



CITY COUNCIL AND COMMUNITY DEVELOPMENT AGENCY MINUTES

Regular Meeting
Tuesday, September 24, 2002
7:30 p.m.
Menlo Park Council Chamber
801 Laurel Street, Menlo Park

6:30 p.m. CLOSED SESSION - in the Administration Conference Room located on the first floor at City Hall, 701 Laurel Street, Menlo Park.

1. Closed Session pursuant to Government Code Section §54956.8 regarding property negotiations for: 525 Hamilton, (APN 055-341-120). Negotiating Parties: David Boesch, City Manager/Executive Director and Bill McClure, City Attorney.

The above closed session was shown on the agenda in error. The City Council did not meet in Closed Session.

7:30 p.m. REGULAR MEETING - Council Chambers

ROLL CALL – Mayor Schmidt convened the meeting at 7:33 p.m. Councilmembers Borak, Collacchi, Kinney and Jellins were present. Staff present included City Manager Boesch, Assistant City Manager Seymour, City Attorney McClure, City Clerk Ramos, Interim City Clerk Wahlsten and other department heads.

A. PRESENTATIONS AND PROCLAMATIONS - None

B. COMMISSION VACANCIES, APPOINTMENTS AND REPORTS

Assistant City Manager Seymour stated that the nominations for Parks and Recreation Commissioners will be scheduled for the next regular meeting. There were no applications received for the Las Pulgas or Housing Commissions and those application periods will be extended.

Assistant City Manager Seymour announced that City Clerk Ramos has accepted the position of City Clerk in Dana Point and will be leaving the City on September 27. Marjorie Wahlsten will be serving as Interim City Clerk during the recruitment process.

1. Councilmember Reports: Schmidt, Kinney, Borak, Collacchi, Jellins

Mayor Pro Tem Kinney reported that Governor Davis has signed three bills today that were supported by the Bay Area Water Users Association (BAWUA) that will protect the reliability and quality of water received from Hetch Hetchy. The bills will require San Francisco to make improvements to a water system that has not been upgraded since the 1930s. 2.4 million people in the Bay Area, including Menlo Park, receive water from this system.

Mayor Schmidt reported that he had presided at the dedication of Kelly Park in the Belle Haven neighborhood last weekend. Mayor Pro Tem Kinney and Councilmember Jellins were also in attendance. He stated it was rewarding to mark the completion of the facility and thanked everyone who had a part in the work.

C. PUBLIC COMMENT #1

Gail Sredanovic, Menlo Park, stated she had addressed the City Council at the last meeting and quoted from Federal law the requirement for the City to prepare a transition plan for meeting ADA requirements. Improvements are needed in the City's sidewalks, in the park at the end of Valparaiso and the Sharon Heights

shopping center. She inquired 4 months ago and was told by staff that the plan can't be found. City Manager Boesch stated that staff is in process of creating or recreating the plan. He noted that as City buildings have been renovated they are made accessible, and street overlay projects include redoing curbs to comply with ADA requirements. Director of Public Works Steffens will send a letter to Ms. Sredanovic in approximately two weeks.

Frank Carney, Menlo Park and the Chair of the Environmental Quality Commission, stated that the Commission voted 6-0 at the July 10 meeting to deny an application for removal of two heritage trees at 1155 Santa Cruz Avenue. At its last meeting the City Council granted an appeal of this decision and made no mention of the Commission's decision in their public comments. He stated he was making this comment in the spirit of constructive criticism. He thanked the Council for placing a condition on the tree's removal.

Hank Lawrence, Menlo Park, expressed concern regarding an article in the *Daily News*. He stated that special interest groups are raising old news with the purpose of hurting a Councilmember as a form of political payback because she does not support growth in Menlo Park. Since persons backing Council candidates Speer, Halleck, Stein and Kinney were not responsible for the article, by the process of elimination he knows who is responsible.

Harry Harrison, Menlo Park, spoke regarding the proposed rezoning of the M2 district. He stated he thinks Menlo Park is going in the wrong direction on this issue and cited what Redwood City is doing to rezone to apartments.

Maureen Teter, Menlo Park, read an e-mail she sent to the City Council after the last meeting and its approval of an appeal to allow removal of a tulip tree at 1155 Santa Cruz Avenue. She feels the decision made a mockery of the tree ordinance.

Lee Deboc, Menlo Park, stated that she had nothing to do with the *Daily News* article referred to by Mr. Lawrence, and that she was Councilmember Borak's friend long before they were political foes.

Mickie Winkler, Menlo Park, rejected the implication that she was responsible for the newspaper article, and stated that you cannot assume that because four people were not responsible, three others were.

D. CONSENT CALENDAR

Mayor Schmidt read the titles of the Consent Calendar items:

1. Approve audited bills for periods 10 and 11 ending September 6 and September 13, 2002.
2. Adoption of Community Development Resolution 257, "A Resolution of the Community Development Agency of the City of Menlo Park Authorizing the Execution and Delivery of Amendment No. 1 to the Indenture Relating to the Gateway Project" and Resolution 258 "Resolution of the community Development Agency of the City of Menlo Park Agreeing to Subordinate the Agency's Promissory Note to the Existing California Deferred Payment Rehabilitation Loan Program Loan"; and Authorizing the Executive Director to Execute the Amendment and the Subordination Agreement.
3. Approval of Minutes for the City Council Meetings of August 20, 2002 and September 10, 2002, and the Special City Council Meeting of August 21, 2002.

M/S Nicholas/Kinney to approve the consent items 1, 2 and 3 as presented except the audited bills for period 10 which will be continued for one week. Motion passed 5-0 with Councilmember Kinney noting he had not attended the August 21, 2002 Special Meeting and would abstain from that item.

Assistant City Manager Seymour clarified that the action included approval of the audited bills for period 11.

M/S Schmidt, Kinney to approve the audited bills for period 11 ending September 13, 2002. Motion passed 5-0.

E. PUBLIC HEARING - None

F. REGULAR BUSINESS

1. Resolution authorizing the City Manager to execute an agreement between the City of Menlo Park and the Board of Trustees of the Leland Stanford Junior University to reconstruct the Sand Hill Road – Santa Cruz Avenue Intersection and related intersection approaches including Sand Hill Road from Santa Cruz Avenue to the City limit at San Francisquito Creek.

City Manager Boesch summarized the written staff report. He stated the draft agreement has been in circulation and available for public comment for 6 weeks. The City Council must consider whether or not it is in the City's best interests to now enter into an agreement with Stanford to allow the improvements. Palo Alto, as lead agency, approved the Environmental Impact Report for Sand Hill Road corridor and required Stanford to offer Menlo Park payment for the improvements. In June 2000, Stanford tendered an offer of funds to Menlo Park so that Menlo Park could construct the improvements. Menlo Park has declined to enter into an agreement for reasons including: 1) outstanding concerns that improvements would not adequately address traffic, bicyclist and pedestrian issues; 2) concerns regarding whether the funds offered would be sufficient; 3) concerns regarding the burden management of such a large project would place on City staff; and 4) coordination with San Mateo County. Since 2000, staff has been meeting with Stanford to work on these four issues. In summary, all financial risks are shifted from Menlo Park to Stanford. The proposed project is in compliance with the General Plan.

City Attorney McClure reviewed the legal issues and CEQA review guidelines. This agreement replaces Stanford's previous offer to pay the cost of improvements. Stanford will enter into a comparable agreement with the County of San Mateo; the City will approve final working plans and drawings and the construction management plan including closing Santa Cruz Avenue between Junipero Serra and Sand Hill for one construction season, April 1 to November 1; Stanford will secure approval from outside agencies such as State Department of Fish and Game and the Army Corps of Engineers. Stanford has the right to terminate the agreement under certain conditions. Its June 2000 offer will continue so that if the agreement presented tonight were terminated, Menlo Park would then have the opportunity to decide whether to accept the funds and construct the improvements. The agreement gives the Director of Public Works authority to carry out the construction agreement. There is an appeal process whereby Stanford can appeal to the City Manager and then to the City Council. There would be no other discretionary approvals and, once approved, the agreement would be binding on the City and future City Councils. There is an intent to incorporate objective standards for approval of all aspects of the project.

Questions have arisen about environmental review of the bicycle/pedestrian trail being incorporated on the south side of Sand Hill Road where Stanford's golf course is located and whether this constitutes a change to the project needing further environmental review. Palo Alto prepared the EIR for the Sand Hill corridor project. Palo Alto is the lead agency. Menlo Park is the responsible party. Unless one of three triggers is tripped, no further environmental work is necessary. The three triggers are: 1) substantial changes in the project are proposed that will require major revision to the EIR; 2) substantial changes occur to the circumstances under which the project is being undertaken that will require major revision to the EIR; or 3) new information of substantial importance to the project that was not known and could not have been known at the time the EIR was certified as complete is now known.

Before the Council approves the agreement it must determine whether any subsequent environmental revision is required. The Council must find that four conditions exist after hearing from staff, Stanford representatives, and the public: 1) the change in project is substantial; 2) the change involves new or more severe significant environmental impacts; 3) the change will require major revisions to the previously approved EIR due to the new or more severe impacts; 4) the new or more severe impacts were not considered in the previous EIR. The existence of these four conditions will require more environmental review.

Changed circumstances and new information can also require additional environmental review. City Attorney McClure reviewed the triggers for each of these that would require a further EIR.

Councilmember Jellins requested a copy of the material the City Attorney was citing from. He asked staff several questions regarding the staff report, including whether any body that has permit approval over the trail is bound by any decision the City of Menlo Parks makes; how the construction management budget was

arrived at; what obligation the City Council has to the City of Palo Alto in regards to its written request that this matter be continued; and on what basis Palo Alto could challenge Menlo Park's actions.

Larry Horton, Stanford's Director of Government and Community Relations, stated implementation of the plan would resolve a circulation problem in the region. Stanford is making a generous offer that goes beyond a fair share cost formula in paying all the costs for the specified roadway and intersection improvements. The City does not assume any risk of cost overruns. Stanford had two concerns: 1) how could the project be managed to reduce the possibility of cost overruns and 2) how could the project be organized so that all roadway and related work, including a multi-use trail could be done at once under the agreement. In this way the location of the trail could be taken into consideration in the redesign of the golf course and all the work is done at once to minimize future disturbance to the golf course. Stanford agreed to accept the full risks of cost overruns if two conditions were met: Stanford would manage design and construction; and a management structure would be provided. City negotiators agreed to conditions that are incorporated in the agreement presented. He responded to concerns expressed by the public regarding the impact of the trail on the golf course.

Ted Leland, Stanford's Athletic Director, stated that 60,000 rounds of golf are played each year on Stanford's golf course that was built in 1929. It's an important facility to the University and is rated 4 of 200 courses associated with collegiate institutions. Some of the recent changes include: institution of a golf academy; institution of an environmentally sensitive pest control program and application to the Audubon Society for certification; institution of a significant tree planting program; and institution of a Golf Advisory Committee made up of 20 members of the Stanford and local community. Committee Chairman, Grant Spaeth, is present this evening. He showed four redesigns that are being considered and noted that none has been selected. All redesigns accommodate the trail and will not degrade the golf course, but will result in less interaction between the golf course and traffic on Sand Hill Road.

Don Chilamedia, General Manager of Stanford's golf course, emphasized that the proposed redesigns are not impacted by trail.

Mayor Schmidt stated he has slips from 32 speakers and will give them each two minutes to speak.

Kathleen Much, West Menlo Park, thanked the Council for getting a solution to the original problems and urged them to not delay in order to get rid of the bottleneck at the bridge. She has read the original EIR adopted when the City of Palo Alto's approved Stanford's plan and stated she does not see any significant changes.

Stanley Peters, Menlo Park, stated he is in favor of the project since better traffic flow will enhance the quality of life. He feels the charges that there are significant changes to the project are unsubstantiated.

Tom Keelin, Menlo Park, requested rejection of project, citing the trail as being destructive to the golf course. He lives 3 blocks from project; received his degrees from Stanford, and was captain of golf team in the 1970s. However, he does not concur with linking the trail to the road widening.

Larry Taylor, Palo Alto, stated he is in favor of the project in order to get rid of the traffic bottleneck that causes gridlock in the morning and evening.

Michael Anderson, Trinity Drive, Menlo Park, stated he is in favor of completion of the project.

Janet Davis, Alpine Road, Menlo Park, spoke to the proposed changes to Alpine Road and stated the residents of Alpine did not get notice of the project. She feels it will increase the difficulty in getting out of their homes when traffic increases and during the period of construction when Sand Hill is closed it will greatly increase the time it takes to get to downtown Menlo Park.

Rick Voreck, Alpine Road, Portola Valley, requested the Council consider the residents of Alpine Road when making its decision; and that the trail issue be considered separately from the intersection improvements.

Hank Lawrence, Sharon Heights, Menlo Park, stated that Stanford has relied on infrastructure from Palo Alto and Menlo Park to serve its campus and suggested it build a road from the campus to I-280. He believes a new EIR is required because sound levels will be higher.

Gail Sredanovic, University Heights, cited three 'red flag' issues: 1) The General Use Permit has brought the need for a new EIR, since there will be development without adequate zoning, particularly in the Lathrop District; 2) consequences on golf course are not clear; 3) traffic is being misrepresented.

Jerry Schwartzman, Mansion Court, Menlo Park, stated there is a lot of construction happening on Stanford's property and more construction means more usage and more bodies. All the roads are at or above their design capacity. He suggested a road from I-280 to the Stanford campus; and said Councilmembers should recuse themselves if they have golfing privileges on the Stanford golf course.

Dan DeYoung, Stanford, stated he had been responsible for fire and police department at Stanford. The worsening traffic on Sand Hill kept him from responding to the campus emergencies quickly and he eventually had to move on campus. He feels the Council has gotten expert input and will make a wise decision. (Mayor Schmidt noted that Mr. DeYoung was his boss at Stanford 20 years ago.)

Bill Bloom, lives in Palo Alto, but worked in Menlo Park for 17 years. He stated he was a Planning Commissioner in Palo Alto 30 years ago. This area was a problem and it continues to worsen. This proposed project will be beneficial to the area.

Al Filice, President of Menlo Park Chamber of Commerce, stated the Chamber has followed Stanford's plans for building housing on campus and expanding the shopping center. The Chamber of Commerce has supported the extension of Sand Hill Road to El Camino Real since 1996 and it is still in support of this long overdue project.

Joe Cindrich, Trinity Drive, Menlo Park, retired Region 9 Regional Director of U.S. Department of Transportation, stated he is in favor of project and if Stanford is willing to pay the costs, approval should be a "slam dunk."

John Hagle, Menlo Park, stated he was involved originally in getting the requirement for a trail in Stanford's GUP; however he is opposed to this trail, and suggested the two issues should be pried apart.

Reg Rice, Sharon Heights, Menlo Park, stated he is in favor of the project because there is currently no way to go east/west in Menlo Park.

M. Carne Linder, Menlo Park, cited gridlock on Sand Hill Road and requested the City Council approve the project. She feels Stanford has tried to lean over backwards to resolve the objections.

Mary Gilles, read comments from Mark Louie, Menlo Park, who supports the project because it will increase safety for bicyclists; improve traffic flow, and decrease cut-through traffic. Mr. Louie was not present when his name was called.

Richard Harris, Stanford, representing the Committee to Save Stanford Golf Course, requested the trail be taken out of the proposed project. He expressed concern that the controversy between Stanford and the County of Santa Clara could result in trails on either side of the creek.

Jeff Segall, Mountain View, chairman of Stanford Open Space Alliance, does not take a position on the widening of Sand Hill Road, but feels the trail component should be dropped from this project. It was not a part of the 1997 EIR and is part of a much larger project that should be subject to CEQA review.

Denice Dade, Committee for Green Foothills, stated the Committee is not opposed to widening of Sand Hill Road, but has concerns about changes to the project considered in the 1997 EIR. The trail is a separate and new project and, as such, CEQA applies. Design changes to Santa Cruz, Junipero Serra and Alpine Road were not considered in the 1997 project. Specific written analysis is needed. Land use assumptions are no longer valid in light of Stanford's 2000 GUP. The golf course redesign needs to be approved as part of the project. The trail is part of a larger project that Stanford is working on with Santa Clara and San Mateo Counties.

Mary Gilles, Menlo Park, asked why IMPACT is attempting to stall the project.

Deborah Zumwalt, West Menlo Park, and general counsel for Stanford, stated she is in favor of the project to improve traffic safety and congestion.

Roxanne Rorepaugh, West Menlo Park, stated she is in opposition to the project. She noted that Menlo Park was opposed to the original widening of Sand Hill because of environmental damage, not just financial issues. The Voters elected a City Council to fight the project and they did.

Vic Lovell, West Menlo Park, stated he drives this area often and pointed out that the bottleneck is not at the bridge, it is the intersection caused by traffic lights. There will be damage to the environment caused by widening the road. He read from the 1997 EIR. "Widening will destroy riparian habitat, increase erosion of soil, destabilize the creek bank...." He believes a new EIR is required.

Lane Nonnenberg, West Menlo Park, is a former Stanford golf team member and current golf club member, stated he is opposed to the trail because of the impact the sixteen foot paved trail will have on the golf course.

Mark Lawrence, Palo Alto, former 20-year resident of Menlo Park, stated he is in favor of the project.

Eric Gilbertson, stated he feels the road will be too wide, and a full access connection is needed at Alma and Sand Hill.

Frank Carney, Menlo Park, stated the project sounds like a good idea, but noted that traffic will increase because Stanford has permission to do a lot more building on campus. He suggested addition of a trigger to require car access to the campus at El Camino and Alma. This agreement is the only leverage Menlo Park will have.

Joyce Farrell, West Menlo Park, stated she thinks a majority of people are in favor of the project and it is necessary to find a compromise to benefit the many. She feels Stanford's offer is fair and generous.

Don Branner, Menlo Park, stated there is 885,000 square feet of senior housing approved on Stanford and that traffic will impact Sand Hill. In his opinion, Stanford should be widening its roads on campus. The daytime population on campus is greater than the daytime population of Palo Alto.

Sue Kayton's comments, Menlo Park, were read by someone else. They requested Council to approve the plan.

Grant Spaeth, Los Altos, Chairman of Stanford's Golf Advisory Committee, stated he is in favor of the project. He noted he has been involved in Stanford golf since high school. The golf course redesign is necessitated by road widening.

Mayor Schmidt declared a recess at 10:07 p.m. and reconvened the meeting at 10:18 p.m. with all Councilmembers present.

Mayor Schmidt requested Council comments and noted Menlo Park is the lead agency for the previously unanalyzed trail between the bridge and intersection.

City Attorney McClure stated Menlo Park is the Responsible Agency for the Sand Hill Road Corridor Project. If the Council considers the trail is part of that project, we are the responsible agency. If the Council determines that the trail is an independent project and not part of Sand Hill Road Corridor Project, then we may or may not be the lead agency for that, because more of the project may be in San Mateo County than Menlo Park and San Mateo County may be the lead agency.

Mayor Schmidt noted that he asked for trail to be removed from the project initially. Stanford was unwilling to take it out so he agreed to look at it. His understanding is that it is a brand new element and totally within Menlo Park. We should be willing to conduct an environment assessment of this element to be sure we are fulfilling our CEQA obligations with this and he feels the proposed agreement is of benefit to Menlo Park.

Traffic Engineer Dan Smith, in response to Council queries, stated the traffic counts on Alpine Road have fluctuated from 19,900 in 1991 to 28,300 in 1998 to 18,500 this year. 2020 traffic count projections, including development being proposed under Stanford's GUP, are 25,000 without the road widening and intersection improvements and 27,000 with the improvements. The proposed intersection configuration is necessary to achieve the General Plan's Level of Service criteria at this location. The area within the curb lines at the

intersection is not much greater than what currently exists due to elimination of “pork chop” islands and other improvements.

Mayor Schmidt asked what document is responsible for guiding the golf course redesign. City Attorney McClure stated his understanding is that the Santa Clara GUP designated the golf course as an open space, recreational area and zoning will have to accompany that as the GUP is implemented. The bulk of the golf course is in Santa Clara County so the County will regulate that. The rest of the golf course is in Menlo Park and Stanford will have to get grading permits from Menlo Park to work in that portion. However he does not believe there was a requirement in the Palo Alto Development Agreement or in the project approval to reconfigure the golf course in any particular manner. Diagrams shown in other documents were illustrative of how it could be done, not a requirement. But if they couldn't successfully reconfigure the golf course and it was lost, that would have been a significant impact that could not have been mitigated. The question of whether or not the golf course can be reconfigured and remain a “viable” golf course is an important issue in the Council's findings of whether or not there are any substantial changes in the project that will result in significant, new impacts that will require a modification of the EIR.

Councilmember Borak said she understood that the Sand Hill Road Corridor Study EIR envisioned changes to holes 2 and 3 of the golf course because of the road widening in Menlo Park and identified areas on campus where those holes could be relocated. As a result of the land swap in 2000 because of the GUP, and Stanford, City of Palo Alto and the County's desire to not put housing on hole number 1, they agreed to put housing on the area set aside for mitigation of the 1997 project's impacts and the relocation of the golf holes. Tonight Council has been shown some brief glimpses of possible reconfigurations but there has been no environmental review of those.

City Attorney McClure agreed that Palo Alto committed to not make that land available for the golf course when it approved the agreement amendment that designated that area for housing. Palo Alto made a CEQA determination at that time in making that change but he is not aware of what they were. The question is, is this trail changing the viability of the golf course?

Councilmember Borak requested staff find out what Palo Alto's CEQA findings were. She also commended Supervisor Rich Gordon for his involvement in this project and help in negotiations to preserve parking spaces along Santa Cruz.

M/S Schmidt/Collacchi to direct staff to 1) ask the general question of the City of Palo Alto as to whether the project as presented is consistent with its agreement with Stanford and the 1997 EIR, particularly whether the golf course reconfiguration is consistent with the action they took that converted the 20 year open space agreement into a housing agreement on that land that was reserved for golf course expansion; and 2) make sure that the trail has been given environmental review.

Councilmember Jellins stated he has a different understanding of the process based on the City Attorney's presentation at the beginning of the discussion on this item and asked whether any information from Palo Alto is needed. City Attorney McClure stated staff will come back to Council and propose actions, either 1) to not approve the agreement or require further environmental review, or 2) prepare an addendum that would indicate that these issues do not rise to the level that requires further environmental study. Councilmember Jellins asked Mayor Schmidt which of the three triggers the City Attorney mentioned at the beginning of the meeting is at issue for him. Mayor Schmidt stated the trail is a change to the project and he feels it is a significant change, although that could be a matter of opinion. He does not want the City to ignore CEQA obligations or set itself up for a legal challenge. Councilmember Jellins clarified that the motion is requesting staff to collect additional information and come back to the City Council with a recommendation. In response to query, staff stated it would be at least 30 days before this could be brought back to Council.

Councilmember Collacchi asked about the 200-foot easement given by Stanford to the County and whether it might impact the trail. The easement is new and relevant. He requested information on what it means to this decision. Some of the remodels show modifications to hole 5; some show holes 5, 6, and 7. Staff report says modification affects holes 2, 3, and 4. He feels that the issue of induced growth and induced travel is relevant. Congestion can return at the same level with increased traffic. He would be able to make a finding of net benefit if the City was able to get some growth control measures in the corridor. The golf course is an effective growth control measure and open space buffer and comes with a cadre of devotees. Menlo Park has an interest in ensuring that the golf course stays intact, even though it is in three jurisdictions.

Mayor Pro Tem Kinney noted that the City's lawsuit against the EIR in 1998 showed that Palo Alto's action was taken with sufficiency of information. He stated he could find net benefit with this project because we achieve LOS D with the redesign and there are improvements in bicycle-pedestrian facilities. He noted that the Alma/EI Camino intersection has never been part of the project. He doesn't have a problem with the trail at the edge of the golf course. He would like some more environmental discussion from staff, not necessarily Palo Alto.

Mayor Pro Tem Kinney asked questions on sections of the agreement:

Page 2, section 1.0 says the project does not include new street lighting. Staff concurred to state more clearly that street lights would be installed in accordance with city specifications.

Section 3.0 - permits – "Stanford may, but shall not be required to provide mitigation for environmental impacts that may be required as a condition of approval of one or more permits." Attorney McClure clarified that Stanford can back out of the project if mitigation required by another agency is too expensive.

Section 4.8.1 – road closure will be a hardship for some traffic circulation and asked how we can alleviate that. City Attorney stated that the Public Works Director will have to work with Stanford. The closure will affect Stanford employees and people getting to the hospital. There are some options without going out to I-280.

Mayor Pro Tem Kinney also noted that Jim Johnson, the stream keeper, has made him aware that rubble under the existing bridge that was placed for erosion control impedes the flow and needs to be cleaned up. Also there is a golf cart bridge that is not a free span and it impedes the flow of steel head trout. He is the City's representative to the San Francisquito Creek Joint Powers Authority and would like to have a discussion with Stanford or have the JPA Board review the plans for the retaining walls along the Creek as well as any reforestation and clearing out the creek for enhanced flow of water.

Mayor Pro Tem Kinney asked about noise impacts along Sand Hill Road and how Stanford is required to mitigate them. City Attorney McClure stated they are required to take a noise measurement interior and exterior in residences along Sand Hill between the creek and Sharon Park Road before construction of the project, and then take noise measurements after completion. If the noise level exceeds a certain threshold, Stanford is required to pay for a sound engineer to determine what needs to be done to achieve pre-construction levels.

Alternate M/S Kinney/Jellins to make the minor suggested changes to the agreement; approve the roadway design subject to staff returning with environmental findings for the trail that Council can review; and require City Council review of any grading plan that Stanford submits for the golf course.

Councilmember Jellins asked if changes to the golf course are environmentally significant, or if such changes that were agreed to as part of the GUP process would trigger further environmental review, would that be a problem for Menlo Park or the owner of the property? City Attorney McClure stated it wouldn't be a problem for Menlo Park, unless there was a CEQA challenge to the approval of the project. It would be a problem for Stanford when it came in to get grading permits or went to Santa Clara County to get grading permits. Councilmember Jellins asked who would pay for a CEQA challenge of a decision of this Council? City Attorney McClure stated he has brought that up with Stanford and will add some language to the agreement to address that when it returns. It will address who has the obligation to defend any CEQA challenge and if the City were to lose who would have the obligation to pay the petitioners attorney fees. It would provide that Stanford is the real party of interest and would defend any CEQA litigation so that the City would not have to shoulder the burden of defending the action that was taken to approve the agreement. If attorney fees were awarded to a plaintiff, Stanford would pay those fees.

At Council request, City Attorney McClure clarified the procedure on a substitute motion. The first vote will be whether or not to substitute Mayor Pro Tem Kinney's motion for Mayor' Schmidt's motion. If that motion passes the Council will vote on whether to approve the substitute motion. If that motion fails, the Council would vote on the original motion made by the Mayor.

At Council request, City Attorney McClure clarified the two motions and the differences between them. Mayor Pro Tem Kinney's motion would be to essentially approve the roadway design in concept and the agreement in concept subject to staff preparing findings for approval that include the environmental findings for the trail and that would come back for review and consideration by the Council at a future date. It would include the question to Palo Alto of the adequacy of its environmental document in relation to what Menlo Park is now considering. Mayor Schmidt's motion asks for more information, specifically directing an inquiry to Palo Alto about the action it took previously and consistency with its previous approval and secondly to give the Council

more analysis of the trail issue and the adequacy of the review of that and then return to either approve or reject the agreement.

Councilmember Collacchi stated that the issue of whether it leaves a whole, historic golf course is a net benefit, General Plan question, not just an environmental question. It's a very complicated issue between the easement, the trail and the golf course re-alignment and he is not comfortable with the information presented. He wants more certainty about the golf course plans. Mayor Pro Tem asked if Menlo Park is still just the Responsible Agency, not the Lead Agency. City Attorney McClure said that is true. Councilmember Collacchi pointed out another issue where both trail alignments are not simultaneously feasible along with the golf course and Menlo Park is being invited to virtually eliminate one of the alignments in order to assure the future of the golf course. He does not want to be invited into that decision in that way.

Mayor Schmidt asked City Attorney McClure if he will address Councilmember Collacchi's questions as part of his analysis. The City Attorney stated he will give the Council an analysis of the 200-foot easement, and try to get from Stanford a better understanding of the viability of the golf course in order to give the City Council a comfort level. He pointed out that no matter what Menlo Park does, when Stanford goes to Santa Clara County with its plans for the golf course, the County might approve something else. The County would be doing any additional environmental analysis if it makes a discretionary approval, such as a grading permit. Stanford would also have to get approvals from the Army Corps of Engineers, etc. if it is doing work in the Creek.

An attorney for Stanford stated that the General Plan does not allow the construction of a golf course in the foothills; the academic growth boundary is there for 20+ years; and the expected life of the GUP is 10 years but it could be longer. He clarified for Councilmember Collacchi that the first seven holes of the golf course are in the GUP but generally outside the academic growth boundary

Councilmember Borak agreed that further discussion of the golf course is necessary and it is within Menlo Park's best interest that it be retained as a buffer against the four to five million square feet of build out that Stanford now has entitlement to as a result of the 2000 GUP. She stated she is concerned that we are moving down a path that is not keeping Menlo Park's best interests at heart. She also expressed concerns about the archeological findings in the original EIR that would seem to preclude a trail in this location. It is important that Menlo Park asks the City of Palo Alto, as the lead agency, what it feels whether further environmental review is required. The letter from Palo Alto's City Attorney was very vague. She feels we need to do the full review. City Attorney McClure stated it is the opposite of a new project. The City cannot perform a further EIR unless there is substantial evidence to support a finding that there is substantial change to the project or new information that would require further review. Staff will get more information for Councilmember Borak.

Mayor Schmidt called for the question as to whether the substitute motion should replace his motion. Motion carried 3-1-1 with Borak dissenting and Collacchi abstaining.

Mayor Schmidt called for the question on the substitute motion as stated by City Attorney McClure to approve the roadway and agreement in concept subject to making the changes in the agreement previously discussed regarding street lights and indemnity; that grading changes for the golf course will be reviewed and approved by the City Council; that analysis will include the 200-foot easement, some discussions with Stanford about the golf course, and archeological findings. Motion carried 4-1 with Borak dissenting.

City Attorney McClure stated that the date this will come back will be posted on the web site.

2. Consideration of state and federal legislative items or items referred to in Written Communications or Information Items, including decisions to support or oppose any such legislative, written communication or information item. - none

G. WRITTEN COMMUNICATIONS - None

H. PUBLIC COMMENT #2

Ted Sorenson, Menlo Park, stated he was elected to the City Council in 1984 and it seems that nothing has changed; the same subjects are being discussed. He stated he has been reading that the City Manager has

been having meetings with East Palo Alto. Former Mayor Jerry Grant and he had discussions with the East Palo Alto City Council many years ago and said Menlo Park would support East Palo Alto but East Palo Alto had to build its own roadway.

I. ADJOURNMENT – 12:10 a.m.

**Marjorie K. Wahlsten, CMC, Interim City Clerk
Approved by the City Council on October 15, 2002**