

Special Meeting  
July 24, 2006

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

Present: Barton, Beecham, Cordell (arrived at 6:08 p.m.), Drekmeier, Kishimoto, Klein, Kleinberg, Morton (arrived at 6:08 p.m.), Mossar

ORAL COMMUNICATIONS

CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATOR  
City Manager and his designees pursuant to Merit Rules and Regulations (Frank Mr. Benest, Emily Harrison, Russ Carlsen, Carl Yeats, Nick Marinaro, Darrell Murray)  
Employee Organization: Local 1319, International Association of Fire Fighters  
Authority: Government Code Section 54957.6(a)

**Mayor Kleinberg announced there was no reportable action taken.**

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 7:10 p.m.

Present: Barton, Beecham, Cordell, Drekmeier, Kishimoto, Klein, Kleinberg, Morton, Mossar

ORAL COMMUNICATIONS

Wayne Martin, 3687 Bryant, spoke regarding Fry's Electronics.

APPROVAL OF MINUTES

**MOTION:** Council Member Beecham moved, seconded by Cordell, to approve the minutes of June 19 and June 26, 2006.

Council Member Drekmeier requested the minutes of June 19, 2006, be amended to reflect he had voted for the appointment of Marilyn Keller to the Utilities Advisory Commission.

**INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** to accept the amendment to the minutes of June 19, 2006, to reflect that Council Member Drekmeier had voted for Marilyn Keller for appointment to the Utilities Advisory Commission.

**MOTION PASSED 9-0**

CONSENT CALENDAR

**MOTION:** Council Member Barton moved, seconded by Mossar, to approve Consent Calendar Items Nos. 1 and 2.

1. Ordinance 4911 entitled "**Ordinance of the Council of the City of Palo Alto Adding Section 9.09.010 (Regulating—Public Nuisance Violations) to the Palo Alto Municipal Code**" (*1<sup>st</sup> Reading, 7/10/06, Passed 8-0, Kishimoto absent*)
2. Approval of a Contract with ACCO Engineered Systems, Inc. in the Amount of \$957,306 for Cubberley Mechanical and Electrical Upgrades - Capital Improvement Program Project PF-04010

**MOTION PASSED 9-0.**

## UNFINISHED BUSINESS

3. Review and Approval of an **Ordinance Adding a New Chapter 18.66 to the Palo Alto Municipal Code to Adopt Regulations Establishing a California Avenue Pedestrian Transit Oriented Development Combining District (PTOD)**. The ordinance would establish a rezoning process and development standards emphasizing multi-family residential and mixed use development for sites in proximity to the California Avenue Caltrain Station. The boundaries for the PTOD zoning district are generally Cambridge Avenue to the north, El Camino Real to the west, Caltrain rail line to the east, and Lambert Avenue to the south. Environmental Assessment: Comprehensive Plan Environmental Impact Report and Addendum (*Public Testimony Closed. By Council Motion, item continued from 07/17/06*)

Council Member Barton said the input he received from the public regarding the ordinance was detrimental to the closure of Fry's Electronic in ten to twelve years. The current zoning would allow Fry's to stay but could be problematic. The Pedestrian Transit Oriented Development Combining District (PTOD) was needed to inform Fry's they were needed in the community and to find a way they could work with the site to stay. He asked the Director of Planning & Community Environment to address the issue.

Director of Planning & Community Environment Steve Emslie said it was staff's intention to preserve and enhance the viability of major retail providers. Fry's was located on a site zoned residential that had been in existence for the past eighteen or more years. It meant the existing use of Fry's and other commercial uses in the area were non-conforming. The City's ordinance allowed the Council to setup a specific amortization period for removal of non-conforming uses and the Council had established an amortization period for Fry's to terminate in 2019

Council Member Barton asked whether discussion had taken place with the landowner regarding the zoning.

Mr. Emslie said the issue had been discussed with a representative at the last City Council hearing and they were supportive. They also supported the PTOD and indicated the mixed use provided flexibility in addressing the City's desire to retain the commercial use as well as to add housing.

Council Member Drekmeier said there was future consideration for the residential selection and traffic-reducing resident priority program and asked about the process in moving forward with the idea.

Chief Planning and Transportation Official Curtis Williams said the program

would be introduced as one of the possible Traffic Demand Management (TDM) measures to help applicants reduce parking requirements.

Council Member Drekmeier asked whether the concept of Green Buildings in the area was being encouraged or would it become more specific when a strong Green Building Ordinance was established.

Mr. Williams said it may become more specific with a Green Building Ordinance. With the current issue, the criteria was included in the ordinance and the Architectural Review Board (ARB) would use it in addition to their own set of criteria on new projects for review.

Council Member Drekmeier asked whether the City would be looking at Leadership in Energy and Environmental Design (LEED) standards or a perception of whether the project was Green enough.

Mr. Williams said it was more a perception for the specific project. The ARB had not adopted a philosophy of applying lead standards across the board.

Council Member Drekmeier asked whether consideration was given in changing California Avenue from four-lanes to two-lanes, adding bicycle lanes, and more outside seating for restaurants.

City Manager Frank Benest said in working with California Avenue stakeholders, a Capital Improvement Project (CIP) was established with applications for two grants to fund major improvements on California Avenue.

Council Member Drekmeier asked whether discussions had taken place with Fry's regarding the rezoning.

Mr. Benest said the City met with Fry's regional representative and discussed the issue of retaining Fry's in the community, eliminating the amortization, and signage, which was a key issue with Fry's. The City made a commitment to deal with signage, which would be presented to the Council.

**MOTION:** Vice Mayor Kishimoto moved, seconded by Mossar, to accept staff recommendation to adopt the ordinance, as recommended by the Planning and Transportation Commission (P&TC), to establish a new Chapter 18.66 of the Zoning Ordinance, encompassing a rezoning process and specifying allowable uses and development standards for the Pedestrian and Transit Oriented Development (PTOD) Combining District. Staff further recommends the addition to Section 18.66.040(d)(4) of "traffic-reducing resident priority programs" as one of the examples of parking and traffic demand measures. Furthermore, the following changes are to be included in the motion:

1. 18.66.040(d)(4): add the word "enforceable" to the Transportation

Demand Management (TDM) measure.

2. 18.66.040(a): Table 2, Development Standards, Open Space to change from 100 square feet to 150 square feet for 6 or more units.

Ordinance 1<sup>st</sup> Reading entitled "Ordinance of the Council of the City of Palo Alto Adding a New Chapter 18.66 to the Palo Alto Municipal Code to Adopt Regulations Establishing a California Avenue Pedestrian Transit-Oriented Development Combining District"

Vice Mayor Kishimoto said the staff report (CMR:295:06) and ordinance focused on several breakthroughs in Palo Alto and favored the walkable, bikeable environment concept and directed the City to explore the traffic-reducing resident priority program for the area. The reason for adding the word "enforceable" would be to give the applicant incentives to develop serious TDM measures. Changing the Open Space square footage gave flexibility and allowed each unit private space and to help create sustainable living situations.

Council Member Mossar supported the motion. She felt the location was a perfect site to experiment with the rezoning and the timing was right for the changes being considered for the California Avenue area.

Council Member Morton said if the rezoning permitted retail and mixed use, he asked whether pure retail such as Stanford Motors, Keeble and Shuchat Photography, and Fry's would be considered acceptable uses for the density requirement.

Mr. Emslie said the PTOD stipulated that new development have mixed use of residential and commercial components. If a new use wanted to enter the district and applied for the zone, the project would need to have commercial and residential components. It would allow more residential than what was allowed under the current zoning. The theory behind the PTOD was to encourage retail or high revenue producing uses. The City did not have an incentive program for major or big box retailers and viewed the addition of residential uses as an incentive to provide better economics to underwrite the cost of retail.

**AMENDMENT:** Council Member Klein moved, seconded by Cordell, to remove Fry's site, Olive Avenue residential, and GM sites south of Olive Avenue, from the PTOD boundaries and, furthermore, to direct staff to return with recommendations on commercial zoning for the Fry's and GM sites south of Olive to remain and to be modified if necessary.

Council Member Klein was in favor of keeping Fry's site because it benefited the community financially. The PTOD left a lot of discretion on the land owner.

They felt they could profit more by developing the entire site as residential. The PTOD did not require the owner to use the 195,000 sq. ft. as commercial.

Council Member Cordell echoed Council Member Klein's comments. The motion supported the efforts to retain, increase, and emphasize the need for retail. She was in favor of the motion.

Council Member Beecham asked to speak to the motion and the amendment.

Council Member Beecham supported the amendment. Fry's and the property owner welcomed the rezoning because it would increase their flexibility. The property was a complex design and not easily accessible to El Camino Real (ECR). It would take a lot of effort and skill to craft zoning that would enable Fry's stay at the site even if the property owners were willing to have that happen. Rebuilding a store in operation for a year without parking provisions was daunting and questionable such a task would be accomplished.

Council Member Morton asked the City Auditor where Stanford Motors ranked in terms of a sales tax contributor and how it compared to Keeble and Shuchat Photograph.

City Auditor Sharon Erickson said Stanford Motors was a small dealership. Fry's ranked in the top 5 and Keeble and Shuchat Photography ranked in the top 25 sales tax generators for the City.

Council Member Morton said the City needed to find a way to save Fry's and other major sales tax contributors in the area.

Council Member Drekmeier asked whether the landowner could evict Fry's and build housing on the site.

Mr. Emslie said they could.

Council Member Drekmeier asked if the Council was concerned about having the PTOD give the landowner the incentive to tear down the building and build a new one causing disruption to Fry's business.

Council Member Klein said he was concerned it would give the landowner, Wheatley Smith Jacobson (WSJ), a choice on how to develop the property. Thirty-five percent or 190,000 square feet was commercial and the PTOD was not a guarantee the property would stay as a commercial use. He asked staff to return with recommendations keeping the property zoned commercial and not give the landowner the option to convert the site into more housing.

Council Member Drekmeier asked if the landowner wanted a higher density

would the building require ground level retail and housing above, or could it be all housing and higher density.

Mr. Williams said it could be all housing at a higher density and no retail or mixed use.

Council Member Drekmeier said losing Fry's was a legitimate concern.

Mr. Williams said yes with a possibility of a residential development.

Council Member Drekmeier said it would be higher density residential than what was currently allowed.

Mr. Williams said slightly. The overall density would be about the same but the option for retail did not exist. The proposed retail floor area ratio (FAR) was consistent with the retail zoning districts.

Council Member Drekmeier said the site was not suited for retail but since Fry's was such a draw it had worked out. He felt Fry's would want a better location with possibilities to expand. He asked whether a study had been done about relocating Fry's.

Mr. Benest said there had been discussion with Fry's regarding better sites.

Council Member Drekmeier said while ground level retail was being developed there would be the chance of losing Fry's if there was not another suitable site for relocation. If the Fry's site were excluded and later a more suitable site was found for Fry's, could the site be included in the PTOD.

Mr. Williams said yes and staff would need to come back and amend the boundaries to the ordinance and add the property.

Council Member Drekmeier said if the property were included now, could the landowner develop housing and not have the option of having the same density.

Mr. Williams said currently there would be no discretionary review process for a housing project for that site.

Council Member Mossar said two years ago the community did not want commercial zoning. The economy made situations unpredictable and she cautioned about applying a commercial zone to achieve a product. She did not think it was a practical solution. She asked if Fry's site was on the housing inventory for meeting the housing target.



Mr. Emslie said Fry's was not on the housing inventory.

Mayor Kleinberg clarified Council was not being asked to vote on a commercial zone but to ask staff to return with a proposal.

Vice Mayor Kishimoto asked whether all properties south of Olive were being removed from the PTOD map and to keep the current zoning for those sites.

She addressed Council Member Morton's concern regarding losing retail and said all commercial zones (CN) and ground level retail were protected by a retail ordinance.

Mr. Emslie said there were five categories of protected uses; retail, personal services, eating and drinking, automotive, and residential.

Vice Mayor Kishimoto asked whether there would be implications on the auto services.

Mr. Emslie said no. The auto services were zoned as General Manufacturing (GM).

Vice Mayor Kishimoto said promises had been made in the past for housing in the area which needed to be addressed as well as retention of Fry's Electronics.

Council Member Barton asked about zoning on the property between Olive and Lambert Avenues.

Mr. Emslie said the majority of El Camino Real was zoned either Service Commercial District (CS) or Neighborhood Commercial District (CN.)

Council Member Barton asked whether there were properties zoned either CS or CN that compelled retail use for the site. He questioned if the site was rezoned would developments be allowed on the property.

Mr. Emslie said if the intent was to limit the use of the site exclusively for retail, the City would need to meet the legal task of providing a broad enough range of uses so it would not be considered as taking the property. All zones with the exception of industrial zoning allowed residential including the commercial districts. Those districts would need to be modified to be zoned exclusively commercial and office uses commonly found in Commercial (C) Districts.

Council Member Barton did not support the motion. He was not in favor of spot rezoning a site during discussion of a PTOD overlay.

Council Member Beecham said the proposed rezoning was the opposite from

spot rezoning. The PTOD concept was a 2,000 foot radius circle around the depot that included 10 percent of the Fry's site. He presumed when Fry's was put in 15 years ago there was possibly a grandfather clause that permitted Fry's to stay until 2019. He was in favor of staff moving forward to find a way to keep Fry's and to set a long-term policy. The City could neither force Fry's to stay nor could the City force the property owner to keep renting to them. A solution needed to be found in the best interest for all involved.

Council Member Morton asked what impact the overlay would have on the property value if the Public Safety Building was built on Park Avenue.

Assistant City Manager Emily Harrison said the property value would not be affected.

Council Member Morton asked what side of the railroad tracks the zoning included.

Mr. Emslie said it stopped on the Park Boulevard side of the tracks.

Council Member Morton asked if the purpose was to preserve commercial zoning, was it similar to the GM zoning in removing the right to build housing.

Mr. Emslie said it would be necessary to take a look at the permitted uses because they would need to be broad enough to allow for economic value of the property. Otherwise, the City could be in jeopardy of a takings claim or inverse condemnation claim by zoning action which would make the City liable for damages.

Mr. Baum said the City would need to insure there was rational basis and possible economic use, but he did not know whether Mr. Emslie's statements would trigger legal repercussions.

Council Member Morton asked what impact the housing project in the area had on the rezoning.

Mr. Emslie said Council Member Morton was referring to a pending project located at 195 Page Mill Road. The project was in the recommended PTOD. By initiation of the City, the property could be zoned to PTOD and the applicant would need to develop the project based on PTOD standards.

Council Member Drekmeier asked whether the area between Park Boulevard and the train tracks was referred to as the area south of Olive Avenue or was it only the Fry's site.

Council Member Klein referred to the map, CMR:295:06, Attachment C, yellow

area, in the northwest corner.

Council Member Drekmeier requested clarification whether staff was being asked to return to the Council with a plan to rezone the Fry's site for commercial use.

Mr. Emslie said that was correct.

Council Member Klein said that was the second part of his amendment.

Council Member Drekmeier said he would like Fry's to remain on the site but felt it was better suited for housing. He asked why the area along El Camino Real was not included in the PTOD.

Mr. Williams said the PTOD developed specific guidelines. The El Camino Real had different characteristics and the area needed to stay as retail because it contained retail businesses that were strictly commercial.

**AMENDMENT PASSED** 6-3, Barton, Drekmeier, Mossar no.

Council Member Beecham did not believe commercial zoning was the solution. By moving forward with Fry's and the land owner to find an option to commercial zoning, there would be a better possibility of saving Fry's.

Council Member Morton said a majority of the community did not want to move forward in the interest of preserving Fry's. Densification was not something the community wanted. He did not support the motion.

Mayor Kleinberg did not view the community as not being in favor of the PTOD. She felt most of the community wanted to cluster residential uses around transit. People would be moving toward this concept due to the escalating cost of operating a vehicle and highway congestion. It was planning for a better quality of life, environment and creating a vibrant neighborhood near transit.

**MOTION PASSED** 5-4, Barton, Cordell, Morton, Mossar no.

#### REPORTS OF OFFICIALS

Mr. Baum said Agenda Items 4 and 5 had direct relationships to Stanford University. Agenda Item 4, the Alma Street Electrical Substation relocation agreement with Palo Alto High Street Partners (PAHSP) for \$1 million was not directly related to Stanford but made reference to Stanford University in paragraph 7. Agenda Item 5 was an agreement with Stanford University.

Council Member Cordell stated she would not participate in Agenda Items 4 and

5 due to a conflict of interest because she was employed by Stanford University.

Council Member Klein stated he would not participate in Agenda Items 4 and 5 due to a conflict of interest because his wife was employed by Stanford University.

Council Member Mossar stated she would not participate in Agenda Items 4 and 5 due to a conflict of interest because her husband was employed by Stanford University.

4. Approval of Alma Street Electrical Substation Relocation Agreement with Palo Alto High Street Partners for \$1 million in Exchange for Substation Relocation by January 1, 2008

**MOTION:** Council Member Barton moved, seconded by Morton, to accept the staff recommendation to authorize the City Manager to approve the Alma Street Electric Substation Relocation Agreement with Palo Alto High Street Partners (PAHSP).

Council Member Morton asked whether the relocation on the Stanford side would be underground.

Director of Planning & Community Environment Steve Emslie said they were high voltage lines and would be above ground.

Council Member Morton raised concerns regarding the pole being placed in close proximity to Ace Hardware, a thriving, local, retail business.

Assistant City Manager Emily Harrison said she shared Council Member Morton's concern. There was no desire for the City to place the pole in front of Ace Hardware but it could be necessary due to engineering constraints.

Council Member Morton requested adding to the motion that every consideration be given to placement of the pole.

Ms. Harrison said every consideration would be given, however, Council Member Morton's amendment could be added to the motion if so desired.

Vice Mayor Kishimoto addressed Herb Borock's letter regarding Housing Site "H" located on Quarry and Arboretum Roads and asked whether the project would affect the site.

Mr. Emslie said the relocation only affected land inside the City. If Mr. Borock was referring to property on the campus side and the general use permit, it

would not affect the City.

Vice Mayor Kishimoto asked whether the expansion would have an affect on the Quarry Substation.

Mr. Benest said the City was consolidating the two substations, giving more modern technology with the same footprints. The Quarry Substation would continue.

Vice Mayor Kishimoto raised concerns about giving up a public facility site when the City was looking for more public sites to facilitate recycling centers, power plants, and other public uses. She asked whether the City could afford to give up a public facility site with an agreement contingent on whether to retain long-term control of the Alma site and to regain it if it no longer was 100 percent affordable housing. The Quarry site was owned by Stanford and she was concerned about being dependent on land the City did not control.

Mr. Benest said the goal was to consolidate the two substations and incorporating the Quarry site's footprint. Staff believed with the Council's commitment to very low income housing, the site would be put to good use. Staff was working on being as creative as possible to see how to revert the site if it was not used for very low income households. He did not want to jeopardize losing the opportunity for the \$1 million contribution and needed to move forward within the negotiated timeline.

Vice Mayor Kishimoto wanted to continue the item until the entire package and the three-party agreement could be reviewed.

Council Member Beecham was in favor of relocating the site. The transformers were old and low voltage needed to be upgraded. He was concerned about what to do with the land after the move. He said the \$1 million would offset the loss in the general fund on the rent for the next five years and loss of funds would go on indefinitely thereafter. A discussion would need to take place on whether to keep the site as a public facility, other purposes, or affordable housing.

Mark Sabin, 533 Alberta Avenue, was in favor of the motion and felt it would be a great value to the community to obtain more diverse housing in keeping a vital and viable community. He urged the Council approve the motion.

Irene Sampson spoke on behalf of the League of Women Voters and was in support of the motion. The League supported programs that would provide homes and suitable living environment for all families and urged the Council to approve both contracts.

Herb Borock, P.O. Box 632, spoke regarding the inconsistency of dates in the agreement and the missing codes on the bottom of the agreement that indicated dates, project numbers, and the attorney who worked on the project. He questioned whether the agreement was prepared in the City Attorney's Office or in the Palo Alto High Street Partners Office. He did not feel it was the appropriate time to act on the item.

Elaine Meyer, 609 Kingsley Avenue, addressed the inconsistent dates in the agreement of when the substation would be moved and the payment date. The contract stated the PAHSP would pay the total Relocation Payment early at a mutually agreed discount and she wanted to know the discounted amount and the reason it was not specified in the agreement.

Stephanie Munoz, 101 Alma, Apt. #701, questioned the high cost of moving the substation when half of the substation was already on Stanford land. She felt mixed used and public facilities use should be considered for the High Street property.

Mr. Benest clarified the agreement was an example of creative convergence of a variety of interests where everyone could benefit. He said the Utilities Department wanted to consolidate two substations, the City was looking for a site for low-income housing, and 800 High Street wanted the substation moved.

Mayor Kleinberg questioned the installment payments and schedule outlined in the agreement. CMR:308:06 stated the relocation payment would be reduced by \$100,000 per month pro-rated daily if relocation was not completed by February 1, 2008. The contract did not indicate the \$100,000 deduction was in sync with the changed schedule.

Mr. Baum said a resolution to Mayor Kleinberg's concern would be to change the language in paragraph 5 by adding "unless modified by paragraph 2.b."

Mayor Kleinberg requested the two items be linked and to add language to provide a grace period for extensions.

Mr. Baum said it could be done.

Mayor Kleinberg asked why the effective date on the Relocation Agreement was July 12, 2006, and asked if agreements were predated.

Mr. Emslie clarified the original agenda date for the agreement was July 12, 2006, but it was rescheduled and the date had not been changed on the agreement. It would be changed to reflect the date of approval.

Mayor Kleinberg asked whether the scheduled outline in Section 3 of the agreement was correct or would it be changed.

Mr. Emslie said staff was soliciting bids and the target relocation date was being worked on. The bid package was scheduled to come back to the Council for approval before September 30, 2006. Staff would be able to meet the schedule if the contract was awarded in September.

Mayor Kleinberg asked whether bids were released prior to approving the deal.

Mr. Benest said based upon the CIP and discussion with the Council, he had authorized releasing the bid package for staff to return to the Council for consideration in September 2006.

Mayor Kleinberg asked if the bids were released in June was the schedule still in effect and whether the parcel would be cleared of the equipment by January 1, 2008.

Mr. Emslie said yes.

Mayor Kleinberg asked whether the date of June 30, 2006, was still applicable in Section 7 of the agreement.

Mr. Emslie said it was not because Stanford's lease had not been approved by the Council. The date would be changed to reflect the Council's date of approval.

Mayor Kleinberg raised concerns about staff presenting the Council with an agreement containing unrealistic documentation. She said the Council was approving an agreement that required a number of necessary changes. The Council would assume all adjustments and changes are made and, if passed, it would proceed.

Mr. Baum said the Council could give specific directive on whatever changes needed to be incorporated into the agreement.

Mayor Kleinberg said she would ask the maker of the motion to build into the motion all adjustments and dates that were out of order.

**INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER** for the dates to be adjusted in the agreement as appropriate.

Council Member Morton asked the January 1, 2008, be changed to March 31, 2008, which would give the City more leeway time.

Mr. Benest said PAHSP preferred the City meet the schedule for consideration of the \$1 million contribution.

Mayor Kleinberg asked if the negotiations were solid at the current time.

Mr. Emslie said the date was negotiated with the developer to be extended from June 2007 to January 1, 2008, and he did not think another extension would be allowed.

Council Member Morton agreed to keep the dates as indicated in the schedule.

Vice Mayor Kishimoto did not support the motion and wanted to review the complete packet before making a decision. The proposed Quarry Road Substation Site lease agreement was for 50 years with no option to extend. However, during the 40<sup>th</sup> year the City could request in writing to meet with Stanford to discuss possibilities of an extension. Staff had preferred an easement rather than a lease, but an easement required eminent domain action. She said if eminent domain action could not be done to gain control of the property now, how would the political will be any greater in 50 years to keep the site as a transformer station.

**MOTION PASSED** 5-1, Kishimoto no, Cordell, Klein, Mossar not participating.

5. Amended and Restated Ground Lease Between Stanford University and City of Palo Alto for the Quarry Road Substation Site, 281 Quarry Road

**MOTION:** Council Member Morton moved, seconded by Barton, to accept the staff recommendation, as follows: 1) adopt the Mitigated Negative Declaration and Mitigation Monitoring Program; and 2) approve the Amended and Restated Ground Lease between the Board of Trustees of the Leland Stanford Junior University (Stanford), as Lessor, and the City of Palo Alto (City) as Lessee, for the Quarry Road substation site (Lease Agreement), as well as the following:

1. The actual commencement date will be the date both parties, Stanford and the City of Palo Alto, sign the lease.
2. The Quarry Road Substation will supply electricity to a portion of the residential area at the north end of Palo Alto, as well as to Stanford.

Council Member Morton said the substation and site belong to the City. If Stanford does not want the City's electricity and site to remain in 50 years, the City could relocate the substation.

Assistant City Manager Emily Harrison said she was hesitant to say what the laws would be in terms of the City's ability to take the site in 40 years.

Mr. Benest said the substation was a public facility with public use. If at any point the Council felt there was insufficient effort on Stanford's part to work with the City to continue after 51 years, the City could initiate eminent domain proceedings for public use. He said staff had negotiated very hard with Stanford to come to an agreement with a reasonable lease that was being



presented to the Council for recommendation.

Council Member Morton said the current utility site was old and would require a significant amount of funds to upgrade. The City had accepted a \$1 million contribution from PAHSP to have another low-income housing project and for both projects to happen at the same time.

Mayor Kleinberg requested clarification whether Council Member Morton's motion was to adopt the Mitigated Negative Declaration and Mitigation Monitoring Program and staff's recommendation in its entirety.

Council Member Morton said that was correct.

Council Member Barton said 51 years was a standard long-term lease in most legal environments. It gave ownership in terms of the ability to borrow money against it. He urged the Council to move forward on the motion.

Council Member Drekmeier said the Quarry substation lease would expire on June 30, 2007, and asked whether there was an option to extend on the lease.

Mr. Benest said there was not.

Council Member Drekmeier asked whether Stanford would consider extending the lease.

Mr. Benest said Stanford had a policy of getting market rate value for their non-academic land. The City found a creative way to continue the lease at a no cost basis because it made the housing project affordable.

Vice Mayor Kishimoto said she was not comfortable supporting the motion. The City was not willing to consider eminent domain at this time and she questioned the probability of the City to do so in 50 years.

Mayor Kleinberg asked Mr. Emslie to elaborate on the in-lieu fee mentioned on page 2 in staff report (CMR:276:06).

Mr. Emslie said the 94,000 square feet was derived from the current fair market value of the Quarry land, which was calculated at \$1.4 million. The number was used to determine the total value and the in-lieu fee was divided into that figure, which was \$15.70 at the time and yielded 94,000 square feet. It was the approximate market square footage for potential development of the site based on the market value when credit was determined.

Mayor Kleinberg asked how the credit worked.

Mr. Emslie said any future project either on campus, within the City's limit, or the Research Park would be subject to the impact fee. Stanford could exempt up to 94,000 square feet in various increments as projects came in from the housing impact fee. The fee would be locked in at \$15.70 and they would not be entitled to additional credit if the fee was increased.

Mayor Kleinberg asked whether the housing Stanford was building associated with the Mayfield agreement would be exempted from impact fees.

Mr. Emslie said it pertained only to commercial projects not housing.

Council Member Drekmeier asked whether staff knew the size of the expansion in the Research Park or the hospital.

Mr. Benest said the current ordinance exempted hospitals. The staff would be returning to the Council in September to remove the exemption based on staff's recommendation and to discuss with Stanford the policy behind it. Assuming the Council removes the exemption, it would allow the credit to apply to the Stanford Research Park, Stanford developments within the City, or the hospital which includes retrofitting and standardizing the facility.

Council Member Drekmeier asked for the acreage and value of the Quarry site.

Mr. Emslie said it was approximately four-tenths of an acre and was valued at \$1.4 million.

Herb Borock, P.O. Box 632, spoke on how the eminent domain process would benefit 800 High Street. He said the substation move would also benefit PAHSP and Stanford University.

Stephanie Munoz, 101 Alma, spoke in favor of eminent domain proceedings for the site for affordable housing.

Elaine Meyer, 609 Kingsley Avenue, asked how the agreement affected Stanford's requirement to build Below Rate Marking Housing (BMR).

**MOTION PASSED** 5-1, Kishimoto no, Cordell, Klein, Mossar not participating.

#### COUNCIL COMMENTS, ANNOUNCEMENTS, AND REPORTS FROM CONFERENCES

Mayor Kleinberg commented the Planning and Transportation Commissioner (P&TC) interviews are scheduled for July 25, 2006. It has been recommended by some Council Members that the appointment of new P&TC members be postponed to allow completion of the ZOU by the current P&TC members. Next week, when voting would have taken place, Council would be asked to entertain

a motion to put over the vote on appointment of new members.

Mr. Baum confirmed State law provides for commissioners to continue to serve for a short duration only after their term has expired, and this item would be listed on the agenda for appointment, as it would have been.

Council Member Beecham supported the recommendation for current P&TC members to continue serving to complete ZOU.

Vice Mayor Kishimoto questioned if there would be a plan to improve signage to currently available downtown public restrooms.

Ms. Harrison confirmed staff would look at this within the current budget and, if not possible, the cost for better signage would be incorporated into next year's budget.

Mayor Kleinberg noted the League of California Cities' By-Laws stipulate a city's voting delegate and alternate must be designated by the City Council. Therefore, this item will come back on a future agenda. The Saturday Wall Street Journal had an article regarding technology innovation and small cities with many patents, and Palo Alto was one of the ten top cities with the highest number of patents.

FINAL ADJOURNMENT: The meeting adjourned at 9:42 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.