

Regular Meeting
March 7, 2005

1.	Selection of Candidates for Human Relations Commission (HRC)	3
	ORAL COMMUNICATIONS	3
2.	Resolution 8503 entitled "Resolution Approving the Grant of a Conservation Easement in the Arastradero Preserve Gateway Property to the County of Santa Clara in Conjunction with the Acquisition of the Arastradero Gateway Property"	6
3.	Ordinance 1 st Reading entitled "Ordinance Adding Section 6.20.055, (Animals in Vehicles), to the Palo Alto Municipal Code Prohibiting the Confinement of Animals in Enclosed Vehicles Without Adequate Ventilation During Periods of Extreme Temperatures"	6
4.	Recommendation to Make Trial "No Parking on Sweep Day" Program a Permanent Program in the Area Bounded by Palo Alto Avenue, Lytton Avenue, Alma Street and Bryant Street.....	6
5.	Resolution 8505 entitled "Resolution Summarily Vacating a Ten-Foot Street Easement Adjacent to 4024 Amaranta Avenue"	6
6.	From the Finance Committee: 2004-05 Adjusted Budget—Second Quarter (Q2) Financial Results, Midyear Amendments and Capital Improvement Program Status.....	7
8.	Approval of Amendment No. One to the Memorandum of Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program.....	7
9.	Approval of a Contract with KPA Group in the Amount of \$268,960 for Engineering/Architectural Services for Mitchell Park Library and Community Center Improvements - Capital Improvement Program Project PE-04012	7
10.	Recommendation from Utilities Advisory Commission (UAC) to Adopt Revisions to the Utilities Strategic Plan.....	7

11.	Approval of a Utilities Enterprise Fund Contract with Manuel Brothers Incorporated in the Amount of \$1,287,687 for Gas Main Replacement Capital Improvement Project 14, GS-04003.....	7
12.	Recommendation to Discontinue Including Council Packet Minutes from Boards and Commissions Other than when Related to Agenda Items, and Instead to Post Them on the City's Web Site.....	7
13.	From Policy and Services Committee: The Human Relations Commission Recommends Approving A Resolution of the Council of the City of Palo Alto Opposing the Federal Marriage Amendment [H.J. Res. 56]	7
13a.	Acceptance of City Auditor’s Quarterly Report	7
14.	Colleagues Memo from Mayor Burch, Vice Mayor Kleinberg and Council Member Kishimoto Regarding Golf Course Redesign and Playing Fields Creation.....	9
14a.	(Old Item 7) 1012 Forest Avenue [04PLN-00021]: Appeal by Todd and Kathy Reece of the Director of Planning and Community Environment’s Approval of a Single Family Individual Review Application for a New Two-Story Residence Owned by Greg Lee and Linda Liu. Zone: R-1. Environmental Assessment: Exempt from the California Environmental Quality Act Per Section 15303.....	18
15.	Public Hearing: Storm Drainage Fee Protest Hearing and Approval of a Resolution Calling a Special Mail Ballot Proceeding for April 26, 2005, to Submit a Storm Drainage Fee Increase to Owners of Parcels of Real Property Subject to the Fee.....	22
*16.	Public Hearing: Consideration of a Request by Harvey and Pamela Loucks for Site and Design Review for the Construction of a New 5,569 Square Foot Single Family Residence Located at 5061 Skyline Blvd	25
	COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS	26
	FINAL ADJOURNMENT: The meeting adjourned at 10:50 p.m.	27

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:00 p.m.

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

ABSENT: Freeman, Ojakian

SPECIAL ORDERS OF THE DAY

1. Selection of Candidates for Human Relations Commission (HRC)

MOTION: Council Member Morton moved, seconded by Beecham, to interview all of the candidates.

MOTION PASSED 7-0, Freeman, Ojakian absent.

ORAL COMMUNICATIONS

Doug Cox, 45 El Dorado Avenue, spoke regarding protection of Foothills Park.

Jagdish Basi, 514 Rhodes Drive, spoke regarding Friends of Palo Alto Parks.

Roger Smith, 270 Tennyson Avenue, spoke regarding Friends of the Palo Alto Parks.

Christine Kloeti, P.O. Box 754, spoke regarding Palo Alto Street.

Carlin Otto, 231 Whitclem Court, spoke regarding second dwelling zoning changes.

Aram James spoke regarding the police.

Stephanie Munoz, 101 Alma Street, #701, spoke regarding communications.

Joy Ogawa spoke regarding the Zoning Ordinance Update (ZOU) R1.

Ann Ozer, 1850 Sand Hill Road, spoke regarding police abuse.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Mossar, to approve the minutes of February 7, 2005, as submitted.

MOTION PASSED 7-0, Freeman, Ojakian absent.

CONSENT CALENDAR

Council Member Beecham noted he would not participate in Item No. 4 due to a conflict of interest because of the location of his residence.

Council Member Morton moved, seconded by Cordell, to remove Item No. 7 from the Consent Calendar.

City Attorney Gary Baum clarified Item No. 7 was governed by a different section of the variance procedure and required two votes to remove and four separate votes for a hearing.

Assistant City Manager Emily Harrison asked the Council to decide after the vote on the Consent Calendar whether there were four votes to hear Item No. 7 as a public hearing at a later date.

Catherine Maltineau, 3129 East Bayshore Road, spoke on behalf of Canopy Trees of Palo Alto regarding Item No. 4. She said staff report (CMR:165:04) did not state how "No Parking on Sweep Day" signs would be posted. During the pilot program, signs had been bolted to the trees, which could damage and disfigure the urban forest. She requested the bolted-in signs be removed and to ask the City Arborist for a better posting technique.

Herb Borock, P.O. Box 632, spoke regarding Item No. 2, stating there was a change to the Ordinances to remove the word "not" on the Arastradero Preserve. It could be misinterpreted as implying the entire S-1 trail through Foothills Park, even though it was in the Arastradero section. Regarding Item No. 7, the Brown Act required Council to hear from the public prior to taking action on an item. Regarding Item No. 6, he was surprised to hear there was a million dollar budget amendment late in the budget year when there was discussion of cutting \$5 million dollars in 2005-2006. The Children's Library would be vacated in September 2005. Since the people using the Main Library would be voting on library bonds, he suggested including them on the decision as to how the Main Library was going to be

reconfigured. He spoke against moving the public toilets at Lytton Plaza to the Caltrain Station. He suggested putting public facilities at Lytton Plaza and at the Caltrain station.

Betsy Allyn, Willmar Drive, spoke regarding Item No. 6 and raised concern about placing technological usage in the Downtown Library, not knowing how long the usage would be, and how it would take up a large portion of the library. She asked the item be returned to the Library Advisory Commission (LAC) for further review.

Jeff Levinsky, 1682 Hamilton Avenue, spoke regarding Item No. 6, and said reconfiguration of the Main Library would shrink the public space to approximately half its size and remove access to one of the courtyards. It would eliminate the garden window area where magazines and newspapers were located. He felt the LAC should review the configuration since the affected branches received a half a million visitors per year.

James Schmidt, 244 Forest Avenue, spoke regarding Item No. 6, and asked whether the Library reconfiguration proposal was an approved Capital Improvement Project (CIP.) He said the public space in the Downtown Library was drastically reduced with library administrative offices, Information Technology Services (ITS) and technical services. He asked the proposal not be approved.

Robert Moss, 4010 Orme Street, spoke regarding Item No. 6, and said the proposal included a reduction of public space in the Downtown Library without community or Council's discussion. He asked Council to explicitly state that no expansion be allowed of office use in the Downtown Library.

Sanford Forte, 280 College Avenue, spoke regarding Item No. 6, echoed prior speakers concerns and did not support the motion.

Elaine Meyer, 609 Kingsley Avenue, spoke regarding Item No. 6, and said the community needed to be more informed of future plans for the Downtown Library.

Joy Ogawa spoke regarding Item No. 6, and echoed prior speakers' concerns. Council needed to clarify whether changes were permanent or not.

Aram James spoke regarding Item No. 13 and urged Council to oppose the proposed Federal Marriage Amendment.

MOTION: Council Member Morton moved, seconded by Kishimoto, to approve Consent Calendar Item Nos. 2-6 and 8-13a.

LEGISLATIVE

2. Resolution 8503 entitled "Resolution Approving the Grant of a Conservation Easement in the Arastradero Preserve Gateway Property to the County of Santa Clara in Conjunction with the Acquisition of the Arastradero Gateway Property"

Ordinance 1st Reading entitled "Ordinance Amending Sections 22.04.310 and 22.04.330 of Chapter 22.04 of Title 22 of the Palo Alto Municipal Code Pertaining to the Enid Pearson Arastradero Preserve"

Ordinance 1st Reading entitled "Ordinance Amending Section 22.04.150 of Chapter 22.04 of Title 22 of the Palo Alto Municipal Code Pertaining to Foothills Park"

3. Ordinance 1st Reading entitled "Ordinance Adding Section 6.20.055, (Animals in Vehicles), to the Palo Alto Municipal Code Prohibiting the Confinement of Animals in Enclosed Vehicles Without Adequate Ventilation During Periods of Extreme Temperatures"

4. Recommendation to Make Trial "No Parking on Sweep Day" Program a Permanent Program in the Area Bounded by Palo Alto Avenue, Lytton Avenue, Alma Street and Bryant Street

Resolution 8504 entitled "Resolution Approving and Adopting Parking Restrictions for Street Sweeping Purposes on all Streets in the Downtown North/University Area Neighborhood Between Alma Street and Bryant Street and Lytton Avenue and Palo Alto Avenue"

5. Resolution 8505 entitled "Resolution Summarily Vacating a Ten-Foot Street Easement Adjacent to 4024 Amaranta Avenue"
6. From the Finance Committee: 2004-05 Adjusted Budget—Second Quarter (Q2) Financial Results, Midyear Amendments and Capital

Improvement Program Status;

Ordinance 4863 entitled "Ordinance Amending the Budget for Fiscal Year 2004-05 to Adjust Budgeted Revenues and Expenditures in Accordance with the Recommendations in the Midyear Report and Capital Improvement Program Status"

ADMINISTRATIVE

8. Approval of Amendment No. One to the Memorandum of Agreement Providing for Implementation of the Santa Clara Valley Urban Runoff Pollution Prevention Program
9. Approval of a Contract with KPA Group in the Amount of \$268,960 for Engineering/Architectural Services for Mitchell Park Library and Community Center Improvements - Capital Improvement Program Project PE-04012
10. Recommendation from Utilities Advisory Commission (UAC) to Adopt Revisions to the Utilities Strategic Plan
11. Approval of a Utilities Enterprise Fund Contract with Manuel Brothers Incorporated in the Amount of \$1,287,687 for Gas Main Replacement Capital Improvement Project 14, GS-04003
12. Recommendation to Discontinue Including Council Packet Minutes from Boards and Commissions Other than when Related to Agenda Items, and Instead to Post Them on the City's Web Site

COUNCIL COMMITTEE RECOMMENDATIONS

13. From Policy and Services Committee: The Human Relations Commission Recommends Approving A Resolution of the Council of the City of Palo Alto Opposing the Federal Marriage Amendment [H.J. Res. 56]
- 13a. Acceptance of City Auditor's Quarterly Report

MOTION PASSED 7-0 for Item Nos. 2, 3, 5-12 & 13a, Freeman, Ojikian absent.

MOTION PASSED 6-0 for Item No. 4, Beecham not participating, Freeman, Ojakian absent.

MOTION PASSED 6-1 for Item No. 13, Beecham no, Freeman, Ojakian absent.

Council Member Kishimoto said she had seconded the motion but would have asked that Item No. 6 be removed if she had known so many people were going to speak on the item.

Council Member Morton echoed Council Member Kishimoto's concern.

Council Member Beecham clarified that he did not participate on Item No. 4 rather than voting "no." He would not support Item No. 13 because he felt it was not Council's role to be involved with issues at the Federal level.

Council Member Morton clarified once the Children's Library closed, a number of people and services needed to be redistributed temporarily, which would impact the Downtown and College Terrace Libraries. If the move became permanent, it would need to return to Council for approval. The intent was not to deprive the Downtown Library of services.

Council Member Kishimoto said the Director of Libraries reaffirmed the Downtown Library would remain open and a viable resource for the neighborhood. She confirmed technical services would be at the Downtown Library until a long-term master plan was developed.

Council Member Mossar reaffirmed the changes reflected in the CIP resulting from Children's Library closure were temporary. In regard to Item No. 13, initially she did not vote to refer the item to the Policy and Services Committee (P&S) as explained by Council Member Beecham. After being heard by the HRC and P&S Committee, she gave it her approval and felt it was time to move on.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Council Member Morton moved, seconded by Kleinberg, to move Item No. 14 before Item No. 7, with Item No. 7 to become Item No. 14a.

MOTION PASSED 6-1, Mossar no, Freeman, Ojakian absent.

COUNCIL MATTERS

14. Colleagues Memo from Mayor Burch, Vice Mayor Kleinberg and Council Member Kishimoto Regarding Golf Course Redesign and Playing Fields Creation

MOTION: Vice Mayor Kleinberg moved, seconded by Kishimoto, to direct staff to conduct a preliminary feasibility review of the Golf Course Redesign and Playing Fields Creation proposal, including an emphasis on private financing strategies and return to Council with an initial evaluation within the next three to four months.

Vice Mayor Kleinberg read an excerpt from the Subcommittee on Fields Advisory Report, presented to, and adopted by, the Parks and Recreation Commission on December 14, 2004. It stated the citizens of Palo Alto were suffering from a lack of playing fields. She said the lack of field space caused the community and elective leaders to examine solutions to the problem. One of the hurdles was a lack of available and affordable space. The Palo Alto Municipal Golf Course was created 50 years prior on 184 acres in the mudflats of the Baylands. Four acres of the course had been traded for the Winter Lodge. Over the years, improvements had been made on the remaining 180 acres. A modern design could improve the course and free up space for playing fields. The preliminary feasibility study needed to include advantages and constraints so that the assessment would be complete and candid. Improving recreation opportunities for adults and youth without having to buy new land was a major advantage. One of the constraints that could become an opportunity was the San Francisquito Creek Joint Powers Authority (JPA) looking at flood control measures through a general investigation conducted by the Army Corps of Engineers. The course could be designed to aid the effort and the timeline conformed to the study. Consideration needed to be taken regarding the neighboring communities, especially East Palo Alto which was involved in the flood control effort. There were ways that might privately finance the redesign, as well as create new playing fields. Developers, who specialized in redesigning municipal courses, would be contacted and asked to incorporate the existing debt on the current bond into design proposals. By allowing staff to explore the concept with professionals, a workable financial package could be determined. The problem had been identified with possible solutions.

Council Member Kishimoto stated why she supported the motion. She said the proposal was an out-of-the-box idea that had been discussed for a few years. Land use for playing fields at the Baylands and the landfill in 2011 would be studied, as well as working with the San Francisquito Creek JPA addressing flood control issues. The first proposed project would happen on the Golf Course area and would consider the Baylands' ecology and location. Increased traffic and nightlights would need to be considered and playing fields would be clustered near the baseball fields. She urged her colleagues to support the preliminary review of this proposal.

Howard Look, 1401 Parkinson Avenue, said the redesign would create better use of space and urged Council to support the idea.

Riley Burt, 1249 Harriet Street, said the redesign would create better playing fields. He supported the motion.

Carolyn Burt, 1249 Harriet Street, said the redesign would provide better playing fields for kids and urged Council to support the motion.

Faith Brigil, 2733 Bryant Street, said the redesign would provide better playing fields and playtime for children. Upgrading the playing fields would encourage children to play sports. There was also a great need for auditorium space for children's recreational use.

Craig Allen, 315 Melville Avenue, spoke on behalf of the Palo Alto Golf Club Board of Directors. He agreed there was a shortage of fields and space issues regarding suitability for golf course land. The Golf Course was heavily utilized. It was not financially feasible to do the project. It took \$6 million to renovate half the course, and to double that would be \$12 million or more with \$5 million remaining in the bond issue. Financial support would come out of the golfer's pockets. He urged Council to start with a financial analysis if they decided to proceed with the study. He did not support the motion.

Vice Mayor Kleinberg recognized children and families in the audience in support of the motion and asked them to stand.

Terry Hogan, 1775 Guinda Avenue, said the Palo Alto Golf Course was an excellent course, which was well maintained and had an excellent staff.

Bob Carlstead, 147 Walter Hays Street, said Palo Alto invested \$6 million to upgrade the Golf Course. Palo Alto citizens owned the course and money would be returned to the City for 45 years. The plan would negate the \$6 million investment. Golfer's fees would increase if the course were upgraded to an executive course. Stanford had an executive golf course, which cost \$100 to play a round of golf. He suggested placing soccer fields on the landfill area when it closed in 2011. He urged Council to not approve the proposal.

Betsy Allyn, Willmar Drive, said creating playing fields would be a great contribution to the children, as the Palo Alto population grew and would last longer than 50 years.

Tom Jordan, 474 Churchill Avenue, supported the proposal. He said the City would gain access to substantial amounts of money in the area of flood control and overflow rights.

Sharon Oliver, 823 Gailen Avenue, did not support the motion. She said the Golf Course contributed to the General Fund for 50 years, and to rebuild and replace it with soccer fields would be too costly.

Janice Hough, 189 Bryant Street, stated she supported the motion. She spoke of children's obesity being a national problem. The redesign would contribute to more playing fields and encourage children to participate in sports.

Michael Closson said the redesign should include enhancement of the natural environment of the area. He supported the proposal.

Mike Krigel, 739 LaPara Avenue, spoke regarding the need for baseball fields.

Donald M. Hughes, 1824 Oak Creek Drive, echoed Mr. Carlstead's comments and suggested placing soccer fields on the landfill area with when it closed in 2011.

Herb Borock, P.O. Box 632, spoke of spending funds to complete and develop parks located in the flatlands such as Greer Park and Heritage Park. The proposal was in addition to the proposal for the Mayfield playing fields

and created a feasible alternative to the Mayfield proposal and needed to be studied in the Mayfield Environmental Impact Report (EIR) alternatives section.

Paul Losch, 890 Lincoln Avenue, supported the proposal.

Council Member Morton asked what areas staff was allowed to study. He suggested looking into placing soccer fields on the 130 acres of landfill and noted that eliminated the need to hire a consultant for future study if the Golf Course redesign did not work out.

Vice Mayor Kleinberg said directions had not been made limiting staff on areas to be studied. She welcomed Council Members Morton's suggestion and any other suggestions relevant to the issue.

Mayor Burch clarified the memo stated "that staff be directed to conduct a preliminary feasibility review of the proposal, including an emphasis on private financing strategies, and return to Council with its initial evaluation within the next three to four months."

Vice Mayor Kleinberg said if the study proved feasible, Council could develop criteria and other appropriate directions. She did not intend to hire consultants.

Council Member Morton asked whether the study of the 130 acres of landfill area would complicate the process.

City Attorney Gary Baum said the proposal concerned the Golf Course redesign and design of the playing fields. Looking into specific alternatives was not included. It would be acceptable to include in the motion "and other alternatives." If specifics were included, the item would need to come back to Council for approval.

Vice Mayor Kleinberg said that was not the intent of her motion. She wanted to allow the minimal staff time to determine whether the proposal was feasible.

Council Member Mossar raised concerns of conducting a preliminary review. She said staff was being asked to do something very minimal but what really was being asked was to verify a proposal with high levels of detail. She said

when Council adjourned the meeting and acted as the Public Improvement Corporation (PIC), the financial statement being approved at the meeting stated the Certificate of Participation (COP) for the Golf Course still had an outstanding debt of \$6 million. The debt was not acknowledged in the report. When Top 5 Priorities were discussed and the City Manager gave the direction for processing the year's budget, a number of the colleagues expressed concern and felt asking for the five Priorities was a significant amount in a year when the City had to deal with finding long-term cost reductions for a \$5 million deficit. She was troubled by the fact staff was being asked to answer a proposal in two to three months when the City was asked to be kept financially whole. She felt the timing was inappropriate. She spoke of her involvement with the San Francisquito Creek JPA and the importance of solving the flood problems in the community. The creek was the dividing line between San Mateo and Santa Clara counties. The people, who lived along the Creek, owned the property to the center of the creek making the creek private property. The JPA worked with private property owners, two counties, and cities of East Palo Alto, Menlo Park, Palo Alto, Stanford University and various regulatory agencies. There was a two-year struggle to get all agencies in agreement to work together toward solving the flood problems. Palo Alto faced the greatest risk of flooding because of its downhill location from the Creek. Palo Alto held the greatest responsibility of being the best team player in solving the flooding problem. The maker of the motion and some of the citizens implied reconfiguration of the Golf Course and building playing fields would help accomplish the Creek's flood control. The real answer was "yes, maybe, but it would be another two to three years before anyone would know what was appropriate to do with the Golf Course relative to flood control." The JPA had entered into a relationship with the Army Corps of Engineers, a Federal agency responsible for flood control that held the money to complete the flood control project. The Army Corps of Engineers was close to informing the JPA of their Federal interest in the project. That meant the cost to fix the problem was significantly lower than the benefits attained by fixing the problem. It was difficult to get the Army Corps to agree because property values along the Creek were very high. It was wrong to assume whatever the Army Corps had to buy, would buy, and the City would gain substantial amounts of money. Every dollar that raised property values of land using flood control would change the benefit cost ratio and could change the Army Corps' decision to not complete the flood control project. Federal funds would be available in the current year for the Army Corps to begin their feasibility study with the JPA in developing the high level plan. It would take

two to three years to determine what needed to be done with the Golf Course. Current changes to the Golf Course had no bearing on the Army Corps' recommendation and could result in their decision to not pursue the project; or the JPA could decide it was not worth working with Palo Alto on having an outcome to benefit all. She suggested taking the message to the JPA and for them to keep in mind in working with the Army Corps the idea to maximize playing fields. She urged Council not to go ahead with the proposal but to wait for the Army Corps' answer on what to do with the lands. She did not support the motion.

Council Member Beecham asked staff to interpret the sentence in the proposal "that staff be directed to conduct a preliminary feasibility review of this proposal."

City Manager Frank Benest said it would be a first cut view of the opportunities and constraints and how to deal with the constraints. Staff would return to Council with opportunities to overcome the constraints and to pursue a more feasible study and allocate the resources; or, given the constraints, there might not be any opportunities.

Council Member Beecham asked whether staff would need outside expertise to complete the study.

Mr. Benest said the Planning and Community Environment Department would take the lead with involvement from Administrative Services Department (ASD) and the City Manager's Office.

Director of Planning and Community Environment Steve Emslie said in order to pursue the project, staff would need to remove the Baylands Update from the work plan.

Council Member Beecham asked if the Baylands Update were not removed, how soon could staff begin.

Mr. Emslie said the Update would take approximately nine months to a year.

Council Member Beecham asked what the timing would be to match with any of the JPA requirements.

Public Works Director Glenn Roberts said it would take two to three years for

the Army Corps to complete their feasibility study and provide recommendations. The City would then know what impacts the Golf Course redesign would have on the Creek.

Council Member Beecham asked if the JPA's decision was two to three years out, and what work should the City have completed in advance in order to consider the options

Mr. Roberts felt the question should be referred to the JPA for review.

Council Member Mossar said to ask the Army Corps what they needed from those lands. The project could be designed once the needs were known. Constraints must be known before the project could be redesigned.

Council Member Beecham said the proposal suggested an evaluation working concurrently with the Zoning Ordinance Update (ZOU) currently in progress. He questioned the advantages of this process.

Mr. Emslie said there were no advantages or disadvantages. Separate staff members would handle the ZOU and there would be no change to the workload from the ZOU's standpoint.

Council Member Beecham asked about the current contract with the Golf Course -operators.

Community Services Director Richard James said both the restaurant and the Pro Shop operators had ten-year contracts.

Council Member Beecham asked when the first contract expired and questioned early termination rights.

Mr. James said the first contract would expire in 2013 and the City would be able to buy out both contracts.

Council Member Beecham asked what advantage would there be in pursuing the project now or to wait another two years.

Mr. Benest said it would be Council's call. There would be a variety of opportunities, issues, and constraints. The work plan would need to be adjusted for the short-term or could be programmed at a later date.

Council Member Beecham said the redesign was a great opportunity to gain significant acreage for playing space and \$2 million dollars would be a fair price for 5 to 10 acres of soccer fields. The cost to revise the Golf Course would be \$12 million, but it would be inappropriate for golfers to pay the entire cost. Placing a golf course on a potential flood area would have significant financial impact on the operations. He was not willing to delay the Baylands Update to do an analysis at this time.

Mayor Burch clarified the recommendation was to “conduct a preliminary feasibility study.” He explained there was an idea explored to the point where it could not be explored any further without other significant facts being taken into consideration. He clearly understood Council Member Mossar’s concerns and how it would affect the JPA. It was important to determine whether the project was or was not feasible. If the redesign was not feasible, then other channels could be looked at in solving the playing fields problems. He did not want to wait another two or three years to find it was not feasible and, in the meantime, not research the possibilities.

Council Member Morton asked if the Golf Course was part of the Baylands Update.

Mr. Emslie said it was included in the Baylands Master Plan, but the primary focus of the Update dealt with the natural open space areas, in particular the 130 acres.

Council Member Morton raised concern about staff time, deferring the Baylands Master Plan and finding ways of getting a broader package without added cost or staff time. He asked whether the redesign proposal could be added to the Baylands Update. He suggested combining the two projects to respect Council Member Mossar’s desire to inform the JPA of the City’s interest and to ask staff to add the redesign to the Baylands Update. The JPA and the Army Corps could have feedback at that time on how, and what, the City should do.

Mr. Emslie said the two would be handled differently. One was a policy analysis and the other a feasibility study.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to notify the San Francisquito Creek Joint Powers

Authority (JPA) about the City's interest in the possibility of redesigning the golf course and playing fields creation.

Vice Mayor Kleinberg said in reference to the Baylands Master Plan's timing, the study was important with respect to the JPA Study and the Baylands Master Plan. The Golf Course was in the Baylands and touched the JPA's authority. JPA Executive Director Cynthia D'Agosta was informed that the City was pursuing a feasibility study. She hoped staff would find a timeline where the planning could be in conformance with, and able to support, the JPA's study.

Council Member Kishimoto echoed Vice Mayor Kleinberg's comments and looked forward to project coordination of the timelines.

Council Member Mossar said the Army Corps' timeline was two to three years, but the precise time frame could not be determined within three months. The City signaled the member agencies and the Army Corps of its commitment to a partnership in solving the flooding issues. The City would not move forward on its own with land use decisions made prior to the completion of a plan resulting from the Army Corps' feasibility study. She felt it was a waste of staff's time, community resources, and finance in pursuing the proposal. It should not be pursued until the Army Corps provided their information. Costs and how to pay for it needed to be determined prior to doing a feasibility study. There were details not included in the memo and would have no bearing on the Army Corp's plan since the Army Corps did not have a plan. The timing was wrong, and it would be costly. Again, she urged Council to defeat the motion.

Council Member Beecham said he would not support a motion that would come before the Baylands Master Plan Update and asked that the study be completed after the Update.

Vice Mayor Kleinberg asked whether it was relative to the Baylands Master Plan.

Mr. Emslie said yes because the Golf Course resided within the Baylands Master Plan, which would take between nine months and a year

Vice Mayor Kleinberg asked whether the redesign would be inconsistent with the Baylands Master Plan.

Mr. Emslie said whether there was a shift in policy could not be determined at the time.

Council Member Cordell asked how long it would take to do the feasibility study.

Mr. Emslie said approximately three to four months.

Council Member Cordell said if the proposal were pursued it would delay the Baylands Update by 90 to 120 days, and she questioned Council Member Beecham's delay concern.

Council Member Beecham said it was a matter of management. The Council had set priorities and established a work plan. There would be a better policy and conceptual sense of the Baylands Master Plan if the proposal were pursued after the Update.

Vice Mayor Kleinberg clarified she heard Mr. Emslie state the redesign would not be considered in the Baylands Master Plan.

Mr. Emslie said that was correct.

MOTION PASSED 5-2, Mossar, Beecham no, Freeman, Ojakian absent.

Council Member Mossar left the meeting at 9:25 p.m.

14a. (Old Item 7) 1012 Forest Avenue [04PLN-00021]: Appeal by Todd and Kathy Reece of the Director of Planning and Community Environment's Approval of a Single Family Individual Review Application for a New Two-Story Residence Owned by Greg Lee and Linda Liu. Zone: R-1. Environmental Assessment: Exempt from the California Environmental Quality Act Per Section 15303.

Mr. Emslie gave a brief overview of the Item as outlined in the staff report (CMR:177:05.) He said the Individual Review Program (IR) was an administrative process performed through a Director's Hearing. An adjoining property owner could appeal the Director's Decision. The Ordinance required a minimum of four council members agreeing to set a hearing for the appeal. The item was not a hearing on the appeal, but

rather to ascertain the minimum of four votes in order for a subsequent hearing to be set at a future date.

City Attorney Gary Baum echoed Mr. Emslie's comment as far as Council comments. The issue at the meeting was whether or not to set the item for a full public hearing with that evening's meeting limited to Council's discussion and not the public's.

Mayor Burch asked what the limitations were as far as public comments.

Mr. Baum clarified public comments were limited to whether or not there should be a public hearing.

Carol Nast, 1117 Hamilton Avenue, was in support of Greg Lee and Linda Liu to approve a Single Family Individual Review (IR). She spoke regarding the flooding issue and recommended not pursuing the request to appeal.

Kathy Reece, 956 Boyce Avenue, opposed the Director's decision. She raised concern regarding the size of the side window at 1012 Forest Avenue that faced her property.

Michelle Arani, 3544 Emerson Street, supported the Reece's appeal.

Todd Reece, 1002 Forest Avenue, opposed the IR process.

Alice Mansell opposed the IR process.

Erika Enos, 2110 Columbia Street, was in support of the Lui/Lee's design. She said the Lee's had followed all City guidelines, which were approved by the Planning Department.

Janet Negley, 4142 Willmar Drive, urged Council to proceed with the IR.

Marcus Aiu, 2470 Ramona Street, urged the Council not to proceed with the IR process.

Penny McDermott, 3911 Emerson Street, supported the Reece's request.

Ken Hayes asked for Council's support to proceed with the project and to not hear the appeal.

Jaime Wong, 1849 Webster Street, urged Council not to continue with the appeal hearing.

Greg Lee, 1012 Forest Avenue, asked Council to uphold the IR approval.

Drew Maran, 731 Lincoln Avenue, opposed the appeal.

Jarcon Tsang, 3493 South Court, supported the IR and opposed the hearing.

Elizabeth Wong, 1849 Webster Street, urged Council to not hear the Reece's appeal.

Herb Borock, P.O. Box 632, disagreed with the process of requiring four Council Members' votes whether there was the minimum quorum of five or all nine Council members present. When changes were made to the review process and other processes in the Zoning Code, it was referred to as "streamlining." It was streamlining for the applicant. There was a need to balance the public with the applicant and the debate did not occur.

Ann Hawkinson, 3541 Emerson Street, stated a public hearing was necessary for the project because proper notification was not made.

Council Member Beecham opposed the hearing, but would recommend a full hearing by Council without public testimony.

MOTION: Council Member Beecham, seconded by Burch, to deny the appeal.

Vice Mayor Kleinberg said the Planning Department received criticisms regarding the processing of the project and gave the Planning Department an opportunity to state what had been completed in terms of the notification process.

Mr. Emslie said the project records had been reviewed by him and by the City Attorney. Evidence showed ample and proper notification was given at all phases of the project. He said multiple notifications are given at the beginning of the process, notices to establish comment periods, and notices to determine when decisions were made. He would be glad to look into any concerns or lack of notification or communications that were not given.

Council Member Morton asked to remove the item from the Consent Calendar due to the attendance of the press and the volume of public discussion at the meeting. He was in support of hearing the appeal because the community needed a forum to hear the issues. Council had a responsibility to hear neighbors' differences when issues reached a certain level.

Council Member Cordell said in listening to all the statements made, she would not comment on the merit but looked to whether or not there was procedural due process and concluded there was procedural due process in getting to that point. She had not heard a basis for going forward with a hearing on the merits and would listen for her colleagues' additional comments on whether to go forward or not.

Council Member Kishimoto upheld staff's recommendation and did not support a hearing.

Vice Mayor Kleinberg said procedural fairness had been accomplished, and she did not support another hearing.

Mayor Burch did not support another hearing.

Mr. Baum asked the Mayor to repeat the motion.

Mayor Burch said the motion was to decline to hear the appeal.

Council Member Morton requested a point of order and thought the additional remark was if it passed it would return to the Council.

MOTION PASSED 5-1, Morton no, Freeman, Mossar, Ojakian absent.

MOTION: Council Member Beecham moved to have the item return on the next Council agenda for a full Council vote without public testimony.

Ms. Harrison advised Council Member Beecham the next scheduled meeting was to discuss the Zoning Ordinance Update (ZOU), which would be a lengthy meeting. She felt it was not the best time to have the item return to Council.

Mr. Baum clarified what Council Member Beecham was requesting was a motion for reconsideration and a suggestion for continuance. To close the public hearing and to continue would nullify past action.

Council Member Beecham said he would not move for reconsideration.

MOTION WITHDRAWN BY THE MAKER

PUBLIC HEARINGS

15. Public Hearing: Storm Drainage Fee Protest Hearing and Approval of a Resolution Calling a Special Mail Ballot Proceeding for April 26, 2005, to Submit a Storm Drainage Fee Increase to Owners of Parcels of Real Property Subject to the Fee

Mayor Burch read the following statement into the record: This is the time and place for the public hearing on a proposed increase in the storm drain fee. This fee increase proposal is subject to the voter approval requirements of Proposition 218, Article XIID, of the California Constitution and will be conducted in accordance with those requirements. The City mailed notice of this public hearing to owners subject to the fee, on January 19, 2005. All interested persons will have an opportunity to provide testimony this evening. However, protest to the proposed increase must be in writing and submitted to the City Clerk before the close of hearing. All protest must be in writing, signed by the property owner, and must state the grown for protest and identify the parcel for which the protest is being made. The Clerk will accept written protest until the public hearing on this matter is closed. Property owners who have already submitted protest may also withdraw them before the close of this hearing. At the conclusion of the public hearing, the City Clerk will call the number of written protest and the Council will determine whether a majority protest exist. A majority protest will exist if a majority of owners subject to the fee increase have filed and not withdrawn a written protest. If a majority protest exists no fee increase will be imposed. If a majority of property owners have not submitted protest by the close of this hearing, the City Council may call a special ballot proceeding and submit the proposal to property owners for approval." He stated property owners wishing to protest the proposed fee increase must submit written protest to the Clerk before the close of the hearing. Protests submitted after the close of the Public Hearing would not be counted in determining whether a majority protest exists.

Mayor Burch declared the Public Hearing open at 10:00 p.m.

Richard Alexander, 435 Santa Rita, said the City asked for a \$17 million program without a cost engineering analysis. He said many of the residents would say "no" during the election because balancing the budget through additional utilities charges was inappropriate.

Larry Klein, 872 Seale, was in favor of the storm drain measure. He said a cost benefit analysis was completed. It was a 10-year storm standard developed by engineers all over the country and adopted by every community in Santa Clara County. The fee increase would bring the current system up to the level where it should be.

Audrey Sullivan Jacob, member of the Storm Drain Election Campaign, 1437 Dana Avenue, said their goal was to get good information out to the community. The fee would go into an Enterprise Fund separate from the City's budget and would be used solely for repair and maintenance of storm drains in the City. Geographically, Palo Alto is located in a hole with an aging storm drain system that needed to be upgraded beyond the \$4.25/month per parcel currently charged. The recommendation was the results of a study made by an assigned Blue Ribbon Committee.

Vivian Blomenkamp was in favor of the increase. Her property did not have any storm drains close by and she hoped the increase would correct the problem, as well as improve the failing storm drains.

Leannah Hunt, 245 Lytton Avenue, supported the increase.

Richard Goodell, 740 Addison Avenue, said the storm drain system was not a utility but part of the City's infrastructure and should be paid out of the City's General Fund.

Walt Hays, 355 Parkside Drive, said due to budget cuts, the General Fund lacked funds for storm drains. Storm drain fees, unlike the General Fund, could not be taken away by the State.

Art Kraemer, 1116 Forest Avenue, said some of the proposed changes had not been thoroughly analyzed. A cross-benefit analysis should be completed before the increase was implemented.

Willie Thoits, Palo Alto, said the storm drains needed to be corrected in his area.

Mayor Burch announced that written protests had to be submitted or withdrawn prior to the close of the Public Hearing. Protests could not be accepted once the meeting was closed.

Electra van Bragt, 2580 Waverley Street, asked Council to look into other means to pay for the storm drains. She said she was on a fixed income and could not afford the monthly increase from \$4.25 to \$10.00.

Mayor Burch declared the Public Hearing closed at 10:34 p.m. and asked the City Clerk for the number of written protests.

City Clerk Donna Rogers said there were 242 written protests received.

Mayor Burch asked whether the number of the written protests was greater than 50 percent of the properties.

Ms. Rogers said it was not.

MOTION: Council Member Morton moved, seconded by Beecham, to approve the staff recommendation to:

1. Accept written and oral testimony on the matter of the proposed Storm Drain Fee increase; and
2. If the majority protest does not occur, adopt a resolution calling a special mail ballot proceeding for April 26, 2005.

Resolution 8506 entitled "Resolution of the Council of the City of Palo Alto Calling a Special Mail Ballot Proceeding for April 26, 2005, to submit a storm Drainage Fee Increase to Owners of Parcels of Real Property Subject to the Fee" the date is to be at least 45 days from today and the mailing is April 4, 2005

Council Member Beecham confirmed Palo Alto was located in a basin. Water ran away from the creeks. There were levies in the Bay Area without which high tide would flood up to Louis Road. During major storms and, especially at high tides, water could not exit many parts of Palo Alto except to have it

pumped out. The City did not have adequate pumps to take care of the storm waters. The main cost in the measure included a new pump station in North Palo Alto and improvements at two other pump stations in Southeast Palo Alto that were absolutely necessary. He supported the motion.

Vice Mayor Kleinberg asked whether there were any arrangements for residents on fixed income or hardship cases.

Mr. Roberts said there was a program that provided a 20 percent discount on the rate for those who qualified under the Rate Assistance Program criteria.

City Attorney Gary Baum noted the mailing would go out in at least 45 days, which was April 4, 2005.

MOTION PASSED 5-1, Cordell no, Freeman, Mossar, Ojakian absent.

- *16. Public Hearing: Consideration of a Request by Harvey and Pamela Loucks for Site and Design Review for the Construction of a New 5,569 Square Foot Single Family Residence Located at 5061 Skyline Blvd (including a 1,987 Square Foot Unfinished Basement) and an Attached 1,482 Square Foot Three-Car Garage, on an Eleven-Acre Vacant Lot in the OS Open Space Zone District. Environmental Assessment: An Initial Study has been Prepared, and a Mitigated Negative Declaration is Proposed in Accordance with CEQA Guidelines. [02-D-12, 02-EIA-13].

**This item is quasi-judicial and subject to Council's Disclosure Policy*

Mayor Burch declared the Public Hearing open and, not receiving any requests to speak, declared the Public Hearing closed.

MOTION: Council Member Kishimoto moved, seconded by Beecham, to accept the staff and Planning and Transportation Commission recommendation to:

1. Approve the Mitigated Negative Declaration (Attachment K of CMR:172:05), in accordance with the California Environmental Quality Act, with the finding that the project will not result in significant environmental impacts, and
2. Approve the Site and Design Review application based upon the

findings and conditions in the Record of Land Use Action (Attachment A) to allow construction of a new single-family residence in the Open Space district.

Council Member Beecham said there were positive reports from staff and the Planning and Transportation Commission (P&TC) regarding the item, and received good consideration from the community.

MOTION PASSED 6-0, Freeman, Mossar, Ojakian absent.

AT THIS POINT IN THE PROCEEDINGS, THE CITY COUNCIL ADJOURNED TO A SPECIAL MEETING AT 10:45 P.M. AS THE BOARD OF DIRECTORS OF THE PALO ALTO PUBLIC IMPROVEMENT CORPORATION AND RECONVENED AGAIN AS CITY COUNCIL AT 10:47 P.M.

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Cordell questioned whether the public could be given more time for the ZOU public hearing noticed for March 14, 2005.

Council Member Morton concurred with Cordell's request.

Assistant City Manager Emily Harrison stated she would check to see if the CMR for the ZOU could be given out and posted on the web the next day.

Council Member Beecham questioned the contents of the staff report for the ZOU and noted the public had the opportunity to review the process for the ZOU.

Ms. Harrison said there were alternatives in a couple of places. The staff report was not lengthy. The backup document was lengthy, but a large portion was previously placed in the packets and had been discussed. There were issues where staff presented alternatives that Council might want to consider in solving issues the public had during the hearings.

Mayor Burch noted the City Manager and he had two coffees set up along with a "call in" program at the Media Center and Coupa Café the next evening from 7 to 8 p.m. for budget questions.

Vice Mayor Kleinberg said she would like information on what authority the Council had to modify the State mandate for secondary units during the ZOU public hearing. She also noted how impressive it was to see a group of citizens come to support the needs of the community (Friends of the Parks).

Council Member Kishimoto asked that all zoning items go in the packet a week early to ensure the public would have time to digest the information before the Council meeting.

Council Member Kleinberg requested the meeting be adjourned in memory of Victor Ojakian's mother-in-law, Alice Barth, who passed away on Tuesday, March 1, 2005.

FINAL ADJOURNMENT: The meeting adjourned at 10:50 p.m. in memory of Victor Ojakian's mother-in-law, Alice Barth, who passed away on Tuesday, March 1, 2005.