

Special Meeting  
January 18, 2005

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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: Beecham, Burch, Cordell, Freeman, Kishimoto, Kleinberg, Morton, Mossar

ABSENT: Ojakian

SPECIAL MEETING

1. Interview Candidates for the Library Advisory Commission

**No action required.**

ADJOURNMENT: The meeting adjourned at 6:55 p.m.

Special Meeting  
Council Chambers  
January 18, 2005, 7:00 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:05 p.m.

PRESENT: Beecham, Burch, Cordell, Freeman, Kishimoto, Kleinberg, Morton, Mossar, Ojakian

ORAL COMMUNICATIONS

Jeannette Andrews, 1944 Ivy Lane, spoke regarding police dogs in the Palo Alto Police Department.

Ralph Britton, 240 Rinconada Avenue, spoke regarding the levee at the Palo Alto Airport.

Assistant City Manager Emily Harrison said the condition of the levee was being taken seriously.

Nick Petredis, 776 Barron Avenue, spoke regarding the Joint Community Relations Commission.

Norman Carroll, Emerson Street, spoke regarding the Council's performance in 2004.

Aram James spoke regarding police oversight.

APPROVAL OF MINUTES

**MOTION:** Council Member Morton moved, seconded by Kishimoto, to approve the minutes of December 13, 2004, as submitted.

**MOTION PASSED** 9-0.

CONSENT CALENDAR

Council Member Freeman said she would not participate in Item No. 1 due to a conflict. She registered a "no" vote on Item No. 4.

Council Member Freeman moved, seconded by Kishimoto to remove Item No. 2 from the Consent Calendar.

Mayor Burch noted that Item No. 2 would become Item No. 10A.

Council Member Cordell said she wanted to register a "no" vote on Item No. 1 and Item No. 3 and had explained her reasons at previous Council meetings.

Council Member Kishimoto said she wanted to register a "no" vote on Item No. 1 and said she had explained her reasons at previous Council meetings.

Vice Mayor Kleinberg said she wanted to register a "no" vote on Item No. 1.

**MOTION:** Council Member Morton moved, seconded by Beecham, to approve Consent Calendar Item Nos. 1, and 3-8.

### LEGISLATIVE

1. Ordinance 4859 entitled "Ordinance of the Council of the City of Palo Alto Amending Exhibit A-17 to Section 22.08.210 of Chapter 22.08 of Title 2 of the Palo Alto Municipal Code to Adjust the Boundary of Rinconanda Park" (*1<sup>st</sup> Reading, 12/13/04, Passed 5-3, Cordell, Kishimoto, Kleinberg, no, Freeman not participating*)



3. Approval of a Resolution Establishing a Revised Timeline for a Protest Hearing and Ballot Proceeding Relating to a Proposed Storm Drainage Fee Increase

Resolution 8494 entitled "Resolution of the Council of the City of Palo Alto Establishing a Revised Timeline for a Protest Hearing and Ballot Proceeding Relating to a Proposed Storm Drainage Fee Increase



4. Approval of a Budget Amendment Ordinance Totaling \$335,000 and Award of Contract with Coast Side Associates in the Amount of \$306,975 for Lucie Stern Center Improvements - Capital Improvement Program Project PF- 01005

Ordinance 4860 entitled "Ordinance of the Council of the City of Palo Alto Amending the Budget for the Fiscal Year 2004-05 to Provide an Additional Appropriation of \$335,000 from the Infrastructure Reserve into Capital Improvement Program (CIP) Project Number PF-01005, Lucie Stern Community Center Improvements"

5. Approval of a Resolution Approving Long-Term Power Purchase Agreements (Landfill Gas Power) with Ameresco Half Moon Bay, L.L.C. for the Purchase of Electricity Generated by Landfill Gas Electric

Generating Facilities for a Term of 20 Years and Contract Amount of \$61.8 Million

Resolution 8495 entitled "Resolution of the Council of the City of Palo Alto Approving the Long-Term Power Purchase Agreements (Landfill Gas Power) with Ameresco Half Moon Bay, L.L.C. for the Purchase of Electricity Generated by Landfill Gas Electric Generating Facilities

#### COUNCIL COMMITTEE RECOMMENDATION

6. The Finance Committee Recommends Approval of an Ordinance Closing the 2003-04 Fiscal Year, Including Transmission of the City's Comprehensive Annual Financial Report (CAFR), Reappropriation Requests, and Completed Capital Improvement Projects from the Finance Committee Meeting of December 14, 2004

Ordinance 4861 entitled "Ordinance of the Council of the City of Palo Alto Authorizing Closing of the Budget for Fiscal Year 2003-04"

#### ADMINISTRATIVE

7. Acceptance of Annual Status Report on Developers' Fees
8. Contract Amendment Between the City of Palo Alto and K2 Partnering Solutions in the Amount of \$150,000 for Human Resources (HR)/Payroll SAP System Support

**MOTION PASSED** 5-3 for Item No. 1, Cordell, Kishimoto, Kleinberg no, Freeman not participating.

**MOTION PASSED** 8-1 for Item No. 3, Cordell no.

**MOTION PASSED** 8-1 for Item No. 4, Freeman no.

**MOTION PASSED** 9-0 for Item Nos. 5-8.

Council Member Freeman said she had voted "no" on Item No. 4 because the Capital Improvement Project (CIP) report attached was different from the previous two years.

#### PUBLIC HEARINGS

9. Public Hearing: Declaring that all Weeds Growing Upon Any Private Property or in Any Public Street or Alley, as Defined in Section 8.08.010 of the Palo Alto Municipal Code, Constitute a Public Nuisance,

which Nuisance Must be Abated by the Destruction or Removal Thereof.

Mayor Burch asked whether there were any written objections.

City Clerk Donna Rogers said she had not received any written objections.

Mayor Burch declared the Public Hearing open and because there were no requests to speak, he declared the Public Hearing closed.

**MOTION:** Council Member Beecham moved, seconded by Kleinberg, to adopt the Resolution ordering the abatement of weeds.

Resolution 8496 entitled "Resolution of the Council of the City of Palo Alto Ordering Weed Nuisance Abated"

**MOTION PASSED** 9-0.

#### REPORTS OF COMMITTEES AND COMMISSIONS

##### 10. Recommendation of Library Advisory Commission Regarding Downtown Library Hours

City Manager Frank Benest said it was not the appropriate time to consider the Downtown Library hours.

Ellen Wyman, 546 Washington Avenue, said the Downtown Library needed to be opened on Saturdays.

Betsy Allyn, Willmar Drive, said it was necessary to keep the libraries open.

Jeff Levinsky, 1682 Hamilton Avenue, said reopening the Downtown Library on Saturdays would be an efficient use of taxpayer funds.

Herb Borock, P.O. Box 632, said the Council should set the policy regarding the Downtown Library hours and staff should implement it.

Robert Moss, 4010 Orme Street, said the Downtown Library never should have been closed on Saturdays, and it also needed to be open on Sundays.

Robert Pritchett said access to the library computers provided the low income and homeless the opportunity to apply for jobs, and he asked that the libraries remain open.

Sanford Forte, 280 College Avenue, said municipalities gained revenue from library investment and use.

Elaine Meyer said libraries should be treasured.

Lenore Jones said the Library Advisory Commission had voted unanimously that the Downtown Library hours be restored on Saturdays.

Council Member Mossar asked whether opening the library temporarily on Saturdays would be advisable.

Ms. Jones said if library hours needed to be cut, closure hours should be shared across the library branches.

Mr. Benest said every department would share in service and budget reductions.

Council Member Morton said Saturday hours were important.

**MOTION:** Council Member Morton moved, seconded by Freeman, to approve the Library Advisory Commission (LAC) recommendation that \$35,000 be reallocated from the City Manager's Contingency Fund to the Library Department to restore Saturday hours at the Downtown Library.

Council Member Freeman said public libraries were social institutions that elevated the community knowledge base.

Council Member Kishimoto said the Library Advisory Commission (LAC) had made it clear that Saturday hours should be restored.

Manager of Library Services Diane Jennings spoke regarding the relocation of certain collections at the Downtown Library.

Vice Mayor Kleinberg asked staff for clarification of the Service Employees International Union (SEIU) requirements and whether it could impact Saturday hours.

Ms. Jennings said it was more difficult to schedule weekends with a seven-day operation. The Memorandum of Agreement (MOA) stated employees must have two consecutive days off within a seven-day work week; however, library employees could choose not to have two consecutive days off.

Vice Mayor Kleinberg asked whether it was more expensive to keep the library open on weekends.

Ms. Jennings replied it was not more expensive.

Vice Mayor Kleinberg said she supported the LAC recommendation.

Council Member Beecham asked about closing on Mondays and being open on Saturdays.

Ms. Jennings said the library was already closed on Mondays.

Council Member Beecham asked what the options were.

Ms. Jennings said closure on Mondays and Tuesdays would be less expensive and would provide Saturday hours.

Council Member Mossar asked what days the College Terrace Library was open and the reasons the Downtown Library hours were reduced.

Ms. Jennings said each library was closed one day because of a frozen librarian position and a reduction was needed for the 2004-2005 Budget. Currently, the College Terrace library was closed on Tuesdays and Thursdays.

Council Member Mossar asked whether the College Terrace Library was open on Tuesday, Wednesday, Friday and Saturday.

Ms. Jennings said the Downtown Library was closed on Monday; the College Terrace Library was closed on Thursday. Temporarily, the College Terrace Library was closed on Tuesdays.

Council Member Mossar said the Downtown Library was open three days.

Ms. Jennings said the Downtown Library was open five days. It was closed on Sunday and Thursday.

Council Member Mossar said the Downtown Library was open Tuesday, Wednesday, Thursday and Friday.

Ms. Jennings said the Downtown Library was closed on Monday, Saturday and Sunday.

Council Member Mossar said the Downtown Library was open on Tuesday, Wednesday, Thursday and Friday. She confirmed that both the College Terrace and the Downtown libraries were open four days a week.

Ms. Jennings said the College Terrace Library was open four days on a temporary basis.

Council Member Ojakian asked Ms. Jennings what days of the week were the libraries least used.

Ms. Jennings said the College Terrace Library had a higher circulation than the Downtown Library. The Downtown Library visitor count was higher than the College Terrace Library.

Council Member Ojakian asked what day of the week the Downtown Library received the least use.

Ms. Jennings said the Downtown Library was used the least on Fridays.

Council Member Ojakian said the Fremont Library was not open on Friday, because Friday was the day where there was little usage. He asked whether the library was used heavily on Saturdays.

Ms. Jennings said Saturday and Sunday were heavier use days. The Downtown Library experience was that there was not a lot of use by the number of individuals who came into the facility.

Council Member Ojakian asked what library had the most use.

Ms. Jennings answered the Mitchell Park Library.

Council Member Ojakian said there were certain days of the week in the library systems where usage was not heavy. The Council and the public needed to know that data so funds could be used effectively.

Council Member Cordell said in September, the LAC unanimously recommended the \$35,000 be used to restore the Saturday hours to the Downtown Library. She asked staff why it took almost four months to return to the Council for a vote.

Assistant City Manager Emily Harrison said prior to the Council considering the Saturday hour restoration request, the new Library Director gathered information and provided a report to the Council about what she considered

to be the state of the libraries; it was known the library item would take some time and it was scheduled on the agenda as soon as it was possible.

Council Member Morton asked staff when the Saturday hours would take effect and how the Downtown Library patrons would be notified.

Ms. Jennings said it would take about a month before the Saturday hours would take effect. A press release, the library website, bookmarks, and flyers in the library would be used to notify patrons.

Council Member Beecham said the entire community would share in future cuts.

Council Member Mossar said for the balance of the year she would support the LAC's suggestion to reopen the Downtown Library on Saturday.

Mayor Burch said he had concerns regarding the permanence of the library position.

**MOTION PASSED 9-0.**

10A. (Old Item No. 2) Approval of a Resolution Amending the Salaries of Three Council Appointed Officers and Approval of Amendment No. Two to Employment Agreement with City Manager Frank Benest

Resolution 8497 entitled "Resolution of the Council of the City Of Palo Alto Amending the Compensation Plan for Management and Professional Personnel and Council Appointees Adopted by Resolution No. 8455 to Amend the Salaries of Three Council Appointed Officers"

Council Member Freeman read an email from City Manager Frank Benest to Council Members, which said he wanted to clarify the amendment to his contract. He had requested the City Attorney to add language to his contract allowing him to conduct outside employment during vacation or other leave time. She felt it was prudent for the Council to review ramifications of the City Manager's request. She said there should be full public disclosure of the type of activities the City Manager would be compensated for.

**MOTION:** Council Member Freeman moved not to accept Amendment No. 2 to the City Manager's contract, but to forward the item to the Policy and Services (P&S) Committee for due diligence.

**MOTION FAILED FOR LACK OF A SECOND**

**MOTION:** Council Member Morton moved, seconded by Beecham, to approve the Resolution Amending the Salaries of Three Council Appointed Officers and Approval of Amendment 2 to the Employment Agreement with City Manager Frank Benest.

Council Member Morton said the City Manager had an excellent reputation as a teacher and consultant. The City Manager would give his full energy and commitment to the City. His teaching and consulting would enhance his skills and the reputation of our community.

City Attorney Gary Baum said there was not a conflict of interest issue under the City Charter.

Council Member Beecham said the Council who selected City Manager Benest were aware of his talks at conferences and conventions.

Herb Borock, P.O. Box 632, said what was written in the City Manager's employment agreement was different from what had been occurring the past four years.

Council Member Mossar said it was known the City Manager had participated in the activities. It was important for the community to be networking with other communities. The City Manager was asking for clarification in his contract.

Council Member Kishimoto said the change made to the City Manager's contract clarified the paid activities he would be involved in would be during vacation and leave time.

Council Member Freeman said she had no prior knowledge of Mr. Benest's outside compensation while employed as the City Manager of Palo Alto.

Council Member Cordell said the discussion assured the public the Council was open about everything that occurred. She concurred with the City Attorney's interpretation, which supported Mr. Benest to engage in other employment.

Mayor Burch said all Council Members were subject to agreements, ordinances, and laws passed by previous councils.

**MOTION PASSED** 8-1, Freeman no.

## COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Morton encouraged staff to have Saturday hours open for the Downtown Library as soon as possible. He also asked whether the Council agenda could be placed on the overhead during the meeting.

Assistant City Manager Emily Harrison noted she would talk to the Information Technology (IT) Division.

Mayor Burch spoke regarding the Council retreat to be held on Saturday, January 29, 2005.

Council Member Ojakian announced the Santa Clara Valley Transportation Authority Policy Advisory Committee unanimously selected Yoriko Kishimoto as the Chair.

Council Member Mossar spoke about the walkability aspects of the new Homer Tunnel and mentioned reinforcement of the no right turn sign on to Alma north from Homer Avenue.

Vice Mayor Kleinberg noted during the holiday season she used the new Downtown parking garages, which were extremely popular.

Mayor Burch announced he had finalized the 2005 assignments for the Council.

## CLOSED SESSION

The meeting adjourned at 8:42 p.m. to a Closed Session.

### 11. CONFERENCE WITH CITY ATTORNEY -- POTENTIAL/ANTICIPATED LITIGATION

Subject: Casa Olga Care Centers, Inc., a California Corporation and Casa Olga, L.P., a California Limited Partnership vs. City of Palo Alto

Authority: Government Code Section 54956.9(b)(1) arising out a dispute over University Avenue Off-Street Parking Assessment District dated June 27, 2001. (Gov. Code Section 54956.9 (b)(3)(B).)

The City Council met in Closed Session to discuss matters regarding potential/anticipated litigation, as described in Agenda Item No. 11.

**City Attorney Gary Baum reported out after the Closed Session that a Settlement Agreement was reached with Casa Olga Care Centers, Inc. concerning a dispute over the University Avenue Off Street Parking Assessment District.**

FINAL ADJOURNMENT: The meeting adjourned at 8:50 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.