SPECIAL MEETINGS

CLOSED SESSION - 6:15 P.M.

A. Conference with Real Property Negotiator Crist pursuant to Government Code Section 54956.8: One Parcel, APN 045-163-070

B. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation: Two Cases (NOT HELD)

C. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: Unrepresented Employees

Attended by Councilmembers Feierbach, Wozniak, Dickenson, Lieberman, Braunstein, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo (Item A only). City Clerk Cook was excused from attending.

ADJOURNMENT at this time, being 7:25 P.M.

Terri Cook
City Clerk

This meeting was not tape recorded or videotaped.

REGULAR MEETING
CALL TO ORDER 7:35 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Lieberman Wozniak, Braunstein
COUNCILMEMBERS ABSENT: None
Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Interim Public Works Director Borrmann, Finance Director Fil, Police Chief Mattei, City Treasurer Violet, City Clerk Cook.

PLEDGE OF ALLEGIANCE

Led by members of the Belmont 4-H Club.

Ryan Wyscoff, Belmont 4-H member, described 4-H activities and noted that he is working on public speaking. The 4-H Club has been planting trees in various locations throughout Belmont as part of a One Million Trees Project.

REPORT FROM CLOSED SESSION

City Attorney Zafferano stated there are no reportable actions from the Closed Session held earlier.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Councilmember Wozniak stated that the High Speed Rail Coalition held a presentation in Atherton similar to the one held in Belmont.

Mayor Braunstein announced that the Parks and Recreation Department was sponsoring a Mother/Son Bowling event on May 29th. He also announced upcoming Parent Education Nights sponsored by Safe Schools. He noted that an upcoming meeting with neighborhood association presidents was canceled due to lack of participation. He expressed concern that this meeting was canceled, and commented that more communication with the residents is important.

AGENDA AMENDMENTS

City Manager Crist noted that Item 4-E on the Consent Agenda (Resolution Authorizing the Belmont Police Department to Enter into a Contract not to exceed $15,000 with Rapid Notify for an Emergency Notification System for Belmont Safe Schools) would be continued to a later date so that staff can continue to work with the vendor regarding details.

Councilmember Wozniak requested the removal of Consent Item 4-F (Resolution Approving an Amendment to the Unrepresented Management Compensation and Benefits Plan) for separate consideration.

ITEMS APPROVED ON CONSENT CALENDAR

Approval of Minutes of Special and Regular Meeting of April 28, 2009
Approval of Resolution 10125 Approving a Memorandum of Understanding Between the City of Belmont and the Mid-Management Confidential Employees Association (MMCEA)
Approval of Resolution 10126 Approving Purchase Order to Compucom for Enterprise Agreement Second Installment in the Amount of $23,734.04
Approval of Resolution 10127 Approving an Agreement for Distribution of San Mateo County Measure A Funds for Local Transportation purposes in Accordance with the 2004 Measure A, Effective January 1, 2009.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, the Consent Agenda was unanimously approved, as amended, by a show of hands.

ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION

Resolution Approving an Amendment to the Unrepresented Management Compensation and Benefits Plan

Councilmember Wozniak requested a postponement of this matter until one issue is resolved.

City Manager Crist suggested approving a modified version of the resolution, and to have staff follow up with the Council regarding the issue of the General Leave provisions of the Plan.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, Resolution 10128 Approving an Amendment to the Unrepresented Management Compensation and Benefits Plan was unanimously approved, as amended, by a show of hands.

ITEMS CONTINUED (date uncertain)

Resolution Authorizing the Belmont Police Department to Enter into a Contract not to Exceed $15,000 with Rapid Notify for an Emergency Notification System for Belmont Safe Schools

HEARINGS

Appeal of the Planning Commission decision to deny a Conditional Use Permit to modify a Condition of Approval for Planning Commission Resolution 1988-2 (Detailed Development Plan, Conditional Use Permit, Design Review) for the property located at 1301 Ralston Avenue

Community Development Director de Melo provided a background of the project, which the Planning Commission denied. He noted that the City of Belmont recognizes this property encompasses one legal parcel. In 1988 approval was given to expand the existing buildings. Those new buildings straddled the original three parcels, and the 1988 action was designed to correct this condition. That document was never recorded by the previous owner.

Community Development Director de Melo explained that the current owner was advised to seek an amendment to the Conceptual Development Plan (CDP), which is the appropriate action to approve a subdivision of this property. Instead they chose to apply for an amendment to the Conditional Use Permit (CUP), and requested that their application proceed. He outlined the process of the Planning Commission's review, and he recommended upholding their action to deny.

In response to Councilmember Lieberman's question, Community Development Director de Melo clarified that the application was judged against the wrong standards. He described the differences in analysis between a CUP and a CDP.

Mayor Braunstein opened the Public Hearing.

Joel Roos, Applicant/Appellant, stated that he had received instructions from City staff to apply for a CUP. He described the property and size of buildings. A proposed project in 2005, which was denied by the City Council, was ultimately scaled down as a result of community input. He noted that opponents became advocates of the project. A revised proposed planned development was subsequently denied by the City Council. He is now seeking a lot line adjustment as there is a need to separate the independent senior housing from the assisted living area. He pointed out that the General Plan allows for a higher density than what is proposed, and the request meets code and the General Plan goals.

Christine Griffith, attorney for the Applicant/Appellant, stated that she submitted a letter today clarifying the grounds for the appeal of the Planning Commission decision. She acknowledged that the 1988 condition of recording the lot merger document was not fulfilled. She stated that the

applicant received different advice from City staff at every visit. In 2008, staff recommended approval of the CUP amendment application. She asserts that this is the appropriate mechanism for the outcome sought by the applicant. Since the merger was never recorded, it is not enforceable. She explained that this is a simple application as there is no development proposed. She asserts that due process has not been served.

Gladwyn D'Souza, Belmont resident, noted that this property is close to transit, and he recommended limiting parking for that reason. He stated that setback from the creek is needed.

In response to Councilmember Dickenson, Community Development Director de Melo clarified that when the applicant submitted their project in 2007, staff analysis was based on the information provided by the applicant, which indicated that the property was comprised of three parcels. Subsequent research disclosed that the lot merger was never recorded by the previous owner as required by the condition of approval in 1988, which reduced the property to one parcel. Mr. Roos was advised of the need for a CDP amendment based on this discovery. He also clarified that a Conceptual Development Plan and a Conditional Use Permit are two separate actions requiring two completely different sets of findings, and a CDP is not a simple action. He stated that the applicant chose not to proceed with a CDP amendment because they believed that three parcels existed.

Ms. Griffith stated that when the 2007 application was made, City staff was aware that the condition of the lot merger had not been fulfilled. She noted there was a failed attempt at one time to record the lot merger, and it was unclear why this action was never completed. She confirmed that the applicant's position is that three lots still exist.

City Attorney Zafferano clarified that the issue is not whether there are one or three lots, it is a question of whether or not the applicant can treat the property as if there are three lots, and he advised that it cannot. A previous condition of approval was not fulfilled.

Ms. Griffith stated that the applicant wishes to amend the condition of approval. She stated that it is unknown why it was never fulfilled, and therefore the condition is not enforceable.

In response to Councilmember questions, City Attorney Zafferano clarified that the applicant is asking the City Council to determine that the Planning Commission erred. A lapse of time in fulfilling a previous condition does not assume that the condition is no longer valid. The applicant needs to satisfy the original CUP. The previous owner signed the document to merge the lots, and the condition to merge still exists. The owner expanded the property based on the merger. The conservation easement was recorded. The owners have had the benefit of the previously-approved CUP. He further clarified that the appropriate action at this time would be to re-execute the lot consolidation certificate, and then apply for a CDP amendment.

Ms. Griffith responded there is a difference of legal opinion as to whether there are three lots or one, and the applicant contends there are three. The existence of two lots that would result following a

lot-line adjustment does not create a new developable lot. The applicant desires to separate the existing facility from the new senior living facility, which would fulfill a condition of purchase. There is no desire at this time to do any further development. The CDP process is more discretionary and expensive.

In response to Mayor Braunstein, Ms. Griffith concurred that the original condition of approval still exists, but if it is not recorded, it is not a valid condition. She noted that the Government Code provides that if a City imposes a condition that would limit the ability of an owner to fully convey the parcels, that condition must be recorded in order to be valid. She stated that the CUP was not recorded.

Discussion ensued.

In response to Councilmember Feierbach, City Attorney Zafferano explained that the County Assessor does not determine whether or not one or three lots exist.

In response to Councilmember Lieberman, Community Development Director de Melo stated that there is a need to assess the findings based on the application as presented. He also clarified that the property owner has had the benefit of an expanded use of the parcel. He noted that the City cannot presume to know what information was disclosed at the time the property was sold to the current owner. The seller has a duty to disclose pertinent information during the transaction.

Councilmember Lieberman expressed concern that this is not the first time something has not been recorded by the City.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the Public Hearing was unanimously closed by a show of hands.

Councilmember Wozniak stated that she concurred with the action of the Planning Commission. It is clear that the condition needed to be fulfilled. Conditions run with the land, not the owner. She stated that she trusts the legal advice provided by the City Attorney. She recommended refunding the applicant's fees. She commented that the CDP process is not onerous.

Councilmember Feierbach stated that she has followed this project since its inception. She concurs with the decision of the Planning Commission. The original condition of approval should have been addressed.

Councilmember Dickenson concurred, and noted that he understands the application's position.

Councilmember Lieberman stated that there is not enough information to overturn the Planning Commission's decision, but he expressed concern regarding procedural issues.

Mayor Braunstein concurred with the rest of the Council, and noted that he has studied this issue in depth. He acknowledged that this is a difficult situation for the applicant. He will vote to uphold the Planning Commission's decision, and he recommends that the applicant reapply as recommended by staff.

ACTION: On a motion by Councilmember Feierbach, seconded by Councilmember Wozniak, and unanimously approved by a show of hands to approve Resolution 10129 Upholding the Planning Commission decision to deny a Conditional Use Permit to modify a Condition of Approval for Planning Commission Resolution 1988-2 (Detailed Development Plan, Conditional Use Permit, Design Review) for the property located at 1301 Ralston Avenue.

Mayor Braunstein stated that at this time, Old Business items would be considered, and the public hearing regarding the Municipal Code chapter would be held later on the agenda.

OLD BUSINESS

Resolution Placing a Measure on the Ballot for the November 3, 2009 Municipal Election Requiring Voter Approval for: 1) Conversion of Certain City-Owned Parks and Open Space to Other Uses; and for 2) Certain Sales and Encumbrances of Such Lands; and Directing City Attorney to Prepare an Impartial Analysis of Said Measure

Mayor Braunstein and Councilmember Wozniak stated that because they live within 500 feet of property that could be subject to this proposed ballot measure, they need to continue to recuse themselves on this item. Mayor Braunstein passed the gavel to Councilmember Feierbach to run the meeting. They both stepped off the dais and out of the room.

City Attorney Zafferano noted there are 17 parcels included for consideration. The purpose of the proposed measure is to require a vote of the people in order to sell, exchange or encumber any of those parcels. The measure also proposes to rezone the parcels to a new zoning district, and to tie the zoning to permitted uses for parks as outlined in the General Plan. He noted that some of the parcels are already deed-restricted, but he recommended including them. He clarified that the parcel on which Waterdog Lake sits is owned by Notre Dame de Namur University, and is not included in the 17 parcels. He described the options available for Council considerations, and clarified that three affirmative votes are required to place this matter on the ballot.

In response to Councilmember Feierbach, City Attorney Zafferano clarified that future property acquisitions would be safe only if the grantor includes restrictions as a condition of sale.

Cynthia Denny, Loma Prieta Chapter of the Sierra Club, presented a resolution of support that was adopted by the Sierra Club. She noted that the Club's goals are to promote smart growth and protect open space. The Sierra Club commends the City Council for considering this action. She noted that she understood that Councilmember Lieberman has concerns and may abstain on this matter. She

questioned why Councilmember Wozniak and Mayor Braunstein had to recuse themselves when this issue affects only 1.9 percent of the community.

Councilmember Lieberman stated that he has not disclosed how he will vote on this matter and wondered where Ms. Denny got her information. She responded that she read it in the newspaper or in a staff report. She stated that abstention indicates resistance.

Dianne Keogh, Belmont resident, questioned whether the identified parcels could be protected without a ballot measure. She noted that she participated in the Visioning process where parks and trees were identified as being important. She cited the February 24th meeting minutes where Councilmember Lieberman abstained on a vote to move forward with this matter. She noted that he also stated he would never vote against parks. She said that abstention is a no vote.

Eric Dentler, Belmont resident, stated that he was a former member of the San Juan Task Force and Trust, and was also involved with the open space and fields committee. He stated this issue is not a land grab. New homes increase costs to cities, and in the current economy, this is a concern. He recommended letting the voters decide. The land belongs to the people. Land use is complicated.

Judy King, Parks and Recreation Commission Chair, noted that the Commission discussed this matter and expressed unanimous support for the ballot measure. She is not aware of anyone who thinks it is a bad idea.

Gladwyn D'Souza, Belmont resident, expressed support for the proposed ballot measure. He recommended that the City Council initiate rezoning of the parcels, regardless of the ballot measure. He expressed concern regarding future encumbrance of these properties.

Paul Wendt, Belmont resident, expressed support for the ballot measure.

Discussion ensued regarding modifications to Section 3 of the proposed ballot language to include a "for equal to or better" clause regarding sale or encumbrance.

City Attorney Zafferano clarified that this language would permit the sale of property under certain circumstances to facilitate the acquisition of other park or open space lands.

Councilmember Lieberman noted that some of the parcels are already restricted. He stated that the proposed ballot measure does not go far enough to protect the park lands. There is a need to enhance them, and he recommended including a parcel tax as a way to improve the parks. Parks and open space are valued by residents.

Councilmember Dickenson expressed support for this idea, but stated it would make the ballot measure too complex and could dilute the purpose. He noted this is a quality of life issue, and empowers the people without an associated cost.

Eric Dentler noted that there was an attempt to do this on a previous ballot, which failed. There is a lack of support for taxation at this time. The economy is driving the need and desire.

Councilmember Lieberman expressed doubt that a near-future City Council would sell park space.

Councilmember Feierbach cited a recent City of Riverside example wherein parkland was sold for housing. She noted that the City of San Mateo passed a ballot measure to protect Sugarloaf Mountain.

Councilmember Lieberman requested a continuance of this matter. He expressed concern regarding a proposed loophole that would allow future sales of the properties. He also expressed concern that there might be unintended consequences as a result of this ballot measure, and that it was being watered down. Others have expressed concerns to him regarding land exchanges.

Councilmember Dickenson suggested removing the exchange provision from the proposed ballot language.

Councilmember Lieberman stated that the sports groups are concerned regarding the inability to exchange land should the opportunity arise.

Councilmember Feierbach stated that she has spoken with representatives from Oracle Corporation who indicated they are not interested in a land exchange since they already have development rights on the property they own. She stated she would go door-to-door if necessary on this matter, as many people have expressed support. She noted that while abstinence works to prevent pregnancy, it does not save parks.

ACTION: On a motion by Councilmember Lieberman, seconded by Councilmember Dickenson, this item was unanimously continued (3-0, Braunstein/Wozniak recused) to the June 9th Council meeting.

RECESS: **9:30 P.M.**
RECONVENE: **9:40 P.M.**

Councilmember Wozniak and Mayor Braunstein returned to the dais.

Update Regarding Additional Financial Information Related to the US 101 Bicycle/Pedestrian Bridge Project, CCN 433

Interim Public Works Director Borrmann stated that the City of Belmont has been granted stimulus monies to help close the funding gap for this priority project. Support has also been received from the bicycle community, the Parks and Recreation Commission, Oracle Corporation, and others. She described the project, and noted that receipt of the federal stimulus monies does not require a local

match of funds. Other federal and local grants have already been received to which these stimulus monies can be combined, which will be adequate to fund the project. Actual bids are likely to be less than the engineer's estimate.

In response to Council questions, Interim Public Works Director Borrmann clarified that monies already budgeted to cover the 20 percent local match for other grants. She noted that one of the proposed resolutions authorizes the waiver of the competitive bid process for the project manager.

Councilmember Lieberman expressed concerns that the original funding match was much less than what is proposed, and there has been no Council discussion regarding this.

City Manager Crist clarified that $400,000 in matching funds has been budgeted for many years. Since that time, additional grants have been received, and there may still be opportunity for other grants. Funding is split between Redevelopment Agency and street monies, but the actual cost may be less.

Councilmember Wozniak stated that she can support the use of park monies, since the bridge will access parks and trails. It is an investment in the City.

Gladwyn D'Souza, Belmont resident, expressed his support for this project. He noted there is still a need for bike lanes, and the City of Redwood City has planned for bike lanes on the east side of the freeway. Bike lanes are also needed at the interchange.

Paul Wendt, Belmont resident, stated that he has been a bicycle commuter for many years. He expressed the need for bike lanes in addition to the bridge.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, Resolution 10130 Authorizing the City Manager to Sign All Permit Applications, Agreements, and Other Entitlements Related to the US Highway 101 Bicycle/Pedestrian Bridge Project, City Contract No. 433 and to Enter into a Cooperative Agreement with Revised Funding Summary between the State of California and City of Belmont was unanimously approved by a show of hands.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10131 Authorizing the City Manager to File an Application for Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding and to State the Assurance to Complete the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract Number 433 was unanimously approved by a show of hands.

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10132 Waiving the Competitive Purchasing Policy and Authorizing the City Manager to Execute an Agreement for Professional Services with Gray-Bowen for Assisting the City to Deliver the U.S. Highway 101 Bicycle/Pedestrian Bridge Project, City Contract Number 433 in time to meet

the Federal American Recovery and Reinvestment Act of 2009 (ARRA) Funding Deadline for an Amount not to Exceed $63,500 and Authorizing a Contingency of $6,500 was unanimously approved by a show of hands.

HEARINGS (continued)

Introduction of an Ordinance Amending Municipal Code Chapter 8.5 Governing Campaign Contributions

City Clerk Cook noted that the City Council previously gave direction regarding proposed changes to the ordinance governing campaign contributions. She outlined the changes, including the increase of individual contributions to $250, and the prohibition of all but individual contributions. She also outlined the various new thresholds for reporting requirements. She clarified that a sole proprietor is defined as an individual, and any reference to it being a business was removed from the ordinance.

City Clerk Cook stated that a review of the proposed ordinance was provided by the Fair Political Practices Commission (FPPC) legal department.

Mayor Braunstein noted that even though contributions by minors are addressed in State law, he recommended including verbiage to address those contributions. He also requested clarification regarding the limit or prohibition on contributions from political action committees and businesses.

City Attorney Zafferano clarified that the law permits the prohibition on contributions from for-profit and not-for-profit corporations. He also clarified that cities can restrict but not prohibit individual contributions. He noted that some cities' ordinances contain such prohibitions, but those clauses have not been challenged.

Mayor Braunstein opened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands.

ACTION: On a motion by Councilmember Wozniak, seconded by Councilmember Dickenson, and unanimously approved by a show of hands to introduce an ordinance Amending Municipal Code Chapter 8.5 Governing Campaign Contributions, to waive further reading and to set the second reading and adoption for June 9, 2009; said ordinance to include verbiage that contributions by minors are treated as contributions from the parent.

COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS

Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments

Councilmember Wozniak reported that the High Speed Rail Coalition is now a legal entity. The City Council needs to determine the City's level of participation. She was asked to sign an article regarding the City's position on this project, but she does not have the legal authority to do so. Outreach is needed on this matter. She described the issues that were discussed by the Coalition.

Councilmember Dickenson recommended a future Consent agenda item to appoint Councilmember Wozniak to the Coalition.

Discussion ensued regarding public outreach.

Councilmember Lieberman stated that the two topics of discussion at the City/Belmont-Redwood Shores School District 2+2 meeting were the new school in Redwood Shores, and the joint use agreement for the fields. Parks and Recreation Director Gervais outlined the schedule of review of the joint use agreement by the Parks and Recreation Commission and adoption by the City Council.

Councilmember Lieberman also reported on recent activities at the South Bayside Systems Authority meeting. He recommended that other Councilmembers attend the next meeting. City Attorney Zafferano clarified that Councilmembers may attend, but he cautioned them not to speak so as to not violate the Brown Act.

Councilmember Lieberman also stated that the Advance Life Support contract was discussed at the recent fire commission meeting.

Verbal Report from City Manager

City Manager Crist reported on the South Bayside Systems Authority activities. He noted that the Shoreway financing plan will be reviewed by the Finance Commission and City Council at upcoming meetings. City Treasurer Violet provided detailed information regarding the finance plan.

ADJOURNMENT at this time, being 10:20 p.m.

Terri Cook
City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 727