

Special Meeting
March 15, 2010

The City Council of the City of Palo Alto met on this date in the Council Conference Room at 6:04 p.m.

Present: Burt, Espinosa, Holman, Price, Scharff, Schmid, Shepherd, Yeh
arrived at 7:20 p.m.

Absent: Klein

STUDY SESSION

1. Joint Study Session with the Planning and Transportation Commission (P&TC) to Discuss Palo Alto Planning and Transportation Issues.

Dan Garber, Chair of the Planning and Transportation Commission, noted that the Commission's annual report to Council was provided, along with a transmittal letter outlining three key broad issues to be considered. He said that the report supplanted prior efforts by staff and the Commission to provide an annual review of the Comprehensive Plan, and that the report also more directly addresses issues that have arisen since the adoption of the plan. The Council and Commission then discussed a number of the issues in the report, including the Commission's intent regarding construction of new multi-family housing, review processes that may help to provide more consistency between zoning and the Comprehensive Plan, and the adequacy of parking (particularly for multi-family housing). Vice Chair Tuma noted that the annual report provides a "gap analysis" between the prior Comprehensive Plan and changed circumstances since the Plan's adoption. Vice Mayor Espinosa asked how the list of Commission objectives is addressed by staff in its work program, and the City Manager responded that this is an issue that is before the Policy and Services Committee to set priorities within the resource limitations of staff.

SPECIAL ORDERS OF THE DAY

2. Proclamation Recognizing the Contributions and Achievements of the Late Elizabeth T. (Betty) Meltzer.

A brief video was shown regarding Trees for El Camino Project, which Betty Meltzer co-chaired from inception to completion.

Mayor Burt read the proclamation into the record.

Carroll Harrington, Melville Avenue, spoke of Betty Meltzer's work and her contributions in beautifying a stretch of the El Camino Real with trees. Senator Joe Simitian moved a Resolution through State Legislature to resolve a portion of the El Camino Real in Palo Alto as the Betty Meltzer Memorial Highway.

Susan Rosenberg, 1425 Stanford Avenue, spoke of Betty's achievements which contributed to making Palo Alto a better community and the legacy of trees planted on the El Camino Real bearing her name. The trees will be watched over by her family, friends, Canopy, and the Trees for El Camino Project. The Urban Forest Master Plan would provide a road map in caring for the trees.

Former Mayor Victor Ojakian, 526 Addison Avenue, spoke of Betty being a caring and ambitious individual and a person who got things done.

Mayor Burt presented Bob Meltzer with the Proclamation.

Bob Meltzer introduced his family and expressed his appreciation for the Proclamation and the recognition given to his family.

3. Proclamation Welcoming Exchange Students and Chaperones from Tsuchiura City, Ibaraki, Japan.

Vice Mayor Espinosa read the Proclamation into the record.

Mr. Kinoshita accepted the Proclamation and expressed his gratitude for Palo Alto's welcome and hospitality. He said it was their seventeenth visit to Palo Alto and spoke of the exchange program between middle schools in the Sister City's program. The Neighbors Abroad Program was planning a Japan festival in October 2010 to commemorate the Sister City's establishment. He encouraged Palo Alto citizens' participation to broaden their knowledge in Japanese culture, expand friendship, cultural exchange, and the purpose of the program.

4. Selection of Candidates to be Interviewed for the Library Advisory Commission for One Unexpired Term Ending January 31, 2011.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Schmid to interview all candidates for the Library Advisory Commission.

MOTION PASSED: 8-0 Klein absent

CITY MANAGER COMMENTS

City Manager, James Keene spoke of the Utilities Department's water utility program for backflow prevention cross connection control. The City was in negotiations with a firm called Ameresco regarding four renewable power purchase agreements. The contracts were for landfill gas-fired energy projects. The item would be discussed at the Finance Committee Meeting on March 16, and return back to the Council. On March 18, at 7:00 p.m., the City would be hosting a community meeting at the Mitchell Park Community Center to discuss plans regarding Library Bond projects. On March 18, at 4:00 p.m., a meeting would take place at the Mitchell Park Community Center for teens to help choose the finishes for teen areas at the new Mitchell Park facilities. Posted on the City's website was a draft entitled: "The City of Palo Alto Recycling and Compost Ordinance," as one of the tools to help the City meet the goals in Zero Waste Operational Plan. Palo Alto Open Fiber would provide Internet speed more than 100 times faster than the typical Internet connection, greater reliability, lower prices, multiple choices and would assure Palo Alto's place in the next wave of global innovation. Log on to www.facebook.com/paloaltogooglefiber for more information.

ORAL COMMUNICATIONS

Mark Petersen-Perez, spoke regarding the First Amendment and exercising the right to Freedom of Speech at City Council Meetings during Oral Communications.

Wynn Grcich, 30166 Industrial Pkwy. SW, Hayward, spoke regarding fluoridation and the corrosive chemicals being added to the drinking water in the San Francisco Hetch-Hetchy water supply.

Aram James, spoke regarding the disruption of his communication via E-mail to the Police Department.

Clinton Brownley, 21682 Lindy Lane, Cupertino, spoke regarding his involvement in public service and his role in Santa Clara County to help improve the lives of fellow citizens.

William Landgraf, 762 Stone Lane, spoke regarding economizing salaries and benefits.

APPROVAL OF MINUTES

MOTION: Council Member Yeh moved, seconded by Council Member Shepherd to approve the minutes of March 3, 2010.

MOTION PASSED: 8-0 Klein absent

CONSENT CALENDAR

MOTION: Council Member Shepherd moved, seconded by Council Member Schmid to pull Agenda Item No. 7, to become Agenda Item Number 9a.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Shepherd to approve Agenda Item Numbers 5 & 6.

5. Approval of a Contract with Davey Resource Group in the Amount of \$156,894 for Street Tree Inventory – Data Integration and Analysis.
6. Resolution 9044 entitled "Resolution of the Council of the City of Palo Alto Authorizing the Association of Bay Area Governments (ABAG) to Accept an American Recovery and Reinvestment Act Residential Building Retrofit Program Grant Award on Behalf of the City of Palo Alto and to Enter Into all Necessary and Related Contracts, Agreements and Amendments."
- ~~7. Approval of Change of High Speed Rail Subcommittee from Ad Hoc Committee to Standing Committee.~~

MOTION PASSED: 8-0 Klein absent

STUDY SESSION

8. Monthly Update on City Activities Related to the California High Speed Rail Project.

Deputy City Manager, Steve Emslie, provided an update on activities related to the California High Speed Rail Project since the last report in January

2010. He reported that the High Speed Rail Authority had issued a Revised Draft Program EIR (DEIR) for the Bay Area to Central Valley Project on March 11, which began the 45-day public comment period. The City is preparing draft comments with input from technical experts, which Council will review on April 12. The Alternatives Analysis for the San Francisco to San Jose HSR Project, scheduled to be released on April 8, will analyze a range of grade separations alternatives, including below grade (trenching and tunneling), at grade, and above grade/elevated structures. Mr. Emslie further discussed concerns about the HSR Business Plan, lack of access to accurate Caltrain right-of-way maps, legislative activities, the status of the Context Sensitive Solutions process, and meeting schedule for the Council HSR Subcommittee. Council members expressed concerns about the timeline for public review of the environmental documents and the need for widespread community outreach efforts, the need for scrutiny of the financing impacts of the project on the City's revenue stream, requested that the Planning and Transportation Commission comment on the Revised DEIR, and that staff work with other cities and include this information in the monthly HSR reports to Council.

Nadia Naik, Californians Advocating Responsible Rail Design (CARRD) said CARRD was an all volunteer organization that had been working on the project for the past year focusing on the process and getting the information out to the public in helping make the best decisions. Her presentation consisted of a conceptual video of the High Speed Rail (HSR) system. She encouraged citizen's input to help shape the project on its functionality and its use for future generations. Concerns regarding the project's Environmental Impact Report (EIR) should be addressed to the HSR Authority. Comments may be sent by mail, e-mail by logging onto the City's Peak Democracy website, or by fax.

Helen Stavropoulos Sandoval, 1539 Mariposa Avenue, spoke of the negative impact the project would bring to the area. She asked for the Council's support in preserving the quality of life in Palo Alto.

Tom Vlasic, 1540 Mariposa Avenue, urged the Council to take a strong position and to not wait for the HSR Authority to come to citizens in Palo Alto. He said an elevated track system through Palo Alto was not acceptable.

Michael Griffin, 344 Poe Street, suggested using tell polls to better conceptualize the height of the proposed elevated structure and provide a clearer visual for voters.

Herb Borock, P.O. Box 632, said Staff's report referred to the lawsuit the City had filed against the HSR's EIR which contained new issues and disregarded by the Court. He suggested removing the confidential restriction placed on the Closed Session and to allow the individuals who were present to publicly discuss what the brief contained and the reason for filing the lawsuit. He provided the Council with a copy of the Court's action on the matter.

Tom Jordan, 474 Churchill Avenue, asked whether the HSR Authority controlled the route from Gilroy to San Jose. He raised concerns regarding the Authority's weak business plan which could impact expenditures of public funds.

Omar Chatty, 251 Vineyard Drive, San Jose, raised concerns regarding the Authority's poor business practices. He urged the Council to consider Bay Area Rapid Transit (BART) as an offset measure along the CalTrain tracks.

Virginia Saldich, 27 Crescent Drive, said she needed clarification regarding the responses to the EIR regarding ridership and financing in the business plan. She asked what the reasons were against not using the Altamont routes and the Diablo Range. She raised concerns about the lack of outreach and how uninformed the citizens were about the project.

Mayor Burt said he wanted to give the Council Members who were not on the HSR Committee the opportunity to weigh in with their comments.

Vice Mayor Espinosa said he would like to have further discussions regarding the Context Sensitive Solutions (CSS) especially when there was talk as to what modules may be considered at the national level. He said video taping the committee sessions should be brought to another level as a mechanism in communicating with the public. He was interested in looking at the Legislative plan and engaging the Council with the legislators.

Council Member Scharff said the community needed to get more engaged in the project and asked that they submit comments and to be proactive. An elevated track system was unacceptable. The impacts of the system would be devastating. The noise level, impacts to the high school, and an elevated track system would contribute to losing what Palo Alto represented. Undergrounding the system would be very expensive. He encouraged people in large numbers to make comments on the EIR.

Council Member Shepherd said she had met with neighbors who raised concerns as to what was happening, questions regarding the noise impact, and whether rows of housing would be removed. She was not aware of any

scheduled community meetings. In moving forward, she felt Staff and the HSR Committee should be directed to help the community identify and articulate clearly the standards required to secure Palo Alto's quality of life. She urged the Council to start advocating a tunneled structure. She raised concerns about how the project would interact with the existing track system, mainly CalTrain and the nightly freight train. She stressed community engagement. It was important to relate to the Authority that Palo Alto had the right questions for the EIR and to have a desirable outcome.

Council Member Holman suggesting putting the information in the Utility's billing processing as a form of engaging the community. She was interested in the City monitoring and influencing at the State level and asked what the City was doing with the proposed CEQA legislation. She urged Palo Alto citizens and Council Members to not lobby for an undergrounded module due to cost for both the State and the community. An elevated or underground system would greatly impact the landscaping. She questioned whether the project should be done at all and whether it was affordable and would it accomplish its goals.

Council Member Price asked what was the best use of collective time as a community, Staff, and elected officials to address the issues regarding the project.

Mayor Burt referred to Staff report CMR:173:10, Attachment G, response from CalTrain that divided up the City's 34 requests for information which 24 questions were submitted to the State HSR Authority. Their response was "all Regional communication activities will be coordinated through the Authority's Deputy Executive Director." No confirmation was received of HRS Authority responding by a certain time. He said it had been two months of coordinating with no response from the Authority. CalTrain did respond to 10 of the items which the responses were no answer was an answer.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

Mayor Burt said Agenda Item No.7 was changed to Agenda Item No.9a and Agenda Item No.9 to Agenda Item No.9b.

ACTION ITEMS

- 9a. (Former No.7) Approval of Change of High Speed Rail Subcommittee from Ad Hoc Committee to Standing Committee.

Council Member Shepherd asked to review the Guiding Principles and be brought up-to-date on the process in directing the Standing Committee.

Mayor Burt asked the City Attorney if it was appropriate to make comments on the Guiding Principles.

City Attorney, Gary Baum said the proper approach would be to reopen the Study Session where directions could be made on the Guiding Principles, return back to the Subcommittee for review, and then to Council for final adoption.

The Council reopened Agenda Item No.8, the Study Session on Monthly Update on City Activities Related to the California High Speed Rail Project at 10:26 p.m.

Council Member Scharff asked whether the HSR project would minimize adverse impacts and be beneficial to the community.

Council Member Shepherd asked the Council to focus on the tunnel option only. She felt waiting for the Authority to come back with information may be too late. She asked what the word "improved" meant in the "improved commuter rail services." She said in some instances it meant having a lesser carbon foot-print and asked if it was appropriate to consider it improved when service was being reduced.

Council Member Schmid suggested having the Subcommittee prepare a weekly calendar for the next few months to alert both the Council and the public to participate in upcoming events. He suggested spending \$25,000 of the \$158,000 on a financial analysis to determine impacts on property values.

Council Member Holman needed clarification on what the selective alternatives were being referred to in the second bullet listed in the Guiding Principles.

Vice Mayor Espinosa suggested having the Subcommittee establish a timeline to return to Council to make the principles more concrete. Having the data readily available would help make the appropriate decision when the time comes.

The Council returned to Agenda Item Number 9a, Approval of Change of High Speed Rail Subcommittee from Ad Hoc Committee to Standing Committee at 10:32 p.m.

MOTION: Council Member Holman moved, seconded by Council Member Scharff to: 1) Approve the change of the City Council High Speed Rail Subcommittee from an Ad Hoc Committee to a Standing Committee, and 2) All references to Ad Hoc Committee be changed to Standing Committee in the guiding principles document.

MOTION PASSED: 8-0 Klein absent

9b. Approval of Revised Plan for Downtown Weekday Palo Alto Farm Shop.

City Manager, James Keene, said the Palo Alto Farm Shop was a pilot program to try and bring community support for agriculture to the City Hall Plaza. He said the Farm Shop worked at many levels but needed on-going financial support. At the end of last year's season, Council's direction was to have the City maintain the program without City funding. Staff's solution was to relocate the market to Lytton Plaza, get a volunteer coordinator to do the staffing, have the Business Improvement District (BID) oversee the Farm Shop and a non-profit volunteer to provide funding support and work. There were concerns as whether to continue advertising through mailers in the Utility Department's billing process for all three Farmer's Markets in Palo Alto at the cost of \$1,200. Staff asked for the Council's support to continue the weekly Palo Alto Farm Shop at Lytton Plaza.

Vice Mayor Espinosa asked why advertising was done through the Utility Department's billing process. He understood the reason for the other two Farmer's Markets in Palo Alto but questioned the use for the Palo Alto Farm Shop.

Sustainability Coordinator, Debra Van Duynhoven, said it was a matter of fairness to all three Farmer's Markets and a benefit in getting the word out to the entire community.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Scharff to: Approve the revised implementation plan for a Downtown Weekday Palo Alto Farmshop, which does not require any public funds and requires only minimal oversight or management by City Staff as directed by Council in October 2009.

MOTION TO CALL THE QUESTION: Council Member Scharff moved, seconded by Council Member Shepherd to Call the Question.

MOTION TO CALL THE QUESTION PASSED: 5-3 Yeh, Holman, Schmid no, Klein absent

MOTION PASSED: 8-0 Klein absent

10. Public Hearing: Consider the Approval of Water Supply Assessment for the Stanford Medical Center Facilities Renewal and Replacement Project. *(Item continued from 2/8/10 and 3/8/10)*

Assistant Director of Utilities, Jane Ratchye gave a Power Point presentation as outlined in Staff report CMR: 141:10.

Council Member Yeh asked how a 20 percent reduction by 2020 in water supply could be achieved by 2020.

Ms. Ratchye said the less efficient usages in the City should be targeted to achieve the 20 percent reduction by 2020. The newer more efficient buildings and landscaping are not going to achieve the 20 percent reductions

Council Member Yeh asked Staff to clarify the planned demand reduction within the Wholesale Water Supply Allocation Plan.

Ms. Ratchye said the planned demand reductions were identified in the 2005 Urban Water Management Plan and had no bearing on the Stanford project. The programs achieved 4.3 percent in reduction.

Council Member Yeh asked whether the 20 percent reduction by 2020 would create additional capacity and change the analysis for water sufficiency.

Ms. Ratchye said the water supply would not be sufficient with or without the project. The City was in a water constrained area and had no feasible way to create additional capacity in a water shortage situation.

Council Member Yeh raised concerns regarding old data used in the analysis the Council used in directions for the 20 percent reduction. The results would show a conservative estimate in having sufficient water resources at a 10 percent shortage level.

Council Member Holman said she had submitted three questions to Staff earlier that day and did not find the responses at places.

Senior Assistant City Attorney, Cara Silver, said she would verbally be responding to the questions now. She said a peer review had been completed on the eight examples submitted by the applicant on the Water Supply Assessments (WSA). The City hired an Environmental Consultant to review the examples. The consultant felt comfortable the examples were

representative WSAs and not a comprehensive list of WSAs. The consultant prepared two other WSAs for hospital projects that would provide additional data. A slightly different metrics was used in each of the eight WSAs and the consultant felt that a square footage metric would be a more conservative approach. The examples dated back to 2003 because SB610 went into effect on January 1, 2002, and the expectation was to start seeing a WSA in 2003.

Council Member Holman asked whether the consultant was comfortable with the earlier examples being representative.

Doug Gillingham, PBS&J Environmental Consultants, said there were variations in the gallons per day (gpd) per thousand square feet in the metrics commonly used in the examples. There were differences in the factors used in the bed count approach that reflected variations in facility water usage throughout the State, particularly between clinic usage and hospital usage.

Council Member Holman said the rates were all different in the eight examples and did not provide a basis on how to move forward. It was difficult to determine the best method since there were differences between the amounts in water usage.

Mr. Gillingham said this type of analysis did not have a set standard and was based on judgment specific to the project. A partial bed count metric was used that lead to a lower projection. After a review with City and Stanford staffs the conclusion was reasonable to the extent there could be areas that differed in opinions and the numbers added by Stanford were higher. By using conservative numbers and finding an acceptable water supply for the project was a comfortable situation for the City.

Council Member Scharff said if large amounts of water were conserved now, would the City be required to cut back on the same amount of water during dry years.

Ms. Ratchye said a methodology did not exist for water supply distribution during a drought. The old method had three components that were equally weighed: 1) supply assurance, 2) a fixed number which was the average usage between 1996 to 1998 and were the years prior to adopting the shortage allocation plan, and 3) a variable number which included the three years prior to the current drought.

The allocation depended on the consumption of other cities in the Bay Area Water Supply and Conservation Agency (BAWSCA). A formula was used to

divide the amount of water in determining a share and depended on how much was conserved as a city and the amount conserved by everyone else.

Council Member Scharff asked whether other cities had similar policies for water reduction by 2020 or if Palo Alto was further ahead in terms of wanting a larger reduction than other communities.

Ms. Ratchye said she did not know what other communities were doing but the 20 percent reduction by 2020 was a State law. Four different methodologies were used in figuring the baseline and under State law, Palo Alto had met its 20 percent reduction by 2020. The law passed Legislature last Fall and was referred to as SB7.

Council Member Yeh said the 10-year baseline was discussed at a Utilities Advisory Committee (UAC) meeting and the City was 21 percent below the 10-year baseline. The intent was to take the most recent year and go 20 percent below that line. Staff had concerns regarding its feasibility since it was such an aggressive cut.

Mayor Burt asked if the comparison in the slide presentation referred to Stanford's current water usage per bed versus Stanford's perspective water usage per bed.

Mr. Gillingham said Stanford viewed the overall project as being only a portion as to what was considered as hospital space. Clinic and medical office space were significant portions of the project and considered as administrative space not associated with beds and patients.

Mayor Burt asked what proportion of the current hospital was clinical and non-bed space versus percentage of bed space in the new project.

Mr. Gillingham said there were metrics in the WSA that showed the percentages but was not able to retrieve specific data during the discussion.

Mayor Burt asked what the outdoor usage comparison was.

Ms Ratchye said the metric titled "Indoor Water Use" was inappropriate and should have been referred to as total incremental usage because the figures were not for indoor usage only but reflected incremental usage. The 177,300 was the total gpd usage.

Mayor Burt said his question was answered. He raised concerns about having to replace an antiquated facility with inefficient water usage with a

latest state-of-the-art facility resulting with only a 5.5 percent reduction per bed.

Ms. Ratchye said the chart was correct with Stanford's new conservation based on that metric which Stanford had claimed was a bad metric. Stanford felt per square foot was the proper metric.

Mayor Burt asked whether the other spaces would be increased in proportion to the number of clients.

William Phillips, Senior Associate Vice President of Land, Buildings and Real Estate, Stanford University, said there would be increases beyond that and would be reflected in lavatory space per patient or the cafeteria space per patient.

Mayor Burt said if two patients were currently sharing a room and shared one lavatory and were replaced with two rooms each having its own lavatory would there be an increase in water usage per patient.

Mr. Phillips said there could be because one of the reasons for going into a single-patient room was to accommodate family members in the patient's room. There would be an increase in demand for lavatory use.

Mayor Burt asked whether the lower incremental demands that reflected Stanford's projection would be incorporated in the Development Agreement.

Ms. Silver said the plan was to incorporate the conservation measures into the Development Agreement or Conditions of Approval.

Mayor Burt said he was referring to the allocation.

Ms. Silver said the process was to require that all of the conservation measures yield certain water usage. Additional mitigation measures would be required if the measures were not met.

Council Member Schmid asked if the vote was for the allocation of the 0.18 million gallons per day (mgd).

Ms. Ratchye said the vote was on the WSA conclusions and if the water supply was sufficient, and whether the impact on the added reduction required during a dry year was acceptable.

Council Member Schmid asked if the focus was on the 0.18 mgd and not on the conservation measures.

Ms. Ratchye said that was correct.

Council Member Schmid asked whether the 0.18 was a cap.

Ms. Silver said the WSA was based on the 0.18. Another Environmental Impact Report (EIR) process would need to occur if there was an expansion of the project that would yield more than the 0.18 mgd.

Council Member Schmid asked whether the City had the right to deny the project or other projects if the water supply decreased.

Ms. Silver said the City would need to have adequate findings in order to deny.

Mayor Burt requested clarification as to whether the Council would be approving at this evening's meeting the 461,000 gpd allocation.

Ms. Ratchye said she did not think there was an allocated amount being voted on.

Mayor Burt needed clarification as to what was being voted on.

Ms. Ratchye said the Council was being asked to approve that Palo Alto's water supply would be able to accommodate the 0.18 mgd.

Mayor Burt said he was trying to correlate the data on slides 9 and 13 of the Power Point presentation and asked whether the 461,000 gpd was an incremental demand of 0.18 or the 0.10.

Ms. Ratchye said the 461,000 included only the 0.10 increment. The 539,000 gpd was the amount in the WSA.

Mayor Burt asked if the 539,000 gpd reflected the 0.18 mgd.

Ms. Ratchye said it did.

Mayor Burt asked if the 461,000 reflected the 0.10.

Ms. Ratchye said it did.

Mayor Burt noted Stanford said they would have the reductions and only with the .10 would they be reducing at 5.5 percent per bed or 19 percent per square foot. He asked Staff if this was the agreement.

Deputy City Manager, Steve Emslie, clarified what Council was being asked this evening was to certify the adequate supply of water to serve the project. All measures would be incorporated into the Conditions of Approval or Development Agreement when Staff got to that point.

City Manager, James Keene, clarified the Council would be applying factors from the study of allocation rights into the Agreement to guarantee a certain level of conservation.

Public hearing opened at 11:30 p.m.

Tom Jordan, 474 Churchill Avenue, said by approving the item, the Council would be confirming there was an adequate water supply when there was not. Staff report CMR: 141:10 stated even without the Stanford project, there was an insufficient water supply. He disagreed with Staff having a program to manage the deficiency as an equivalent of water source. The program would not make it sufficient. The final determination would go to the EIR firm and if the Council determined there was sufficient water supply, the determination would become final. The Council should determine the supply to be insufficient because only then would the EIR firm examine the alternatives. Conditions, restrictions, mitigations can be imposed because it was found to be insufficient. He urged the Council to not approve the item if there were doubts in their minds.

Public hearing closed at 11:35 p.m.

Council Member Yeh said State law had determined that the City had met the 20 percent reduction by 2020. He asked to what extent did the analysis need to be updated in order to have a clear understanding of the true baseline in 2020. He said he found it difficult to move forward because State Law had stated that the 20 percent had been met, but Staff's analysis indicate an insufficient water supply regardless of the project.

Ms. Silver said the question focused on the definition of sufficiency. Staff had indicated there were programs in place to get to legal sufficiency for SB610 purposes. The programs had been adopted by the Council through the Urban Water Management Plan. The Council recognized that some form of conservation would be tolerated, because water was a limited resource, and where conservation would be required during dry years. Staff had set up a process to incorporate the 20 percent reduction for SB7 to improve the water supply because there would be better conservation programs codified that would free up water supply.

Council Member Yeh said the findings were based on what was set before the Council and did not want to expose the City to any legal risk based on the analysis.

Ms. Silver said she did not think there would be a legal risk based on case law and the adopted water management plans the Council had adopted.

Council Member Price needed clarification on whether the environmental consultant would be doing additional work beyond what was addressed in the WSA and questioned the potential for additional mitigation measures. She asked what parameters and elements would be addressed further than the WSA for the draft EIR of the project.

Ms. Silver said based on the WSA it was unlikely the EIR would find environmental impacts associated with the water supply situation. Environmental impacts normally resulted if additional new supplies were identified that required drilling for more wells to obtain additional water supplies. The environmental consultant could look at the range of conservation on measures, demand reductions that would be anticipated and target indirect environmental impacts.

Council Member Price asked whether California Environmental Quality Act (CEQA) mitigation monitoring programs were still in affect.

Ms. Silver said it was and it was done for all mitigations in the EIR.

Council Member Price asked whether mitigations were included in the Development Agreement.

Ms. Silver said mitigation measures could not be imposed through an EIR. A permit was required to impose mitigations and imposed as Conditions of Approval. Mitigations could also be imposed through the Development Agreement.

Council Member Holman said the WSA used 2030 as a planning horizon. The Palo Alto's water usage forecast was virtually flat from 13.08 mgp in 2010 to 13.04 mgd in 2030. She asked how would it be considered as to whether it was a hospital expansion or Association of Bay Area Governments' (ABAG) question regarding Palo Alto's population growth.

Ms. Silver said the WSA anticipated all current Comprehensive Plan build outs and had added an extensive cushion to the plan.

MOTION: Vice Mayor Espinosa moved, seconded by Council Member Scharff to: 1) Approve the Water Supply Assessment for the proposed Stanford University Medical Center Facilities Renewal and Replacement Project, and 2) Direct Staff to incorporate the Water Supply Assessment in the EIR for further environmental analysis of the Project's water impacts.

Vice Mayor Espinosa said he supported the Motion on the basis of how the City had determined the 20 percent reduction by 2020 analysis and considered the anticipated drop in water usage, the recovery with additional projects, and the answers to the legal risk factors which Council Member Holman raised.

Council Member Scharff said it was clear there would be sufficient water. Conservation measures could be applied during dry years and the City had a conservation plan in place. He supported the Motion.

Council Member Holman said she was not comfortable in supporting Recommendation No. 2 in Staff report CMR:141:10 and was not confident in having a sufficient water supply. She did not support the Motion.

Mayor Burt asked Staff to clarify Recommendation No. 2.

Ms. Silver said the WSA would be incorporated into the EIR. The second analysis was whether the project would have a significant environmental impact on City utilities. The focus was on a threshold on whether a new or expanded entitlement for water supplies would be triggered. The analysis focused on the conservation measures and whether the measures would have environmental impacts. Additional analysis would be included in the EIR.

Council Member Holman said Ms. Silver's responses were different from saying Staff would be looking at the environmental analysis of water usage.

Mayor Burt asked why the proposed allocation as to what Stanford could achieve was on the 539,000 gpd instead of the 461,000 gpd.

Ms. Silver said the conservation measures were not quantified until after the WSA was prepared and Staff used the higher number as a conservative estimate.

Mayor Burt said he supported the Motion.

Council Member Yeh said he supported the Motion. He said when the WSA was incorporated into the EIR he was curious as to whether the analysis

would be updated to reflect the conservation efforts, change the baseline, and to have the environmental findings show the City's commitment being compliant with the State law.

Mr. Emslie said once the City was into the project they would have broader latitude in setting conservation standards and goals for Stanford and would take into account directions for conservation in the final recommendations.

Ms. Silver clarified Staff was working on the SB7 analysis and would need to return to the UAC and go through the full public process. The latest and greatest information would be incorporated in releasing the EIR.

SUBSTITUTE MOTION: Council Member Schmid moved, seconded by Council Member XXXX to return this Agenda Item to Staff to return at the next Council meeting with further clarification.

SUBSTITUTE MOTION FAILED DUE TO THE LACK OF A SECOND

Council Member Price asked if the item were approved and incorporated into the EIR, would the data be updated to reflect current data relevant to State law and other items to provide additional information specific to the draft EIR.

Ms. Silver said the draft EIR was expected on April 26, 2010 and most likely would not contain conclusions on SB7 but would be available for the final EIR.

Mr. Keene asked if the schedule would give the Council the opportunity to incorporate conditions, concerns, restrictions either in the Conditions of Approval or in the Development Agreement.

Ms. Silver confirmed it would.

MOTION PASSED: 7-1 Holman no, Klein absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

None

ADJOURNMENT: The meeting adjourned at 12:00 a.m.