



City of Palo Alto City Council Staff Report

(ID # 6375)

Report Type: Consent Calendar

Meeting Date: 12/14/2015

Summary Title: Approval of the Fire Insurance Settlement Payment for Property Located at 2257 Bryant Street

Title: Approval of the Fire Insurance Settlement Payment of \$553,599.85 From State Farm Insurance Company for the Property Owned by the City of Palo Alto and Frank Benest at 2257 Bryant Street and Authority to Sell Property

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff requests Council:

1. Approve the fire insurance settlement payment of \$553,599.85 from State Farm Insurance Company for the property owned by the City of Palo Alto and Frank Benest at 2257 Bryant Street and authorize the City Manager or designee to sign any appropriate and necessary documentation and
2. If Mr. Benest elects to vacate the house, authorize the City Manager to list the house with a local real estate broker and authorize City Manager or designee to sign appropriate and necessary documentation authorizing the sale of the property to the highest and most qualified bidder.

EXECUTIVE SUMMARY

Staff is seeking Council approval for an insurance settlement involving the May 3, 2014 fire which severely damaged property located at 2257 Bryant Street in Palo Alto. The City co-owns this property with Frank Benest, Palo Alto's City Manager from February 2000 through August 2008. The City and Mr. Benest are co-listed on the property insurance policy.

The property was purchased jointly on June 27, 2001 to be used as the primary residence of the City Manager. Presently, the equity ownership of the property consists of 56.8% by the City and 43.2% by Frank Benest and Pamela S. Grady, Co –Trustee of the Benest & Grady Family Trust dated November 13, 1990. The City and Mr. Benest rejected the original settlement offer of \$435,635 to repair the house made by State Farm Insurance Company on November 3, 2014.

During the past ten months, City staff and Mr. Benest worked together to obtain multiple construction estimates to repair and rebuild the structure. The goal was to obtain a realistic cost estimate to rebuild the structure. City staff and Mr. Benest reviewed the submitted bids, and selected Ward – Tek Inc., Construction Company as the best proposal to rebuild the house. State Farm analyzed and adjusted the bid or cost estimates by Ward-Tek estimates and an insurance proposal of \$553,599.85 was submitted. This amount represents the cost to repair the damaged house in accordance with current building codes and other repair expenses. Mr. Benest has agreed to State Farm settlement amount and to move forward with rebuilding the house or selling the property.

BACKGROUND

The City of Palo Alto and Frank Benest are joint owners of the property located at 2257 Bryant Street. Because the City Charter requires the City Manager to live in Palo Alto, the City's recent practice has been to provide a housing subsidy as part of the City Manager's compensation. The property was purchased by Frank Benest on June 27, 2001 for his primary residence. (Attachment A-CMR 4963). Under Mr. Benest's employment contract he is entitled to live in the house until his youngest child turns eighteen.

Mr. Benest and his family were living on the property until a major house fire severely damaged the property on May 3, 2014. Since the occurrence, City staff worked with Mr. Benest, the insurance company, contractors, an architect, a structural engineer, and real estate consultants toward the clean-up, rehabilitation, development of architectural and structural plans, and evaluation of alternatives for the property. City staff and Mr. Benest met regularly to manage these tasks and to evaluate options for the disposition of the property amenable to both parties. The process was time consuming given multiple interactions with the insurer's adjuster; providing data and input to the architect and structural engineer; evaluating their reports, and, finally, analyzing bids from four general contractors. The following timeline is provided to explain the length of this project:

Phase 1: Compilation of reports and investigation (May 2014 – July 2014)

Phase 2: Property clean up (July 2014- August 2014)

Phase 3: Development of building plans and bids (September 2014- April 2015)

Phase 4: Evaluation of bids and finalizing negotiation with State Farm (May 2015 to Present)

At the August 4, 2014 City Council meeting, the City Council approved a capital project (Emergency Facility Improvements, PF-15005) to fund initial repair and rehabilitation for the Frank Benest house. Approximately \$65,000 was charged against this capital project.

DISCUSSION

The State Farm settlement offer is \$553,599.85. This amount includes: clean up and repair expenses such as roof work and asbestos abatement and costs for rebuilding the structure which incorporates code upgrades and a dwelling extension (garage), Attachment B provides cost information. To date, State Farm has paid \$543,534.10 to the City and the amount of

\$6,587.73 directly for two invoices to two vendors for cleanup services at the Property. Thus far, the City has paid \$65,147.35 from the insurance proceeds in reimbursements for rehabilitation expenses that the City and Frank incurred from the Emergency Facility Improvements project. The full insurance proceed amount less what has been paid for various expenses is being held in a City deposit account until a decision is made on the disposition of the property. Once the decision regarding the disposition of the property is made, staff will return to the City Council with a budget amendment to reimburse the Capital Improvement Fund for expenses incurred. The City and State Farm still have to settle a few remaining items such as landscaping, City permit expenses and other paid invoices, thus the final settlement payout may be increased between \$3,500 to \$5,500.

According to the term of the employment contract between the City and Mr. Benest, sale of the property is contingent upon one the following:

- a. At the option of Frank Benest, subject to the terms of the employment agreement;
- b. The passing of 18 months following the involuntary termination of the employment;
- c. Upon mutual agreement of the parties;
- d. On December 31, 2017 or until the Mr. Benest's current children have graduated or left Palo Alto public schools, whichever comes first.

As a consequence of the above terms, City staff and Mr. Benest are discussing the following options for the property:

Option A: Sell the Property "as is"

- Pro: Quicker response time, strong real estate market, allows the buyer to design and build a home according to their preferences. Risk of construction overruns is borne by buyer.
- Con: Possible risk of lower sale price based on "burned" home. Does not allow Mr. Benest to move back into the property.

Option B: Demolish the Structure and Market the Property as Single Family Lot

- Pro: Buyers can see clearly what the site offers, it allows for buyer to design and build a home, quicker response time and a strong real estate market.
- Con: would require additional expenditures for demolition for both the City and Mr. Benest, demolition permit will be required by City code.

Option C: Rebuild the house as it was before the fire with required Building Code updates

- Pro: Sellers may obtain a higher value at the time of disposition, and Mr. Benest would reoccupy house until allowed occupancy period ends.
- Con: It will take 10-12 months to construct the house and real estate market may soften. Rebuilding process will require project management (staff time) and there is the risk of construction cost overruns. An outdated floor plan may ward off buyers.

TIMELINE

Mr. Benest and City staff will discuss these options in greater detail following the City Council approval of the insurance settlement. Option A does not need further Council action. Option B (depending on the extent of the demolition costs) and Option C may require additional input from the Council. Staff will return to Council at a later date to provide an update and/ or seek additional direction on disposition of the property.

RESOURCE IMPACT

All expenses of approximately \$65,000 realized by the City have been reimbursed by the insurance company. Additionally, a balance of \$478,386 from insurance payments is being held in a City deposit account until a decision is made on the property. If the property is rehabilitated, these funds will be used for associated expenses and to reimburse the Capital Improvement Fund for expenses incurred. If the property is sold as a lot, proceeds will be divided between the City and Mr. Benest according to each party's ownership stake. Additional marketing, clean-up costs, and the settlement of Mr. Benest's existing loan from the City (balance as of November 2015 is \$331,259) will be deducted from the total proceeds prior to a final disbursement based on ownership percentages to the City and Frank Benest and Pamela S. Grady, Co –Trustee of the Benest & Grady Family Trust.

POLICY IMPLICATIONS

This recommendation is consistent with Council direction.

ENVIRONMENTAL REVIEW

This action is not considered a project for the purpose of the California Environmental Quality Act.

Attachments:

- Attachment A; CMR 4963 August 2014 (PDF)
- Attachment B: Summary of Loss 2257 Bryant Street (PDF)



City of Palo Alto City Council Staff Report

(ID # 4963)

Report Type: Consent Calendar

Meeting Date: 8/4/2014

Summary Title: Budget Amendment Ordinance for 2247 Bryant Street Rehabilitation

Title: Adoption of a Budget Amendment Ordinance in the Amount of \$250,000 (To Be Offset by Insurance Proceeds) for Rehabilitation of Property Located at 2257 Bryant Street

From: City Manager

Lead Department: Administrative Services

RECOMMENDATION

Staff recommends that the City Council approve the attached Budget Amendment Ordinance (BAO) in the Capital Improvement Fund in the amount of \$250,000 for the reconstruction expenses of the partially City owned property at 2247 Bryant Street, Palo Alto (Attachment A.). All expenses will be offset by insurance payments from State Farm Insurance, resulting in a zero cost impact to the City.

EXECUTIVE SUMMARY

The City of Palo Alto and Frank Benest (Previous City Manager from February 2000 – August 2008) are joint owners of the property located at 2257 Bryant Street in the City of Palo Alto. The property was purchased jointly on June 27, 2001 to be used as the primary residence of the City Manager. Presently, the equity ownership of the property consists of 56.8% by the City and 43.2% by Frank Benest and Pamela S. Grady, Co –Trustee of the Benest & Grady Family Trust Dated November 13, 1990.

Mr. Benest had been living in the property until a house fire occurred on May 3, 2014 making the property uninhabitable. Since this incident, Mr. Benest has moved to a rental property in Palo Alto and City staff has been working with him, the insurance agent, contractors, architect, and structural engineer toward the clean-up and rehabilitation of the property. The insurance company, State Farm, will be paying for expenses such as clean-up and new structural and architectural plans, and construction costs. A City CIP is being established as a conduit for receiving insurance payments (revenue) and for paying expenses. Insurance checks will be issued to the joint owners of the property, the Benest & Grady Family Trust and the City of Palo Alto. These will be deposited in the CIP and then used to pay the contractors and architects for rehabilitation of the property.

BACKGROUND

On May 30, 2001 the City Council approved an amendment to the housing assistance provision of the City Manager's employment agreement. That amendment increased the City's housing assistance funding amount from \$1.2 million to \$1.5 million. In accordance with the amendment, the City provided a \$900,000 equity share and a \$500,000 City loan with a 30-year term to purchase the property located at 2257 Bryant Avenue, Palo Alto, California. The former City Manager contributed \$185,000 toward the down payment to acquire the property. The property was purchased jointly with title being held as Tenants-in-Common by the City and the Benest & Grady Family Trust at a total cost of \$1.585 million. On May 3, 2014, the property was severely damaged by a fire and became uninhabitable forcing Mr. Benest and his family members to move to a rental property in Palo Alto. The property was insured and the insurance company has accepted the claim. City staff and Mr. Benest have been working together with State Farm Insurance representatives toward the clean-up and rehabilitation of the property.

DISCUSSION

Since the property is jointly owned, and the City is coinsured, the insurance company is issuing checks for clean-up and structural and architectural plans in both of the owners' names. The approval of the BAO will allow the City, in the interim, to deposit the insurance checks and pay for the expenses that are incurred toward the rehabilitation of the home. The funds will pass through for payments and the City will not be financially obligated for any work that is being completed at the property at this point.

According to the term of the initial employment contract between the City and M. Benest, sale of the home was to occur based on one of the following events:

- a. At the option of Frank Benest, subject to the terms of the employment agreement;
- b. The passing of 18 months following the involuntary termination of the employment;
- c. Upon mutual agreement of the parties;
- d. On December 31, 2017 or until the manager's current children have graduated or left Palo Alto public schools, whichever comes first.

The City and Mr. Benest will continue to meet to explore their options as how to move forward after the insurance adjuster's final analysis and additional reports by the architect, general contractors, and structural engineers are provided. Staff will update the Council when more information is available. Presently, the amount of \$250,000 is requested in spending authority based on estimated needs. More funding will be needed in the future for additional work. Again, insurance payments will cover all costs associated with this project.

TIMELINE

Staff will return to Council to provide updates and seek approval for the next steps.

RESOURCE IMPACT

The attached BAO requests an appropriation of expenses in the amount of \$250,000 in the Capital Improvement Fund to a newly established capital project, Emergency Facility Improvements (PF-15005). Invoices will only be paid once funds have been received from State Farm Insurance, resulting in no net impact to the Capital Improvement Fund or Infrastructure Reserve.

POLICY IMPLICATIONS

This recommendation is consistent with the original loan agreement and in preserving the City's partially owned asset.

ENVIRONMENTAL REVIEW

None required

ATTACHMENTS

Attachment A: Budget Amendment Ordinance

Attachments:

- Attachment A: Budget Amendment Ordinance Emergency Facility Improvement 2257 Bryant Street (DOC)
- Attachment B: PAFD 2257 Bryant Report (PDF)

Attachment A
ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO AMENDING THE BUDGET FOR FISCAL YEAR 2015 IN THE CAPITAL IMPROVEMENT FUND, ESTABLISHING A NEW CAPITAL PROJECT, EMERGENCY FACILITY IMPROVEMENTS, PF-15005, IN THE AMOUNT OF \$250,000, OFFSET BY INSURANCE REIMBURSEMENTS, RESULTING IN NO NET IMPACT TO THE CAPITAL IMPROVEMENT FUND

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 16, 2014 did adopt a budget for Fiscal Year 2015; and

B. On May 30, 2001 the City Council approved an amendment to the housing assistance provision of the then current City Manager's employment agreement, increasing the City's housing assistance funding from \$1.2 million to \$1.5 million; and

C. The property at 2257 Bryant Street in Palo Alto was jointly purchased, with title being held as Tenants-in-Common by the City of Palo Alto and the Benest & Grady Family Trust; and

D. Presently, the equity ownership of the property consists of 56.8% by the City and 43.2% by Frank Benest and Pamela S. Grady, Co. – Trustee of the Benest and Grady Family Trust, dated November 13, 1990; and

E. A house fire on May 3, 2014 made the property uninhabitable. Since that time, Mr. Benest has been living in a rental property in Palo Alto, and City staff has been working with him, the insurance agent, contractors, architects, and structural engineers toward the cleanup and rehabilitation of the property; and

F. The insurance company, State Farm, is paying the needed expenses by issuing checks for cleanup and new structural plans. The approval of this budget amendment ordinance will allow the City to deposit checks to pay the contracts and architects for the necessary rehabilitation work.

SECTION 2. The net sum of Two Hundred Fifty Thousand Dollars is hereby appropriated to the Emergency Facility Improvements Project (PF-15005) in the Capital Improvement Fund. The expenditures in this new project will be offset by payments from the insurance company, resulting in no net impact to the Capital Improvement Fund or Infrastructure Reserve.

SECTION 3. As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

SECTION 4. The Council of the City of Palo Alto hereby finds that this is not a project under the California Environmental Quality Act and, therefore, no environmental impact assessment is necessary.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

City Manager

Senior Assistant City Attorney

Director of Public Works

Director of Administrative Services

**PALO ALTO FIRE DEPARTMENT
FIRE INVESTIGATION REPORT
Incident No.: 1230010
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Date/Time/Day of Incident: May 3rd 2014 1155
Incident Address: 2257 Bryant
Investigating Officer (I/O): Fire Investigator Scott Woodfin

Enclosed is my written brief of my investigation into this fire loss at the above referenced address. This brief consists of the summary below and attached photographs.

My opinions expressed in this report are based upon empirical data collected during the investigation process and utilizing the guidelines established in NFPA 921. My conclusions are based upon scientific method and deductive reasoning.

SYNOPSIS

In summary, this fire occurred inside the structure of the above address. The fire was first observed by Layla Benest and notified-(*Palo Alto Fire Department Communications via 9-1-1*).

Upon arrival, firefighters observed heavy smoke and flames coming from the Delta side of the structure. Suppression crews performed an interior attack from the driveway to the main entrance. Suppression efforts were successful. Forcible entry was not needed. There is access to the backyard next to the garage. The house was occupied at the time of the fire. The occupant was inside at the time of the fire. The occupant was notified by a neighbor of the fire to the rear of the structure.

Heavy fire, smoke, and smoke staining damage were observed throughout the structure.

No injuries were reported as a result of this fire loss.

My assessment of the origin and cause of this fire is based on the analysis of physical evidence, the assessment of reported information, and the evaluation of all possible causes.

NOTIFICATION / ON-SCENE / DEPARTED SCENE

On May 3rd, 2014 at approximately 1155, I was notified via cell phone by Capt. Dean. We discussed the investigation. It was decided we would do a Task-Force callout.

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SCENE MANAGEMENTInvestigation Personnel

Scott Woodfin – Lead Investigator

Capt. Rich Dean

PAFD

John Parks

PAFD

BC Dennis Johnsen

Santa Clara County FD

Matt Gundersen

Mountain View FD

Barbara Maxwell

ATF

Capt. Mark Shah

PAFD

Shelia Donovan

PAFD

Alexander Hermann

PAFD

Preliminary Fire Loss Estimate

Unknown

AREA OF FIRE ORIGIN

Waiting on Supplemental report

POINT OF FIRE ORIGIN

Waiting on Supplemental report

STATEMENT FROM (Layla Benest)

Waiting on Supplemental report

PALO ALTO FIRE DEPARTMENT FIRE INVESTIGATION REPORT

Incident No.: 1230010

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Photo log

Supplemental Report

SANTA CLARA COUNTY FIRE DEPT
LAW ENFORCEMENT
CA - 0432000
34090.6 GC- VEHICLE# Recorder#



EVENT # CN1 #14-126-0012

BATS REPORT ID # 7

PAGE #1

Date: 05/07/2014

Time: 1400

☐ Supplemental Report

Attachments:

DVD containing fire incident scene photos taken for Palo Alto Fire Department Fire report #2698.

Synopsis:

The Santa Clara County Fire Investigation Task Force was requested by Palo Alto Fire Department to assist with the investigation of a 3 alarm residential fire in property belonging to the City of Palo Alto. I responded as the Task Force Coordinator and photographed the scene from the exterior and the interior.

Investigation:

The fire in this residence occurred on 05/03/2014 and the Task force was requested to assist with the investigation on 05/06/2014. Along with the Coordinator position duties, I was also the photographer for this incident.

I photographed the exterior of the residence at 2257 Bryant Street and then photographed the interior of the residence. I completed these photographs before any investigation process was started.

After photographing the interior downstairs, I photographed the second story interior of the residence. I then photographed, as requested by the origin and cause investigators.

Evidence:

Photos of the exterior and interior fire scene placed on DVD disk.

Disposition:

Photos and supplemental report completed and delivered to Palo Alto Fire Department.

Reporting Officer Dennis Johnson #16337	
CJIG # 12671	Date: 05/07/2014

Reviewed By: D. Johnson #16337

Date: 05/07/2014 Processed By:

BATS Entry By: Date: Copies To: DA Court Other:

DPIW JPD S/O or PD

REV- 04/2010

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My assessment of this case is based on the analysis of physical evidence, the assessment of reported information, and the evaluation of all possible causes. My file will close pending further investigation/ research/ testing with this report. Please feel free to contact me on any points needing further clarification.

CASE STATUS

- ☐ Open
- ☐ Closed
- ☐ Suspended

Scott Woodfin
Fire Investigator



Summary of Loss

Named Insured: Frank Benest

Claim Number: 05-31D8-118

Coverage A - Dwelling

Limit of Liability: \$ 913,800.00

Coverage A - Dwelling Extension

Limit of Liability: \$ 78,206.00

Description	Amount
Protera invoice #73443 (asbestos testing)	\$ 735.00
Ward-Tek invoice #34063 (demo of roof structure)	\$ 15,431.86
PSP: Servpro (board up and temp fencing)	\$ 6,065.23
Alliance Environmental asbestos abatement	\$ 30,118.66
Protera Invoice #74746 - Clearance testing	\$ 375.00
Alliance Environmental additional asbestos	\$ 394.47
Revised State Farm Estimate - Structure	\$ 445,083.87
State Farm estimate - code upgrade	\$ 31,950.93
State Farm Estimate - Dwelling Extension	\$ 2,112.37
State Farm Estimate - Landscaping	\$ 3,253.80
Boudreau Plumbing and Heating Invoice #09-27809	\$ 1,003.00
de Jesus and Alatorre Engineering & Architects invoice #1527	\$ 3,172.00
de Jesus and Alatorre Engineering & Architects invoice #1600	\$ 9,362.48
City of Palo Alto plan check fees	\$ 4,018.68
Jon R. Crase Construction invoice #11462	\$ 522.50

Total Coverage A: \$ 553,599.85

Coverage B - Personal Property

Limit of Liability: \$ 586,545.00

Description	Amount
Payment Worksheet	\$ 207,545.95

Total Coverage B: \$ 207,545.95