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July 25, 2011

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The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:03 p.m.

Present: Burt, Espinosa, Holman, Klein, Price arrived @ 6:48 p.m., Scharff, Shepherd, Yeh

Absent: Schmid

STUDY SESSION

1. Study Session: on the San Francisco Public Utilities Commission's Water System Improvement Program (Hetch Hetchy Regional Water System).

Project Manager for the San Francisco Public Utilities Water System Improvement Program, Julie LaBonte, and, General Manager for the Bay Area Water Supply and Conservation Agency, Art Jensen, presented updates on the purpose, cost and construction progress of the 81 projects comprising the Program. Also covered was the oversight role of the State and the

active role taken by BAWSCA in reviewing and ensuring the proper allocation and assignment of costs and on-time construction schedules for the Program.

SPECIAL ORDERS OF THE DAY

2. Palo Alto Art Center Foundation Contribution to the City in the Amount of \$1.25 Million for the Art Center Renovation.

Member of the Palo Alto Art Center Foundation Board of Directors, Teri Vershel, spoke on behalf on the Board. She stated that the Foundation had been fundraising and advocating for the Palo Alto Art Center construction and renovation project for many years, and that both the Foundation Staff and City Staff had worked very hard to minimize the costs of the project. She stated that the Palo Alto Art Center Foundation was pleased to present the City with a check for \$1,250,000 to help fund the project. She added that the Foundation was also committed to contributing another \$750,000 towards the project.

Council Member Price thanked the Palo Alto Art Center Foundation for their donation.

Mayor Espinosa stated that the Palo Alto Art Center Foundation was a model for the kind of successful public-private partnerships that the City would like to cultivate. He expressed appreciation for the fundraising efforts, which he stated would ensure a world-class art center in Palo Alto.

No action required.

3. Council Direction to Reopen Recruitment for the Architectural Review Board (ARB) and to Communicate to the Two Applicants that their Applications are Still Active.

City Clerk, Donna Grider, stated that the City had only received two applications for the ARB vacancy and that it would be prudent to reopen the recruitment. She stated that she had met with Curtis Williams, Director of Planning and Community Environment, to discuss alternative methods of reaching out to the community. She explained that Council also had the option of moving forward with the two current applicants.

MOTION: Council Member Holman moved, seconded by Council Member Scharff to direct the City Clerk to reopen the recruitment process and communicate to the two applicants that their applications were still active.

Council Member Holman stated that Council had taken similar action regarding a vacancy on the Planning and Transportation Committee (PTC),

and agreed with Ms. Grider that it was prudent to obtain multiple applications for each vacancy.

MOTION PASSED: 8-0 Schmid absent

CITY MANAGER COMMENTS

James Keene, City Manager, reported that the City Clerk's Office was currently recruiting for a vacancy on the Planning and Transportation Commission (PTC) and on the Library Advisory Commission (LAC). He announced that: 1) The Palo Alto landfill on Embarcadero Road would be closing on at 5:00 p.m. on Thursday, July 28, 2011. After Thursday, Palo Alto residents could dispose of excess garbage and yard trimmings at the Sunnyvale Materials Recovery and Transfer Station on Carl Road in Sunnyvale. 2) The Palo Alto winners from the Palo Alto Weekly Best of Reader Poll were the Junior Museum and Zoo for best birthday party, the Children's Theatre for best outdoor music venue, and the Palo Alto Art Center for best art gallery. 3) The City had recently installed a vending miser on the soft drink vending machine at the City Hall Café, which would save approximately 40 percent on vending energy costs by powering down the machine when not in use. The Utilities Department would be offering vending misers to commercial customers free of charge. 5) Police Chief, Dennis Burns, raised \$4,000 for the Special Olympics by repelling 38 stories off of the Grand Hyatt in San Francisco.

Council Member Burt asked why the PTC recruitment period would only be extended until August 12, 2011, considering that the Council would be at recess until September 6, 2011 and that many members of the community would also be on vacation during that period.

Ms. Grider responded that the City Clerk's Office had applied their standard two-week extension period to the recruitment, but that the extension time could be amended by Council.

Council Member Burt suggested that Council extend the PTC recruitment period until one week prior to the September 6th meeting.

Council Member Klein stated that the Architectural Review Board (ARB) recruitment period should also be extended.

Ms. Grider asked for confirmation that Staff was directed to extend both recruitment periods until the week prior to the September 6th meeting.

Mayor Espinosa confirmed.

Mr. Keene stated that Agenda Item Number 15 had been recommended for continuance to a date uncertain in September.

Mayor Espinosa informed the public that there was a possibility that Council would not take action on the Item, but welcomed members of the public to stay and share their thoughts regarding the issue.

Council Member Shepherd asked whether Item Number 15 could be reviewed by the Policies and Services Committee (P&S) prior to coming before Council. She stated that the P&S Committee would be a more informal setting for many of the public's questions and concerns.

Mr. Keene stated that Council could determine to send the Item to the P&S Committee for review prior to returning in to Council.

Council Member Shepherd stated that the Palo Alto Unified School District had been attempting to reduce their energy consumption, and asked that Staff contact them regarding the vending miser technology.

Mr. Keene stated that Staff would contact them.

APPROVAL OF MINUTES

4. Approval of Minutes June 6, 2011

MOTION: Vice Mayor Yeh moved, seconded by Council Member Shepherd to approve the minutes of June 6, 2011.

MOTION PASSED: 8-0 Schmid absent

ORAL COMMUNICATIONS

Ken Horowitz stated that members of the public had complained about the length of Council meetings and had voiced frustration regarding the fact that Items were often considered past eleven o'clock at night. He suggested that Council reduce its size from nine to seven Members in order to shorten the meetings.

Winifred Thomas introduced herself as a life-long area resident. She stated that her home was not in Palo Alto, and that she had suffered extreme health problems from her home's smart meter. She asked Council to research the issue and investigate the health risks which accompany to smart meter installation.

Palo Alto International Film Festival Managing Director, Alex Ippolite, stated that Palo Alto was the birthplace of the first film projector and theatre, and the first film ever produced. She explained that the Film Festival was in its first year, and that the biggest challenge had been a lack of appropriate venues. She stated that the Varsity Theatre was a cultural icon, and asked

the Council to consider the possibility of its use to promote Palo Alto's rich film history.

Mark Weiss stated that he had addressed Council in 1996 regarding the possibility of leasing the Varsity Theatre. He stated that he worked in the music industry, and felt that the concert business was much more conducive to the success of such a venue than it was fifteen years ago. He suggested several local organizations that could potentially benefit from use of the Theatre. He suggested that Council assist in creating an open dialogue with the landlord, and stated that there could be an opportunity for a public-private partnership which would benefit the community as a whole.

Bob Moss thanked Council for putting binding arbitration on the November ballot, despite opposition.

Stephanie Munoz spoke regarding her time living abroad and explained the benefits to living in the United States.

CONSENT CALENDAR

Council Member Holman advised that she would not participate in Agenda Item Number 8, as she was an employee of the History Museum.

MOTION: Council Member Holman moved, seconded by Council Member Shepherd to pull Agenda Item No. 10, to become Agenda Item No. 13a.

MOTION: Council Member Burt moved, seconded by Council Member Scharff to pull Agenda Item No. 13, to become Agenda Item No. 13b.

Former Vice Mayor, Jack Morton, spoke regarding Agenda Item Number 6. He asked Council to consider deferment of the Item because of objections from a number of local business located on California Avenue. He stated that the proposed improvements would reduce traffic from four to two lanes, which would have a disastrous impact on the area businesses. He informed Council that the California Avenue businesses had filed a lawsuit against the Metropolitan Transportation Commission. He suggested that Council postpone consideration of the Item until after the August recess, to allow time for an update on the status of the lawsuit before proceeding.

MOTION: Council Member Klein moved, seconded by Council Member Scharff to approve Agenda Item Nos. 5-9, 11-12.

5. Approval of Extension of the Santa Clara County Abandoned Vehicle Abatement (AVASA) for Third 10-Year Term and the City of Palo Alto's Continued Participation.

6. Approval of a Contract with RBF Consulting in a Total Amount Not To Exceed \$350,000 for Design Services for the California Avenue Transit Hub Corridor Project.
7. Resolution 9191 entitled "Resolution of the Council of the City of Palo Alto Amending the Restricted Parking Zones Established by Resolution 7659 to Include the Downtown Library Parking Lot and Adjacent Streets in the Coral Zone."
8. Approval of a Record of Land Use Action approving a Conditional Use Permit for Community Facility Use of the Historic Roth Building at 300 Homer Avenue.
9. Approval of a Recommendation from the Historic Resources Board to Designate 1005 University Avenue as a Category 2 Structure on the City's Historic Inventory and Record of Land Use Action.
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11. Budget Amendment Ordinance 5125 in the amount of \$3,545,904 for Improvements to the Palo Alto Art Center; Approval of a Contract in the Amount of \$5,123,800 with Big D Pacific, Inc., for Improvements to the Palo Alto Art Center; Approval of a Contract in the Amount of \$369,920 with Mark Cavagnero Associates for Construction Administration Services and Approval of Contract Amendment 1 for Construction Management Services in the Amount of \$344,705 with Nova Partners (PF-07000).
12. Approval of a Contract with West Coast Arborists, Inc. for a Period of One Year for Parks and Facilities Tree Maintenance Services with Funding in the Not-to-Exceed Amount of \$172,000.
- ~~13. Policy and Services Committee Recommendation to Approve the Implementation Plan for the Proposed Employee Hotline.~~

MOTION PASSED for Agenda Item Nos. 5-7, 11-12: 8-0 Schmid absent

MOTION PASSED for Agenda Item No. 8: 7-0 Holman not participating, Schmid absent

AGENDA CHANGES, ADDITIONS, AND DELETIONS

- 13a. (Former No. 10) Approval of Contract Amendment No. Four in the Amount of \$258,041 with Group 4 Architecture, Inc for Costs Related

to the Design of the Main Library and the Temporary Main Library (PE-11000 and PE-11012) for a Total Contract Amount Not to Exceed \$7,681,751.

Council Member Holman stated that she had requested that the Item be pulled from the Consent Calendar due to her concerns regarding a proposed new road to be built adjacent to the community gardens. She asked that construction of the road be excluded from the project. She stated that the provided site illustrations did not include the community gardens, and that they offered no information regarding the project's potential impacts to the gardens. She stated that the illustrations did not indicate the location of the road ingress into the Art Center from Embarcadero Road, and asked Staff to verbally provide the missing information.

Interim Public Works Director, Mike Sartor, provided an aerial drawing of the site and reviewed the specifics of the location. He stated that the proposal would include improvements to the Art Center parking lot and creation of a connecting road between the Art Center parking lot and the Main Library.

Council Member Holman stated that she understood that the purpose of the project was to improve traffic flow, but that she did not understand how the projects would improve circulation given that the parking lots in question were small and not connected.

Mr. Sartor stated that it was not presently possible to drive between parking lots without going back onto the main road, which presented a parking problem when one lot was full.

Council Member Holman stated that the buildings were very close together and inquired as to the advantage to driving from one parking lot to another to find a space, as opposed to parking in one lot and walking.

Senior Engineer, Karen Bengard, stated that the connection would eliminate the back and forth traffic on Newell Road that occurred when people were searching for parking spaces, but that once parked people could certainly walk between the buildings.

Council Member Holman asked whether Staff had considered electronic signage to indicate maximum lot capacity.

Ms. Bengard stated that electronic signage was one of the ideas that Staff would consider if the contract amendment moved forward.

Council Member Shepherd stated that she had always considered the separation between the parking lots to be a weak element of these public facilities. She explained that her reason for wanting the Item removed from the Consent Calendar was unanswered questions regarding the contract and

the escalating price of the project, which had both been adequately answered by Staff. The change order summary was extremely useful for Council because it demonstrated that the escalating project costs were caused by substantial changes to the project itself, and not inadequate anticipation of costs. She asked Staff to continue to update the change order summary and to present the document to Council as the project progressed. She stated that her understanding was that an integrated parking lot could cost \$1,000,000, and that the cost would be split between the Art Center and Library budgets. She asked whether the cost would be expensed from the Capital Improvement Projects Funds or whether the project would be funded through donations from the Palo Alto Art Center Foundation.

Mr. Sartor stated that the Foundation would not contribute to the project. He explained that Staff had estimated that the cost would be split between the two facilities, and that any expenses not covered by the Main Library project would be taken from the Infrastructure Reserve Fund.

Council Member Klein stated that he lived two blocks from the site and that he was very familiar with the area. He stated that he was concerned about people using the parking lot as a way to avoid the Embarcadero Road traffic light at Newell Road, and asked why it was necessary to have an entrance into the parking lot from Embarcadero Road. He asked whether it would be possible to eliminate the entrance or to open it only for special events.

Mr. Sartor acknowledged that it would be possible to either eliminate the entrance from Embarcadero Road or to limit access during specific times. He stated that the Public Works Department would need to coordinate with the Library Staff and the City's Transportation Official to determine how the closure would affect circulation.

Council Member Klein stated that closure of that entrance could also create additional parking spaces.

Art Center Director, Karen Kienzle, explained that although the Art Center Staff had observed cars using the Embarcadero Road entrance to avoid the traffic light, the entrance would be advantageous when the Temporary Main Library was located in the Art Center auditorium space.

Council Member Klein stated that he would prefer to consider his position after the closure alternatives for the Embarcadero Road entrance had been investigated.

Mayor Espinosa explained that during his time as a Member of the Palo Alto Art Center Foundation Board of Directors he had discussed two other issues that were factors in the proposal to connect the parking lots: the creation of a pedestrian interface between the Main Library and the Art Center, and the

possibility of the transformation of the Embarcadero Road entrance into the main entrance during the second phase of the Art Center development.

Council Member Burt asked for clarification as to why the Item was pulled from the Consent Calendar. He asked whether approval of the Item as proposed would bind the City to a specific design outcome, and what the project's review process would look like going forward.

Mr. Sartor replied that the intent of the Staff recommendation was to have Group 4 Architecture, Inc. present the basic concepts to the Architectural Review Board (ARB), the Planning and Transportation Commission (P&TC), and the community for review. Staff would then return the proposal to Council for a final decision on whether to proceed with the connectivity project.

Council Member Burt suggested that Staff consider implementation of a one-way traffic plan in which the entrance was located on the western most side and the exit was by the Art Center. He stated that in addition to creating more parking spaces, this solution would increase vehicle and bicycle safety through the elimination of multiple egresses and would decrease the width of the road alongside the gardens.

MOTION: Council Member Shepherd moved, seconded by Vice Mayor Yeh to approve Staff recommendation that Council approves and authorizes the City Manager to execute Amendment No. 4 to contract C09130744 with Group 4 Architecture, Research + Planning, Inc. in the amount of \$258,041, the revised total contract amount is not to exceed \$7,681,751 including \$7,006,189 for basic services and \$675,562 for additional services.

Council Member Shepherd stated that she was interested in exploring methods of merging the two parking lots. She commented that she had recently learned that the community gardens were located on excess land that had been set aside to allow for a future expansion of the former City Hall, if needed. She stated that more review would be necessary in order to ensure proper consideration of the layout of all facilities.

Vice Mayor Yeh stated that the project was a part of Palo Alto's larger efforts to renovate all libraries, and that he was pleased to see it moving forward.

Council Member Price expressed support for the Staff recommendation, and stated that she would like to see the concerns of the community gardeners properly addressed during the process.

Rita Morgan stated that 13 community gardens would be destroyed by the proposed road connection. She stated that if the City wished to reduce costs and stay green, they should forgo the expense of a new road that would demolish gardens. She stated that in 2002 the community gardeners were

promised that the Main Library construction would not impact the gardens, and indicated that demolition of the gardens would destroy the gardener's trust in the City. She suggested that the City would be better served by providing better signage to direct vehicles to the appropriate buildings and to indicate lot capacity.

Library Advisory Commissioner, Bob Moss, stated that he had participated in several Library Advisory Commission (LAC) discussions regarding the Main Library parking situation. He stated that the LAC had discussed two driveways which presented problems: the existing driveway between the Art Center and the Library and the proposed road between the Art Center parking lot and the Main Library parking lot. He stated that the existing driveway between the Art Center and the Library was often used by speeders to bypass the Embarcadero Road light, but could be redesigned at a curve to reduce speed and create additional parking spaces. He explained that the LAC had not taken a position on the project due to the fact that there were very few details available as to the exact location of the proposed road and the impact it would have on the community gardens.

Mark Hager praised Council Member Klein's suggestion of limiting access to the Embarcadero Road entrance. He stated that one of the architects had suggested that if the proposed road were built, it could potentially be designated a limited access road. He stated that as a frequent visitor of the Library, he had rarely encountered problems finding a parking space. He asserted that the benefits of the project did not justify the costs, and that limited access and proper signage could solve the problem.

Stephanie Munoz suggested that Council consider allowing people to park cars overnight along the perimeter of the parking lots during the hours that the Art Center and Library were closed.

Don Kenyon introduced himself as a community gardener and a supporter of the Art Center and Community Library. He stated that his plot would not be affected by the proposed road. He commented that the road would not only integrate the two facilities, but would eliminate the fire road and create space for additional gardens. He stated that he had sympathy for those who would need to relocate their gardens, but emphasized that the road would be a tremendous improvement for the site and would constitute a net property gain for the community garden.

Mayor Espinosa expressed support for the Motion and assured members of the public that Council had not yet made any final decisions regarding the proposal.

Council Member Holman expressed support for improvements to the Art Center parking and circulation. She stated that she understood that no decisions had been made, but she felt that the investigation of a scenario in

which community gardens would be destroyed was not a good expenditure of funds. She stated that she would not support the Motion, and suggested that the establishment of appropriate signage and improved pedestrian and bicycle connectivity between the sites would be more appropriate. She added that since the Item would be considered by both the ARB and the P&TC, the Parks and Recreation Commission (PARC) should also have an opportunity to provide input.

Mr. Sartor stated that the PARC would be included in the process.

MOTION PASSED: 7-1 Holman no, Schmid absent

13b. (Former No. 13) Policy and Services Committee Recommendation to Approve the Implementation Plan for the Proposed Employee Hotline.

Council Member Burt stated that he had requested that the Item be pulled from the Consent Calendar so that he could obtain clarification regarding the stated purpose of the Hotline. He stated that the Staff Report had included conflicting purposes, and that the wording was unclear. He observed that in some places the stated purpose of the Hotline was to receive employee complaints regarding "fraud, waste and abuse," but that the term "waste" did not appear in other key areas of the document. He explained that the Policy and Services Committee (P&S) had discussed the Item at length, and had agreed that the term "waste" should be removed due to its subjective nature.

Interim City Auditor, Michael Edmonds, agreed with Council Member Burt's assessment. He stated that as Staff moved forward with the implementation of the Hotline, they would develop much clearer definitions of the terms "fraud," "waste" and "abuse," and would provide examples for each. He stated that his expectation was that waste complaints would relate to careless or unnecessary spending and poor use of City resources.

Council Member Burt stated that "waste" covered a multitude of issues, and that they were normally considered the responsibility of the City Manager. He explained the eight categories described in the Staff Report as those which the Hotline could investigate were very specific with regards to instances of fraud and abuse, but did not include instances of waste. He explained that the P&S Committee had intended to exclude "waste" from the purview of the Hotline and that he would like to see the term removed completely.

Council Member Scharff stated that he had the same thoughts regarding the term "waste." He stated that the terms "fraud" and "abuse" were very well defined within the eight categories, but that the term "waste" was extremely broad. He stated that the Hotline was a pilot program, and that Council should be mindful of the fact that an anonymous accusation of waste would

result in a full investigation of an employee. He stated that it would be wise to start with the eight categories which had already been well defined, and to expand the program in the future if needed.

Council Member Price asked whether some of the language was taken from operating hotlines in other communities.

Mr. Edmonds answered in the affirmative. He stated that the intent was to create a Waste, Fraud and Abuse Hotline and that Staff would provide specific examples of what constituted "waste." He assured Council that a simple accusation of waste would not be sufficient to justify an investigation, and that the accusing party would be required to provide substantiating evidence.

Council Member Price stated that it was her expectation that those issues would be addressed during the pilot phase of the program and that there must be an assumption that the employee's would use the program responsibly. She stated that the report included many measures that would ensure a comprehensive evaluation at the end of the pilot period.

Council Member Holman stated that the Motion passed unanimously by the P&S Committee was to "implement the employee only Waste, Fraud, and Abuse Hotline." She explained that her understanding was that the term "waste, fraud, and abuse" was a term of art, and asked Mr. Edmonds for confirmation of that.

Mr. Edmonds replied in the affirmative, and stated that there was overlap between the three areas.

Council Member Holman observed that the P&S Committee minutes did not include the Committee Member's comments regarding the need and applicability of the program, and stated that it was important to note that the program would address areas not covered under any other program. She emphasized that many people are not comfortable coming forward with a complaint without the assurance of anonymity, and that in an organization the size of the City there was likely to be managers who were not open to receiving such complaints. She stated that she was very much in favor of instituting the Hotline and she hoped it would provide a great benefit to the community.

Council Member Klein agreed with Council Member Holman that the P&S Committee had not voted to exclude the term "waste," and that the term "waste, fraud, and abuse" was a term of art. He stated that he felt that the potential benefits of the Hotline had been exaggerated, and that he looked forward to reviewing the results of the pilot program. He stated that the success of the program would rely on the common sense of its

administrators, and that Staff should be careful to ensure that it was not used by disgruntled employees as a means of inflicting injury.

City Manager, James Keene, stated that public agencies were founded on the democratic principles of transparency and accountability, and that he hoped that the majority of complaints would not require an anonymous hotline to be reported. He asserted that if the majority of complaints required anonymity, it would indicate a larger cultural problem within the organization. He emphasized that it would be a mistake to think that the City required a hotline to manage waste, fraud and abuse issues, and that the Hotline should be viewed as a tool set aside for those rare instances which required anonymity. He stated that he felt that "waste, fraud, and abuse" was not an appropriate term, and that the emphasis should be placed on "fraud," which was of the most critical concern. He expressed that the City sought to promote the accountability of its employees, and that the pilot program was created to ensure that the City had a vehicle for those cases that could not have been reported otherwise.

MOTION: Council Member Shepherd moved, seconded by Council Member Holman to approve the implementation plan for establishing an employee only Fraud, Waste and Abuse Hotline on an 18-month pilot basis, with an implementation date of January 1, 2012.

Council Member Shepherd expressed support for the pilot program and stated that although she was looking forward to reviewing the data, she would be very pleased if the hotline did not produce any results.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that Staff provide quarterly reports to the Policy and Services Committee.

Mr. Keene stated that the presentation of quarterly reports had been included in the Staff Report.

Council Member Holman replied that it had not been a part of the Original Motion. She agreed with Mr. Keene that she would like everyone to feel comfortable enough to come forward with complaints, but that in reality most people generally did not. She acknowledged that the Hotline could produce some complaints that were not worth investigating, but maintained that it could also produce some complaints that were very beneficial to the City. She stated that the program had proven successful in other communities and that she fully supported the Motion.

AMENDMENT: Council Member Burt moved, seconded by Council Member Scharff to only include fraud and abuse and removing waste from the Hotline.

Council Member Burt stated that there was a disparity between the program's goal and its title, and argued that the term "waste, fraud, and abuse" did not appropriately convey Council's intent. He stated that the title's inclusion of the term "waste" introduced unnecessary ambiguity to the purpose of the project, when specific categories to define the scope of the hotline had already been established without reference to "waste."

Council Member Scharff asked for a clarification as to the Staff recommendation.

Mr. Edmonds stated that Staff's recommendation was to approve the implementation plan.

Council Member Scharff asked for further clarification regarding the implementation plan.

Mr. Edmonds stated that the implementation plan included five things that needed to be completed prior to the commencement of the pilot program: 1) selection of a third-party vendor to receive complaints 2) development of clear policies and procedures regarding the Hotline 3) development of whistleblower protection policies 4) efforts to inform employees of the Hotline and of their responsibilities to report fraud and abuse, and 5) authorization from Council to implement the Hotline.

Council Member Scharff asked whether Staff currently had a definition of the term "waste."

Mr. Edmonds stated that Staff had some general definitions, but that they would need to spend some time to identify what would fall into the different categories of "waste," "fraud," and "abuse."

Council Member Scharff inquired as to Staff's definition of the term "waste," as opposed to "fraud" or "abuse."

Mr. Edmonds stated that his definition of "waste" would relate to wasteful spending. He stated that the term "waste" could refer to the purchase of unneeded or unnecessarily expensive items or to unnecessary travel expenditures.

Council Member Scharff asked whether it would be fair to characterize fraud and abuse as intentional acts, and waste as an act of negligence.

Mr. Edmonds stated that he believed Council Member Scharff's characterization to be correct. He noted that the term "waste" could be applied to a broader number of offences than the terms "fraud" or "abuse," and that it may not include an illegal act.

Council Member Scharff stated that while both fraud and abuse were intentional acts, determining whether an act of waste had occurred would be much more difficult. He asserted that "waste" was subjective, and that different people may have vastly different opinions of what crossed the line into waste. He maintained that although "waste, fraud, and abuse" may be a term of art, "waste" belonged in a different category than the other two terms.

Vice Mayor Yeh stated that the City of Oakland had instituted a Waste, Fraud, and Abuse Hotline several years ago. He stated that although he understood the sentiments behind the proposed Amendment, he was reassured by the fact that the complaints received by the Hotline would be reviewed by a committee which would include the City Manager's office. He stated that he would not support the removal of the term "waste" because unintentional offenses, although perhaps not properly described as outright fraud, should still be addressed. He remarked that the City Manager had indicated his intent to institute a comprehensive ethics program, and that the two programs would compliment one another. He suggested that the title of the program be changed so that the term "waste" was not the first word.

Council Member Price stated that the information provided by Staff, and the fact that further details would be returned to Council for final approval after the implementation plan was completed, gave her confidence in moving forward with the project according to the Staff recommendation. She stated that when Staff returned with the details of the program, Council would have the ability to look at the issue more closely.

Council Member Holman stated that the definitions of the terms would be fully explored during the process of the implementation plan, and that it would be premature for Council to eliminate any aspect of the program at this point.

Mr. Keene stated that the definition of "waste" could vary depending on individual perspective or values, and that encouraging secrecy regarding those types of disagreements was not good policy. He stated that if the City received a high number of waste complaints, he would take an active role in investigating the issue and would present it to Council. He suggested that the focus should be not only on the detection of waste, but on the vehicle that the City would use for detection. He stated that the City should not encourage non-accountability, and should offer anonymity only in those exceptional situations in which it was necessary.

AMENDMENT FAILED: 2-6 Burt, Scharff yes, Schmid absent

MOTION PASSED: 7-1 Scharff no, Schmid absent

MOTION: Mayor Espinosa moved, seconded by Council Member Shepherd to move Agenda Item No. 15 forward to be heard at this time, to become Agenda Item No. 13c.

Council Member Burt stated that the Staff recommendation was to continue the Item, and asked whether the Motion would allow consideration of a continuance of the Item or consideration of the Item in substance.

City Attorney, Molly Stump, stated that since the Item appeared on the Agenda, Council was required to provide members of the public an opportunity to speak to the Item. She asserted that Council could decide to hear the Item or to accept the Staff recommendation to continue it.

Mayor Espinosa stated that the purpose of the Motion was to allow Council to consider the Item out of order on the Agenda.

Council Member Burt asked for confirmation that if the Motion were approved, the Council could still vote to continue the Item.

Mayor Espinosa stated that they could.

MOTION PASSED: 7-0 Price, Schmid absent

13c. (Former No. 15) Approval of an Ordinance Adding Section 9.06.010 to the Palo Alto Municipal Code to Prohibit Human Habitation of Vehicles (*Staff Recommends to Continue This Item to September 2011*).

MOTION: Council Member Burt moved, seconded by Council Member Holman to refer this Item to the Policy & Services (P&S) Committee.

Council Member Burt explained that the environment of a standing committee meeting was more conducive to an open dialogue between Council Members and members of the public. The P&S Committee review of the Item would provide the public a greater opportunity to participate in discussions regarding the issue.

Council Member Shepherd explained that while the P&S Committee was a sub-committee of Council, and subject to the Brown Act, there was a much greater opportunity for exchange of ideas between the public and the Council Members. She stated that after speaking with several members of the public regarding the issue, she felt that referral of the Item was the best solution.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER that the timing for this to be heard by Policy & Services Committee will be determined by Staff and the Committee Members pursuant to what is in the staff report.

Council Member Klein stated that he was in agreement with Council Members Burt and Shepherd that the Item should be referred to the P&S Committee. He explained that it would be a "waste" of both Council's and the public's time to engage in any meaningful discussion of the Item prior to committee review. He suggested that public comments on the Item be limited to one minute.

Council Member Price stated that the P&S Committee had already set a meeting date for September 13, 2011, and asked Council Member Klein whether he meant to imply that the P&S Committee would not necessarily consider the Item on September 13th.

Council Member Klein replied that when the P&S Committee would consider the Item would depend on the staff work required.

Council Member Price asked whether Staff could be prepared to present the Item to the P&S Committee by the September 13th meeting.

Mr. Keene replied that he hoped so, and that the recommendation to continue the Item was made in response to requests from the public. He stated that Staff had identified the need for additional community outreach regarding the Item, which would be conducted during Council's August break. He explained that the only variable he could foresee affecting Council's ability to consider the Item at the September 2011 P&S Committee meeting would be the effectiveness of the outreach.

AMENDMENT: Council Member Price moved, seconded by Council Member Klein to limit each public speaker this evening to 1 minute.

AMENDMENT PASSED: 6-2 Espinosa, Holman no, Schmid absent

Heiri Schuppisser introduced himself as a Homeless Outreach Specialist who had worked in Santa Clara County for the last 25 years. He explained that this issue affected a lot of lives, and that often times it was safer for people to live in their cars than on the streets.

Cindy-Lou Waring stated that she had been a resident of Palo Alto since 1968, and that she was homeless. She explained that although she received social security, she had multiple medical issues and was not able to afford to live anywhere but her car. She explained that she did not feel that shelters were a viable option for her and that her car provided the safest environment.

A member of the public introduced himself as a Software Engineer. He stated that he had worked as a software engineer for 25 years, but that after being laid off he was forced to live in an RV. He stated that, as with

most people who live in their cars, he did not park in residential areas. He remarked that he had heard that the complaints had come from College Terrace and informed Council that there was a homeless person living in College Terrace who had 11 different vehicles spread throughout the area. He stated that the proposed Ordinance was very harsh and explained that if it were to pass, he would be considered a criminal despite the fact that he had never broken any laws.

Stephanie Munoz stated that the proposed Ordinance constituted a denial of rights, and that it was too severe.

Kenneth Roman stated that he had attended the previous Council meeting to ask for a delay of the vote, and that he would like to thank Council for being receptive to the requests of the public. He stated that he was working with a group of community members on alternatives for Council consideration.

Greg Schaefer thanked Council for delaying a vote on the Item, for referring it to the P&S Committee, and for committing to speaking with both home-dwellers and car-dwellers regarding the issue. He thanked Staff for reaching out to him to discuss the issue and announced that he would be happy to join any team working to find a mutually beneficial solution.

Bruce Kenyan stated that society could not end social ailments by separating the haves from the have-nots, and that a problem did not cease to exist because when it was removed from sight. He stated that the proposed Ordinance would do nothing to fix the homeless problem.

Art Tyree stated that he had strong ties to the community, and recommended a program entitled "safe parking" that had been enacted in Santa Barbara. He explained that under the program, several public agencies and churches designated their parking area for overnight use by those who needed to use their vehicles for habitation. He stated that those who used the areas were not free to use the facilities at which they parked or to disturb the neighbors. He explained that it had worked very well in Santa Barbara and had solved what was becoming a widespread problem for the City.

Herb Borock stated that when he moved to Palo Alto, the City prohibited parking in residential areas from 2 a.m. to 6 a.m without a hardship permit. He stated that the Ordinance change in 1999 permitted all but oversized vehicles and trailers to park in residential zones. In response, those living in mobile homes, trailers or trucks with camper shells began parking in the commercial zones on Encina Avenue. He explained that in 2003, with the establishment of the Opportunity Health Center on Encina Avenue, the Ordinance was amended to prohibit those vehicles from parking on Encina Avenue. He stated that a return to the pre-1999 Ordinance regulations would solve the problem.

Rick Toker thanked Council for continuing the Item and stated that the City would be able to create a better ordinance as a result.

Tianay Pulpus introduced herself as a junior at Stanford University. She stated that approximately 30 community members had already joined together to form a Community Cooperation Team for the purpose of developing alternatives that would address the concerns of all parties. She stated that she looked forward to working with Council to find a more acceptable solution than the proposed ban.

Chuck Jagoda stated that the Community Cooperation Team was interested in investigating the nature of the complaints. He stated that he lived in his vehicle. He explained that many of the homeless in question had once worked and lived in Palo Alto, and that many still had children that lived in the City. He stated that he understood why people did not want to have to see the homeless, but that eliminating their presence would not eliminate their existence.

Norman Carroll stated that he was not able to locate an official copy of the proposed Ordinance, but that the Ordinance he had obtained looked to be identical to the Sunnyvale Ordinance. He stated that he wished that the City had used the Milpitas Ordinance instead because it solved the problem by permitting the habitation of vehicles exclusively in commercial areas and required the permission of private commercial property owners.

Aparna Anarthasubranarian introduced herself as a member of the Stanford Student Group "Night Outreach," which allowed her to form meaningful relationships with much of the local un-housed population. She was also a member of the Community Cooperation Team and was very excited to see that Council was interested in receiving the community's input on the issue.

Bob Moss suggested that Council consider working with local churches to see if they would be willing to offer their parking lots and/or facilities to house the homeless.

Lawrence Garwin stated that the proposed ban would not address the issue of parking availability. He stated that as a former resident of College Terrace, the resident's main complaint was that many of the cars parked in the neighborhood did not belong to residents. The un-housed population did not use these cars as dwellings, but the non-resident cars did use much of the available parking. He stated that he would oppose a ban on sleeping in vehicles because it would affect not only those who lived in their cars, but also those who occasionally slept in them for short periods of time when it was unsafe for them to drive.

Council Member Shepherd explained that Staff was currently coordinating community outreach efforts, after which the Item would be referred to the P&S Committee. She thanked members of the public for their input and for being a part of the solution.

MOTION AS AMENDED PASSED: 8-0 Schmid absent

ACTION ITEMS

14. Finance Committee Recommendation for Rate Increases for the FY 2012 Refuse Fund Budget.

Interim Public Works Director, Mike Sartor, stated that Council had approved the FY 2012 Budget with a \$3,700,000 deficit in the Refuse Fund. He explained that Staff had met with the Finance Committee on July 5, 2011, and again several weeks later on July 19, 2011, to develop the Staff recommendation for the Item.

Assistant Environmental Services Director, Phil Bobel, explained that Staff had mapped out a long-term phased strategy to help the Refuse Fund to achieve a \$3,000,000 operating reserve, to ensure that all ratepayer categories paid their actual costs, and to fully implement structural rate changes within the next three to five years. He explained that Staff had also developed a short-term strategy, which was well under way. He stated that the next step in the short-term plan was to begin the Proposition 218 process for approval of new rates with a 45-day notice. He stated that after the Proposition 218 process, Staff would return to Council in September 2011 for approval of rates. The rates would take effect October 1, 2011. He explained that Staff had met several times with the Finance Committee, who had recommended approval of a \$1,250,000 loan from the General Fund to the Refuse Fund in order to reduce rate increases and create a viable two-year plan. Another of the Finance Committee recommendations was to continue the approved rate increases from last year for both residential and commercial customers, and to approve an additional residential fixed rate in the amount of \$4.62 per month.

Solid Waste Program Manager, Brad Eggleston, reviewed the FY 2010 expense actuals for the Refuse Fund, noting that the GreenWaste contract represented approximately 40 percent of all expenses. He stated that the landfill closure would significantly reduce expenses for the Refuse Fund in FY 2013. He explained that the reduction in expenses and the proposed \$1,250,000 loan from the General Fund constituted a two-year smoothing strategy that would help minimize the rate increases for FY 2012 and avoid additional rate increases in FY 2013. He stated that in order to achieve those goals, Staff would need to institute a revenue increase in conjunction with the proposed loan. He stated that while Staff proposed to continue the six and nine percent commercial rate increases from the previous year, they

had also proposed a residential rate increase in an attempt to address some of the imbalances between the residential and commercial users. He presented three options for the proposed residential rate increase: Option 1: 100 percent variable rate, Option 2: 50 percent variable/50 percent fixed-rate, Option 3: 100 percent fixed rate. He stated that Staff's recommendation was to approve Option 3, which would ensure that the City would receive the full rate increase amount each month. The Finance Committee already had an opportunity to offer input regarding the Item, and that Staff sought direction from Council. The Recycling Center was located on the landfill site and would need to be removed in order to proceed with the landfill closure. The Finance Committee had directed Staff to prepare a proposal that would eliminate the Recycling Center and retain the Household Hazardous Waste Facility. He informed Council that the proposal would be presented to the Finance Committee in October and would then be presented for Council review.

Council Member Scharff, Finance Committee Chair, noted that the loan would be fully repaid with interest. The purpose of the increase was to eliminate the \$3,700,000 deficit in the Refuse Fund, and emphasized that the proposed rate increase would be effective only until the completion of the Cost-of-Service Study, at which point a new rate structure could be put into effect. The proposal did not include any increase to commercial rates because some inequities between residential and commercial users had been discovered through the course of the Cost-of-Services Study. The goal of the proposed increase was to address the inequities, rather than to have to make larger adjustments down the road when the Study was complete. The proposed rate would eliminate the deficit, while still maintaining a large enough price differential between the small and large can to encourage a reduction in waste.

Herb Borock observed that the Parks and Recreation Commission (PARC) would be considering an Item related to the Recycling Center at their next meeting, and hoped that the PARC was aware of the work that the Finance Committee had done on this Item. He expressed concern regarding Staff's recommendation to raise rates before the completion of the Cost-of-Services Study.

Lawrence Garwin expressed support for any measure that would encourage people to produce less waste, and the introduction of a bi-monthly pick-up schedule would greatly reduce garbage pick-up costs. He explained that bi-monthly pick-up would shift the majority of costs away from driving and personnel costs, and would allow the City to offer greater incentives to those who produced less waste.

David Creemer urged Council to adopt a tiered rate structure, by which a consumer would pay more per gallon for each gallon over an established threshold.

MOTION: Council Member Scharff moved, seconded by Council Member Shepherd to approve the Finance Committee and Staff recommendation to:

1. Proceed with plans to retain the FY 2011 rate increases of 6% for residential customers and 9% for commercial customers, and to implement an additional fixed monthly fee of \$4.62 for all residential customers to be effective on October 1, 2011; and
2. Establish a loan of \$1.25 million from the General Fund Budget Stabilization Reserve to the Refuse Fund that will be disbursed in FY 2012 and repaid in FY 2013, with interest on the loan to be based on the average yield on the City's investment portfolio for the loan period; and
3. Proceed with the Proposition 218 public notification process for the rate increases and return to City Council in September 2011 for the Public Hearing and adoption of the new refuse rates.

Council Member Shepherd stated that she looked forward to reviewing the Cost-of-Services Study. She stated that the cost of the mini can had been kept artificially low, which had diminished some of the funding that would have helped create a more financially sustainable program. The proposed rate increase was an incremental step towards a more structured billing approach.

Council Member Burt asked whether, given that the Item was scheduled to return to the Finance Committee in October, it was the appropriate time to offer input to the Finance Committee Members regarding policy directions.

Mr. Sartor stated that the Finance Committee had directed Staff to investigate and present options regarding the Recycling Center. He stated that Staff could also present those options to the Policy and Services Committee.

Council Member Burt stated that it was important to create a system which would not duplicate recycling services already offered at the Recycling Center. He noted that both Stanford University and the City maintained their own recycling centers, and inquired as to whether there was some opportunity for collaboration between the two. He was disappointed when the Recycling Center had stopped accepting styrofoam, and asked Staff to bring the issue of discontinued refuse services before Council. He asked what year Council had adopted the zero waste program with increased curbside pick-up.

Mr. Bobel stated that the City signed a new contract with GreenWaste in July 2009.

Council Member Burt asked whether that was when the City had increased curbside recycling services.

Mr. Sartor stated that the increased curbside recycling services were added some time in 2006 or 2007.

Council Member Burt stated that when additional curbside services were added, his family was able to decrease from a 32-gallon can to a 20-gallon mini-can, which reduced the size of his monthly bill. He received increased recycling services, while paying approximately 20% less per month than he had four years prior. He added that the public should be made aware of the fact that there had been a change in the types of materials recycled by the City. The City went from recycling high-value materials such as aluminum and glass, to recycling low-value materials. He explained that often times the City did not receive any money for recycling these materials, but that the program prevented those items from being sent to the landfill. He stated that when many households reduced their can size, and did not see an equal reduction in their monthly bill, they assumed that their bills reflected a higher price per gallon. The issue should be re-framed so that the public could understand that the price per gallon had not increased, but that the City had increased recycling services in addition to decreasing the overall price of the bill. He added that to allow people to think otherwise would continue to breed unnecessary discontent in the community and would do a disservice to Staff.

Council Member Shepherd stated that only 6.2% of recyclables were recycled at the Palo Alto Recycling Center, and that the Finance Committee should investigate whether relocation would be financially prudent. She agreed with Council Member Burt's statement regarding the need for a different type of public discussion, but the City also needed to reevaluate the cost vs. the benefits of refuse pick-up. She stated that the recyclables were not providing increased revenue to the City, and that the costs associated with waste collection and disposal needed to be separated and appropriately compensated.

Council Member Holman stated that she was also concerned that the City no longer accepted Styrofoam for recycling, but that she was most concerned by the fact that Styrofoam was still in use. She would like Staff to record Council's comments and present them to the Finance Committee for consideration. She would also like the Finance Committee to investigate manufacturer take-back policies. She asked whether the policy allowing customers to request an annual collection of all household waste items was still in effect.

Mr. Sartor stated that it was, and that if the Recycling Center were to close, Staff might consider the possibility of increasing the frequency with which customers would be permitted to request such collections.

Council Member Holman asked whether the collection of household hazardous waste could be incorporated into that program.

Mr. Eggleston stated that Staff could explore the possibility, but that under the City's current contract the only household hazardous waste items that could be picked-up were motor oil and oil filters.

Council Member Holman stated that she would like to see an amendment to the contract.

Mr. Sartor answered that Staff was considering the possibility of a renegotiation of the Clean Harbors contract for the Household Hazardous Waste Facility to increase the number of materials accepted. Council Member Holman's suggestion could be incorporated into a new contract.

Council Member Holman stated that she shared Council Member Shepherd's concerns regarding the cost of curbside collection, and combining trips for some of the vehicles with regular routes throughout the City. She would also be interested in exploring the possibility of instituting bi-monthly collection, whether on a citywide basis or as an option for those families who do not require weekly collection. She would like to avoid charging a fee for collection of recycling. She emphasized that recycling was still waste and that it did still have a considerable impact on the environment, but that it was important for the City to promote it as much as possible. The City should make efforts to educate people as to the impacts of recycling and disposal of other waste.

MOTION PASSED: 8-0 Schmid absent

~~15. Approval of Ordinance Adding Section 9.06.010 to the Palo Alto Municipal Code to Prohibit Human Habitation of Vehicles (STAFF RECOMMENDS TO CONTINUE THIS ITEM TO SEPTEMBER 2011).~~

16. Adoption of Two Resolutions (1) Adopting 9192 Utility Rate Schedule E-16 (Unmetered Electric Service), as Amended, Adding a Wireless Facilities Attachment Fee; and (2) Adopting Resolution 9193 the Master License Agreement and Exhibits for the Use of City-Controlled Space on Utility Poles and Streetlight Poles and in Conduits by Wireless Communications Facilities and Related Equipment.

Assistant Director of Utilities Engineering, Tomm Marshall, stated that the Master License Agreement was the first step in the installation of wireless antennas on utility infrastructure. He explained that the Resolution to approve the Master License Agreement was a standard contract template for

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attachment to utility poles and occupancy of conduits and that the Resolution to amend the E-16 Utility Rate Schedule would add a fee for wireless facilities. He stated that the City had previously received three requests from different companies regarding pole attachments for wireless facilities, and that all had cited the need for improved wireless coverage and a demand for 4G services. He emphasized that the City could not legally prohibit access to public rights-of-way, but that it could limit access to poles and conduits for public safety reasons and set reasonable terms for attachment. The Master License Agreement was drafted as a 10-year agreement, with the possibility of one additional 10-year renewal. The Master License Agreement established the procedure, schedule, and fee structure for pole attachments and use of conduits. The amendments to Utility Rate Schedule E-16 would establish a license fee for attachments and conduit occupancy, as well as other related fees which would be subject to voter approval under Proposition 218 or Proposition 26. He informed Council that pending state and federal legislation regarding pole attachments, if approved, could conflict with the draft Master License Agreement, but that it would be difficult to anticipate the details of the legislation. He explained that under the Municipal Code, the Distributed Antenna System (DAS) Applications would be considered "co-location facilities," subject only to architectural review. He explained that the facilities would not require a conditional use permit, and would be processed as minor architectural review projects subject to Staff-level review.

Director of Planning and Community Environment, Curtis Williams, stated that Staff had been working with some of the wireless communications firms to develop outreach programs that they would implement prior to submitting applications. He explained that Staff had modified the City's checklist of information required for participating companies, and that they had been compiling comprehensive lists and maps of City facilities to be made available to interested companies. He stated that Staff planned to return a more comprehensive package to Council some time in October or November 2011.

Herb Borock stated that a preliminary Architectural Review Board (ARB) hearing would be held regarding an AT&T proposal for design review of their distributed antenna system on August 4, 2011. He stated that AT&T would not be able to move forward with their project without approval of the Item. He stated that the City had been discussing fiber optic applications for over fifteen years, and that the fact that the no implementation plan had come to Council prior to AT&T's proposal suggested a strong connection between the proposal and the project. He disagreed with the Staff determination that no Conditional Use Permit would be necessary.

Lawrence Garwin stated that studies had shown that people responded with elevated heart rates and symptoms of nervousness to the frequencies emitted by wireless signals, and added that he had personally experienced

the negative side effects from wireless devices. He urged Council to consider research done in Europe and other countries regarding the issue.

Council Member Price stated that the Terms and Terminations section of the Master License Agreement included language allowing amendments to the Agreement in response to future legislative changes.

Council Member Scharff asked whether adoption of the Items would allow the City to collect a fee, an action that could be prohibited by future legislation for all Cities without such provisions.

Senior Assistant City Attorney, Grant Kolling, confirmed the existence of proposed legislation that would reduce the allowable fee for wireless installation on utility structures. He explained that the legislation would not apply to any contract approved prior to December 31, 2011.

MOTION: Council Member Scharff moved, seconded by Council Member Klein to: (1) Adopt a Resolution, approving an amended Utility Rate Schedule E-16, and (2) Adopt a Resolution, approving a standard form Master License Agreement (the "MLA") and Exhibits for third party access to and use of City-controlled spaces on utility poles and streetlight poles and in conduits for the purpose of providing wireless communications facilities services in Palo Alto, and delegating to the City Manager the authority to sign the standard form MLA.

Council Member Scharff stated that having a Master License Agreement was a good idea. He explained that offering the same contract to everyone would create equality amongst the participating companies, would give companies an opportunity to review all aspects of the agreement, and would save a great deal of Staff time.

Council Member Klein stated that the Staff report offered a comprehensive explanation of why the approval was necessary, and agreed with Council Member Scharff that the City would not be well served by individual contracts.

Council Member Holman agreed that the Master License Agreement was a good idea, but expressed reservations regarding the fee to be assessed to providers. She asked whether the \$1,500 could be higher.

Mr. Kolling replied that the City could raise the fee, but that State and Federal legislation required it to be reasonable. He noted that the industry standard seemed to be headed toward cost recovery as a maximum fee.

Council Member Holman stated that the term "reasonable" was subject to interpretation. She stated that the wireless providers would make a lot of

money from the placement of antennae on City infrastructure, and asked why the City should not consider this as a potential revenue stream.

Mr. Kolling stated that providers would likely argue that an unreasonable fee would violate federal provisions by prohibiting potential operation within Palo Alto.

Council Member Holman stated that although there was a trend towards lowering fees, Palo Alto was a very attractive location. She asserted that a higher fee would better protect the City.

Mr. Marshall stated that Staff had explored several methods of collecting fees, and had considered the level of fees already being paid for other sites in Palo Alto. He explained that the proposed fee was similar to the price already being paid to lease these sites from the City.

Ms. Fong stated that the Utilities Department did not want to impede competitive services, and tended to favor a more cost-based approach.

Council Member Holman stated that she would like removal of the equipment to be the responsibility of the provider, and that in the event that updated equipment were installed, removal of the old equipment should also be the responsibility of the provider.

Mr. Marshall stated that those provisions were already part of the Agreement.

Council Member Holman stated that she did not wish to see light poles included in the Agreement. She explained that in some areas of the City, light poles were ornamental. She asked whether Staff would prohibit installation of equipment on light poles in areas such as University Avenue and Christmas Tree Lane.

Mr. Williams replied that the City must be careful to avoid any action that could be interpreted as preventing reasonable access to communications providers. He stated that there would be architectural review of the equipment placement, and that the ARB would be reviewing several prototypes of how to address the visual impact of the equipment installation.

Council Member Holman asked whether the City's safety standards were developed in the 1980's.

Mr. Marshall stated that the safety standards with regards to the attachment of wireless antennae had been developed within the past four to five years. He added that there are structural reasons that would prevent antennae from being attached on some of the City's light poles. He stated that he was

not sure what type of safety standards Council Member Holman was referring to.

Council Member Holman stated that she was referring to safety standards relating to wireless antenna exposure.

Mr. Marshall replied that the safety standards relating to wireless antenna exposure were developed by the Federal Communications Commission in the 1980's.

Vice Mayor Yeh asked whether all conduits used for wireless would be above ground.

Mr. Marshall stated that the conduits would be located below ground.

Vice Mayor Yeh stated that the Master License Agreement would allow the City to implement a standard process and maintain standard expectations for all service providers, but noted that underground conduits would require some level of coordination with the Public Works Department. He asked that the document take any necessary collaboration with Staff into consideration. He asked how the City would handle competing service providers.

Mr. Marshall stated that the City was considering only the possibility of leasing existing conduits, and not the installation of new conduits. He stated that the City currently leased City-owned conduit to a cable television company, and that there was no preclusion for another party to lease conduit also.

Vice Mayor Yeh asked whether the maps that Staff was currently compiling would come before Council for review. He stated that the concentration of electric poles were within residential areas, and asked whether they could be mapped by neighborhood.

Mr. Marshall stated that Staff had received a number of applications from different service providers, but that there would likely be more to come. He stated that Staff did not yet have a location for all of the poles, but that they could present what they had to Council.

Vice Mayor Yeh stated that a map demonstrating the location of the poles to be used and the service coverage gaps of different providers, would not only help the community to understand the projects, but would help the City to anticipate which future poles would be used. He asked whether Staff had begun work on such a map.

Mr. Marshall stated that Staff had not.

Mr. Williams stated that Staff was compiling a map as service providers came forward. Staff had encountered some difficulty in obtaining the information from the service providers, as many were reluctant to share proprietary information. Staff had received relatively good information from the companies who had already completed their applications, but that they were still working to get information from those service providers whose applications were in process.

Vice Mayor Yeh asked whether the City had the authority to require the service providers to disclose maps of their service coverage.

Mr. Kolling stated that there was a provision in the Master License Agreement which would require service providers to provide final, as-built drawings as to where the location of the poles would be. He asked Vice Mayor Yeh whether he had asked if Staff could determine where the poles would go.

Vice Mayor Yeh stated that he was more concerned with how the community and Council would obtain information regarding service coverage gaps. He stated that if Council had that information, they would be better able to reach out and prepare the community for future wireless installations.

Mr. Kolling stated that the service providers had indicated an interest in sharing that information with the City.

Mr. Marshall stated that Staff had received only the initial installation locations from the service providers, but that there would likely be more in the future. He stated that Staff could provide information regarding the locations that they had received to date, but that they did not have information regarding the provider's future plans.

Vice Mayor Yeh stated that he was not interested in the service provider's plans, but in whether the City had the legal authority to request submittal of a service coverage map.

Mr. Kolling stated that he would need to research the topic and return to Council.

Council Member Shepherd stated that she shared Council Member Holman's concerns regarding the amount of the fee. She would like to see the fee set high enough to both recover all associated costs and to ensure that the City was protected for the duration of the 10-year contract. She stated that as landline usage declined, wireless coverage was becoming more critical. She asked whether the \$1,500 fee included street lamp installation.

Mr. Marshall answered in the affirmative.

Council Member Shepherd asked whether wireless antennae could be installed on traffic lights.

Mr. Marshall stated that he did not believe that the City would allow installation on traffic lights due to safety concerns.

Council Member Shepherd asked how wireless antennae differed from traffic cameras.

Mr. Marshall stated that wireless antennae were fairly large and heavy, and could potentially interfere with the traffic signal.

MOTION PASSED: 8-0 Schmid absent

17. Stanford University Medical Center Community Benefits Discussion and Appointment of City Representatives to Joint Committee for Community Health and Safety Programs.

Council Member Klein advised that he would not participate in the Item, as his wife was a member of the faculty at Stanford University.

Deputy City Manager, Steve Emslie, explained that the Staff Report provided a summary of the schedule of payments to the City resulting from approval of the Stanford University Medical Center (SUMC) Development Agreement in June 2011. He stated that the first payment was due at the time of initial permit, estimated for summer 2011. The last two payments were due when the hospital's foundation permit was pulled in January 2012, and upon occupancy of the first hospital project some time in 2018. He noted that the payments were to be divided into three major categories of funds: the Sustainability Fund (\$12,000,000), the Neighborhood Infrastructure Fund (\$23,200,000), and the Community Health and Safety Fund (\$4,000,000). He stated that approximately \$20,000,000 of the Neighborhood Infrastructure Fund was uncommitted, and could be used at Council's discretion for projects that supported neighborhood infrastructure and other infrastructure needs of the City. He remarked that Council had designated \$2,000,000 from the Community Health and Safety Fund to go to Project Safety Net, and that Staff would return after Council's August break with a Budget Amendment Ordinance and a job description for the creation of a Project Safety Net Coordinator position in the Community Services Department. He stated that Staff's recommendation was for Council to utilize the Finance Committee in determining the allocation of the funds. He explained that the Finance Committee was well equipped to facilitate conversations within the context of the City's budgetary priorities and Capital Improvement Projects.

Mr. Keene stated that there was no particular urgency regarding the issue. He stated that considering the amount of money that would be needed for

Project Safety Net, the \$2,000,000 allocation was not an extraordinary sum. He explained that only a portion of the \$2,000,000 would be allocated to the new Project Safety Net Coordinator staff position. He stated that one of the reasons that Staff had placed the Item on the Agenda was so that Council could receive an update on the status of the Project Safety Net Coordinator position.

Council Member Price observed that although the Staff report stated that the Finance Committee had recommended the designation of \$2,000,000 from the Community Health and Safety Fund toward Project Safety Net, the Policies and Services Committee P&S had also reviewed the Item and made a similar recommendation. She asked that Staff correct the information in the Staff Report to include the P&S Committee. She asked whether the purpose of the Joint Stanford/City Committee for Community Health and Safety Programs was to develop procedures for the utilization of the funds.

Mr. Keene stated that Council Member Price was correct, and added that Council may want to use the Joint Committee as a model for the assessment of allocations across all of the Funds. He acknowledged that Council may not use the same appointment technique for each committee, but emphasized the need to establish an allocation process and criteria would be more critical as Council began to make decisions regarding some of the larger Funds.

Council Member Price agreed that Council would need an organized approach to defining the policy priorities that would determine the allocation of funds. She stated that although the Staff recommendation was rather broad, it was important to present Council the opportunity to discuss those issues. She emphasized that there was a lot of money at stake, and that it would need to be handled in a careful and responsible manner. She stated that Project Safety Net was an extremely important project, and that she looked forward to discussing it further.

Mr. Keene stated that Staff sought direction from Council regarding how to create a process for allocation of the Community Benefit funds. He explained that Staff was not yet ready to present specific alternatives, but that with some direction they could return to Council with a more refined proposal.

Council Member Shepherd stated that the strategic planning and vision work that had already been done by the Project Safety Net group was extremely valuable. She asked whether Staff intended to spread out the \$2,400,000 fiscal neutrality payment over a number of years.

Mr. Keene stated that the plan for the money was to place it in a savings account and allow the interest to grow to a point which could guarantee fiscal neutrality.

Council Member Shepherd asked whether Council Member Klein's participation in determining allocation of funds which had already been received from Stanford would represent a conflict of interest.

City Attorney, Molly Stump, stated that Council Member Klein should not participate in the Joint Committee for Community Health and Safety Programs.

Council Member Shepherd stated that Council had been asked to offer direction to Staff regarding allocation of Community Benefit funds, and asked whether Council Member Klein would be allowed to participate at some point.

Ms. Stump replied that Council Member Klein's participation could be further discussed as the project continued, but that he should not participate at the present time.

Council Member Shepherd stated that the funds received from Stanford University should not be used for general purposes, such as balancing the annual budget.

MOTION: Council Member Shepherd moved, seconded by Vice Mayor Yeh to accept Staff recommendation to authorize the Mayor to appoint two Council Members to the Joint Stanford/City Committee for Community Health and Safety Programs and provide Staff direction regarding the recommended process for expending Community Benefit funds.

Vice Mayor Yeh agreed with Council Member Shepherd that the money should not be used to compensate for budgetary deficits within a given fiscal year, but to establish permanent Funds from which the community could benefit for years to come.

Council Member Scharff expressed support for the Motion. He stated that the money should be used in a transformative way to do something positive for the community of Palo Alto. He stated that Council should focus on only the highest impact projects, which would require a great deal of input from the community. He commented that Council should consult the Infrastructure Blue Ribbon Task Force for their input regarding projects that could be extremely transformative to the City's infrastructure. The Council needed to use the money on long-term rather than short-term projects, and that the emphasis should be placed on fiscally sustainable projects.

Council Member Burt expressed support for the Motion, but asked for clarification regarding the Joint Committee. He asked whether, once formed, the Joint Committee would be advisory to one of the standing committees or to Council.

Mr. Keene replied that the Joint Committee would be advisory to Council. He stated that most likely, the Joint Committee would seek explicit policy direction from Council prior to making any commitments.

Council Member Burt stated that it was important to avoid misunderstandings regarding the delegation of authority. He expressed concerns regarding the misconception by some that Project Safety Net Staff would determine how to spend the funds, and asked that any misunderstandings be addressed as soon as possible. He stated that in order to avoid a false sense of authority over final decision making, it was necessary to have open communication and to be very clear from the outset about where the authority would reside. He stated that two of the Funds were primarily policy oriented, and so should be sent to the P&S Committee. He stated that he would like to hear from the other Council Members regarding which committees should review the Fund allocations.

Mr. Keene explained that Staff was still in the very initial stages of the plan, but that they had included Finance Committee review in order to connect the projects to the budget cycle. He assured Council that conversations regarding Project Safety Net programs had been focused on how to create endowment funding that would leverage other money to remain sustainable. He indicated that during Fall 2011, Council might want to move forward with development of some guiding values and principles regarding the use of the funds.

Council Member Holman suggested that any advisory committee's formed to consider the allocation of funds from either the Sustainability Fund or the Neighborhood Infrastructure Fund should include different Council Members than the Joint Committee for Community Health and Safety Programs. She stated that Mr. Keene had indicated that the Joint Committee would seek explicit policy directions from Council prior to making any commitments, and inquired as to what types of commitments the two Council Members would make.

Mr. Keene stated that his comments were intended to convey that efforts should be made to avoid a situation in which the Joint Committee Members made commitments without explicit direction from Council. He stated that Staff had recommended the Joint Committee because it was specifically prescribed by the SUMC Development Agreement. He stated that he had assumed that Council would prefer not to delegate full authority to the two Council Members appointed to the Joint Committee, but rather to give them direction prior to making any commitments.

Council Member Holman asked why two Council Members would be making commitments, and not the Council as a whole.

Mr. Keene stated that Council should be making the final decisions, and that the two Joint Committee Members would need to receive direction from Council.

Council Member Burt clarified that the Joint Committee for Community Health and Safety Programs was the only committee specifically referenced in the SUMC Development Agreement.

Council Member Holman stated that the Joint Committee had been described as an advisory body, and that she had been unclear as to the intent of Mr. Keene's comments. She stated that having received clarification, she would support the Motion.

Mayor Espinosa stated that he would like to see Staff provide a timeline, a process, and a list of responsibilities for both the Joint Committee and for the other two Funds. He would like to see those materials presented for review not long after Council's return from the August break so that everyone was clear early on about how the process would work. He stated that the issues presented a great deal of overlap, and should be reviewed by both the Finance and the P&S Committees. He asserted that prior committee review would allow Council to engage in a broader conversation, and agreed that community input would be very important moving forward.

MOTION PASSED: 7-0 Klein not participating, Schmid absent

18. Resolution 9194 entitled "Resolution of the Council of the City of Palo Alto Amending Section 1401 of the Merit System Rules and Regulations to Incorporate a Side Letter with SEIU Local 521 to Extend the Term of the Memorandum of Agreement for One Additional Year, Through June 30, 2012, and Add a Provision for a Flexible Spending Arrangement."

City Manager, James Keene, stated that the proposal would extend the SEIU Local 521 Memorandum of Agreement (MOA) until June 30, 2012. If approved, Staff would begin negotiation at the end of the calendar year for the 2012 MOA. He commented that Staff would have placed the Item on the Consent Calendar, but that the 2010 Santa Clara County Civil Grand Jury Report had specifically recommended that all cities in the County place labor agreements on the Action Agenda to improve transparency.

Acting Assistant Director Human Resources, Marcie Scott, stated that the MOA would apply to 582 full-time equivalent employees working in nearly every City Department. She explained that in late October 2009, the City and SEIU were at impasse and could not agree on a wage and benefit package. As a result, Council implemented significant changes to compensation and made structural changes to pension and medical benefits. She explained that the changes included increased employee pension

contributions, reductions in floating holidays, elimination of tuition reimbursement funds, implementation of a medical cost sharing program, and implementation of a second tier pension formula of 2% at 60. She stated that in July 2010 the City and SEIU reached an agreement to maintain those terms and signed a one-year MOA. She explained that a continuance of the same terms for the remainder of the fiscal year would result in an estimated \$3,300,000 in savings to the City, plus an additional savings of \$750,000. She stated that SEIU had also requested to participate in a Flexible Spending Arrangement (FSA). She explained that an FSA was a benefit program that allowed employees to set aside money each year on a pre-tax basis to use towards qualified medical expenses. She noted that currently only management and professional employees are permitted to participate in an FSA, but the City had agreed to offer participation to members of the Unit as long as it presented no additional cost to the City. She stated that Staff was currently working on the details of the program to present to SEIU and employees within 120 days of adoption of the Resolution. She acknowledged the continuing contributions that SEIU had made in assisting the City through economically difficult times.

MOTION: Vice Mayor Yeh moved, seconded by Council Member Shepherd to accept Staff recommendation that Council adopt the Resolution amending Section 1401 of the Merit System Rules and Regulations to incorporate a side letter to the Memorandum of Agreement ("MOA") between the City of Palo Alto and SEIU Local 521 to extend the term for one additional year, through June 30, 2012, and add a provision for a Flexible Spending Arrangement ("FSA") for SEIU employees.

Council Member Shepherd stated that she had recently met with SEIU and felt that they had been very accommodating. She was concerned by the inequality of the fact that other more highly paid employee units had not yet experienced the same reductions.

Council Member Holman recognized SEIU for partnering with the City to address the current economic challenges.

MOTION PASSED: 8-0 Schmid absent

19. Adoption of an Ordinance Dissolving the Palo Alto Redevelopment Agency (RDA).

City Manager, James Keene, stated that the Item was suggested by Council at a previous meeting. He explained that the RDA was formed approximately 10 years ago, and that although Staff had never used the Agency, the City expended approximately \$8-10,000 per year to sustain it. He stated that the California Redevelopment Agency and the League of California Cities were adamantly opposed to the Governors proposal to eliminate community RDAs, and were actively pursuing legal recourse. He stated that the Staff

recommendation was to eliminate the RDA. He added that Staff recognized that RDAs had done tremendous work for cities across the state, and emphasized that the recommendation should not be interpreted as a response to State policy decisions.

MOTION: Council Member Klein moved, seconded by Council Member Holman to accept Staff recommendation that Council adopt the Ordinance to dissolve the RDA by declaring that there is no further need for the RDA.

Council Member Klein stated that the City could make good use of the \$8,500 annual savings that would result from the dissolution of the RDA.

Council Member Price asked whether RDA funding could support infrastructure objectives.

Administrative Services Director, Lalo Perez, replied that Staff had considered that option prior to reviewing approved State legislation regarding community RDAs. He stated that the benefit to such proposals had been eliminated by State legislation which required cities to pay extremely high amounts in order to maintain their RDAs. He noted that Menlo Park would need to pay approximately \$3,500,000 in order to keep their RDA active.

Council Member Price stated that the original argument for the use of RDA funding for emergency preparedness had been compelling and asked whether that was still an option.

Mr. Perez stated that it was no longer a viable option, due to the costs associated with maintaining the City's RDA. He stated that the original proposal was a reaction to the fact that the Federal Emergency Management Agency (FEMA) had denied Monterey County's application for winter storm relief. He stated that he had felt it necessary to retain access to potential emergency funds, but that given the cost of maintaining the RDA, it was no longer practical.

Council Member Burt asked whether approval of the Item would prevent opposition to any State decisions regarding the issue.

Mr. Keene answered that it would not.

Vice Mayor Yeh expressed support for the Motion, and asked whether Staff planned to write-off the \$8,500 annual loan.

Mr. Perez answered in the affirmative.

Council Member Shepherd expressed support for the Motion, and stated that she believed that the cost savings of dissolution would be more than just the

annual fee, but would also include Staff time spent on redevelopment projects.

MOTION PASSED: 8-0 Schmid absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

Council Member Shepherd asked for additional information regarding the Community Gardens, including: their role within the community, history, parameters for maintenance, locations, etc.

Vice Mayor Yeh advised that he was appointed to Assembly Member Gordon's Local Government Advisory Committee, the purpose of which is to facilitate discussions between City and State government on policies and legislation.

Mayor Espinosa reminded Council that the next Council meeting after the Council break would be held on Tuesday, September 6, 2011.

ADJOURNMENT: The meeting was adjourned at 11:20 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.