

Special Meeting
April 25, 2005

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The City Council of the City of Palo Alto met on this date in the Council Conference Room at 5:47 p.m.

PRESENT: Burch, Cordell, Freeman (5:55 p.m.), Kishimoto, Kleinberg, Morton

ABSENT: Beecham, Mossar, Ojakian

1. Interviews for Public Art Commission Candidates

No action required.

ADJOURNMENT: The meeting adjourned at 6:50 p.m.

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:50 p.m.

PRESENT: Burch, Cordell, Freeman, Kishimoto, Kleinberg, Morton

ABSENT: Beecham, Mossar, Ojakian

SPECIAL ORDERS OF THE DAY

1. Presentation from Housing Trust of Santa Clara County

No action required.

2. Resolution 8513 entitled "Resolution of the Council of the City of Palo Alto Expressing Appreciation to Patrick Mateo Upon His Retirement"

MOTION: Council Member Freeman moved, seconded by Cordell, to approve the resolution.

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

ORAL COMMUNICATIONS

Diane Rolfe and school children spoke regarding Measure A for schools.

T. Skoog, Bibbits Drive, spoke regarding Esther Clark Park currently not being used, and she thought it would be a good location for soccer fields.

Maya Spector, SEIU Palo Alto Chapter Chair, spoke regarding union negotiations and proposed layoffs.

APPROVAL OF MINUTES

MOTION: Council Member Morton moved, seconded by Kleinberg, to approve the minutes of March 21, 2005, as submitted.

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

CONSENT CALENDAR

MOTION: Council Member Morton moved, seconded by Freeman, to approve Consent Calendar Item Nos. 3-7.

LEGISLATIVE

3. Resolution 8514 entitled "Resolution of the Council of the City of Palo Alto Declaring its Intention to Amend Section 12.16.020 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code by Establishing Underground Utility District Number 41 at Colorado Avenue/Middlefield Road/Oregon Expressway/Cowper Street and Setting a Public Hearing on July 11, 2005"
4. Ordinance 4869 entitled "Ordinance Updating the R-1 Zone District Regulations, the R-1 Individual Review Process, and the Home Improvement Exception Process of Title 18 [Zoning] of the Palo Alto Municipal Code by Repealing Chapters 18.13 [Single-Story Height Combining District (S) Regulations], 18.14 [R-1 Single Family Individual Review] and 18.15 [Special Residential Building Site Combining District Regulations], and Amending Chapters 18.04 [Definitions], 18.08 [Designation and Establishment of Districts], 18.12 [R-1 Single-Family Residence District Regulations], 18.77 [Processing of Permits and Approvals], 18.88 [Special Provisions and Exceptions], and Amending Cross-References in Various Other Code Sections" *(1st Reading 04/11/05, Passed 7-2, Kleinberg, Mossar no)*

ADMINISTRATIVE

5. Request for Authorization to Increase Existing Contract with the Law Firm of Speigel McDiarmid
6. Approval of an Enterprise Purchase Order with Altec Industries, Inc. in the Amount of \$412,539 for the Purchase of Two Digger Derrick Trucks
7. Authorization by City Manager to Execute Agreement and Acceptance of Edward Byrne Memorial Justice Assistance Grant Program Funds in the Amount of \$6,589 from the Federal Bureau of Justice Assistance (BJA) and Allocated by Santa Clara County

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

PUBLIC HEARINGS

8. Public Hearing: Review and Decision regarding the Permanent Retention of the Channing Avenue Traffic Calming Plan as Recommended by the Planning and Transportation Commission on November 17, 2004. The Overall Traffic Calming Plan Includes Center Medians, Raised Crosswalks, Speed Tables and an Electronic Speed Advisory Sign. These Devices are Located on the Segments of Channing Avenue Between Guinda Street and Greer Road.

Director of Planning and Community Environment Steve Emslie spoke about the project objectives.

Chief Transportation Official Joe Kott spoke about the various traffic calming devices within the project area and noted the results of the project had been positive.

Planning Commissioner Phyllis Cassel said the Planning and Transportation Commission's (P&TC) recommendation was to evaluate an in-pavement lighted crosswalk at the school crossing.

Mayor Burch declared the Public Hearing open at 7:22 p.m.

Tom Cover, 906 Addison Avenue, said traffic islands were unnecessary and dangerous.

Marc Cohen, 1586 Channing Avenue, urged center medians to be landscaped with sand and gravel.

Pauline Hayward, 1040 Channing Avenue, said traffic calming was necessary and had made a difference to slow down automobiles.

Joy Ogawa said there was no accounting of the funds spent to date or projected costs.

Margie Goldes, 1130 Channing Avenue, said safety was important and she was pleased with the traffic calming on Channing Avenue.

Mayor Burch declared the Public Hearing closed at 7:35 p.m.

Council Member Freeman said during the Fall and Winter months, the sun was in driver's eyes traveling on Channing Avenue. She asked when the Lantana would be planted.

Mr. Emslie replied in a few months.

Council Member Freeman asked about the controversy regarding the medians at Addison and Channing Avenues.

Mr. Kott said the raised center medians worked well.

Council Member Freeman asked about the width of bike lanes on Channing Avenue.

Mr. Kott said bike lanes on Channing Avenue would always be a minimum width of five feet.

Council Member Freeman asked about the possibility of lighted crosswalks at the Addison and Duvenek School locations rather than a speed table.

Mr. Kott said a lighted crosswalk would be installed at Duvenek School.

Council Member Freeman asked why the City continued to evaluate the feasibility of establishing physical traffic calming devices when the trial was over.

Mr. Emslie said the project would be treated as a new project if the neighbors approached the City.

MOTION: Council Member Freeman moved, seconded by Kishimoto, to approve the staff recommendation as follows:

1. Adopt the project's Mitigated Negative Declaration (Attachment E of staff report to the Planning and Community Environment Commission);
2. Direct staff to retain on a permanent basis the physical traffic calming devices on Channing Avenue between Guinda Street and Greer Road as shown on the attached Plan (Attachment A of CMR:230:05), given that two speed tables will be reconstructed at a lower profile with three inches maximum height;
- ~~3. Direct staff to evaluate the feasibility of establishing physical traffic calming devices on Channing Avenue between Greer Road and Wildwood Lane subject to additional consultation with abutting residents; and~~
4. Direct staff to evaluate the feasibility of installing an in-pavement lighted crosswalk and other safety devices at the school crossing provided across Channing Avenue at Heather Lane.

Council Member Freeman said when speed tables were installed, the City needed to ensure the dimensions were accurate.

Council Member Kishimoto said the purpose of a citywide traffic calming was to reduce conflicts from neighborhoods. She asked what role the local residents had in evaluating what device would be used.

Mr. Kott said staff had spoken to the neighborhood residents and adjusted the recommendations according to their concerns.

Council Member Kishimoto said clarity was needed.

Mr. Kott said residents whose properties were adjacent to or were near the devices to be installed would be notified.

Council Member Kishimoto asked whether the line-of-sight from Heather Lane to Channing Avenue would be evaluated.

Mr. Kott said intersections were continuously evaluated for line-of-sight.

Council Member Kishimoto said it was necessary to pull forward into the Heather Lane /Channing Avenue intersection to see oncoming traffic.

Mr. Kott said staff would continue to evaluate intersections.

Council Member Kishimoto suggested the words "or other safety devices" be added to recommendation #4.

Council Member Freeman said she would accept the wording "and other safety devices".

Council Member Kishimoto agreed.

Council Member Morton said the speed tables should be lowered to the desired height. More room should be provided to the traffic by narrowing the median width; safety for bicyclists would be increased.

Mr. Kott said car speeds had been lowered by traffic calming measures.

Council Member Morton said in the future smaller medians should be considered for other parts of the community.

Vice Mayor Kleinberg asked about a flooding danger, which could be created by speed tables and rolled curbs.

Mr. Kott said it was not believed there was flood danger.

Vice Mayor Kleinberg asked about the number of accidents that occurred because of the traffic calming devices.

Mr. Kott said he did not believe there had been any accidents.

Associate Engineer Heba El-Guendy said she checked the collision statistics; there were no accidents related to the traffic calming devices. A driver hit a fire hydrant because she was looking into her back seat.

Vice Mayor Kleinberg asked what the optimum speed would be over the traffic tables.

Mr. Kott said prevailing speeds should be no higher than 30 miles per hour (mph).

Vice Mayor Kleinberg said the speed tables were trying to achieve 25 or 30 mph.

Mr. Kott said the desired prevailing speed should be no higher than 25 or 30 mph.

Vice Mayor Kleinberg said the speed prior to the trial was approximately 34 mph.

Mr. Kott said that was the highest data point on the street and it varied between 25 and 34 mph.

Vice Mayor Kleinberg questioned whether the speed was being lowered by four mph.

Mr. Kott said it was lowered between three and four mph.

Vice Mayor Kleinberg asked whether the lowering of three to four mph was all that was trying to be achieved.

Mr. Kott confirmed.

Vice Mayor Kleinberg said she was asking about speed, not safety.

Mr. Kott said it made a difference for the comfort of the bicyclists.

Vice Mayor Kleinberg asked how much had been spent to date and how much additional funds needed to be spent to complete the project.

Mr. Kott said the speed tables were \$6,000 each and the raised center medians were \$4,000 each.

Vice Mayor Kleinberg asked whether Mr. Kott was speaking about what had been spent thus far.

Mr. Kott said he did not have an amount available. He knew speed tables cost \$6,000 each, raised center medians cost \$4,000 each, and the electronic speed sign installed cost \$8,000.

Vice Mayor Kleinberg asked how much had been spent.

Mr. Emslie said he would look for the answer.

Vice Mayor Kleinberg said in the future, the amounts should be included in the City Manager's Report (CMRs). She noted less than one quarter of the households in the neighborhood wanted the speed calming to be permanent.

Mr. Kott said 19 percent of the households that replied were in favor of retaining the street calming.

Vice Mayor Kleinberg said it could be concluded from the report that a quarter of the households in the project area and environs, favored the plan. She asked how to build the response from the neighbors into the survey.

Mr. Kott said it was difficult to interest individuals who were not directly affected.

Vice Mayor Kleinberg said the neighborhood community support had declined. The surveys could not be judged fairly as to whether the traffic calming should be implemented in the neighborhoods.

Mr. Emslie said the project had been initiated several years earlier prior to the City's guidelines for initiating a new project.

Council Member Freeman said the evaluation of future traffic calming measures should be based on a majority. Parameters of collecting survey information should be considered.

Council Member Morton said substantial support had been shown for the traffic calming.

Vice Mayor Kleinberg said the numbers were included in the report.

Mr. Kott said the explanation of the numbers was of all the households, which included the surrounding neighborhood; 23 percent indicated they were in favor of the traffic calming.

Council Member Morton said if 23 percent responded affirmatively, it would be unfair to assume that the non-respondents were negative.

Vice Mayor Kleinberg said surveys and data should be used and collected carefully.

Mr. Emslie said the implementation of the trial was \$68,000, modifications were \$12,000, landscaping costs were \$2,000, for a total of \$82,000.

Vice Mayor Kleinberg said from her observation, it was safer to slow down traffic for the safety of pedestrians and bicyclists. The Channing Avenue traffic-calming project was setting a precedent for the City. The majority of the residents did not want funds spent on traffic calming.

Council Member Morton said from the Channing Avenue traffic calming experience, a lesson could be learned on how to properly approach traffic calming.

Mayor Burch asked why the contractor had not corrected the difference in height of the speed tables.

Mr. Emslie said because of the street grading, the contractor picked an arbitrary point to measure the three inches.

Council Member Freeman asked whether the three inches would allow low riding vehicles to travel over the speed tables at 25 mph.

Mr. Emslie said the speed table would always be a variation; it would never be a consistent three inches.

Council Member Freeman asked whether a lower riding vehicle could pass over the speed table at 25 MPH.

Mr. Emslie said yes.

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

Vice Mayor Kleinberg asked about the Feasibility Study for Channing Avenue between Greer Road and Wildwood Lane.

Mr. Emslie said it needed to be initiated by the neighbors. Funds had been set aside for various projects.

Assistant City Manager Emily Harrison said traffic calming of the School Commute Corridor would take a higher priority over neighborhood traffic calming.

9. Public Hearing: Finance Committee Recommendation re: Consideration of Changes to the 2005-06 Utility Service Call and Connection Fees, Including the Adoption of New Charges and Increasing Existing Charges or Rates.

Mayor Burch declared the Public Hearing open at 8:28 p.m.

Joe McCarthy, representing Bridge Housing Corporation, 345 Spear Street, Suite 700, San Francisco, spoke regarding a request for an exemption from the fee for projects already in process.

Director of Planning and Community Environment Steve Emslie said he had not spoken with Bridge Housing Corporation regarding the increase in impact fees. Staff had worked with property owners on the corridor as the addition of impact fees were evaluated.

Mayor Burch asked whether the projects in process would be affected by the fee change or exempted.

Mr. Emslie said the City had the option of having the fee apply or not apply to projects in process.

City Attorney Gary Baum said Council could decide to pass the change and direct staff to return with recommendations on where in the process designated fees would apply and whether there were budgetary implications. Bridge Housing Corporation had not been agendaized that evening.

Council Member Morton said there were budgetary implications. If individual projects were to be excluded, other programs would be impacted.

MOTION: Council Member Morton moved, seconded by Kishimoto, that the Finance Committee recommends to the City Council, approval of a resolution adopting an increase in fees for Utility Service Calls and Connection Fees. Further, to add that a review of fees be done in early FY 2006-07.

Resolution 8515 entitled "Resolution of the Council of the City of Palo Alto Amending Utility Rate Schedules E-15, G-5, W-5, S-5, and C-1 of the City of Palo Alto Utilities Rates and Charges Pertaining to Service Connection Fees and Service Calls"

Council Member Kishimoto said City fees should be reviewed. Palo Alto was significantly lower in fees than other cities.

Council Member Morton said he agreed if the review of the fees were to determine whether cost recovery was appropriate.

Council Member Kishimoto agreed.

Vice Mayor Kleinberg said there should be an evaluation of how impact fees affected affordable housing.

SUBSTITUTE MOTION: Vice Mayor Kleinberg moved, seconded by Cordell, to refer this item to the Finance Committee to be evaluated in terms of total impact fees on Below Market Rate (BMR) developments, which are at least 51 percent BMR units, and the impact on current developments already in process analyzing what point in the process would trigger an allowance or exemption.

City Manager Frank Benest said staff would be returning to the Finance Committee with a review of the cumulative impact for a market rate project of all development fees including the new proposed transportation impact fee. It would be appropriate for the Finance Committee to return to the full Council to review the impact on BMR projects.

Mr. Emslie said the review was tentatively scheduled for the first Finance Committee meeting in June.

Vice Mayor Kleinberg asked whether the suggestion was for the topic to be deferred until after the Finance Committee meeting.

Mr. Benest suggested the Council approve the staff recommendation. All development impact fees should be discussed with the Finance Committee as they relate to upcoming Below Market Rate (BMR) projects.

Vice Mayor Kleinberg said the business community had been asking for an overview of all impact fees. She would not support Mr. Benest's suggestion. She wanted to know the effect of the rate increase on all projects in their various stages.

Council Member Cordell said the City Manager's suggestion was different than what had been proposed by Vice Mayor Kleinberg. She urged her colleagues to consider the substitute motion to promote affordable housing.

Council Member Morton said the fees were connection fees and service call fees, not impact fees. If modifications were needed in the future for individual non-profit groups, the Council could consider it as a separate measure.

Vice Mayor Kleinberg asked whether the Council should make allowances for those who were economically challenged in the community.

Director of Utilities John Ulrich said reductions were not available for the connection fee service. Customers that qualified could receive lower utility rates.

Vice Mayor Kleinberg said there was a precedent for subsidizing those who were unable to economically handle the current rates in some areas of utilities.

Mr. Ulrich said a portion of the recommendations were for increased fees that currently existed.

Council Member Freeman said the budget should be reviewed. Matters that brought revenue to the City should be evaluated.

Council Member Morton said assistance to non-profit housing groups was provided by other means, not by gerrymandering the fees.

Mr. Ulrich said developers and those who impacted the utility system should pay the fees.

Mayor Burch said the fee increase had a unanimous recommendation from the Finance Committee. The water connection fee was substantially lower than in neighboring cities.

Council Member Cordell asked the member of the public who spoke earlier to explain what the impact would be on their development.

Mr. McCarthy said the proposed water and wastewater fees were estimated to be an impact of \$200,000 to \$300,000.

Mayor Burch declared the Public Hearing closed at 8:50 p.m.

SUBSTITUTE MOTION FAILED 2-4, Cordell, Kleinberg yes, Beecham, Mossar, Ojakian absent.

AMENDMENT: Vice Mayor Kleinberg moved, seconded by Cordell, to accept the main motion with a provision that any project submitted that is 100 percent BMR units, that there be a point in process that the project would be exempted from this rate addition.

Mr. Baum suggested that a point of exemption decision could be made by the Council to be when the application was accepted as completed.

Vice Mayor Kleinberg asked what point would apply to that project.

Mr. Baum said it could be narrowed down to a project that was 100 percent BMR.

Mr. Emslie said the application had been submitted, but he was unsure whether the project was complete.

Vice Mayor Kleinberg asked if that would be a 100 percent BMR unit that had its application received by the City.

Mr. Baum said the application had not been deemed as complete.

Mr. Emslie said he did not have that information.

Council Member Freeman asked the number of 100 percent BMR applications that had been received and how the change in revenue would impact the budget.

Ms. Harrison said staff was not prepared to answer the questions as the speaker had just raised the question that evening.

Council Member Freeman said she needed further information.

Vice Mayor Kleinberg said large fees would impact a non-profit developer.

Council Member Morton said impacts on non-profit groups would be discussed by the Finance Committee in June and should not be voted on that evening.

AMENDMENT FAILED 2-4, Cordell, Kleinberg yes, Beecham, Mossar, Ojakian absent.

MOTION PASSED 4-2, Cordell, Kleinberg no, Beecham, Mossar, Ojakian absent.

- *10. Public Hearing: Consideration of a Request by T-Mobile on Behalf of Toufic Jisser for a Conditional Use Permit to Allow the Installation of a Telecommunications Facility at 3990 El Camino Real. Zone District: CN. Environmental Assessment: Exempt from the California Environmental Quality Act per Section 15301. [04-CUP-11].

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

Planning Manager Amy French clarified the landscape plans submitted with the building permit would become the landscape plan of record for any future code enforcement action. There were no active code enforcement cases pending on the subject or adjacent properties under the same ownership.

City Attorney Gary Baum said there were legal constraints the Council had in reviewing the project. From the March 7, 2005, Metro PCS versus San Francisco case, the court outlined what could be considered as typical land use items.

Council Member Morton stated he would not participate in the item due to a conflict of interest because of investment interest in SBC.

Mr. Baum asked whether T-Mobile was owned by SBC.

Ms. French said the letter indicated "doing business as T-Mobile".

Council Member Morton said he was waiting for the City Attorney's answer as to whether he needed to excuse himself from the issue.

Mr. Baum said the letter indicated that future correspondence should be sent to Pacific Bell Wireless, doing business as T-Mobile, which could provide a conflict.

Council Member Morton said he would excuse himself.

Mr. Baum confirmed. He stated that T-Mobile could better explain who the applicant was.

Mayor Burch asked whether five votes were needed to approve the item because it was quasi-judicial.

Mr. Baum said it could be a simple majority of a vote of three.

Planning and Transportation Commissioner Phyllis Cassel said the site chosen was believed to be the best site.

Mayor Burch declared the Public Hearing open at 9:15 p.m.

Winter Dellenbach, Barron Park, said it would be advantageous to have an updated policy, which took legalities and technology into consideration prior to placement of another tower.

Bill Stephens, T-Mobile Applicant, 1855 Gateway Boulevard, Concord, CA, said T-Mobile did not have a corporate relationship with SBC. The project would be finalized after another landscaping review. The site offered the most opportunities for compliance with the City's guidelines, ordinance, and policy.

Council Member Morton returned to the meeting as it had been deemed that he did not have a conflict.

Council Member Cordell asked for clarification about how the site offered the best location to comply with the City's regulations.

Mr. Stephens said he would work with the Planning staff to determine how T-Mobile could comply with City codes, regulations, and policies.

Council Member Cordell asked whether there were other suitable sites where the tower could be placed.

Mr. Stephens said there were not.

Council Member Cordell asked whether this was the only site in Palo Alto that met the requirements.

Mr. Stephens said it was the only site in the Barron Park area.

Council Member Cordell said the tower was a focus just for Barron Park.

Mr. Stephens confirmed.

Council Member Cordell clarified that the tower could not be placed in North Palo Alto; the tower needed to be in the area and the location chosen. She asked whether there was any other area that met the criteria.

Mr. Stephens said T-Mobile was not able to find another receptive landlord.

Council Member Freeman asked where the nearest T-Mobile cell phone towers were in Palo Alto.

Mr. Stephens showed the coverage areas on a map.

Council Member Freeman asked about the radius of coverage.

Mr. Stephens said approximately one-half to three-quarters of a mile in diameter.

Council Member Freeman said the antennas would be visible through the camouflage.

Mr. Stephens said the antennas could be camouflaged.

Council Member Freeman said she saw antennas all over town.

Mr. Stephens said staff had set the standard.

Mayor Burch said he wanted to go to the public for comments.

Ellen Gold, 3980 El Camino Real, said the owner of the property where the cell tower was to be installed would not maintain the plantings installed.

Harold Stephenson, 4054 Villa Vista, said it was not a good location for the cell tower. He did not believe the owner would maintain the tower.

Ed Jones, 543 Military Way, said information had not been available as to the reason T-Mobile needed a tower.

Bob Moss, 4010 Orme Street, said fines should be imposed if Mr. Jisser failed to comply with the installation and maintenance of the landscaping and irrigation systems.

Mr. Stephens asked whether there were any questions.

Council Member Kishimoto asked why the coverage maps had not been provided prior to that evening.

Mr. Stephens said Cingular prepared the original coverage maps and T-Mobile had enhanced them for the meeting.

Council Member Kishimoto asked whether the maps were one and the same and if the map submitted for Cingular applied to T-Mobile.

Mr. Stephens confirmed and advised Cingular merged with AT&T. T-Mobile acquired the Cingular network with exceptions.

Council Member Kishimoto asked whether Cingular and T-Mobile were one network.

Vice Mayor Kleinberg commented that T-Mobile took over some of the Cingular sites because Cingular had to divest.

Mr. Stephens said he did not know whether Cingular had to divest.

Vice Mayor Kleinberg said they had to divest. She asked whether T-Mobile owned all the sites in Barron Park.

Mr. Stephens said they did not.

Vice Mayor Kleinberg said that the Cingular map would be of on-going Cingular sites and new T-Mobile sites.

Mr. Stephens said T-Mobile assumed the responsibility of the information presented.

Vice Mayor Kleinberg asked whether the Cingular map showed Cingular sites. Some of the sites continued as Cingular sites, and some would be T-Mobile sites, so they were not exactly the same in terms of need.

Mr. Stephens said all of the sites on the map were T-Mobile sites.

Vice Mayor Kleinberg asked whether T-Mobile purchased or received all Cingular cell sites.

Mr. Stephens said yes.

Vice Mayor Kleinberg said there are no Cingular sites in the area; they were all T-Mobile.

Mr. Stephens said they were all T-Mobile sites on the map and the T-Mobile engineers knew better coverage was needed in the area.

William Hammett, Hammett and Edison Consulting Engineers, said the site would comply with the Federal Communication Commission (FCC) standards, which were designed to protect all persons for exposure to radio frequencies.

Council Member Freeman said the FCC regulations were for single towers. She asked whether there were Federal regulations for overlapping towers.

Mr. Hammett said the FCC regulated all sources. The cumulative levels would comply with standards for the new tower.

Mayor Burch declared the Public Hearing closed at 9:40 p.m.

Council Member Kishimoto said staff had spoken about meeting all the conditions.

Mr. Emslie said the Planning and Transportation Commission's (P&TC) motion included that all conditions should be met.

Council Member Kishimoto said she understood the conditions would be brought into compliance.

Mr. Emslie said that was correct.

Council Member Kishimoto said there was a condition to set up a gateway to the neighborhood.

Mr. Emslie said they would provide the conditions to the Council at places that evening.

Council Member Kishimoto asked for confirmation that the daylight plane and height limit were met for a project adjacent to a RM-15.

Mr. Emslie said the daylight plane would not apply as antennas were exempt.

Council Member Kishimoto said the Council needed to adopt a policy and required more than an informational report.

Assistant City Manager Emily Harrison said the Zoning Ordinance Update would manage the land use portions of a telecommunications policy and the informational report would inform the Council regarding issues.

Council Member Kishimoto said she wanted to have a policy in place prior to the next application.

Ms. Harrison said staff's workload did not allow time for a policy.

Council Member Kishimoto asked whether staff would look at examples such as San Jose's policy.

Ms. Harrison said a comprehensive telecommunications policy would not be forthcoming because of staff reductions and other priorities.

Council Member Kishimoto asked about the timeline on the site and land use portion.

Mr. Emslie said the details were being worked on.

Council Member Kishimoto said a policy was needed prior to receiving additional projects.

Ms. Harrison said staff agreed. There was a commitment to include a policy into the Zoning Ordinance Update.

Council Member Morton had concerns with the landscaping maintenance.

Mr. Emslie said the City could review the permit for compliance.

Council Member Morton asked whether the base of the antenna needed to be so wide.

Mayor Burch said he preferred the antenna be a pole rather than an artificial tree.

Council Member Morton asked whether the neighbors wanted a large artificial tree.

Mayor Burch said he wanted the pole to look like a cell phone antenna.

Council Member Morton said Mr. Dockter should speak to the aesthetics of an artificial tree.

Managing Arborist Dave Dockter said the artificial tree was designed to blend with the surrounding trees.

Council Member Morton said there would be maintenance of the landscaping.

MOTION: Council Member Morton moved, seconded by Kleinberg, to approve the staff and Planning and Transportation Commission recommendation to uphold the Director of Planning and Community Environment's decision to approve Conditional Use Permit 04-CUP-11 based upon the findings and conditions in the Record of Land Use Action (Attachment A of CMR:229:05) for the installation of a telecommunications facility comprised of a 40-foot faux tree-pole with six panel antennas concealed with the top region of the tree and associated equipment cabinets. Including all of the previous conditions imposed.

Council Member Morton said he was willing to consider an artificial tree.

Vice Mayor Kleinberg asked whether there was another option for placement of the antenna such as on the top of a building.

Mr. Stephens said no other structures were available.

Vice Mayor Kleinberg asked whether all property owners had been contacted.

Mr. Stephens said all properties that were a sufficient height were contacted.

Mr. Emslie said there had been approvals at other sites in Palo Alto that had not been appealed.

Vice Mayor Kleinberg acknowledged an artificial tree had been considered.

Mayor Burch said there was an artificial tree at the Fire Station on Hanover Street.

Vice Mayor Kleinberg asked whether neighbors had commented on the already installed artificial trees.

Mr. Emslie said neither he nor Mr. Dockter heard any complaints.

Vice Mayor Kleinberg asked whether the new artificial tree was of the same quality as the current artificial tree.

Council Member Morton said he would support staff's recommendation.

Council Member Freeman said the artificial tree at the Fire Station was not in a residential neighborhood.

Mr. Emslie said they were not in the same proximity to residential areas.

Council Member Freeman asked whether there were any artificial trees close to residential areas.

Mr. Emslie said there was a tower on Middlefield Road near Achieve Kids.

Council Member Freeman asked whether it was in a residential area.

Mr. Emslie said it was probably closer than the residential area across the street from that tower.

Council Member Freeman asked whether the tower was across Middlefield Road.

Mr. Emslie confirmed.

Council Member Freeman said the mobile home park was 45 feet away from the tower.

Council Member Kishimoto asked whether the antenna could be placed on the Blockbuster building.

Mr. Stephens said Mr. Jisser was not amenable to that idea.

MOTION PASSED 4-2, Freeman, Kishimoto no, Beecham, Mossar, Ojakian absent.

- *11. Public Hearing: Consideration of a Request by Chris Beach of Kier & Wright on Behalf of CBC Bay View Partners LLC for a Tentative Map for Commercial Condominiums Within Three Existing Buildings Located at 1129-1137 San Antonio Road. This Map is Required in Order to Create 10 Commercial Condominium Units. Environmental Assessment: Categorically Exempt from the California Environmental Quality Act per Section 15301(k) - Subdivision of Existing Commercial or Industrial Buildings. Zone District: LM(D). [04-PM-03].

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

Planning and Transportation Commissioner Phyllis Cassel said the P&TC supported the request.

Council Member Freeman asked whether commercial properties needed to disclose liquefaction to potential buyers.

City Attorney Gary Baum said commercial properties did not need to disclose liquefaction quotient.

Council Member Freeman asked whether there could be potential litigation if liquefaction were not disclosed.

Mr. Baum said there would not be liability on the City's behalf for failure to require disclosure but it would be within the Council's authority to require disclosure of any liquefaction issues upon sale of the property.

Council Member Freeman asked about maintenance of the paths from the building to the Baylands.

Director of Planning and Environment Steve Emslie said the P&TC was interested in maintaining a connection that was needed by the existence of an informal path through the property, and adopted its conditions to continue to require the connection.

Council Member Freeman asked why staff had not included the paths for maintenance.

Mayor Burch declared the Public Hearing open and, having received no requests to speak, declared the Public Hearing closed at 10:15 p.m.

Applicant Mark Mordell said the P&TC had required them to maintain the path used for access to the Baylands. The other paths were footpaths created by the homeless that had encampments in that area.

Council Member Freeman said staff informed her there was no common space. She inquired how each floor or each area had a separate entrance and each buyer would own that area.

Mr. Mordell said all the units were self-contained. The only common area was the exterior.

Council Member Freeman asked whether the building was one-story and if each office condominium would have a separate entry.

Mr. Mordell confirmed.

Council Member Freeman asked about the liquefaction issue.

Mr. Mordell said liquefaction was common in the area.

Council Member Freeman asked whether there were buildings in the area that were purchased and not rented.

Mr. Mordell confirmed.

MOTION: Mayor Burch moved, seconded by Kleinberg, to approve the staff and Planning and Transportation Commission recommendation to approve the proposed Tentative Map to create ten (10) commercial condominium units at 1129-1137 San Antonio Road based upon the findings and conditions contained within the Record of Land Use Action (Attachment A of CMR:228:05).

ACTION NO. 2005-04

Record of the Council of the City Of Palo Alto
Land Use Action For 1129-1137 San Antonio Road
Tentative Map for Commercial Condominium Purposes
014ipt-2305 (Kier & Wright, Applicant)

Council Member Morton asked whether staff had concerns about the adequacy of parking for multiple businesses.

Mr. Emslie said the uses would be the same.

Council Member Morton said the parking was not purchased.

Mr. Mordell said the owners of the units would have parking spaces.

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

COUNCIL COMMENTS, QUESTIONS, AND ANNOUNCEMENTS

Council Member Freeman queried when the second Downtown North Traffic Calming Trial would be completed.

Council Member Kishimoto reminded her colleagues about the unveiling of the new mural, "Under the Sun" on the Country Sun Natural Foods site on Sunday, May 1.

Vice Mayor Kleinberg noted the Regional Water Quality Control Plant was named plant of the year by the California Water Environment Association. Also, Pauline Timm, Director of Health Services at Avenidas, recently won the 2004 California Adult Day Services (CAADS) Quality Clinical Care Award.

Council Member Morton suggested advertising in the utility bills the award to the Water Quality Control Plant.

Vice Mayor Kleinberg requested the meeting be adjourned in honor of Wayne Swan, a resident, who has cajoled the Council for many years.

ADJOURNMENT: The meeting adjourned at 10:25 p.m. in honor of Wayne Swan, a resident, who has cajoled the Council for many years. He is a wonderful resident who has contributed in many ways to the community.

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.