

Agenda posted according to PAMC Section 2.04.070. A binder containing supporting materials is available in the Council Chambers on the Friday preceding the meeting.

Special Meeting  
Council Conference Room  
March 1, 2004, 6:00 p.m.

ROLL CALL

SPECIAL ORDERS OF THE DAY

1. Interviews of Candidates to the Utilities Advisory Commission (UAC)

ADJOURNMENT

Regular Meeting  
Council Chambers  
March 1, 2004, 7:00 p.m.

ROLL CALL

SPECIAL ORDERS OF THE DAY

1. Proclamation Expressing Appreciation to Debbie Duncan and Sue Luttner Coonen for their Outstanding Service in the Preparation and Implementation of the Terman Middle School Traffic Safety Plan
2. Selection of Candidates to Interview for the Human Relations Commission

ORAL COMMUNICATIONS

*Members of the public may speak to any item not on the agenda; three minutes per speaker. Council reserves the right to limit the Oral Communications period to 30 minutes*

APPROVAL OF MINUTES

January 20, 2004  
February 2, 2004

## CONSENT CALENDAR

Items will be voted on in one motion unless removed from the calendar by a Council Member.

### LEGISLATIVE

3. **(CMR:159:04)** Adoption of a Resolution and Approval of a Contract for the Option to Purchase Excess Capacity from the Western Area Power Administration

**Resolution of the Council of the City Of Palo Alto Approving a Letter of Agreement for Excess Capacity 04-SNR-00647 with the United States Department of Energy, Western Area Power Administration**



4. **(CMR:163:04)** Approval of the Funding Strategy, and Adoption of a Resolution Authorizing the City Manager to File an Application for a Grant from and to execute a Grant Agreement with the State Water Resources Control Board for the Construction of the Mountain View Moffett Area Water Recycling Facility Project

**Resolution of the Council of the City of Palo Alto Authorizing the City Manager to File an Application and Execute a Grant Agreement for a Grant in an Amount Not to Exceed \$5 Million From the State Water Resources Control Board on Behalf of the City of Palo Alto Regional Water Quality Control Plant (PARWQCP) for the Construction of the Mountain View-Moffett Area Water Recycling Project**



5. **(CMR:151:04)** Adoption of a Resolution in Support of the Local Taxpayers and Public Safety Protection Act

**Resolution of the Council of the City of Palo Alto Supporting a Statewide Ballot Initiative to Require Voter Approval Before State Government May Take Local Tax Funds**

### ADMINISTRATIVE

6. **(CMR:147:04)** Contract Between the City of Palo Alto and Sposeto Engineering, Inc. in the amount of \$756,791 for FY 2003-2004 Phase 2 Sidewalk Replacement Project



7. **(CMR:142:04)** Cost Sharing Agreement Between the City of Palo Alto, the Palo Alto Library Foundation and the Friends of the Palo Alto Library for the Renovation and Expansion of Children's Library

8. **(CMR:160:04)** Approval to Increase Contract Contingencies Between the City of Palo Alto and West Valley Construction Company in the Amount of \$150,000 for Water Main Replacement Project 16, Capital Improvement Project WS-02003
9. **(CMR:143:04)** Contract with John T. Whitlinger in an Amount not to Exceed \$265,000 for Tennis Classes and Individual Lessons for Youth and Adults
10. **(CMR:178:04)** Confirmation of Appointment of Paula Simpson as Director of Libraries
11. **(CMR:171:04)** Contract with Kuehne Construction in the Amount of \$262,475 to Remodel City Parks Restrooms as Part of the Americans with Disabilities Act Compliance Project – Capital Improvement Program Project PF-93009
- 11A. **(CMR:173:04)** 2957 Waverley Avenue: Application by Chuck Bradley for a Partial Refund of Development Impact Fees Paid in November 2002 on a Second Residential Unit Constructed in Conjunction with a Replacement Home

## COUNCIL COMMITTEE RECOMMENDATION

### AGENDA CHANGES, ADDITIONS, AND DELETIONS

*HEARINGS REQUIRED BY LAW: Applicants and/or appellants may have up to ten minutes at the outset of the public discussion to make their remarks and up to three minutes for concluding remarks after other members of the public have spoken.*

*OTHER AGENDA ITEMS: Public comments or testimony on agenda items other than Oral Communications shall be limited to a maximum of five minutes per speaker unless additional time is granted by the presiding officer. The presiding officer may reduce the allowed time to less than five minutes if necessary to accommodate a larger number of speakers.*

## UNFINISHED BUSINESS

### PUBLIC HEARINGS

12. **(CMR:162:04)** Public Hearing: The City Council will consider awarding a lease to Friends of the Palo Alto Library, for two classrooms known as rooms K6 and K7 located at the Cubberley Community Center, 4000 Middlefield Road. Terms of the lease provide for a year-to-year lease conditioned upon tenant using the space to provide funds for library purposes.
13. **(CMR:149:04)** Public Hearing: The City Council will consider an ordinance amending Section 16.09 of the Palo Alto Municipal Code (the Sewer Use Ordinance), which relates to requirements and standards for the discharge of wastewater into the City's sewer system

**Ordinance of the Council of the City of Palo Alto Amending Sections 16.09.106, 16.09.110, 16.09.112, 16.09.113, and 16.09.116 of the Palo Alto Municipal Code Relating to Sewer Use**

REPORTS OF COMMITTEES AND COMMISSIONS

ORDINANCES AND RESOLUTIONS

REPORTS OF OFFICIALS

14. **(CMR:152:04)** Roth Building, 300 Homer Avenue: Recommendation to Accept the Submittal by the Palo Alto History Museum to the Request for Proposal for the Roth Building

**AT THIS POINT IN THE PROCEEDINGS, THE CITY COUNCIL WILL ADJOURN TO A SPECIAL MEETING AS THE BOARD OF DIRECTORS OF THE PALO ALTO PUBLIC IMPROVEMENT CORPORATION**

COUNCIL MATTERS

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

*Members of the public may not speak to the item(s).*

CLOSED SESSION

*This item may occur during the recess or after the Regular Meeting.*

*Public Comments: Members of the public may speak to the Closed Session item(s); three minutes per speaker.*

ADJOURNMENT

Persons with disabilities who require auxiliary aids or services in using City facilities, services, or programs or who would like information on the City's compliance with the Americans with Disabilities Act (ADA) of 1990, may contact 650-329-2550 (Voice) or 650-328-1199 (TDD)

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**TO: HONORABLE CITY COUNCIL**

**FROM: CITY MANAGER DEPARTMENT: ADMINISTRATIVE SERVICES**

**DATE: MARCH 1, 2004 CMR: 162:04**

**SUBJECT: LEASE OF SPACE AT THE CUBBERLEY COMMUNITY CENTER TO THE FRIENDS OF THE PALO ALTO LIBRARY**

## **RECOMMENDATION**

Staff recommends that Council approve the attached lease with the Friends of the Palo Alto Library (FOPAL) of two rooms, K6 and K7, at the Cubberley Community Center.

## **BACKGROUND**

Since 1938, the Friends of the Palo Alto Library (FOPAL) has been the volunteer and funding support organization for the Palo Alto Library system. One element of FOPAL's program is a used bookselling and recycling operation that collects and sells used books that come from many sources, including City library discards and donations from other organizations and individuals. Through this operation, FOPAL has been able to contribute substantial funding to the Library system.

FOPAL occupied space in the Terman branch library since its opening in 1985. In 1999, two classrooms in the adjacent wing of the Terman site were vacated, and FOPAL expanded its book selling operation into these rooms. In September 2000, three more classrooms were vacated, and FOPAL again expanded its operation into the entire wing of five classrooms.. Because the City was in the process of returning the Terman site to the Palo Alto Unified School District (PAUSD), FOPAL was not charged rent. With the additional space, FOPAL was able to expand its program and thus increase its monetary contributions to the library. In 2003, the total amount contributed to the library was \$120,000.

When PAUSD took ownership of the Terman site, FOPAL lost the use of the classrooms but remained in the branch library building. The City provided space for the group's book sale operation at a new re-locatable building located on the Cubberley site. The cost to the City to install the building was approximately \$90,000, plus an annual lease payment for the re-locatable building of \$26,000. FOPAL reimburses the City a portion or all of the lease payment depending on its total revenue generation each year..

The re-locatable building has provided sufficient room for FOPAL operations when combined with the space it occupied at the Terman Library. As of December 31, 2003, the group lost the use of the Terman Library space and has asked to lease two vacant classrooms on the Cubberley site.

### **DISCUSSION**

On December 31, 2003, a non-profit tenant vacated rooms K6/K7, H6 and L1 at Cubberley. Because the mission of the FOPAL book selling operation is to provide funds for Library operational and capital uses, and because the loss of space at Terman has left it without enough appropriate space to conduct business operations, FOPAL has requested that the City grant a year-to-year lease to the organization for rooms K6 and K7, which total 1,700 square feet. Based on its free rent at Terman, FOPAL has also requested that it not be required to pay the same rental as other Cubberley non-profits (\$1.00 per square foot minimum) or, preferably, no rent at all. However, unlike the Terman site, which was owned by the City, the Cubberley site is leased. The City is obligated to make its payment to the School District, and any loss in revenue from City subtenants has to be made up from the General Fund. Therefore, staff negotiated with FOPAL a rent for the space starting at \$.57 per square foot, the same rent rate applied to Cubberley resident artist studios. Other major terms of the lease include a term up to 6 years, renewable each year at FOPAL's option conditioned upon the group using the space to provide funds for City libraries. Additional lease terms are summarized in Attachment B.

### **RESOURCE IMPACT**

Prior to December 31, 2003, Cubberley rooms K6 and K7 were leased to a previous tenant at a rate of \$1.68 per square foot for a total of \$34,380 per year. At \$0.57 per square foot, FOPAL will be paying \$11,628 annually. Consequently, the net loss to Cubberley's revenue is projected to be approximately \$22,752. However, one of FOPAL's core missions is to be a fundraising arm of the Library program and, as such, has contributed considerable funding to the Library's operational budget and capital projects over many years.

## **POLICY IMPLICATIONS**

The proposed lease is consistent with City Policies and Procedures 1-11, Leased Use of City Land/Facilities which requires that operation of facilities on city-owned property further a public use or provide a public benefit, that the leased use be compatible with the primary public use of the property, and that opportunities be provided to others to respond to possible use of the space.. In accordance with Section C, paragraph 1a, of the policy a notice of intent to award a lease was published in the Palo Alto weekly and mailed to residential property owners in-lieu of a Request for Proposal process to lease space. The notice provided the public 30 days notice that a public hearing on award of the lease would be held before the Council on this date. However, the recommendation is not consistent with the current rental policy at Cubberley which indicates a rate of a minimum of \$1.00 per square foot for non-profit groups.

It should be noted that there are currently twelve interested parties, including day-care providers, on a waiting list for space in the K or L wings, and this space could be leased to another group or organization for the same or higher rent as the previous tenant, \$1.68 per square foot or \$34,380 annually. In addition, FOPAL is the only “friends” group that requires space from the City to function. Over the past five years other groups such as the Art Center Foundation, Friends of the Jr. Museum and Friends of the Children’s Theatre have donated large sums of funding, without the use of City space. (As an example, the Arts Center Foundation has contributed \$1.5 million over the past five years.) This recommendation may set a precedent that other similar groups may view as an opportunity to request space for its future operations. Such a situation could be devastating to Cubberley’s financial health, since one of Cubberley’s missions is to cover its direct operating costs through rentals and leases.

## **ENVIRONMENTAL ASSESSMENT**

The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA guidelines.

## **ATTACHMENTS**

Attachment A Lease Summary

Attachment B: Lease Agreement

PREPARED BY: \_\_\_\_\_

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Financial Analyst

DEPARTMENT HEAD APPROVAL: \_\_\_\_\_

CARL YEATS  
Director/Administrative Services

CITY MANAGER APPROVAL: \_\_\_\_\_

EMILY HARRISON  
Assistant City Manager

cc: Friends of the Palo Alto Library