous opportunities with a minimal reduction in number of performances.

#### ORAL COMMUNICATIONS

Judy Lurie, 8 Ohlone, Portola Valley, spoke regarding the Children's Theatre.

Sylvia Sanders, 956 Varian Way, spoke regarding the Children's Theatre.

Marie Huang, 2293 Princeton, spoke regarding the Children's Theatre.

John K. Abraham, 736 Ellsworth Place, spoke regarding police demographic information.

Andrew Jentzsch, spoke regarding working for the City of Palo Alto.

Kent Vickery, 727 Colorado Avenue, spoke regarding the Children's Theatre status.

Charles Vickery, 727 Colorado Avenue, spoke regarding the Children's Theatre.

Peggy Kenny, 3181 Cowper Street, spoke regarding the Sterling Canal landscape plan.

Margaret Suozzo, 26173 Rancho Manuella Lane, Los Altos Hills, spoke regarding Earth Month 2008.

Carroll Harrington, 830 Melville, spoke regarding Earth Month.

Kobie Crawford, 643 W. McKinley Avenue, Sunnyvale, spoke regarding the Children's Theatre investigation.

Marta Schulte, 2112 Old Page Mill Road, spoke regarding the Children's Theatre.

Herb Borock, P.O. Box 632, spoke regarding the candidate profile for City Manager.

Greg Kerber, Birch Street, spoke regarding postponing the vote on the BMR agenda item.

Winter Dellenbach, La Para, spoke regarding new construction.

#### APPROVAL OF MINUTES

City Clerk Donna Grider advised the minutes for January 22, 2008 and February 4, 2008 had been removed from the agenda to allow further refinement.

#### CONSENT CALENDAR

James Schmidt, 244 Forest Avenue, spoke regarding agenda item number six. He stated his pleasure with the Council in joining Link+ and noted how the program fits in with the Council Priorities.

Winter Dellenbach, La Para, spoke regarding agenda item number six. She stated she had used Link+ and encouraged Council to join.

**MOTION:** Council Member Morton moved, seconded by Council Member Yeh to approve Consent Calendar Item Nos. 6 and 7

6. Approval of an Application for Membership in the Link+ Resource Sharing Library Consortium and Authorization to Participate in a Twenty-Four Month Pilot Project in a Total Amount Not to Exceed \$220,000, with the Friends of the Palo Alto Library Contributing Up to \$110,000
7. Temporary Appointment of Robert Peterson to the Architectural Review Board for the Interim Term of March 20, 2008 through June 19, 2008

**MOTION PASSED:** 9-0

Mayor Klein adjourned the meeting for a five minute break.

**MOTION:** Council Member Morton moved, seconded by Mayor Klein to continue agenda items 9, 10 & 11 to a date uncertain.

Council Member Schmid requested the residents who came to participate in Items 9, 10, and 11 be notified of the return date.

Mayor Klein stated the persons who filled out the speaker cards will be notified.

Ms. Harrison stated the items will return under Unfinished Business, which is the first item discussed after the Consent Calendar.

#### REPORTS OF OFFICIAL

9. Adoption of Council "Top 4" Priorities and Milestones for 2008: Civic Engagement; Environmental Protection; Library Plan/Public Safety Building; and Economic Health

#### COUNCIL MATTERS

10. Proposal to Assign Staff to Review Potential Changes to the Process for the Architecture Review Board (ARB) Review of Large Projects

11. Proposal to Assign Staff to Review the Pros and Cons of Requiring Public vs. Private Streets (including clearance for refuse hauling)

**MOTION PASSED:** 9-0

#### REPORTS OF COMMITTEES AND COMMISSIONS

8. Policy and Services Committee Recommendations for Approval of Updated Below Market Rate (BMR) Program

Director of Planning and Community Environment Steve Emslie presented a brief overview of the BMR program under the recently completed study.

Planning & Transportation Commissioner Paula Sandas discussed the retroactive Consumer Price Index (CPI).

Planning Manager Cathy Siegel explained the CPI process as the most commonly used measure of inflation in prices for consumer goods including housing costs. The term one-third CPI refers to one-third of the percentage change in the CPI over a period in time. When the rate of inflation is stated, it is stated as a percentage change over a specific period. For example, the Bay Area inflation for the year 2007 was 3.3%, which means the CPI Index increased over the calendar year by 3.3%. One-third of the full CPI increase is thus 1.1%.

Council Member Barton asked why the CPI model was being utilized instead of the Area Median Income (AMI) model as is with most surrounding Cities.

Mr. Emslie stated the CPI model was more stable.

Council Member Barton stated the CPI model had inflation ~~influxes~~ *influx*.

Mr. Emslie stated the history of both programs showed CPI being more stable than the AMI.

Council Member Barton stated with the variability in the AMI, the stability should be built into the system. He stated the primary goal was to maintain affordability within a particular group with allowable flexibility.

Mr. Emslie stated there were pros and cons to using both methods.

Council Member Burt stated based on the formula staff had proposed, it seemed the income group had been altered from the original intent.

Mr. Emslie stated yes. Currently when a unit is sold, the appreciation was applied to the resale price which kept it in a higher income level. When the amount of equity was lower the income level could be altered. Based on the program set-up, very-low to low income was available through the rental program.

Council Member Burt stated there were rental programs for very-low to low income. He asked when had there been a policy change by Council that altered the intent of the program.

Mr. Emslie stated the program did not start out with the current formula for CPI. The change occurred about 10 years into the program. There were policy discussions about the advantages on further restrictions on the CPI to enable units over time to be offered to low to lower income buyers.

Council Member Burt stated in a discussion at the Planning & Transportation Commission the answer was there was no intention to alter the income group but that is was an unintended outcome. During the mid-1980s there was a policy to reduce ~~a portion~~ *the qualifications based on* of the CPI because the CPI was ~~exceeding~~ *changing* at a rate above the cost of housing escalation.

Mr. Emslie stated the decision to provide retroactivity of the program was a clear policy choice for the Council. Staff wanted to point out that the older units would not be able to be put into the lower end category.

Council Member Burt asked whether other communities used an appreciation cap similar to the one being proposed.

Mr. Emslie stated Sunnyvale, Cupertino, and Menlo Park were currently utilizing the one-third formula.

Council Member Schmid asked what the Below Market Rate Housing was and who it served.

Mr. Emslie stated the individual income circumstances go up and down and the City reports the changes to Association of Bay Area Government (ABAG).

Council Member Schmid stated there had been no discussion of rental units, yet the largest policy implication in the staff report was to move in the rental direction.

Mr. Emslie stated one change to the program was to provide more incentive for rental housing.



Council Member Schmid clarified the objective was to review only the CPI policy change.

Mr. Emslie stated there was a series of recommendations for discussion and staff was seeking Council action on all of them.

Council Member Schmid stated there were no rental unit recommendations.

Mr. Emslie stated the rental recommendations were in Attachment A.

Council Member Schmid asked the impact of the CPI adjustment on the existing housing stock and the impact on the program.

Mr. Emslie stated that issue has been a standing disagreement.

Council Member Schmid asked for an estimate of the number of the units currently existing.

Mr. Emslie stated it was estimated to be between fifty and seventy units.

Council Member Kishimoto asked whether the ownership model should be continued, as the rental model was clear in regards to maintenance and upgrading. She asked whether there had been a review of the cost to upgrade all of the units.

Mr. Emslie stated the study did not include a unit by unit upgrade assessment.

Council Member Kishimoto asked whether ownership versus rental or conversion options were reviewed.

Mr. Emslie stated to allow the flexibility to provide affordable rental housing in a development, the policy recommendations in Goal Number 2 discussed and analyzed the land dedication model.

Mr. Benest clarified both models were designed with the ability to provide more flexibility when the opportunity arose.

Mr. Emslie stated yes.

Mayor Klein asked whether Item 12 needed to be considered this evening.

City Attorney Gary Baum stated yes, the Closed Session needed to be heard.

Council Member Morton asked for clarification on the policy shift in the target market. He asked how people were qualified under the current policy.

Mr. Emslie stated for ownership, the qualification was the applicant earned between 80 and 120 percent of the County Median.

Council Member Morton clarified the current residents in some of the areas would be considered significantly below what would now qualify for ownership.

Mr. Emslie stated yes, due to the restrictions on equity of the unit.

Council Member Morton stated in the current program, the qualifying individual secured their own funding.

Mr. Emslie stated yes.

Council Member Morton stated to run a rental program with the BMR percentages, the City would need to come up with the funding and there would be a diverse stock scattered in various locations.

Mr. Emslie stated yes that was correct

Council Member Morton asked whether the restoration of the units costs came out of the sale price.

Mr. Emslie stated at times the cost of restoration has been included in the sale price, however the unit cost needed to remain in the program.

Council Member Morton asked regarding the increase in deed restrictions from 49 to 89 years. He stated his concern regarding the inheritance clause.

Mr. Emslie stated the clause was a way to maintain affordability of the units for the entirety of the units availability.

Council Member Morton asked why the term was not stated as 99 years.

Mr. Emslie stated there had been attorney input stating 89 years was more defensible than 99 years.

Council Member Morton asked for clarification on how the City was going to revise the buyers financing options.

Mr. Emslie stated there were programs available to assist buyers in qualifying.

Council Member Morton asked for clarification on lowering the BMR requirement from five units to three units and how that affected the fifteen percent category.

Mr. Emslie stated if the lot was less than five acres there was a fifteen percent requirement. There needed to be a minimum of seven units built prior to BMR unit dedication.

Council Member Morton inquired on whether Policy 2-C encouraged developers to come in at full allowable coverage.

Mr. Emslie stated no. The City had the discretion for site, design, and open space requirements.

Mayor Klein asked whether there were calculations of the subsidies the buyer had received over the years.

Mr. Emslie showed a flow chart of numbers from purchase to sale over the past twenty years.

Mayor Klein asked for *the* cost ~~explanation~~ of re-writing the retroactive increase in the CPI and the credit formula proposed.

City Attorney Gary Baum stated the credit formula would have a one-time cost absorbed by the Housing Fund in an amount of twenty-five to fifty thousand dollars. It would cost approximately twenty thousand dollars per unit for retroactive increases.

Mayor Klein asked whether an increase to the CPI retroactively would be fair to the persons who had sold during the interim.

Mr. Baum stated legally there would be no action against the City.

Council Member Barton asked for clarification on the previous intent to give home ownership opportunities to lower income levels and the current plan to stabilize the ownership ability at the median income level.

Mr. Emslie stated the driver of the one-third CPI was the economic conditions at that time.

Council Member Barton asked whether the belief of the one-third CPI policy was to keep the units in the median income range or was the intent to push the income level below the median.

Mr. Emslie stated the program goals for rental and sale units were to keep the units at the low to moderate income level.

Council Member Barton asked whether the interpretation was to keep it in the moderate and below.

Mr. Emslie stated there was a practical concern regarding older units being stagnant on the market while newer units were selling at the same asking price.

Council Member Barton asked if the CPI was to be retroactively increased would that encumber the property owners or would there be aggregated increases in property taxes.

Mr. Baum stated he was unsure.

Council Member Morton stated the owners received lifelong subsidies based on the reduced taxes.

Mr. Emslie stated ownership units were essentially paid for by buyers of the market rate units.

Council Member Morton asked what the benefit was to the occupant over twenty years.

Mr. Emslie stated that one of the criticisms of the program was the BMR owners felt locked in to their location without the ability sell and upgrade *to a non-BMR unit*.

Council Member Morton stated the reason the program worked for ~~them~~ *BMR owners* was they were unable to qualify originally.

Leon Leong, 138 Byron Street, spoke regarding lowering the threshold of units required.

Kay Wright, 444 San Antonio, #2B, spoke regarding the investment of ownership of a BMR unit with no appreciation.

Joel Davidson, 504 Thain Way, spoke regarding the full CPI value retroactivity.

Bonnie Packer, 768 Stone Lane, spoke regarding the Housing Corporation supporting the staff recommendation.

Marlene Prendergast, 725 Alma Street, spoke regarding the implementation of the suggested changes.

Council Member Morton asked for clarification on the one-third evaluation, was the CPI growing too fast and would that take the units out of the program.

Ms. Prendergast stated yes, the selling price was so closely priced to market price.

Robert Moss, 4010 Orme Street, spoke regarding the BMR programs initial intent was to target the forty to sixty percent of the County median income range.

Greg Kerber spoke regarding ownership of BMR units not getting a reasonable return on investment.

Council Member Burt asked whether the homeowners' assessment dues were voted on by the homeowners.

Mr. Kerber stated no, the board made the assessment determination.

Council Member Burt asked whether the homeowners' dues went for repairs and necessary capital improvements.

Mr. Kerber stated yes.

Adam Montgomery, Silicon Valley Association of Realtors, 19400 Stevens Creek Blvd. #100, Cupertino, spoke regarding lowering the threshold for BMR unit ownership.

Herb Borock, P.O. Box 632, spoke regarding the ABAG income allocation variances between rental and ownership BMR units.

**MOTION:** Mayor Klein moved, seconded by Council Member Morton to continue this agenda item to a date uncertain.

**MOTION PASSED:** 9-0

The meeting adjourned at 10:50 p.m. to the Palo Alto Public Improvement Corporation (PIC) and reconvened at 10:51 p.m.

COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM  
CONFERENCES

Mayor Klein spoke regarding his concern about the issues brought up earlier by the public regarding the tree trimming along the Sterling Canal.

Director of Planning and Community Environment Steve Emslie advised that the City had worked out an agreement with the developer and neighborhood to take the planting plan back to the Architectural Review Board (ARB) for reconsideration of the staff decision made last year. PGE has a State and Federal mandated program to keep their lines clear. PGE has agreed to work with the City, however, they have an easement that gives them the right to prune the trees.

Council Member Yeh spoke regarding his attendance along with Council Member Espinosa at a welcoming event for a middle school student exchange program with Tsuchiura, Japan.

Council Member Espinosa noted he attended the Santa Clara County League of Cities dinner with Mayor Klein and Council Member Kishimoto. He stated he spoke with a Council Member from Saratoga about how they implemented Community Engagement with their growing Asian community.

Council Member Kishimoto advised that she was in Washington D.C. last week representing Santa Clara Valley Transportation Authority at the American Public Transit Association Conference.

Vice Mayor Drekmeier spoke regarding the resignation letter of the San Francisquito Creek Joint Powers Authority Executive Director Cynthia D'Agosta. He also attended the Stanford General Use Permit (GUP) Community Resources group that ensures the GUP is moving forward.

Mayor Klein advised he was in Washington D.C. last week at the National League of Cities Congressional conference. He spent most of his time attending environmental meetings, and the remainder of his time was spent attending meetings with cities that have universities within their *proximity boundaries*.

#### CLOSED SESSION

Mayor Klein advised that he would not participate on this item as his wife is on the Stanford University faculty.

Council Member Barton advised that he would not participate on this item as he was in negotiations with Stanford University for a paid position.

Council adjourned into the closed session at 11:04 p.m.

#### 12. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code Section 54956.8

Property: 100 El Camino Real, APN 120-31-009

City Negotiators: Amy Bartell; F. Gale Connor; Valerie Fong

Negotiating Parties: Carol Dillon of Bingham McCutchen LLP for the Board of Trustees of the Leland Stanford Junior University

Subject of Potential Negotiations: Price and Terms of Payment

**Mayor Klein advised no reportable action taken**

ADJOURNMENT: The meeting was adjourned at 11:50 p.m.

ATTEST:

APPROVED:

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City Clerk

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Mayor

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