

Special Meeting
August 5, 2010

The City Council of the City of Palo Alto met on this date in the Council Chambers at 6:05 p.m.

Present: Burt, Holman, Klein, Price arrived at 6:08 p.m., Scharff, Schmid, Shepherd,

Absent: Espinosa, Yeh

CITY MANAGER COMMENTS

Assistant City Manager, Pamela Antil announced there were no City Manager's Comments to report at this evening's meeting.

ORAL COMMUNICATIONS

Mark Peterson Perez, spoke regarding the City's Municipal Code, policy and procedures of tree removal in Palo Alto.

AGENDA CHANGES, ADDITIONS, AND DELETIONS

MOTION: Council Member Schmid moved, seconded by Council Member Shepherd to move up Agenda Item Number 6 to be heard before Agenda Item Number 4, to become Agenda Item Number 3a.

Council Member Schmid said it was more fitting to discuss ongoing uses at the refuse area prior to discussing a feasibility study.

MOTION PASSED: 7-0 Espinosa, Yeh absent

ACTION ITEMS

1. Approval of Four Contract Documents for the Mitchell Park Library and Community Center and Main Library Measure N Bond Project (CIP PE-

09006 and PE-11000): (1) Contract with Flintco, Inc., in a Total Amount Not to Exceed \$26,801,500 for Construction; (2) Contract Amendment Three with Group 4 Architecture, Research + Planning, Inc., to Add \$1,503,696 for Construction Administration Services for the Mitchell Park Library and Community Center and to Add \$1,763,304 for Design Services for the Main Library and for Preliminary Design of a Temporary Main Library for a Total Contract Amount Not to Exceed \$7,423,710; (3) Contract Amendment Two with Turner Construction to Add \$2,890,000 for Construction Management Services for the Mitchell Park Library and Community Center and to Add \$118,250 for Project Administration Services During Design of the Main Library and Preliminary Design of a Temporary Main Library for a Total Contract Amount Not to Exceed \$3,578,448; and (4) Contract with Stoller Studios, Inc. in an Amount Not to Exceed \$90,000 for Fabrication and Installation of Public Art for the Mitchell Park Library Entryway.

Council Member Price advised she would not be participating in Recommendation Number 4 of Agenda Item No. 1 due to her business relationship with Turner Construction.

Senior Assistant City Attorney, Cara Silver said when a portion of an Agenda item was conflicted, the Fair Political Practices Commission (FPPC) required the conflicted portion be bifurcated, discussed, and voted on separately. Council Member Price could not participate on the bifurcated portion but it was not necessary that she recuse herself from the entire discussion of the item.

Public Works Director, Glenn Roberts opened the presentation with a brief description of Staff's recommendations outlined in Staff Report CMR:334:10. He said upon approval of the recommendations, two project-related activities would take place. The entire project site would be fenced off prior to the beginning of the school year and a 14-day notice regarding the removal of trees would be posted prior to fencing off the site. The process for removing the trees had gone through an open-vetted public process and an Environmental Impact Review (EIR).

Library Director, Diane Jennings said the project would be an incredible change to the library system and the community. She said a Stakeholders Committee was formed after the Bond Measure was passed that provided guidance and advice in making the project a success. The Palo Alto Library Foundation continued to raise funds in support of the new facilities. She thanked the people, community and Staff for their efforts in being instrumental in promoting the project.

Greg Smith, Construction Management Consultant, Turner Construction spoke in support of awarding the contract to Flintco, Inc. He gave an overview of the prequalification and bidding process of the project and said of the 23 companies that came forward to participate, 13 had the requirements best suited for the City, and 6 companies submitted bids. The three main criteria the companies had to meet were: 1) good safety records, 2) Leadership in Energy and Environmental Design (LEED) or Green Building experience, and 3) technical cutting edge expertise that could be incorporated into a library system. References and performance reviews were completed on the five most recent projects completed by each company. Flintco's management team scored 9 out of 10 in references and had a good working-relationship with subcontractors who did 95 percent of the construction work. Flintco's Project Manager had high level expertise in commercial construction and the company had certified LEED personnel on staff. The budget was for \$32 million and Flintco's bid came in at \$24,365,000.

Council Member Scharff raised concerns regarding Staff's request to fund a temporary library when a site had not been determined.

Ms. Jennings said there was some confusion when the original Capital Improvement Project (CIP) was established to develop a temporary site for Mitchell Park Library and a temporary site for Main Library. The new Mitchell Park Library and Community Center (MPLCC) was not designed to accommodate the current use of both Mitchell and Main Libraries and there were concerns about its opening without a temporary site for the Main Library. The intent was after construction started at the Main Library and the new MPLCC opened, there would be a smaller temporary facility designated for the Main Library with less staffing. She said with a multi-system, people expected having access to a library close to their homes. The reason for bringing the request forward was because it depended when the Main Library would be up and running. It would require several months of planning, locating a feasible site, reconfiguration of space and design in setting up a temporary location.

Mr. Roberts said the recommendation was being brought forward in trying to preserve the potential acceleration of the schedule and cost-savings and to begin looking for a temporary facility for the Main Library. The original intent was to do the projects separately and sequentially. He said given the cost-savings of the current bidding climate, Staff wanted to develop a parallel over-lapping schedule between the two activities. It would require having to look for a temporary site for Main when the Main Library was under construction at the same time that MPLCC was under construction.

Staff heard from the Council to investigate the opportunity to accelerate and pursue the possibilities. Staff felt it was worth pursuing and recommended the Council allow them to move forward but implementation would not occur until authorization was given by Council.

Council Member Scharff asked if Mr. Roberts' intent was to accelerate building the Main Library and Ms. Jennings wanting people to go to Mitchell Library while Main was under construction. Mr. Roberts' suggestion was to have both libraries under construction at the same time. He asked Mr. Roberts if he was suggesting accelerating the timeframe and teardown of the Main Library before the MPLCC was completed.

Mr. Roberts said he felt it was an opportunity worth investigating.

Council Member Scharff ask if the opportunity would be lost if the temporary site was not approved at this evening's meeting.

Mr. Roberts said no, however, time would be lost in the opportunity to pursue.

Council Member Scharff said he was still unclear why Staff wanted to spend design dollars in leasing a temporary facility. He raised concerns about wanting the money prior to locating a temporary site.

Ms. Jennings said it would take time, effort and planning on how to best fit the library operations into an established site. Codes, upgrades and reconfiguration would need to be considered.

Council Member Scharff said he understood Ms. Jennings concerns but questioned how a site could be designed without having a visual of a vacant space. Different space had different issues.

Mr. Roberts said Council Member Scharff was correct if the intent was to work on a final design. He said the City's Real Estate Division had been looking at potential sites either for the sequential temporary space already contemplated or the possibility of parallel processing without entering into a contractual obligation.

Council Member Scharff asked how long did Staff anticipate the Main Library to be down.

Ms. Jennings said one year.

Council Member Scharff asked if the other libraries would remain open if the process was not accelerated.

Ms. Jennings said yes.

Council Member Scharff asked if the estimate for the temporary library was \$1 million for the year.

Ms. Jennings said that was the current estimate.

Council Member Scharff asked if additional staffing was required.

Ms. Jennings said the temporary Main Library site would be smaller and Staff from the Main Library would be brought over.

Council Member Klein asked what the estimated cost was for the Main Library.

Mr. Roberts said the original estimate was \$19.7 million at the time of the bond issuance.

Council Member Klein asked what the likelihood was in issuing a second bond.

Mr. Roberts said what Staff would like to be able to do was under promise and over deliver. He said given the economic and bidding climate he could not promise the second bond would not be necessary.

Council Member Klein asked how the bond people would react if a bond were limited to a million dollars.

Ms. Silver said the City would need to go through a cost-benefit analysis. There would be some issuance costs which would exceed the principal amount.

Council Member Schmid raised concerns regarding the setup of a temporary Main Library realizing there was a shortage of available buildings in the neighborhood. He asked if Staff had determined a potential site.

Ms. Jennings said the City's Real Estate Division found it to be more challenging than finding the temporary facility for Mitchell Park Library.

Council Member Holman said the timeline for completion of Mitchell Park Library was September 2012 and completion of the design for Main in

September 2011. She asked how long would it take between completion of a design and awarding a contract.

Mr. Roberts said approximately 4 months.

Ms. Jennings said Staff had been discussing ways of using the current temporary Mitchell Library after the new MPLCC opened which would help Main Library. She said customers had a problem with drop-offs and picking up hold materials when the Mitchell Park Library closed. She envisioned a small area in the Main Library with a small selection and where people could drop off and pick up materials. Staff was exploring the possibility of using an area at Lucie Stern Community Center.

Council Member Price asked if module units had been considered for the processing services at Main and if the Palo Alto Unified School District (PAUSD) had been contacted regarding the use of a temporary site.

Ms. Jennings said technical and collection support functions for the Main Library were at the temporary Mitchell Park Library. The School District was contacted when Staff was looking for temporary space for Mitchell. The District showed no interest. Staff could re-explore the option.

Council Member Price asked if other issues had been raised regarding the bidding process.

Mr. Roberts said the two issues that had been raised were resolved. The installation of a boiler was resolved by allowing a review of a potential vendor's product. The second issue was resolved which involved the second low bidder filing a formal protest against the first low bidder on the grounds subcontractors were unidentifiable.

Juan Garza, San Jose, spoke regarding prevailing wage requirements. He said as a statewide concern no Charter City could issue a contract in the State of California as non-prevailing wage for a public library.

Jose Garcia, Building Trades Council, spoke regarding the lack of prevailing wage requirements in the project.

Fred Balin, Palo Alto, spoke regarding the removal of 73 trees on the project's site. He urged the Council to hear the public's comments and consider their input into the plan.

Peter Robinson, Palo Alto, raised concern regarding the removal of trees, cars have the capability of entering the site at high speed which was

hazardous, insufficient space to the backside of the site for people-flow in the event of an emergency, and the need for high energy consumption in keeping the building at nominal temperature during hot days.

Mark Petersen-Perez spoke of bringing the technology of scanning books and having the information available on a server. He felt the advanced technology would eliminate having to build a multi-million dollar facility.

Robert Moss, Palo Alto, said 95 percent of Palo Alto citizens had access to Broadband Internet 12 years ago and the numbers were the same today. He said when Google and Yahoo made all information available, both circulation and attendance in libraries steadily increased annually. The Internet did not replace libraries. People are utilizing the Internet at the libraries more than they did in the past. He urged the Council to move forward in approving the contract.

David Collins spoke regarding awarding subcontractors out of the area and urged the Council to consider prevailing wage when awarding future contracts.

Dominic Torreano spoke regarding contract code requirements of contractors being identifiable in contract agreements. He spoke of Flintco, Inc. operating out of Sacramento, CA with headquarters in Oklahoma.

Council Member Scharff asked Ms. Jennings if she was in support of starting the Main Library prior to the completion of MPLCC.

Ms. Jennings said it was too premature to make that determination. There was a need to weigh cost-savings relative to the service impacts.

Council Member Scharff said he felt it was premature to be looking at a temporary facility until a decision was made on what that temporary facility looked like. He said he would like Staff to present to the Council a plan prior to moving forward.

Mayor Burt noted for the record that Council Member Price recused herself on Staff Recommendation Number 4 due to her business relationship with Turner Construction.

Council Member Scharff said he wanted to make a Motion with the exclusion of Item C.

MOTION: Council Member Scharff moved, seconded by Council Member Klein to approve Recommendation Number 4: Approve and authorize the

City Manager to execute Amendment No. Two (Attachment C) to contract C10131631 with Turner Construction, Inc., to add up to \$3,008,250. This amount includes \$2,737,500 for basic services and \$270,750 for additional services for a total contract amount not to exceed \$3,578,448. Approval of Amendment No. Two includes the following additional workscope:

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- a. Construction management services for the Mitchell Park Library and Community Center (PE-09006), in the amount of \$2,600,000 for basic services and \$260,000 for additional services.
- b. Project administration services for the remodel and expansion of the Main Library (PE-11000), in the amount of \$92,500 for basic services and \$10,750 for additional services.

Mr. Roberts said the funds were necessary to allow Staff to proceed in investigating options for a temporary facility. He asked if there was a way to satisfy the Council's concern without deleting the \$15,000.

Council Member Scharff asked Staff if the design service was required. He said he was still unclear why the money was being requested at this time and preferred having Staff come back to the Council on September 13, 2010 with a plan for the \$15,000.

Ms. Jennings said all of the information regarding facility size and its usage would be given to an architect to determine and evaluate the feasibility of a potential temporary site. Square footage, reconfiguration, cost or whether to lease portables would be taken into consideration. The evaluation would help in making a decision on whether to operate a temporary site at that location and the resources necessary to pay for the evaluation service.

Council Member Scharff needed clarification on how the \$75,000 was going to be utilized.

Mr. Roberts said the entire \$75,000 was not for a preliminary study and a recommendation. It was to allow Staff to get through the design activities for Mitchell and to proceed with the design for Main.

Council Member Scharff asked if there was any reason why this could not come back to the Council with a plan in September 2010. He said he agreed that if the City could save money and it made sense with library operations, then Staff should move forward with it.

Assistant City Manager Antil said the two issues that were being raised were

1) whether or not a temporary facility was needed for a certain period of time, and 2) whether the \$75,000 was needed to lead up to a certain design. She said when a potential site was chosen, Staff would need a Project Manager and an architect to evaluate the space and its usage. The services were not free and the resources were needed to pay for the services.

Mr. Smith said their firm provided services on a request basis. A not-to-exceed agreement would be established for an authorized amount of \$15,000. The City would be required to pay only for the service that was being requested. The firm would be looking at the practicality of converting the space, its functional use of the space and to firm up a decision of a temporary library.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER TO include Item C-Administrative services during preliminary design of a temporary Main Library (PE-11000), in the amount of \$15,000.

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MOTION PASSED: 6-0 Price not participating, Espinosa, Yeh absent

Council Member Shepherd asked what type of coordination would take place with Canopy regarding the trees in the project.

Assistant Public Works Director, Mike Sartor said the City would be working with Canopy to continue outreach as the trees were removed along with a new tree planting process. Removing of the trees had been posted and openly vetted. Some large trees along with eucalyptus trees would be preserved. The project was being constructed around a heritage oak tree in the middle of the courtyard. A row of 50-year-old stone pine trees, declining with age, along with trees that conflicted with the construction site would be removed. The City Arborist determined the trees would be impacted by the construction.

Mayor Burt asked if the stone pine trees were likely to be removed or if a final decision had been made to have them removed.

Mr. Sartor said the removal was based on the condition of the trees. The Arborist determined the trees were on the verge of dropping limbs. They were located on the perimeter of the site and excavation would impact the roots causing further damage to the trees.

Mr. Roberts said the trees had been dropping limbs and 18 months ago a child was injured by a falling limb. The stone pine trees were short-lived

and 50-years surpassed the extent of their useful lives.

Council Member Holman asked if Item 5, to approve and authorize the City Manager to execute an Agreement with Stoller Studios, Inc., in an amount not to exceed \$90,000 for the fabrication and installation of public art for the entryway of the Mitchell Park Library, had gone through the Public Art Commission (PAC) and public review.

Ms. Jennings confirmed that it had and was approved.

Mayor Burt asked whether the City had an obligation to subject the project to prevailing wage requirements.

Ms. Silver said the applicability of the prevailing wage law to Charter Cities was before the California Supreme Court in a case titled: *State Building and Construction Trades Council vs. City of Vista*. She said up until the case was filed, Charter Cities had the ability to exempt themselves from prevailing wage requirements. Prevailing wage laws applied only to General Law cities. The City of Palo Alto adopted a Resolution in 1981 exempting itself from prevailing wage requirements and the policy was affirmed in March 2010. The exception of a Charter City exempting itself from prevailing wage was if the city received State and Federal funds for projects or when a project had regional significance. The City believed current state law deemed the project as a municipal affair since it was funded by local bond money. She cautioned the Council that the applicability of the prevailing wage law to Charter Cities was before the California Supreme Court and was unsure when the decision would be issued.

Mayor Burt asked if the decision would apply retroactive to contracts that already had been entered.

Ms. Silver said it was unlikely that would not be the case but was unsure.

MOTION: Council Member Klein moved, seconded by Council Member Holman to approve the balance of the Staff recommendations as follows:

- 1) Approve and authorize the City Manager or his designee to execute a contract with Flintco, Inc., in the amount of \$24,365,000 for construction of a new Mitchell Park Library and Community Center (PE-09006).
- 2) Authorize the City Manager or his designee to negotiate and execute one or more change orders to the contract with Flintco, Inc., for related, additional but unforeseen work which may develop during the project, the total value of which shall not exceed \$2,436,500.

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3) Approve and authorize the City Manager to execute Amendment No. Three to contract C09130744 with Group 4 Architecture, Research + Planning (Group 4 Architecture), Inc., to add up to \$3,267,000 for a total contract amount not to exceed \$7,423,710. Approval of Amendment No. Three includes the following additional workscope:

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- a. Construction administration services for the Mitchell Park Library and Community Center (PE-09006), in the amount of \$1,369,856 for basic services and \$133,840 for additional services.
- b. Design services for the remodel and expansion of the Main Library (PE-11000), in the amount of \$1,563,415 for basic services and \$141,342 for additional services.
- c. Preliminary design services for a temporary Main Library (PE-11000), in the amount of \$53,225 for basic services and \$5,322 for additional services.

5) Approve and authorize the City Manager to execute an Agreement with Stoller Studios, Inc. in an amount not to exceed \$90,000 for the fabrication and installation of public art for the entryway of the Mitchell Park Library.

Council Member Klein said over 69 percent of the Palo Alto voters approved Measure N in 2008 and wanted the project to move forward.

MOTION PASSED: 7-0 Espinosa, Yeh absent

2. Report from High Speed Rail Standing Committee on Recent Activity and Request for Authorization for the City Manager to Enter Into a Contract with Hatch Mott and McDonald in an Amount Not to Exceed \$120,000 for On-Call Engineering Services Related to High Speed Rail.
(Item continued from August 2, 2010)

Deputy City Manager, Steve Emslie said the contract had been reviewed by the High Speed Rail Committee who recommended the City enter into a contract with Hatch Mott and McDonald. The Alternatives Analysis Report (AA) was completed and submitted to the High Speed Rail (Authority) but anticipated the need for additional on-call engineering peer review services in the following months as the alternatives become more refined.

Mayor Burt asked if the High Speed Rail Committee had anything to report.

Council Member Klein said the High Speed Rail Committee considered the item and recommended the Council's approval.

Mayor Burt asked if there were updates on recent Authority activities.

Council Member Klein said the HSR Authority met and filed their report on alternatives for further consideration. He said the report was rough and incomplete and the Authority indicated they would only study the elevated, open-trench at grade alternative. There were issues of building in stages.

Mr. Emslie said the HSR Board confirmed at this morning's meeting that the Draft Environmental Impact Report (DEIR) would be released at the end of 2010 at which time there would be another public review period. The three alternatives that were defined were the aerial, at grade, and the trench option. The section of tracks for the Palo Alto would either be an above-grade aerial or at grade structure. The existing grade crossings would be in an aerial fashion and the train would unguilate to a certain extent through Palo Alto. Another version would be a complete below grade trench through Palo Alto. The Authority would be taking a 34 percent engineering drawing for the purpose of completing the EIR and would be available by year-end of 2010 for the City's comment.

Mayor Burt asked if the Authority had indicated what section of Palo Alto's section would be 2- or 4-track.

Mr. Emslie said tracks were not discussed in detail. The Authority did indicate the project would be done in segments but did not identify which segments or sections and the sequence of completion. There were indications of applying for Federal transportation funds. The section from San Francisco to Redwood City would be a priority in seeking the grant but would not include upgrades or expansion to 4-tracks south of Redwood City through Palo Alto and Mountain View. The information was not discussed but obtained from recent Executive Committee meeting notes.

Council Member Holman asked if the Authority could remove the tunneling option from the DEIR.

Senior Assistant City Attorney, Cara Silver said if the matter were challenged it could be a legal argument that the option should have been analyzed. She could not guarantee whether the court would uphold the argument based on the record.

Council Member Holman asked if the DEIR was addressing segments or the entire project in seeking funds.

Mr. Emslie said the Authority indicated they would be preparing a DEIR that encompassed and analyzed the entire buildout but not provide a phasing plan.

Council Member Holman said in the Scope of Services, first paragraph, the word "implementation" should be changed to "analysis" because there was the uncertainty of wanting the project to be implemented.

Mr. Emslie said Staff did not object to the change.

Council Member Holman said in the Scope of Services the second paragraph should be removed. She said it posed a risk by leaving the paragraph in because the majority that supported the HSR believed the statement to be true.

MOTION: Council Member Shepherd moved, seconded by Council Member Price to authorize the City Manager or his designee to complete and execute the contract with Hatch Mott and McDonald in an amount not to exceed \$120,000 for on-call engineering services related to High Speed Rail.

Mayor Burt said clarification was needed on inclusion of the changes in the Staff Supplemental page as well as Council Member Holman's request to substitute "analysis" for "implementation" and deletion of the second paragraph in the Scope of Services.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER 1)the removal of the second paragraph in the Scope of Services, 2)inclusion of the HSR Subcommittee revisions from their July 29, 2010 meeting, which included to substitute "Subcommittee" with "Committee" in the third paragraph, 3)under the Meetings paragraph add language that the consultant when providing presentation material will provide easily read graphical materials, 4)and substitute "implementation" with "analysis" in the first paragraph.

Council Member Schmid said the word "Stanford" appeared in the train station's description and asked if there was an official process to invite Stanford to participate in the analysis.

Mr. Emslie said the City had contacted Stanford regarding the real estate. They showed an interest of engaging in discussions but to date were not actively involved in monitoring or commenting on the activities.

Council Member Schmid asked if there would be a problem in moving forward without Stanford's participation.

Mr. Emslie said that could be a possibility and suggested the HSR Committee convey that to Stanford.

Council Member Klein said there was anticipation for the HSR to release the requirements for a station and now was in a position to schedule a meeting with the Council in September or October to see if Palo Alto wanted to be a location for a HSR station.

Mr. Emslie said the Authority had scheduled a meeting with Staff which would be the formal transmittal of the criteria and a Study Session would need to be scheduled.

Council Member Klein said the tentative price tag for preliminary release of 3,000 parking spaces was \$150 million which the Authority was looking for the community to provide.

Council Member Price asked if the California Avenue and Downtown Palo Alto stations were being considered for a HSR stations.

Mr. Emslie said the Downtown station was the only station for consideration because of the high ridership numbers.

Council Member Price asked if the parking models would need to be on site or in close proximity to the station.

Mr. Emslie said the Authority indicated within three miles.

MOTION PASSED: 7-0 Espinosa, Yeh absent

Council Member Schmid spoke of a HSR report with implications of routes and alternatives through Palo Alto. He raised the issue of having the public and the Council engaged in a discussion and asked what the process would be to make that happen.

Mr. Emslie said community meetings would need to take place and a Study Session and an Action item needed to be scheduled to include the Alternatives Analysis and station criteria.

MOTION: Council Member Holman moved, seconded by Council Member Schmid that the City of Palo Alto of its own and working with the Consortium to emphatically request that tunneling be the preferred alternative to be

considered in the High Speed Rail Authority's Draft Environmental Impact Report.

Council Member Holman said her reason for the Motion was because there was a need for the City to be heard loud and clear that the tunneling option was the preferred alternative and should be considered in the Authority's DEIR.

Mayor Burt asked Council Member Holman if she was referring to the deep tunneling and not a Cut and Cover trench.

Council Member Holman said that was correct.

Council Member Shepherd asked to accept Cut and Cover and not remove the deep tunnel option. Deep tunneling was only for the HSR which would tunnel the train through the community and Caltrain would remain at grade. She said when the community reviewed the alternatives it was determined that the Cut and Cover option satisfied all three train systems below grade.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to include Cut and Cover as a preferred alternative.

Council Member Schmid needed clarification on the Cut and Cover and trenching options.

Mayor Burt said the Cut and Cover was a covered trench.

Council Member Schmid asked if it was included in the trench.

Mayor Burt said there was a difference between Open Trench and Cut and Cover which was a covered trench.

Council Member Schmid said he needed clarification on a 2-track system through Palo Alto.

Mayor Burt said it was a system the Authority was looking at to determine perspective ridership and route connections where a 4-track system was not required. There was the possibility of a combination between Caltrain and HSR of a peak volume of 10 trains per hour per direction that would allow an operation to accommodate the volume by having different areas of the Peninsula with 2-track and 4-track sections.

SUBSTITUTE MOTION: Council Member Scharff moved, seconded by Mayor Burt to recommend that the Alternative Study for the DEIR include the Cut and Cover Option.

Council Member Scharff felt the Cut and Cover option was the best for Palo Alto and one the City should focus on.

Council Member Shepherd asked whether the tunneling option was being eliminated along the Peninsula and would only be going into the Transbay terminal.

Mr. Emslie said the Authority indicated there would be a couple of places where the tunnel option would be required.

MOTION TO CONTINUE: Council Member Schmid moved, seconded by Mayor Burt to continue the Agenda Item until September 13, 2010.

Council Member Shepherd asked if the Californians Advocating Responsible Rail Design (CARRD) presentation was scheduled for September.

City Clerk, Donna Grider confirmed CARRD's presentation was scheduled for the Council Meeting on September 13, 2010.

MOTION TO CONTINUE PASSED: 6-1 Holman no, Espinosa, Yeh absent

3. Designation of Voting Delegate and Alternate for 2010 League Conference. *(Item continued from August 2, 2010)*

City Clerk, Donna Grider said each city was asked to have a voting delegate for the 2010 League Conference Business Meeting and determined at a Council Meeting which Council Member would be the voting delegate. She said Mayor Burt and Council Member Klein would be attending the entire conference and Council Member Price would be attending Friday, the day of the business meeting. A Motion was needed to select the voting delegate and an alternate. The six Resolutions to be voted on were included in the Council Packet prepared on August 4, 2010, and agendized for September 13, 2010.

MOTION: Mayor Burt moved, seconded by Council Member Scharff to designate Council Member Klein as the voting delegate and Mayor Burt as the alternate for the 2010 League Conference.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to have Council Member Price as the second alternate.

Council Member Schmid asked if the six issues being addressed would impact Palo Alto.

Council Member Klein said yes, but the delegate will vote according to the instructions given by the Council on September 13, 2010.

MOTION PASSED: 7-0 Espinosa, Yeh absent

3A (Former No. 6.) Approval of a Contract with Peterson Power Systems in a Total Amount Not to Exceed \$201,853 for the Overhaul of a Caterpillar Model 3412e Diesel Engine and the Installation of a Required Best Available Control Technology (BACT) Diesel Emissions Retrofit Device. *(Item continued from August 2, 2010)*

Director of Public Works, Glenn Roberts gave a presentation as outlined in Staff Report CMR:304:10. He said Staff was recommending the Council to approve the contract or to take a less cost-effective approach and continue to rent equipment at a cost of \$30,000 per month.

Council Member Schmid referred to Emily Renzel's letter noting that it took \$990,000 to run the equipment for eight years and asked if there was an issue with the wearing down of the equipment due to processing large objects which lead to high-maintenance cost.

Mr. Roberts said the equipment was designed to perform heavy-duty work but required high-maintenance in order for the equipment to work properly. Rocks and foreign objects caused problems but the equipment was designed to process large tree stumps. The composting operation was expensive and required high-maintenance equipment, however, with the net cost of the compost operations and compost sales, the City managed to take in a small profit each year.

Council Member Schmid asked to see a budget that included compost operations, equipment maintenance, operation cost and sales.

Mr. Roberts said Staff could provide the information but noted the operation would be fading out.

Council Member Schmid asked if there was an option in the contract with GreenWaste to take yard waste or was the City paying for a service not being used.

Mr. Roberts said the City was not paying for services not being used. The contract for the SMaRT Station in Sunnyvale had an option available where waste could be sent to the SMaRT Station, ground up and trucked to the Z-Best facility in Gilroy and turned into compost. The City would need to pay for that as an alternative. In 1991, the City opted not to take that option since the City had its own composting operations.

Council Member Schmid asked what the cost was per ton to have the SMaRT Station process the waste as opposed to the City cost.

Mr. Roberts said the SMaRT Station's cost per ton was less than the City's because their cost was subsidized. The SMaRT Station took all of the recycling from the Cities of Mountain View and Sunnyvale, materials gleaned out of the City's solid waste stream and used the credit for the cost of recyclables to lower the cost of their composting.

Council Member Scharff asked if the Morbark grinder was operable.

Mr. Roberts said it was not and the City was currently renting a piece of equipment at \$30,000 per month.

Council Member Scharff asked if it was more cost-effective for the City to do its own composting or to send it to the SMaRT Station.

Mr. Roberts said he could not give a definite answer.

Council Member Scharff asked to be brought up-to-date regarding the Council's direction on the composting facility and the closure of the landfill.

Mr. Roberts said there was never a hard-set date for the landfill closure. Closure dates were continually projected for the past 15 years with a recent closure date of 2012. He said there was an issue with the rent based on the closure date of 2011 and the additional rent was not included.

Council Member Scharff said it was unclear if it would cost the City money to send materials elsewhere for processing if the City's composting operations ceased. He felt it would not be beneficial to pursue the Morbark grinder if compost operations were suspended until the Anaerobic Digestion (AD) facility was up and running.

Mr. Roberts said the closure plan and landscaping would require the use of compost and what Staff wanted to do was to have an adequate stock pile on hand to avoid having to import and purchasing it back from someone else.

Council Member Scharff asked how much it would cost to buy the compost back.

Mr. Roberts said approximately a-half-a-million dollars.

Council Member Scharff asked if the compost operations would have an impact in opening the park.

Mr. Roberts said it was a subjective question. He said under the current policy direction and state permit the City was required to fill the landfill and that depended on how fast material came in. The current policy would remain in effect unless there was a policy change.

Council Member Schmid asked whether it was possible to fill the landfill with dirt and compost from elsewhere in meeting the state requirements.

Mr. Roberts said that would meet the volumetric requirement but would conflict with the mandates of AB939. Land filling with dirt or compost was not a permissible use in filling the landfill.

Council Member Schmid felt the Council should be able to vote on extensions of the landfill beyond what was agreed on in the current contract.

Senior Assistant City Attorney, Cara Silver said in regards to the rent issue, Council approved a schedule in 2007 which served as the basis for the rent obligation. The projected landfill closure date was 2011 and the rent schedule went up to 2020-21 to reflect a smoothing schedule. Council would need to revisit the schedule adopted in 2007 if the closure date was extended.

Council Member Schmid said he was concerned the Council was asked to vote on equipment which was for extensive use of the land and had not been voted on by the Council. The Refuse Fund was facing a deficit due to expenditures such as this and taking in less money because the City was not accepting commercial disposal rights.

Council Member Holman asked how long had the Morbark been out of operation.

Mr. Roberts said about 6 or 8 months.

Council Member Holman asked how the City was able to stock pile and sell compost at a profit.

Mr. Roberts said the City was not doing both. He said under state regulation stock piling of compost could not be held for more than 6 months at a time. The City was not stock piling towards the future closer but producing compost that either was being sold commercially or given away to the residents on a quarterly basis.

Council Member Holman asked if the selling for profit include total cost and Staff cost.

Mr. Roberts said that was his understanding.

Council Member Holman asked if there was other equipment that needed to be refurbished.

Mr. Roberts said he did not anticipate that but there was one piece of equipment he directed Staff to not pursue repairing which was a machine that turned the compost pile.

Council Member Holman asked why the issues had not been brought to the Council six months ago and questioned why the City was renting a piece of equipment for \$180,000 for six months and the contract was for \$201,000.

Mr. Roberts said it took six months in get through the bidding process.

Mayor Burt asked if there was a value on the used equipment.

Mr. Roberts said with repairs and new smog requirements it would be worth more than an operable piece of equipment with an estimated worth of a couple of thousand dollars.

MOTION: Council Member Scharff moved, seconded by Council Member Schmid for Staff to return in October 2010 with all options on composting and include all options until the close of the landfill in 2012.

Council Member Scharff said he did not feel there was a cost-effective plan in place and raised concerns on how the composting operation was being run by piece-meal approach.

Council Member Klein asked if it would endanger the ability of have an anaerobic digestion facility if Council Member Scharff's Motion were passed.

Mr. Roberts said he did not foresee a conflict if resolved in a reasonable timeframe. The rental of the equipment would continue until a decision was made.

Council Member Klein asked if the rental charge was the only downside.

Mr. Roberts said yes.

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER as part of the plan when returning in October that Staff is to advise Council if selling compost is profitable and to include Staff costs in the total costs.

MOTION PASSED: 7-0 Espinosa, Yeh absent

Mayor Burt advised he would combine discussion of Agenda Item Nos. 4 & 5 to be heard at the same time.

4. Approval of a Contract with Alternative Resources Inc. in the Total Amount Not To Exceed \$197,758 for Energy/Compost Feasibility Study and Environmental Impact Initial Study. *(Item continued from August 2, 2010)*
5. Utilities Advisory Commission Recommendation that Council Approve the Use of Up to \$75,000 in Calaveras Reserve Funds to Partially Fund a \$250,000 Energy/Compost Feasibility Study and Environmental Impact Initial Study. *(Item continued from August 2, 2010)*

Public Works Director, Glenn Roberts said the item was being brought back to the Council resulting from a policy correction for Staff to perform the Study and establish a timeline by early 2011 as recommended by the Blue Ribbon Compost Task Force (Task Force).

Council Member Shepherd asked how would the anaerobic digestion facility fit in time wise if there was another year before a Council election.

Mr. Roberts said he did not have a direct answer, but the direction Staff was following was the Council wanted to be able to respond to a potential ballot measure or initiative in the Fall 2011 Ballot regarding the future of an anaerobic digestion (AD) facility.

Council Member Schmid said at the April 5 meeting the Motion was to follow the Staff's recommendation to pursue local partnering opportunities or organic waste companies for developing a private AD or energy conversion facilities.

Environmental Compliance Manager, Phil Bobel said Staff was following that track and analyzed partnering options in the local area. On April 5, Council's direction was to look within a 20-mile radius and that was being done.

Council Member Schmid said his understanding was most of the work was being performed by a contracted consultant

Mr. Bobel said a bulk of it was but not all.

Council Member Schmid said the Motion was made because it was necessary to have the comparison in order to make a discussion. The contract indicated "to investigate and pursue partnering opportunities within a 20-mile radius" which had been reduced to a similar or AD facility. He asked how Staff got to this point.

Mr. Roberts said the work and investigations were being continued. The closest facility available was the San Jose Wastewater Treatment Plant.

Council Member Scharff raised concerns regarding the budget and milestone schedules. He said there were milestone dates but no dates on Task 1, 2, and 3 and asked if there was a relationship between the budget and the milestones.

Mr. Bobel said all tasks related to the budget schedule and were distributed throughout the schedule as they referred to the areas of analysis such as greenhouse gases, cost, and environmental impacts. Exhibit B of Staff report CMR:323:10 reflected how the tasks come together in the preliminary analysis. The preliminary analysis would be done by the consultant on December 3, 2010 and would be brought back to the Council in January 24, 2011, for Council's input and brought back on March 15, 2011. Task 3 related to what the Council would see in January 2011 and the consultant's draft in December 2010.

Council Member Scharff questioned the buffer issue raised by Tom Jordan regarding a zero buffer or larger around the facility.

Mr. Roberts said the footage was for a larger buffer if the static pile was being processed in an open facility. The proposal for AD facility would be in an enclosed facility and would require an almost no buffer zone. Staff's intent would be to find a process that was environmentally sensitive.

Council Member Scharff asked if that would be determined at the end of Task 4.

Mr. Bobel said if a major buffer zone was required that would need to be factored into the preliminary cost and would be determined by January.

Council Member Scharff asked if a Motion was required for Staff to look at 8-10 acres or should there be a concern.

Mr. Roberts said he did not feel it would be necessary to go into that much detail at this time since there was a range of things that could happen. One of the variables being looked at was what to do with the processing of solids at the Regional Water Quality Control Plant (RWQCP).

Cedric de La Beaujardiere, Palo Alto said when the Task Force was created the Council stated the parkland should be considered as a secondary option. Five of the 9 members supported a Dry AD facility on the parkland issue. If the Task Force had known the airport site was not being considered the vote would have been 5 to 4 or 6 to 3 in having the operations on the parkland. The Sierra Club did not endorse the collection effort and tabled the Motion awaiting the feasibility study. The feasibility study should determine what the facility could handle in terms of rent for the land. Food scraps would be deposited inside the building which had negative pressure.

Edie Trevino, Palo Alto said putting in a dry AD system would convert 60,000 tons of organic waste into renewable energy and high quality compost. The greenhouse gas emission would be reduced by approximate 20,000 tons per year. She urged the Council to approve the contract.

MOTION: Council Member Klein moved, seconded by Council Member Scharff to approve and authorize the City Manager or his designee to execute the contract with Alternative Resources Inc., in the total amount of \$197,758 for the Energy/Compost Feasibility Study and Environmental Impact Initial Study. The amount includes \$179,758 for basic services and \$18,000 for additional services.

Council Member Klein said the issue was a straight forward contract to implement the policy and the basic policy decision was made on April 5. He did not feel it necessary to repeat the issue debated in April.

Council Member Scharff echoed Council Member Klein's comments and urged the Council to move forward in approving the contract.

Council Member Schmid was not in agreement with the contract. He said on April 5 the recommendation was to move forward with the feasibility study to examine alternate technologies. He referred to a New York Times article and compared the dry AD system to the waste-to-energy movement in

Europe used by 1,200 municipalities in getting cleaner emissions with energy returns of 2 to 3 times higher per ton of waste which was above the City's zero-waste target. He urged Staff and the Council to not approve the contract and to look at new technologies for waste-to-energy solutions.

Mayor Burt said the Task Force looked at a number of technologies and this was the next generation, Incinerator Anaerobic Digestion and a new technology for the United States.

Mr. Bobel said the technology would be referred to as new technology because it had not been employed in the United States. The Task Force did look into other technologies.

Mayor Burt disagreed with Council Member Schmid characterization of the AD as not a new technology in comparison to European technology. Europe had better next generation incinerators than AD facilities but both were next generation alternatives employed in Europe but not in the United States. He asked if the Task Force looked into the article being referred to as next generation incinerators.

Mr. Bobel said the Task Force did go through the exercise of looking at all other technologies. They favored the AD because one of the products would be compost. It was the reason for referring to the facility as the Energy/Compost Facility because it did both.

Council Member Price supported the Motion

INCORPORATED INTO MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Contract Scope of Work on page 5, Task Five, first paragraph, last sentence that the analysis will include staffing costs.

Council Member Holman asked how all alternatives were included if the consultant was evaluating alternative number 1.

Mr. Bobel said Staff would help incorporate them into the final report.

Council Member Holman said the financial analysis was mentioned in Task 3 and the remainder focused on greenhouse gases analysis. She asked if the financial analysis would be completed.

Mr. Bobel said the financial analysis would be completed by the consultant.

Council Member Holman raised concern regarding limiting the study to only an AD system. She said other alternatives were given a cursory look without consideration from a consultant. The Motion on April 5th did indicate other options and not limited to an AD system.

Mr. Bobel confirmed Council's direction on April 5th was to hire a consultant to look at AD systems.

Council Member Holman asked to see a timeframe for the landfill closure and rebuilding of the park with costs. She supported the Motion.

Council Member Schmid said the City of Santa Barbara was exploring the possibilities in obtaining new energy. He suggested tracking Santa Barbara's experience to see where they will be in two years.

Mr. Bobel said Staff was tracking three different technologies the City of Los Angeles had chosen. One was AD and the other two were of high heat technology.

MOTION PASSED: 5-2 Holman, Schmid no, Espinosa, Yeh absent

MOTION: Council Member Scharff moved, seconded by Council Member Shepherd for Staff to return in October 2010 with a first cut analysis of Refuse Fund costs, closure and rent, and a final cut by January 24, 2011 with a report on a timeframe for closing of the landfill and rebuilding of the park with costs.

Council Member Scharff said it was important to look at the big picture in moving forward with the AD process and what was being done with the Refuse Fund, the closure and rent. Staff should be given clear policy direction in a cost-effective way.

MOTION PASSED: 7-0 Espinosa, Yeh absent

Council Member Holman noted the "at place" memorandum indicated \$49,000 would be used for the Study.

Mr. Bobel said it was necessary to make that change making it consistent with the Utilities Advisory Commission (UAC) recommendation.

Council Member Scharff asked how much money was in the Calaveras Reserve.

Utilities Director, Val Fong said in the magnitude of \$60 Million.

MOTION: Council Member Scharff moved, seconded by Council Member Klein to approve the Utilities Advisory Commission funding of 25 percent of the cost of an Energy/Compost Feasibility Study and Environmental Impact Initial Study, up to a total amount of \$75,000, from the Calaveras Reserve.

Council Member Holman said she would not support the Motion since she voted against the prior Motions and this would be funding the Study.

MOTION PASSED: 5-2 Holman, Schmid no, Espinosa, Yeh absent

COUNCIL MEMBER QUESTIONS, COMMENTS, AND ANNOUNCEMENTS

NONE

ADJOURNMENT: The meeting adjourned at 10:15 p.m.