

Special Meeting  
May 17, 2004

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:00 p.m.

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

CLOSED SESSION

1. Conference with Labor Negotiator  
Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (William Avery, Leslie Loomis)  
Employee Organization: Local 715, Services Employees International Union (SEIU)  
Authority: Government Code section 54957.6
2. Conference with Labor Negotiator  
Agency Negotiator: City Manager and his designees pursuant to the Merit System Rules and Regulations (William Avery, Leslie Loomis)  
Employee Organization: Local 1319, International Association of Fire Fighters (IAFF)  
Authority: Government Code section 54957.6
3. Conference with Labor Negotiator  
Agency Negotiator: City Manager and his designee pursuant to Compensation for Unrepresented Employees (Frank Benest, Leslie Loomis)  
Unrepresented Employee Groups: Management and Confidential  
Authority: Government Code section 54957.6

The City Council met in Closed Session to discuss matters involving labor negotiations as described in Agenda Item No. 1-3.

**Mayor Beecham announced there was no reportable action.**

Adjournment: The meeting adjourned at 7:00 p.m.

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, Freeman, Kishimoto, Kleinberg, Morton, Mossar, Ojakian

SPECIAL ORDERS OF THE DAY

1. Presentation of Awards by California Park and Recreation Society for Positive Alternatives for Youth Program and the Mitchell Park Playground Renovation

Director of Community Services Department Richard James said at the 2004 California Park and Recreation Society's Conference, the City had been awarded three Statewide awards: 1) the achievement award in park planning; 2) the outstanding award of achievement for the Positive Alternatives for Youth Intern Program; and 3) the Creating Community Award.

Fernando Perez said he had benefited greatly from the Youth Program.

Council Member Morton suggested other City programs be brought to the same high status of regard in the State.

**No action required.**

1. Selection of Candidates to be interviewed for the Historic Resources Board

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

**MOTION PASSED 9-0.**

ADJOURNMENT: The meeting adjourned at 7:06 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 7:06 p.m.

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

ORAL COMMUNICATIONS

John Cunningham, Secretary, Chapter of Local 715 of the SEIU, turned in 370 cards from SEIU members in support of the Union Negotiating Team.

Maya Spector, Senior Librarian, Chair, SEIU Chapter, spoke regarding the negotiating team.

Stuart Steinhardt, Representative to the Union bargaining team, spoke in support of the negotiating team.

Ben Holgate, SEIU, spoke about the City Auditor's Report and cost saving measures.

Seth Yatowitz, 207 High Street, spoke on the police policy regarding shooting the mountain lion that day with a high-powered rifle.

Susan Rosenberg, 1425 Stanford Avenue, spoke on trees for the El Camino Project and presented the City with a check for \$100,000.

John Easter, 1175 Stanley Way, witnessed the mountain lion near his home and disagreed with the comments by Mr. Yatowitz. He stated Stanford was responsible for taking care of the mountain lion three weeks earlier.

John K. Abraham, 436 Ellsworth Place, reminded Council that some problems with the Sunrise Project were fixed, but the noise issue was neglected.

APPROVAL OF MINUTES

**MOTION:** Council Member Morton moved, seconded by Ojakian, to approve the minutes of April 19, 2004, as submitted.

**MOTION PASSED** 9-0.

CONSENT CALENDAR

Council Member Mossar stated she would not participate in Item No. 6 due to family holdings of telecommunications stock including Comcast.

Council Member Morton stated he would not participate in Item No. 6 due to family holdings of telecommunications stock including Comcast.

Council Member Ojakian stated he would not participate in Item No. 6 due to family holdings of telecommunications stock including Comcast.

Council Member Kishimoto moved, seconded by Freeman, to remove Item No. 5.

Council Member Cordell moved, seconded by Kleinberg, to remove Item No. 7.

Mayor Beecham said Item Nos. 5 and 7 would move to the end of the agenda and become Item Nos. 10A and 10B.

**MOTION:** Council Member Cordell moved, seconded by Kleinberg, to approve Consent Calendar Item Nos. 1-4 and 6.

#### LEGISLATIVE

1. Resolution 8422 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Lorraine Kratzer Upon Her Retirement"
2. Resolution Adopting Extended Parking in Downtown Parking Structures R, S/L and B from Two to Three Hours

Resolution 8423 entitled "Resolution of the Council of the City of Palo Alto Approving and Adopting Changes in the City of Palo Alto's Restricted Parking Zones"

Audrey Sullivan Jacob, Chamber of Commerce, Director of Government Relations, supported the three-hour free parking in certain Downtown Parking structures.

Lisa Hendrickson, President, Avenidas, 450 Bryant Street, also supported the recommendation for three-hour free parking.

- 2A. Ordinance 4825 entitled "Ordinance of the Council of the City of Palo Alto Amending Ordinance No. 4763, Relating to the Imposition and Collection of Certain Development Impact Fees on Residential Dwelling Units Smaller Than or Equal to 900 Square Feet " (*Passed 7-0, Kleinberg, Mossar absent*)

## ADMINISTRATIVE

3. Agreements Between the City of Palo Alto and the Cities of Alameda and Emeryville for Information Technology Services

## COUNCIL COMMITTEE RECOMMENDATION

4. The Policy and Services Committee recommends to the City Council Approval of the Construction and Demolition (C&D) Debris Reuse and Recycling Ordinance

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Adding Chapter 5.24 [Requirement to Divert Construction and Demolition Waste From Landfill] to Title 5 [Health And Sanitation] of the Palo Alto Municipal Code"

6. Request to Continue Review of Fiber to the Home Financing Options to August 2, 2004, City Council Meeting

Bob Moss, 4010 Orme Street, requested to remove Item No. 6 and make two amendments to CMR:276:04. He suggested responses and funding recommendations return directly to Council.

Bob Smith, 2291 Greer Park, requested that Fiber to the Home not be delayed any longer.

**MOTION PASSED** 9-0 for Items 1, 2 and 4.

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

**MOTION PASSED** 5-1 for Item No. 6, Freeman "no," Mossar, Morton, Ojakian "not participating."

Interim City Attorney Wynne Furth noted regarding Item No. 4, Construction and Demolition Debris Reuse and Recycling Ordinance, the word "or" was omitted from Page 7, Section 5, following sub-paragraph a.

Council Member Freeman said she voted "no" on Item No. 3 because she had not received requested information about the exact amount the City would be receiving for the contracts, the total cost for the Information Technology (IT/SP) personnel servicing the projects, and the profit or loss to be received from the projects in the future.

## REPORTS OF COMMITTEES AND COMMISSIONS



8. Finance Committee recommendation to the City Council regarding Approval of New Contracting and Purchasing Ordinance

Assistant Director of Administrative Services Lalo Perez said steps towards reducing the contract processing time in the organization were being made.

City Auditor Sharon Erickson said the contract streamlining team attempted to streamline the contracting procedures and had welcomed the advice and comments of the City Attorney and the City Auditor.

Mr. Perez said the goal was to reduce the review process by up to six weeks without compromising the controls.

**MOTION:** Council Member Kleinberg moved, seconded by Mossar, that the Finance Committee recommends to the City Council Approval of New Contracting and Purchasing Ordinance as follows:

1. An ordinance amending and replacing Chapter 2.30 of the Palo Alto Municipal Code in its entirety to establish new contracting and purchasing procedures.
2. Repeal City Policy and Procedure 1-10 covering Selection Procedures for Professional Consultants, incorporating relevant elements into the Purchasing Manual.
3. Approve an Increase in the Contract Approval Authority of the Purchasing Manager and City Manager, from \$65,000 to \$85,000, to reflect increases in the Consumer Price Index (CPI)
4. Approve a new administrative policy and procedure covering Contracts for the Provision of Municipal Services to Other Public Entities (Exhibit E of CMR: 259:04).

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Amending and Restating Chapter 2.30 of the Palo Alto Municipal Code in its Entirety [Contracts and Purchasing Procedures] to Establish New Contracting and Purchasing Procedures and to Define the Contract Authority of City Officers and Employees"

Council Member Mossar said she was confident City staff and the City Auditor were working in partnership to make the streamlining process successful.

Council Member Kishimoto suggested additional wording be added at end of the Sole Source Ordinance 2.30.360, which discussed the exemptions from



competitive solicitation requirements, “. . . in fact, City will give preference to non-proprietary systems where possible to reduce use of non-competitive contracts.”

**AMENDMENT:** Council Member Kishimoto moved, seconded by Cordell, to make a recommendation, where appropriate and where possible, regarding proprietary systems that encourages the City to pursue non-proprietary systems so that it is not locked into contracting with a particular vendor.

Mr. Perez stated he had concerns the City would possibly be made to work with a non-proprietary vendor.

Director of Administrative Services Carl Yeats said sole sourcing was used when a standard was necessary.

Vice Mayor Burch said whether sole source or non-proprietary, it should be whatever worked best for the City. He would not support the amendment.

Council Member Morton said most developed products would be proprietary. He would not support the amendment.

Council Member Kishimoto said she did not want to override the staff's judgment.

Bob Smith, 2291 Greer Road, said the amendment was inappropriate, as the best purchase could end up being proprietary.

**AMENDMENT FAILED** 2-7 Kishimoto, Freeman “yes.”

Ms. Erickson said establishing a preference would have made it difficult to administer. She assured Council that staff would use the suggestion internally when making Request for Proposals (RFP) or bids for software.

Mayor Beecham said the vote by Council did not indicate an approval for proprietary systems.

Council Member Freeman said the previous vote was not limited to software. She had concerns with the fair and open process. The amount the City Manager or designee should have the ability to sign for should be limited to \$100,000.

**MOTION:** Council Member Freeman moved that the Policy and Services (P&S) Committee review the policy and provide recommendations for Disadvantaged Business Enterprises (DBE) owned businesses.

Mayor Beecham asked Council Member Freeman if her intent was to extract Exhibit E and send it to the P&S Committee.

Council Member Freeman said that was her intent, and to have the P&S Committee review and return with recommendations on how to ensure equity among DBEs.

Mayor Beecham said the motion should be brought up after the vote.

**MOTION WITHDRAWN BY MAKER**

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

**MOTION:** Council Member Freeman moved, seconded by Kishimoto, that the Policy and Services (P&S) Committee review and provide recommendations to ensure that Disadvantaged Business Enterprises (DBEs) are on a pre-qualifying list.

Council Member Freeman said the City only viewed DBEs owned by women or minorities on Federally funded projects. The annual goal of the projects was to offer business to 25 percent of the DBEs. The percentage had been reduced to 2.5 percent the previous year. If possible, the P&S Committee should evaluate and recommend the City look beyond the Federally funded contracts and look at contracts as a whole.

Council Member Kishimoto suggested the requirement be widened to minority and women-owned businesses.

Ms. Furth said Proposition 209 influenced the City's ability to be conscious of the ownership of entities with which the City contracted; it was forbidden, except with respect to Federally funded projects.

Council Member Kishimoto said there was a goal of diversifying who bid on the City's projects and how to word the proposal.

Ms. Furth said staff could be asked to come back to the Council to formulate proposals.

City Manager Frank Benest said a meeting could be scheduled with the P&S Committee to discuss what had been done and the constraints.

Vice Mayor Burch said he did not believe a new policy was needed, nor did it need to be referred to the P&S Committee.

Council Member Kleinberg said there was no data to support there were discriminatory employment processes or contracting being performed by the City. There was not a well-defined problem to send to the P&S Committee.

Mayor Beecham said individual Council Members could not direct staff to perform tasks that required more than an hour of time.

Council Member Cordell said she supported taking a cursory look at the status of the issue and thought it should be sent to the P&S Committee.

Council Member Morton said the issue had already been through the Finance Committee, and he did not believe it should be sent back through the P&S Committee.

Council Member Mossar said broad spectrums of potential bidders were approached when going out to bid. She would support staff providing Council Members with the historic record on the issue.

Mayor Beecham asked staff about the outreach to disadvantaged businesses and what had been past practice and policy.

Purchasing Manager Johnella Walker said her department reached out to various businesses, in addition to women and minority-owned businesses. The department advertised in a web site and was in contact with colleagues and other agencies trying to reach as many individuals as possible.

Council Member Freeman said she was asking for non-Federally funded opportunities for DBEs, which meant minority and women-owned enterprises. Within the realm of the law, she had hoped attempts to insure the City was inclusive with their processes of offering contracts. To date, comparison figures of contracts awarded to women or minorities, versus contracts not awarded to women or minorities, had not been done.

Ms. Furth said the change of percentage from 25 to 2.5 percent was generated from the Code of Federal Regulations. The City did not collect data on national, gender, ethnic or other categories, with limited exceptions regarding Federal contracts. The numbers represented Federal formulas.

Council Member Kishimoto said 97.5 percent of the City's contractors were owned by white males.

Ms. Furth said the percentage was in relation to the Federal goals only; the percentage was referring to non-white male-owned businesses. The dramatically changing numbers represented Federal formulas, not Palo Alto results.

Ms. Walker said the goal of 2.5 percent was the result of one specific project. All the goals were from specific projects depending on the size and type of the project.

Council Member Cordell said she would approach staff first when she saw an issue in the future that needed further examination.

**MOTION FAILED** 2-7, Freeman, Kishimoto "yes."

### PUBLIC HEARING

- \*9. Public Hearing: The City of Palo Alto, representing Palo Alto, Menlo Park, East Palo Alto, Atherton, and portions of Santa Clara County and San Mateo County, is charged with enforcing the requirements of the cable television franchise agreement by and between the City of Palo Alto and Comcast. The City will review and may take action on allegations that Comcast has violated portions of the cable television franchise agreement pertaining to cable system design and functionality. *\*This item is quasi-judicial and subject to Council's Disclosure Policy*

### **ITEM CONTINUED TO A DATE UNCERTAIN**

### UNFINISHED BUSINESS

10. Public Hearing: The Council will consider adopting a resolution confirming the report of delinquent administrative penalty bills and directing that a lien be recorded with the Santa Clara County Recorder's Office against properties located at 1042 Metro Circle, Palo Alto, APN: 127-04-041 and 3376 Ross Road, Palo Alto, APN: 127-48-033. Resolution of the Council of the City of Palo Alto Ordering that Certain Unpaid Administrative Penalties and Costs, Including Applicable Recording Fees, be Assessed Charges Against the Properties Involved, Confirming Title Report of the Director of Administrative Services of These Property Assessments, and Directing the Director of Administrative Services to Record for Each Listed Property a Notice of Lien with the Office of the County Recorder of the County of Santa Clara, California *(Item continued from April 12, 2004)*

Mayor Beecham asked the Council to disclose if they had substantive conversations or had viewed either of the properties that might bear on their decisions. All relevant information needed to be on the public record.

Council Member Mossar said she viewed the 1042 Metro Circle property but was unable to locate the 3376 Ross Road property.

Council Member Freeman and Kishimoto said they had viewed both properties, but had no discussions.

Mayor Beecham, Vice Mayor Burch, and Council Members Cordell, Kleinberg, Morton, Mossar, and Ojakian said they had nothing to disclose.

Ms. Furth said the Administrative Services Department needed authorization to place liens on the properties to secure payment, as the penalties had not been paid.

Mr. Yeats said his role was to schedule the hearing and to ensure the City Clerk posted the notice. The individuals involved had been notified about the hearing.

Code Enforcement Officer Lance Bayer said it was a collection situation. Penalties were imposed on a daily basis if compliance was not attained. The invoices were sent to George and Karen Bradshaw on a periodic basis.

Mayor Beecham asked Mr. Bayer what efforts the City had made to ensure the Bradshaws were aware of any obligations that were accruing.

Mr. Bayer said the Bradshaw's were made aware of the daily penalties. Correspondence was sent to the Bradshaw's advising they had an obligation to pay the invoices.

Council Member Morton asked the City Attorney whether the Council could modify the amounts.

Ms. Furth said the Council could not modify the violation findings. The Bradshaws could talk about the administrative penalties and whether they had been paid. After the hearing, the City Council would adopt a resolution confirming, discharging, or modifying the amount of lien based upon evidence produced at the hearing.

Council Member Kleinberg asked whether proof of service was required.

Mr. Bayer said Mr. Bradshaw was present with his counsel. The matter was continued from the previous hearing at the request of Mr. Bradshaw so he could have counsel present.

Council Member Kleinberg asked if there were papers filed on Mr. Bradshaw's behalf.

Mr. Bayer said Mr. Bradshaw had not responded in writing. The Administrative Services Department had complied with the requirements of the notice.

Ms. Furth said the Bradshaws could object to the lien in writing or orally.

Mr. Bayer said there were circumstances that brought the Bradshaws before Code Enforcement. There was a history of the 1042 Metro Circle and 3376 Ross Road properties, and the Bradshaw's personal residence had also been subject to code enforcement action. The residence at 1042 Metro Circle had been used primarily for storage. The residence at 3376 Ross Road had been used as a rental property until the code enforcement case was initiated.

Jason Pintar, representative for Mr. George Bradshaw, said the Council would assess \$165,000 in liens against Mr. Bradshaw's properties. The hearings were held on September 6, 2000 and April 17, 2001. Mr. Bradshaw was not represented by counsel at that time and was not aware he had the right to appeal the decision. To date, most of the alleged violations had been remedied.

Mayor Beecham asked why notice of the right to appeal applied and why it was important.

Mr. Pintar said according to the California Government Code, everyone had the right to appeal any type of administrative law decision within 20 days. His client was not aware that he had the right to take the matter to a court of general jurisdiction.

Mayor Beecham asked whether Mr. Bradshaw understood there were violations pending and he was subject to fines or penalties.

Mr. Pintar said Mr. Bradshaw did not believe there were violations.

Council Member Cordell asked what violations had been remedied.

Mr. Pintar said dry rot at the Ross Road property had been repaired, the two cargo containers, a rusting antique stove, the electronics equipment storage racks, a water tank, the sheets of plywood, a compressor, multiple fencing boards and clippings had been removed, and the overgrown plants had been trimmed. There were non-operating automobiles, a red metallic duck and a sailboat currently on the property.

Council Member Cordell asked if the position of the Bradshaws was that the motor vehicles, the duck and the sailboat were not visible by the public and, therefore, not in violation.

Mr. Pintar confirmed. The items posed no risk to the health, safety and welfare of the general public and would not lower property values.

Council Member Cordell inquired about the number of vehicles on the property, the size of the duck and the size of the sailboat.

Mr. Bradshaw said there were three or four vehicles, the duck was the size of a Volkswagen Bug, and the sailboat was a Hobee Cat on a trailer.

Council Member Cordell asked whether Mr. Bradshaw's refusal to remove those items was because he did not believe they were in violation.

Mr. Pintar confirmed.

Mr. Bradshaw said he did not have any place to store them.

Council Member Cordell asked whether Mr. Bradshaw did not have a place to store them or whether he did not believe they were in violation.

Mr. Pintar said his client did not want to dispose of the items.

Council Member Morton said most of the repairable items had been repaired. The items of personal worth and value remained on the property and were not visible from the street.

Mr. Bradshaw confirmed. All of the repair work had been completed.

Council Member Ojakian asked when the repair work had been completed.

Mr. Bradshaw said the repair work on Metro Circle had been completed in April 2003.

Council Member Ojakian said he was referring to Ross Road and the dates that the items had been corrected.

Mr. Pintar said the two large railroad cargo containers were ordered to be removed in September 2000 and had been removed on or about February 2001.

Mr. Bradshaw said the roof on Ross Road was repaired under permit and essentially finished in December 2002. He did not get the final inspection on the repair.

Mr. Pintar said the air compressor and the electronic racks were reported completed at least two to three years prior.

Council Member Ojakian said the Bradshaws were receiving invoices and not responding to them.

Mr. Pintar said his client did not believe he needed to respond. He tried to comply with the City Ordinance codes during the time he received the invoices and tried to correct the problems quickly and hoped the problem was ended.

Council Member Kleinberg asked Mr. Bradshaw whether he knew he could apply for a permit to maintain the cargo containers on the property.

Mr. Bradshaw said he paid the City for a permit for the cargo containers and 13 years later he was told to remove them.

Council Member Kleinberg said Mr. Bradshaw believed he had a permit for the cargo containers.

Mr. Pintar said Mr. Bradshaw had written a check to the City in December 1985 for a permit for the cargo containers.

Council Member Kleinberg asked about the time limit of the permits.

Mr. Pintar said Mr. Bradshaw did not remember receiving the permit from the City. The check he wrote was cashed, and he assumed he had a permit.

Council Member Kleinberg asked whether the deferral of the repairs were changed due to the number of times the City Administrative Services staff contacted Mr. Bradshaw.

Mr. Pintar said the work took longer because Mr. Bradshaw did not have the funds or the means to hire contractors.

Council Member Kleinberg said the visits and the administrative contacts began in 1997 and the work was not started until 2000-2001.

Mr. Pintar said the administrative hearings took place in late 2000.

Council Member Kleinberg said she was referring to the contact between the City Code Enforcement staff and Mr. Bradshaw that began in September 1997. The Code Enforcement work was not attempted until 2000 and not completed until the following year. The roof was not completed until December 2002. She asked for an explanation as to why the property owner did not respond to the multiple contacts by the City staff.



Mr. Pintar asked if Council Member Kleinberg was referring to the time between 1997 and 2000.

Council Member Kleinberg said she was referring to the time between 2001-2002.

Mr. Pintar asked if she was referring to the timeframe from the first contact until the administrative hearing.

Council Member Kleinberg said she was referring to the commencement of repairs.

Mr. Pintar said work was being performed at that time. A permit had been obtained prior to the hearing.

Council Member Kleinberg asked if there was a permit in 1997.

Mr. Pintar said there was a permit for the Metro Circle property. He was unsure if there was a permit in 1997, but said there was work being performed in 1998-1999 on the Metro Circle property.

Council Member Kleinberg said it took four to five years to repair the roof and remove the materials.

Mr. Pintar confirmed.

Council Member Mossar asked why there had been no attempt to have a final inspection on the work completed.

Mr. Pintar said there had been a final inspection on the Metro Circle property. The final inspection on Ross Road was completed a month prior. No excuse could be offered as to why the final inspections were not made.

Council Member Mossar said it was difficult to believe that Mr. Bradshaw would not make an attempt to clear up the problem.

Mr. Pintar said he had made an attempt.

Council Member Cordell asked about Mr. Bradshaw's profession.

Mr. Bradshaw said he was an electronics engineer and was laid-off from a job with Ford Aerospace.

Council Member Cordell said Mr. Bradshaw owned three properties in Palo Alto and asked whether they generated rental income.

Mr. Bradshaw said the properties did not generate income at the present time.

Council Member Cordell asked if they had generated rental income since 1997.

Mr. Bradshaw said the property had not generated rental income since 1997.

Council Member Cordell asked how the properties had been maintained.

Mr. Bradshaw said it had been difficult.

Mr. Pintar said the Metro Circle property had been under major construction for a number of years.

Council Member Cordell asked how Mr. Bradshaw maintained three properties when he was claiming hardship.

Mr. Bradshaw said the properties did not have mortgages.

Council Member Cordell commented the homes could have been refinanced to make the repairs.

Mr. Bradshaw said it would have been difficult to make payment.

Council Member Morton said the mortgage companies would not consider refinancing when an individual had no income.

Mr. Pintar confirmed.

Council Member Kleinberg asked if there were Code violations on the Bradshaw's home on Campesino Avenue.

Mr. Bradshaw said he did not believe there were.

Mr. Pintar said there had not been anything received from the City on Campesino Avenue.

Mayor Beecham declared the public hearing open.

Herb Borock, P.O. Box 632, said he hoped there would be clarity when making decisions, which could set precedence for future hearings.

Brian Bradshaw, 123 Sherman Avenue, said there were boats and storage containers in other driveways in Palo Alto. The property of Metro Circle was flooded in 1998, which added to the delay in the completion of the repairs.

Mayor Beecham declared the public hearing closed.

Mr. Bayer said the roof on the Metro Circle house took four to five years to complete. The property came into compliance after a significant amount of time, under the order of the hearing officer and the threat of daily penalties.

Council Member Morton asked what kind of financing was available for rental property in disrepair.

Mr. Bayer said if cash flow were proven, lenders would take it into consideration.

Council Member Morton asked how cash flow could be demonstrated when it took four years to put on a roof. He asked if there were complaints from citizens regarding the properties.

Mr. Bayer said both of the properties were involved in Code Enforcement actions because of complaints from the public.

Council Member Morton said the primary cause for the Code Enforcement was complaints from the public.

Mr. Bayer confirmed.

Council Member Morton asked whether the City agreed with the possibility that no notice of the right to appeal for the hearings was sent.

Mr. Bayer said Mr. Bradshaw was given a copy of the full ordinance or he was directed to the appropriate places to look for the full ordinance.

Council Member Morton asked whether the standard practice was to send a notice and document that a notice had been sent.

Mr. Bayer said he said he did not believe that had been done.

Council Member Morton asked whether there was evidence the Bradshaw's were informed of this right of appeal.

Mr. Bayer said the issue of Mr. Bradshaw's right to appeal was just brought up that day.

Council Member Cordell asked whether it made a difference to the proceedings if there was no notice of appeal given to Mr. Bradshaw.

Mr. Bayer said it would not make a difference to the proceedings because they were not legally challenged by any other form such as a Writ of Mandate.

Council Member Cordell asked if the Council's decision could be affected if Mr. Bradshaw was not given a notice of appeal.

Mr. Bayer confirmed.

Council Member Kleinberg asked whether the remaining vehicles, the duck and sailboat still on the property were in violation of the Code.

Mr. Bayer said the items were in violation of the order of the hearing officer.

Council Member Kleinberg said the Council was being asked to impose the lien as a penalty for non-compliance and for the cost to the City.

Mr. Bayer said what was before the Council that evening was a collections matter.

Council Member Kleinberg said it was based on non-compliance and non-responsiveness.

Mr. Bayer said the intent was not to overlook on-going violations by Mr. Bradshaw on any of the properties.

Council Member Kleinberg said the Council was not looking at the continuing violations.

Mr. Bayer confirmed.

Council Member Kleinberg asked about the annual weed abatement of the properties, as experienced by Code Enforcement.

Mr. Bayer said the weed situation had been abated annually. There were continuing Code violations at the Campesino Avenue property.

Council Member Kleinberg asked about a vehicle placed on the property after Mr. Bradshaw was informed that long-term parking of cars was not in compliance with the City's Code.

Mr. Bayer said an additional inoperable vehicle had been towed to the property and discovered by a Code Enforcement Officer on April 2, 2004.

Council Member Mossar asked whether the repairs on the Ross Road property had a final inspection.

Mr. Bayer said a final inspection had been obtained according to City records.

Council Member Mossar asked if the fencing was new.

Mr. Bayer said he believed the swinging gate was new.

Council Member Mossar asked how the City had knowledge of the problems.

Mr. Bayer said since 1999 he had accompanied the Code Enforcement staff on numerous occasions to the Ross Road property, which was located next to the YMCA. The gate had not been closed until recently.

Council Member Mossar stated there were sailboats in other residence's driveways.

Mr. Bayer said there were restrictions on front property storage.

Council Member Mossar said the sailboat was one of many things cited.

Mr. Bayer confirmed.

Mr. Bradshaw said the 75 percent of the boards on the Metro Circle roof were replaced.

Mr. Pintar said his client did not have the resources or time to repair the roof.

Council Member Mossar asked Mr. Bradshaw if the gate at the Ross Road property was new.

Mr. Bradshaw said the gate was not new.

Council Member Kleinberg asked Mr. Bradshaw if he was aware that storage of inoperable vehicles on the lot was in violation of City ordinances.

Mr. Bradshaw said the inoperable vehicles were in the backyard of the property.

Council Member Kleinberg asked if he had been informed it was a violation.

Mr. Bradshaw said he was not informed until 1997.

Council Member Kleinberg asked when the last vehicle was stored on the property.

Mr. Bradshaw said a van was brought to the property over a month prior.

Council Member Kleinberg asked whether Mr. Bradshaw thought it was legal to store an additional vehicle after receiving notification about the other vehicles.

Mr. Bradshaw said he did not have any other location to put the van.

Council Member Kleinberg asked whether he thought it was legal or illegal.

Mr. Bradshaw said he thought it was legal until it was stripped down.

Council Member Kleinberg said he had received notification from the City that storage of inoperable vehicles was illegal.

Mr. Bradshaw said he felt it was legal since the vehicles were screened from public view.

Mayor Beecham asked the City Attorney's comments on any issue that may arise because of any potential lack of appeal.

Ms. Furth said the City's ordinance required the enforcement order to contain a notice that individuals had the right to appeal and state the deadline. Before a decision was made, it needed to be determined whether Mr. Bradshaw was advised of his appeal right. Any further arguments from Mr. Bradshaw or the Code Enforcement staff should be provided prior to a decision. The item should be continued to a date certain.

**MOTION:** Council Member Mossar moved, seconded by Cordell, to continue the item to the Council Meeting of July 12, 2004.

Mr. Benest said if there were any other issues, they should be brought up that evening.

Council Member Mossar said information and clarity were needed.

Council Member Cordell said she recommended that Mr. Pintar and Mr. Bayer brief the issue on the notice of appeal.

Ms. Furth said the matter would be continued to July 12, 2004.

Council Member Morton asked whether substantial corrections to the violations be weighed in the adjudication of the issue.

Council Member Kleinberg said she would like the City Attorney to explain the steps that needed to be taken.

**MOTION PASSED 9-0.**

RECESS: 10:00 p.m. to 10:09 p.m.

10A. (Old Item No. 5) Policy and Services Committee recommends to the City Council Adoption of a new policy regarding "At Will" employees."

Council Member Kishimoto asked staff for recommendations about a minimum tenure for a department head to receive severance.

Mr. Benest said severance was important in the first year. Department heads needed to be given some level of protection.

Council Member Kishimoto asked why it was important for Palo Alto to offer a severance package.

Mr. Benest said most cities had "at will" employees. The City would need a civilized manner with which to terminate employment of "at will" employees.

Council Member Kishimoto said if the City were going toward a performance-based model, she would most likely support it.

Council Member Freeman questioned why the City did not have performance-based employment.

Mr. Benest said the City did have performance-based employment.

Council Member Freeman said it was not standard practice for corporations to offer severance to employees for an amount of time longer than they had been employed.

Herb Borock, P.O. Box 632, said he opposed the recommendation because the City of Palo Alto was not a private industry.

Mr. Benest said the City had a performance-based situation. An accepted manner to entice executives to Palo Alto would be to make them "at will" employees with a severance package.

Council Member Kleinberg asked why there was no minimum employment term associated with severance.

Ms. Furth said it was a means to induce high-level individuals to come to Palo Alto, which also provided a commitment from the City.

Council Member Kleinberg asked whether it were good policy to have freedom of severance benefits for individuals without any term.

Mr. Benest said the incentive was the four-month severance package available for the first year.

Council Member Kishimoto said the City worked with merit rules and department heads were critical to the overall productivity.

**MOTION:** Council Member Mossar moved, seconded by Morton, to approve the Policy and Services Committee recommendation to the City Council to adopt a new policy under which all Department Heads Hired after July 1, 2004, will be "at will" employees whose terms of employment are specified by an employment contract.

**MOTION PASSED** 6-3, Cordell, Kleinberg, Freeman "no".

#### COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman congratulated Council Member Cordell for winning the prestigious Rose Bird Award that week.

Council Member Kishimoto requested a staff update for the Downtown North residential permit parking issue.

Assistant City Manager Harrison stated a report would be in the packet prior to the Council break.

Council Member Cordell referred to the upcoming Council/CAO Committee meeting and requested consideration of the compensation package offered to high-level employees regarding car allowances.

Council Member Mossar stated the issue was much larger than what the Council/CAO Committee would be dealing with at this time.



Council Member Kleinberg complimented Council Member Cordell on the Rose Bird Award presented by the California Women Lawyers and mentioned her excellent singing voice. She stated she recently traveled with Vice Mayor Burch to Sacramento on behalf of the Peninsula Division of the League of California Cities to discuss the budget and the proposed deal with Governor Schwarzenegger to replace the local initiative. There would be a different constitutional amendment on the November ballot if the Legislature agrees to the Governor's proposal. It was important to keep track of what goes on in Sacramento.

10B. (Old Item No. 7) Request for Authorization to Increase Amount of Existing Contracts with the Law Firms of Liebert, Cassidy & Whitmore; Colantuno Levin & Rozell, APC; and Roger Beers; Davis Wright & Tremaine; Spiegel McDiarmid; and Miller Canfield, Paddock & Stone and to Contract with Certain Law Firms for Legal Services Beyond Three years.

**MOTION:** Council Member Cordell moved, seconded by Kleinberg, to hear Item No. 7 after Item No. 11, Closed Session.

**SUBSTITUTE MOTION:** Council Member Morton moved, seconded by Mossar, to consider Item No. 10B (Old Item No. 7) at this time instead of waiting until after Item No. 11, Closed Session.

**SUBSTITUTE MOTION PASSED** 5-4, Cordell, Freeman, Kleinberg, Kishimoto "no."

**MOTION:** Council Member Mossar moved, seconded by Burch, to approve the staff recommendation to: 1) increase the amount of certain existing contracts for legal services exceeding \$65,000; and 2) to contract with certain law firms for legal services beyond three years.

**MOTION PASSED** 6-3, Cordell, Freeman, Kleinberg "no."

#### CLOSED SESSION

The meeting adjourned to a Closed Session at 10:40 p.m.

11. Public Employment  
Position: City Attorney  
Authority: Government Code Section 54957

The City Council met in Closed Session to discuss matters involving public employment as described in Agenda Item No. 11.

**Mayor Beecham announced Council authorized him to continue negotiating with City Attorney Select Gary Baum, who would be returning the next week.**

FINAL ADJOURNMENT: The meeting adjourned at 10:50 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.